



**SECOND**

**AMENDED AND RESTATED BYLAWS**

**OF THE**

**UC SANTA CRUZ FOUNDATION**

As adopted by the Board of Trustees at its Meeting on  
February 20, 2016

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**SECOND AMENDED AND RESTATED BYLAWS  
OF THE  
UC SANTA CRUZ FOUNDATION**

**ARTICLE I  
NAME AND OFFICES**

Section 1. Name. The name of this corporation, as set forth in the Articles of Incorporation of the UC Santa Cruz Foundation, amended and restated July 10, 1989 (“Articles”), is the UC Santa Cruz Foundation (“Foundation”).

Section 2. Principal Office. The principal office of the Foundation shall be located at such place as the University of California, Santa Cruz (“UC Santa Cruz”), shall provide for its officially recognized campus foundation in Santa Cruz, California. The Foundation’s Board of Trustees, after consultation with the Chancellor of UC Santa Cruz (“Chancellor”), may change the location of the Foundation’s principal office at any time and from time to time.

Section 3. Other Offices. The Board of Trustees may establish such other offices as may be necessary, appropriate, or convenient to the business of the Foundation in any place or places where the Foundation is qualified to do business.

**ARTICLE II  
MEMBERSHIP**

Section 1. Members. The Foundation shall have no voting members. Any action that would require approval by a majority of all members or approval by the members of a public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law (together with the General Provisions of the California Nonprofit Corporation Law, the “Law”) shall require only approval of the Board of Trustees.

Section 2. Associates. Nothing in this Article II (Membership) shall be construed as limiting the right of the Foundation to refer to persons associated with it as “members” even though such persons are not members within the meaning of the Law. The Foundation may confer by amendment of these Bylaws some or all of the rights of a member set forth in the Law upon any person or persons who do not have the right to vote for the election of Trustees or on changes to the Articles or these Bylaws or on a merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of the Foundation, but no such person shall be a member of the Foundation under the Law.

### **ARTICLE III PURPOSES AND POWERS**

Section 1. General Purposes. The Foundation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Law exclusively for charitable purposes within the meaning of Section 501(c)(3) of the U.S. Internal Revenue Code of 1986, as amended, or any corresponding provision of any future United States internal revenue law (“Internal Revenue Code”) and of Section 23701d of the California Revenue and Taxation Code or any corresponding provision of any future California revenue and taxation law (“California Revenue and Taxation Code”).

Section 2. Specific Purposes. In furtherance of the purposes of this Foundation as set forth in the Articles, the Foundation shall (a) foster community support of UC Santa Cruz; (b) promote and encourage philanthropic giving and other activity for the benefit of UC Santa Cruz; (c) solicit, raise, invest, manage, and distribute gift funds and assets to support the teaching, research, and public services mission of UC Santa Cruz; (d) provide financial assistance to UC Santa Cruz undergraduate and graduate students; (e) provide advice, counsel, and assistance to the Chancellor and campus leadership; and (f) otherwise advance the interests and promote the welfare of UC Santa Cruz.

Section 3. General Powers. The Foundation shall have and exercise all rights, powers, and privileges conferred on nonprofit public benefit corporations under the Law, including without limitation, the power to do the following:

- (a) adopt, use, and at will alter, a corporate seal, but failure to affix a seal shall not affect the validity of any instrument;
- (b) adopt, amend, and repeal bylaws;
- (c) qualify to conduct its activities in any other state, territory, dependency or foreign country;
- (d) issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lease, lend, exchange, transfer or otherwise dispose of, pledge, use, and otherwise deal in and with real and personal property, capital stock, bonds, debentures, notes, debt securities, and money market instruments of its own or others;
- (e) make payments and distributions to carry out, or to assist in carrying out, the purposes and objectives of the Foundation;
- (f) assume obligations, enter into contracts, including contracts of guaranty or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts, or liabilities by mortgage, pledge, or other encumbrance of all or any part of its property and income;
- (g) participate with others in any partnership, joint venture, or other association, transaction, or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others;

- (h) act as trustee under any trust incidental to the principal purposes and objectives of the Foundation, and receive, hold, administer, exchange, and expend funds and property subject to such trust; and
- (i) receive endowments, devises, bequests, gifts, and donations of all kinds of property for its own use, or in trust, in order to carry out or to assist in carrying out, the purposes and objectives of the Foundation and to do all things and acts necessary or proper to carry out each and all of the purposes and provisions of such endowments, devises, bequests, gifts, and donations with full power to mortgage, sell, lease, or otherwise deal with or dispose of the same in accordance with the terms thereof.

Section 4. Limitation of Powers. The Foundation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code. No substantial part of the activities of the Foundation shall consist of lobbying or carrying on propaganda or otherwise attempting to influence legislation, nor shall the Foundation participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of (or in opposition to) any candidate for public office, except as provided in Section 501(h) of the Internal Revenue Code.

Section 5. University of California Policy on Campus Foundations. Notwithstanding any provision of these Bylaws to the contrary, the Foundation shall, in the governance and administration of its activities, comply with the Policy on Support Groups, Campus Foundations and Alumni Associations, as amended, promulgated by The Regents of the University of California ("Policy on Campus Foundations"), and the University of California Administrative Guidelines for Campus Foundations, as amended ("Administrative Guidelines"). The Executive Secretary shall keep copies of these documents, properly indexed, as part of the permanent records of the Foundation. Once each calendar year, the Board shall affirm its understanding that compliance with the Policy on Campus Foundations and the Administrative Guidelines is a condition of the Foundation's continued recognition by the Chancellor as the sole campus foundation of UC Santa Cruz, and reaffirm its acceptance of that condition.

#### **ARTICLE IV DEDICATION OF ASSETS**

Section 1. Irrevocable Dedication. Pursuant to the Articles, the property, assets, and net income of the Foundation are irrevocably dedicated to charitable purposes, and no part thereof shall ever inure to the benefit of any Foundation Trustee or Officer, or to any other private person, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered to or for the Foundation and to make payments and distributions in furtherance of the purposes set forth in Article III (Purposes and Powers) above.

Section 2. Dissolution. Upon the dissolution or winding up of the Foundation, the assets remaining after payment of, or provision for payment of, all its debts and

liabilities, to the extent not inconsistent with the terms of any endowment, devise, bequest, gift or donation, shall be distributed to The Regents of the University of California ("Regents") for the benefit of UC Santa Cruz, if the Regents is then in existence and tax-exempt under Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code, but if it is not then in existence or tax exempt as hereinbefore provided, then to another nonprofit corporation that is organized and operated exclusively for charitable purposes and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code.

Section 3. Trust Assets. All persons making contributions to the Foundation upon trust or otherwise shall be deemed to have expressly consented and agreed that upon dissolution or winding up of the affairs of the Foundation, whether voluntary or involuntary, the assets of the Foundation, after all debts have been satisfied, shall be distributed, transferred, conveyed, delivered, and paid over to the Regents.

## **ARTICLE V BOARD OF TRUSTEES**

Section 1. Powers. Subject to the limitations of Law, the Articles, and these Bylaws, the activities and affairs of the Foundation shall be conducted and all corporate powers shall be exercised by or under the direction of a board of directors, which shall be known as the Board of Trustees ("Board of Trustees" or "Board"). The Board may delegate the management of the activities of the Foundation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the Foundation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board.

