

AGREEMENT

This Agreement is made effective as of February 28, 2009 ("Effective Date"), by and between The Foundation for Excellence in Podiatric Medicine, a California nonprofit public benefit corporation (the "FFE"), and Samuel Merritt University, a California nonprofit public benefit corporation ("SMU").

Background

A. The FFE is a California nonprofit public benefit corporation formed on January 20, 1982. Pursuant to its Articles of Incorporation ("Articles"), the FFE's purpose is "to provide funds and support for the activities and related corporations in the field of medical care and podiatric medical education of the California College of Podiatric Medicine, Inc., a California nonprofit public benefit corporation, provided such corporation is nonprofit and tax exempt under federal and State of California laws and to supply the funds and properties coming into this corporation's hands toward furthering the said educational and health care activities and services of said corporation."

B. SMU is a California nonprofit public benefit corporation formed on August 29, 1984. It owns and operates Samuel Merritt University, a post-secondary institution dedicated to providing a high quality education in the health sciences (the "University"). The University offers degrees at the undergraduate and graduate level in five academic disciplines: nursing, occupational therapy, physical therapy, physician assistant and podiatric medicine.

C. Until July 1, 2002, the California College of Podiatric Medicine, Inc., a California nonprofit public benefit corporation ("CCPM"), owned and operated the California College of Podiatric Medicine which offered a post-baccalaureate doctor of podiatric medicine degree (the "Program").

D. Effective July 1, 2002, CCPM and SMU (known at the time as Samuel Merritt College) consummated a merger in which CCPM, as the disappearing entity, merged into SMU, as the surviving entity. Under the merger, SMU succeeded to all of the rights and properties of CCPM, and SMU became subject to the debts and liabilities of CCPM by operation of law and pursuant to the merger documents. As the successor entity, SMU now owns and operates the Program as the California School of Podiatric Medicine ("CSPM").

E. The FFE's Articles also provide that it is a related organization as described in Section 5132(a)(2) of the California Corporations Code, requiring that the FFE dissolve whenever its charter is surrendered to, taken away by, or revoked by CCPM. Further, upon dissolution, the FFE's remaining assets are to be distributed to CCPM "or its successor corporation" provided CCPM or the successor is organized and operated for charitable and public purposes and is tax-exempt under section 501(c)(3) of the Internal Revenue Code (the "Code").

F. The FFE would like a greater degree of autonomy and independence in its future charitable activities while committing to continue its support for CSPM, and SMU is willing to support the independence of the FFE provided that the intent of donors to benefit CCPM and

SMU continues to be honored. Such autonomy and independence will come from amendments to the FFE Articles and Bylaws and other agreements and covenants as described below.

NOW THEREFORE, for and in consideration of the premises and the covenants and agreements below, the parties hereby agree as follows:

Agreements

ARTICLE 1. ORGANIZATIONAL DOCUMENTS.

1.01. Amendments to Articles. The FFE's Board of Governors shall adopt, in substantially unaltered form, the amended and restated Articles of Incorporation attached hereto as Exhibit A (the "Amended Articles"), and shall promptly file the Amended Articles, as adopted, with the California Secretary of State. Within thirty (30) days of filing the Amended Articles with the California Secretary of State, the FFE shall provide SMU with a certified copy of the filed Amended Articles.

1.02. Amendments to Bylaws. The FFE's Board of Governors shall adopt, in substantially unaltered form, the bylaws that are attached hereto as Exhibit B. Within thirty (30) days of adopting these amendments, the FFE shall notify SMU that the amendments have been adopted and shall provide to SMU a copy certified by the Secretary of FFE of the amended Bylaws.

1.03. Future Amendments. The FFE covenants and agrees that it shall make no other changes to its Articles or Bylaws which affect the status or rights of SMU to receive funds and support from the FFE as provided in this Agreement, provided SMU continues to operate CSPM, without the prior written consent of SMU, which consent shall be in its sole discretion. Changes requiring prior consent include, but are not limited to, a change in the stated purposes of the FFE which affects the use of funds and support to CSPM, a change in the distribution of FFE's remaining assets in the event of dissolution as provided in this Agreement or a change in the SMU President's right to attend board meetings. Whenever changes are made to the FFE Articles or Bylaws in the future, provided SMU continues to operate CSPM, the FFE shall provide a copy to SMU within thirty (30) days of their adoption.

ARTICLE 2 CHARITABLE ASSETS.

