

**AMENDED AND RESTATED
BYLAWS**

of

ENCINITAS EDUCATIONAL FOUNDATION
a California nonprofit public benefit corporation

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**ARTICLE 1
OFFICES**

Section 1.1 *Principal Office.* The Corporation's principal office shall be fixed and located at such place as the Board of Directors (the "Board") shall determine. The Board is granted full power and authority to change said principal office from one location to another.

Section 1.2 *Other Offices.* Branch or subordinate offices may be established at any time by the Board at any place or places.

**ARTICLE 2
MEMBERSHIP**

Section 2.1 *Members.* The Corporation shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board. All rights which would otherwise vest in the members shall vest in the directors.

Section 2.2 *Associates.* Nothing in this Article 2 shall be construed as limiting the right of the Corporation to refer to persons associated with it as "members" even though such persons are not members, and no such reference shall constitute anyone a member within the meaning of Section 5056 of the California Nonprofit Corporation Law (the "Law"). The Corporation may confer by amendment of its Articles or of these Bylaws some or all of the rights of a member, as set forth in the Law, upon any person or persons who do not have the right to vote for the election of directors or on a disposition of substantially all of the assets of the Corporation or on a merger or on a dissolution or on changes to the Corporation's Articles of Incorporation (the "Articles") or Bylaws, but no such person shall be a member within the meaning of said Section 5056.

**ARTICLE 3
DIRECTORS**

Section 3.1 *Powers.* Subject to the limitations of the Articles and these Bylaws, the activities and affairs of the Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the Corporation to any person or persons, a management company or committees, however composed, provided that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the

Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

(a) To select and remove all officers, agents and employees of the Corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles or these Bylaws, fix their compensation and require from them such security, if any, for faithful service as the Board may deem appropriate.

(b) To conduct, manage and control the affairs and activities of the Corporation, and to make such rules and regulations therefor not inconsistent with law, the Articles or these Bylaws, as they may deem appropriate.

(c) To adopt, make and use a corporate seal and to alter the form of such seal from time to time as they may deem appropriate.

(d) To borrow money and incur indebtedness for the purposes of the Corporation, and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor.

Section 3.2 *Number of Directors.*

The authorized number of directors shall be not less than ten (10) nor more than twenty-five (25) until changed by amendment of the Articles or these Bylaws. The exact number of directors shall be fixed, within the limits specified, by resolution duly adopted by the Board. The initial number of directors shall be fourteen (14) until changed as provided in this Section 3.2.

Section 3.3 *Selection and Term of Office.*

Directors shall be elected at each annual meeting of the Board. Each elected director shall take office upon election and shall hold office until the next ensuing annual meeting of the Board and until a successor has been elected and qualified.

Section 3.4 *Interested Persons.* Not more than 49 percent of the persons serving on the Board at any time may be interested persons. For purposes of this Section 3.4, an interested person is:

(a) Any person being compensated by the Corporation for services rendered to it within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as a director; or

(b) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Any violation of the provisions of this Section 3.4 shall not affect the validity or enforceability of any transaction entered into by the Corporation.

Section 3.5 *Transactions in Which Directors Have Personal Interest.*

(a) Any transaction of the Corporation in which any of its directors have a material financial interest shall be entered into or consummated only if:

(1) The transaction is fair and reasonable as to the Corporation at the time the Corporation enters into the transaction;

(2) The Corporation enters into the transaction for its own benefit; and

(3) Prior to consummating the transaction or any part thereof the Board authorizes or approves the transaction in good faith by a vote of the majority of the directors then in office without counting the vote of the interested director or directors (although such director or directors may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken), and with knowledge of the material facts concerning the transaction and director's interest in the transaction.

(b) If it is not reasonably practicable to obtain such approval by the Board prior to entering into the transaction, a committee or person authorized by the Board may approve the transaction in a manner consistent with the standards of Section 3.5(a); provided, however, that at its next meeting the Board:

(1) Determines that it was not reasonably practicable to obtain approval by the Board prior to entering into the transaction;

(2) Determines that the committee or person authorized by the Board approved the transaction in the required manner; and

(3) Ratifies the transaction by a vote of the majority of the directors then in office without counting the vote of the interested director or directors (although such director or directors may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken).

