

**BYLAWS
OF THE
EVERMAN ISD EDUCATION FOUNDATION, INC.**
Developed
February 14, 2006

These Bylaws govern the affairs of the EVERMAN ISD EDUCATION FOUNDATION, INC., (the "Corporation"), a nonprofit corporation organized under the Texas Business Organizations Code ("TBOC"). The name of the Corporation, its corporate purpose, and the terms of its existence are set forth in the Certificate of Formation filed with the Secretary of State of Texas, as the same may from time to time be amended. These Bylaws are subject to the provisions of the Certificate of Formation.

**ARTICLE I
OFFICES, CORPORATE SEAL**

Section 1.01. **Registered Office.** The registered office of the Corporation in Texas shall be that set forth in the Certificate of Formation, or in a resolution of the Directors filed with the Secretary of State changing the registered office.

Section 1.02. **Other Offices.** The Corporation may have such other offices, within the State of Texas, as the Directors shall from time to time determine.

Section 1.03. **Corporate Seal.** The Corporation may have a corporate seal of a design and form to be determined by the Board of Directors.

**ARTICLE II
BOARD OF DIRECTORS**

Section 2.01. **Members.** The Corporation shall have no members. All corporate actions shall be approved by the Board of Directors as provided in these Bylaws. All rights which would otherwise rest in the members shall rest in the Directors.

Section 2.02. **General Powers.** The property, affairs and business of the Corporation shall be managed by the Directors.

Section 2.03. **Property.** No Director shall have any right, title or interest in or to the property of the Corporation.

Section 2.04. **Number, Qualification and Term of Office.** The number of Directors shall be at least 9 and not more than 27; however, the number of voting Directors may be increased or decreased to any odd number, by amendment of these Bylaws. Directors to serve until the first annual meeting shall be elected by the initial Directors named in the Certificate of Formation. Thereafter, all Directors shall be elected by those remaining duly qualified Directors. The Superintendent of Schools of the Everman Independent School District shall hold permanent official seat with vote. A trustee representative of the Everman Independent School District Board of Trustees shall hold permanent official seat with vote. A parent representative and a teacher representative of the Everman Independent School District, appointed annually by the Superintendent of Schools, shall hold permanent official seat with vote. These four Directors shall be known as permanent Directors with vote. All other Directors shall be known as elected Directors with vote. Each elected Director shall hold office until the annual meeting three (3) years following his or her election and until a successor is elected, or until his or her death, or until resignation, or until he or she is removed in the manner hereinafter provided. Each permanent Director shall hold office until his or her designated position with the school district is changed. The initial elected Directors shall draw lots for initial terms of office. The term of office for approximately one-third of the elected Directors shall expire each year. Elected Directors may be re-elected to successive terms.

Persons, including representatives and directors of banks or trust companies who serve as investment advisors, custodians, or agents for or with respect to funds of or held for the benefit of this Corporation, shall never constitute more than one-half of the Directors of this Corporation. All officers must submit to a criminal background check.

Section 2.05. **Resignation.** Any Director of the Corporation may resign at any time by giving written notice to the President or to the Secretary of the Corporation. The resignation of any Director shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 2.06. **Vacancies.** Any vacancy in the position of an appointed Director caused by death, resignation, disqualification, removal, or any other cause, shall be filled by a majority vote of the Board of Directors and the Director so elected shall hold office for the remaining term of that Directorship and until his or her successor shall be duly elected and qualified by the remaining Directors. Any vacancy in the position of a permanent Director as noted in Section 2.04 shall be filled by the same person filling the school district position.

Section 2.07. **Place of Meeting.** The Board of Directors may hold its meetings at such place or places, within the State of Texas, as it may choose.

Section 2.08. **Annual Meeting.** As soon as practical and not more than sixty (60) days after the beginning of a new fiscal year, the annual meeting of the Corporation shall be held for the purpose of election of officers of the Corporation and any other business or transactions as shall come before the meeting. Notice of the annual meeting shall be given in writing by the Secretary to all Directors not less than ten (10) days prior to the meeting.

Section 2.09. **Regular Meetings.** Regular meetings of the Board of Directors shall be held at such time and place, within the State of Texas, as the Board may determine by resolution adopted by a majority of the members of the Board of Directors. Notice of regular meetings shall be given by the Secretary not less than five (5) days prior to the meeting.