Section 2. Number of Trustees. The number of Trustees shall be not less than 25 nor more than 75, with the exact authorized number of Trustees to be fixed from time to time by the Board of Trustees.

Section 3. Restriction Regarding Interested Persons. At all times, not more than 49% of the Trustees of the Foundation may be employed by UC Santa Cruz or interested persons. An interested person means either:

- (a) any person currently being compensated by the Foundation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Trustee in his or her capacity as Trustee; or
- (b) any brother, sister, ancestor, descendant, step or adoptive great grandparents, grandparents, parents, children, grandchildren, or great grandchildren, 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 4. Composition of the Board. The Foundation shall have two classes of voting Trustees, known as Elected Trustees and Ex Officio Trustees, and all references in



these Bylaws to "Trustees" shall refer to Elected and Ex Officio Trustees. The rights and duties of Elected and Ex Officio Trustees shall be the same.

- (a) Election and Term of Office of Elected Trustees. The Trustee Membership Committee shall, from time to time, recommend a candidate or candidates for the position of Elected Trustee. Election to Elected Trustee positions from among the candidates recommended by the Trustee Membership Committee shall take place at such times as the Board may determine. In addition, at the last regularly scheduled Board meeting of the fiscal year, the Trustee Membership Committee shall submit a single slate of nominees for reelection or replacement of those Elected Trustees whose terms expire in that year. Each Elected Trustee shall hold office from the date determined by the Board through and including June 30 following the last regularly scheduled meeting of the fiscal year marking the third anniversary of his or her election, provided, however, that if an Elected Trustee is elected to fill an unexpired term, that Trustee shall hold office only for the duration of the unexpired term. Elected Trustees may be elected to additional successive terms of three (3) years.
- (b) Appointment and Term of Office of Ex Officio Trustees. Each person holding an office listed below shall by virtue of the fact that he or she holds such office serve as an Ex Officio Trustee for so long as he or she shall hold the office:
  - (1) the Chancellor of UC Santa Cruz;
  - (2) the President of the UC Santa Cruz Alumni Association;
  - (3) each of the Chair and the Immediate Past Chair of the Board, if not then serving as an Elected Trustee; and
  - (4) each of the Alumni Regent and the Alumni Regent-Designate from UC Santa Cruz, if not then serving as an Elected Trustee.

Section 5. Emeritus Trustees. The title of Emeritus Trustee shall be bestowed on all former Elected Trustees who have served the Foundation for at least two full terms and upon such other former Elected Trustees as the Board shall determine. Emeritus status is intended to provide a means for former Elected Trustees to continue as advocates and supporters of UC Santa Cruz, and to maintain lasting relationships with one another and UC Santa Cruz. The term of an Emeritus Trustee shall be for life. An Emeritus Trustee shall have such rights and duties, other than the right to vote, as may from time to time be assigned by the Board.

Section 6. Distinguished Emeritus Trustees. Each former Chancellor of UC Santa Cruz shall be honored with the title of Distinguished Emeritus Trustee upon his or her departure from office as Chancellor. The Board of Trustees may bestow the title of Distinguished Emeritus Trustee upon such other Emeritus Trustees as it shall determine. The term of a Distinguished Emeritus Trustee shall be for life. A Distinguished Emeritus Trustee shall have such rights and duties, other than the right to vote, as may from time to time be assigned by the Board.

Section 7. Honorary Trustees. The Board may from time to time designate individuals to serve as Honorary Trustees at the pleasure of the Board, with such rights and duties, other than the right to vote, as may be from time to time be assigned by the Board.

Section 8. Resignation and Removal. Any Trustee may resign upon written notice to the Chair, President, Executive Secretary, or the Board of Trustees, provided, however, that, except upon notice to the Attorney General, no Trustee may resign if the Foundation would be left without at least one Trustee in charge of its affairs. A resignation will be effective upon giving of the notice of resignation unless a later effective date is specified in the resignation. A majority of the Trustees then in office may remove any Elected Trustee at any time for inability, failure or refusal to perform his or her duties, for conduct detrimental to the interests of the Foundation, or for lack of sympathy with its purposes and objectives. A reduction in the number of Trustees authorized under these Bylaws shall not remove any Trustee prior to the expiration of that Trustee's term of office unless otherwise determined by the Board.

Section 9. Leaves of Absence. Upon request of a Trustee, the Board of Trustees may in its discretion approve a non-renewable, one-year personal leave of absence. Before the expiration of the leave, the absent Trustee must fully re-engage in the duties and responsibilities of a Trustee or his or her position will be deemed vacant.

Section 10. Vacancies. A vacancy shall be deemed to exist on the Board in the event that the actual number of Trustees is less than the authorized number for any reason. A vacancy in the office of Elected Trustee may be filled for the unexpired portion of the term by the Board or, if the number of Trustees then in office is less than a quorum, by (a) the unanimous written consent of the Trustees then in office, (b) the affirmative vote of a majority of the Trustees then in office at a duly called and noticed meeting, or (c) by a sole remaining Trustee, as applicable. A vacancy in an office of an Ex Officio Trustee shall be filled by the person who succeeds the departing Ex Officio Trustee in the office formerly held by the departing trustee.

Section 11. Trustee Compensation. The Trustees of the Foundation shall not be entitled to receive compensation for services rendered to the Foundation in their capacity as Trustees. Reasonable expenses incurred and documented by any Trustee in connection with the performance of extraordinary services as a Trustee, excluding attendance at regularly noticed Board and Committee meetings, may be reimbursed by the Foundation with approval in advance from the Executive Secretary.

## **ARTICLE VI DUTIES AND LIABILITIES OF TRUSTEES**

Section 1. Duties. The duties of the Trustees shall be to:

- (a) advance the purposes and objectives of the Foundation as set forth in Sections 1 (General Purposes) and 2 (Specific Purposes) of Article III (Purposes and Powers);

- (b) establish policy and direction for the work of the Foundation;
- (c) manage and control the affairs and activities of the Foundation, and make such rules and regulations therefor not inconsistent with law, the Articles, or these Bylaws;
- (d) appoint and remove, employ and discharge, prescribe any powers and duties consistent with the Law, the Articles, and these Bylaws for, and fix the compensation, if any, of all Officers, agents, and any employees of the Foundation;
- (e) adopt appropriate policies for the investment and management of funds, for the conduct of audits, for the acceptance and management of planned gifts and gifts in trust, and for the grant and allocation of Foundation funds;
- (f) attend the meetings of the Board at such times and places as required by these Bylaws, and participate in the work of one or more committees (whether Advisory or Board Committees); and
- (g) perform any and all other duties imposed on them collectively or individually by Law, the Articles, these Bylaws, or upon the vote of the Board of Trustees.

Section 2. Standard of Care. A Trustee shall perform the duties of a Trustee, including duties as a member of any Committee of the Board of Trustees upon which the Trustee may serve, in good faith, in a manner that such Trustee believes to be in the best interests of the Foundation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Section 3. Reliance on Information Provided by Others. In performing the duties of a Trustee, a Trustee 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:

- (a) one or more Officers of the Foundation whom the Trustee believes to be reliable and competent in the matters presented,
- (b) counsel, independent accountants, or other persons as to matters which the Trustee believes to be within that person's professional or expert competence, or
- (c) a Board Committee upon which the Trustee does not serve as to matters within its designated authority, which committee the Trustee believes to merit confidence,

as long as, in any case, the Trustee acts in good faith, after reasonable inquiry where the need therefor is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

Section 4. Liability. Except as provided in Article XI (Indemnification and Insurance), a person who performs the duties of a Trustee in accordance with Sections 2 (Standard of Care) and 3 (Reliance on Information Provided by Others) above shall have no

liability based upon any alleged failure to discharge that person's obligations as a Trustee, 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 5. Investments. Except with respect to assets held for use or used directly in carrying out the Foundation's public or charitable activities, the Board shall avoid mere speculation in investing, reinvesting, purchasing or acquiring, exchanging, selling, and managing the Foundation's investments, looking instead to the prudent and reasonable disposition of the funds, considering the probable income as well as the probable safety of the Foundation's capital. No investment violates this Section 5 (Investments) where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the Foundation.

