

FOURTH AMENDED AND RESTATED BYLAWS

OF

TRUCKEE CHARTER SCHOOL FOUNDATION

A California Nonprofit Public Benefit Corporation

ARTICLE 1

OFFICES

The corporation's principal office shall be fixed and located at such place within the attendance boundaries of the Truckee-Tahoe Unified School District of California as the Board of Directors ("Board") shall determine. The Board is granted full power and authority to change the principal office from one location to another within such attendance boundaries in the District.

ARTICLE 2

PURPOSE

The purpose of the corporation is to manage, operate, guide, direct and promote the Sierra Expeditionary Learning School ("Charter School"), a California public charter school in or about Truckee, California, and such other educational activities as the Board may direct.

The Corporation shall not carry on any other activities not permitted to be carried on by: (a) a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code; or (b) a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code. No substantial part of the activities of the Corporation shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE 3

NO MEMBERS

Section 3.1 No Members

The corporation shall have no members. Any action which would otherwise by law require

approval by a majority of all members or approval by the members shall require only approval of the Board. All rights which would otherwise by law vest in the members shall vest in the Board.

### Section 3.2 Associates

Nothing in this Article 3 shall be construed to limit the corporation's right to refer to persons associated with it as "members" even though such persons are not members, and no such reference by the corporation shall render anyone a member within the meaning of Section 5056 of the California Nonprofit Corporation Law. Such individuals may originate and take part in the discussion or any subject that may properly come before any meeting of the Board, but may not vote. The corporation may confer, by amendment of its Articles of Incorporation or of these Bylaws, some or all of a member's rights, set forth in the California Nonprofit Corporation Law, upon any person who does not have the right to vote for the election of Directors, on a disposition of substantially all of the assets of the corporation, on a merger, on a dissolution, or on changes to the corporation's Articles of Incorporation or Bylaws, but no such person shall be a member within the meaning of Section 5056. The Board may also, but without establishing memberships, create an executive committee, advisory council, or such other auxiliary groups as it deems appropriate to advise and support the corporation.

## ARTICLE 4

### DIRECTORS

#### Section 4.1 General Powers

Subject to the limitations of the California Nonprofit Public Benefit Corporation Law, the corporation's Articles of Incorporation and these Bylaws, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the corporation's activities to any person(s), management company or committees, however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. No assignment, referral or delegation of authority by the Board or anyone acting under such delegation shall preclude the Board from exercising full authority over the conduct of the corporation's activities, and the Board may rescind any such assignment, referral or delegation at any time.

#### Section 4.2 Specific Powers

Without prejudice to its general powers, but subject to the same limitations set forth above, the Board shall have the following powers in addition to any other powers enumerated in these Bylaws and permitted by law:

- a. To select and remove all of the officers, agents and employees of the corporation; to prescribe powers and duties for the officers, agents and employees which are not inconsistent

with law, the corporation's Articles of Incorporation or these Bylaws; and to fix their compensation;

b. To conduct, manage and control the affairs and activities of the corporation and to make such rules and regulations therefor which are not inconsistent with the law, the corporation's Articles of Incorporation or these Bylaws, as it deems best;

c. To adopt, make and use a corporate seal and to alter the form of the seal from time to time, as it deems best;

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

e. Within the restrictions applicable to a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, to carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage;

f. To act as trustee under any trust incidental to the principal object of the corporation, and receive, hold, administer, exchange and expend funds and property subject to such trust;

g. To acquire by purchase, exchange, lease, gift, devise, bequest, or otherwise, and to hold, improve, lease, sublease, mortgage, transfer in trust, encumber, convey or otherwise dispose of real and personal property;

h. To assume any obligations, enter into any contracts or other instruments, and do any and all other things incidental or expedient to the attainment of any corporate purpose.

#### Section 4.3 Number, Election and Term of Directors

a. The authorized number of voting Directors shall be not less than five (5) or more than nine (9) members, unless changed by amendment to these Bylaws.

b. Directors will be elected at the October meeting of the Board of Directors by a majority vote of the Directors then in office, to begin two-year terms as of November 1, except as otherwise specified below.

The Board of Directors (“Governing Board”) shall be comprised of the following, to the extent possible given the qualified candidates willing and able to serve:

1. One (1) Charter School teacher – to be elected by the teachers. This Member will be a non-voting Member.

2. One (1) Member appointed by the Board of Trustees of TTUSD in accordance with California Education Code section 47604(b). This District representative will not be a District board member, and will sit on the Board of Directors as a member who facilitates communication and mutual understanding between the Charter School and the District. TTUSD shall have the option to have this Member be a non-voting Member.

