

**BYLAWS
OF THE
LOS ALAMOS NATIONAL LABORATORY FOUNDATION**

**A New Mexico Nonprofit Corporation
(As Amended and Restated, effective February 29, 2008)**

ARTICLE I.

Name, Principal Office, and Registered Office

Section 1.1. **Name.** The name of the Corporation is the LOS ALAMOS NATIONAL LABORATORY FOUNDATION (hereinafter referred to as the "Foundation").

Section 1.2. **Principal Office.** The principal office of the Foundation will be located in the City of Española, County of Rio Arriba, State of New Mexico. The location of the principal office of the Foundation may be changed at any time by the Board of Directors (the "Board"), and the Foundation may have such other offices, either within or without the counties of Rio Arriba, Los Alamos, or Santa Fe in the State of New Mexico, as the business of the Foundation may require from time to time.

Section 1.3. **Registered Office.** The registered office of the Foundation required by the New Mexico Nonprofit Corporation Act (the "Act") (NMSA 1978 §§53-8-1, *et seq.*) to be maintained within the State of New Mexico will be located in Española, New Mexico. The location of the registered office of the Foundation may be changed at any time by the Board.

ARTICLE II.

Purposes and Powers

Section 2.1. **Exempt Purposes.** The Foundation is organized and operated exclusively as an exempt charitable and educational organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or similar provision of any future revenue law) (the "Code"), without profit to any Director or Officer. Notwithstanding any other provision of these Bylaws, the Foundation will not carry on any activities not permitted to be carried on: (A) by a corporation exempt from federal income tax under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code; or (B) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a)(2), and 2522(a)(2) of the Code. No substantial part of the activities of the Foundation will consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Foundation will not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office. Subject to the foregoing, the Foundation may also engage in all other activities that are permissible by law.

Section 2.2. Specific Purposes. The Foundation is organized for the purpose of receiving and administering gifts and grants in support of charitable and educational public service activities in northern New Mexico. In recognition of the interdependence of the Los Alamos National Laboratory (the "Laboratory") and northern New Mexico communities, the Foundation exists to enhance the vitality of the region by investing in education, learning, and community development in accordance with the provisions of these Bylaws. To the extent not inconsistent with law and the exempt purposes stated in Section 2.1, and in furtherance and not in limitation of the specific purposes set forth in this Section 2.2, it is expressly provided that the Foundation is organized for the purposes of engaging in any lawful act or activity for which a nonprofit corporation may be organized under the Act.

Section 2.3. Prohibitions. No Director, Officer, employee, or other person connected with the Foundation, or any other private individual or organization organized for profit, will receive at any time any of the net assets, earnings, or pecuniary profit from the operations of the Foundation. However, this provision will not prevent payment of reasonable compensation to any such person for services performed for the Foundation in effecting any of its public or charitable purposes, provided that such compensation is permitted by these Bylaws and fixed by resolution of the Board. Further, no person or persons will be entitled to share in the distribution of, and will not receive, any of the corporate assets on dissolution of the Foundation.

Section 2.4. Private Foundation Prohibitions. The Foundation will operate in a manner that prevents it from becoming a private foundation within the meaning of Section 509 of the Code. However, if at any time the Foundation is, or is treated as if it were, a "private foundation" within the meaning of Section 509 of the Code, then the following additional restrictions will apply:

(A) The Foundation will distribute its income for each tax year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code;

(B) The Foundation will not engage in any act of self-dealing as defined in Section 4941(d) of the Code;

(C) The Foundation will not retain any excess business holdings as defined in Section 4943(c) of the Code;

(D) The Foundation will not make any investments in such manner as to subject it to tax under Section 4944 of the Code; and

(E) The Foundation will not make any taxable expenditure as defined in Section 4945(d) of the Code.

Section 2.5. Powers. The Foundation will have all of the powers of a nonprofit corporation under the Act and, in furtherance of and not by way of limitation, the Foundation will have the following powers:

(A) To receive and disburse funds in accordance with the purposes of the Foundation;

(B) To receive, hold, and display real and personal properties; and

(C) To the extent not inconsistent with law and the exempt purposes stated in Sections 2.1 and 2.2, to do each and every act consistent with carrying out its purposes as allowed by the laws of the State of New Mexico.

ARTICLE III.

Membership

The Foundation will not have any members as provided under the Act. All decisions and acts contemplated or required by law to be made by members may be made by the Board.

ARTICLE IV.

