

AMENDED AND RESTATED

BYLAWS (the "BYLAWS")

OF

INDIANA STATE UNIVERSITY FOUNDATION, INC.

As originally adopted September 17, 1997 and amended and restated effective June 26, 2006. Amended October 8, 2010.

ARTICLE I

Authority

The Indiana State University Foundation (the "Corporation" or the "Foundation") was incorporated as a Public Benefit Corporation existing under the Indiana Nonprofit Corporation Act of 1991 (the "Act"). It exists as a charitable and educational non-stock corporation to serve Indiana State University (the "University") within the provisions of section 501(c)(3) of the Internal Revenue Act of 1954 as amended. The Internal Revenue Service approved such tax exempt status by their letter to the Foundation dated August 14, 1984.

Additionally, the Board of Trustees of the University have authorized use of the University's name and any other name, emblem or mark to which the University has any legal right for so long as the Foundation complies with established guidelines as set forth in the policy of the Board of Trustees.

ARTICLE II

Purposes

The purposes for which the Foundation is organized are to receive, hold, invest, manage, use, dispose of and administer property of all kinds, whether given absolutely or in trust, or by way of agency or otherwise for the benefit of the University and for all the educational and support activities that may be conducted by the University; more specifically, without limiting the generality of the foregoing, to finance research work, to hold and exploit patents, to subsidize publications, to establish fellowships, to endow scholarships and other forms of student aid, and to support any of the programs, activities or services of the University. The Foundation has been designated by the Board of Trustees to be the official fundraising organization of the University. The Foundation is organized and is to be operated exclusively for charitable and educational purposes within the meaning of the provision of Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law). No part of the net earnings of the Foundation shall inure to the benefit of or be distributable to its directors, officers, members, other private individuals or organizations organized and operating for profit (except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes hereinabove stated). No substantial part of the activities of the Foundation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Foundation shall not directly or indirectly participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision herein, the Foundation shall not carry on

any activities not permitted to be carried on:

- (a) By an organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) as an organization described in Section 501(c)(3) of said Code (or the corresponding provision of any future United States Internal Revenue Law), or
- (b) By an organization, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE III

Offices

Section 1. Registered Agent and Office. The registered agent and office of the Corporation shall be as reflected in the records of the Office of the Indiana Secretary of State from time to time.

Section 2. Principal Office. The principal office of the Corporation shall be as reflected in the records of the Office of the Indiana Secretary of State from time to time.

Section 3. Additional Offices. The Corporation may have offices at such other locations both within and without the State of Indiana as the Board (as that term is defined in Section 5.01 of these Bylaws) may from time to time determine or as the business of the Corporation may require.

ARTICLE IV

Members/Directors

The Corporation shall have no members and shall have three types of Directors (as that term is defined in Section 5.01 of these Bylaws): Elected Directors; Ex-Officio Directors; and Emeriti Directors. The terms of these Bylaws relate to Elected and Ex-Officio Directors unless expressly stated otherwise. Each Director shall comply with any conflict of interest policy that may be adopted by the Board.

ARTICLE V

The Board of Directors

Section 5.01. Powers of Board. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation managed under the direction of, a Board of Directors (the "Board"). The Directors and each of them shall have no authority to bind the Corporation except when acting as a Board, or as a duly authorized Committee thereof.

Section 5.02(a). Membership: General; Term. The Board shall consist of not less than seven (7) nor more than sixty (60) Elected and Ex-Officio Members (each, a "Director" and collectively, the "Directors"). A Director must be an individual but need not be a resident of Indiana. The exact number of Directors may be specified and increased or decreased from time to time by the Board, but no decrease shall reduce the number of Directors to less than seven (7) or have the effect or shortening the term of any incumbent Director. Directors shall be elected at the annual meeting of the Board.

Section 5.02(b). Membership: Ex-Officio. The following five (5) individuals shall serve as Ex-Officio Directors:

1. President of the Board of Trustees;
2. President of the University;
3. President of the Foundation;
4. President of the Alumni Association; and
5. A second trustee nominated by the Board of Trustees and elected by the Foundation Board.

These Ex-Officio Directors shall have all rights, powers, and privileges of Elected Directors.

Section 5.02(c). Membership: Emeriti Directors. Elected directors who have completed at least three (3) terms of three (3) years each, regularly attended and actively participated in Board and Committee meetings, and provided distinguished leadership to the Corporation through their volunteer and philanthropic activities may, upon acceptance subsequent to recommendation by the Committee or the Board and approval by vote of the Board, may serve as Emeriti Directors.

