

AMENDED AND RESTATED BYLAWS OF THE TOWER FOUNDATION OF SAN JOSÉ STATE UNIVERSITY

Article I

Name, Purpose, Incorporation and Principal Office

1. The name of the Corporation is THE TOWER FOUNDATION OF SAN JOSE STATE UNIVERSITY (hereinafter, “**Corporation**” or “**Tower Foundation**”).
2. The purpose of the Tower Foundation is to serve as the fiduciary board which oversees the solicitation, receipt, investment and expenditure of donations for the development and advancement of the objectives of San Jose State University (hereinafter, “**University**” or “**SJSU**”) as well as to advise the president of San Jose State University and the CEO of the Tower Foundation.
3. The Corporation was organized under and is governed by California Nonprofit Corporation Law.
4. The principal office of the Corporation shall be maintained in the City of SAN JOSE and County of SANTA CLARA.

Article II

Board of Directors

1. The Board of Directors of the Corporation (hereinafter, the “**Board**”) shall manage the Corporation. Directors shall be nominated by the Board’s Nominating & Governance Committee, and proposed to the Board for approval. Student and faculty (except those serving ex officio) representatives on the Board as described below shall be appointed to the Board directly by the President of the University.
2. The Board shall consist of individuals and ex officio holding the following titles either permanently or provisionally:
 - A. Fifty (50) Directors including ex officio members:
 - (i) No more than forty-one (41) Directors who are members of the community; at least five such Community Directors must be alumni of the University;
 - (ii) The President of the University (ex officio);
 - (iii) The Senior Vice President and Provost of the University (ex officio)

- (iv) The Vice President and Chief Financial Officer (CFO) of the University (ex officio)
- (v) The Chief Executive Officer (CEO) of the Tower Foundation;
- (vi) The Chair of the Academic Senate (ex officio);
- (vii) The President of the Alumni Association (ex officio);
- (viii) One member of the University's official Athletics fundraising organization (ex officio);
- (ix) One member of the faculty of the University to be appointed by the President; and
- (x) One member of the student body of the University, to be appointed by the President.

3. Each Director, except for ex officio Directors, Director Emeritus (as defined in section 16) and Directors appointed under paragraphs 2.A (ix) faculty representative and (x) student body representative, must be approved by the President of the University. Elected Directors must also make an annual gift of \$10,000 to SJSU for a designation of the Director's choice (contributions made from a corporation or entity on a Director's behalf are applicable toward the annual minimum gift requirement) and shall support occasional special fundraising campaigns. Director contributions must be received by September 30th of each year.
4. Each Director including the ex officio Directors shall have one vote.
5. The term of office of each elected Director shall be three years from July 1 of the first full year of service, (e.g., a Director who is elected January 1, 2000 would serve 3.5 years through June 30, 2003 for their first term). The term for the Director who is a member of the faculty shall begin July 1 and be for two years and the term for the Director who is a member of the student body shall begin July 1 and be one year or longer as approved by the president of the university. The term for ex officio Directors extends through their term in office at the University, the Alumni Association or the official Athletics fundraising organization.
6. Founding Directors are Directors whose membership on the Board commenced on or before June 30, 2007.
7. Intentionally blank.
8. Each Director, except ex officio and Founding Directors, may serve no more than three consecutive terms. The member of the faculty may serve one two-year term.
9. The Board can from time to time reduce or increase the number of Directors, but in no event shall the Board be comprised of more than fifty (50) Directors or fewer than fifteen (15) Directors, including ex officio and Founding Directors. If there is a reduction in the number of Directors, such reduction shall not affect ex officio Directors or the Directors selected pursuant to paragraph 2.A above.