(c) Sections 3.5(a) and 3.5(b) shall not apply to:

(1) An action of the Board fixing the compensation of a director as a director or officer of the Corporation;

(2) A transaction which is part of a public or charitable program of the Corporation if it:

(i) Is approved or authorized by the Corporation in good faith and without unjustified favoritism; and

(ii) Results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program;

(3) A transaction of which the interested director or directors have no actual knowledge and which does not exceed the lesser of one percent of the gross receipts of the Corporation for the preceding fiscal year or \$100,000.

(d) Any contract or other transaction (other than transactions subject to Sections 3.5(a) or Section 3.5(c) above) between the Corporation and any corporation, firm, association or entity of which one or more of this Corporation's directors are directors or trustees shall be entered into or consummated only if:

(1) The material facts relating to the transaction and to such director's other directorship are fully disclosed or known to the Board or committee, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors; or

(2) The contract or transaction is just and reasonable as to the Corporation at the time it is authorized, approved or ratified.

Section 3.6 *Resignation and Vacancies.*

(a) Subject to the provisions of Section 5226 of the Law, any director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be selected before such time, to take office when the resignation becomes effective.

(b) A vacancy on the Board shall be deemed to exist in case of the death, resignation or removal of any director or an increase in the authorized number of directors. Vacancies on the Board shall be filled in the same manner as the director whose office is vacant was selected, provided that any vacancy to be filled by election by directors may be filled by a majority of the remaining directors, although less than a quorum, or by a sole remaining director at any regular or special meeting of the Board. Each director so selected shall hold office until the expiration of the term of the replaced director and until a successor has been selected and qualified.

Section 3.7 Removal. Any director or directors may be removed from office without cause if such removal is approved by a majority of the directors then in office. The Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final court or judgment of any court to have breached any duty arising under Sections 5230 through 5238 of the Law. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Section 3.8 Place of Meeting. Meetings of the Board shall be held at any place within or without the State of California which has been designated from time to time by the Board. In the absence of such designation, regular meetings shall be held at the principal office of the Corporation.

Section 3.9 Annual Meetings. The Board shall hold an annual meeting for the purposes of organization, selection of directors and officers and the transaction of other business. Annual meetings of the Board shall be held on such dates and at such times as may be fixed by the Board.

Section 3.10 Regular Meetings. Regular meetings of the Board may be held without call or notice on such dates and at such times as may be fixed by the Board.

Section 3.11 Special Meetings. Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board, the President, any Vice President, the Secretary or any two directors.

Section 3.12 Notice.

(a) Annual and special meetings of the Board shall be held upon at least four days' notice by first-class mail or forty-eight hours' notice given personally or by telephone, telegraph, telex or other similar means of communication. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the Corporation or as may have been given to the Corporation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the directors are regularly held.

(b) Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver.

Section 3.13 Quorum. A majority of the number of directors then serving constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 3.16. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, unless a greater number be required by law or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 3.14 Participation in Meetings by Conference Telephone. Directors may participate in a meeting of the Board, or a committee meeting, through use of a conference telephone or similar communications equipment, so long as all directors participating in such meeting can hear one another.

Section 3.15 Waiver of Notice. Notice of a meeting need not be given to any director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 3.16 Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than twenty-four hours, reasonable notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 3.17 Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

Section 3.18 Rights of Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation.

Section 3.19 Executive Committee.

(a) The Board may, by resolution adopted by a majority of the number of directors then in office, establish an executive committee consisting of such number of directors as may be determined by the Board which, except when the Board is in session, and except as its powers may be otherwise limited by the Board shall have and may exercise the powers of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers which may require it. The Executive

determine its rules of procedure unless the Board shall otherwise provide. The Board shall have the power to change the members of the Executive Committee at any time, either with or without cause and to fill vacancies; provided that all appointments to the Executive Committee shall be by a majority vote of the directors then in office. The compensation, if any, of each member of the Executive Committee shall be as prescribed from time to time by the Board. Any action which under the provisions of the Law may be taken at a meeting of the Executive Committee, may be taken without a meeting if authorized by a writing signed by all members of the Executive Committee who would be entitled to vote at a meeting for such purpose and filed with the Secretary of the Corporation.

Section 3.20 *Standing or Special Committees.*

(a) The term "standing committee" or "special committee" shall mean any committee appointed by the Board which is authorized by specific delegation, without further Board action, to make and implement decisions on behalf of the Board, or to implement, with some degree of discretion, decisions of the Board pursuant to guidelines established by the Board. Notice of, and procedures for, meetings of standing or special committees shall be as prescribed by the chairman of each such standing or special committee, and meetings of standing or special committees may be called by the Board or the chairman of the standing or special committee.

