

**BYLAWS
OF
PHOENIX BIOINFORMATICS
CORPORATION**

a California Public Benefit Corporation

Last amended December 6, 2016

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**BYLAWS
OF
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a California Public Benefit Corporation

**ARTICLE 1
OFFICES**

SECTION 1. PRINCIPAL OFFICE

The principal office of Phoenix Bioinformatics Corporation (the “Corporation”) for the transaction of its business is located in Santa Clara County, California, or in such other location determined by the Board of Directors from time to time.

SECTION 2. OTHER OFFICES

The Corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may, from time to time, designate.

**ARTICLE 2
OBJECTIVES AND PURPOSES**

This Corporation is a nonprofit public benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes. The specific purpose for which this Corporation is organized is to make scientific data widely available and accessible to the public and scientific community, including scientists, students, and educators, in order to foster and promote scientific knowledge about the physical, chemical and biological parts and processes related to living things, and in furtherance of this purpose, to: (1) develop and maintain scientific databases for storing and organizing such knowledge, (2) develop and maintain software systems for storing, searching, and accessing such data, and (3) provide assistance and training to users regarding the use of such databases and software systems.

**ARTICLE 3
DIRECTORS**

SECTION 1. NUMBER

The number of directors shall be not less than 7 nor more than 12, with the exact authorized number of directors to be fixed from time to time by resolution of the Board of Directors.

SECTION 2. POWERS

The activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors. This Corporation has no members.

SECTION 3. DUTIES

Directors act as often as necessary to manage the Corporation and fulfill their fiduciary duties. Generally, directors attend meetings of the Board of Directors, either in person or via conference call, and act between meetings via unanimous written consent. The Board is responsible for overall direction and management of the Corporation's activities and affairs, although the Board is permitted to delegate with supervision. Directors may be asked to sign a Director Agreement or similar document evidencing the director's understanding of his or her obligations to the Corporation.

SECTION 4. ELECTION AND TERM OF OFFICE OF DIRECTORS

Directors then in office shall elect their successors. Each Director shall be elected for a term of two (2) years, except that Directors appointed to fill newly created positions due to an increase in the authorized number of Directors, may be appointed to initial terms of one or two years as determined prior to election by the Board so as to maintain approximately equal number of Directors' terms expiring every other year. All Directors may serve any number of consecutive terms, if elected. All Directors shall hold office until expiration of the term for which they were elected **and** until a successor has been elected, or until that Director's earlier resignation or removal in accordance with these Bylaws. Not more than 49% of the persons serving on the Board of Directors may be "interested persons" as defined in Section 5 below.

The Corporation intends that the Board of Directors shall collectively represent a diversity of relevant backgrounds and skills to enable the Board of Directors to make informed, well-balanced decisions on the economic viability and social and scientific impacts of corporate activities.

SECTION 5. RESTRICTION REGARDING INTERESTED DIRECTORS

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:

- (a) Any person currently being compensated by the Corporation for services rendered it within the previous twelve (12) months, whether as a full- or part-time Officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as 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.

SECTION 6. COMPENSATION

Directors shall serve without compensation except that they shall be allowed and paid: actual and necessary expenses incurred in attending Directors' meetings; reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article; and reasonable compensation for rendering services to the Corporation in any authorized and approved capacity other than Director. Provisions regarding compensation for rendering services to the Corporation as an Officer are set forth in Article 4, Section 10. Any

payments to Directors shall be approved in advance in accordance with this Corporation's conflict of interest and compensation approval policy, as set forth in Article 9 of these Bylaws.

SECTION 7. PLACE OF MEETINGS

Meetings shall be held at the principal office of the Corporation unless otherwise provided by the Board or at such place within or without the State of California that has been designated from time to time by resolution of the Board of Directors. In the absence of such designation, any meeting not held at the principal office of the Corporation shall be valid only if held on the written consent of all Directors given either before or after the meeting and filed with the secretary of the Corporation or after all Board members have been given written notice of the meeting as hereinafter provided for special meetings of the Board.