3. Three (3) to Seven (7) Community Members representing business, education, Expeditionary Learning, charter school professional, finance, non-profit administration, or other relevant experience – to be elected by the Board

c. Governing Board Directors shall serve two-year terms and until a successor Director has been elected. A Director whose term has expired may be elected to a succeeding term. However, each Director will be limited to a total of four two-year terms, for a total of eight years (the “term limit”). In the event that a Director begins his or her term by assuming the partial term of a resigning or removed Director, that partial term will not count toward the term limit. Founding Board members who initially served a three-year term may still serve four terms, for a total of nine years.

d. No two Directors may be immediate family members. Any Director who is an immediate family member of currently employed staff of the Charter School, and the Charter School teacher representative, if any, shall strictly abide by the Conflict of Interest policy set forth in Article 6 hereof.

#### Section 4.4 Resignation and Removal

a. Subject to the provisions of Section 5226 of the California Nonprofit Public Benefit Corporation Law, any Director may resign effective upon giving 30 days’ written notice to the Secretary. The Board may waive the 30-day period for good cause.

b. A Director’s term on the Board may be terminated for cause, at any time, by a majority vote of the Directors. The Director being removed must abstain from the vote, but may be included when determining a quorum. Cause for removal shall include, without limitation: gross negligence in the performance of duties; intentional or knowing failure to perform duties; malfeasance or misfeasance; knowing fraud or misrepresentation; violation of the Conflict of Interest provisions of these Bylaws; excessive absences from Board meetings; or an arrest, conviction, or plea of no contest to a crime (beyond misdemeanor traffic offense).

#### Section 4.5 Vacancies

a. A Board vacancy or vacancies shall be deemed to exist if any Director dies, resigns, or is removed, or if the authorized number of Directors is increased.

b. The Board may declare vacant the office of any Director who has been convicted of a felony, or has been found to have breached any duty arising under Article 3 of Chapter 2 of the California Nonprofit Public Benefit Corporation Law or to be of unsound mind by any court of competent jurisdiction, or has failed to attend two (2) or more meetings of the Board of

Directors in any calendar year.

c. Removal of a Director for one or more of the reasons listed in Section 4.5.b above may be initiated by any member of the Board.

d. A vacancy on the Board shall be filled in the same manner of selection as that used to select the Director whose office is vacant, provided that vacancies to be filled by election by Directors may be filled by a majority of the remaining Directors, although less than a quorum. Each Director so elected shall hold office until a successor has been appointed and qualified.

e. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of the Director's term of office.

#### Section 4.6 Place of Meetings

Meetings of the Board may be held at the principal office of the corporation or at any other place that has been designated in the notice of the meeting or, if there is no notice, by resolution of the Board.

#### Section 4.7 Annual Meetings

The Board shall hold an annual meeting for the purposes of organization, selection of Directors and officers, and the transaction of other business. The annual meeting shall be held on the first Monday of October.

#### Section 4.8 Regular Meetings

Regular meetings of the Board, including the annual meeting, shall be held at least four times per fiscal year on the first Monday of July, October, January, and April. If a regular meeting date falls on a California state holiday, the meeting will be held on the following Monday.

#### Section 4.9 Special Meetings

a. Special meetings of the Board for any purpose(s) may be called at any time by the Chairman of the Board, the President, or the Secretary.

b. Special meetings of the Board may be held only after each Director has received four (4) days' notice by first class mail or forty-eight (48) hours' notice given personally or by telephone, facsimile, electronic mail, or other similar means of communication.

c. Any such notice shall be addressed or delivered to each Director at the Director's address as it is shown on the records of the corporation or as may have been given to the corporation by the Director for purposes of notice or, if an address is not shown on the corporation's records or is not readily ascertainable, at the place at which the meetings of the Directors are regularly held.

d. Notice by mail shall be deemed received at the time a properly addressed written notice is deposited in the United States mail, postage prepaid. Any other written notice shall be deemed received at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or is actually transmitted by the person giving the notice by electronic means to the recipient. Oral notice shall be deemed received at the time it is communicated, in person or by telephone, to the recipient or to a person at the office of the recipient whom the person giving the notice has reason to believe will promptly communicate it to the receiver.

#### Section 4.10 Meetings to Comply With Ralph M. Brown Act

Notwithstanding any other requirements contained in these Bylaws, all meetings of the corporation shall be held in compliance with all applicable requirements of the Ralph M. Brown Act, California Government Code sections 54950 *et seq.* (the “Brown Act”) and as the Brown Act may be modified by subsequent legislation.

