

**CRITTENTON HOSPITAL MEDICAL CENTER**

**FOUNDATION BYLAWS**

*Melinda Conway Callahan  
President, July 12, 2012*

## TABLE OF CONTENTS

<u>Article</u>	<u>Page No.</u>
I. Corporation	1 – 2
II. Membership	2 – 3
III. Board of Directors	3 – 5
IV. Conflicts of Interest	5 – 6
V. Officers	7 – 9
VI. Committees	9
VII. Indemnification	10 – 13
VIII. Fiscal Matters	13
XI. Amendments	14

**CRITTENTON HOSPITAL**  
**MEDICAL CENTER FOUNDATION**

**ARTICLE I**  
**CORPORATION**

1.1 **NAME.** The name of the corporation is Crittenton Hospital Medical Center Foundation.

1.2 **INCORPORATION.** The Corporation is a nonprofit membership corporation incorporated in the State of Michigan pursuant to the Michigan Nonprofit Business Corporation Act.

1.3 **PLACE OF BUSINESS.** The corporation shall have its principal place of business in the City of Rochester, Michigan and may have such other places of business as the Board of Directors may from time to time determine.

1.4 **PURPOSES.** The purposes of the corporation are as follows:

A. To be organized and operated exclusively for religious, charitable, scientific or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or comparable provisions of subsequent legislation (the "Code").

B. To operate for the benefit of, to provide financial assistance to and to further the charitable activities of Crittenton Hospital Medical Center, as long as Crittenton Hospital Medical Center is an organization described in Section 501(c)(3) of the Code.

C. To conduct fundraising for the benefit of Crittenton Hospital Medical Center.

D. To provide funds to Crittenton Hospital Medical Center and the Community it serves for research, education, equipment, construction, renovation and repair and for such other activities and projects which are deemed to be in furtherance of the Mission, Vision and Values of Crittenton Hospital Medical Center and this Foundation.

E. To receive, preserve, manage and apply property and funds to conduct and support the activities of the corporation.

F. To conduct activities, either directly, through related organizations or in cooperation with other organizations exempt from tax under Section 501 (c) (3) of the Code, to raise funds to further the purposes of the corporation; subject, however, to all limitations on the nature or extent of such activities applicable, from time to time, to organizations exempt from tax under Section 501 (c) (3) of the Code.

G. To acquire, to own, to dispose of, and to deal with real and personal property and interests therein, and to apply gifts, grants, bequests and devises, and the proceeds thereof in furtherance of the purposes of the corporation.

H. To do such things and to perform such acts to accomplish its purposes as are not forbidden by Section 501(c) (3) of the Code with all the powers conferred on nonprofit corporations by the laws of the State of Michigan.

1.5 **NON PROFIT OPERATION.** The corporation shall be operated exclusively for charitable, scientific and educational purposes as a nonprofit corporation. No director of the corporation shall have any title to or interest in the corporate property or earnings in his or her individual or private capacity and no part of the net earnings of the corporation shall inure to the benefit of any private individual. No substantial part of the activities of the corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, nor shall the corporation participate in or intervene in any political campaign on behalf of any candidate for public office.

1.6 **EQUAL OPPORTUNITY.** No persons shall be denied the opportunity to participate in the activities of or receive any of the benefits of the corporation programs on the basis of his or her race, color, creed, national origin, age, sex, or handicap.

## **ARTICLE II MEMBERSHIP**

2.1 **MEMBERSHIP.** The sole member of the corporation shall be Crittenton Hospital Medical Center (the "Member").

2.1 **RESPONSIBILITIES OF THE MEMBER.** In addition to doing all things required or allowed by law, the Member of the Corporation shall have the exclusive right to amend or repeal the Corporation's Articles of Incorporation or these Bylaws and shall have the following rights and responsibilities:

- A. Elect the Corporation's Board of Directors from a slate of persons nominated by the corporation;
- B. Remove (with or without cause) the Corporation's Board of Directors;
- C. Appoint and terminate the Corporation's chief executive officer and chief financial officer;
- D. Approve any amendment to the Articles of Incorporation or Bylaws of the Corporation;
- E. Approve the purchase, sale or transfer of any property to an organization other than the Member or to an organization exempt from tax under 501(c)(3) of the Code controlled by the Member;
- F. Approve any transaction directly or indirectly between the corporation and any trustee, officer, or administrative employee of the corporation, of the Member or of a corporation or other entity controlled directly or indirectly by the Member;
- G. Approve any borrowing or the guarantee of debt of others by the corporation;