Any meeting, regular or special, may be held by conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone constitutes presence in person at that meeting so long as all Directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment (other than conference telephone) constitutes presence in person at that meeting if all of the following apply:

- (a) Each Director participating in the meeting can communicate with all of the other Directors concurrently;
- (b) Each Director is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation; and
- (c) The Corporation adopts and implements some means of verifying (1) that all persons participating in the meeting are Directors of the Corporation or are otherwise entitled to participate in the meeting, and (2) that all actions of, or votes by, the Board are taken and cast only by Directors and not by persons who are not Directors.

SECTION 8. REGULAR AND ANNUAL MEETINGS

- (a) **Annual Meeting.** A meeting of the Board of Directors shall be held at least once a year. Annual Meetings shall be called by the President or any two Directors. Notice of the Annual Meeting shall be given in the manner set forth in Article 3, Section 10, of these Bylaws regarding Special Meetings.
- (b) **Regular Meetings.** Regular meetings shall be held at such times as are fixed by the Board of Directors. Meetings may be held at any place designated by resolution of the Board, or, if not designated, at the principal office of the Corporation.

SECTION 9. SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the chairperson of the Board, the president, the vice president, the secretary, or by any two Directors, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the Corporation.

SECTION 10. NOTICE OF MEETINGS

- (a) **Notice.** Notice of the date, time, and place of meetings shall be delivered:
- (i) personally to each Director or communicated to each Director by telephone (including a voice messaging system which records and communicates messages), facsimile, or electronic mail at least forty-eight (48) hours prior to the meeting, or
 - (ii) communicated by express mail service, first-class mail, telegraph, or by other means of written communication, charges prepaid, addressed to the Director at the Director's address as it is shown upon the records of the Corporation, deposited in the U.S. mail system or given to carrier company at least four (4) days before the date of the meeting.

The notice need not specify the purpose of the meeting. Notice of a meeting need not be given to any Director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes of the meeting, whether before or after the meeting, or who attends the meeting without protesting, prior to the meeting or at its commencement, the lack of notice to such Director.

- (b) **Waiver of Notice.** A waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.
- (c) **Regular Meetings.** Regular meetings of the Board may be held without notice.
- (d) **Special Meetings.** Special meetings of the Board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone or email. If sent by mail, the notice shall be deemed to be delivered on its deposit in the U.S. mail system. Such notices shall be addressed to each Director at his or her address or email address as shown on the books of the Corporation.
- (e) **Adjourned Meetings.** Notice shall be given of any adjourned meeting to absent Directors if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting. Notice need not be given to absent Directors if the adjourned meeting is held less than twenty-four (24) hours of the original meeting.

SECTION 11. CONTENTS OF NOTICE

Notice of meetings not herein dispensed with shall specify the place, day, and hour of the meeting. The purpose of any Board meeting need not be specified in the notice.

SECTION 12. WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each Director not present signs a waiver of notice, a consent to holding the meeting, or an

approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 13. QUORUM FOR MEETINGS

A majority of the total number of directors then in office shall constitute a quorum, provided that in no event shall the required quorum be less than one-fifth of the authorized number of directors or two directors, whichever is larger. 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 14. MAJORITY ACTION AS BOARD ACTION

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 is the act of the Board of Directors, unless the Articles of Incorporation or Bylaws of this Corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a Director has a material financial interest (Section 5233), and indemnification of Directors (Section 5238(e)), require a greater percentage or different voting rules for approval of a matter by the Board.

SECTION 15. CONDUCT OF MEETINGS

Meetings of the Board of Directors shall be presided over by the chairperson of the Board, or, if no such person has been so designated or, in his or her absence, the president of the Corporation or, in his or her absence, by the vice president of the Corporation or, in the absence of each of these persons, by a chairperson chosen by a majority of the Directors present at the meeting. The secretary of the Corporation shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding Officer shall appoint another person to act as secretary of the meeting. Meetings shall be governed by consensus, with the intention that meetings are participatory and fair, insofar as such rules are not inconsistent with, or in conflict with, the Articles of Incorporation, these Bylaws, or with provisions of law.

SECTION 16. ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this Corporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority. In the event that the conflict of interest procedures set forth in Article 9 of these Bylaws apply to an action, that action may be taken without a meeting only if all the "disinterested" members of the Board (as defined in Article 9) individually or collectively consent in writing to such action.