(b) In the event that the Board determines that the management of the Corporation would be benefited by the establishment of one or more standing or special committees in addition to the Executive Committee, the Board, may from time to time establish one or more such committees. The establishment of a standing or special committee shall be effected by a resolution of the Board approved by the vote of the majority of the directors then in office, which specifically sets forth the powers and duties delegated to such committee. Each such committee shall consist of two or more directors and shall be presided over by a director selected by the Board.

Section 3.21 *Limitations upon Committees of the Board.* No committee of the Board shall have any of the authority of the Board with respect to:

- (a) the filling of vacancies on the Board or on any committee which has the authority of the Board;
- (b) the fixing of compensation of the directors for serving on the Board or on any committee which has the authority of the Board;
- (c) the amendment or repeal of Bylaws or the adoption of new Bylaws;
- (d) the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;
- (e) the appointment of other committees of the Board or the members thereof if such committee will have the authority of the Board;

(f) the expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected; or

(g) The approval of any self-dealing transaction, except that when it is not reasonably practicable to obtain approval of the Board prior to entering into such a transaction, a committee authorized by the Board may approve the transaction in a manner consistent with the standards set forth in Section 5233(d) of the Law subject to ratification by a majority of the directors then in office (without counting the vote of any interested director) at the next meeting of the Board.

Section 3.22 *Advisory Commissions.* The Chairman of the Board, the Board, the Executive Committee or the President may from time to time appoint such advisory commissions as deemed appropriate, consisting of directors or persons who are not directors. Such advisory commissions shall not be deemed committees of the Board (even if they are referred to as "committees") and shall not exercise any powers of the Board. Notice of, and procedures for, meetings of advisory commissions shall be as prescribed by the chairman of each such advisory commission, and meetings of advisory commissions may be called by the Chairman of the Board, the Board, the Executive Committee, the President or the chairman of the advisory commission.

Section 3.23 *Fees and Compensation.* Directors and members of committees or commissions may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by the Board. Notwithstanding the foregoing, this Corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer, unless approved by the Attorney General; provided, however, that the Corporation may advance money to a director or officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of any such advance, such director or officer would be entitled to be reimbursed for such expenses by the Corporation. Subject to the provisions of Section 3.4, nothing contained in this Section 3.23 shall be construed to preclude any director from serving the Corporation in any other capacity as an officer, agent, employee or otherwise, and receiving compensation therefor.

ARTICLE 4 OFFICERS

Section 4.1 *Officers.* The officers of the Corporation shall be a President, a Secretary and a Treasurer. The Corporation may also have, at the discretion of the Board, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be elected or appointed in accordance with the provisions of Section 4.3. Any number of offices may be held by the same person except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President or Chairman of the Board.

Section 4.2 Election. The officers of the Corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 4.3 or Section 4.5, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be elected.

Section 4.3 Subordinate Officers. The Board may elect, and may empower the President to appoint, such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

Section 4.4 Removal and Resignation.

(a) Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer.

(b) Any officer may resign at any time by giving written notice to the Corporation, but without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.5 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 4.6 Chairman of the Board. The Chairman of the Board, if there be such an officer, shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as may be from time to time assigned by the Board.

Section 4.7 President. Subject to such powers, if any, as may be given by the Board to the Chairman of the Board, if there be such an officer, the President is the general manager and chief executive officer of the Corporation and has, subject to the control of the Board, general supervision, direction and control of the business and officers of the Corporation. In the absence of the Chairman of the Board, or if there be none, the President shall preside at all meetings of the Board. The President has the general powers and duties of management usually vested in the office of president and general manager of a corporation and such other powers and duties as may be prescribed by the Board.

Section 4.8 Vice Presidents. In the absence or disability of the President, the Vice Presidents, if any be appointed, in order of their rank as fixed by the Board or, if not ranked, the Vice President designated by the Board, shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the

President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board.

Section 4.9 Secretary. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California the original or a copy of the Corporation's Articles and Bylaws, as amended to date. The Secretary shall give, or cause to be given, notice of all meetings of the Board and any committees thereof required by law or by these Bylaws to be given, shall keep the seal of the Corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 4.10 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation. The books of account shall at all times be open to inspection by any director. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositaries as may be designated by the Board. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the President and the directors, whenever they request it, an account of all transactions as Treasurer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 4.11 Chief Financial Officer. The Board may designate a person, who need not be a member of the Board, to serve as the Chief Financial Officer of the Corporation. In the absence of such a designation, the Treasurer shall serve as the Chief Financial Officer of the Corporation.