Section 2.10. **Special Meetings Notice.** Special meetings of the Board of Directors shall be held whenever called by the President or by 25% of the Directors. Notice of each such special meeting shall be mailed to each Director, addressed to the Director at his or her residence or usual place of business, at least five (5) days before the day on which the meeting is to be held, or to be delivered personally or by telephone, no later than two (2) days before the day on which the meeting is to be held, except as otherwise provided by these Bylaws. Each such notice shall state the time, place, and purpose of the meeting. Any meeting of the Board shall be a legal meeting without any notice thereof having been given, if all of the Directors of the Corporation then in office shall be present thereat (except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened) or waive such notice in writing before, at, or after such meeting.

Section 2.11. **Quorum and Manner of Acting.** Except as otherwise provided by statute or by these Bylaws, a majority of the Directors must be present to constitute a quorum for the transaction of business at any meeting and the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Corporation. In the absence of a quorum, a majority of the Directors present may adjourn any meeting, and reconvene once a quorum is assembled, without giving further notice.

Section 2.12. **Meeting Attendance.** It shall be the policy of the Corporation to require attendance at all Directors meetings. In the event a Director misses three (3) or more consecutive meetings, the Board of Directors may, if deemed appropriate, ask for the resignation of that Director. If the Director does not resign upon request, then the removal provisions of Section 2.13 must be followed if the Board, in its discretion, decides removal is appropriate. However, it shall also be the policy of the Corporation to attempt to accommodate the schedules of its Directors who demonstrate continuing interest in the affairs

of the Corporation. It shall be at the discretion of the Board of Directors to invoke this provision.

Section 2.13. **Removal of Directors.** Any Director, with the exception of the permanent seats, as outlined in Section 2.04 of these Bylaws, may be removed with or without cause at any time. Removal shall be by a vote of a majority of all Directors of the Corporation at a regular meeting or a special meeting of the Directors called for that purpose. Written notice stating the place, date, hour and the purpose of any special meeting called for the purpose of removing one or more Directors must be delivered to all Directors at least twenty (20) days prior to such meeting. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Director at his or her address as it appears on the records of the Corporation, with postage thereon prepaid. The vacancy in the Board of Directors caused by any such removal shall be filled in the manner specified in Section 2.06 hereof.

Section 2.14. **Proxies.** Proxies shall not be allowed or used.

Section 2.15. **Action of Board by Consent.** Any action required by the Texas Business Organization Code to be taken at a meeting of the Directors of the Corporation or any action that may be taken at a meeting of the Directors or of any committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of Directors or committee members, respectively, as would be necessary to take that action at a meeting at which all of the Directors or members of the committee were present and voted. Each written consent shall conform to the requirements of the Texas Business Organization Code as it is amended from time to time.

ARTICLE III OFFICERS

Section 3.01. **Number.** The officers of the Corporation shall be a President, a Secretary, a Treasurer and, if the Board shall so elect, one (1) or more Vice Presidents and such other officers as may be appointed by the Board of Directors. Any two (2) or more offices, except those of President and Secretary, may be held by the same person.

Section 3.02. **Election, Term of Office and Qualification.** All officers shall be elected annually by the Directors of the Corporation, except in the case of officers appointed in accordance with the provisions of Sections 3.05 or 3.10. Each shall hold office for a period of one (1) year and until his or her successor shall have been duly elected and qualified, or until his or her death, or until he or she shall resign, or until he or she shall have been removed in the manner hereinafter provided. Officers shall be Directors.

Section 3.03. **Resignation.** Any officer may resign at any time by giving written notice of his or her resignation to the Board of Directors, to the President, or to the Secretary of the Corporation. Any such resignation shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.04. **Election and Removal.** Election of an officer shall not, of itself, create contract rights. Any officer elected by the Board of Directors may be removed by the Board whenever in its judgment; the best interests of the Corporation would be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 3.05. **Vacancies.** A vacancy in any office because of death, resignation, removal or any other cause shall be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for election or appointment to such office.