H. Approve all investment decisions and policies for all funds held by the corporation;

I. Approve the annual operation and capital budgets of the corporation, based on budgets prepared and proposed by the corporation's chief executive officer and Member's chief financial officer or designee;

J. Approve all donations, grants or other endowments by the corporation to any Non-Member entity or individual where such donation, grant or endowment is in excess of two hundred and fifty thousand dollars (\$250,000.00); and

K. Approve the corporation's auditors and attorneys.

2.1 **ACTION BY THE MEMBER.** The Member shall act by executing and delivering to the President or Secretary of the corporation a written consent signed by an authorized corporate officer of the Member setting forth the action taken and the date of the action taken.

### **ARTICLE III BOARD OF DIRECTORS**

3.1 **BOARD OF DIRECTORS.** The business and affairs of the corporation shall be managed by the Board of Directors which shall be the governing body of the corporation.

3.2 **NUMBER AND SELECTION OF DIRECTORS.** The Board of Directors shall consist of not less than five (5) or more than forty (40) persons appointed by the Member for five year terms. Terms shall be staggered so that the terms of approximately one-third of the Directors expire each year. Each Director may serve for two (2) consecutive five (5) year terms. Directors shall be eligible for re-election to the Board following a one (1) year absence. Directors shall be selected for their interest in the work of the corporation and for their ability to participate effectively in fulfilling the Board's responsibilities. Members of the Hospital Board of Trustees and management staff of the Hospital, members of the Medical Staff of the Hospital and other physicians shall be eligible for election to the Board of Directors; provided, however, that at least two-thirds of the Directors shall at all times be outside directors, that is, individuals who are not members of the Hospital Board of Trustees, Hospital management or the Hospital Medical Staff.

3.3 **VACANCIES.** Vacancies of the Board of Directors shall be filled by the Member. Each Director elected to fill a vacancy shall serve until his or her successor has been duly elected.

3.4 **REMOVAL.** Any Director may be removed from office with or without cause by a vote of a majority of the Directors of the Member. Any Director who is an employee or otherwise affiliated with the Member, the corporation, an affiliate of the corporation, or with a health care institution with which the corporation enters into a relationship or affiliation, shall automatically be removed as a Director if his or her employment or affiliation with such entity is terminated or if employee's position with such corporation is changed.

3.5 **ANNUAL MEETING.** The annual meeting of the Board of Directors shall be held on such date, time and place as the Board of Directors may determine. The annual meeting shall be scheduled to follow the annual meeting of the Member. At the annual meeting, the Board of Directors shall elect officers and consider such other business as may properly be brought before the meeting. If less than a quorum of the Directors appear for an annual meeting of the Board of Directors, the holding of such annual meeting shall not be required and matters which might have been taken up at the annual meeting may be taken up at any later regular, special or annual meeting or by consent resolution.

3.6 **REGULAR AND SPECIAL MEETINGS.** There shall be at least one (1) regular meeting of the Board of Directors per year to be held at a time and place set by the Board of Directors. Special meetings of the Board may be called by the Chairman of the Board or the President and shall be called by the President or the Secretary upon the written request of any three (3) Directors. Such special meetings shall be chaired by the Chairman or Vice Chairman, if any, or the President of the corporation. The Chairman may, without notice to the Board, meet with one or more individual Directors for discussion purposes provided that no action may be taken by these individuals at such meeting.

3.7 **NOTICE OF MEETINGS OF THE BOARD OF DIRECTORS.** Written notice of the time and place of all meetings of the Board of Directors shall be given to each Director at least three (3) days but not more than sixty (60) days before the date of the meeting, either personally, by facsimile, by electronic mail, or by mailing such notice to each Director at the address designated by the Director for such purposes, or if none is designated, at the Director's last known address. Notice of special meetings shall state the purpose or purposes of the meeting, and no business may be conducted at a special meeting except the business specified in the notice of the meeting. No notice need be given of an adjourned meeting of the Board provided the time and place of such a meeting is announced at the meeting at which the adjournment is taken.