10. The terms of Directors shall run from July 1st of the year of appointment and end on June 30th of the following third year. The Directors, except for ex officio Directors, will be divided into three classes. At the first appointment of Directors, or in the first appointment of any Directors added as a result of an amendment to these Amended and Restated Bylaws (“**Bylaws**”), or by increase by the Board in the number of Directors, the Board shall attempt to establish terms of office such that the membership of the Board shall be divided into approximately equally sized groups of one-, two- and three-year terms, in order that subsequent periods shall select approximately one- third of the Board membership.
11. Any elected Director or Directors or Advisory Council Member(s) may be removed from office without cause if such removal is approved by a majority of the Directors then in office and the President of the University has approved the removal in writing. The Board may declare vacant the office of an elected Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final judgment of any court to have breached any duty arising under Sections 5231 and 5238 of the Law.
12. The Board shall meet at least four times per year.
13. The Board shall manage the Corporation and have charge of the properties of the Corporation. It shall possess all the powers and be charged with all the duties necessary to carry out fully the dictates of the Amended and Restated Articles of Incorporation (“**Articles**”) and the provisions of these Bylaws.
14. The Board shall:
 - A. Be responsible for all fiscal affairs of the Corporation. At the Board’s direction, the Audit Committee shall engage the independent auditor.
 - B. Give approval to the raising of funds in the name of the Corporation or any other funds that are expected to be kept by the Corporation.
 - C. Be responsible for all activities carried on by or under the auspices of the Corporation.
15. The Board may adopt any necessary rules of procedures for the Corporation’s operation provided they are not inconsistent with the Certificate of Incorporation, regulations of the State of California or of the California State University, or these Bylaws.
16. In recognition of services and contributions made to the Tower Foundation, the Board may from time to time give the honorary title of Director Emeritus. Individuals given the honorary title leave active board service and relinquish the rights and power of any Director. A Director Emeritus may participate in Tower Foundation activities including board and committee meetings as an honored guest.
17. No Director shall receive any salary or other similar compensation for services rendered as a Director or committee member. The Corporation shall not make any loan of money or property to, or guarantee the obligation of, any Director or officer, unless approved in advance by the Attorney General of California.

- 18. Directors, including ex officio and Founding Directors, and such other persons as determined by the Board from time to time shall complete and file with the COO annually a statement on potential conflicts of interest. The Audit Committee shall prescribe the nature and form of this statement annually. The COO will report annually to the Audit Committee on Directors' potential conflicts of interest.

Article III

Officers

- 1. The officers of the Corporation shall consist of at least a Chair, Vice Chair, Chief Executive Officer, Secretary, Treasurer, and Chief Operating Officer. The Board may from time to time appoint such other officers as it may determine. One person may hold and perform the duties of more than one office, except that the same person may not hold the office of Chair and concurrently hold any of the offices of Secretary, Treasurer or Chief Operating Officer.
- 2. The officers shall be elected by the Board from among the Directors who then hold office excluding ex officio Directors. Each officer shall hold office until such officer's successor is elected and qualified or until such officer's earlier death, resignation, or removal, subject to the rights, if any, of an officer under any contract of employment with the Corporation. All officers shall be subject to the supervision and direction of the Board.
- 3. Any officer elected or appointed by the Board may be removed at any time, with or without cause, by a vote of majority of the Board, subject to the rights, if any, of an officer under any contract of employment with the Corporation.
- 4. Any officer may resign at any time by giving written notice to the Board. Unless otherwise specified in the notice, the resignation shall take effect at the time of receipt by the Board. The acceptance of such resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.
- 5. A vacancy in any office arising from any cause shall be filled for the unexpired portion of the term by the Board at the next regular or special meeting of the Board.
- 6. The Chair shall (i) preside at all meetings of the Directors, Board, and Executive Committee; (ii) subject to the approval of the Board, appoint such standing, special, or other Committees as from time to time are established by the Directors or the Board; and (iii) sign and execute for the Corporation, Board, and Executive Committee all documents issued by those bodies when duly authorized to do so.
- 7. The Vice Chair shall (i) in the absence or disability of the Chair perform the duties and exercise the powers of the Chair; and (ii) have such other powers and perform such duties as usually pertain to his or her office or as properly required of him or her by the Board.
- 8. The Chief Executive Officer (hereinafter "**CEO**") shall (i) act as the primary liaison to

SJSU as it relates to advancement and fundraising activities and may serve as the direct supervisor to the Chief Operating Officer (hereinafter the “**COO**”); (ii) report on the activities of the Corporation at each regular meeting of the Board; and (iii) have such other powers and perform such duties as usually pertain to his or her office or as properly required of him or her by the Board.

