

RESTATED BYLAWS

OF

CALIFORNIA POLYTECHNIC STATE UNIVERSITY FOUNDATION a California nonprofit public benefit corporation a.k.a. CAL POLY FOUNDATION

Amended and Restated
As of August 7, 2021

ARTICLE I

NAME

The name of this corporation is the California Polytechnic State University Foundation (the "Foundation").

ARTICLE II

OFFICES

Section 1. Principal Executive Office. The principal executive office of the Foundation is hereby fixed and located on the campus of the California Polytechnic State University ("Cal Poly"), San Luis Obispo, California 93407. The Board of Directors of the Foundation (the "Board") is hereby granted full power and authority to change said principal executive office to another location with the approval of the President of Cal Poly (the "President").

Section 2. Other Offices. Other business offices may be established at any time by the Board at any place or places where the Foundation is qualified to do business.

ARTICLE III

PURPOSES AND POWERS

Section 1. Purposes. The Foundation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law, which is contained in Sections 5110 - 6910 of the California Corporations Code (the "Nonprofit Corporation Law") and the California Education Code. In the event of any conflict between the Nonprofit Corporation Law and the California Education Code, the California

Education Code will supersede. The Foundation is organized for the following public and charitable purposes:

(a) Foster, encourage and promote the scientific, literary, educational and charitable purposes of Cal Poly by constructing, establishing, maintaining, operating and giving to Cal Poly scientific, literary, educational and charitable buildings, equipment and facilities or doing or causing to be done one or more of such things and all other things incidental thereto;

(b) Take an active role in fundraising and development processes in support of Cal Poly;

(c) Provide financial assistance to Cal Poly and its scientific, literary, educational and charitable purposes through gifts, loans, and allocations to Cal Poly and its controlled affiliates;

(d) Promote a greater and better understanding in the community of Cal Poly's role and policies as they relate to Cal Poly's higher education mission;

(e) Administer gifts, bequests, devises, endowments, trusts, and similar funds, and provide short and long term management of these investment funds; and

(f) Do any other act or thing and engage in and carry on any other activity in any manner connected with or incidental to, or calculated to promote, assist, aid, or accomplish any of the aforesaid purposes.

Section 2. Powers. In furtherance of the purposes set forth herein, the Foundation shall have and shall exercise, subject to any limitations contained in its Articles of Incorporation, these Bylaws, applicable laws or policy statements issued from time to time by The California State University ("CSU") or Cal Poly in general or specifically relating to development activities, and only upon the execution of a written operating agreement with Cal Poly relating to performance of authorized functions, all powers of a natural person and all other rights, powers and privileges now or hereafter belonging to, or conferred upon, corporations organized under the provisions of the Nonprofit Corporation Law or the California Education Code, including without limitation, the power to do the following:

(a) Adopt, make, use and at will alter, a corporate seal, but failure to affix such seal shall not affect the validity of any instrument;

(b) Adopt, amend and repeal Bylaws;

(c) Qualify to conduct its activities in any other state, territory or foreign country;

(d) Receive endowments, devises, bequests, gifts, grants and donations of all kinds of property for its own use, or in trust, in order to carry out or to assist in carrying out, the objects and purposes of the Foundation and to do all things and acts necessary or proper to carry out each and all of the purposes and provisions of such endowments, devises, bequests, gifts, grants and donations with full power to mortgage, sell, lease or otherwise deal with or dispose of the same in accordance with the terms thereof. Endowments, devises, bequests, gifts, grants and donations received by the Foundation shall be accepted, maintained and used in accordance with policies, rules and regulations of the CSU;

(e) Act as a trustee under any trust incidental to the principal objectives of the Foundation, and receive, hold, administer, exchange and expend funds and property subject to such trust;

(f) Make donations for the public welfare or for community, hospital, charitable, educational, scientific, civic, or similar purposes;

(g) Assume obligations, enter into contracts, including contracts of guaranty or suretyship, incur liabilities, borrow or lend money or use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or encumber all or any part of its property and income;

(h) Issue, purchase, redeem, receive, take or acquire, own, sell, lend, exchange, transfer or dispose of pledges, use and deal in and with real and personal property, capital stock, bonds, debentures, notes and debt securities and money market instruments of its own or others; and

(i) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind intended to foster, encourage and promote the scientific, literary, educational and charitable purposes of Cal Poly.