Section 3.06. **President.** The President shall not be a trustee, agent or member of the Board of Trustees of the Everman Independent School District. The President shall assume all duties normally associated with that office. The President shall be the chief executive officer of

the Corporation and shall have general active management of the business of the Corporation. He or she, shall, when present, preside at all meetings of the Directors. He or she shall see that all orders and resolutions of the Board of Directors are carried into effect. He or she, with the proper signature of one other duly qualified officer of the Corporation, may execute and deliver in the name of the Corporation, any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the Corporation, including without limitation, any instruments necessary or appropriate to enable the Corporation to donate income or principal of the Corporation to or for the account of any organizations, causes and projects described in the Certificate of Formation of the Corporation which the Corporation was organized to support. He or she shall perform such other duties as may from time to time be prescribed by the Board of Directors.

Section 3.07. **Vice President.** Each Vice President, if any, shall be elected by the Board of Directors, shall have such powers and shall perform such duties as may be specified in the Bylaws or prescribed by the Board of Directors or by the President. In the event of absence or disability of the President, the Vice Presidents shall succeed to their power and duties in the order designated by the Board of Directors.

Section 3.08. **Secretary.** The Secretary shall not be an elected position but shall be appointed by the Everman ISD Superintendent of Schools. The Secretary shall see that the proceedings of the meetings of the Board of Directors are kept. He or she shall, when directed to do so, notify the Directors of all meetings and perform such other duties as may from time to time be prescribed by the Board of Directors or by the President and in general, shall perform all duties incident to the office of the Secretary.

Section 3.09. **Treasurer.** The Treasurer shall cause to be kept accurate accounts of all funds of the Corporation received or disbursed. He or she shall deposit all funds, drafts and checks in the name of, and to the credit of, the Corporation in such banks and depositories as the Board of Directors, by resolution, shall, from time to time designate. He or she shall have power to endorse for deposit all notes, checks and drafts received by the Corporation. He or she shall cause to be rendered to the President and the Directors, wherever required, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation, and shall perform such other duties as may from time to time be prescribed by the Board of Directors or by the President, and in general, shall perform all duties incident to the office of the Treasurer.

Section 3.10. **Other Officers.** The Corporation may have such other officers and agents as may be deemed necessary by the Board of Directors, who shall be appointed in such manner, have such duties and hold their offices for such terms as may be determined by resolution of the Board of Directors.

Section 3.11. **Election Procedure.** The Nominating Committee shall provide each Director with a list of proposed officers not less than thirty (30) days prior to the annual meeting. The slate of proposed officers shall be presented for vote at the annual meeting. A vote of the Board of Directors shall be required to elect officers.

Section 3.12. Executive Director. The Board of Directors may appoint and determine, from time to time, the duties and responsibilities of the Executive Director. The Executive Director shall not be a member of the Board of Directors.

Section 3.13. **Transactions Involving Interested Directors and Officers.** This section applies only to a contract or transaction between the Corporation and: (a) one or more of the Corporation's Directors or Officers; or (b) an entity or other organization in which one or more of the Corporation's Directors or Officers is a managerial official or a member, or has a financial interest. An otherwise valid contract or transaction is valid notwithstanding that a Director or Officer of the Corporation is present at or participates in any meeting of the Directors, or any meeting of a committee of the Corporation, that authorizes the contract or transaction, or votes to authorize the contract or transaction, if (x) the material facts as to the relationship or interest and as to the contract or transaction are disclosed to, or known by, the

Corporation's Directors or committee of the Corporation, and the Directors or committee authorize the contract or transaction in good faith and with ordinary care by an affirmative vote of at least a majority of the disinterested Directors or committee members, regardless of whether the disinterested Directors or committee members constitute a quorum; or (y) the contract or transaction is fair to the Corporation when the contract or transaction is authorized, approved, or ratified by the Directors or committee of the Corporation. Common or interested Directors may be included in determining the presence of a quorum at a meeting of the Directors or committee of the Corporation that authorizes the contract or transaction.

ARTICLE IV COMMITTEES

Section 4.01. **Standing Committees.** The Directors may establish one or more Standing Committees and determine the duties and authority of any such committee. Standing committees of the Corporation shall be as follows:

(a) **The Executive Committee**, to be composed of a minimum of five (5) Directors, shall be charged with the duties of managing the Corporation in the ordinary course of business, employment of personnel, and the general handling of the affairs of the Corporation and the carrying out of the purposes of the Corporation and the performance of such other duties as may be imposed upon it or authorized by the Board of Directors. The Executive Committee shall be subject to the control of and be responsible to the Board of Directors and shall keep minutes and make reports to the Board of Directors, but there shall be no necessity of a further resolution specially authorizing its actions in the general handling of the affairs of the Corporation. The Executive Committee shall be comprised of those persons who hold the offices of President, Vice President(s), Secretary, Treasurer and Superintendent of Everman ISD.