2.01. Dedication of Assets. The FFE shall use all assets it holds or receives, whether restricted or unrestricted (including, but not limited to, endowments and donor-restricted funds), as required by the charitable trust doctrine under California law ("Charitable Trust Law"). Assets held or received by the FFE before the date on which the Amended Articles are accepted for filing by the California Secretary of State (the "Filing Date"), with the exception of a scholarship fund held by FFE as further described in Exhibit C ("Harkless Fund"), shall be known as the "Original Corpus." The FFE shall provide an accounting of the Original Corpus to SMU within thirty (30) days after the Filing Date. From and after the Filing Date, the Original Corpus shall include all accumulated unspent earnings on those assets and shall be used exclusively to support the activities of CSPM except as otherwise provided in Sections 3.01 and 3.02 below. For so long as SMU operates CSPM and the FFE still holds or has spent any of the Original Corpus in the preceding year, the FFE shall provide to SMU the financial reports it

gives to its Board of Directors and annual financial information which shows funds comprising the Original Corpus and changes thereto. The FFE may use any assets it receives on or after the Filing Date in any manner permitted by the Amended Articles, the Bylaws, as amended, and Charitable Trust Law.

2.02. Compliance with Donor Intent. In addition, the FFE will abide by any other use restrictions imposed by donors on the FFE's assets at the time of contribution, either before or after the Filing Date, subject to Charitable Trust Law and the provisions of the California Uniform Management of Institutional Funds Act or its successor ("UMIFA"). The FFE acknowledges that for purposes of determining donor intent, except for the Harkless Fund, all donations received by the FFE prior to the Filing Date were originally raised for the benefit of and are intended to support the activities of CSPM or its predecessor whether or not the donation was restricted by the donor at the time of the donation.

ARTICLE 3. CHANGES TO THE RELATIONSHIP BETWEEN SMU AND CSPM.

3.01. Closure of CSPM. If SMU closes CSPM, the FFE shall use the Original Corpus to support students of podiatric medicine in California or to support endowed chairs in podiatric medicine in California, subject to any restrictions imposed under the Charitable Trust Law and UMIFA. The FFE shall use its remaining assets in compliance with Article 2 of this Agreement.

3.02. Transfer of CSPM. If SMU transfers operation of CSPM to another entity, SMU will not object to the use of the FFE's assets as set forth in Section 3.01, provided the FFE shall make a reasonable effort to obtain the consent of living or existing donors (whether individuals or entities) to the change in use of assets. If donors are deceased or no longer in existence, or if, after a reasonable effort by the FFE a donor does not respond, SMU will not object to the use of the FFE's assets as set forth in Section 3.01. Notwithstanding the foregoing, the FFE may, in its sole discretion and to the extent permitted under the Charitable Trust Law and UMIFA, choose to use the assets to support the successor that is operating CSPM.

ARTICLE 4. CHANGES TO THE FFE.

4.01. Dissolution of the FFE. If the FFE elects to dissolve, the remaining assets available for distribution after paying or adequately providing for the debts and obligations of the FFE shall be distributed to SMU, or, if the FFE so desires, the remaining assets may be distributed to another California nonprofit entity, tax-exempt under section 501(c)(3) of the IRC and which has agreed to comply with all charitable trust restrictions applicable to the assets and to use the remaining assets to fund and support podiatric medical education and care, such as the foundation associated with the California Podiatric Medical Association, for distribution in compliance with Article 2 and donor intent.

4.02. Merger. If the FFE seeks to merge into another entity, the FFE shall make any such merger contingent upon the surviving entity's agreement to apply all provisions of this Agreement to any merged assets acquired from the FFE.

4.03. Sale or Transfer of Assets. If the FFE sells all or substantially all of, or otherwise transfers, its assets, the proceeds of such sale or transfer shall be used as provided in Article 2.

ARTICLE 5. FINANCIAL MATTERS.

5.01. Financial Matters. Effective on the Filing Date, SMU will no longer be required to report the FFE's financial information on its books. Within thirty (30) days of receiving a certified copy of the Amended Articles pursuant to Section 1.01, the FFE shall provide SMU with a complete accounting of the FFE's finances as of the close of business on the day immediately preceding the Filing Date. So long as CSPM remains affiliated with SMU, the FFE shall provide SMU with copies of its annual federal and state information returns (Forms 990 and 199 or equivalent) upon request by SMU. The FFE shall also provide the financial information required under Section 2.01 of this Agreement.