Section 3. Dedication of Assets. The Foundation is organized and shall be operated exclusively for scientific, literary, educational and charitable purposes within the meaning of Section 501(c)(3), and Section 170(c)(2) of the Internal Revenue Code of 1986 ("IRC"), as amended, and Section 23701d of the California Revenue and Taxation Code. The property, assets, profits and net income of the Foundation are irrevocably dedicated to such purposes and no part of the profits or net income of the Foundation shall ever inure to the benefit of any director, officer or to any individual. Upon the dissolution or winding up of the Foundation, its assets, after payment or provision for payment of all debts and liabilities of this Foundation, shall be

distributed to one or more nonprofit corporations organized and operated for the benefit of Cal Poly or, if no such entity exists, then to one or more nonprofit corporations organized and operated for the benefit of the CSU, in each case as approved by the President and the Chancellor of the CSU. Such nonprofit corporation or corporations must be qualified for Federal income tax exemption under Section 501(a) and 501(c)(3) of the IRC and be organized and operated exclusively for scientific, literary, educational or charitable purposes, or for a combination of said purposes.

Notwithstanding any other provision of these Bylaws, the Foundation shall not carry on any activities not permitted to be carried on by an entity exempt from federal income tax under Section 501(c)(3) of the IRC (or the corresponding provision of any future United States tax law); or by an entity contribution to which are deductible under Section 170(c)(2) of the IRC (or the corresponding provision of any future United States tax law).

No substantial part of the activities of the Foundation shall consist of attempting to influence legislation, nor shall the Foundation participate in, intervene in, or contribute funds to, any political campaign on behalf of any candidate for political office.

ARTICLE IV

MEMBERSHIP

Section 1. No Members. In accordance with Section 5310 of the Nonprofit Corporation Law, the Foundation shall have no members within the meaning of Section 5056 of that law. All action that would otherwise require approval of the members shall require only approval by the Board. All rights that would otherwise vest in members shall vest in the directors.

Section 2. Persons Associated with the Foundation. By resolution, the Board may create any advisory boards, councils, honorary memberships or other bodies as it deems appropriate. The Board may also, by resolution, confer upon any such class or classes of persons some or all of the rights of a member under the Nonprofit Corporation Law, other than the right to vote on the following matters, all of which voting rights are vested exclusively in the Board and/or in the President:

- (a) The election or removal of directors or officers;
- (b) The disposition of all or a substantial part of the assets of the Foundation;
- (c) A merger or reorganization of the Foundation;

- (d) The dissolution of the Foundation; and
- (e) Amendments to the Foundation's Articles of Incorporation or Bylaws.

ARTICLE V

BOARD OF DIRECTORS

Section 1. Powers. Subject to any limitations in the Articles of Incorporation or these Bylaws, the activities and affairs of the Foundation shall be conducted, and all corporate powers shall be exercised, by and under the direction of, the Board. All directors of the Board, elected and ex officio, shall be voting directors of the Board and each director shall have one vote. The Board may delegate the management of the activities of the Foundation to officials of Cal Poly or to any other persons, management companies or committees, however composed, provided that the activities and affairs of the Foundation shall be managed and all corporate powers shall be exercised under the ultimate direction and control of the Board.

Section 2. Number and Qualification of Directors. The authorized number of directors shall be not less than ten (10) nor more than forty (40), with the exact number of directors to be fixed within such limits by resolution of the Board as enacted from time to time. All directors shall meet the qualification requirements provided in Section 3 below.

Section 3. Manner of Selection. The Board shall be composed of directors selected in the following manner:

3.1 Qualifications of Directors. All directors shall be appointed or elected as provided in this section. All directors, other than the Ex Officio Directors designated in Section 3.5 of this Article V, shall be approved by the President, reviewed and recommended for election by the Executive Committee, and elected by majority vote of the directors in office at the time of any such election. Subject to the limitations described in Section 5.2 of this Article V, Cal Poly employees and officers may serve as directors. Any Ex Officio Director who ceases to hold the office that qualifies him or her for a position on the Board shall thereupon cease to be a director (unless he or she assumes another qualifying office or is elected to the Board).

3.2 Faculty Director. One of the elected directors shall be a member of the Cal Poly faculty. The President shall consult with the Academic Senate before presenting an approved candidate for Faculty Director to the Executive Committee.

3.3 Student Director. One of the elected directors shall be a member of the student body of Cal Poly. The President shall consult with the Board of Directors of the Associated Students, Inc. of Cal Poly before presenting an approved candidate for Student Director to the Executive Committee.

3.4 Community Director. At least one of the elected directors shall be a member of the general public, not an employee, student, or faculty member of Cal Poly.