9. The Secretary shall (i) keep or cause to be kept the original or a copy of the Corporation’s Articles of Incorporation and these Bylaws, as amended, at its principal office; (ii) record, certify, and keep or cause to be kept, the original or a copy of the minutes of all meetings and resolutions of the Board and the Committees in a form that is readily convertible into a clearly legible tangible form; (iii) give and serve all notices and reports as required by law and these Bylaws; (iv) keep the corporate seal, if any, to sign such instruments as require the seal and or his or her signature; and (v) exhibit at all reasonable times the Corporation’s articles of incorporation, Bylaws, and minute book to any Director upon written demand at the office of the Corporation.
10. The Treasurer shall (i) have the custody of all funds and securities of the Corporation and shall keep and maintain full and accurate accounts of all deposits, disbursements, properties, and business transactions of the Corporation; (ii) deposit all moneys and other valuable effects in the name and to the credit of the Corporation in the depositories designated by the Board and shall disburse the funds of the Corporation as may be ordered by the Board; (iii) report on the Corporation’s financial condition at regular and special meetings of the Directors and the Board, as well as other entities as required by Federal or State regulation or by the policies of the California State University and the University; (iv) serve on the Finance and Investment Committee.
11. The COO shall (i) be entitled to attend all meetings of the Board and its committees but shall have no vote; (ii) oversee the day-to-day operations and activities of the Corporation; (iii) may appoint additional staff to supervise activities of the Tower Foundation providing such appointments do not violate the Tower Foundation budget annually approved by the Board and are consistent with these Bylaws; and (iv) shall have such other powers and duties as shall be assigned to the office by the Board.
12. Any officer other than the Chair, Vice Chair, CEO, Secretary, Treasurer, and COO, shall have such duties as are established by resolution of the Board or by direction of an officer authorized by the Board to prescribe the duties of other officers. In the absence of such resolution, the respective officers shall have the powers and shall discharge the duties customarily and usually held and performed by the officers of corporations similar in organization and purpose to the Corporation, subject to the control of the Board.

Article IV

Committees

1. Each Director, excluding ex officio, and Founding Directors, shall serve on a standing Committee.

2. The voting members of the Executive Committee shall consist of the officers, the most recent past Chair of the Board, the University President, the CEO, the Chairs of any Committees and sub-Committees of the Board. The Secretary/COO shall be a member of the Executive Committee but shall have no vote.
3. The Executive Committee shall have the powers and perform the duties of the Board in the interim between Board meetings except as otherwise provided by law, the Articles of Incorporation, these Bylaws, or by resolution of the Board.
4. Each Committee shall meet as often as needed to carry out the duties for which it is responsible.
5. Each Committee shall have a Chair and Vice Chair who each serve a two year term. Chair or Vice Chair may not serve more than two consecutive terms in the position. The terms of Committee Chairs and Vice Chairs shall run from July 1st of the year after appointment.
6. Committee Vice Chairs are not required to be Directors of the Board.
7. Committee Vice Chairs shall act in place of the Chair during the latter's absence or disability and shall carry out the duties of the Chair should it become vacant prior to the expiration of the term of the incumbent until assuming the role as Chair after July 1st of the next election.
8. Committees may have campus members and industry experts who are not members of the Board of Directors.
9. At the next regularly or specially scheduled meeting of the Board following a meeting of the Executive Committee, the Executive Committee shall report its actions to the Board.
10. The Standing Committees of the Board shall be: Finance and Investment, Audit, Nominating and Governance, and Development. Standing Committees shall be created and appointed by the Board, and authorized by specific delegation to, without further Board action, make and implement decisions on behalf of the Board, or to implement, with some degree of discretion, decisions of the Board pursuant to guidelines established by the Board.
 - A. Finance and Investment Committee. The Finance and Investment Committee shall oversee the financial affairs of the Corporation, recommend and monitor the Corporation's operating budget, monitor the investment policy statement, review the performance of investments, and related assets. The Committee shall have authority to retain and dismiss investment managers, although the Board of Directors must approve the engagement of the investment consultant. The Finance and Investment Committee shall be comprised of a Chair, Vice Chair, the CEO, and one or more other Directors. The Committee may also have industry experts who are not members of the Board of Directors.
 - B. Audit Committee. The Audit Committee shall be comprised of Board members selected by a majority vote of the Directors in office. The Audit Committee shall be responsible for recommending the engagement or discharge of independent auditors, for the review and approval of the annual independent audit and the