Board of Directors

Section 4.1. **Number, Qualification, and Tenure.** The number of Directors will be at least ten (10), but not more than twenty (20), as determined from time to time by the Board. Members of the Board will fairly represent regional, educational, and community interests, as well as the interests of the Foundation's donors and contributors, who may include, but not be limited to, the entity charged by contract or law to operate the Laboratory (the "Operator") and the United States Department of Energy ("DOE"). The Director of the Laboratory ("Laboratory Director") will be a full, voting, *ex officio* member of the Board. Each Director, other than the Laboratory Director, will be appointed for a nominal term of three (3) years commencing at the Annual Meeting during which the Director is appointed. A Director may not serve more than two consecutive terms, but may be reappointed after the expiration of one (1) year following the completion of the Director's second term.

Section 4.2. **Management.** The Board is responsible for determining the Foundation's overall mission, goals and objectives and has ultimate responsibility for managing the property, business, and affairs of the Foundation. In the management and control of the property, business, and affairs of the Foundation, the Board is hereby vested with all the powers possessed by the Foundation itself, so far as this delegation of authority is not inconsistent with the Act, the laws of the State of New Mexico, the Code, the Articles of Incorporation of the Foundation ("Articles"), or these Bylaws.

Section 4.3. **Powers of Directors.** The Board may exercise all of the powers granted to Directors under the Act, including, but not limited to, the following powers:

(A) Appoint, remove, supervise, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all Officers of the Foundation;

(B) Employ, discharge, supervise, and prescribe the duties and fix the compensation of the Foundation's Chief Executive Officer ("CEO");

(C) Hold meetings at such times and places as is deemed proper, and monitor the Foundation's programs and services;

- (D) **Appoint committees;**
- (E) **Audit the financial affairs of the Foundation;**
- (F) **Accept or decline on behalf of the Foundation any contribution, gifts, bequests, or devises for any purpose of the Foundation;**
- (G) **Devise and carry into execution such other measures as it deems proper and expedient to promote the objectives and purposes of the Foundation;**
- (H) **Inspect and copy, at any reasonable time, all books, records, and documents of every kind and to inspect the physical properties of the Foundation; and**
- (I) **Require the CEO to produce such records, reports, and other information as is necessary to enable the Board to fulfill its governance obligations.**

Section 4.4. Delegation of Authority. Subject to Board oversight, the Board delegates authority for the implementation of the Foundation's mission, goal and objectives, as set by the Board, and for the day-to-day management of the Foundation's personnel, property, business and affairs, to the CEO. As set forth herein, below, the Board may also delegate some portion of its responsibilities to Committees of the Board. All delegations of responsibility hereunder are made solely to the extent consistent with the Act, the laws of the State of New Mexico, the Code, the Articles, and these Bylaws, and are accompanied by concomitant delegations of power.

Section 4.5. Appointment of Directors. The appointment of Directors to the Board will be made by nomination by the Nominations Committee and by subsequent approval of the Board. A simple majority of the members of the Board then in office will be sufficient to approve or disapprove of such an appointment.

Section 4.6. Vacancies and Resignations. Vacancies on the Board will exist (A) on the death, resignation, or removal of any Director or (B) whenever the number of authorized Directors is increased. Any Director may resign by giving written notice to the President or Secretary of the Foundation. Such resignation will be effective in accordance with its terms or upon receipt by the President or Secretary of the Foundation if no date of resignation is specified. Any vacancy occurring on the Board may be filled at any meeting of the Board where there is a quorum by a majority of the Directors present. A Director appointed to fill a vacancy because of death, resignation, or removal may be appointed for the unexpired term of the Director's predecessor in office. A Director appointed to fill a vacancy because of the increase in the number of authorized Directors will be filled at the Annual Meeting.

Section 4.7. Compensation. The Directors will not receive any stated salaries for their services. The Board may authorize reimbursement for expenses incurred by Directors in connection with the performance of their duties as Directors or authorize a fixed sum for their expenses of attendance, if any, at any regular or special meetings of the Board. Nothing in this Section 4.7 will preclude a Director from serving the Foundation in any other capacity and receiving reasonable compensation therefore.

ARTICLE V.

Meetings of the Board of Directors

Section 5.1. **Regular Meetings.** The Board may provide, by resolution, the time and place, either within or without the State of New Mexico, for the holding of regular meetings without other notice than such resolution.

Section 5.2. **Special Meetings.** Special meetings of the Board may be called by or at the request of the President at any time. Upon written request of at least two (2) Directors, the President will call a special meeting to be held not more than twenty (20) days after the receipt of such request. The President may fix the place for holding any special meeting of the Board either within or without the State of New Mexico.