Section 6. Gifts and Gratuities. No Foundation Trustee, Officer or agent shall solicit or accept anything of value given for the purpose of securing favorable treatment or otherwise influencing the judgment of such individual in connection with the business of the Foundation, nor shall any such person offer or give anything of value to obtain an improper advantage in connection with Foundation business. A gift or gratuity means anything of value to the recipient. It does not include informational material, such as books, reports, calendars, or other unsolicited promotional material of nominal value. A gift also does not include modest entertainment, such as a meal or refreshments in connection with meetings, conferences, public ceremonies, or home hospitality. This provision applies to the individual and does not apply to philanthropic gifts or grants offered to the Foundation for the benefit of UC Santa Cruz.

Section 7. Conflicts of Interest. Each Trustee shall abide by the Foundation's Conflicts of Interest Policy and shall be responsible for filing a Conflicts of Interest Disclosure Form annually with the Executive Secretary of the Foundation. Trustees shall disqualify themselves from making, participating in making, or in any way attempting to use their official position to influence a decision in which they have or would have a financial interest.

## **ARTICLE VII MEETINGS OF THE BOARD OF TRUSTEES**

Section 1. Regular Meetings. There shall be three regular meetings of the Board of Trustees each fiscal year, the last of which shall be designated the annual meeting of the Foundation. The Board or the Executive Committee may increase or decrease the number of regular meetings, but there shall be an annual meeting each fiscal year. Regular meetings may be called by the Chair, President, or Executive Secretary, and noticed to the Trustees in accordance with Section 4 (Notice) below.

Section 2. Special Meetings. Special meetings of the Board of Trustees may be called by the Chancellor, the Chair, the Immediate Past Chair, or any seven Trustees upon written notice to the Chair, and shall be noticed to the Trustees in accordance with Section 4 (Notice) below.

Section 3. Standing Guests. In recognition of their valuable knowledge of matters affecting UC Santa Cruz, the Board of Trustees may from time to time designate members of the UC Santa Cruz faculty, staff, administration, and/or student body who shall be invited to attend and participate in meetings of the Board of Trustees ("Standing Guests"). Such individuals shall not by virtue of such an invitation be entitled to vote.

Section 4. Notice. Notice of all regular meetings and any special meeting of the Board of Trustees shall state the date, time, and place of the meeting but need not, except in the case of a special meeting, state the purpose. Notice shall be given to each Trustee at least four (4) days before any such meeting if given by first-class mail or forty-eight (48) hours before any such meeting if given personally or by telephone, including a voice messaging system, or by other electronic transmission in compliance with Section 8 (Electronic Transmissions) of Article XIII (General Matters) of these Bylaws. Notices shall be addressed or delivered to each Trustee at the address appearing on the Foundation's records or, if not readily ascertainable, at the principal office of the Foundation.

Section 5. Waiver of Notice. The transactions of any meeting of the Board of Trustees or of Board Committees, however called and noticed and wherever held, shall be valid as though taken at a meeting duly held after proper call and notice provided (a) a quorum is present, and (b) each of the Trustees not present at the meeting or who, though present, has prior to the meeting or at its commencement protested the lack of proper notice, signs either a waiver of notice, a consent to holding the meeting, or an approval of the minutes. The 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. Notice of a meeting shall also be deemed given to any Trustee who attends the meeting without protesting the lack of adequate notice prior to the meeting or at its commencement.

Section 6. Quorum. One-third of the total number of Trustees then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. Except as otherwise provided by Law, the Articles, or these Bylaws, a majority of the Trustees present at a meeting at which a quorum is present may perform any act or make any decision vested in the Board of Trustees, provided that, at a special meeting, the Board may act or make a decision only on the business specified in the notice of the meeting. Trustees at a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Trustees if any action taken is approved by at least a majority of the required quorum for such meeting or such greater number required by Law, the Articles, or these Bylaws. The following provisions of these Bylaws require the Board to transact business by more than a majority vote: Article V, Sections 8 (removing Trustees) and 10 (filling Board vacancies when the number of Trustees in office is less than a quorum); Article VII, Section 9 (taking action without a meeting); Article VIII, Section 1 (forming Board Committees and appointing members) and Section 11 (filling vacancies on Committees); Article IX, Section 12 (removal of Officers); Article X, Section 2 (approving transactions in which Trustees are personally interested); and Article XIV, Section 2 (amending Bylaws). Trustees may not vote by proxy.

Section 7. Adjournment. A majority of the Trustees present in person, whether or not a quorum is present, may adjourn any meeting to another time and/or place.

Notice of adjournment need not be given to absent Trustees if the time and place of the adjourned meeting are fixed at the original meeting and if the adjourned meeting is held no more than twenty-four (24) hours from the time from adjournment of the original meeting. Otherwise, notice of the adjourned meeting shall be given in accordance with Section 4 (Notice) above.

Section 8. Conduct of Meetings. Meetings of the Board of Trustees shall be presided over by the Chair of the Foundation or, in his or her absence, by the Vice Chair of the Foundation. If the Vice Chair is also absent, meetings of the Trustees shall be presided over by the Immediate Past Chair. The Executive Secretary 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. The Parliamentarian shall act as parliamentarian of all meetings of the Board. Except as otherwise determined by the Board of Trustees, meetings of the Board shall be governed by Roberts' Rules of Order as such rules may be revised from time to time insofar as such rules are not inconsistent with or in conflict with the Law, the Articles, or these Bylaws.

Section 9. Action Without a Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all Trustees shall individually or collectively consent to such action in writing. For the purposes of this Section 9 (Action Without a Meeting) only, "all Trustees" shall not include any "interested" Trustee as defined in Section 2 (Transactions in Which Trustees are Personally Interested) of Article X (Certain Transactions) of these Bylaws. Such written consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as the unanimous vote of the Trustees.

Section 10. Telephone and Electronic Meetings. Trustees may participate in any meeting of the Board or of Board Committees through use of conference telephone, electronic video screen communication, or other electronic transmission in compliance with Section 8 (Electronic Transmissions) of Article XIII (General Matters) of these Bylaws. Participation in a meeting through use of conference telephone or electronic video screen communication constitutes presence in person at that meeting as long as all Trustees participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission other than conference telephone and electronic video screen communication constitutes presence in person at that meeting if both of the following apply:

- (a) each Trustee participating in the meeting can communicate with all of the other Trustees concurrently, and
- (b) each Trustee is provided with the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the Board.