3.8 **WAIVER OF NOTICE OF MEETINGS.** Notice of any meeting of the Board may be waived in writing before or after the meeting. Attendance at a meeting constitutes waiver of notice of the meeting.

3.9 **ACTION WITHOUT A MEETING.** Any action required or permitted at any meeting of the Board or any committees thereof may be taken without a meeting, without prior notice and without a vote, if before or after the action, all of the Directors or committee members consent in writing. Said written consents shall be filed with the minutes of the proceedings of the Board and shall have the same effect as a vote of the Board or of the committee for all purposes.

3.10 **MEETING BY CONFERENCE TELEPHONE.** Directors may participate in and act at any meeting of the Board of Directors by means of conference telephone or similar communications equipment if all persons participating in the meeting can hear each other simultaneously. Participation in such a meeting shall constitute presence in person at the meeting.

3.11 **QUORUM AND VOTING REQUIREMENTS.** A majority of Directors then in office, and a majority of the voting members of any committee, shall constitute a quorum of the transaction of business. The vote of a majority of the Directors or committee members present at any meeting at which there is a quorum shall be the act of the Board or the committee, except as a larger vote or a vote of a specific class of Directors may be required by the laws of the State of Michigan, these bylaws or the Articles of Incorporation. A committee may, however, make recommendations and reports to the Board of Directors without a quorum being present. A Director or committee member appointed by the Board may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another. Participation in a meeting in this manner constitutes presence in person at the meeting.

3.12 **POWERS OF THE BOARD OF DIRECTORS.** The Board of Directors shall have charge, control and management of the business, property, personnel, affairs and funds of the corporation and shall have the power and authority to do and perform all acts and functions permitted for an organization described in Section 501 (c) (3) of the Code, not inconsistent with these bylaws and with the Articles of Incorporation, or with the laws of the State of Michigan; in addition to, and not in limitation of, all powers, express or implied, now or hereafter conferred upon board of directors of nonprofit corporations, and in addition to the powers mentioned in and implied from Section 1.4, the Board of Directors shall have the power to borrow or raise money for corporate purposes to issue bonds, notes and other obligations, to secure such obligations by mortgage, security interest, or other lien upon any and all of the property of the corporation, whether at the time owned or thereafter acquired, and to guarantee the debt of any affiliated or subsidiary corporation or other entity, whenever the same shall be in the best interests of the corporation and in furtherance of its purposes.

3.13 **EXECUTION OF CONVEYANCES, MORTGAGES AND CONTRACTS.** All conveyances and mortgage of real estate, assignments or discharges of mortgages and material written contracts shall be executed and, if need be, acknowledged in the name of the corporation by the Chairman of the Board or the Vice Chairman or the President or a Vice President and the Secretary or Treasurer or an assistant.

#### **ARTICLE IV CONFLICTS OF INTEREST**

4.1 **STATEMENT OF POLICY.** It is the policy of the Corporation that all officers, directors, committee members and employees of the Corporation shall scrupulously avoid any conflict between their own respective individual interest and the interest of the Corporation, in any and all actions taken by them on behalf of the Corporation in their respective capacities.

4.2 **DEALING WITH THE CORPORATON.** A contract or other transaction between the corporation and one or more of its directors or officers, or between the corporation and a domestic or foreign corporation, firm or association of any type or kind in which one or more of the corporation's directors or officers are directors or officers, or are otherwise interested, is not void solely because such directors are present at the meeting of the Board of Directors or committee thereof at which such contract or transmission is acted upon, or solely because their votes are counted for such purpose if any of the following conditions is satisfied:

- A. The contract or other transaction is fair and reasonable to the corporation when it is authorized, approved or ratified; or
- B. The material facts as to such director's relationship or interest and as to the contract or transaction are disclosed and known to the Board of Directors thereof and the Board of Directors authorizes, approves or ratifies the contract or transaction by a vote sufficient for the purpose without counting the vote of any common or interested director; or
- C. The material facts as to such director's relationship or interest and as to the contract or transaction are disclosed or known to the Member, and the Member authorizes, approves or ratifies the contract or transaction.