3.5 Ex Officio Directors. The Vice President for University Development & Alumni Engagement, by virtue of the office held, shall serve as the Chief Executive Officer (CEO) of the Foundation and as a director of the Foundation. The President by virtue of the office held, shall serve as a director of the Foundation. The CEO of the Foundation in consultation with the President and Chair of the Board, shall designate a university representative to serve as the Treasurer of the Foundation, as noted in Article VIII, section 5. Such persons shall be voting members of the Board with all rights and responsibilities of such membership.

3.6 Standing Guests. Persons who have demonstrated outstanding commitment and service to Cal Poly or the Foundation, upon approval of the President and recommendation by the Executive Committee, may be appointed as Standing Guests of the Board and shall be invited by way of copies of notices of meetings to attend all meetings of the Board. The duties and privileges of Standing Guests may be designated by the President or the Board. In no event shall a Standing Guest be permitted to vote with respect to any matter before the Board.

3.7 President's Discretionary Appointments. The President has the discretion to modify the titles and functions of the officers of Cal Poly. If any such modification affects any Cal Poly officer position designated herein as one qualifying an individual to serve as an Ex Officio Director of the Foundation, then the President may appoint as Ex Officio Directors of the Foundation those officers of Cal Poly who hold the positions that are most closely analogous in function to the offices identified in Section 3.5.

Section 4. Term of Office.

4.1 Initial Term. Directors first elected at an annual meeting shall serve an initial term of one (1), two (2) or three (3) years as determined by the Chair of the Board. Directors first elected at any time other than an annual meeting shall serve a first term from the election date until the annual meeting closest to the anniversary of the member's initial election. Ex Officio Directors serve as directors during the period in which they hold the office that qualifies them to be a director. Appointed faculty and student directors serve a two (2) year term commencing with their appointment.

Faculty and student directors serve only so long as they maintain respectively faculty or student status at Cal Poly.

4.2 Second Term. A director is eligible for re-election to a second term of three (3) years or fewer years at the discretion of the Chair of the Board. Faculty and student directors may be elected to a second term of two (2) years.

4.3 Extended Terms. An elected director who has served for two full terms shall thereafter be eligible for re-election to the Board for one additional term of three (3) or fewer years if requested to stand for election by the Chair of the Board. Following three terms or a maximum of 9 years elected directors must depart the board for at least one calendar year before consideration of additional service. Upon completion of a one-year break in service, each director, is eligible for re-election, resetting the number of term limits as stated above.

The term of any director elected as an officer or committee chair (Executive Committee member) shall be extended as necessary to permit the director to complete his or her term of office as an officer or committee chair (Executive Committee member).

Section 5. Compensation of Directors.

5.1 No Compensation. No elected director shall receive any salary, fee, or other compensation for his or her services as a director; however, the Board may authorize reimbursement of actual and necessary expenses incurred by directors in the performance of their duties as a director or as a member of a committee of the Board.

5.2 Interested Directors. Not more than 49% of the persons serving on the Board at any time may be interested persons. Pursuant to Section 5227 of the Nonprofit Corporation Law, an "interested person" is (i) any person being compensated by the University and/or the Foundation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director and (ii) 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. Notwithstanding the foregoing, any violation of the provisions of this Section shall not affect the validity or enforceability of any transaction entered into by the Foundation.

Section 6. Resignation and Removal of Directors.

6.1 Resignation. A director may resign at any time by submitting written notice of his or her resignation to the Chair of the Board or the CEO of the

Foundation. A director who experiences a substantial change in principal employment responsibility or undergoes a change affecting his or her qualifications to serve as a director shall tender his or her resignation from the Board, unless the change was anticipated by the Executive Committee at the time of the director's nomination or election to the Board. Upon receipt of a resignation offered under these circumstances, the Executive Committee will review the status change and recommend to the Board whether it should accept or reject the resignation.

6.2 Removal. Any director may be removed from office with or without cause by the vote of a majority of directors then in office.

6.3 Reduction of Authorized Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before his or her term of office expires.

Section 7. Vacancies.

7.1 Elected Directors. Vacancies shall be filled by action of the Board at a duly held meeting at which a quorum is present, or by a majority of the remaining directors if the number of remaining directors is less than a quorum. Directors so elected shall serve until the expiration of the term to which their predecessor was elected, and their election is subject to the review and approval of the President. Elected directors who become Ex Officio Directors shall vacate their elected positions on the Board.

7.2 Ex Officio Directors. Vacancies created by a change in position with Cal Poly or resignation of Ex Officio Directors who serve pursuant to the provisions of Section 3.5 of this Article V shall be filled by the persons who succeed them in the office which qualified them as directors.

ARTICLE VI

MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Time and Place of Meetings. Meetings of the Board shall be held at any place, at such date and time as has been designated by the Board. Regular meeting dates shall be set at each annual meeting for the year commencing one year after such annual meeting.