## **ARTICLE VIII COMMITTEES**

Section 1. Board Committees. The Board of Trustees may, by vote of a majority of the Trustees then in office, create any number of Board Committees and in the same manner disband them. Each Board Committee must consist only of Elected or Ex Officio

Trustees, to serve at the pleasure of the Board. Emeritus Trustees, Distinguished Emeritus Trustees, Honorary Trustees and others designated by the Board may attend the meetings of Board Committees, but shall not have the right to vote. Appointments of Trustees to any Board Committee shall be by a majority vote of the Trustees then in office. Board Committees may be delegated all the authority of the Board, except for the powers to:

- (a) set the number of Trustees within a range specified in these Bylaws;
- (b) elect Trustees or remove Trustees;
- (c) fill vacancies on the Board of Trustees or on any Board Committee;
- (d) amend or repeal these Bylaws or adopt new Bylaws;
- (e) adopt amendments to the Articles;
- (f) amend or repeal any resolution of the Board of Trustees which by its express terms is not so amendable or repealable;
- (g) create any other Board Committees or appoint the members of any Board Committees;
- (h) elect the Vice Chair or Parliamentarian;
- (i) approve any transaction to which the Foundation is a party and in which one or more of the Trustees has a material financial interest, except as expressly provided in Section 2 (Transactions in Which Trustees are Personally Interested) of Article X (Certain Transactions) of these Bylaws; or
- (j) approve any merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of this Foundation.

The Board may at any time revoke or modify any or all of the authority so delegated.

Section 2. Composition of Board Committees. Each Board Committee shall be comprised of not less than two (2) nor more than ten (10) Trustees, the majority of whom must be Elected Trustees unless otherwise provided in these Bylaws. At the annual meeting each year, the Chair of the Foundation, following consultation with the Vice Chair, the Chair of the Trustee Membership Committee, the President, the Executive Secretary, and the respective chairs of each Board Committee, shall nominate the members of each Board Committee other than the Executive Committee, and shall submit such nominations for approval by the majority of Trustees then in office. Each committee member shall hold office for the succeeding fiscal year.

Section 3. Standing Board Committees. The Foundation shall have the following standing committees, which shall be Board Committees: Executive Committee, Audit Committee, Investment and Finance Committee, and Trustee Membership Committee.

Section 4. Executive Committee. The Executive Committee shall be composed of the Executive Officers and the Chancellor. Unless otherwise determined by a majority of the Trustees then in office, Chairs of Advisory Committees who are Elected Trustees shall also serve as voting members of the Executive Committee. The Chair may invite other Trustees to participate in Executive Committee meetings as appropriate to the agenda, but they shall not be entitled to vote. Subject to any limitations in Section 1 (Board Committees) above

or as otherwise may be provided by Law, the Executive Committee shall oversee the business and affairs of the Foundation and the work of its Officers, and shall have full authority to act on behalf of the Board of Trustees as reasonably necessary between meetings of the full Board, which action shall be reported to the Board at its next succeeding meeting. In addition, the Executive Committee shall establish and dissolve Advisory Committees; review the Conflicts of Interest statements submitted by individual Trustees; periodically review and propose amendments to these Bylaws for the Board's consideration; and advise the Chancellor and campus leadership as from time to time any of them may request.

Section 5. Audit Committee. The Audit Committee shall consist only of Elected Trustees, subject to the following limitations: (a) members of the Investment and Finance Committee shall constitute less than one-half of the membership of the Audit Committee; (b) the chair of the Audit Committee may not be a member of the Investment and Finance Committee; (c) the Audit Committee may not include any person compensated by this Foundation or by UC Santa Cruz; (d) the Audit Committee shall not include the Chair or Immediate Past Chair; and (e) the Audit Committee may not include any person who has a material financial interest in any entity doing business with the Foundation. The Audit Committee shall have the following duties and responsibilities: recommend to the Board of Trustees the retention and, where necessary, termination, of an independent certified public accountant to audit the financial statements of the Board on an annual basis in accordance with generally accepted accounting principles and the requirements of the Administrative Guidelines; confer with the auditor to satisfy the members of the Audit Committee that the financial affairs of the Foundation are in order; review with the auditor and approve the plans, scope and results of the audit engagement; timely present the results of the audit for approval by the Board so that audited financial statements can be reported to the President of the University, the Attorney General, and the public within the time required by Law and/or the Administrative Guidelines; assure that any non-audit services performed for the Foundation by the auditing firm conform with applicable standards for auditor independence; and approve performance of any non-audit services provided to the Foundation by the auditing firm. Subject to the prior approval of the Board, the Audit Committee may also negotiate and approve the compensation of the auditor and may transmit to the President of the Foundation such instructions as it deems necessary for the enforcement of sound accounting and auditing practices. Further duties and responsibilities consistent with the general responsibilities of audit committees as set forth in the California Nonprofit Integrity Act of 2004 may be established from time to time by a majority of the Trustees then in office.

Section 6. Investment and Finance Committee. The Investment and Finance Committee shall consider and make recommendations to the Board of Trustees on the financial affairs of the Foundation other than those within the purview of the Audit Committee. The Investment and Finance Committee is responsible to review at least biannually the Foundation Investment Policy, an Endowment Spending Policy, and an Endowment Cost Recovery Policy and to recommend any appropriate changes or amendments for approval by the Board of Trustees. Following such approval, the Investment and Finance Committee shall be responsible for administering the policies in accordance with their terms. Among other things, the Investment and Finance Committee shall select a manager or managers to manage the investment properties of the Foundation; authorize the purchase, sale or lease of real property



held or acquired for investment purposes and the construction and repair of buildings thereon; and, consistent with the Foundation Investment Policy, authorize the loan of funds of the Foundation, the purchase, sale, transfer, or exchange of bonds, stocks, and other securities, and the transfer of investments among specific funds of the Foundation when such transfers are not in conflict with the terms of any endowments that would be affected thereby. The Investment and Finance Committee shall also monitor the financial statements and budget reports of the Foundation throughout the fiscal year, and review any requests and issues of a financial nature or those having a financial impact on the Foundation and make its recommendation to the Board of Trustees. The President, Vice President, Treasurer and any Assistant Treasurer shall serve as ex-officio nonvoting members of the Investment and Finance Committee. The Committee shall have such further duties and responsibilities as may be established from time to time by a majority of the Trustees then in office.

Section 7. Trustee Membership Committee. The Trustee Membership Committee shall have responsibility for creating and submitting to the Board for its approval a long-range plan for the development of the Board of Trustees; for identifying and recruiting new and renewing Trustees; and for evaluating, mentoring and recognizing the effectiveness of Trustees in their service to the Board and UC Santa Cruz. The Trustee Membership Committee shall be responsible for presenting nominees to fill vacancies on the Board of Trustees as they may occur from time to time. Further, at the last regularly scheduled Board meeting of the fiscal year, the Trustee Membership Committee shall submit a single slate of nominees for reelection or replacement of those Trustees whose terms expire in that year. The Committee may propose terms of less than three (3) years for certain Trustees as necessary to ensure that the terms of a roughly equal number of Trustees expire in each fiscal year. The Committee shall have such further duties and responsibilities as may be established from time to time by a majority of the Trustees then in office.