**4.3 PROCEDURE IN EVENT OF POTENTIAL CONFLICT OF INTEREST.**

In the event that any officer, director, committee member or employee of the Corporation shall have any direct or indirect interest in, or relationships with, any individual or organization which proposes to enter into any transaction with the Corporation, including but not limited to transaction involving: (1) the sale, purchase, lease or rental of any property or other asset; (2) employment, or rendition of services, personal or otherwise; (3) the award of any grant, contract, or subcontract; (4) the investment or deposit of any funds of the corporation; such officer, director, committee member or employee shall give the Board of Directors written notice of such interest or relationship and shall thereafter refrain from voting or otherwise attempting to exert any influence on the Corporation, its Board of Directors, or its committees, to affect its decision to participate or not to participate in such transaction.

**4.4 SPECIAL VOTING RULES.** Any member of the Board of Directors that has a conflict of interest on any matter involving the Corporation shall not be counted in determining the quorum for the meeting at which the matter is to be acted upon, even when permitted by law. The minutes of the meeting shall reflect that a disclosure was made, the abstention from voting, and the quorum situation.

**4.5 NOTICE OF POLICY.** Every officer, director, committee member or employee shall be advised of this policy by the Chairman of the Board or the President before their election or appointment. Each officer, director, committee member or employee shall be asked annually to submit a letter outlining any possible area of conflict of interest at the first meeting of the Board of Directors following his or her election or appointment, and the letter shall become a part of the permanent records of the Corporation.

**4.6 PUBLICATION OF THE POLICY.** This policy statement shall be called to the attention of the Board of Directors and each committee of the Corporation at a regular meeting thereof, not less than once a year, and such action shall be recorded in the minutes of such meeting. A copy of this policy statement shall be furnished to each officer, director, committee member and employee who is presently serving the Corporation or who hereafter may become associated with the Corporation.



## **ARTICLE V OFFICERS**

5.1 **OFFICERS.** The officers of the corporation shall be a Chairman of the Board, a President, a Secretary, and a Treasurer. There may also be a Vice Chairman and such assistant officers as the Board of Directors deems appropriate. The Chairman and Vice Chairman shall be members of the Board of Directors, but other officers need not be. In addition to the powers set forth in these Bylaws, the officers shall have the authority and shall perform such duties as may be determined by the Board of Directors.

5.2 **ELECTION AND TERM OF OFFICE.** All officers shall be elected for a term of one (1) year or until their successors have been elected by the Board of Directors at its annual meeting. Any officer may serve consecutive terms. The officers shall be elected by the vote of a majority of the Directors then in office. Two or more offices may be held by the same person but no person may execute, acknowledge or verify any instrument in more than one capacity.

5.3 **REMOVAL.** Except as otherwise provided in these Bylaws, any officer may be removed with or without cause by the vote of a majority of the Directors then in office at any regular or special meeting of the Board of Directors or by action of the Member. Any officer of this corporation who is also an employee of this corporation or of any organization controlled directly or indirectly by this corporation shall automatically be removed as an officer of this corporation if his or her employment is terminated. The matter of removal may be acted upon at any meeting of the Board of Directors, provided that notice of intention to consider the removal of an officer has been given or sent to each director and to the officer affected at least five (5) days previously by personal delivery, telegraph, mail, e-mail or telephone and if by telephone confirmed in writing before and after the meeting.

5.4 **VACANCIES.** In the event of the death, resignation, removal or other inability to serve of any officer, the Board of Directors shall elect a successor who shall serve until the expiration of the normal term of such officer or until a successor shall be elected.

5.5 **CHAIRMAN OF THE BOARD.** The Chairman of the Board shall preside at all meetings of the Board of Directors and the Executive Committee and be the chief policy officer of the corporation and may attend and participate in the meetings of all committees of the Board. The Chairman of the Board shall have the right to designate a person to act in his or her absence; failing such designation, the Vice Chairman having served in such office for the longest period of time shall act in the Chairman's absence. The person acting as the Chairman of the Board may, on behalf of the Corporation, execute any instrument with the same force and effect as if it were on behalf of the Corporation by the Chairman of the Board.

5.6 **PRESIDENT.** The President shall be a full time employee of the corporation and shall act as the Chief Executive Officer of the corporation. It shall be the responsibility of the President to carryout the policies established by the Board of Directors and to originate recommendations for changes in policy or for the establishment of new policy. The President shall report directly to the President and Chief Executive officer of the Hospital. The President shall have day-to-day control of the corporation, and shall have the power, under the direction

and on behalf of the Board of Directors, to execute and deliver all documents and shall have the full authority to effectuate the actions, resolutions and policies of the Board of Directors.

