

BYLAWS
of the
SAN JOSE MUSEUM OF ART ASSOCIATION

Approved by the Board of Trustees, May 11, 2023

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ARTICLE I NAME

The name of this corporation shall be the San Jose Museum of Art Association (the “Association”).

ARTICLE II PURPOSE

The purposes of the Association shall be (1) to further interest and education in the arts and (2) to maintain a non-profit art museum. To assist in the fulfillment of these purposes and so long as it is not inconsistent with these purposes, the Board of Trustees may from time to time adopt a Mission Statement.

ARTICLE III LIMITATION ON CORPORATE ACTIVITIES

Section 1. Charitable Purposes

This Association is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. Notwithstanding any other provisions of these Articles, the Association shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

Section 2. Influencing Legislation

No substantial part of the activities of this Association shall consist of carrying on propaganda or otherwise attempting to influence legislation, nor shall this Association participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

Section 3. Political Considerations

Political considerations shall not be a factor in the selection or continuance of any exhibition sponsored by the Association.

ARTICLE IV DEDICATION AND DISSOLUTION

Section 1. Dedication

The property of this Association is irrevocably dedicated to charitable purposes, and no part of the net income or assets of this organization shall ever inure to the benefit of any trustee, officer, or member of this Association, or to the benefit of any private person.

Section 2. Dissolution

Upon the winding up or dissolution of this Association, and after paying or adequately providing for the debts and liabilities of the Association, the remaining assets shall be distributed to a non-profit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

ARTICLE V GOVERNANCE AND OFFICES

Section 1. Governance

The affairs and business of the Association shall be governed by a Board of Trustees, hereinafter sometimes referred to as the “Board” or the “Trustees.” The Board of Trustees shall be construed to be the Board of Directors in accordance with California corporate law.

Section 2. Principal Offices

The principal office for the transaction of the business of this Association is presently fixed and located at 110 South Market Street, San Jose, California. The Board of Trustees may change the principal office from one location to another. Any change of this location shall be noted by the Secretary on these Bylaws opposite this section, or this section may be amended to state the new location.

Section 3. Other Offices

The Board of Trustees may at any time establish branch or subordinate offices at any place or places where the Association is qualified to do business.

ARTICLE VI PERSONS ASSOCIATED WITH THE ASSOCIATION

Section 1. Contributors

This Association shall have no members. The Association may refer to contributors or other interested persons as “members,” “lifetime members,” “sustaining members,” “associate members,” or similar designation, provided that no such designation or reference shall constitute anyone a member within the meaning of Section 5056 of the California Corporations Code or vest any such member or membership classification with any voting rights or other rights of a member or statutory member under the California Nonprofit Corporation Law or otherwise. Meetings of contributors may be held at such times and places for such purposes as may be determined from time to time by the Board of Trustees.

Section 2. Volunteers

The Executive Director of the Association may periodically establish and dissolve volunteer groups, subject to the approval of the Board of Trustees.

(a) Up to four (4) Trustees representing the volunteer groups of the Museum (“Delegate Trustees”) shall be nominated by the volunteer groups, with one Delegate Trustee nominated by each such volunteer group, subject to the approval of the Board of Trustees.

(b) Volunteer groups shall follow the policies and procedures of the Association.

(c) Volunteer groups may establish their own operating procedures. However, the Bylaws and policies of the Association shall preempt the operating procedures of the volunteer group in the event any conflict arises between them.

ARTICLE VII BOARD OF TRUSTEES

Section 1. Trustees

(a) The authorized number of Trustees shall be not less than fifteen (15) and not more than forty (40). The exact number of Trustees shall be fixed, within those limits, by a resolution adopted by the Trustees.

(b) All Trustees shall be elected by a majority of the Trustees. Nominations for such election shall be presented to the Board pursuant to Article IX, Section 3(a)(iii)(aa). Nominations for election as Trustees for three year terms may be made for Artist Trustees for practicing artists (“Artist Trustees”), with full voting privileges.

Section 2. Quorum and Voting

A majority of the Trustees then in office (which in no event shall be a number less than a majority of the minimum authorized number of Trustees) shall constitute a quorum for the transaction of business (except to adjourn as provided in Sections 13 of this Article VII). 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 that meeting. Every act or decision done or made by a majority of Trustees present at a meeting duly held at which a quorum is present is the act of the Board, except where a greater vote is required by these Bylaws. Where a vote by the “majority of Trustees” is required, “majority of Trustees” shall mean a majority of Trustees then in office.