Section 8. Meetings of Board Committees. Meetings of Board Committees shall be held at such times and places as the chair or a majority of the members of each such committee may determine, but in no event less than twice during each fiscal year. Special meetings of a Board Committee may be called by the Chair of the Foundation, or by the Board of Trustees. Notice of such meetings shall be given in the manner set forth in Section 4 (Notice) of Article VII (Meetings of the Board of Trustees) of these Bylaws, with such changes in the content as necessary to substitute the Board Committee and its members for the Board of Trustees and its members. A majority of the members of each Board Committee shall constitute a quorum for the conduct of business unless otherwise specified by the Board. The vote of a majority of the committee members at a meeting at which a quorum is present shall constitute the action of the committee unless a different number is required by Law, the Articles or these Bylaws. Committee members at a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of committee members if any action taken is approved by at least a majority of the required quorum for such meeting. Board Committees shall keep and approve regular minutes of their proceedings, cause them to be filed with the permanent records of the Foundation, and report the same to the Board from time to time as the Board may require.

Section 9. Advisory Committees. The Board of Trustees may create and charge one or more advisory committees to the Board (“Advisory Committees”), and may disband such committees in its discretion. The members of any Advisory Committee may consist of Trustees, Emeritus Trustees, Distinguished Emeritus Trustees, Honorary Trustees or other persons who support the mission of the Foundation, and shall be appointed by and serve at the pleasure of the Board. Advisory Committees may not exercise the authority of the Board, but shall be restricted to making recommendations to the Board or Board Committees, and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee. The Board of Trustees may adopt rules for the governance of any Advisory Committee not inconsistent with the provisions of these Bylaws. Subject to the authority of the Board of Trustees, Advisory Committees may determine the rules for conduct of their meetings, including whether minutes shall be kept.

Section 10. Resignation of Committee Members. Any member of any committee may resign at any time by giving written notice to the chair of the committee or to the Chair of the Foundation or the Executive Secretary. Such resignation shall take effect upon the date of receipt or at any later time specified in the notice.

Section 11. Vacancies on Committees. There shall be deemed to be a vacancy on a Board Committee when the number of members is less than two (2). A vacancy on a Board Committee for any reason shall be filled for the unexpired portion of the term in the same manner as these Bylaws provide for nomination and election of a member to that committee, except that the Board may fill a vacancy at any regular or special meeting of the Board.

## **ARTICLE IX OFFICERS**

### Section 1. Officers.

- (a) Executive Officers. The executive officers of the Board of Trustees shall be the Chair, the Vice Chair, the Immediate Past Chair, the Parliamentarian, the chairs of all Board Committees and, unless the Board of Trustees otherwise provides, the chairs of all Advisory Committees (“Executive Officers”).
- (b) Administrative Officers. The statutory officers of the Foundation shall be the President, Vice President, Executive Secretary, and Treasurer, together with such other subordinate officers with such titles and duties as may be determined from time to time by the Board of Trustees (“Administrative Officers”).

The Executive Officers and the Administrative Officers are sometimes collectively referred to herein as the “Officers.” The same person may hold any number of offices, except that the President may not serve concurrently as the Executive Secretary or Treasurer.

Section 2. Election, Term of Office, and Qualifications. Prior to the annual meeting of the Board, the Chair shall solicit nominations from the Trustees for Executive Officers whose terms are expiring at the end of that fiscal year other than for Immediate Past Chair and Chair. Thereafter, the Chair, the Immediate Past Chair, the Vice Chair, the chair of the Trustee Membership Committee, the President, the Executive Secretary, and the Chancellor shall select and submit a final slate of nominees for Executive Officers (other than Immediate Past Chair and Chair) for approval by the Board of Trustees at the annual meeting of the Board. To avoid any conflict of interest, and to promote free and candid discussion, the chair of the Trustee Membership Committee shall not participate in the selection of a nominee for any office for which he or she is a candidate. All Executive Officers shall be chosen from among Elected Trustees. Unless otherwise provided in these Bylaws, Executive Officers shall serve for a term of two (2) years, commencing July 1 following their election. Neither the Chair, the Vice Chair, nor any Administrative Officer (including any subordinate officer) may serve as a voting member of the Audit Committee.

Section 3. Chair. Subject to the direction of the Board of Trustees, the Chair shall have and exercise general charge and supervision of the affairs of the Foundation, and shall be responsible to oversee the work of the Officers. The Chair shall direct the agenda and preside at all meetings of the Board of Trustees and the Executive Committee, and shall be a voting member of all Board Committees and Advisory Committees then established pursuant to these Bylaws, except the Audit Committee. The Chair shall represent the Foundation to all UC Santa Cruz constituencies, and shall engage in active outreach to and partnership with campus leadership and the campus community to advance the purposes and objectives of the Foundation. The Chair shall have such other powers and duties as may be prescribed by the Board of Trustees or these Bylaws.

Section 4. Vice Chair. The Vice Chair shall succeed to the office of Chair upon expiration of the Chair's term. The Vice Chair shall be a voting member of all Board Committees and Advisory Committees then established pursuant to these Bylaws except the Audit Committee and shall have such other powers and duties as may be prescribed by the Board of Trustees or these Bylaws.

Section 5. Immediate Past Chair. The Chair shall succeed to the office of Immediate Past Chair upon expiration of his or her term. The Immediate Past Chair shall be an advisor to the Chair and the Board of Trustees and, in the absence of the Chair and the Vice Chair, shall preside at meetings of the Board of Trustees. The Immediate Past Chair shall have such other powers and duties as may be prescribed by the Board of Trustees or these Bylaws.

Section 6. Parliamentarian. The Parliamentarian shall be the advisor to the Chair on questions of parliamentary procedure for the conduct of all meetings of the Foundation. The Parliamentarian shall be familiar with Robert's Rules of Order (Revised), the Articles and these Bylaws, as they may be amended from time to time, as well as the Policy on Campus Foundations and the Administrative Guidelines, and shall advise the Board of Trustees and Officers regarding the same.

Section 7. President. Except as otherwise may be determined by the Board, the Vice Chancellor of University Relations shall be the President of the Foundation. The President shall be the chief operating and administrative officer of the Foundation, and shall supervise, direct, and control the day-to-day operations of the Foundation and the activities of the Administrative Officers. The President shall be responsible for ensuring that the work of the Foundation is carried out in accordance with the policies and direction established by the Board of Trustees, and shall be an ex officio non-voting member of all Board Committees, including the Executive Committee but excluding the Audit Committee. The President shall have the general powers and duties of management usually vested in the office of president of a corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 8. Vice President. Except as otherwise may be determined by the Board, the Associate Vice Chancellor for Development shall be the Vice President of the Foundation. Subject to the direction of the President, the Vice President shall be responsible for the fundraising strategies and activities of the Foundation, shall oversee development operations, and shall periodically report his or her progress to the Board of Trustees. In the absence of the President, or in the event of his or her inability, failure or refusal to act, the Vice President shall perform all the duties of the President. The Vice President shall be an ex-officio nonvoting member of the Investment and Finance Committee, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 9. Treasurer. Except as otherwise may be determined by the Board, the Assistant Vice Chancellor of Operations and Planning shall be the Treasurer of the Foundation. The Treasurer shall be the chief financial officer of the Foundation, and shall oversee the daily accounting and related operations of the Foundation. The Treasurer shall:

- (a) collect, accept and receive all contributions to the Foundation, and receive and give receipt for monies due and payable to the Foundation from any source;
- (b) have charge and custody of, and be responsible for, all funds, property, and securities of the Foundation, and provide for the deposit of all funds and other valuables in the name, and to the credit, of the Foundation with such depositories as may be designated by the Board of Trustees;
- (c) ensure the Foundation's assets are invested in the manner prescribed by the Foundation Investment Policy;
- (d) disburse the funds of the Foundation in accordance with the directions of the Board of Trustees;
- (e) keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account of the Foundation's property and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses;
- (f) oversee the preparation of quarterly and annual financial statements for review by the Investment and Finance Committee and approval of the Board of Trustees;
- (g) oversee the preparation and submission of annual tax returns;