Section 5.3. **Annual Meeting.** The Annual Meeting of the Board will be held in May of each year as fixed by resolution of the Directors for the purpose of approving the appointment of Directors, electing Officers, and transacting such other business as may come before the meeting. In the event that such annual meeting is not held by oversight or otherwise on the date herein provided for, the Board will cause a meeting in lieu thereof to be held as soon thereafter as conveniently possible, and any election or business transacted at such meeting will be as valid as if transacted or held at the regularly scheduled annual meeting. Such subsequent meeting will be called in the same manner as provided herein.

Section 5.4. **Notice.** Notice of any special meeting of the Board will be given at least ten (10) days prior to the meeting by written notice delivered personally or by mail to each Director at the Director's most recent address, by facsimile to the Director's most recent facsimile number, or by e-mail to the Director's most recent e-mail address. If notice is given by facsimile or e-mail, such notice will be deemed to be delivered when the Foundation receives electronic confirmation of the facsimile's successful transmission, or of receipt of such e-mailed notice, as appropriate. Any Director may waive notice of any meeting. The attendance of a Director at any meeting will constitute a waiver of notice of such meeting, 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. Except as otherwise provided by these Bylaws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

Section 5.5. **Quorum.** At any meeting of the Board, the presence of a majority of the Directors in person will constitute a quorum for the transaction of business. The President, or, in the absence of the President, the Vice President, will act as the Chair of the Board. In the absence of the President or Vice President, the quorum present may choose a Chair for the meeting. If less than a quorum is present, a majority of the Directors present may adjourn any meeting without further notice.

Section 5.6. **Manner of Acting.** Except as otherwise provided by law or by these Bylaws, the act of the majority of Directors present at any meeting where there is a quorum will be the act of the full Board.

Section 5.7. Participation by Telephone. Any one or more Directors or members of any committee of the Board may participate in a meeting of the Board or any committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means will constitute presence in person at the meeting.

Section 5.8. Action by Unanimous Consent. Any action required to be taken at a meeting of the Directors, or any other action that may be taken at a meeting of Directors, may be taken without a meeting if a unanimous consent in writing, setting forth the action so taken, is signed by all of the Directors entitled to vote with respect to the subject matter thereof. Such consent will be equally valid as if said action were approved at a meeting.

(A) A Director's written consent to an action may also be documented by that Director's "electronic signature" pursuant to NMSA 1978, § 14-16-1, *et seq.* provided that:

(1) The Foundation has adopted security procedures enabling it to verify the Director to whom the electronic signature is attributable; and

(2) The "electronic signature" is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the Foundation at the time of receipt.

Section 5.9. Interested Director Contracts or Transactions.

(A) Definitions:

(1) An "Interested Director Contract or Transaction" is any contract or transaction between the Foundation and (a) one or more of its Directors, or (b) a corporation, association, organization, or other entity in or for which one or more of the Foundation's Directors has a financial interest or serves in a position of responsibility (i.e., as a director, officer, trustee, or the like).

(2) An "Interested Director" is any Director who enters into or proposes to enter into a contract or transaction with the Foundation, or who has a financial interest in or serves in a position of responsibility for any corporation, association, organization, or other entity that enters into or proposes to enter into a contract or transaction with the Foundation.

(B) The Foundation may enter into an Interested Director Contract or Transaction if:

(1) Each Interested Director's relationship to or interest in the contract or transaction is disclosed or known to the Board (or committee of the Board, as appropriate) prior to the authorization or such contract or transaction by same; and

(2) The Board (or committee of the Board) authorizes the contract or transaction in good faith by the affirmative vote of all disinterested Directors, even if such disinterested Directors should constitute less than a quorum.

(C) Provided that the requirements of Section 5.9(B) above have been met, no Interested Director Contract or Transaction will be void or voidable solely because of the existence of a potential or actual conflict of interest, or the fact that any Interested Director is present at or participates in the meeting of the Board (or committee of the Board) whereby such contract or transaction is authorized.

Section 5.10. Absence. Should any member of the Board be absent from three (3) consecutive regularly scheduled meetings of the Board, such member's seat on the Board may be declared vacant and the position may be filled as provided in these Bylaws.

Section 5.11. Removal of Directors. A Director may be removed, with cause, at any duly noticed regular or special meeting of the Directors by a vote of at least two-thirds (2/3) of the entire Board. The notice of such meeting will indicate that one of the specific purposes of the meeting is the removal of such Director.

Section 5.12. Conduct of Meetings. Meetings of the Board will be conducted in substantial conformity with the current edition of *Robert's Rules of Order*.

ARTICLE VI.