SECTION 17. VACANCIES

- (a) **Vacancy Defined.** Vacancies on the Board of Directors shall exist (1) on the death, resignation, or removal of any Director, and (2) whenever the number of authorized Directors is increased. The Board of Directors 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 order or judgment of any court to have breached any duty under Section 5230 and following of the California Nonprofit Public Benefit Corporation Law.
- (b) **Removal of Director.** Any Director may be removed without cause by a majority of Directors then in office.
- (c) **Resignation of Director.** Any Director may resign effective upon giving written notice to the Chair of the Board, the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the Corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the Attorney General.
- (d) **Filling Vacancies.** Vacancies on the Board may be filled by vote of a majority of the Directors, or, if the number of Directors then in office is less than a quorum, by the unanimous written consent of the Directors then in office, or a sole remaining Director.
- (e) **Term.** A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the Board of Directors following the expiration of that Director's term of office.

SECTION 18. STANDARD OF CARE; NON-LIABILITY OF DIRECTORS

A director shall perform the duties of a director, including duties as a member of any Board Committee on which the director may serve, in good faith, in a manner such director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- (i) one or more officers or employees of this corporation whom the director believes to be reliable and competent as to the matters presented;
- (ii) counsel, independent accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or
- (iii) a committee upon which the director does not serve that is composed exclusively of any combination of directors or persons described in (i) or (ii), as to matters within the committee's designated authority, provided that the director believes such committee merits confidence; so long as in any such case, the director acts in good faith after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Except as provided in Section 5233 of the California Nonprofit Public Benefit Corporation Law, a person who performs the duties of a director in accordance with this Section shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

SECTION 19. INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

(a) Right of Indemnity. To the fullest extent allowed by Section 5238 of the California Nonprofit Public Benefit Corporation Law, this corporation shall indemnify its agents, in connection with any proceeding, and in accordance with Section 5238. For purposes of this Article, "agent" shall have the same meaning as in Section 5238(a), including directors, officers, employees, other agents, and persons formerly occupying such positions; "proceeding" shall have the same meaning as in Section 5238(a), including any threatened action or investigation under Section 5233 or brought by the Attorney General; and "expenses" shall have the same meaning as in Section 5238(a), including reasonable attorneys' fees.

(b) Approval of Indemnity. On written request to the Board of Directors in each specific case by any agent seeking indemnification, to the extent that the agent has been successful on the merits, the Board shall promptly authorize indemnification in accordance with Section 5238(d). Otherwise, the Board shall promptly determine, by a majority vote of a quorum consisting of directors who are not parties to the proceeding, whether, in the specific case, the agent has met the applicable standard of conduct stated in Section 5238(b) or Section 5238(c), and, if so, shall authorize indemnification to the extent permitted thereby.

(c) Advancing Expenses. The Board of Directors may authorize the advance of expenses incurred by or on behalf of an agent of this corporation in defending any proceeding prior to final disposition, if the Board finds that:

- (i) the requested advances are reasonable in amount under the circumstances; and
- (ii) before any advance is made, the agent will submit a written undertaking satisfactory to the Board to repay the advance unless it is ultimately determined that the agent is entitled to indemnification for the expenses under this Article.

The Board shall determine whether the undertaking must be secured, and whether interest shall accrue on the obligation created thereby.

SECTION 20. INSURANCE FOR CORPORATE AGENTS

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including a Director, Officer, employee, or other agent of the Corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) 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 Section 5238 of the California Nonprofit Public Benefit Corporation Law.

SECTION 21. EXECUTIVE COMPENSATION REVIEW

The Board of Directors (or a Board Committee) shall review any compensation packages (including all benefits) of the President or the chief executive officer and the Treasurer or chief financial officer, regardless of job title, and shall approve such compensation only after determining that the compensation is just and reasonable. This review and approval shall occur when such officer is hired, when the term of employment of such officer is renewed or extended, and when the compensation of such officer is modified, unless the modification applies to substantially all of the employees of this corporation.

ARTICLE 4 OFFICERS

SECTION 1. NUMBER OF OFFICERS

The Officers of the Corporation shall be a president (who may also be called the Executive Director), a secretary, a treasurer, and a chief financial officer. The Corporation may also have, as determined by the Board of Directors, a chairperson of the Board, one or more vice presidents, assistant secretaries, assistant treasurers, or other Officers. Any number of offices may be held by the same person except that none of the Secretary, the Treasurer or Chief Financial Officer may serve as the president or chairperson of the Board.

SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any person may serve as an Officer of this Corporation. Officers shall be elected by the Board of Directors, at any time, and each Officer shall hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 3. SUBORDINATE OFFICERS

The Board of Directors may appoint such other Officers or agents as it may deem desirable, and such Officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the Board of Directors.

SECTION 4. REMOVAL AND RESIGNATION

Any Officer may be removed, either with or without cause, by the Board of Directors, at any time. Any Officer may resign at any time by giving written notice to the Board of Directors or to the president or secretary of the Corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board of Directors relating to the employment of any Officer of the Corporation.

SECTION 5. VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any Officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of president, such vacancy may be filled temporarily by appointment by the president until such time as the Board shall fill the vacancy. Vacancies occurring in offices of Officers appointed at the discretion of the Board may or may not be filled as the Board shall determine.

SECTION 6. DUTIES OF PRESIDENT

The President (who may also be called Executive Director) shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the Corporation and the activities of the Officers. She or he shall perform all duties incident to her or his office and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Unless another person is specifically appointed as chairperson of the Board of Directors, she or he shall preside at all meetings of the Board of Directors. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, she or he shall, in the name of the Corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors.

SECTION 7. DUTIES OF VICE PRESIDENT

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President 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 on, the President. The Vice President shall have other powers and perform such other duties as may be prescribed by law, by the Articles of incorporation, or by these Bylaws, or as may be prescribed by the Board of Directors.

SECTION 8. DUTIES OF SECRETARY

The Secretary shall:

- (a) Certify and keep at the principal office of the Corporation the original, or a copy of these Bylaws as amended or otherwise altered to date;
- (b) Keep at the principal office of the Corporation or at such other place as the Board may determine, a book of minutes of all meetings of the Directors, and, if applicable, meetings of committees of the Board of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof;
- (c) Ensure that the minutes of meetings of the Corporation, any written consents approving action taken without a meeting, and any supporting documents pertaining to meetings, minutes, and consents shall be contemporaneously recorded in the corporate records of this Corporation. "Contemporaneously" in this context means that the minutes, consents, and

supporting documents shall be recorded in the records of this Corporation by the later of (1) the next meeting of the Board, committee, or other body for which the minutes, consents, or supporting documents are being recorded, or (2) sixty (60) days after the date of the meeting or written consent;

- (d) See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law;
- (e) Be custodian of the records of the Corporation;
- (f) Keep at the principal office of the Corporation a Directors & Officers book containing the name, address, and email address of each and any Director and Officer, and, in the case where any Director or Officer is no longer serving or has been terminated, the secretary shall record such fact in the book together with the date on which such role ceased;
- (g) Exhibit at all reasonable times to any Director of the Corporation, or to his or her agent or attorney, on request therefore, the Bylaws, the Directors & Officers book, and the minutes of the proceedings of the Directors of the Corporation.
- (h) In general, perform all duties incident to the office of secretary and such other duties as may be required by law, by the articles of incorporation of this Corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 9. DUTIES OF TREASURER

Subject to Article 6, Section 2, of these Bylaws relating to the “Execution of Instruments, Deposits, and Funds,” the Treasurer shall:

- (a) Lead the Board’s oversight of budgeting and financial planning processes;
- (b) Oversee the corporation’s financial performance and condition;
- (c) Render reports and accountings on the corporation’s financial performance and condition to the Board as requested; and
- (d) Have such other powers and duties as may be prescribed by the Board or these Bylaws.

SECTION 10. DUTIES OF THE CHIEF FINANCIAL OFFICER

The Chief Financial Officer shall manage the day-to-day financial activities of the Corporation and shall:

- (a) Receive, and give receipt for, monies due and payable to the Corporation from any source whatsoever;

- (b) Disburse, or cause to be disbursed, the funds of the Corporation as may be directed by the Board of Directors;
- (c) Keep and maintain adequate and correct accounts of the Corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses;
- (d) Exhibit at all reasonable times the books of account and financial records to any Director of the Corporation, or to his or her agent or attorney, on request therefor;
- (e) Render to the President, Treasurer, and Board, whenever requested, an account of any or all of his or her transactions as Chief Financial Officer and of the financial condition of the Corporation;
- (f) Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports;
- (g) Prepare, or cause to be prepared, and certify, or cause to be certified, this corporation's federal and state tax returns; and
- (h) Have such other powers and duties as may be prescribed by the Board or these Bylaws.