- (h) prepare and submit such reports and accounts as may be requested by the Board of Trustees, the Chancellor, the Office of the President of the University of California, the Regents, or required as a matter of law;
- (i) ensure that State General Funds are not transferred to the Foundation, and that restricted funds received or unrestricted funds allocated (including investment income) for the support of a UC Santa Cruz department or program are transferred to UC Santa Cruz, administered in accordance with the policies of the Regents and UC Santa Cruz, and expended from UC Santa Cruz department or program accounts;
- (j) ensure that the Foundation includes in its literature information regarding charges against restricted gifts or income therefrom made for costs of administering the Foundation, that the Chancellor approves such charges, and that the nature of such charges is disclosed in the Foundation's audited financial statements; and
- (k) prepare and submit an annual budget for review by the Investment and Finance Committee and approval by the Board of Trustees, and ensure that financial commitments and expenditures by the Foundation are in accordance with the budget and with pertinent UC Santa Cruz policies and guidelines and explicit, written Foundation policies. The methodology for allocation of costs to the Foundation or UC Santa Cruz and among budget categories shall be approved by the Investment and Finance Committee.

The Treasurer shall be an ex-officio nonvoting member of the Investment and Finance Committee, and shall have such other powers and perform such other duties as are customarily vested in a corporation's chief financial officer and as may be prescribed by the Board of Trustees or these Bylaws. In the Treasurer's absence, or in the event of his or her inability, failure or refusal to act, an Assistant Treasurer designated by the President in consultation with the Chair may perform all the functions and duties of the Treasurer.

Section 10. Executive Secretary. Except as otherwise may be determined by the Board, the Director of the Foundation, who shall be appointed by the President in consultation with the Chair, shall be the Executive Secretary of the Foundation. He or she shall give, or cause to be given, notice of all meetings of the Board and Board Committees as required by these Bylaws, and shall attend all such meetings. The Executive Secretary shall be responsible for maintaining all non-financial documents and correspondence of the Foundation, including the original of the Articles, certified by the Secretary of State, as amended to date, and the original of these Bylaws, as amended to date, and shall keep, or cause to be kept, a book of minutes of all meetings of the Board and Board Committees, which minutes shall set forth any actions taken at each such meeting, its time and place, the names of those present, the notice thereof given, whether regular or special, and if special, how authorized. He or she shall act, or designate one or more persons to act, as clerk to the Board and to each Board Committee and Advisory Committee unless otherwise directed by the Board. The Executive Secretary shall certify as true a copy of the Bylaws or of the minutes of any meeting of the Board of Trustees or of any resolution adopted by the Board of Trustees or a Board Committee when requested to do so by the Board of Trustees, any Committee of the Board, any Trustee, the Chair, or any other

Officer of this Foundation or as otherwise may be required by law. The Executive Secretary shall also be custodian of the seal of the Foundation, and see that the seal is affixed if and as required to all duly executed documents. The Executive Secretary shall have such other powers and perform such other duties as are customarily vested in a corporation's secretary and as may be prescribed by the Board of Trustees or these Bylaws. In the absence of the Executive Secretary's, or in the event of his or her inability, failure or refusal to act, an Assistant Secretary designated by the President in consultation with the Chair may perform all the functions and duties of the Executive Secretary.

Section 11. Resignation. An Officer may resign at any time upon written notice to the Chair or the Executive Secretary, without prejudice to the rights, if any, of the Foundation under any contract to which such officer is a party. Any such resignation shall take effect on the date when the notice is received by the intended recipient or at any later time specified in the notice.

Section 12. Removal. Subject to the rights, if any, of an Officer under any contract of employment, any Officer may be removed by the vote of a majority of Trustees then in office for failure or refusal to perform his or her duties, for conduct detrimental to the interests of the Foundation, or for lack of sympathy with its purposes and objectives.

Section 13. Vacancies. A vacancy in any office, other than Chair and Immediate Past Chair, because of death, resignation, removal, disqualification, or any other cause shall be filled in the same manner as these Bylaws provide for nomination and election to that office. A vacancy in the office of Chair shall be filled by the Vice Chair for the remainder of the unexpired term, but if there is no Vice Chair in office, by vote of the Board of Trustees. A vacancy in the office of Immediate Past Chair shall remain unfilled until such time as the Chair completes his or her term and succeeds to the office of Immediate Past Chair. A vacancy in any Administrative Office shall be filled by the person who succeeds the departing Administrative Officer in the position at UC Santa Cruz formerly held by the departing officer.

Section 14. Compensation and Expenses. The Officers of the Foundation shall not be entitled to receive compensation from the Foundation for services rendered to the Foundation in their capacity as Officers. Reasonable expenses incurred and documented by an Executive Officer in connection with the performance of extraordinary services as an Officer, excluding attendance at regularly noticed Board and Committee meetings, may be reimbursed by the Foundation upon approval by the Board of Trustees. Expenses incurred by Administrative Officers shall be reimbursed by UC Santa Cruz in accordance with its applicable policies and procedures.

Section 15. Bonding. The Board may, at the Foundation's expense, bond any Officer for the faithful performance of his or her duties in such amount and with such surety or sureties as it may determine.

## ARTICLE X CERTAIN TRANSACTIONS

Section 1. Loans. The Foundation shall not make any loan of money or property to, or guarantee the obligation of, any Trustee or Officer unless approved by the Attorney General; provided, however, that the Foundation may advance money to a Trustee or Officer of the Foundation or any subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such Trustee or Officer, provided that in the absence of such advance, such individual would be entitled to be reimbursed for such expenses.

Section 2. Transactions in Which Trustees are Personally Interested. Except as provided in this Section 2 (Transactions in Which Trustees are Personally Interested), no Trustee shall approve, nor shall the Foundation become a party to, any transaction in which one or more of its Trustees has a material financial interest. The Foundation may engage in such a transaction if the Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated. This Foundation may also engage in such a transaction if it is established that: (a) the Foundation entered into the transaction for its own benefit; (b) the transaction was fair and reasonable as to the Foundation at the time the Foundation entered the transaction; and (c) prior to consummating the transaction or any part of it, the Board authorized or approved the transaction in good faith by a vote of a majority of the Trustees then in office without counting the vote of the interested Trustee or Trustees (although such Trustee or Trustees may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken), and with knowledge of the material facts concerning the transaction and the Trustee's interest in the transaction; and (d) prior to authorizing or approving the transaction the Board considered and in good faith determined after reasonable investigation under the circumstances that the Foundation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Where it is not reasonably practicable to obtain approval of the Board before entering into a transaction in which one or more Trustees has a material financial interest, a Board Committee may approve such transaction in a manner consistent with the standards set forth above; provided that, at its next meeting, the Board determines that it was not reasonably practicable to obtain approval by the Board prior to entering into the transaction; determines that the Board Committee approved the transaction in the required manner; and ratifies the transaction by a majority vote of the Trustees then in office without the vote of any interested Trustee or Trustees (although such Trustee or Trustees may be counted for purposes of determining the presence of a quorum at the meeting at which such action is taken).