Committees of the Board of Directors

Section 6.1. Power To Appoint Committees. The Board will create an Executive Committee, a Nominations Committee, a Finance Committee, and an Audit Committee. The Board may also create any other committees it deems necessary or appropriate. Each committee will include no fewer than three (3) Directors. Except for the Executive Committee, any committee established under this Article may include within its membership individuals who are not Directors, so long as Directors constitute the majority of any such committee's membership.

Section 6.2. Executive Committee. The Executive Committee will consist of the President (who will serve as its Chair), the other Officers, the immediate past President, and such other Directors as the Board appoints.

(A) The Executive Committee will have the power of and exercise the authority of the Board in the management of the Foundation between meetings of the Board, in all matters except:

- (1) The election or removal of Officers (except that the Executive Committee may fill a vacancy in any office other than the President);
- (2) The appointment or removal of Directors;
- (3) The amendment or repeal of these Bylaws;
- (4) The employment or discharge of the CEO; and
- (5) Any other matters of concern requiring Board action by law, the Articles, or these Bylaws.

The Executive Committee may also have such specific powers and perform such specific duties as prescribed by resolution of the Board.

(B) At any meeting of the Executive Committee, the presence of a majority of its members in person will constitute a quorum for the transaction of business. Any one or more members of the Executive Committee may participate in a meeting of the committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means will constitute presence in person at the meeting.

(C) Action by the Executive Committee may be taken by the affirmative vote of a majority of its members present at a meeting where there is a quorum, or by a unanimous consent resolution (as set forth in Section 5.8 above). The Executive Committee may request ratification of its acts by the Board at any meeting of the Board.

(D) The Executive Committee will advise the Board within ten (10) days of any such action and of all significant matters pertaining to the affairs of the Foundation.

Section 6.3. Nominations Committee. The Nominations Committee will consist of the Immediate Past President (who will serve as its Chair), the President, and one or more other Board-appointed Directors. The Nominations Committee will meet quarterly, or more frequently if necessary, to review the effectiveness, special needs, and diversity of the Board. It will present nominations for the appointment of Directors and election of Officers annually and upon the occurrence of vacancies. Notice of proposed nominations will be submitted to each Director at least ten (10) days prior to the meeting at which an election or appointment is to take place. This committee may also make recommendations for nominations to other committees of the Board and to advisory or honorary boards of the Foundation. The Nominations Committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.4. Finance Committee. The Finance Committee will consist of the Treasurer (who will serve as its Chair), two (2) or more Board-appointed Directors who are not Officers, and such other individuals as are appointed by the Board. The Finance Committee will meet quarterly, or more often if necessary, and will generally review the Foundation's financial condition and activities. In connection with this duty, the Finance Committee will review the matters set forth below, and report and make recommendations to the Board regarding same:

(A) The Foundation's annual operating budget;

(B) The Foundation's interim reports comparing budgeted revenues and expenses to actual and projected revenues and expenses throughout the year, as deemed necessary by the Finance Committee;

(C) The Foundation's financial statements, as deemed necessary by the Finance Committee;

(D) The Foundation's internal control systems;

- (E) The Foundation's accounting policies and procedures;
- (F) The Foundation's bank depository relationships for safekeeping and temporarily investing its operating fund; and
- (G) The Foundation's short-term and long-term borrowing and financing arrangements.

The Finance Committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.5. Audit Committee. The Audit Committee will consist of three (3) or more Board-appointed Directors and such other individuals as are appointed by the Board. The Committee will meet as often as required to fulfill its duties. The Audit Committee will annually select an independent auditor, review the audit plan and the scope of the audit with the auditor, and review the annual audit report. The Audit Committee will report to the Board the results of the audit, and will recommend to the Board any actions that should reasonably be taken by the Board with respect to the audit. The Audit Committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.6. Other Committees. Other committees may be created by the Board as necessary or desirable for the proper administration and operation of the Foundation. Each such committee will serve at the pleasure of the Board and will be subject to the control and direction of the Board. The authority of any such committee will be specifically set forth in the resolution of the Board authorizing its creation. Minutes of each such committee will be maintained. The President will appoint the Chair of all other committees and, with the appointed Chair, will appoint the other members of these committees. Any action or authorization of an act by any such committee within its delegated authority will be effective for all purposes as the act or authorization of the Board. Any such other committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

ARTICLE VII.

Honorary Boards or Advisory Boards

The Board may establish one or more Honorary Boards or Advisory Boards at any annual or special meeting, with such functions, members, and terms as the Board deems appropriate. The members of such Honorary or Advisory Boards will hold office for the terms for which they have been appointed. The members of such Honorary or Advisory Boards may advise and consult with the Board, but will have no vote on any corporate matter. The Board may also, in addition or as an alternative to the Honorary or Advisory Boards described above, designate one or more individuals as Honorary or Advisory Directors, with such functions as the Board may deem appropriate. Such Honorary or Advisory Directors will have no vote on any corporate matter, but will consult with or advise the Board from time to time.

