

or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal, other than an action by or in the right of the Corporation, by reason of the fact that the person is or was a director, trustee, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against expenses, including attorneys fees, judgments, penalties, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with the action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation or its members, and with respect to any criminal action or proceeding, if the person had no reasonable cause to believe that the conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.

Section 2. Indemnification; Corporate or Derivative Claims: The Corporation shall indemnify a person who was or is a party to or is threatened to be made a party to a threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, trustee, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not, against expenses, including actual and reasonable attorneys fees and amounts paid in settlement, incurred by the person in connection with the action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation or its members. However, indemnification shall not be made for a claim, issue or matter in which the person has been found liable to the Corporation unless and only to the extent that the court in which the action or suit was brought has determined, upon application, that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for expenses which the court considers proper.

Section 3. Mandatory Indemnification: To the extent that a director, trustee, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of an action, suit, or proceeding referred to in Section 1 or 2 of this Article, or in defense of a claim, issue to matter in the action, suit or proceeding, the successful party shall be indemnified against expenses, including actual and reasonable attorneys fees incurred in connection with the action, suit or proceeding and in any action, suit or proceeding brought to enforce the mandatory indemnification provided in this Section.

Section 4. Determination of Permissive Indemnification: An indemnification under Section 1 or 2 of this Article, unless ordered by a court, shall be made by the Corporation