#### Section 4.11 Quorum and Voting

A majority of the authorized Directors then in office shall constitute a quorum. The Board shall attempt to reach a general consensus on all actions before the Board; provided, however, that 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 an act of the Board. 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 4.12 Waiver of notice

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

#### Section 4.13 Adjournment

A majority of the Directors present, whether or not a quorum is present, may adjourn any Directors' meeting to another time and place. If a meeting is adjourned for more than twenty-four (24) hours, notice of such adjournment to another time or place shall be given, prior to the time scheduled for the continuation of the meeting, to the Directors who were not present at the time of the adjournment.

#### Section 4.14 Rights of Inspection

Every Director has the absolute right to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation provided such inspection is

conducted at a reasonable time after reasonable notice, and provided that such right of inspection and copying is subject to the corporation's obligations to maintain the confidentiality of certain books, records and documents under any applicable federal, state or local law.

#### Section 4.15 Fees and Compensation

Directors shall not receive any compensation for their services; however, the Board may approve the reimbursement of a Director's actual and necessary expenses incurred in the conduct of the corporation's business. The corporation shall make all reasonable efforts to carry liability insurance covering the Directors and Officers of the corporation in the conduct of the corporation's business.

#### Section 4.16 Restriction of Interested Directors

Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be interested persons. An interested person is (a) any person compensated by the corporation 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 Director as a Director; and (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. However, any violation of the provisions of this Section shall not affect the validity or enforceability of any transaction entered into by the corporation.

#### Section 4.17 Standard of Care

a. A Director shall perform all duties of a Director, including duties as a member of any committee of the Board on which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the corporation and with such care, including the duty to make a reasonable inquiries, as an ordinarily prudent person in a like situation would use under similar circumstances.

b. In performing the duties of a Director, a Director may rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the Director believes to be reliable and competent in the matters presented;

(2) Legal counsel, independent accountants or other persons as to matters that the Director believes to be within such person's professional or expert competence; or

(3) A committee of the Board upon which the Director does not serve as to matters within its designated authority, provided the Director believes that the committee merits confidence and 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.

c. Except with respect to assets that are directly related to the corporation's charitable programs, the Board shall avoid speculation in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments. Instead, the Board is to consider the permanent disposition of the funds, the probable income, and the probable safety of the corporation's capital, and is to comply with the express terms of the instrument or agreement, if any, pursuant to which the assets were contributed to the corporation.

#### Section 4.18 Committees

a. Creation of Committees. The Board, by resolution adopted by a majority of the Directors then in office, may create one or more committees, to serve at the pleasure of the Board. Committees may be structured so that they report to the Charter School Executive Director. Appointments to committees of the Board of Directors shall be by majority vote of the authorized number of Directors. The Board of Directors may appoint one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee may have all the authority of the Board, to the extent provided in the Board of Directors' resolution, except that no committee may:

- (1) Take any final action on any matter that, under the California Nonprofit Public Benefit Corporation Law, requires approval of a majority of the Directors;
- (2) Fill vacancies on the Board of Directors or any committee of the Board;
- (3) Fix compensation of the Directors for serving on the Board of Directors or on any committee;
- (4) Amend or repeal bylaws or adopt new bylaws;
- (5) Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or subject to repeal;
- (6) Create any other committees of the Board of Directors or appoint the members of committees of the Board;
- (7) Expend corporate funds to support a nominee for director if more people have been nominated for director than can be elected; or
- (8) Approve any contract or transaction to which the corporation is a party and in which one or more of its Directors has a material financial interest, except as special approval is provided for in California Corporations Code section 5233(d)(3).

b. Meetings and Actions of Committees. Meetings and actions of committees of the Board of Directors shall be governed by, held, and taken under the provisions of these bylaws concerning meetings, other Board of Directors' actions, and the Brown Act, if applicable, except



that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by Board of Directors' resolution or, if none, by resolution of the committee. Minutes of each meeting shall be kept and shall be filed with the corporate records. The Board of Directors may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the Board of Directors has not adopted rules, the committee may do so.

#### Section 4.19 Compliance with Laws Governing Student Records

The Charter School and the Board of Directors shall comply with all applicable provisions of the Family Education Rights Privacy Act ("FERPA") as set forth in Title 20 of the United States Code section 1232g and attendant regulations as they may be amended from time to time.