SECTION 11. COMPENSATION

The salaries of the Officers, if any, shall be fixed from time to time by resolution of the Board of Directors, and no Officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the Corporation, provided, however, that such compensation paid to a Director for serving as an Officer of this Corporation shall only be allowed if permitted under the provisions of Article 3, Section 6, of these Bylaws. In all cases, any salaries received by Officers of this Corporation shall be reasonable and given in return for services actually rendered for the Corporation which relate to the performance of the charitable or public purposes of this Corporation. All Officer salaries shall be approved in advance in accordance with this Corporation's conflict of interest policy, as set forth in Article 9 of these Bylaws.

ARTICLE 5 COMMITTEES

SECTION 1. EXECUTIVE COMMITTEE OF THE BOARD

The Board of Directors may, by a majority vote of Directors, designate two (2) or more of its members (who may also be serving as Officers of this Corporation) to constitute an executive committee of the Board and delegate to such committee any of the powers and authority of the Board in the management of the business and affairs of the Corporation, except with respect to:

- (a) The filling of vacancies on the Board or on any committee that has the authority of the Board.
- (b) The fixing of compensation of the Directors for serving on the Board or on any committee.
- (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 committees of the Board or the members thereof.
- (f) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected.
- (h) The approval of any transaction to which this Corporation is a party and in which one or more of the Directors has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the Board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the Board. The committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the Board from time to time as the Board may require.

SECTION 2. OTHER COMMITTEES

The Corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the Board. These additional committees shall act in an advisory capacity only to the Board and shall be clearly titled as “advisory” committees.

SECTION 3. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held, and taken in accordance with the provisions 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. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

ARTICLE 6 EXECUTION OF INSTRUMENTS, DEPOSITS, AND FUNDS

SECTION 1. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any Officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized, 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 monetarily for any purpose or in any amount.

SECTION 2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation shall be signed by the treasurer and countersigned by the president of the Corporation.

SECTION 3. DEPOSITS

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 4. GIFTS

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or device for the charitable or public purposes of this Corporation.

ARTICLE 7 CORPORATE RECORDS AND REPORTS

SECTION 1. MAINTENANCE OF CORPORATE RECORDS

The Corporation shall keep at its principal office in the State of California:

- (a) Minutes of all meetings of Directors and committees of the Board indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof; and
- (b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses.

SECTION 2. DIRECTORS' INSPECTION RIGHTS

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. RIGHT TO COPY AND MAKE EXTRACTS

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

SECTION 4. ANNUAL REPORT

The Board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the Corporation's fiscal year to all Directors of the Corporation and to any Board member who requests it in writing, which report shall contain the following information in appropriate detail:

- (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;
- (e) Any information required by Section 5 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such 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.

SECTION 5. ANNUAL STATEMENT OF SPECIFIC TRANSACTIONS

This Corporation shall mail or deliver to all Directors a statement within one hundred and twenty (120) days after the close of its fiscal year which briefly describes the amount and circumstances of any indemnification or transaction of the following kind:

Any transaction in which the Corporation was a party and in which any Director or Officer of the Corporation had a direct or indirect material financial interest. A mere common Directorship (that is, being a Director of the Corporation and a Director of the other party to the transaction) shall not be considered a material financial interest.

The above statement need only be provided with respect to a transaction during the previous fiscal year involving more than Fifty Thousand Dollars (\$50,000) or which was one of a number of transactions with the same persons involving, in the aggregate, more than Fifty Thousand Dollars (\$50,000).

Similarly, the statement need only be provided with respect to indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the previous fiscal year to any Director or Officer, except that no such statement need be made if such indemnification was approved by the members pursuant to Section 5238(e)(2) of the California Nonprofit Public Benefit Corporation Law.

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the Corporation, the nature of such person's interest in the transaction, and, where practical, 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.