Emeriti Directors shall be encouraged to continue their involvement and engage in activities to help advance the mission of the Corporation. Emeriti Directors shall not be counted in determining a quorum and shall not be entitled to vote.

Section 5.03. Term of Office of Directors. The elected Directors shall serve for a term of three (3) years, which term shall expire at the third annual meeting of the Board of Directors subsequent to the annual meeting at which such Director is elected and thereafter such Director may continue to serve until a successor is elected, designated, or appointed and qualifies, until there is a decrease in the number of elected Directors or until such elected Director's earlier resignation or removal from office.

Section 5.04. Vacancies. If a vacancy occurs on the Board of Directors, or there is a vacancy resulting from an increase in the number of Directors, the Board of Directors may fill the vacancy, or if the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by an affirmative vote by the majority of all the Directors remaining in office. The term of a Director elected to fill such a vacancy expires at the end of the term for which the Director's predecessor was elected. A vacancy that will occur at a specific later date may be filled before the vacancy occurs, but the new Director may not take office until the vacancy occurs.

Section 5.05. Resignation. A Director may resign at any time by delivering written notice to the Board of Directors, the Chairperson, the President or the Secretary of the Corporation.

Section 5.06. Removal. Any Director or Emeriti Director of the Corporation may be removed, with or without cause, at any time by resolution adopted by the affirmative vote of the majority of the Directors in attendance at a meeting at which a quorum is present.

ARTICLE VI

Meetings and Actions of the Board

Section 6.01. Regular Meetings of the Board of Directors. There shall be three regular meetings of the Board each year, one of which shall be the annual meeting. The annual meeting of the Board for the election of officers, assignment of Directors to committees and for the transaction of any other business that may come before such meeting shall be held on such day in the Fall as may be determined by the Board. If the annual meeting is not held as herein prescribed, the election of officers may be held at any meeting thereafter called pursuant to these Bylaws.

Section 6.02. Special Meetings of the Board of Directors. Special meetings of the Board of Directors may be held whenever, in the opinion of the Chair of the Board of Directors, or in the opinion of the President of the Corporation, or in the opinion of at least seven (7) other Directors, the interests of the Corporation shall require such meeting.

Section 6.03. Committee Meetings. Committees shall hold regular meetings pursuant to a schedule issued by the chair of each Committee and pursuant to these Bylaws. Special meetings of the committees may be held upon the call of the committee chair or the President of the Corporation at any time that the attendance or consent of at least a majority of the committee can be obtained.

Section 6.04. Effectiveness of Notice. Transmission of notice of the meetings described

in this Article VI shall be given not less than ten (10) and not more than sixty (60) days prior to such meeting, and shall be effective:

Section 6.04.1. Written Notice. If in writing, at the earliest of the following: (a) when received; (b) five (5) days after its mailing, as evidenced by the postmark or private carrier receipt, if correctly addressed to the address listed in the most current records of the Corporation; (c) on the date shown on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or (d) thirty (30) days after the notice is deposited with another method of United States Postal Services other than first class, registered or certified postage affixed, as evidenced by the postmark, if mailed correctly addressed to the address listed in the most current records of the Corporation.

Section 6.04.2. Oral Notice. If orally, when communicated.

Section 6.05. Waiver of Notice. A Director may waive any required notice. Such waiver must be in writing, signed by the Director entitled to the notice, and filed with the minutes or corporate records. A Director's attendance at or participation in a meeting waives any required notice to the Director of the meeting unless the Director at the beginning of the meeting or promptly upon the Director's arrival objects to holding a meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 6.06. Quorum and Actions of Board. A quorum of the Board of Directors shall consist of one-fourth (1/4) of the Directors in office immediately before a meeting begins except that in filling a vacancy on the Board, if the Directors remaining in office constitute fewer than a quorum, the remaining Directors may fill the vacancy by majority vote of the remaining

Directors. A quorum of the Board of Directors must be present at the time an action is taken for the action to be validly adopted; if a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present is the act of the Board of Directors.

Section 6.07. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if the action is taken by all members of the Board or committee. The action must be evidenced by one or more written consents describing the action taken, signed by each Director and/or action taken. The consent is effective when the last Director and/or committee member signs the consent, unless the consent specifies a different prior or subsequent effective date. The consent has the effect of a meeting vote and may be described as such in any document.