#### Section 4.20 Annual Reports

The Board of Directors shall make available an annual report to the Directors within 150 days after the end of the corporation's fiscal year. That 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;
- (c) The corporation's revenue or receipts, both unrestricted and restricted to particular purposes;
- (d) The corporation's expenses or disbursement for both general and restricted purposes;
- (e) Any information required under these bylaws; and
- (f) An independent accountant's report or, if none, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

#### Section 4.21 Annual Statement of Certain Transactions and Indemnifications

As part of the Annual Report to all Directors, the corporation shall, within 150 days after the end of the corporation's fiscal year, annually prepare and make available to each Director a statement of any transaction or indemnification of the following kind:

- (a) Any transaction (i) in which the corporation, or its parent or subsidiary, was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than \$50,000 or was one of several transactions with the same

interested person involving, in the aggregate, more than \$50,000. For this purpose, an “interested person” is either:

(1) Any director or officer of the corporation, its parent, or subsidiary (but mere common directorship shall not be considered such an interest); or

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the corporation, the nature of their interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

## ARTICLE 5

### OFFICERS

#### Section 5.1 Officers

The officers of the corporation shall be a President, Secretary, and a Treasurer. The corporation may also have, at the discretion of the Board, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be elected or appointed in accordance with the provisions of Section 5.3. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President or Chairman of the Board.

#### Section 5.2 Election

The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 5.3 or Section 5.6, shall be chosen at the October meeting of the Board by and shall serve at the pleasure of the Board, and shall hold their respective offices for two-year terms or until their resignation, removal or other disqualification from service, or until their respective successors shall be elected.

#### Section 5.3 Subordinate Officers

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

#### Section 5.4 Removal

Any officer may be removed, either with or without cause, by the Board at any time or, except for an officer chosen by the Board, by any officer upon whom the Board may confer such power of removal. Any such removal shall be without prejudice to the rights, if any, of an officer under

any contract of employment.

#### Section 5.5 Resignation

Any officer may resign at any time by giving written notice to the Board; such resignation may not prejudice the rights, if any, of the corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

#### Section 5.6 Vacancies

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

#### Section 5.7 President

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

#### Section 5.8 Vice Presidents

In the absence or disability of the President, the Vice President(s), if any are appointed shall, in order of their ranks as fixed by the Board or, if not ranked, the Vice President designated by the Board, perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice President(s) shall have such other powers and perform such other duties as the Board may prescribe from time to time.

#### Section 5.9 Secretary

a. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board may order, a book of minutes of all meetings of the Board and its committees, including the following information for all such meetings: the time and place of holding; whether regular or special; if special, how authorized; the notice thereof given; the names of those present and absent, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California, the original or a copy of the corporation's Articles of Incorporation and Bylaws, as amended to date, and a register showing the names of all Directors

and their respective addresses. The Secretary shall keep the seal of the corporation, if any, and shall affix the same on such papers and instruments as may be required in the regular course of business, but failure to affix it shall not affect the validity of any instrument.

b. The Secretary shall give, or cause to be given, notice of all meetings of the Board and any committees thereof required by these Bylaws or by law to be given, and shall distribute the minutes of meetings of the Board to all its members promptly after the meetings; shall keep the seal of the corporation in safe custody; shall see that all reports, statements and other documents required by law are properly kept or filed, except to the extent the same are to be kept or filed by the Treasurer; and shall have such other powers and perform such other duties as may be prescribed from time to time by the Board.

#### Section 5.10 Treasurer

a. The Treasurer of the corporation shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts and disbursements. The books of account shall at all times be open to inspection by any Director.

b. The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as may be designated from time to time by the Board. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board, and shall render to the President and Directors, upon request, an account of all transactions as Treasurer and of the financial condition of the corporation. The Treasurer shall present an operating statement and report, since the last preceding regular Board meeting, to the Board at all regular meetings. The Treasurer shall have such other powers and perform such other duties as may be prescribed from time to time by the Board.

## ARTICLE 6

### CONFLICT OF INTEREST AND COMPENSATION APPROVAL POLICIES

#### Section 6.1. Purpose

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 6.2 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. 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 6.3. 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 chairperson 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 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 6.4. Records of Board and Board Committee Procedures

The minutes of meetings of the Board of Directors 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 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 6.5. Compensation Approval Procedures

A voting member of the 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 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 6.6. Annual Statements

Each director, principal officer, and member of a committee with 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 6.7 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 6.8 Use of Outside Experts

When conducting the periodic reviews as provided for in Section 6.7, 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 7

### OTHER PROVISIONS

#### Section 7.1 Validity of Instrument

Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance or other written instrument and any assignment or endorsement thereof executed or entered into between the corporation and any other person, shall be valid and binding

on the corporation when signed by the President or any Vice President and the Secretary or Treasurer of the corporation, unless the other person has actual knowledge that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person(s) and in such manner and from time to time shall be determined by the Board and, unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement, to pledge its credit, or to render it liable for any purpose or amount.