990 tax return, shall direct and supervise investigation into matters relating to audit functions, and review with independent auditors the plans and scope of annual audits. The Audit Committee shall be comprised of a Chair, Vice Chair, and one or more other Directors; the Committee may also have industry experts who are not members of the Board of Directors. Neither the Chair of the Finance and Investment Committee nor the CEO may serve as a member of the Audit Committee.

- C. Nominating and Governance Committee. The Nominating and Governance Committee shall nominate qualified candidates for the Board and oversee the Corporation's compliance with applicable laws. It shall be comprised of the Chair, Vice Chair, Chair of the Board of Directors, immediate past Chair of the Board of Directors, the CEO, one or more other members of the Board of Directors.
- D. Development Committee. The Development Committee shall direct and oversee the Corporation's fundraising campaigns and development efforts. It shall be comprised of the Chair, Vice Chair, Chair of the Board of Directors, the CEO, one or more other members of the Board of Directors.

- 11. In the event that the Board determines that the establishment of an ad-hoc Committee would benefit the management of the Corporation, the Board may from time to time establish one or more such committees. The establishment of an ad-hoc Committee shall be effected by a Board resolution which specifically sets forth the powers and duties delegated to such Committee and approved by the vote of the majority of the Directors then in office. Each ad-hoc Committee shall have at least three Directors.
 - A. The role of the Compensation Committee is to approve compensation for executives employed by the Tower Foundation. The committee is activated when there is a recruitment for a C-level Tower executive, or in rare cases if increases in annual compensation exceed the amount offered to other Tower exempt employees.

- 12. The Board may, from time to time, create, alter and abolish Committees of the Board (with the exception of the Executive Committee) and define the duties and responsibilities and set the membership thereof. Each Committee shall have at least three Directors. The Chair, upon the approval of the Board, shall appoint members of the Committees and sub-Committees. If the Board deems it advisable to recruit non-Directors to any Committee, these shall be in addition to the minimum number of three Directors and in no case shall number more than one half the number of Directors on the Committee.

Article V

Meetings

- 1. Meetings of the Directors, Board, or Executive Committee shall be held at a time, date and place determined by the Chair or the CEO. A copy of the minutes of each meeting

of the Directors, Board, or the Executive Committee, shall be filed with the COO promptly following said meeting, and shall be distributed to the membership of the entity as appropriate.

2. All meetings of the Board of Directors, the Executive Committee, and other Committee meetings shall be open and public, and all persons shall be permitted to attend; provided, however, that the Board, Executive Committee, or other affected Committee may hold closed sessions during any meeting to consider those matters that may lawfully be considered in such sessions under Article 2 (commencing with Section 89920) of Chapter 7 of Part 55 of the Education Code.
3. A quorum for the transaction of business at any meeting of the various constituent units of this Corporation shall be:
 - A. For the Board: at least one-third of the voting Directors presently serving;
 - B. For any standing or ad-hoc Committee of the Board: a majority.
4. The Chair of any Committee may poll the voting members of that Committee on matters of importance arising between meetings of such Committee, provided that a majority of voting members approves the measure. Such polling shall be conducted by email.
5. Written notice of all regular meetings of the Board, the Executive Committee, and other Committees that are required to hold open meetings shall be provided to all Directors and Committee members prior to the meeting. A special meeting of the Board may be called by the Chair or CEO, or by one-third of the non ex officio Directors upon one week's prior notice to the Directors. A special meeting may be called with less than one week's prior notice if all members of the Board or Committee (as appropriate) signs a waiver of notice. A special meeting of the Executive Committee may be called by the CEO, the Chair, or by one-third of the Directors upon one week's notice to the Directors. A notice forwarded by telephone, facsimile, electronic mail or other electronic transmission shall be deemed written notice sufficient under these By-Laws. Digitally signed communication is acceptable, provided it conforms to the requirements set forth in California Government Code Section 16.5. Written notice of any of the above-described meetings shall also be given within the same time periods prior to the meetings as applies to the Board or Committee members, to any person or medium who requests such notice in writing. Timely posting of notice on the Company's website will constitute written notice.
6. Any action required or permitted to be taken by the Board or any Committee thereof may be taken without a meeting if all of the directors or Committee members consent to the action in writing and the number of directors or committee members then serving constitutes a quorum. For purposes of this Section, "all of the directors or committee members" shall not include any interested director as defined in Section 5233 of the California Nonprofit Corporation Law. The written consents shall be filed with the minutes of the proceedings of the Board or Committee. The action by written consent shall have the same force and effect as a unanimous vote of the Directors or Committee members.