Section 6.08. Participation in Meetings When Not in Attendance. Any or all Directors may participate in an annual, regular or special meeting by, or conduct a meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE VII

Committees

Section 7.01. Designation of Committees. The Board of Directors may create one or more committees (a "Committee") and appoint at least two (2) members of the Board of Directors to serve on such Committees at the pleasure of the Board. The Foundation Chairperson shall be an Ex-Officio member of all Committees, and the President of the

Foundation shall be an Ex-Officio member of all Committees except the Audit Committee. The creation of a Committee and appointment of members to it must be approved by a majority of the Directors in attendance at a meeting in which a quorum is present. The Chair and Vice Chair of each Committee shall be an elected Director, nominated by the Chair of the Board and ratified by the general members in attendance at a meeting at which a quorum is present. All provisions of these Bylaws governing meetings, actions without meetings, notice and waiver of notice, and quorum and voting requirements of the Board of Directors apply to committees and their members as well. The majority of committee members must be elected directors.

Section 7.02. Powers of Committees. The Board of Directors may specify the extent of the authority of any committee it designates and may grant the committee as much authority as the Board has in managing the business and affairs of the Corporation. A Committee may not, however:

- (a) Approve dissolution, merger, sale, pledge or transfer, of all or substantially all of the Corporation's assets;
- (b) Elect, appoint or remove Directors, fill vacancies on the Board of Directors or on any of its Committees; or
- (c) Adopt, amend or repeal the Articles of Incorporation or Bylaws of the Corporation.

The creation of, delegation of authority to, or action by a Committee does not alone constitute compliance by a Director with the standards of conduct prescribed by the Act.

Section 7.03. Standing Committees.

There shall be seven standing Committees:

1. Executive Committee;
2. Audit Committee;
3. Development Committee;
4. Budget Committee;
5. Human Resources Committee;
6. Committee on Directors and Board Governance; and
7. Investment Committee.

Section 7.04. Executive Committee. There shall be an Executive Committee appointed by the Chairperson which shall consist of not less than eight (8) Directors and which shall, in addition to those members named in Paragraph 7.01, include the Foundation Vice Chairperson, the past Chair of the Foundation, the Secretary of the Foundation, and the Treasurer of the Foundation. In addition, the Chairman of the Board of Trustees and President of the University shall be an Ex-Officio member of the Executive Committee. The Executive Committee shall receive the reports of all other standing committees, with the exception of the Audit Committee, and recommend appropriate action on such reports to the Board. Further, the Executive Committee shall have the power to transact all business of the Corporation between meetings, but the Executive Committee must report all its activities at the next meeting of the full Board following the Executive Committee meeting when action was taken. All decisions of the

Executive Committee shall require agreement and consent of at least a majority of the total committee membership. The Chairperson of the Executive Committee shall be the Chairperson of the Board. Meetings of the Executive Committee shall be had upon call by the Chairperson or President, which need not be in writing.

Section 7.05. Budget Committee. There shall be a Budget Committee appointed by the Board of Directors. The responsibilities of the Budget Committee shall be to oversee all aspects of the Foundation's finances included but not limited to: preparing and submitting an annual budget to full board for approval; monitoring the performance against approved budget; developing short-term and long-term financial benchmarks indicative of financial health; determining the endowment spending rate; and overseeing the Foundation ownership and management of real property that is not purely for investment.

Section 7.06. Development Committee. There shall be a Development Committee appointed by the Chairperson of the Board which shall consist of at least four (4) Directors. The function of the Committee shall be to establish policies and solicit contributions related to voluntary financial support. In addition to the members named in Paragraph 7.01., the Vice President for Development shall also be an Ex-Officio member of the Committee.

Section 7.07. Human Resources Committee. There shall be a Human Resources Committee which shall be composed of the Chairperson of the Board, the Vice Chairperson, and the President of the Foundation and such other members of the Board that the Chair may choose to appoint. It shall be the responsibility of the Committee to describe positions, define

responsibilities, determine compensation, and employ members of the staff of the Foundation. The chairperson of the Human Resources Committee shall be the Chairman.

