

only as authorized in the specific case upon a determination that indemnification of the director, trustee, officer, employee or agent is proper under the circumstances because the person has met the applicable standard of conduct as set forth in Section 1 or 2 of this Article. This determination shall be made in any of the following ways:

- (a) by majority vote of a quorum of the Board of Directors consisting of directors who were not parties to the action, suit or proceeding; or
- (b) if the quorum described in subdivision (a) is not obtainable, then by a majority vote of a committee of directors who are not parties to the action, suit or proceeding. The committee shall consist of not less than two (2) disinterested directors; or
- (c) by independent legal counsel in a written opinion; or
- (d) by the members.

Section 5. Partial Indemnification: If a person is entitled to indemnification under Section 1 or 2 of this Article for a portion of expenses, including attorneys fees, judgments, penalties, fines and amount paid in the settlement, but not for the total amount thereof, the Corporation shall indemnify the person for the portion of the expenses, judgments, penalties, fines or amounts paid in the settlement for which the person is entitled to be indemnified.

Section 6. Liability Insurance: Notwithstanding the foregoing, the right to indemnification provided to any person described in Sections 1, 2, and 3 of this Article shall exist only to the extent it exceeds the amount of any valid and collectible insurance proceeds or other source of indemnification available for the benefit of such person, including any benefit available under any self-insurance plan of the Corporation, or any insurance, primary or secondary, available pursuant to the plan of any other organization. No rights or subrogation are intended to be created by this Section. Notwithstanding any limit on indemnification under Michigan law, the Corporation may purchase and maintain insurance on behalf of any person described above against any liability asserted against such person or incurred by such person in any such capacity arising out of his status as such, whether or not the Corporation would otherwise have the power to indemnify under the circumstances.

Section 7. Expense Advancement: Expenses incurred in defending a civil or criminal action, suit or proceeding described in Section 1 or 2 of this Article shall be paid by the Corporation in advance of the final disposition of the action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, trustee, officer, employee or agent to repay the expenses if it is ultimately determined that the person is not entitled to be indemnified by the Corporation. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made but need not to be secured unless otherwise specifically prescribed by a majority vote of the Board of Directors in the manner described in Section 4 (a) or 4 (b) of this Article.