Section 3. Exceptions. Section 2 (Transactions in Which Trustees are Personally Interested) above shall not apply to: an action of the Board fixing the compensation of a Trustee as a Trustee or Officer of the Foundation; a transaction which is part of a public or charitable program of the Foundation if it is approved or authorized by the Foundation in good faith and without unjustified favoritism and results in a benefit to one or more Trustees or their families because they are in the class of persons intended to be benefited by the public or charitable program; or a transaction of which the interested Trustee or Trustees have no actual

knowledge and which does not exceed the lesser of one percent (1%) of the gross receipts of the Foundation for the preceding fiscal year or One Hundred Thousand Dollars (\$100,000).

Section 4. Overlapping Trusteeships. Any contract or other transaction (other than transactions subject to Section 2 (Transactions in Which Trustees are Personally Interested) above) between the Foundation and any corporation, firm, association, or other entity of which one or more of this Foundation's Trustees are directors or trustees shall be entered into or consummated only if: (a) the material facts relating to the transaction and to such Trustee's other directorship are fully disclosed or known to the Board or Board Committee, and the Board or Board Committee authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common Trustee or Trustees; or (b) the contract or transaction is just and reasonable as to the Foundation at the time it is authorized, approved, or ratified.

## **ARTICLE XI INDEMNIFICATION AND INSURANCE**

Section 1. General. The Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any Proceeding (other than Proceedings described in Section 2 (Actions By or On Behalf of the Foundation) below) by reason of the fact that such person is or was an Agent of the Foundation, against Expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the Proceeding if the person acted in good faith and in a manner the person reasonably believed to be in the best interests of the Foundation and, in the case of a criminal Proceeding, had no reasonable cause to believe the conduct of the person was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Foundation, or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 2. Actions By or On Behalf of the Foundation. The Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any Proceeding brought (a) by or in the right of the Foundation, (b) by the Attorney General under Section 5233 of the Law, or (c) by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in favor of the Foundation by reason of the fact that the person is or was an Agent of the Foundation, against Expenses actually and reasonably incurred by the person in connection with the defense or settlement of the action if the person acted in good faith, in a manner the person believed to be in the best interests of the Foundation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances, except that no indemnification shall be made under this Section 2 (Actions By or On Behalf of the Foundation): (x) in respect of any claim, issue, or matter as to which the person shall have been adjudged to be liable to the Foundation in the performance of the person's duties to the Foundation, unless and only to the extent that the court in which the Proceeding is or was pending shall determine upon application that, in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnity for the Expenses in an amount to be



determined by the Court; (y) of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or (z) of Expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

Section 3. Successful Defense by Agent. To the extent that an Agent of the Foundation has been successful on the merits in defense of any Proceeding referred to in Sections 1 (General) or 2 (Actions By or On Behalf of the Foundation) above or in defense of any claim, issue or matter therein, the Foundation shall promptly indemnify the Agent against Expenses actually and reasonably incurred by the Agent in connection therewith.

Section 4. Determination of Agent's Good Faith Conduct. Except as provided in Section 3 (Successful Defense by an Agent) above, any indemnification under this Article XI (Indemnification and Insurance) shall be made by the Foundation only if authorized in the specific case, upon a determination that indemnification of the Agent is proper in the circumstances because the Agent has met the applicable standard of conduct set forth in Sections 1 (General) or 2 (Actions By or On Behalf of the Foundation) above by: (a) a majority vote of a quorum of the Trustees who are not party to the Proceeding (provided that the Trustees who are party to the Proceeding may be counted for the purposes of establishing a quorum); or (b) the court in which such Proceeding is or was pending upon application made by the Foundation, the Agent, or the attorney or other person rendering services in connection with the defense, whether or not the application by the Agent, attorney, or other person is opposed by the Foundation.

Section 5. Advances. Expenses incurred in defending any Proceeding shall be advanced by the Foundation prior to the final disposition of the Proceeding to the maximum extent allowed by law upon receipt of an undertaking by or on behalf of the Agent to repay the advance unless it shall be determined ultimately that the Agent is entitled to be indemnified as authorized in this Article XI (Indemnification and Insurance).

Section 6. Further Limitations. Except as provided in Section 3 (Successful Defense by Agent) or in Section 4(b) (Determination of Agent's Good Faith Conduct) above, no indemnification or advance shall be made in any circumstance where it appears that it would be inconsistent with: (a) a provision of the Articles, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the Proceeding in which the Expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or (b) any condition expressly imposed by a court in approving a settlement of the Proceeding.

Section 7. Insurance. The Foundation shall have the power to purchase and maintain insurance on behalf of any Agent against any liability asserted against or incurred by the Agent in such capacity or arising out of the Agent's status as such whether or not the Foundation would have the power to indemnify the Agent against that liability under the provisions of this Article XI (Indemnification and Insurance); provided, however, that the Foundation shall have no power to purchase and maintain such insurance to indemnify any Agent for a violation of Section 5233 of the Law.

Section 8. Definitions. For the purposes of this Article XI (Indemnification and Insurance), (a) "Agent" means any person who is or was a Trustee, Officer, Committee member, employee, or other agent of the Foundation, or is or was serving at the request of the Foundation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise; (b) "Expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Section 3 (Successful Defense by an Agent) or Section 4(b) (Determination of Agent's Good Faith Conduct) above; and (c) "Proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative.

Section 9. Other Indemnification. Nothing contained in this Article XI (Indemnification and Insurance) shall affect any right to indemnification to which Agents other than Trustees and Officers may be entitled by contract or otherwise.

## **ARTICLE XII RECORDS AND REPORTS**

Section 1. Records. The Foundation shall maintain at its principal office a copy of the Articles and these Bylaws, as amended to date, its application for recognition of tax exempt status with supporting documents, adequate and correct books and records of account, and minutes of the proceedings of the Board of Trustees and the Board Committees.

Section 2. Annual Report. The Board of Trustees shall cause an annual report to be delivered to each Trustee not later than 120 days after the close of the Foundation's fiscal year. The report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of the Treasurer of the Foundation that the financial statements were prepared without an audit from the books and records of the Foundation. The annual report shall contain in appropriate detail the following information:

- (a) the assets and liabilities, including the trust funds, of the Foundation 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 Foundation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) the expenses or disbursements of the Foundation, for both general and restricted purposes, for the fiscal year; and
- (e) any transaction during the fiscal year involving more than Fifty Thousand Dollars (\$50,000) between the Foundation (or its parent or subsidiaries, if any) and any of its Trustees or Officers (or the trustees or officers of its parent or subsidiaries, if any) or any holder of more than ten percent (10 %) of the voting power of the Foundation or its parent or subsidiaries, if any, or any one of a number of such transactions in which the same person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than Fifty Thousand Dollars (\$50,000), as well as the amount and circumstances of any

indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any Trustee or Officer of the Foundation pursuant to Article XI (Indemnification and Insurance) of the Bylaws. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's relationship to the Foundation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest.

Section 3. Annual Financial Statements. The Foundation shall prepare annual financial statements using generally accepted accounting principles. Such statements, when prepared, shall be audited by an independent certified public accountant in conformity with generally accepted auditing standards. The independent accountant shall be retained by the Foundation based on the recommendations of the Audit Committee in accordance with Section 5 (Audit Committee) of Article VIII (Committees). The audited financial statements shall be made available for inspection by the Attorney General and the public no later than 120 days after the close of the fiscal year to which the statements relate, and shall remain available for three years (a) at the Foundation's principal office during regular business hours and (b) either by mailing a copy to any person who so requests in person or in writing, or by posting a copy on the Foundation's website in the manner prescribed for the disclosure of IRS Form 990. Any nonaudit services provided by the auditing firm to the Foundation will be in accordance with the applicable standards for auditor independence.