(b) **The Special Projects Committee** shall be charged with the duty of managing the special projects to be undertaken by the Corporation in accordance with its purpose, and overseeing the use of any special project funds and properties committed to its care and the performance of such other duties as may be imposed upon it or authorized by the Board of Directors.

(c) **The Nominating Committee** shall be charged with the duty of making nominations to the Board of Directors for elective offices and for vacancies in the Board of Directors. Such nominations shall not preclude the right of additional nominations being made at any meeting of the Board where an election of an officer or a Director is being considered. The Nominating Committee shall be composed of the Everman ISD Superintendent of Schools, a representative of the Everman ISD Board of Trustees and at least three (3) foundation Directors. who shall be appointed by the Board of Directors.

(d) **The Standing Committees**, other than the Executive Committee and the Nominating Committee, shall be composed of such numbers of members as may be determined by the Board of Directors, and shall be appointed by the President. The Executive Committee and the Nominating Committee shall be composed exclusively of members of the Board of Directors. Membership of the remaining Standing Committees need not be composed entirely of the members of the Board of Directors; provided, at least two (2) Directors shall be members of each of said Standing Committees.

Section 4.02. **Special Committees.** The Board of Directors may from time to time, authorize special committees to be appointed by the President. The Board of Directors shall specify the number of persons composing such special committees and the terms and duties of such special committees. While the membership of the special committees need not be composed entirely of members of the Board of Directors, at least a majority of members of each special committee shall be Directors.

Section 4.03. **Term of Office.** Each member of a committee shall continue to serve on the committee until the next annual meeting of the Directors and until a successor is appointed. However, the term of a committee member may terminate earlier if a committee member is terminated, dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy shall serve for the unexpired position of the previous committee member's term.

Section 4.04. **Committee Meetings.** Committee meetings shall be called and presided over by the Chairman of the committee, or in his or her absence or disability, by the Vice Chairman, or in case of absence and/or disability of both the Chairman and Vice Chairman by any member thereof after reasonable notice to all of the committee members. Committees shall meet as often as necessary to properly discharge their duties. A simple majority of committee members present in person shall constitute a quorum for any committee meeting and a simple majority vote of those present and voting at any committee meeting at which a quorum is present shall constitute the action or report of the committee.

Section 4.05. **Chair and Vice Chair.** The Chairman and Vice Chairman of each committee shall be appointed by the President of the Corporation.

Section 4.06. **Proxies.** Proxies shall not be allowed or used by any committee member.

Section 4.07. **Reference to Committees.** While it shall not be required, it is recommended, when applicable, that matters be referred to appropriate committees for consideration and recommendations prior to Board action.

Section 4.08. **Action in Lieu of Meeting.** If all the members of a committee consent in writing to any action, such action shall be as valid as if authorized at a meeting of the committee. Such consent, setting forth the action so taken, shall be filed with the minutes of the proceedings at the next committee meeting.

ARTICLE V FISCAL AGENTS

Section 5.01. **Agents.** The Corporation may designate such fiscal agents, investment advisors and custodians as the Directors may select by board resolution. The Directors may at any time, with or without cause, discontinue the use of the services of any such fiscal agent, investment advisor, or custodian.

Section 5.02. **Delegation of Investment Authority.** The Directors may contract with an advisor who is an investment counsel or a trust company, bank, investment advisor, or investment manager, and delegate the authority to (a) purchase or otherwise acquire a stock, bond, security, or other investment on behalf of the corporation; and (b) sell, transfer, or otherwise dispose of an asset or property of the corporation at a time and for a consideration the advisor considers appropriate. The Directors may also delegate to such advisor other powers regarding the Corporation's investments as the Directors may consider appropriate and authorize the advisor to hold title to an asset or property of the Corporation, in the advisor's own name or in the name of a nominee, for the benefit of the Corporation. The Directors are not liable for an action taken or not taken by an advisor under this Section 5.02 if the Directors acted in good faith and with ordinary care in selecting the advisor. The Directors may also remove or replace the advisor, with or without cause, if the Directors consider such action appropriate or necessary.