Section 2. Notice of Meetings. Notice of any regular meeting of the Board shall be in writing and delivered to all directors at least seven (7) days before the meeting. Notice shall be deemed delivered when deposited with United States mail or private overnight courier service, postage or fees prepaid; upon delivery, when

personally delivered; or upon transmission, when sent by facsimile, electronic mail, or other electronic messaging device. Notice of any special meeting of the Board shall be in writing and delivered to all directors at least 48 hours before the meeting by personal delivery, telephone, including a voice messaging device, or by electronic transmission. The notice of any meeting, annual, regular, or special, shall state the date, place and hour of the meeting and the general nature of the business to be transacted. A copy of the notice of meeting, together with the agenda for the meeting, shall be posted in the principal office of the Foundation, and shall be given to any persons entitled thereto pursuant to Education Code Section 89921. The attendance by a director at any meeting shall constitute that director's waiver of notice of such meeting, unless the director attends the meeting for the express purpose of objecting to the meeting because it has not been lawfully noticed or held, and the director announces that objection at the beginning of the meeting.

Section 3. Open Meetings. All meetings of the Board shall be open and public, and all persons shall be permitted to attend any meeting of the Board; except that the Board may hold closed sessions during any meeting to consider those matters that may lawfully be considered in such sessions under Education Code Section 89923. The Board shall not take action on any issue until that issue has been publicly posted for at least seven days as required by Education Code Section 89924.

Section 4. Annual Meeting. An annual meeting of the Board of Directors shall be held once a year prior to a regular meeting of the Board of Directors. Such annual meeting shall be for the purpose of electing or re-electing directors whose terms of office have expired, electing or re-electing officers of the Foundation, and for the transaction of such other business as may come before the meeting. All directors elected at the annual meeting shall assume their offices at the regular meeting immediately following the annual meeting. All Officers elected at the annual meeting shall assume their offices at the regular meeting next scheduled on a date following the date of the annual meeting.

Section 5. Regular Meetings. The Board shall meet at least once during each quarter of the fiscal year.

Section 6. Special Meetings. Special meetings of the Board may be called by, or at the direction of, the Chair of the Board, the CEO, or by a majority of the directors then in office. Notice of any special meeting of the Board shall be in writing and delivered to all directors, and posted in the principal office of the Foundation, at least 24 hours before the meeting. The notice of any special meeting shall specify the purpose of the special meeting, and no other business may be conducted at the meeting.

Section 7. Quorum and Required Vote. A majority of directors then in office constitutes a quorum for the transaction of business at any meeting of the Board. Unless otherwise specifically provided in these Bylaws, any act or decision done or made by a majority of directors present at a meeting duly held at which a quorum is present shall constitute the act of the Board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the loss of a quorum, if such action is approved by at least a majority of the directors required for a quorum of that meeting. In addition, the Board may provide for voting by telephone, fax or email.

Section 8. Telephonic Participation. Any meeting of the Board may be held by conference telephone, or any member of the Board may participate in a meeting by conference telephone or similar telecommunications equipment, as long as all directors and members of the public attending the meeting can concurrently communicate with all attendees. Participation in a meeting by conference telephone shall constitute attendance at the meeting.

Section 9. Meetings by Electronic Transmission. Meetings of the Board may be conducted by secure electronic transmission using the procedure described in Article VI. The notice given pursuant to Section 6 of this Article VI of a meeting to be conducted by electronic transmission shall contain the proposed action to be taken at the meeting and may be accompanied by other material pertaining to the proposed action. The notice shall include:

(a) Instructions to directors to use electronic mail or discussion function to ensure that each director participating in the meeting can communicate with all of the other directors concurrently;

(b) Notice that each director may participate in all matters before the Board including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Board; and

(c) A deadline for the conclusion of the period for discussion of any action proposed to be taken at the meeting, together with a deadline following that period before which all votes by directors on that proposed action must be transmitted.

Following a meeting by electronic transmission, the Chair of the Board, or his or her designee, shall notify the Board of the number of directors who participated in the meeting (determined either by participation in the pre-vote discussion or by the casting of a vote); that a quorum was thereby considered to be present; the number of votes cast in favor of any action; and, the passage or failure of each action item.

Section 10. Waiver of Notice. Notice of a meeting need not be given to any director who signs 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 director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 11. Action Without Meeting. Pursuant to Section 5211(b) of the Nonprofit Corporation Law, any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board. Directors may consent, vote, or otherwise take action under this Section 10 by a signed document transmitted by mail, messenger, courier, email, facsimile, or any other reasonable method satisfactory to the Chair of the Board and CEO.