Section 4. Biennial Statement of General Information. The Foundation shall biennially file with the Secretary of State of the State of California, on the prescribed form, a statement setting forth the required information, including, among other things, the names and complete business or residence addresses of the Chair, President, Executive Secretary and Treasurer of the Foundation, the street address of the Foundation's principal office, and the Foundation's designated agent for service of process.

Section 5. Inspection Rights. Every Trustee of the Foundation shall have the absolute right at any reasonable time during regular business hours to inspect, copy, and make extracts of all books, records, and documents of every kind and to inspect the physical properties of the Foundation. Such inspection may be made in person or by an agent or attorney.

### **ARTICLE XIII GENERAL MATTERS**

Section 1. Fiscal Year. The fiscal year of the Foundation shall commence on July 1 and end on June 30 of the following year.

Section 2. Corporate Contracts and Instruments. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance, or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between the Foundation and any other person, when signed by any one of the Chair, the President and the Vice President and by any one of the Executive Secretary, any assistant secretary, the Treasurer

and any assistant treasurer of the Foundation, shall not be invalidated as to the Foundation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the instrument in question. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board of Trustees, and, unless so authorized by the Board, no Officer, agent, or employee shall have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount. No contract, transaction, or act shall be taken on behalf of the Foundation if such contract, transaction or act is a prohibited transaction or would result in the denial of the tax exemption under the Internal Revenue Code.

Section 3. Deposits, Funds, and Securities. The Board of Trustees shall designate the banks, trust companies, or other depositories in which all funds and securities of the Foundation shall be deposited from time to time.

Section 4. Checks, Drafts, and Orders. All checks, drafts, or other orders for payment of money issued in the name of or payable to the Foundation shall be signed or endorsed by any two of the President, Vice President, Treasurer and any assistant treasurer or by such person or persons as from time to time shall be authorized by the Board of Trustees.

Section 5. Gifts. Contributions, gifts, bequests, or devises for the charitable purposes of the Foundation must be accepted pursuant to any gift procedures adopted by UC Santa Cruz and the University of California.

Section 6. Voting Shares. The Chair, President, Treasurer, and any other Officer designated by the Board of Trustees shall each be authorized to vote, represent and exercise on behalf of the Foundation all rights incident to any and all shares of any other corporation or corporations standing in the name of the Foundation. The authority herein granted may be exercised either in person or by proxy or by power of attorney duly executed.

Section 7. Standing Orders. Standing orders and rules of practice consistent with the Articles and these Bylaws may be prescribed from time to time by the Board of Trustees in order to facilitate and expedite the conduct of the business of the Foundation. The Executive Secretary shall keep such orders and rules of practice, if any, properly indexed, as part of the permanent records of the Foundation. To the extent applicable, such orders and rules shall govern and control the administration of the activities and affairs of the Foundation.

Section 8. Electronic Transmissions. Unless otherwise provided in these Bylaws, and subject to any guidelines and procedures that the Board of Trustees may adopt from time to time, the terms "written" and "in writing" as used in these Bylaws include any form of recorded message in the English language capable of comprehension by ordinary visual means, and may include electronic transmissions, such as (a) facsimile or email when directed to the facsimile number or electronic mail address for the recipient on record with the Foundation, or (b) posting on an electronic message board or network that the Foundation has designated for those communications together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate

notice thereof, or (c) other means of electronic communication, provided (i) for electronic transmissions from the Foundation, the Foundation has obtained an unrevoked written consent from the recipient to the use of such means of communication; (ii) for electronic transmissions to the Foundation, the Foundation has in effect reasonable measures to verify that the sender is the individual purporting to have sent such transmission; and (iii) the transmission creates a record that can be retained, retrieved, reviewed, and rendered into clearly legible tangible form.

Section 9. Giving of Notice. Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mail, first class postage prepaid. Any other written notice shall be deemed to have been given at the time it is (a) personally delivered to the recipient, (b) delivered to a common carrier for transmission to the recipient, or (c) actually transmitted by the person giving notice by electronic means to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone, including a voice messaging system, to the recipient, including the recipient's designated voice mailbox or address on such system, or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

Section 10. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Law shall govern the construction and interpretation of these Bylaws.

Section 11. Entire Bylaws. These Bylaws constitute the full and complete bylaws of the Foundation. The existing bylaws are superseded by these Bylaws and shall have no further force or effect on and after the date these Bylaws are approved by the Board of Trustees.

Section 12. Transition. Upon adoption of these Bylaws by the Board of Trustees of the Foundation, the Immediate Past President under the existing bylaws shall become the Immediate Past Chair under these Bylaws, the President under the existing bylaws shall become the Chair under these Bylaws, the Vice President under the existing bylaws shall become the Vice Chair under these Bylaws, the Parliamentarian under the existing bylaws shall remain the Parliamentarian under these Bylaws, and the chairs of the committees under the existing bylaws shall remain the chairs of their respective committees (whether Board Committees or Advisory Committees) under these Bylaws. Each such officer and committee chair shall complete the term for which they were elected under the existing Bylaws, except that the Vice Chair shall stand for election at the annual meeting immediately following the adoption of these Bylaws. Nominations for Vice Chair shall be solicited pursuant to, and the election conducted in accordance with, Section 2 (Election, Term of Office, and Qualifications) of Article IX (Officers). The Vice Chair thus elected shall serve for a term of one (1) year commencing July 1 following his or her election and shall succeed to the office of Chair upon expiration of the Chair's term.

**ARTICLE XIV**  
**REVIEW AND AMENDMENT OF BYLAWS**

Section 1. Review of Bylaws. The Executive Committee shall periodically, but no less often than once every three (3) years, review the Bylaws and report the results of its review to the Board of Trustees.

Section 2. Adoption, Amendment, or Repeal of Bylaws. These Bylaws may be amended, revised, or repealed in whole or in part upon the approval of a majority of the Trustees. Any proposed amendment, revision, or repeal of these Bylaws shall be submitted in writing to the Executive Secretary of the Foundation at least two weeks in advance of the meeting at which such amendment, revision, or repeal is to be considered. At least one week before such meeting, the Executive Secretary shall send, or cause to be sent, copies of any such proposal to each Trustee in the manner provided in Section 4 (Notice) of Article VII (Meetings of the Board of Trustees) of these Bylaws.

History:

Adopted February 20, 2016  
Amended April 27, 1989  
Amended November 8, 1991  
Amended February 11, 1994  
Amended June 2, 1995  
Amended March 6, 1998  
Amended June 4, 1999  
Amended June 2, 2000  
Amended June 1, 2001  
Amended May 31, 2002  
Amended October 23, 2010  
Amended and Restated February 25, 2012  
Amended and Restated February 20, 2016

CERTIFICATE OF SECRETARY

I, Sheila A. Bergman, certify that I am presently the duly elected and acting Executive Secretary of the UC Santa Cruz Foundation, a California nonprofit public benefit corporation, and that the above Second Amended and Restated Bylaws, consisting of 26 pages, are the bylaws of the Foundation as adopted by the Board of Trustees, on February 20, 2016.



Sheila A. Bergman  
Executive Secretary

2-20-16

Date