5.7 **VICE CHAIRMAN.** In the absence or disability of the Chairman, the Vice Chairman shall perform all duties of the Chairman and, when acting, shall have all the powers of and be subject to all the restrictions of the Chairman. Each Vice Chairman shall also have such powers and shall perform such duties as may be assigned by the Board of Directors or the Chairman. If a Vice Chairman is elected, the Vice Chairman shall have all of the power and authority of the Chairman in the absence of the Chairman, and shall have such other powers, duties and authority as the Board of Directors shall determine from time to time.

5.8 **SECRETARY.** The Secretary shall cause a record to be kept in permanent form of all meetings of the Board of Directors and the Executive committee and cause to be sent all required notices of meetings of the Board of Directors; shall receive and attend to all correspondence of the Board of Directors; shall have custody of all documents belonging to the corporation (except as otherwise provided in these bylaws) and of the corporate seal, if any; and shall perform such other duties as usually pertain to the Secretary's office or as shall be determined from time to time by the Board of Directors. The Board of Directors, at its discretion, may appoint an Assistant Secretary, not necessarily a member of the Board of Directors, who will perform the duties and assume the responsibilities of the Secretary as stated above under the general direction of the Secretary or the Chairman.

5.9 **TREASURER.** The Treasurer shall have general charge of the finances of the Corporation. The Treasurer may be an individual who is not a member of the management of this corporation or its subsidiaries. The Treasurer shall be responsible for implementing and maintaining an accounting system which will give a true and accurate accounting of the financial transactions of the corporation. The Treasurer shall render reports of the financial condition of the corporation as requested by the Board of Directors from time to time and shall perform such other duties as usually pertain to the office as may be determined from time to time by the Board of Directors. All funds, other than endowment, trust and special funds and the income therefrom, and other funds designed by the Board of Directors, received by the Treasurer, shall immediately be deposited by the Treasurer in a depository designated by the Board of Directors. All or a portion of endowment, trust and special funds and the income therefrom and other funds designated by the Board of Directors, may be delivered to a fiscal agent designated by the Board of Directors. The Board of Directors, at its discretion, may appoint an Assistant Treasurer, not necessarily a member of the Board of Directors, who will perform duties and assume responsibilities of the Treasurer as stated above under the supervision of the Treasurer or the Chairman.

5.10 **ADDITIONAL DUTIES.** Any officer of the Corporation, in addition to the powers conferred upon him or her by these Bylaws will have such additional powers and perform such additional duties as may be prescribed from time to time by the Board.

5.11 **COMPENSATION.** The compensation of all agents, employees, and representatives of the Corporation shall be fixed by the Member. Executive officers of the Corporation, except for the President, shall receive no compensation for their services unless

otherwise specified by resolution of the Board of Directors, but shall be reimbursed by the Corporation for reasonable expenses incurred in the performance of their duties.

## **ARTICLE VI COMMITTEES**

6.1 **COMMITTEES.** The Board of Directors may establish one or more committees from time to time as it shall deem appropriate to conduct the activities of the Corporation, and shall define the powers, responsibilities and membership of such committees. All committees shall report to the Board. The Chairman and members of all committees shall be appointed by the Chairman of the Board of Directors for a two (2) year term or until their successors are duly elected. Committee members may be Members of the Board of Directors and/or other interested individuals.

6.2 **COMMITTEE ACTION.** Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provision of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be fixed by resolution of the Board of Directors or by the committee. The time for special meetings of committees may also be fixed by the Board of Directors. Committees may adopt such rules for the conduct of business as are appropriate and are not inconsistent with these Bylaws, the Articles of Incorporation, or state or federal law. If a committee member is absent or disqualified from voting, then members present at a meeting who are not disqualified from voting, may, whether or not they constitute a quorum, unanimously appoint an alternate committee member to act at the committee meeting in place of the absent or disqualified member.

6.3 **EXECUTIVE COMMITTEE.** Except as otherwise provided in these Bylaws, the Board of Directors may delegate its powers and duties to manage, direct and control the operational affairs of the Corporation to the Executive Committee. The Executive Committee will be chaired by the Chairman of the Corporation and will consist of all other officers of the Corporation. The Executive Committee shall serve as the central planning group for the Corporation and as an advisory group to the President.