ARTICLE VIII.

Officers

Section 8.1. Number and Qualifications. The Officers of the Foundation will consist of a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other Officers as may be elected in accordance with the provisions of this Article. Each Officer must be a current Director. Only one office may be held by the same person at one time.

Section 8.2. Election and Term of Office. The Officers elected at the Annual Meeting will take office upon election. If the election of Officers is not held at such meeting, such election will be held as soon thereafter as may be convenient. Vacancies may be filled or new offices created and filled at any meeting of the Board. Each Officer will hold office until such Officer's successor has been duly elected and qualified, or until such Officer's death, resignation, or removal in the manner hereinafter provided. Any Officer may succeed himself or herself. The President and Vice President may each serve either a one (1)- or two (2)-year term, as designated by the Board. All other Officers will serve one (1)-year terms.

Section 8.3. Removal. Any Officer elected by the Board may be removed with or without cause by the affirmative vote of a majority of the members of the entire Board.

Section 8.4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by the Board (or, as to any office other than the office of the President, by the Executive Committee) for the unexpired portion of the term. In the event of a vacancy in the office of President or the President's inability to serve for any reason, the powers and duties of that office will be exercised by the Vice President.

Section 8.5. President. The President will perform all the duties commonly incident to the office of the President and will perform such other duties as the Board will designate, including, but not limited to, the following:

(A) The President will preside at all meetings of the Board and will chair the Executive Committee;

(B) On behalf of the Board, the President will have general supervision over the CEO and the Officers of the Foundation, and the management of the business of the Foundation, including the activities of the committees;

(C) The President will sign:

- i. subject to Board approval, any amendment to or repeal of these Bylaws or the Articles; and
- ii. any document or instrument requiring the signature of the President pursuant to any policy of the Foundation or resolution of the Board.

(D) Subject to Article XI of these Bylaws, the President may also sign all other official documents and instruments on behalf of the Foundation;

(E) Other than the Nominations, Finance, and Audit Committees, the President will appoint the Chairs of all committees; and

(F) The President will be an *ex officio* member of all committees on which he or she does not otherwise serve.

Section 8.6. Immediate Past President. The Immediate Past President will serve on the Executive Committee until replaced, when his or her successor as President becomes Immediate Past President. The Immediate Past President will serve as Chair of the Nominations Committee.

Section 8.7. Vice President. Except as specifically limited by vote of the Board, the Vice President (or, if there is more than one Vice President, the one designated senior in status by the Board) will perform the duties and have the powers of the President during the absence or disability of the President. This includes, but is not limited to, the signing of official documents. The Vice President (or each of them if there is more than one Vice President) will also perform such other duties and have such other powers as the President and/or the Board may designate.

Section 8.8. Treasurer. The Treasurer and such other persons as he or she may delegate will have oversight of all financial accounts, records, funds, and securities of the Foundation. The Treasurer will chair the Finance Committee and, in general, perform all duties commonly incident to the office of treasurer. The Treasurer will also perform such other duties and have such other powers as the President and/or the Board may designate.

Section 8.9. Secretary. The Secretary will act as secretary of the Board; keep, or cause to be kept, minutes of all meetings of the Board in one or more books provided for that purpose; and, in general, perform all duties commonly incident to the office of secretary. Subject to Board approval, the Secretary will sign any amendment to or repeal of these Bylaws or the Articles. In the absence of the Secretary, the President may designate any person to act as secretary for Board meetings. The Secretary and such other persons as he or she may delegate will: (A) ensure that all notices are given in accordance with these Bylaws and as required by law; (B) have charge of the books, records, and other papers of the Foundation; and (C) ensure that all reports, statements, and other documents required by law are properly kept or filed, except to the extent that they are to be kept or filed by the Treasurer or some other designee of the Board. The Secretary will also perform such other duties and have such other powers as the President and/or the Board may designate.

Section 8.10. Assistant Treasurers and Assistant Secretaries. The Board may appoint or may authorize Assistant Treasurers and Assistant Secretaries to perform such duties as will be assigned to them by the Board or by the President.

Section 8.11. Expenses. The Board may authorize reimbursement for expenses incurred by Officers in connection with the performance of their duties.

Section 8.12. Resignation. Any Officer may resign effective upon giving written notice to the President or Secretary, unless such notice specifies a later time for the effectiveness of such resignation.

ARTICLE IX.