ARTICLE VII

COMMITTEES OF THE BOARD

Section 1. Establishment of Committees. By resolution adopted by a majority of the directors then in office, the Board may create one or more committees including, but not limited to, the standing committees described herein. Subject to the approval of the President, other persons who are not members of the Board may serve as voting members of committees; provided that, pursuant to Section 5212(b) of the Nonprofit Corporation Law, non-board members may not serve on any committee that exercises the authority of the Board. The Board may delegate to its committees any of the authority of the Board, except with respect to:

- (a) The filling of vacancies on the Board or in any committee that has the authority of the Board;
- (b) The fixing of compensation of the directors for serving on the Board or on any committee;
- (c) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (d) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

(f) The approval of any self-dealing or interested director transactions as defined in Section 5233(a) of the Nonprofit Corporation Law or Sections 89906 through 89908 of the Education Code, except as provided in Section 5233(d)(3) of the Nonprofit Corporation Law, and Section 89907 of the Education Code; or

(g) The appointment of other committees of the Board or the members thereof.

Section 2. Committee Charge and Procedures. The Board shall prescribe the purposes and scope of authority of each committee, and appropriate written rules consistent with these Bylaws by which proceedings of any committee shall be conducted. Committee meetings may be conducted in accordance with the procedures set forth in Sections 8 and 9 of Article VI of these Bylaws. Committee meetings held by electronic transmission shall be done by secure method satisfactory to the Chair of the Board or designee. Committee members and the Chair of each committee shall be appointed by the Chair in accordance with the qualifications provided below and ratified by the Board. The CEO of the Foundation shall be an ex officio member of each standing committee, except the Audit Committee. The CEO of the Foundation and the Treasurer of the Foundation shall be non-voting members of the Investment Committee.

Section 3. Standing Committees. The Foundation hereby establishes the standing committees described herein.

3.1 Executive Committee.

(a) Duties and Powers. Subject to any limitations in the Foundation's Articles of Incorporation, these Bylaws, resolutions adopted by the Board, applicable law, and CSU Trustee and University policies, the Executive Committee shall, under the direction of the Board, oversee the activities and affairs of the Foundation, oversee budgets and financial reports of the Foundation and have all the rights, powers and authority to act on behalf of the Board on all matters between regular meetings of the Board. Prior to the annual meeting the Executive Committee shall review and submit a slate of candidates for election to the Board and a slate of candidates for election as the officers of the Foundation for the next fiscal year as recommended by the Governance Committee.

(b) Composition. The Executive Committee shall have not fewer than five (5) nor more than twelve (12) members, the exact number of members to be fixed from time to time by resolution of the Board. All members of the Executive Committee shall be members of the Board. The following directors shall be members of the Executive Committee: the Chair of the Board, the Vice Chair of the Board, the Immediate Past Chair of the Board, the CEO, the Treasurer, the Secretary and the

Chair of each Standing Committee of the Board. Each Executive Committee member, regardless of the number of roles they assume, shall only have one vote. Other members may be appointed by the Chair.

3.2 Development Committee.

(a) Duties and Powers. The Development Committee shall be responsible for providing strategic direction and leadership on fundraising activities of the Foundation, in cooperation with Cal Poly. The Development Committee is to provide a written report detailing and comparing budget performance of the development office to actual revenues received; to be presented to the Board for review at each quarterly meeting of the full Board.

(b) Composition. The Development Committee shall be composed of not fewer than five (5) directors. Members should have knowledge and experience in the areas of development, fundraising, alumni affairs, student affairs and/or public relations.

3.3 Investment Committee.

(a) Duties and Powers. The Investment Committee shall supervise the investment of the Foundation's funds in accordance with Investment Policy recommended by the Investment Committee and adopted by the Board. The Investment Committee shall select investment managers, advisors, and other fiduciaries with respect to assets normally held as investments. The Investment Committee is to develop standards to measure the performance of investment managers, advisors, and other fiduciaries including a schedule for conducting evaluations.

(b) Composition. The Investment Committee shall consist of a minimum of five (5) members not including ex officio members. The CEO and Treasurer are ex officio members. Committee members should possess a basic understanding of investment strategies, types of investment risk & return, and portfolio structuring.