ARTICLE VI FIDUCIARY RESPONSIBILITY

Section 6.01. **General Standards for Directors.**

(a) A Director shall discharge his or her duties, including duties as a committee member, in good faith, with ordinary care, and in a manner the Director reasonably believes to be in the best interest of the Corporation.

(b) A Director is not liable to the Corporation, a member, or another person for an action taken or not taken as a Director if the Director acted in compliance with this Article VI. A person seeking to establish liability of a Director must prove that the Director did not act: (1) in good faith; (2) with ordinary care; and (3) in a manner the director reasonably believed to be in the best interest of the Corporation.

Section 6.02. **Director not a Trustee.** A Director of the Corporation shall not be considered to have the duties of a trustee of a trust with respect to the Corporation or with respect to property held or administered by the Corporation, including property subject to restrictions imposed by the donor or transferor of the property.

ARTICLE VII POLICIES WITH RESPECT TO DISTRIBUTION OF PRINCIPAL, INCOME AND RELATED MATTERS

Section 7.01. **Distribution Policy.** Distributions shall fund programs and projects that are aligned with the mission, strategic plan and educational philosophy of the Everman ISD.

Section 7.02. **Annual Distributions.** It shall be the policy of this Corporation to make annual distributions for one or more of the educational purposes for which it is organized, including administrative expenses and amounts paid to acquire an asset used (or held for use) directly in carrying out one or more of its purposes, in an amount determined by the Board of Directors to be appropriate. In any such distribution of funds, no discrimination shall be made on account of the age, sex, color, religious affiliation, disability or national origin of the individuals or programs to be benefited thereby.

Section 7.03. **No Self-Dealing.** It shall be the policy of this Corporation not to engage in any act which would constitute "self-dealing" as defined in Section 4941(d) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended.

Section 7.04. **No Jeopardy Investments.** It shall be the policy of this Corporation to assure that no funds, whether title thereto is vested in this Corporation or is vested in a trust for the benefit of this Corporation, are invested or reinvested in such a manner as to jeopardize the carrying out of any educational purposes for which this Corporation is organized. The Corporation shall have the right to retain all or any part of any funds, securities, or real or personal property acquired by it in whatever manner, and to invest, reinvest, sell, or exchange any such property held by it, according to the judgment and authorization of the Board of Directors or the Executive Committee without being restricted to the class of investments which may hereafter be permitted by law, or any similar restriction; provided, however, that no action shall be taken by or in behalf of the Corporation and no action shall be forbore if such action or such forbearance is a prohibited transaction or would result in either imposition of penalty, excise taxes, or the denial of the tax exemption under the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

Section 7.05. **Expenditure Responsibility.** Through its Board of Directors, this Corporation shall exercise "expenditure responsibility" as defined in Section 4945 (h) (1) and (2) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended, with respect to all grants and distribution.

Section 7.06. **Reasonable Return.** The Board of Directors shall take steps to assure that each Director, agent, or custodian of the unrestricted trusts or funds that are a component part of this Corporation, will administer them in accordance with accepted standards of fiduciary conduct to produce a reasonable (as determined by the Board of Directors) return of net income.

ARTICLE VIII BOOKS OF RECORD, AUDIT, FISCAL YEAR, BOND

Section 8.01(a). **Books and Records Required to be Kept by Corporation.** The Corporation must maintain current and accurate financial records with complete entries as to each financial transaction of the Corporation, including income and expenditures, in accordance with generally accepted accounting principles. Based on these financial records, the Directors must, on an annual basis, prepare or approve a financial report for the Corporation for the preceding year. The report must conform to accounting standards as adopted by the American Institute of Certified Public Accountants and must include the following:

- (1) a statement of support, revenue, and expenses;
- (2) a statement of changes in fund balances;
- (3) a statement of functional expenses; and
- (4) a balance sheet for each fund.