Chief Executive Officer

Section 9.1. **Chief Executive Officer.** The CEO will be the principal employee of the Foundation. The CEO will be hired by the Board pursuant to any employment arrangements as determined by the Board.

(A) **Duties of the Chief Executive Officer.** Subject to Board oversight, the CEO will be responsible for implementing the Foundation's mission, goals and objectives, as set by the Board, and for the day-to-day management of the Foundation's personnel, property, business and affairs, including, but not limited to the hiring, dismissing and management of the employees of the Foundation. The CEO will be responsible for providing the Board with sufficient written information, reports and other documentation to allow informed decision making by the Board and otherwise to allow the Board to fulfill its governance obligations under the Articles, these Bylaws, the Act, the Code and any other applicable law. In connection with performing his or her duties hereunder and subject to Article XI of these Bylaws, the CEO will have authority to sign all official documents and instruments on behalf of the Foundation other than (i) those instruments and documents requiring the signature of the President pursuant to Section 8.5 of these Bylaws, and (ii) those instruments and documents requiring the signature of the Secretary under Section 8.9 of these Bylaws. The CEO will further have such additional responsibilities and perform such additional duties as are prescribed by the CEO's most recent employment contract or current job description approved by the Board. In the event of a conflict between these Bylaws and any such employment contract or job description, these Bylaws will prevail.

ARTICLE X.

Indemnification of Directors, Officers, and CEO

Section 10.1. **Power To Indemnify in Actions, Suits, or Proceedings.** Subject to the Act and Section 10.2, the Foundation will indemnify any person who was or is a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Foundation) by reason of the fact that such person is or was a Director, Officer, or CEO of the Foundation, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Foundation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of *nolo contendere* or its equivalent, will not, of itself, create a presumption that the person did not act in good faith and in a manner that such person reasonably believed to be in or not opposed to the best interests of the Foundation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.

Section 10.2. Authorization of Indemnification. Any indemnification under this Article X (unless ordered by a court) will be made by the Foundation only as authorized in the specific case upon a determination that indemnification of the Director, Officer, or CEO is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 10.1 above. Such determination will be made (A) by the unanimous vote of the Board at a special or regular meeting of the Directors where a quorum is present of all Directors who were not named as parties to any such action, suit, or proceeding, or (B) by special legal counsel to the Foundation in a written opinion. To the extent, however, that a Director, Officer, or CEO of the Foundation has been successful on the merits or otherwise in defense of any action, suit, or proceeding described above, or in defense of any claim, issue, or matter therein, such Director, Officer, or CEO will be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

Section 10.3. Good Faith Defined. For purposes of any determination under Section 10.2 above, a person will be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Foundation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such conduct was unlawful, if his or her action is based on the records or books of account of the Foundation or another enterprise, or on information supplied to such person by the authorized agents of the Foundation or another enterprise in the course of their duties, or on the advice of legal counsel for the Foundation or another enterprise, or on information or records given or reports made to the Foundation or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Foundation or another enterprise. The term "another enterprise" as used in this Section 10.3 will mean any other corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise of which such person is or was serving at the request of the Foundation as a director, officer, employee, or agent. The provisions of this Section 10.3 will not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 10.1 above.

Section 10.4. Indemnification by a Court. Notwithstanding any contrary determination in the specific case under Section 10.2 above, and notwithstanding the absence of any determination thereunder, any Director or Officer may apply to any court of competent jurisdiction in the State of New Mexico for indemnification to the extent otherwise permissible under Section 10.1 above. The basis of such indemnification by a court will be a determination by such court that indemnification of the Director, Officer, or CEO is proper in the circumstances because such Director, Officer, or CEO has met the applicable standards of conduct set forth in Section 10.1 above. Neither a contrary determination in the specific case under Section 10.2 above nor the absence of any determination thereunder will be a defense to such application or create a presumption that the Director, Officer, or CEO seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 10.4 will be given to the Foundation promptly upon the filing of such application. If successful, in whole or in part, the Director, Officer, or CEO seeking indemnification will also be entitled to be paid the expense of prosecuting such application.

Section 10.5. Nonexclusivity of Indemnification. The indemnification provided by or granted pursuant to this Article X will not be deemed exclusive of any other rights to which those

seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, contract, vote of disinterested Directors, or pursuant to the direction (howsoever embodied) of any court of competent jurisdiction or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Foundation that indemnification of the persons specified in Section 10.1 above will be made to the fullest extent permitted by law. The provisions of this Article X will not be deemed to preclude the indemnification of any person who is not specified in Section 10.1 above but whom the Foundation has the duty or obligation to indemnify under the provisions of the Act, or otherwise.