Section 7.08. Committee on Directors. There shall be a Committee on Directors and Board Governance appointed by the Chairperson of the Board which shall consist of not less than four (4) Directors of this Corporation. The function of this Committee shall be to recruit, select and present to the Board of Directors a slate of officers and Directors for nomination, to outline the responsibilities of Board membership, to provide for orientation of the Directors and such other functions and duties assigned by the Chair of the Board.

Section 7.09. Audit Committee. There shall be an Audit Committee which shall be composed of at least three Board members. The responsibilities of the Audit Committee shall be to: assure the Board that the financial statements reflect the Corporation's financial condition; determine the adequacy of internal controls related to the financial systems; ensure compliance with federal, state and other reporting requirements; ensure that a process is in place to monitor compliance with the Corporation's conflict of interest policy and other standards of conduct adopted by the Board; and ensure that a process is in place for each committee of the Board and for the Board overall to assess and manage risk relative to their respective responsibilities.

The Audit Committee shall ensure that an independent audit of the corporate fiscal records is performed at least annually. The Audit Committee shall recommend to the Board independent auditors to conduct the annual independent audit, shall approve its scope, and shall meet with the

independent auditors to review the annual financial statements and associated recommendations including review of the annual management letter. The Audit Committee shall follow up with management to ensure appropriate actions are implemented. The Audit Committee shall also engage independent auditors or otherwise institute reviews of specific activities, as it deems appropriate.

Section 7.10. Investment Committee. There shall be a Investment Committee appointed by the Board of Directors. The responsibilities of the Investment Committee shall be to act as the Foundation's fiduciary relative to the management and investment of gifted assets, to engage the Foundation's investment consultant, to evaluate the performance of the investment consultant, and to devise and revise the Foundation's asset allocation.

Section 7.11. Subcommittees. Standing committees may appoint subcommittees as necessary in connection with the respective duties of the committee.

Section 7.12. Board Ex-Officio Committee Members. Individuals serving as Ex-Officio committee members shall not be entitled to vote and shall not be counted for quorum purposes of any committee except the Executive Committee or a committee on which the Board has appointed such individual as Chair or as a voting member. Such Ex-Officio committee members, moreover, shall not be counted toward satisfaction of the numerical membership requirements of the standing committees provided above. Non-Director committee members cannot serve as Chair or as a voting member of standing committees or subcommittees.

ARTICLE VIII

The Officers

Section 8.01. Number. The officers of the Corporation shall consist of the Chairperson of the Board, the Vice Chairperson of the Board, the President of the Foundation, the Vice President for Finance and Controls, the Vice President for Development, the Treasurer, and the Secretary, and such other officers and assistants as the Board of Directors may elect.

Section 8.02. Election, Term of Office, and Qualification. The officers shall be elected at the annual meeting of the Board of Directors, or at a subsequent meeting of the Board as provided in these Bylaws. Each officer shall hold office until the next annual meeting of the Board and until the officer's successor is elected and qualified, or until the officer's death, resignation, or removal from office. The election or appointment of an officer does not itself create contract rights. An officer may not serve for more than three (3) consecutive terms in the same office, with the exception that the President, the Vice President for Finance and Controls and the Vice President for Development who shall serve at the pleasure of the Board.

Section 8.03. The Chairperson of the Board. The Chairperson of the Board shall be chosen from among the Directors, shall not be an employee of the University or of the Foundation, shall preside at all meetings of the Board of Directors, and shall perform such other duties as the Board of Directors may from time to time assign.

Section 8.04. The Vice Chairperson. The Vice Chairperson of the Board of Directors shall be chosen from among the Directors, shall not be an employee of the University or of the Foundation, and, in the absence of the Chairperson of the Board, shall preside at all meetings of the Board of Directors, and shall perform such other duties as the Board of Directors may from time to time assign.

Section 8.05. The President. The President shall be the chief executive officer of the Corporation. The President shall receive such salary as may be approved by the Board of Directors and shall have and possess all of the duties and powers as may be assigned by the Board of Directors.

Section 8.06. The Vice President for Finance and Controls. The Vice President for Finance and Controls shall work under the supervision and direction of the President and shall have such other duties as shall be assigned by the President or the Board of Directors.

Section 8.07. The Vice President for Development. The Vice President for Development shall work under the supervision and direction of the President and shall have such other duties as shall be assigned by the President or the Board of Directors.