3.4 Audit Committee.

(a) Duties and Powers. The Board shall establish an Audit Committee if the Foundation is required to do so by California Government Code Section 12586 or any successor to that statute. The Foundation shall, if required by that statute, prepare annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant in

conformity with generally accepted auditing standards. For any non-audit services performed by the firm conducting the audit, the firm, and its individual auditors shall adhere to the standards for auditor independence set forth in the latest revision of the Government Auditing Standards, issued by the Comptroller General of the United States (the Yellow Book). The audited financial statements shall be made available for inspection by the Attorney General and by members of the public no later than nine months after the close of the fiscal year to which the statements relate. The Foundation shall make such annual audited financial statements available to the public in the same manner that is prescribed for IRS Form 990 by IRC Section 6104(d) and associated regulations. Subject to the supervision of the Board, the Audit Committee shall be responsible for recommending to the Board the retention and termination of the independent auditor and may negotiate the independent auditor's compensation on behalf of the Board. The Audit Committee shall confer with the auditor to satisfy its members that the financial affairs of the Foundation are in order, shall review and determine whether to accept the audit, shall assure that any non-audit services performed by the auditing firm conform with standards for auditor independence referred to in Section 3.4 (a) of this Article VII, and shall approve performance of non-audit services by the auditing firm, if any.

(b) Composition. The Audit Committee shall have not fewer than three (3), but no more than six (6) members. The Audit Committee may include persons who are not directors as non-voting members. The Audit Committee shall not include any members of the University staff, however the Treasurer and internal auditor may serve as advisors to the Audit committee. If the Foundation shall have a Finance Committee, it shall be separate from the Audit Committee. Members of the Finance Committee may serve on the Audit Committee. The chairperson of the Audit Committee may not be a member of the Finance Committee. Members of the Finance Committee shall constitute less than one-half of the membership of the Audit Committee. Members of the Audit Committee shall not receive any compensation from the Foundation. Members of the Audit Committee shall not have a material financial interest in any entity doing business with the Foundation. Audit Committee members should have a working knowledge of basic financial statements. At least one member shall be a financial expert with an understanding of GAAP (Generally Accepted Accounting Principles), financial statements, and experience with internal control and procedures for financial reporting.

3.5 Governance Committee.

(a) Duties and Powers. The Governance Committee shall be responsible for the periodic review of the Foundation's governing documents, identification and recruitment of new directors, director orientation and evaluations. Prior to the annual meeting, the Governance Committee shall prepare and submit a slate of candidates for election as directors and a slate of candidates for election as the

officers of the Foundation for the next fiscal year to the Executive Committee for review and forwarding for Board approval.

(b) Composition. The Governance Committee shall be composed of not fewer than five (5) directors. One of the active directors serving on the Governance Committee shall be designated by the Chair of the Board as the Governance Committee Chair. Industry experts who are not members of the Board of Directors may serve the committee as a non-voting member at the discretion of the Chair of the Board and CEO.

Committee members should be familiar with the best practices and policies of governing a board including Articles of Incorporation and Bylaws. Members should be willing to actively recruit a network of diverse and qualified potential directors, officers and committee members, and formalize and document the recruitment process.

ARTICLE VIII

OFFICERS

Section 1. Officers. The elected officers of the Foundation shall be a Chair of the Board, a Vice Chair of the Board, Secretary and such other officers as the Board of Directors may from time to time elect. The CEO and Treasurer serve ex officio. Each officer of the Foundation shall have such authority and perform such duties as provided in the Bylaws or as the Board may from time to time designate by specific resolution.

Section 2. Chair of the Board. The Chair of the Board, a non-university director, shall preside at all meetings of the Board, shall serve as Chair of the Executive Committee, and shall exercise such powers, and perform such other duties as the Board may from time to time determine.

Section 3. Vice Chair of the Board. The Vice Chair of the Board, a non-university director, shall preside in the absence of the Chair of the Board at all meetings of the Board and the Executive Committee.

Section 4. Chief Executive Officer. The Vice President for University Development & Alumni Engagement of Cal Poly, or such other officer of Cal Poly as is designated by the President, shall be the CEO of the Foundation, and shall supervise, direct and carry out the programs of the Foundation in accordance with, and subject to the control and direction of the Board. The CEO shall have such other powers and perform such other duties as are customarily vested in the CEO of a corporation or as the Board may from time to time determine.

Section 5. Treasurer. The CEO of the Foundation in consultation with the President and Chair of the Board, shall designate a university representative to serve as the Treasurer of the Foundation, provided that the Treasurer shall not be the same person as either the Chair of the Board or the CEO. The Treasurer shall be the custodian of all funds, securities and other valuables of the Foundation. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the Foundation's property and business transactions. Such books and records shall be kept in the custody of the Foundation's CEO or designee. The Treasurer shall have such other powers and perform such other duties as are customarily vested in a corporation's chief financial officer or as the Board may from time to time determine.