Section 10.6. Insurance. The Foundation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, or CEO of the Foundation, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Foundation would have the duty or the obligation to indemnify such person against such liability under the provisions of this Article X.

Section 10.7. Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article X will, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Director, Officer, or CEO and will inure to the benefit of the heirs, executors, and administrators of any such person.

Section 10.8. Limitation on Indemnification. Notwithstanding anything contained in this Article X to the contrary, except for proceedings to enforce rights to indemnification (which will be governed by Section 10.4 hereof), the Foundation will not be obligated to indemnify any Director, Officer, or CEO in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board.

ARTICLE XI

Execution of Instruments, Deposits, and Funds

Section 11.1. Contracts, Instruments and Documents Requiring Written Board Approval. Prior written Board authorization is required for any Officer, agent or employee of the Foundation to enter into or execute (and deliver) any of the following in the name or on behalf of the Foundation:

(A) any contract, instrument, document or other matter that commits the Foundation to or otherwise renders it liable for any obligation in excess of Fifty Thousand Dollars (\$50,000);

(B) any document or instrument relating to the sale, mortgage, pledge, or other hypothecation or disposition of all or substantially all of the assets of the Foundation;

(C) any document or instrument relating to the merger or consolidation of the Foundation; and

(D) any document or instrument relating to the voluntary dissolution of the Foundation.

Subject to the foregoing and except as otherwise provided in these Bylaws, the President and the CEO will have such signing authority as is provided for in Sections 8.5 and 9.1 of these Bylaws, respectively, without Board approval. Except as otherwise provided in these Bylaws, the Board may additionally authorize, in writing, any other Officer, agent or employee of the Foundation to enter into any contract or execute and deliver any instrument in the name or on behalf of the Foundation, and such authority may be general or confined to specific instances. Unless authorized by these Bylaws and, as necessary, the Board, no Director, Officer, agent, or employee will have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount. Any unauthorized commitment may or may not be ratified by the Board at its sole discretion. The Officer, agent, or employee responsible for making the unauthorized commitment may be solely and personally liable for any costs incurred.

Section 11.2. Checks, Notes, and Loans. Except as otherwise specifically provided in these Bylaws or determined by resolution of the Board or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Foundation will be executed on behalf of the Foundation by such Officers or employees as the Board may, by resolution, from time to time determine.

Section 11.3. Deposits. All funds of the Foundation will be deposited from time to time to the credit of the Foundation in such banks, trust companies, or other depositories as the Board may select. For the purpose of the deposit, any Officer, or any employee authorized by the Board, may endorse, assign, and deliver checks, drafts, and other orders for the payment of money that are payable to the Foundation.

Section 11.4. Contributions. Contributions, gifts, bequests, or devises for the charitable, educational, or public service purposes of this Foundation may formally be accepted only by the Board in accordance with the Foundation's gift policy. Contingent upon such formal acceptance, the CEO may conditionally accept on behalf of the Foundation any contribution, gift, bequest, or devise. The effective date of such formal acceptance by the Board will relate back to the date of conditional acceptance by the CEO.

Section 11.5. Endowments. All funds received or appropriated by the Board for indefinite investment will be separately and securely invested as an Endowment Fund in accordance with the intent of any donor and as may be accepted by the Board. The Board will specifically comply with any restrictions on investment and segregation of funds provided to or appropriated by the Foundation by the Operator and/or DOE.

ARTICLE XII.

Corporate Records, Reports, Seal, and Fiscal Year

Section 12.1. Corporate Records. The Foundation will keep accurate and up to date: (A) minutes of all meetings of the Board and meetings of committees of the Board. Such minutes will indicate the time and place such meetings were held, whether they were regular or special, how called, the notice given, the names of those present, and the proceedings thereof; (B) books and records of account, including accounts of its properties and business transactions

and accounts of its assets, liabilities, receipts, disbursements, gains, and losses; and (C) copies of the Articles of Incorporation and Bylaws of the Foundation, as amended to date.

Section 12.2. Annual Report. The CEO will compile an annual report, which will be furnished to the Board no later than one hundred and fifty (150) days after the close of the Foundation's fiscal year. The annual report will also be furnished to other persons and/or entities as required by law or pursuant to the terms of any agreement binding the Foundation. The annual report will be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized Officer of the Foundation that such statements were prepared without audit from the books and records of the Foundation.

Section 12.3. Annual Statement of Specific Transactions. The Foundation will mail or deliver to all members of the Board a statement, within one hundred and fifty (150) days after the close of the Foundation's fiscal year, that briefly describes the amount and circumstances of any transaction in which the Foundation was a party, and in which any Director or Officer of the Foundation had any direct or indirect material financial interest.