ARTICLE 6. MISCELLANEOUS.

6.01. Recitals, Exhibits and Headings. The background recitals contained herein are made a part of this Agreement and the Exhibits attached hereto are incorporated into this Agreement. The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and will not affect the construction or interpretation of any of its provisions.

6.02. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

6.03. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered an original, but all of which together shall constitute a single instrument.

6.04. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

6.05. Assignment. This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective successors and assigns. No party may assign their obligations under this Agreement.

6.06. Attorneys' Fees. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

6.07. Survival of Covenants. All representations, warranties, covenants and agreements of the parties contained in this Agreement or in any instrument, certificate or other writings provided for in it, shall survive the execution of this Agreement.

6.08. Notices. Any notice to the parties required or permitted under this Agreement shall be given in writing. The notice shall be deemed to have been given at the following times: (a) on the date of service if served personally on the party to whom notice is to be given; (b) on the first day after transmission if transmitted by telex or electronic facsimile; (c) on the second day after deposit if deposited with an overnight express courier service; or (d) on the second day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, addressed to the parties as follows:

The FFE: The Foundation for Excellence in Podiatric Medicine
Attn: Randall Sarte, D.P.M.
 Chairman
2322 Butano Drive, Suite 201
Sacramento, California 95825-0629
Fax: (916) 482-7830

with copy to: Mel Barton, D.P.M.
 76447 Shoshone Drive
Indian Wells, California 92210-8851
Fax: (760) 773-1009

SMU: Samuel Merritt University
Attn: Sharon L. Diaz,
 President and Chief Executive Officer
370 Hawthorne Avenue Oakland, California 94609
Fax: (510) 869-6725

with copy to: McDonough Holland & Allen PC
Attn: Nancy P. Lee 555
Capitol Mall, 9th Floor
Sacramento, California 95814
Fax: (916) 444-8334

Any party may change its address for purposes of this Section by giving the other party written notice of the new address in the manner set forth above.

6.09. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California (exclusive of its laws regarding the conflict of laws). The state courts of California shall have exclusive jurisdiction over any judicial proceedings relating to any dispute arising out of the interpretation, performance or breach of this Agreement. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement shall be instituted only in the courts of the County of Alameda, State of California.

6.10. Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

6.11. Further Assurances. The parties, at any time after the execution of this Agreement, will execute, acknowledge and deliver any further documents and instruments and take such action as may be reasonably requested by the other party for the purpose of carrying out the intent of this Agreement and performing the obligations created hereunder.

6.12. Name Change. Nothing in this Agreement or in the FFE Amended Articles or bylaws shall be effected by any change in the name of SMU, CSPM or the FFE.

Effective as of the date set forth above.

THE FOUNDATION FOR EXCELLENCE IN
PODIATRIC MEDICINE, a California nonprofit public
benefit corporation

By:
Name and Title:


Randall Sarte, DPM, Chairman

SAMUEL MERRITT UNIVERSITY, a California
nonprofit public benefit corporation

By:
Name and Title:

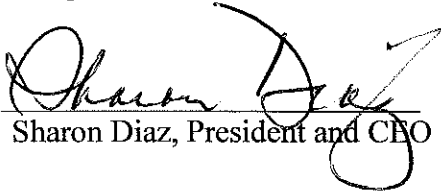

Sharon Diaz, President and CEO

EXHIBIT A

**ARTICLES OF INCORPORATION
OF
CALIFORNIA FOUNDATION
FOR EXCELLENCE IN PODIATRIC MEDICINE**

**ARTICLES OF INCORPORATION
OF
CALIFORNIA FOUNDATION FOR EXCELLENCE IN PODIATRIC MEDICINE**

ARTICLE I

The name of this corporation is California Foundation for Excellence in Podiatric Medicine.

ARTICLE II

A. This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

B. The specific and primary purpose of this corporation is to engage in charitable and educational activities within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future United States internal revenue law (the "Code"), by providing funds and support for the field of podiatric medical education and care in California.

ARTICLE III

A. This corporation is organized and operated exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code. Notwithstanding any other provision of these Articles, this corporation shall not carry on any activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code, or (2) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a)(2), 2106(a)(2)(A)(ii), 2522(a)(2), or 2522(b)(2) of the Code.