Section 3. Qualification and Commitments

The Board shall establish and periodically modify a Statement of Expectations for Trustee involvement, which shall be provided to each Trustee annually for each Trustee's written confirmation of understanding.

Section 4. Term

So long as he or she meets the performance criteria and is otherwise qualified, each Trustee other than a Delegate Trustee shall hold office for a term of three (3) years provided that the Board may appoint a Trustee to serve for a term less than three (3) years in order to stagger the terms of office. Delegate Trustees shall hold office for a term of one (1) year. As much as is reasonably attainable, no more than thirty-five (35%) of the then fixed number of Trustees, exclusive of Delegate Trustees, shall have terms of office which expire on the same date. A Trustee may serve for an unlimited number of consecutive terms.

Section 5. Vacancies; Removal

(a) A vacancy or vacancies on the Board of Trustees shall be deemed to exist on the occurrence of any one of the following: (i) the death or resignation of any Trustee; (ii) the declaration by resolution of the Board of Trustees of a vacancy of the office of a Trustee who has been declared of unsound mind by an order of court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty under section 5230 and following of the California Nonprofit Corporation Law; or (iii) the increase of the authorized number of Trustees.

(b) Except as provided in this paragraph, any Trustee may resign, which resignation shall be effective on giving written notice to the President, the Secretary, or the Board of Trustees, unless the notice specifies a later time for the resignation to become effective. If a Trustee gives oral notice of resignation but fails to provide written notice of such resignation, or takes actions which are reasonably consistent with the intent to no longer act as Trustee, the Board may adopt a resolution deeming the Trustee to have resigned. If the resignation of a Trustee is effective at a future time, the Board of Trustees may elect a successor to take office as of the date when the resignation becomes effective. No Trustee may resign when the Association would then be left without a duly elected Trustee or Trustees in charge of its affairs.

(c) If the Executive Committee determines that a Trustee, during that Trustee's term as a Trustee, has failed to meet the performance criteria established by the Board, then that Trustee may be deemed by the Executive Committee to have resigned. If the Executive Committee recommends to the Board of Trustees that such resignation be accepted, the Board of Trustees may accept the Executive Committee's recommendation or retain the Trustee.

(d) No reduction of the authorized number of Trustees shall have the effect of removing any Trustee before that Trustee's term of office expires.

(e) If a vacancy occurs on the Board, a new Board member may be elected by the Board for the balance of the unexpired term and until a successor has been elected.

Section 6. Powers and Responsibilities of Trustees.

Subject to the provisions of the California Nonprofit Corporation Law and any limitations in the Articles of Incorporation and these Bylaws, the business and affairs of the Association shall be governed, and all corporate powers shall be exercised, by or under the direction of the Board of Trustees. Every Trustee shall have the rights of inspection of the books and records of the Association as provided under California Nonprofit Corporation Law.

(a) Without limiting the general powers, the Trustees shall have the power and responsibility for:

(i) Establishing the fiscal policies of the Association, adopting and amending the annual budget, and causing an audit to be made at the end of each fiscal year;

(ii) Appointing an Executive Director, defining his or her rights, powers and duties, and using due diligence in supervising his or her actions;

(iii) Ensuring that appropriate personnel policies have been established;

(iv) Supervising the preparation and maintenance of procedures and guidelines for the Association and its activities including, but not limited to, the adoption by the Board of Trustees of collections policies, a Fiscal Misconduct and Complaints Policy, Record Retention and Document Destruction Policy, and a Code of Ethics for Trustees, Staff, and Volunteers. The Code of Ethics shall include conflict of interest policies and ensure an annual conflict of interest disclosure statement by each Trustee as a condition of serving as a Trustee;

(v) Establishing committees in accordance with Article IX and such other educational and auxiliary groups as the Trustees deem necessary to carry on the work of the Association;

Section 7. Place of Meetings.

Regular meetings of the Board of Trustees may be held at any place within or outside the State of California that has been designated from time to time by resolution of the Board. In the absence of such designation, regular meetings shall be held at the principal executive office of the Association. Special meetings of the Board shall be held at any place within or outside the State of California that has been designated in the notice of the meeting or, if not stated in the notice, or if there is no notice, at the principal executive office of the Association. Notwithstanding the above provisions of this Section 7, a regular or special meeting of the Board

of Trustees may be held at any place consented to in writing by all the Board members, either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting.

Section 8. Regular Meetings.