Section 8.08. The Secretary. The Secretary shall have the custody and care of the corporate seal, records, minutes, and books of the Corporation. The Secretary shall attend all meetings of the Board of Directors, and shall prepare and keep, or cause to be kept in a book

provided for that purpose, true and complete minutes of the proceedings of such meetings, and shall perform a like duty for all standing committees appointed by the Board of Directors, when required. The Secretary shall be responsible for authenticating records, attending to the giving and serving of all notices of the Corporation, filing and taking charge of all papers and documents belonging to the Corporation and performing such other duties as these Bylaws may require or the Board of Directors may prescribe or as are usual to such office.

Section 8.09. The Treasurer. The Treasurer shall be the financial officer of the Corporation and shall perform all duties customary to that office; shall have charge and custody of, and be responsible for, all funds of the Corporation, and deposit all such monies in the name of the Corporation in such banks, trust companies and other depositories as shall be selected by the Board of Directors; shall receive, and give receipts for, monies due and payable to the Corporation from any source whatsoever; and, in general, shall perform all the duties as, from time to time, may be assigned by the Board of Directors or by the Chairperson.

Section 8.10. The Assistant Secretaries. The Assistant Secretaries, if elected, shall perform all duties of the Secretary during the absence or inability of the Secretary to perform such duties. They shall perform such other duties as the Chairperson or the Board of Directors may prescribe.

Section 8.11. The Assistant Treasurers. The Assistant Treasurers, if elected, shall perform all duties of the Treasurer during the absence or inability of the Treasurer to perform such duties.

They shall perform such other duties as the Chairperson or the Board of Directors may prescribe.

Section 8.12. Delegation of Authority. In case of the absence of any officer of the Corporation, or for any other reason that the Board of Directors may deem sufficient, the Board of Directors may, and in the case of the office of Secretary shall, delegate the powers or duties of such officer to any other officer or to any Director, of the time being, provided a majority of the entire Board of Directors concurs therein.

ARTICLE IX

Miscellaneous

Section 9.01. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of July and shall end on the last day of June in each year.

Section 9.02. Registered Office and Registered Agent -- Power to Change. The registered office of the Corporation and the business office of the Corporation's registered agent shall be identical. The location of the Corporation's registered office, and the designation of its registered agent may be changed at any time, or from time to time, as provided in the Act.

Section 9.03. Execution of Instruments. All checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation; all deeds, mortgages, and other written contracts and agreements to which the Corporation shall be a party; and all assignments or endorsements of share certificates, registered bonds, or other securities owned by the Corporation, shall be signed by any person or persons as designated from time to time by

resolution of the Board of Directors.

Section 9.04. Seal. The seal of the Corporation, if any, shall be circular in form and mounted upon a metal die, suitable for impressing the same upon paper, or upon a rubber stamp suitable for stamping or printing on paper. About the upper periphery of the seal shall appear the name of the Corporation and about the lower periphery thereof the word *Indiana*. In the center of the seal shall appear the words *Seal* or *Corporate Seal*.

Section 9.05 Voting of Shares Owned by Corporation. Any share or shares issued by any other corporation and owned or controlled by the Corporation may be voted at any shareholders' meeting of such other corporation by any person or persons as may be designated from time to time by resolution of the Board of Directors.

Section 9.06 Corporate Records. In addition to other records required to be kept at permanent records by the Corporation under the Act (which, subject to the Act, may be kept in such place or places within or without the State of Indiana, as the Board may from time to time determine) the Corporation shall keep a copy of the following records at its principal office:

- (a) The Articles of Incorporation and all amendments to them as may be in effect from time to time.
- (b) The Bylaws and all amendments to them as may be in effect from time to time.
- (c) A current list of the names and business or home addresses of the

Corporation's Directors and officers.

- (d) The most recent annual report delivered to the Secretary of State under the Act.

Section 9.07. Exempt Activities. Notwithstanding any other provision of these Bylaws, no director, officer, employee, or representative of the Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501 (c) (3) of the Internal Revenue Code of 1986 and the Regulations thereunder as they now exist or as they may hereafter be amended. The prohibitions contained in this Section 9.07 shall be deemed cumulative with respect to any similar provision or provision of the Articles of Incorporation of the Corporation and not in substitution therefore.

Section 9.08. Prohibitions Against Sharing In Corporate Earnings. No director, officer, employee or member of a committee or any other person connected with the Corporation or any other private individual shall receive any of the net earnings or pecuniary profit from the operation of the Corporation, provided, however, that this shall not prevent the payment to any person of such reasonable compensation for services rendered to or for the Corporation in effecting any of the purposes set forth herein; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation. The prohibitions contained in this Section 9.08 shall be deemed cumulative with respect to any similar provision or provisions of the Articles of Incorporation and not in substitution therefore.