6.4 **BUDGET AND FINANCE.** The Board may establish a Budget and Finance Committee, which shall be chaired by the Treasurer and will consist of not less than two (2) members appointed by the Chairman to one (1) year terms. This committee will oversee and monitor the fiscal and investment opportunities of the Corporation, develop annual operating and capital budgets for recommendation to the Board of Directors and the Member, and develop and assist in the funding strategy for the Corporation.

6.5 **NOMINATING COMMITTEE.** The Board may establish a Nominating Committee, which shall be chaired by the Vice Chairman and will consist of not less than five (5) members appointed by the Chairman to one (1) year terms. This committee shall, in concert with the Member, make its recommendations for new directors and for the officers of the Corporation at the Corporation's annual meeting.

## ARTICLE VII INDEMNIFICATION

7.1 **BONDS/NOTES.** The members of the Board of Directors or any person executing any bonds or notes on behalf of the corporation shall not be personally liable on the bond or note, or be subject to any personal liability or accountability by reason of the issuance of the bond or notes, by reason or acquisition, construction, ownership, or operation of a project or action taken or omitted by the Board of Directors.

7.2 **NON-DERIVATIVE ACTIONS.** Subject to the provisions of this Article VII the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a trustee, director or officer of the corporation, a member of any standing or ad hoc committee, or is or was serving at the request of the corporation as a trustee, officer, partner, employee, or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against expenses including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with the action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its members, and with respect to any criminal action or proceeding, if the person had no reasonable cause to believe that conduct was unlawful. The termination of any action, suit or 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 or not opposed to the best interests of the corporation or its Member, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

7.3 **DERIVATIVE ACTIONS.** Subject to all of the provisions of this Article VII, the corporation shall indemnify a person who was or is a party to or is threatened to be made a party to a threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a trustee, director or officer of the corporation, a member of any standing or ad hoc committee, or is or was serving at the request of the corporation as a trustee, director, officer, partner, employee, or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against expenses including actual and reasonable attorneys' fees and amounts paid in settlement incurred by the person in connection with the action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its Member. However, indemnification shall not be made for any claim, issue or matter in which the person has been found liable to the corporation unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

**7.4 EXPENSES OF SUCCESSFUL DEFENSE.** To the extent that a trustee, director, officer or committee member has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 7.2 or 7.3 of these Bylaws, or in defense of any claim, issue or matter in the action, suit or proceeding, the person shall be indemnified against expenses (including actual and reasonable attorneys' fees) incurred by such person in connection with the action, suit or proceeding and any action, suit or proceeding brought to enforce the mandatory indemnification provided by this Section 7.4.

**7.5 DEFINITION.** For the purposes of Sections 7.2 and 7.3 of this Article VII, "other enterprises" shall include employee benefit plans; "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and "serving at the request of the corporation" shall include any service as a director, trustee, officer, employee, or agent of the corporation which imposes duties on, or involves services by, the trustee, director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner the person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be considered to have acted in a manner "not opposed to the best interests of the corporation or its Member as referred to in Sections 7.2 and 7.3 of this Article VII.

**7.6 CONTRACT RIGHT; LIMITATION ON INDEMNITY.** The right to indemnification conferred in this Article VII shall be a contract right, and shall apply to services of a trustee, director, officer or committee member as an employee or agent of the Corporation as well as in such person's capacity as a trustee, director, officer or committee member. Except as provided in Section 7.4 of this Article VII, the Corporation shall have no obligations under this Article VII to indemnify any person in connection with any proceeding, or part thereof, initiated by such person without authorization by the Board of Directors.

**7.7 DETERMINATION THAT INDEMNIFICATION IS PROPER.** Any indemnification under Section 7.2 or 7.3 of this Article VII (unless ordered by the Court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the person is proper in the circumstances because the person has met the applicable standard of conduct set forth in Section 7.2 or 7.3 of this Article VII, whichever is applicable. Such determination shall be made in any of the following ways:

a. By a majority vote of a quorum of the Board consisting of Directors who were not parties to the action, suit or proceeding;

b. If the quorum described in clause (1) above is not obtainable, then by a majority vote of a committee of Directors who are not parties to the action. The committee shall consist of not less than two disinterested Directors; or

c. By independent legal counsel in a written opinion.