Regular meetings of the Board of Trustees shall be held at least four times a year. The time and place of such meetings may be established by the President with the approval of the Board. Any change in the time and place of such regular meetings shall be communicated in writing to all members of the Board of Trustees not less than five (5) days before such meeting.

Section 9. Special Meetings.

(a) Special meetings of the Board of Trustees for any purpose may be called at any time by the President. The President shall call a special meeting upon receipt of a written request for a meeting signed by no less than five (5) members of the Board, or if no President is then in office, by a Vice President, or by written notice of a meeting signed by no less than five (5) members of the Board.

(b) Notice of special meetings shall be given as follows:

(i) Notice of the time and place of special meetings shall be given to each Trustee by one of the following methods: (a) by personal delivery of written notice; (b) by first class mail, postage pre-paid; (c) by telephone communication, either directly to the Trustee (including by a voice messaging system) or to a person at the Trustee's home or office who would reasonably be expected to communicate such notice promptly to the Trustee; or (d) e-mail. All such notices shall be given or sent to the Trustee's address, telephone number, or e-mail address as shown on the records of the Association.

(ii) Notices sent by first-class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notice given by personal delivery, telephone, or e-mail shall be delivered, telephoned, or electronically transmitted at least forty-eight (48) hours before the time set for the meeting.

(iii) The notice shall state the time and place for the meeting.

Section 10. Waiver of Notice.

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

Section 11. Action Without Meeting.

Any action required or permitted to be taken by the Board of Trustees may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to this action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Trustees. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 12. Compensation.

Trustees and members of committees shall receive no compensation for their services, but may be reimbursed for out-of-pocket expenses, at the discretion of the Board of Trustees.

Section 13. Adjournment.

A majority of the Trustees present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

Section 14. Notice of Adjournment.

Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Trustees who were not present at the time of the adjournment.

ARTICLE VIII OFFICERS

Section 1. Officer Designations.

The officers of the Association shall be a President (or two Co-Presidents in the discretion of the Board; all references in these Bylaws to "President" shall include Co-Presidents), a Vice-President, a Secretary, and a Treasurer. The association may also have, at the discretion of the Board of Trustees, such other officers as may be appointed by the Board of Trustees. All officers shall serve as members of the Board of Trustees during their term of office.

Section 2. Election and Term.

The officers of the Association shall be elected by the Board of Trustees and shall serve at the pleasure of the Board. The term of office for each officer shall be two (2) fiscal years of the Association. No person may hold the office of President for more than three (3) consecutive two (2) year terms. No officer may serve concurrently in any other office.

Section 3. Vacancies.

A vacancy in any office except the office of President shall be filled by the Board of Trustees. A vacancy in the office of President shall be filled by the Vice-President, and the resulting vacancy in the Vice-Presidency shall then be filled by the Board.

Section 4. President.

Subject to the control of the Board of Trustees, the President shall have general supervision, direction, and control of the business and affairs of the Association. The President shall coordinate Association activities and shall preside at all meetings of the Trustees and the Executive Committee, and shall have such other powers and duties as may be prescribed from time to time by the Board of Trustees. The President shall be an ex-officio member of all committees and shall be notified of all meetings of such committees.

Section 5. Vice-President.

In the absence or disability of the President, the Vice-President shall perform all the duties of the President and in so acting shall have all the powers of the President. The Vice-President shall also have such powers and perform such duties as may be prescribed from time to time by the Board of Trustees.

Section 6. Secretary.

The Secretary shall ensure that minutes of the Executive Committee and the Board of Trustees are kept. These minutes shall be maintained at the principal office of the Association and shall consist of a full and complete record of the proceedings of those meetings. The Secretary shall also ensure appropriate record keeping for the Association and the service of such notices as may be necessary and proper. He or she shall have such powers and perform such duties as may be prescribed from time to time by the Board of Trustees.

Section 7. Treasurer.

The Treasurer shall ensure that the funds of the Association are properly safeguarded and received, and deposited in the bank or banks that may be designated by the Board of Trustees. The Treasurer shall also ensure that proper financial records are kept and that sufficient and regular reports are made to the Finance Committee and the Board of Trustees. The Treasurer shall have such other powers and perform such other duties as may be prescribed from time by the Board of Trustees.

Section 8. Compensation.

The officers of the Association shall receive no compensation for their services as officers, but may be reimbursed for out-of-pocket expenses at the discretion of the Board of Trustees.

ARTICLE IX COMMITTEES

Section 1. Committees of Trustees.