ARTICLE 8 FISCAL YEAR

The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

ARTICLE 9
CONFLICT OF INTEREST AND COMPENSATION APPROVAL POLICIES

SECTION 1. PURPOSE OF CONFLICT OF INTEREST POLICY

The purpose of this conflict of interest policy is to protect this tax-exempt Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Director of the Corporation or any "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations and which might result in a possible "excess benefit transaction" as defined in Section 4958(c)(1)(A) of the Internal Revenue Code and as amplified by Section 53.4958 of the IRS Regulations. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

SECTION 2. DEFINITIONS

(a) Interested Person

Any Director, principal Officer, member of a committee with governing Board delegated powers, or any other person who is a "disqualified person" as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations, who has a direct or indirect financial interest, as defined below, is an interested person.

(b) Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- (1) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,
- (2) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or
- (3) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Section 3(b), a person who has a financial interest may have a conflict of interest only if the appropriate governing Board or committee decides that a conflict of interest exists.

SECTION 3. CONFLICT OF INTEREST AVOIDANCE PROCEDURES

(a) Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to

the Directors and members of committees with governing Board delegated powers considering the proposed transaction or arrangement.

(b) Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

(c) Procedures for Addressing the Conflict of Interest

An interested person may make a presentation at the governing Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

The chair of the governing Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

After exercising due diligence, the governing Board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

(d) Violations of the Conflicts of Interest Policy

If the governing Board or committee has reasonable cause to believe a Board or committee member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing Board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 4. RECORDS OF BOARD AND BOARD COMMITTEE PROCEEDINGS

The minutes of meetings of the governing Board and all committees with Board delegated powers shall contain:

- (a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial

- interest, any action taken to determine whether a conflict of interest was present, and the governing Board's or committee's decision as to whether a conflict of interest in fact existed;
- (b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

SECTION 5. COMPENSATION APPROVAL POLICIES

A voting member of the governing Board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

No voting member of the governing Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

When approving compensation for Directors, Officers and employees, contractors, and any other compensation contract or arrangement, in addition to complying with the conflict of interest requirements and policies contained in the preceding and following sections of this article as well as the preceding paragraphs of this section of this article, the Board or a duly constituted compensation committee of the Board shall also comply with the following additional requirements and procedures:

- (a) The terms of compensation shall be approved by the Board or compensation committee prior to the first payment of compensation;
- (b) All members of the Board or compensation committee who approve compensation arrangements must not have a conflict of interest with respect to the compensation arrangement as specified in IRS Regulation Section 53.4958-6(c)(iii), which generally requires that each Board member or committee member approving a compensation arrangement between this organization and a "disqualified person" (as defined in Section 4958(f)(1) of the Internal Revenue Code and as amplified by Section 53.4958-3 of the IRS Regulations):
 - (1) is not the person who is the subject of compensation arrangement, or a family member of such person;
 - (2) is not in an employment relationship subject to the direction or control of the person who is the subject of compensation arrangement;
 - (3) does not receive compensation or other payments subject to approval by the person who is the subject of compensation arrangement;
 - (4) has no material financial interest affected by the compensation arrangement; and

- (5) does not approve a transaction providing economic benefits to the person who is the subject of the compensation arrangement, who in turn has approved or will approve a transaction providing benefits to the Board or committee member.
- (c) The Board or compensation committee shall obtain and rely upon appropriate data as to comparability prior to approving the terms of compensation. Appropriate data may include the following:
- (1) compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions. “Similarly situated” organizations are those of a similar size and purpose and with similar resources;
 - (2) the availability of similar services in the geographic area of this organization;
 - (3) current compensation surveys compiled by independent firms;
 - (4) actual written offers from similar institutions competing for the services of the person who is the subject of the compensation arrangement.

As allowed by IRS Regulation 4958-6, if this organization has average annual gross receipts (including contributions) for its three prior tax years of less than \$1 million, the Board or compensation committee will have obtained and relied upon appropriate data as to comparability if it obtains and relies upon data on compensation paid by three comparable organizations in the same or similar communities for similar services.