B. Except as permitted by law, no substantial part of the activities of this corporation shall consist of the carrying on of propaganda or otherwise attempting to influence legislation, nor shall this corporation participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE IV

The property of this corporation is irrevocably dedicated to charitable purposes, and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer, or member, if any, of this corporation, or any other private person. Upon the winding up and dissolution of this corporation and after paying or adequately providing for the debts and obligations of this corporation, the remaining assets shall be distributed to Samuel Merritt University, a California nonprofit public benefit corporation, a foundation affiliated with the California state podiatric medical association, or another nonprofit fund, foundation, or corporation that is organized and operated exclusively for charitable purposes and has agreed to comply with all charitable trust restrictions applicable to the assets and to use the assets to fund and support podiatric medical education and care in California, and that has established its tax-exempt status under Section 501(c)(3) of the Code.

EXHIBIT B

**BYLAWS
OF
CALIFORNIA FOUNDATION
FOR EXCELLENCE IN PODIATRIC MEDICINE**

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**BYLAWS
OF
CALIFORNIA FOUNDATION
FOR EXCELLENCE IN PODIATRIC MEDICINE**

**ARTICLE I
PRINCIPAL OFFICE**

The principal office of this corporation shall be located in the county of Alameda, California.

**ARTICLE II
MEMBERSHIP**

This corporation shall have no voting members, but the Board of Directors may, by resolution, establish one or more classes of nonvoting members and provide for eligibility requirements for membership and rights and duties of members, including the obligation to pay dues.

**ARTICLE III
DESIGNATORS**

Section 1. Naming of Designators. The Designators referred to in these Bylaws shall be the California Podiatric Medical Association, a California nonprofit mutual benefit corporation; the Founders Committee, described in Article V, Section 4; and the Alumni & Associates of the California School of Podiatric Medicine, an advisory council of the California School of Podiatric Medicine. Each Designator shall serve until that Designator either resigns or ceases to exist. If a Designator resigns or ceases to exist, or participates in a merger, consolidation, or sale or transfer of all or substantially all of its assets, that Designator may recommend a successor to the Board of Directors, which may, in its discretion, accept the recommendation or name a different successor.

Section 2. Actions of Designator. An action of a Designator, such as the designation of a director, shall be evidenced by a writing signed by an officer of the Designator, or, in the case of the Founders' Committee, by the Chair of the Founders' Committee, on behalf of the Designator, and shall be delivered to an officer of this corporation and filed by the Secretary with the proceedings of the Board of Directors of this corporation.

ARTICLE IV BOARD OF DIRECTORS

Section 1. Powers. This corporation shall have powers to the full extent allowed by law. All powers and activities of this corporation shall be exercised and managed by the Board of Directors of this corporation directly or, if delegated, under the ultimate direction of the Board.

Section 2. Number of Directors. There shall be nine directors.

Section 3. Limitations on Interested Persons. At all times, not more than 49% of the directors of this corporation may be interested persons. An interested person means either:

(a) any person currently being compensated by this corporation for services rendered to it within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director in his or her capacity as director; or

(b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 4. Designation and Term of Office of Directors. The directors of this corporation shall be designated by the Designators from time to time, as provided herein. Each Designator shall designate three directors from among that Designator's members. The effective date of any such designation shall be as provided therein. Designated directors shall be designated for a term of three years. A designated director shall serve until a successor has been appointed.

Section 5. Vacancies. A vacancy shall be deemed to exist on the Board in the event that the actual number of directors is less than the authorized number for any reason. A vacancy may be filled for the unexpired portion of the term by the Designator who designated the director whose departure from the Board resulted in the vacancy.

Section 6. Resignation and Removal. Resignations shall be effective upon receipt in writing by the Chairman of the Board or the Secretary of this corporation, unless a later effective date is specified in the resignation. A Designator may remove any director designated by that Designator at any time, with or without cause. The Board may remove a director without cause, provided that the Designator that designated that director consents to removal. The Board may, without Designator consent, declare vacant the office of a 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 order or judgment of any court to have breached any duty imposed by law, or who fails to attend two consecutive meetings of the Board.

Section 7. Annual Meetings. A meeting of the Board of Directors shall be held at least once a year. Annual meetings shall be called by the Chairman of the Board or any two directors, and noticed in accordance with Section 9.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board or any two directors who have been designated by different Designators, and noticed in accordance with Section 10.