Section 6. Secretary. The Secretary of the Foundation shall be an elected position to be held by a non-university director, and shall not be the same person as the Chair of the Board. The Secretary shall give, or cause to be given, notice of all meetings of the Board or of any committee required to be given. The Secretary shall keep, or cause to be kept, a book of minutes of all meetings and actions taken by the Board and of all committees having the authority of the Board. Such books and records shall be kept in the custody of the Foundation CEO or designee. Such minutes shall set forth any actions taken at any such meeting, its time and place, the names of those present, and the notice thereof given, whether regular or special and, if special, how authorized.

Section 7. Election and Term of Office. Except for officers serving ex officio, officers shall be elected by the Board for two-year terms, and may serve one or more terms as elected by the Board.

Section 8. Removal and Resignation. Elected officers may be removed at any time with or without cause by the Board of Directors at any meeting at which a quorum is present whenever, in the judgment of the Board and in consultation with the President, the best interests of the Foundation would be served thereby. Ex officio officers may be removed only by the President, on the President's own authority, or upon recommendation of a majority of the Board with the President's approval. Any officer may resign at any time by giving written notice to the Chair of the Board or the CEO. Any such resignation shall take effect on receipt of such notice unless a later date is specified therein, and the acceptance of such resignation shall not be necessary to render it effective.

Section 9. 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 appointments to that office.

Section 10. Compensation. Officers may receive such reimbursement for their expenses as may be determined by the Board to be just and reasonable, and consistent with policies established by the Board. The Foundation may reimburse Cal Poly for services performed for the Foundation by ex officio officers while they are being compensated by Cal Poly. Officers who are employees of Cal Poly may be compensated directly by the Foundation for their services to the Foundation, subject to the prior written approval of the President of Cal Poly. The Board may, at the Foundation's expense, bond any officer or employee for the faithful performance of his or her duties in such amount and with such surety or sureties as it may determine.

ARTICLE IX

INDEMNIFICATION AND INSURANCE

Section 1. Indemnification. The Foundation shall indemnify any person who was or is a party or threatened to be made a party to any Proceeding (other than an action by or in the right of the Foundation to procure a judgment in its favor, an action brought under Section 5233 of the Nonprofit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in a charitable trust) by reason of the fact that such person is or was an Agent, against Expenses, judgments, 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 the Foundation 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 such person did not act in good faith and in a manner which such person reasonably believed to be in the best interests of the Foundation, or that such person had reasonable cause to believe that such person's conduct was unlawful.

Section 2. Indemnification for Certain Other Matters. The Foundation 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 by or in the right of the Foundation to procure a judgment in its favor, an action brought under Section 5233 of the Nonprofit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in a charitable trust, by reason of the fact that such person is or was an Agent, 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 the Foundation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances, except that no indemnification shall be made under

this Section 2: (i) in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Foundation in the performance of such person's duties to the Foundation, 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 circumstances of the case, such person is fairly and reasonably entitled to indemnity for the Expenses which such court shall determine; (ii) of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or (iii) of Expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General.

Section 3. Subsequent Indemnification. To the extent that an Agent of the Foundation has been successful on the merits in defense of any Proceeding referred to in Section 1 or Section 2 hereof 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.

Section 4. Indemnification Authorization. Except as provided in Section 3 hereof, any indemnification under this Article IX shall be made by the Foundation only if authorized in the specific case, upon a determination that indemnification of the Agent is proper in the circumstances because the Agent has met the applicable standard of conduct set forth in Section 1 or Section 2 hereof by: (i) a majority vote of a quorum consisting of directors who are not parties to such Proceeding or (ii) the court in which such Proceeding is or was pending upon application made by the Foundation, the Agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the Agent, attorney or other person is opposed by the Foundation.

Section 5. Advancement of Expenses. Expenses incurred in defending any Proceeding may be advanced by the Foundation 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 in this Article IX.

Section 6. Limitation on Indemnification. No indemnification or advance shall be made under this Article IX except as provided in Section 3 or clause (ii) of Section 4, in any circumstance where it appears: (i) that it would be inconsistent with a provision of the Foundation's Articles of Incorporation, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the Proceeding in which the Expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification or (ii) that it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

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

Section 8. Definitions. For the purposes of this Article IX, (i) "Agent" means any person who is or was a director, officer, employee, or other agent of the Foundation, or is or was serving at the request of the Foundation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Foundation or of another enterprise at the request of such predecessor corporation; (ii) "Attorney General" means the Attorney General of the State of California; (iii) "Expenses" includes without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Section 3 or clause (ii) of Section 4; and (iv) "Proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative.