The following is a list of the records that should be kept by the Corporation:

- (a) records of all proceedings of the Board of Directors and Committees of the Corporation; and
- (b) all financial statements of the Corporation; and
- (c) Certificate of Formation and Bylaws of the Corporation, and all amendments to these documents; and
- (d) such other records and books of account that are necessary and appropriate to the conduct of the corporate business; and
- (e) a list of the names and addresses of the directors, officers, and any committee members of the Corporation; and
- (f) financial statements showing the Corporation's assets, liabilities, and net worth for each of the Corporation's three most recent fiscal years; and
- (g) financial statements showing the Corporation's income and expenses for each of the Corporation's three most recent fiscal years; and
- (h) all rulings, letters, and other documents relating to the Corporation's federal, state, and local tax status; and
- (i) corporation's federal, state, and local tax information, information returns, or income tax returns for each of the Corporation's three most recent tax years

Section 8.02. **Audit and Publication.** The Board of Directors shall cause the records and books of account of this Corporation to be audited at least once in each fiscal year in such a manner as may be deemed necessary or appropriate and also shall make such inquiry as the Board of Directors deems necessary or advisable into the condition of all trusts and funds held by any agent or custodian for the benefit of this Corporation. The Directors shall retain any such person or firm for such purposes as they may deem appropriate. Not later than six (6) months after the close of each fiscal year of this Corporation, the Board of Directors shall furnish to the Board of Trustees of the Everman ISD, copies of the Corporation's financial statements for its immediately preceding fiscal year and may, if determined necessary or appropriate by the Board of Directors, cause such financial statements to be published in one or more local newspapers having a general circulation and distribution, as may be selected by the Board of Directors.

Section 8.03. **Fiscal Year.** The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

Section 8.04. **Bond.** The Corporation shall obtain bond on such people and in such amounts as may from time to time be deemed necessary by the Board of Directors.

ARTICLE IX TRANSACTIONS OF THE CORPORATION

Section 9.01. **Contracts.** The Board of Directors may authorize any officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the Corporation.

Section 9.02. **Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purpose or for a specific purpose of the Corporation. The Board of Directors may make gifts and give charitable contributions that are not prohibited by the Bylaws, the Certificate of Formation, state or federal law, and any requirements for maintaining the Corporation's federal and state tax status.

Section 9.03. **Conflicts of Interest.** The Corporation's affirmative policy shall be to require that all actual or potential conflicts be discussed promptly and disclosed fully to the Board of Directors and all other necessary parties. Any Director having a conflict on any matter shall neither participate in the deliberation nor vote on any such matter. The Board of Directors may from time to time, establish such rules and regulations in furtherance of this policy, as deemed appropriate.

Section 9.04. **Nonprofit Operation.** The Corporation will not have or issue shares of stock. No dividends will be paid. No part of the income or assets of the Corporation will be distributed to its Directors or officers without full consideration. No Director or officer of the Corporation has any vested right, interest or privilege in or to the assets, property, functions or activities of the Corporation.

ARTICLE X WAIVER OF NOTICE

Whenever any notice is required to be given by these Bylaws or any of the corporate laws of the State of Texas, such notice may be waived in writing, signed by the person or persons entitled to said notice, whether before, at, or after the time stated, or before, at, or after the meeting. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Director at his or her address as it appears on the records of the Corporation, with postage thereon prepaid.

ARTICLE XI INDEMNIFICATION AND INSURANCE

Section 11.01. **When Indemnification Is Required, Permitted, and Prohibited.**

(a) The Corporation will indemnify a director, officer, committee member, employee, or agent of the Corporation who was, is, or may be named defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Corporation. For the purposes of this article, an agent includes one who is or was serving at the Corporation's request as a director, officer, partner, venturer, proprietor, trustee, partnership, joint venture, sole proprietorship, trust, employee-benefit plan, or other enterprise.

(b) The Corporation will indemnify a person only if he or she acted in good faith and reasonably believed that his or her conduct was in the Corporation's best interests. In case of a criminal proceeding, the person may be indemnified only if he or she had no reasonable cause to believe that the conduct was unlawful. The Corporation will not indemnify a person who is found liable to the Corporation or is found liable to another on the basis of improperly

receiving a personal benefit from the Corporation. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted. Termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent does not necessarily preclude indemnification by the Corporation.

(c) The corporation will pay or reimburse expenses incurred by a director, officer, committee member, employee, or agent of the Corporation in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the corporation when the person is not a named defendant or respondent in the proceeding.

(d) In addition to the situations otherwise described in this section, the Corporation may indemnify a director, officer, committee member, employee, or agent of the Corporation to the extent permitted by law. However, the Corporation will not indemnify any person in any situation in which indemnification is prohibited by Section 11.01(b), above.