Section 9.09. Dissolution. In the event the Board of Directors of this Corporation determines that the Corporation should be dissolved, then all of the assets of the Corporation over and above those needed to pay off any debts and liabilities of the Corporation, shall be distributed to corporations, or organizations which are exempt organizations under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended, or any successor statute thereto, provided the distributees have purposes similar to the Corporation.

ARTICLE X

Indemnification of Directors Officers and Employees

Section 10.01. Definitions.

(a) In this Article X:

- (1) *Corporation* includes any domestic or foreign predecessor entity of the Corporation in a merger or other transaction in which the predecessor's existence may cease upon consummation of the transaction.
- (2) *Director* means an individual who is or was a Director of the Corporation or an individual who, while a Director of the Corporation, is or was serving at the Corporation's request as a Director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not. A Director is considered to be serving an employee benefit plan at the Corporation's request if the Director's duties to the Corporation also impose duties on, or otherwise

involve services by, the Director to the plan or to participants in or beneficiaries of the plan. *Director* includes, unless the context requires otherwise, the estate or personal representative of a Director.

- (3) *Expenses* include attorney's fees.
- (4) *Liability* means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a Proceeding.
- (5) *Official capacity* means (i) when used with respect to a Director, the office of Director of this Corporation; and (ii) when used with respect to an individual other than a Director, as contemplated in Section 6.07 of this Article X, the office of this Corporation held by the officer or the employment of agency relationship undertaken by the employee or agent on behalf of the Corporation. *Official capacity* does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not.
- (6) *Party* includes an individual who was, is, or is threatened to be, made a named defendant or respondent in a proceeding.
- (7) *Proceeding* means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal.

Section 10.02. Authority to Indemnify.

- (a) Promptly after a determination under Section 6.06 that indemnification is permissible, the Corporation shall indemnify an individual made a party to a proceeding because the individual is or was a Director against Liability incurred in the proceeding if:
 - (1) the individual's conduct was in good faith; and
 - (2) the individual reasonably believed:
 - (i) in the case of conduct in the individual's official capacity with the Corporation, that the individual's conduct was in its best interest; and
 - (ii) in all other cases, that the individual's conduct was at least not opposed to its best interest; and
 - (3) in the case of any criminal proceeding, the individual either
 - (i) had reasonable cause to believe the individual's conduct was lawful; or
 - (ii) had no reasonable cause to believe the individual's conduct was unlawful.
- (b) A Director's conduct with respect to an employee benefit plan for a purpose the Director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of Section 10.02 (a) (2) (ii).
- (c) The termination of a proceeding by judgment, order, settlement, conviction, or

upon a plea of solo contendere or its equivalent is not, of itself, determinative that the Director did not meet the standard of conduct described in this Section 6.02.

Section 10.03. Mandatory Indemnification. Promptly upon demand, the Corporation shall indemnify a Director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the Director was a party because the Director is or was a Director of the Corporation against reasonable expenses incurred by the Director in connection with the proceeding. The term “wholly successful” shall include, but is not limited to (1) termination of any action, suit or proceeding against the person in question without any finding of liability or guilt against such person, (2) approval by a court, with knowledge of the indemnity herein provided, of a settlement of any action, suit or proceeding, or (3) the expiration of a reasonable period of time after the making of any claim or threat of an action, suit or proceeding without the institution of the same, without any payment or promise made to induce a settlement.

Section 10.04. Advance For Expenses.

- (a) The corporation may pay for or reimburse the reasonable expenses incurred by a Director who is a party to a proceeding in advance of final disposition of the proceeding if:
- (1) the Director furnishes the Corporation a written affirmation of the Director's good faith belief that the Director has met the standard of conduct described in Section 10.02;
 - (2) the Director furnishes the Corporation a written undertaking, executed

personally or on the Director's behalf, to repay the advance if it is ultimately determined that the Director did not meet the standard of conduct of Section 10.02; and

- (3) a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article X.
- (b) The undertaking required by Section 10.04 (a) (2) must be an unlimited general obligation of the Director by need not be secured and may be accepted without reference to financial ability to make repayment.
- (c) Determinations and authorizations of payments under this section shall be made in the manner specified in Section 10.06.