ARTICLE 5 OTHER PROVISIONS

Section 5.1 Endorsement of Documents; Contracts. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing and any assignment or endorsement thereof executed or entered into between the Corporation and any other person, when signed by the Chairman of the Board, the President or any Vice President and the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the Corporation shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and, unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 5.2 Representation of Shares of Other Corporations. The President, or any other officer or officers authorized by the Board or the President, are each authorized to

vote, represent and exercise on behalf of the Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the Corporation. The authority herein granted may be exercised either by such officer in person or by any other person authorized to do so by proxy or power of attorney duly executed by said officer.

Section 5.3 Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the General Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporation Law shall govern the construction of these Bylaws.

Section 5.4 Amendments. These Bylaws may be amended or repealed by the approval of the Board.

Section 5.5 Maintenance of Certain Records. The accounting books, records, minutes of proceedings of the Board and the Executive Committee of the Board shall be kept at such place or places designated by the Board, or, in the absence of such designation, at the principal business office of the Corporation. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form, or in any other form capable of being converted into written, typed or printed form.

Section 5.6 Annual Report. The Board shall cause an annual report to be furnished to the directors not later than 120 days after the close of the Corporation's fiscal year. The annual report shall be accompanied by any report thereon of independent accountants or, if there is no such accountant's report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation. The annual report shall contain in appropriate detail the following:

- (a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year; and
- (e) Any information required by Section 5.7 of these Bylaws.

Section 5.7 Annual Statement of Certain Transactions and Indemnifications.

(a) The Corporation shall furnish annually to its directors a statement of any covered transaction or indemnifications described below, if such covered transaction or indemnification took place. Such annual statement shall be affixed to and sent with the annual report described in Section 5.6 of these Bylaws. A covered transaction under this Section 5.7

is a transaction in which the Corporation was a party, and in which either of the following interested persons had a direct or indirect material financial interest (excluding a mere common directorship):

(1) Any director or officer of the Corporation, or its parent or subsidiary.

(2) Any holder of more than 10 percent of the voting power of the Corporation, its parent or its subsidiary.

(b) The statement required by this Section 5.7 shall describe briefly:

(1) Any covered transaction (including compensation of officers and directors) during the previous fiscal year involving more than \$50,000, or which was one of a number of covered transactions in which the same interested persons had a direct or indirect material financial interest and which transactions in the aggregate involve more than \$50,000.

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the Corporation, the nature of such person's interest in the transaction, and, where practicable, the amount of such interest; provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(3) The amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the Corporation pursuant to Article 6 of these Bylaws.

ARTICLE 6 INDEMNIFICATION

Section 6.1 Definitions. For the purposes of this Article 6, the following definitions shall apply:

(a) "agent" means any person who is or was a director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation;

(b) "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Sections 6.4 or 6.5(b).

Section 6.2 *Indemnification in Actions by Third Parties.* The Corporation shall, to the maximum extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any proceeding, (other than an action by or in the right of the Corporation to procure a judgment in its favor, an action brought under Section 5233 of the Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 6.3 *Indemnification in Actions by or in the Right of the Corporation.* The Corporation shall to the maximum extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the Corporation, or brought under Section 5233 of the Law, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 6.3:

(a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation in the performance of such person's duty to the Corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

Section 6.4 *Indemnification Against Expenses.* To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Sections 6.2 or 6.3 or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 6.5 *Required Determinations.* Except as provided in Section 6.4 any indemnification under this Article 6 shall be made by the Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 6.2 or 6.3, by:

(a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or

(b) The court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the Corporation.

Section 6.6 *Advance of Expenses.* Expenses incurred in defending any proceeding may be advanced by the Corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article 6.

Section 6.7 *Other Indemnification.* No provision made by the Corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of directors, an agreement or otherwise, shall be valid unless consistent with this Article 6. Nothing contained in this Article 6 shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 6.8 *Forms of Indemnification Not Permitted.* No indemnification or advance shall be made under this Article 6, except as provided in Sections 6.4 or 6.5(b), in any circumstances where it appears:

(a) That it would be inconsistent with a provision of the Articles, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 6.9 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of this Article 6, provided, however, that a Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

Section 6.10 Nonapplicability to Fiduciaries of Employee Benefit Plans. This Article 6 does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the Corporation as defined in Section 6.1. The Corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.