The Board of Trustees may, as set forth herein, designate one or more standing or advisory committees, to serve at the pleasure of the Board. Each committee shall have such powers and duties as the Board may from time to time designate. No committee, regardless of Board resolution, may:

(a) fill vacancies on the Board of Trustees or on any committee that has the authority of the Board;

(b) amend or repeal the Bylaws or adopt new bylaws;

(c) amend or repeal any resolution of the Board of Trustees, which by its express terms is not amendable or repealable;

(d) appoint other committees of the Board of Trustees or the members thereof except that the Executive Committee may do so;

(e) approve any transaction (i) to which the Association is a party and in which one or more Trustees have a material financial interest; or (ii) between the Association and one or more of its Trustees or between the Association or any person in which one or more of its Trustees have a material financial interest.

Section 2. Meetings and Action of Committees.

Meetings and action of committees shall be governed by, and held and taken in accordance with, the provisions of this Article VII of these Bylaws, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Trustees and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Trustees or by resolution of the committee. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. The Board of Trustees may adopt rules for the governance of any committee not inconsistent with the provisions of these Bylaws.

Section 3. Standing Committees.

The Association shall have the following Standing Committees of the Board: Executive; Finance and Policy; Acquisitions; Development; and Audit. The Finance and Policy, Acquisitions, Development, and Audit committees do not exercise the full authority of the Board. The President of the Board shall be the Chair of the Executive Committee. The Chairpersons of the Finance and Policy, Acquisitions, Development and Audit Committees shall be nominated by the President of the Board and approved by the Board of Trustees. The Chairpersons of the Standing Committees shall advise the Executive Committee on prospective Committee members. The President of the Board and the Chairpersons shall select committee

members who may be Trustees or non-Trustees. Minutes from the meetings of the Standing Committees shall be distributed to the Board. Revisions of Board approved policies that are recommended by Standing Committees shall be approved by the Board.

(a) Executive Committee

(i) Composition and General Duties. This Association shall have an Executive Committee which shall consist, at a minimum, of the four officers of the Board of Trustees (or the five officers if there are Co-Presidents), the immediate past President (or Co-Presidents) plus two or more Trustees nominated by the President of the Board of Trustees and approved by the Board of Trustees. The Executive Committee shall carry on Association business between Board meetings and, with the limitations set forth in Section 1 hereof, shall have all the authority of the Board except that the Executive Committee shall have no power to rescind, or make substantive changes to, any action previously taken by the Board.

(ii) Meetings. The Executive Committee may meet between meetings of the Board of Trustees as necessary at the call of the President or at the written request of two members of the Executive Committee, and in any case shall meet at least five (5) times in each fiscal year. The approved minutes of the Executive Committee meetings shall be distributed to the Board of Trustees.

(iii) Special Duties. The Executive Committee is charged with the oversight and administration of the Association's Nomination of Trustees and Officers, Board Processes and Committees, Ethics and Conflicts of Interest, and Personnel Compensation and Review.

(aa) Nominating Trustees and Officers. The Executive Committee shall periodically present Trustee nominees to the Board for election. The Executive Committee shall forward slates of nominations for officers to the Board for election no later than the last Board meeting of the fiscal year.

(bb) Board Processes and Committees. The Executive Committee shall advise the Board on and oversee Board processes, peer review and fulfillment of Board members' responsibilities, and the structure and members of committees of the Board. The Executive Committee shall review the performance of each Trustee.

(cc) Ethics and Conflicts of Interest. The Executive Committee shall ensure that the Association, including SJMA staff, volunteers and the Board, adheres to the highest ethical and professional standards and shall administer the institutional Code of Ethics in accordance with its terms.

(dd) Personnel Compensation and Review. The Executive Committee shall advise the Board on personnel, compensation, benefits, and evaluation policies. It shall recommend the Executive Director's compensation to the Board, review the annual personnel compensation package, and oversee personnel policies.

(ee) Employee Benefits and Retirement Plans. The Executive Committee shall advise the Board on employee benefits and retirement plans.

(b) Finance and Policy Committee.

The Treasurer shall be the Chairperson of the Finance and Policy Committee, and shall select committee members who may be Trustees, who shall constitute a majority of the committee members, and non-Trustee, non-voting Advisory members. The Finance and Policy Committee shall meet not less than five (5) times each fiscal year and oversee the Association's policies, procedures, finance, budget, risk management, and investment matters. Responsibilities shall include, but not be limited to, monitoring the Association's stewardship of entrusted funds, the performance of investment managers, monitoring the Association's employee retirement plan and funds, and reporting findings, conclusions and recommendations to the Board; review Form 990; alignment of the budget and fiscal decisions with the Associations' strategic goals; review of collection stewardship issues; and oversee the development and updating of policies in carrying out the Associations' mission.