ARTICLE X

REPORTS

Not later than one hundred twenty (120) days after the close of the Foundation's fiscal year, the Foundation shall furnish to all of the directors a report containing the following information in reasonable detail:

- (i) The assets and liabilities of the Foundation as of the end of the preceding fiscal year.
- (ii) The principal changes in assets and liabilities during the preceding fiscal year.
- (iii) The revenue or receipts of the Foundation during the preceding fiscal year.
- (iv) The expenses or disbursements of the Foundation during the preceding fiscal year.

(v) With respect to the preceding fiscal year, (a) any transaction(s) involving both (i) the Foundation and either a director or officer of the Foundation and (ii) more than \$50,000; or (b) any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the Foundation.

The report required by this Article X shall be accompanied by any report thereon of independent accountants or, if there is no such report, by the certificate of an authorized officer of the Foundation that such reports were prepared without audit from the books and records of the Foundation.

ARTICLE XI

MISCELLANEOUS

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

Section 2. Inspection of Corporate Records. Directors shall have the right at any reasonable time to inspect and copy all books, records, documents, and physical properties of the Foundation.

Section 3. Contracts and Other Instruments. The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Foundation, including for the expenditure of funds and for the acceptance or transfer of property. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable for any purpose or any amount, except for contracts or commitments in the regular course of business of the Foundation executed by an authorized individual within the scope of his or her authority.

Section 4. Budget. Prior to the beginning of each fiscal year, the Board shall adopt a proposed budget for the coming fiscal year. A program and related budget with reserve projections, approved by the President or his delegate, shall be submitted by the CEO to the Executive Committee for review and approval prior to presentation to the Board.

Section 5. Representation of Shares of Other Corporations. The CEO, the Secretary, or the Treasurer are authorized to vote, represent and exercise on behalf of the Foundation all rights incident to any and all shares of any other corporation or corporations standing in the name of the Foundation, unless the Board designates another person to exercise such rights, or unless the Bylaws of the other corporation otherwise provide. The authority herein granted may be exercised either in person or by proxy or power of attorney duly executed. The Investment Committee may establish policies regarding the manner in which the Foundation will vote any such shares.

Section 6. Fiscal Year; Audit. The fiscal year of the Foundation shall be from July 1 through June 30. The financial books and records of the Foundation shall be audited not less than once during each fiscal year by independent certified public accountants.

Section 7. Standing Orders. Standing orders, rules of practice and policies consistent with the Articles of Incorporation and Bylaws may be prescribed from time to time by the Board or Executive Committee in order to facilitate and expedite the carrying on of the business of the Foundation. The Secretary shall keep such orders and rules in permanent written form, properly indexed, and the same shall be a part of the permanent records of the Foundation and shall govern and control the administration of the activities and affairs of the Foundation as far as applicable.

ARTICLE XII

AMENDMENTS TO BYLAWS

These Bylaws may be amended, upon approval of the President and a vote of the majority of the directors, at any regular meeting of the directors, or any special meeting called for that purpose. The President or any officer or director may propose an amendment to the Bylaws by delivering a written copy to the Secretary of the Foundation not less than fifteen (15) nor more than ninety (90) days prior to the meeting at which the amendment is to be considered, and the Secretary shall cause copies of the proposed amendment to be delivered and posted in the manner provided in Article VI, Section 2 (relating to Notice of Meetings).

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am the currently appointed and acting Secretary of the California Polytechnic State University Foundation, a California nonprofit public benefit corporation, and the above Bylaws, consisting of 21 pages, are the Bylaws of this corporation as adopted by the Board of Directors and that they have not been amended or modified since that date.

Executed on August 7, 2021, at San Luis Obispo, California.



John Ronca
Cal Poly Foundation Secretary

[Document Chronology: The Cal Poly Foundation bylaws were initially adopted on March 2, 2006; the bylaws were amended and restated in their entirety on May 1, 2010; Article V sections 3.7 and 6.1 were amended effective August 7, 2010; Article VII section 3 was amended effective May 7, 2011; Article III section 3, Article V section 3.5, Article VII section 3.4 were amended effective August 3, 2013.; the bylaws were amended and restated in their entirety on November 1, 2014; Article VII, Section 3.1 b. was amended effective August 2, 2015; Article V, Section 1 Powers was revised, and Section 3.5 Ex Officio directors, Sections 4.1 Initial Term and 4.3 Extended Terms were amended effective May 7, 2016; Article VI section 9 was added, Article VII, Section 2 was amended, and Article VII, Section 7 was amended effective November 4, 2017; Article V section 3.5, Article VII section 3.2, and 3.3 b. were amended effective June 20, 2020. Article V. sections 4.2 and 4.3 were amended effective August 7, 2021.]