## Section 7.2 Construction and Definitions

Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the General Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the foregoing, words in these Bylaws shall be read as the masculine or feminine gender, and as the singular or plural, as the context requires, and the word "person" includes both the corporation and a natural person. The captions and headings in these Bylaws are for convenience of reference only and are not intended to limit or define the scope or effect of any provision.

## Section 7.3 Fiscal Year

The fiscal year of the corporation shall be July 1 through June 30, or as otherwise set by the Board.

# ARTICLE 8

## INDEMNIFICATION OF AGENTS OF THE CORPORATION;

### PURCHASE OF LIABILITY INSURANCE

## Section 8.1 Definitions

For the purposes of this Article, "agent" means any person who is or was a Director, officer, employee or other agent of this corporation, or is or was serving at the request of this corporation as a Director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a Director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of this corporation or of another enterprise at the request of such predecessor or corporation, or is otherwise described in California Corporations Code section 5238(a); "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Section 8.2.c. or Section 8.2.d. (2) of this Article.

## Section 8.2 Indemnification Of Agents

a. This corporation may indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding (other than an action by or in the right of this corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General of California or a person granted relator status by the Attorney General of California for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of this corporation, against expenses, judgment, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of this corporation and, in the case of a criminal proceeding, such person had no reasonable cause to believe his or her conduct 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 this corporation, nor that the person had reasonable cause to believe that the person's conduct was unlawful.

b. This corporation may indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of this corporation, or brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or brought by the Attorney General of California or a person granted relator status by the Attorney General of California for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of this corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 8.2.b.:

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

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

(3) 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 of California.

c. To the extent that an agent of this corporation has been successful on the merits in defense of any proceeding referred to in subsection a. or b. of this Section 8.2 or in defense of

any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

d. Except as provided in subsection c. of this Section 8.2, any indemnification under this Section 8.2 shall be made by this corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subsection a. or b. of this Section 8.2, by:

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

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

e. Expenses incurred in defending any proceeding may be advanced by this corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized by this Section 8.2.

f. No provision made by this corporation to indemnify its or its subsidiary's Directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, these Bylaws a resolution of the Directors, an agreement or otherwise, shall be valid unless consistent with this Section 8.2. Nothing contained in this Section 8.2 shall affect any right to indemnification to which persons other than such Directors and officers may be entitled by contract or otherwise.

g. No indemnification or advance shall be made under this Section 8.2, except as provided in Section 8.2.c. or Section 8.2.d.(2) hereof, in any circumstances where it appears:

(1) That it would be inconsistent with a provision of the Articles of Incorporation, these Bylaws or an agreement in effect at the time of 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

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

### Section 8.3 Purchase of Liability Insurance

Upon and in the event of a determination by the Board to purchase such insurance, this corporation may purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not this corporation would have the power to indemnify the agent against such liability under the provisions of this Article; provided, however, that this

corporation shall have no power to purchase and maintain such insurance to indemnify any agent of this corporation for violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law.

Section 8.4 Nonapplicability to Fiduciaries of Employee Benefit Plans

This Article 8 does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent, as defined in Section 8.1, of the employer corporation. The corporation shall only have the power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by Section 207 (f) of the California General Corporation Law.

ARTICLE 9

AMENDMENTS

Section 9.1 Bylaws

These Bylaws may be renewed, amended or repealed by a majority vote of the Board.

ARTICLE 10

DEDICATION OF ASSETS

This corporation's assets are irrevocably dedicated to public benefit purposes as set forth in the Charter. No part of the net earnings, properties, or assets of the corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or to any director or officer of the corporation. On liquidation or dissolution, any property and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation that were purchased with public funding after July 1, 2010 will be distributed to the Tahoe Truckee Unified School District. All other properties and assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation shall be distributed to the Tahoe Truckee Unified School District or other nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes and that has established its exempt status under Internal Revenue Code section 501(c)(3).

CERTIFICATE OF ADOPTION OF BYLAWS

I certify that I am the elected and acting Secretary of Truckee Charter School Foundation, a California nonprofit public benefit corporation, and that the foregoing Fourth Amended and Restated Bylaws, comprising 21 pages, constitute the Bylaws of such corporation as adopted at a meeting of the Board of Directors held on November 5, 2012.

IN WITNESS WHEREOF, I have signed my name to this certificate on November 5, 2012.

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Jennifer Wilkin

Secretary