(c) Acquisitions Committee.

The Chairperson of the Acquisitions Committee shall be a Trustee. Members may be Trustees or non-Trustees. The Board of Trustees shall approve all members of the Acquisitions Committee including two dues-exempt members. The President of the Board may nominate, for three-year terms, up to two dues-exempt members of the Acquisitions Committee from the arts community, with full voting privileges on the committee. All other members of the Acquisition Committee shall pay annual dues set by the Development Committee and shall be required to hold membership status at the Association at a level as determined by the Development Committee. The Acquisition Committee shall, in an advisory capacity, approve the purchase and donations of works of art for the permanent collection, in accordance with the collection policies, subject to ratification by the Board of Trustees. The Acquisitions Committee shall meet at least four times per year, coordinated with Board meetings where possible to facilitate prompt action on proposed purchases and donations. The Acquisitions Committee shall at least four times per fiscal year report to the Board of Trustees, each report to include a curatorial presentation, list of acquisitions and potential acquisitions for ratification and/or approval.

(d) Development Committee.

The Chairperson of the Development Committee shall be a Trustee. Members may be Trustees, who shall constitute a majority of the committee members, or non-Trustee, non-voting Advisory members. The Board of Trustees shall approve all members of the Development Committee. The Development Committee shall work with the Board, the Executive Director, and the development staff in fulfillment of the Board's responsibility of the Board to raise funds required for the Association's operations, endowment, collection and capital projects in order to

meet current needs and sustain long-term stability. The Development Committee shall propose policies to the Board pertaining to all fundraising and shall help build the fundraising capability of the Board and the Association. The Development Committee shall oversee volunteer advisory fund raising groups including the Councils Committee (for the Council of 100 and the Directors Council) and any special event committees (i.e. annual Gala committee), which groups shall report in advance to and work with the Chairperson of the Development Committee on significant decisions to be made by such groups.

(e) Audit Committee.

The Audit Committee shall be appointed by the Board of Trustees and consist of at least three voting members, and pursuant to California law may include non-Trustee members, but shall not include any Museum staff members, or the President or Treasurer of the Association. The Chair of the Audit Committee shall be a Trustee. Members of the Finance and Policy Committee may serve on the Audit Committee but members of the Finance and Policy Committee shall constitute less than one-half of the Audit Committee. The Chairperson of the Audit Committee may not be a member of the Finance and Policy Committee. Members of the Audit Committee shall not have any material financial interest in any entity doing business with the Association. Members of the Audit Committee shall not receive any compensation from the Association. The Audit Committee shall assist the Board of Trustees in fulfilling the Board's oversight responsibilities as they relate to the Association's audit. In this capacity, subject to the supervision of the Board of Trustees, the Audit Committee is responsible for: (1) recommending to the Board of Trustees the retention and termination of the independent auditor and may negotiate the independent auditor's compensation for approval by the Board of Trustees; (2) conferring with the independent auditor to satisfy the Audit Committee's members that the financial affairs of the Association are in order; (3) reviewing any non-audit services performed by the firm conducting the audit, provided the auditor and its individual auditors adhere to the applicable accounting standards for auditor independence, and making recommendations to the Board of Trustees regarding such non-audit services; (4) reviewing and determining whether to recommend to the Board of Trustees acceptance of the audit; (5) receiving and reviewing management's response to an auditor's management letter; and (6) a Committee representative meeting with the Board of Trustees each year at the time of the presentation of the external audit to the Board.

Section 4. Task Forces and Advisory Committees.

Task forces may be appointed by the President of the Board. Advisory committees may be appointed by the Board of Trustees, the Executive Committee, the President of the Board, or the Executive Director. Task forces and Advisory Committees shall have no legal authority to act for the Association, but shall report their findings and recommendations to the Board of Trustees.

ARTICLE X EXECUTIVE DIRECTOR

Section 1. Executive Director.

The Board of Trustees shall employ an Executive Director for the San Jose Museum of Art who shall be responsible to the Board for the administration, management, and oversight of the affairs of the Museum, including planning of exhibitions, supervising the collection and acquisition programs, management of the budget, planning and supervising educational programs and activities of volunteer organizations, expenditures, supervision, and employment of staff, in accordance with the policies and budgetary limitations established by the Board. The Executive Director may be appointed or dismissed only by a majority of the Trustees.