(e) The corporation may advance expenses incurred or to be incurred in the defense of a proceeding to a person who might be eventually be entitled to indemnification, even though there has been no final disposition of the proceeding. Advancement of expenses may occur only when the procedural conditions specified in Section 11.03(c), below, have been satisfied. Furthermore, the Corporation will never advance expenses to a person before final disposition of a proceeding if the person is a named defendant or respondent in a proceeding brought by the Corporation if the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

Section 11.02. **Extent and Nature of Indemnity.** The indemnity permitted under these Bylaws includes indemnity against judgments, penalties, (including excise and similar taxes), fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. If the proceeding was brought by or on behalf of the Corporation, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

Section 11.03. **Procedures Relating to Indemnification Payments.**

(a) Before the Corporation may pay any indemnification expenses (including attorney's fees), the Corporation must specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in subsection (c), below. The corporation may make these determinations and decisions by any one of the following procedures:

(i) Majority vote of a quorum consisting of directors who, at the time of the vote, are not named defendants or respondents in the proceeding.

(ii) If such a quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding.

(iii) Determination by special legal counsel selected by the Board by the same vote as provided in subsections (i) or (ii), above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors.

(b) The Corporation will authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If special legal counsel determines that indemnification is permissible, authorization of indemnification and determination of reasonableness of expenses will be made as specified by subsection (a) (iii), above, governing selection of special legal counsel. A provision contained in the Certificate of Formation or a resolution of the Board that requires the indemnification permitted by section 11.01, above, constitutes sufficient authorization of

indemnification even though the provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

(c) The Corporation will advance expenses before final disposition of a proceeding only after it determines that the facts then known would not preclude indemnification. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment will be made in the same manner as a determination that indemnification is permissible under subsection (a), above. In addition to this determination, the Corporation may advance expenses only after it receives a written affirmation and undertaking from the person to receive the advance. The person's written affirmation will state that he or she has met the standard of conduct necessary for indemnification under these Bylaws. The written undertaking will provide for repayment of the amounts advanced by the corporation if it is ultimately determined that the person has not met the requirements for indemnification. The undertaking will be an unlimited general obligation of the person, but it need not be secured and may be accepted without reference to financial ability to repay.

Section 11.04. **Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of Section 11.01.

ARTICLE XII AMENDMENTS

The Board of Directors may amend this Corporation's Certificate of Formation and these Bylaws to include or omit any provision which could be lawfully included or omitted. Any number of amendments, or an entire revision or restatement of the Certificate of Formation or Bylaws, may be adopted at such meeting a quorum being present, upon receiving the affirmative vote of not less than two-thirds of the whole number of Directors. However, amendment of Article III (Purpose) of the Certificate of Formation may be made only with the unanimous approval and resolution of all Directors.

ARTICLE XIII MISCELLANEOUS PROVISIONS

Section 13.01. **Governing Law.** The Bylaws of the Corporation shall be governed by and construed in accordance with the laws of the State of Texas.

Section 13.02. **Severability.** If any Bylaw provision is held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions and the Bylaws shall be construed as if the invalid, illegal, or unenforceable provision had not been included in the Bylaws.

Section 13.03. **Gender.** Whenever the context requires, all words in the Bylaws in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural nouns shall include the singular.

Section 13.04. **Diversification.** It is the aim and intent of the Everman ISD Education Foundation to reflect and embrace racial, religious and gender diversification within all levels of its governing body, staffing, grant recipient allocation and selection process including vendor selections and corporate sponsors.

**ARTICLE XIV
DISSOLUTION**

The Corporation shall use its funds only to accomplish the objectives and purposes specified by these Bylaws. Upon the occurrence of an event requiring winding up of the Corporation, under Section 11.051 of the Texas Business Organization Code or upon the approval of voluntary winding up of the Corporation under Section 22.301 of the Texas Business Organization Code, any property remaining in this Corporation shall be applied and distributed in accordance with Section 22.304 of the Texas Business Organization Code. Any distributions of property to one or more regularly organized and qualified charitable, educational and scientific organizations within the meaning of Section 501 (c) (3) of the Internal Revenue Code, shall be selected by the Everman ISD Board of Trustees.

The undersigned certifies that he/she is the Secretary of the Everman ISD Education Foundation and that the foregoing Bylaws were duly adopted as the Bylaws of the Corporation, at a duly called meeting of the Board of Directors held on

Secretary