Section 12.4. Corporate Seal. The Board may adopt, use, and, at will, alter a corporate seal. Such seal will be kept at the principal office of the Foundation. Failure to affix the seal to corporate instruments, however, will not affect the validity of any such instrument.

Section 12.5. Fiscal Year. The fiscal year of the Foundation will be the period beginning on January 1 and ending on December 31 of each year.

ARTICLE XIII.

Educational Enrichment Funding

Section 13.1. Educational Enrichment Funding. To the extent the Foundation receives funding for educational enrichment programs in the seven northern counties of New Mexico including Los Alamos, Mora, Rio Arriba, San Miguel, Sandoval, Santa Fe, and Taos, the Foundation will provide educational enrichment funding to such school districts in accordance with Sections 13.2 and 13.3 below, and will either invest or disburse such funds in accordance with any direction from the donor(s).

Section 13.2. Eligible School Districts. For a school district to be eligible for educational enrichment funding, it must (A) be located in the State of New Mexico in the counties of Los Alamos, Mora, Rio Arriba, San Miguel, Sandoval, Santa Fe, and Taos; (B) contain the principal residence of one or more members of the Los Alamos National Laboratory workforce ("Laboratory Workforce"); (C) propose a suitable enrichment program for full or partial funding; and (D) file an annual report with the Foundation documenting the results of such programs. The proposal and annual report will be approved by the cognizant school board prior to submission to the Foundation. The Laboratory Workforce, for this purpose, consists of regular and limited-term Operator and DOE employees and subcontractor personnel regularly assigned to work at the Laboratory.

Section 13.3. Allocation of Disbursements. The total payments for educational enrichment will be allocated to eligible school districts in proportion to the fraction of the

Laboratory Workforce, as defined in Section 13.2 above, who reside in each district. With regard to all funds disbursed by the Foundation to school districts, the Foundation will exert its best efforts to commit such funds reasonably far in advance to enable the school district to budget for such funding in the course of its ordinary budget cycle.

ARTICLE XIV.

Dissolution

In the event of the dissolution of the Foundation, the Board will, after paying or making provision for the payment of all liabilities of the Foundation, distribute all of its assets to such educational or charitable institutions as the Board may determine are most capable of carrying out the objectives of this corporation as described in Article II of these Bylaws. Any such institution must be (A) exempt from Federal income tax under Section 501(c)(3) of the Code; (B) an institution, contributions to which are deductible under Sections 170(c)(2), 2055(a)(2), and 2522(a)(2) of the Code; and (C) not a private foundation as defined in Section 509 of the Code. Any assets not so disposed of will be disposed of by the state district court of the county in which the principal office of the Foundation is then located exclusively for such purposes or to such organization(s) as the court will determine, which are consistent with the Foundation's purposes as described in Article II of these Bylaws.

ARTICLE XV.

Notices

Section 15.1. Notices. Whenever written notice is required by law, the Articles of Incorporation, or these Bylaws, to be given to any Director or member of a committee, such notice may be given by mail, addressed to such Director or committee member's most recent address; by facsimile to the Director or committee member's most recent facsimile number; or by e-mail to the Director or committee member's most recent e-mail address. For purposes of this Article, each Director's most recent address and/or number will be as the same appears on the records of the Foundation. Notice by mail will be deemed to be given five (5) days after the notice was deposited in the United States mail. Notice by facsimile or e-mail will be deemed given when the Foundation receives electronic confirmation of the facsimile's successful transmission, or of receipt of such e-mail. Written notice may also be given personally and will be deemed given on the date of personal delivery.

Section 15.2. Waivers of Notice. Whenever any notice is required by law, the Articles of Incorporation, or these Bylaws, to be given to any Director or member of a committee, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, will be deemed equivalent thereto. The attendance of a Director at any meeting will constitute a waiver of notice of such meeting, 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.

ARTICLE XVI

Construction of Bylaws

On all questions as to the construction or meaning of these Bylaws and the rules of the Foundation, the decision of the Board will be final.

ARTICLE XVII

Amendments

These Bylaws may be altered, amended, or repealed, in whole or in part, or new Bylaws may be adopted by the Board, provided, however, that notice of such alteration, amendment, repeal, or adoption of new Bylaws be contained in the notice of such meeting of the Board. All such amendments must be approved by an affirmative vote of at least a majority of the entire Board at a duly noticed regular or special meeting of the Board.

ADOPTED as of the 28th day of February, 2008.

LOS ALAMOS NATIONAL LABORATORY
FOUNDATION

By: Diana J. MacArthur
Its President

ATTEST:

[Signature]
Its Secretary