Section 2. Attendance at Meetings.

The Executive Director shall be notified of, and may attend meetings of the Board of Trustees, Executive Committee, and all subsidiary groups and committees in order to advise and make recommendations for deliberation and decisions by such groups.

ARTICLE XI FISCAL YEAR

The fiscal year of the Association shall be July 1 to June 30. The fiscal year may be changed by the Board of Trustees.

ARTICLE XII PARLIAMENTARY AUTHORITY

The rules contained in the most recent edition of Roberts' Rules of Order shall govern this Association in all cases to which they are applicable and in which they are not inconsistent with these Bylaws.

ARTICLE XIII INDEMNIFICATION OF TRUSTEES, OFFICERS, EMPLOYEES AND OTHER AGENTS

Section 1. Definitions.

For the purpose of this Article,

(a) "Agent" means any person who is or was a Trustee, officer, employee, or other agent of this Association, or is or was serving at the request of this Association as a Trustee, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a Trustee, director, officer, employee, or agent of a foreign or

domestic corporation that was a predecessor corporation of this Association or of another enterprise at the request of the predecessor corporation;

(b) “Proceeding” means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and

(c) “Expenses” includes, without limitation, all attorneys' fees, costs, and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his/her position or relationship as agent and all attorneys' fees, costs, and other expenses incurred in establishing a right to indemnification under this Article.

Section 2. Successful Defense by Agent.

To the extent that an agent of this Association has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim.

Section 3. Actions Brought by Persons Other Than the Association.

Subject to the required findings to be made pursuant to Section 5 below, and to the fullest intent permissible by California law, this Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, this Association, under California Corporations Code section 5233, or by the Attorney General or a person granted relator status by the Attorney General, for any breach of duty relating to assets held in charitable trust, or otherwise, by reason of the fact that such person is or was an agent of this Association, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of this Association and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such 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 this Association or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 4. Action Brought by or on Behalf of the Association.

Subject to the required findings to be made pursuant to Section 5 below, and to the fullest extent permissible by California law, this Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action brought by or on behalf of this Association, under California Corporations Code Section 5233, or 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, or otherwise, by reason of the fact that the person is or was an agent of this Association for all expenses actually and reasonably incurred in connection with the defense or settlement of that action, if such person acted in good faith, in a

manner such person believed to be in the best interests of this Association 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:

(a) In respect of any claim, issue or matter as to which such person shall have been adjudged liable to this Association in the performance of such person's duty to this Association, 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;

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

(c) of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless such action concerns assets held in charitable trust and is settled with the approval of the Attorney General.

Section 5. Determination of Agent's Good Faith Conduct.

Except as provided in Section 2, this Association shall indemnify any agent under this Article only if authorized in the specific case upon a determination that such indemnification is proper in the circumstances because the agent has met the applicable standard of conduct in Section 3 or 4 above, by:

(a) the Board of Trustees by a majority vote of a quorum consisting of Trustees who are not parties to the proceeding; or

(b) the court in which the proceeding is or was pending. Such determination may be made on application brought by this Association or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney, or other person is opposed by this Association.

Section 6. Limitations.

No indemnification or advance shall be made under this Article, except as provided in Section 2, in any circumstance when it appears:

(a) That the indemnification or advance would be inconsistent with a provision of the articles 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) That the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 7. Advance of Expenses.

Expenses incurred in defending any proceeding may be advanced by this Association before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

Section 8. Contractual Rights of Non-Trustees and Non-Officers.

Nothing contained in this Article shall affect any right to indemnification to which persons other than Trustees and officers of this Association, or any subsidiary hereof, may be entitled to by contract or otherwise.

Section 9. Insurance.

The Board of Trustees may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of this Association against any liability other than for violating provisions against self-dealing asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this Association would have the power to indemnify the agent against that liability under the provisions of this Article.

ARTICLE XIV AMENDMENTS TO THESE BYLAWS

These Bylaws may be amended, repealed, supplemented, revised, and restated, in whole or in part, by the affirmative vote of a majority of the Trustees.

ARTICLE XV AUTHORIZATION TO EXECUTE DOCUMENTS ON BEHALF OF THE ASSOCIATION

The President of the Association and the Executive Director of the Museum, and other persons delegated by those individuals, shall have the authority to enter into agreements and execute documents on behalf of the Association in accordance with these Bylaws and the fiscal policies of the Board.

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