7. Members of the Board or any Committee thereof may participate in a meeting of the Board or such Committee by means of conference telephone, electronic video screen communication, or similar electronic transmission by and to the Corporation provided all participants, including in-person participants, have the reasonable opportunity to participate in the meeting and to hear one another substantially concurrently; and in the case of meetings of the Board, each Director has the means to participate in all matters before the Board in such meeting, including the ability to propose or object to a specific action proposed to be taken; and if any vote or action is taken by means of electronic transmission to the Corporation or electronic video screen communication a record of that vote or action is maintained by the Corporation that is capable of retention, retrieval, and review, and may thereafter be rendered into legible tangible form. Such participation by electronic transmission constitutes presence in person of a participant. Any notice to a Director to conduct a meeting of the Board by electronic transmission by and to the corporation shall include a notice that a Director may request that the meeting be held at a physical location.
8. Any action which may be taken at any regular or special meeting of the Board or any Committee thereof may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Unless otherwise provided by the Articles or Bylaws and if approved by the Board, that ballot and any related material may be sent by electronic transmission by the Corporation and responses may be returned to the corporation by electronic transmission to the Corporation. That ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Cal. Corp. Code Sections 5511 (transmittal and delivery of notices or reports) and 5514 (marking of ballots). All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of Directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received by the Corporation in order to be counted. Once received by the Corporation, a written ballot may not be revoked. Directors may be elected by written ballot under this section. In any election of Directors, any form of written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.

Article VI

Fiscal Year

The fiscal year of the Corporation shall begin on the first day of July and shall end on the thirtieth day of June in the following year.

Article VII

Tax Status

1. The Corporation will endeavor to keep a status that permits donors to deduct gifts to it for the University from their taxes to the maximum extent permitted by law.
2. The Corporation shall endeavor to receive income which is largely consistent with a tax-exempt status under Federal and State regulation, but recognizes a minimal portion of taxable income may appropriately be accepted, with concurrence of the Treasurer and to be reported to the Board at its next regular or special meeting.
3. No part of the net earnings of this Corporation shall inure to the benefit of or be distributed to nor shall there be the right to receive or be lawfully entitled to receive any pecuniary profit from the operation thereof to its Directors, officers, staff or other private persons except that the Corporation shall be empowered to pay reasonable compensation for services rendered in effecting one or more of such purposes and to make payments and distribution in furtherance of the purposes hereinabove set forth, and no Director, officer or other private person shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation.
4. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, nor shall the Corporation participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

Article VIII

Indemnification

All Directors, officers, and employees of the Corporation who are made, or threatened to be made, a party to any legal action or proceeding, shall be indemnified, to the extent authorized by the Board, provided such indemnification is permitted by law. The Board is authorized to

purchase insurance coverage against the risks of indemnification.

Article IX

Auxiliary Organization

This Corporation is an auxiliary organization of San Jose State University, as defined in Section 89901(d) of the California Education Code. In addition to the restrictions in the Amended and Restated Articles of Incorporation of this Corporation, it shall not engage in any activity except those activities permitted by the Operating Agreement between this Corporation and the Trustees of the California State University.

Article X

Amendments

1. These Bylaws may be amended at any meeting of the Directors by a majority vote.
2. The Board shall, directly or by Committee, regularly review these Bylaws for currency and effectiveness.