Section 10.05. Court-Ordered Indemnification. A Director of the Corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction, for a determination that the Director is entitled to mandatory indemnification.

Section 10.06. Determination and Authorization of Indemnification.

- (a) The Corporation may not indemnify a Director under Section 10.02 unless authorized in the specific case after a determination has been made that indemnification of the Director is permissible in the circumstances because the Director has met the standard of conduct set forth in Section 10.02.
- (b) Upon demand for indemnification or advancement of expenses, as the case may

be, the Corporation, in a reasonably prompt manner, diligently shall proceed as provided in Section 10.06 (c), to determine whether such person is entitled thereto.

- (c) The determination shall be made by any one (1) of the following procedures:
 - (1) by the Board of Directors or Executive Committee by majority vote of a quorum consisting of Directors or Committee members not at the time parties to the proceeding,
 - (2) if a quorum cannot be obtained under subdivision (1), by majority vote of a committee duly designated by the Board of Directors or Executive Committee (in which designation Directors who are parties may participate), consisting solely of two (2) or more Directors not at the time parties to the proceeding;
 - (3) by special legal counsel:
 - (i) selected by the Board of Directors or its committee in the manner prescribed in subdivision (1) or (2); or
 - (ii) if a quorum of the Board of Directors or Executive Committee cannot be obtained under subdivision (1) and a committee cannot be designated under subdivision (2), selected by majority vote of the full Board of Directors or Executive Committee (in which selection Directors who are parties may participate).
- (d) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is

permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under Section 10.06 (c) (3) to select counsel.

Section 10.07 Indemnification of Officers and Employees.

- (a) An officer of the Corporation who is not a Director is entitled to mandatory indemnification under Section 10.03, and is entitled to apply for court-ordered indemnification under Section 10.05, in each case to the same extent as a Director;
- (b) The Corporation may indemnify and advance expenses under this Article X to an officer or employee of the Corporation whether or not a Director to the same extent as to a Director; and
- (c) The Corporation may also indemnify and advance expenses to an officer or employee who is not a Director to the extent, consistent with public policy, that may be provided by general or specific action of its Board of Directors, Executive Committee or contract.

Section 10.08. Other Rights to Indemnification Nothing contained in this Article X shall limit or preclude the exercise of any right under the Act or otherwise relating to indemnification of or the advancement of expenses to any director, officer or employee of the Corporation, or the ability of the Corporation to otherwise indemnify or advance expenses to any director, officer or employee.

Section 10.09. Insurance. The Corporation shall provide for insurance on behalf of an individual who is or was a Director or officer of the Corporation, or who, while a Director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee or employee of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a Director or officer whether or not the Corporation would have power to indemnify the individual against the same liability under Section 10.02 or 10.03, provided that such insurance is available on acceptable terms, which determination shall be made by a vote of a majority of the entire Board of Directors or Executive Committee.

Section 10.10. Other Expenses. This Article X does not limit the Corporation's power to pay or reimburse expenses incurred by a Director in connection with his appearance as a witness in a proceeding at a time when he has not been named defendant or respondent to the proceeding.

Section 10.11. Applicability. The right to be indemnified or to the reimbursement or advancement of expenses pursuant to this Article X: (i) is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof; and (ii) shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto.

ARTICLE XI

Conflict of Interest Disclosures

At each annual meeting and at such other times as may be deemed expedient by the Chairperson, each Director shall fully disclose any duality of interest or possible conflict of interest then existing or any possible duality of interest which is foreseeable by that Director and this Corporation.

ARTICLE XII

Amendments

The power to make, alter, amend or repeal these Bylaws is vested in the Board of Directors, but the affirmative vote of a majority of the actual number of Directors elected and qualified at the time, shall be necessary to effect any alteration, amendment or repeal of these Bylaws; provided, however, that the affirmative vote of at least two-thirds (2/3) of the entire Board of Directors shall be required to amend, alter, change or repeal the provisions of Article VI of these Bylaws. The Corporation must provide notice of any meeting of Directors at which an amendment is to be approved stating the purpose of the meeting is to consider a proposed amendment to the Bylaws and accompanied by a copy or summary of the amendment or stating the general nature of the amendment.

Record of Adoption and Amendments

Approved by Indiana State University Foundation Board of Directors on September 17, 1997 and amended and restated effective June 26, 2006. Amended September 21, 2007.