- (d) The terms of compensation and the basis for approving them shall be recorded in written minutes of the meeting of the Board or compensation committee that approved the compensation. Such documentation shall include:
- (1) the terms of the compensation arrangement and the date it was approved;
 - (2) the members of the Board or compensation committee who were present during debate on the transaction, those who voted on it, and the votes cast by each Board or committee member;
 - (3) the comparability data obtained and relied upon and how the data was obtained;
 - (4) if the Board or compensation committee determines that reasonable compensation for a specific position in this organization or for providing services under any other compensation arrangement with this organization is higher or lower than the range of comparability data obtained, the Board or committee shall record in the minutes of the meeting the basis for its determination;
 - (5) if the Board or committee makes adjustments to comparability data due to geographic area or other specific conditions, these adjustments and the reasons for them shall be recorded in the minutes of the Board or committee meeting;
 - (6) any actions taken with respect to determining if a Board or committee member had a conflict of interest with respect to the compensation arrangement, and if so, actions taken to make sure the member with the conflict of interest did not affect or participate in the approval of the transaction (for example, a notation in the records that after a finding of conflict of interest by a member, the member with the conflict of interest was asked to,

and did, leave the meeting prior to a discussion of the compensation arrangement and a taking of the votes to approve the arrangement);

- (7) The minutes of Board or committee meetings at which compensation arrangements are approved must be prepared before the later of the date of the next Board or committee meeting or 60 days after the final actions of the Board or committee are taken with respect to the approval of the compensation arrangements. The minutes must be reviewed and approved by the Board and committee as reasonable, accurate, and complete within a reasonable period thereafter, normally prior to or at the next Board or committee meeting following final action on the arrangement by the Board or committee.

SECTION 6. ANNUAL STATEMENTS

Each Director, principal Officer, and member of a committee with governing Board delegated powers shall annually sign a statement which affirms such person:

- (a) has received a copy of the conflicts of interest policy,
- (b) has read and understands the policy,
- (c) has agreed to comply with the policy, and
- (d) understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

SECTION 7. PERIODIC REVIEWS

To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- (a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining.
- (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

SECTION 8. USE OF OUTSIDE EXPERTS

When conducting the periodic reviews as provided for in Section 7, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing Board of its responsibility for ensuring periodic reviews are conducted.

**ARTICLE 10
AMENDMENT OF BYLAWS**

These Bylaws may be altered, amended, repealed and new Bylaws adopted by approval of the Directors.

**ARTICLE 11
AMENDMENT OF ARTICLES**

This Corporation shall not amend its Articles of Incorporation to alter any statement which appears in the original Articles of Incorporation of the names and addresses of the first Directors of this Corporation, nor the name and address of its initial agent, except to correct an error in such statement or to delete such statement after the Corporation has filed a “Statement by a Domestic Nonprofit Corporation” pursuant to Section 6210 of the California Nonprofit Corporation Law.

**ARTICLE 12
PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS**

No Director, Officer, employee, or other person connected with this Corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operations of the Corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the Corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these Bylaws and is fixed by resolution of the Board of Directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the Corporation.

**ARTICLE 13
FOUNDERS**

(a) **Founders.** The Corporation’s founders are: Eva Huala, Robert Muller, Tanya Berardini, and Donghui Li (the “Founders”). In recognition of their service, generosity, and leadership, the Founders hold the title of Founders. Founders may, but need not, serve simultaneously as directors of the Corporation.

(b) **Service to the Corporation.** Founders shall have the right to receive notices of and to attend meetings of the Board of Directors and meetings of Board Committees, unless the Board or Board Committee (as the case may be) determines, in its sole discretion, that a meeting or portion of a meeting should exclude such persons. Founders may serve on any Advisory Committee constituted in accordance with Article 5, Section 2 of these Bylaws.

(c) **No Vote or Fiduciary Duties.** No Founder shall be deemed a director or officer of the Foundation by virtue of being a Founder. Founders may be elected to the Board of Directors or as an officer of the Corporation in accordance with the procedures set forth in these Bylaws. A Founder so elected shall have the vote and fiduciary duties attendant with the Founder's position as a director or officer, as the case may be.

CERTIFICATE

This is to certify that the foregoing is a true and correct copy of the Bylaws of the Corporation named in the title thereto and that such Bylaws were duly adopted by the Board of Directors of said Corporation on the date set forth below.

Tanya Z. Berardini, Secretary

Date: _____