**7.8 PROPORTIONATE INDEMNITY.** If a person is entitled to indemnification under Section 7.2 or 7.3 of this Article VII for a portion of expenses, including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount thereof,

the Corporation shall indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

**7.9 EXPENSE ADVANCE.** Expenses incurred in defending a civil or criminal action, suit or proceeding described in Section 7.2 or 7.3 of these Bylaws may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the person involved to repay the expenses if its ultimately determined that the person is not entitled to be indemnified by the Corporation. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made but need not be secured.

**7.10 NON-EXCLUSIVITY OF RIGHTS.** The indemnification or advancement of expenses provided under this Article VII is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Articles of Incorporation or a contractual arrangement with the corporation. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

**7.11 INDEMNIFICATION OF EMPLOYEES AND AGENTS OF THE CORPORATION.** The corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the corporation to the fullest extent provided in this Article VII with respect to the indemnification and advancement of expenses of Directors, officers and committee members of the Corporation.

**7.12 FORMER DIRECTORS AND OFFICERS.** The indemnification provided in this Article VII continues as to a person who has ceased to be a trustee, director, officer, or committee member and shall inure to the benefit of the heirs, executors and administrators of such person.

**7.13 INSURANCE.** The corporation may purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, committee member, employee or agent of the corporation, or is or was serving at the request of the corporation as a trustee, director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have power to indemnify the person against such liability under these Bylaws or the laws of the State of Michigan.

**7.14 CHANGES IN MICHIGAN LAW.** In the event of any change of the Michigan statutory provisions applicable to the corporation relating to the subject matter of this Article VII, then the indemnification to which any person shall be entitled hereunder shall be determined by such change provisions, but only to the extent that any such change permits the corporation to provide broader indemnification rights than such provisions permitted the corporation to provide prior to any such change.

7.15 **AMENDMENT OR REPEAL OF ARTICLE VII.** No amendment or repeal of this Article VII shall apply to or have any effect on any trustee, officer, director or committee member of the corporation for or with respect to any acts or omissions of such trustee, director, officer, or committee member occurring prior to such amendment or repeal.

## **ARTICLE VIII FISCAL MATTERS**

8.1 **FISCAL YEAR.** The fiscal year of the corporation shall begin on January 1 of each year and shall end on December 31 of each year.

8.2 **CONTRACTS, CONVEYANCES, ETC.** The Board of Directors shall have the power to designate the officers and agents who shall have authority to execute any contracts, conveyances or other instruments on behalf of the corporation, but no officer or agent shall execute, acknowledge, or verify any instrument in more than one capacity.

8.3 **LOANS.** No loans shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless first approved by the Member. Such authority may be general or confined to specific instances. No loan shall be granted to an officer or trustee of the Corporation.

8.4 **GENERAL LIABILITY.** No trustee, director, officer, committee member, or employee of this Corporation or any other person shall contract or incur any debts on behalf of the Corporation other than in the regular course of employment, or in any way render the corporation liable unless expressly authorized by the Board of Directors. No trustee, officer, committee member or employee of the corporation is authorized to promise moral or financial support of any charitable or other objective on behalf of the Corporation without the express approval of the Board of Directors.

8.5 **BUDGETS.** The Board of Directors of the Corporation shall have prepared the annual operating and capital expenditure budgets of the corporation.

8.6 **CHECKS, DRAFTS.** All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation or to the corporation, shall be signed or endorsed by any officer(s) of the corporation designated by the Board or Directors. The signatures of such persons may be by facsimile where expressly authorized, but shall not be preprinted on the instrument.

8.7 **DEPOSITS.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select.

8.8 **MAINTENANCE OF RECORDS.** The corporation shall keep correct and complete books and records of account and other records of the activities of the corporation as may be appropriate. All such records shall be open to inspection upon the request of the Member or any member of the Board of Directors.

**ARTICLE IX  
AMENDMENTS**

9.1 **AMENDMENTS.** These bylaws may be amended by the Board of Directors acting in accordance with Section 2.2 of Article II of these bylaws at any annual, regular, or special meeting provided a full statement of the amendment shall have been given in the manner and within the time prescribed in these bylaws for giving notice of meetings of the Board of Directors. No amendment of the bylaws that is inconsistent with the Articles of Incorporation shall become effective.