Section 9. Notice. Notice of the annual meeting and any special meetings of the Board of Directors shall state the date, place, and time of the meeting and shall be given to each director at least four days before any such meeting if given by first-class mail or forty-eight hours before any such meeting if given personally or by telephone, including a voice messaging system, or by other electronic transmission such as e-mail, in compliance with Article XI, Section 5, of these Bylaws.

Section 10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be valid as though taken at a meeting duly held after proper call and notice, if a quorum is present, and if, either before or after the meeting, each of the directors not present provides a waiver of notice, a consent to holding the meeting, or an approval of the minutes in writing. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting the lack of adequate notice before the meeting or at its commencement.

Section 11. Quorum. A majority of the total number of directors then in office shall constitute a quorum, provided that in no event shall the required quorum be less than one-fifth of the authorized number of directors or two directors, whichever is larger. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise provided in Article IV, Sections 6 (removing directors) and 12 (taking action without a meeting); Article V, Section 1 (appointing Board Committees); Article VIII, Section 3 (approving self-dealing transactions); Article IX, Section 2 (approving indemnification); and Article XI, Section 6 (amending Bylaws), of these Bylaws or in the California Nonprofit Public Benefit Corporation Law. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 12. Action Without a Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent to such action in writing. Such written consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as the unanimous vote of such directors.

Section 13. Telephone and Electronic Meetings. Directors may participate in a meeting through use of conference telephone, electronic video screen communication, or other electronic transmission in compliance with Article XI, Section 5, of these Bylaws so long as all of the following apply:

(a) each director participating in the meeting can communicate with all of the other directors concurrently, and

(b) each director is provided with the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

Section 14. Standard of Care.

A. General. A director shall perform the duties of a director, including duties as a member of any Board Committee on which the director may serve, in good faith, in a manner such director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(i) one or more officers or employees of this corporation whom the director believes to be reliable and competent as to the matters presented;

(ii) counsel, independent accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(iii) a Board Committee upon which the director does not serve, as to matters within its designated authority, provided that the director believes such Committee merits confidence;

so long as in any such case, the director acts in good faith after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Except as provided in Article VIII below, a person who performs the duties of a director in accordance with this Section shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

B. Investments. Except with respect to assets held for use or used directly in carrying out this corporation's public or charitable activities, in investing, reinvesting, purchasing or acquiring, exchanging, selling, and managing this corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income as well as the probable safety of this corporation's capital. No investment violates this section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to this corporation.

Section 15. Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents, and to inspect the physical properties of this corporation.

Section 16. Director Compensation. The Board of Directors may authorize, by resolution, the payment to a director of reasonable compensation for services as a director. The Board may authorize the advance or reimbursement to a director of actual reasonable expenses incurred in carrying out his or her duties as a director, such as for attending meetings of the Board and Board Committees.

Section 17. Executive Compensation Review. The Board of Directors (or a Board Committee) shall review any compensation packages (including all benefits) of the Chairman of the Board or the chief executive officer and the Treasurer or chief financial officer, regardless of job title, and shall approve such compensation only after determining that the compensation is just and reasonable. This review and approval shall occur when such officer is hired, when the term of employment of such officer is renewed or extended, and when the compensation of such officer is modified, unless the modification applies to substantially all of the employees of this corporation.

Section 18. Role of President of Samuel Merritt University. The President of the Samuel Merritt University ("SMU") shall not be a member of the Board of Directors, but shall have the right to receive notices and Board materials for all Board meetings, and to attend all Board meetings, except for portions of materials or meetings in which the Board discusses issues of concern regarding this corporation's relationship with SMU, or in regard to which providing such materials to, or permitting the presence of, the President of SMU would destroy attorney-client privilege or any other privilege, as determined by the Board of Directors.

ARTICLE V COMMITTEES

Section 1. Board Committees. The Board of Directors may, by resolution adopted by a majority of the directors then in office, create any number of Board Committees, each consisting of two or more directors, and only of directors, to serve at the pleasure of the Board. Appointments to any Board Committee shall be by a majority vote of the directors then in office. Board Committees may be given all the authority of the Board, except for the powers to:

- (a) set the number of directors within a range specified in these Bylaws;
- (b) elect directors or remove directors without cause;
- (c) fill vacancies on the Board of Directors or on any Board Committee;
- (d) fix compensation of directors for serving on the Board or any Board Committee;
- (e) amend or repeal these Bylaws or adopt new Bylaws;
- (f) adopt amendments to the Articles of Incorporation of this corporation;

(g) amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable;

(h) create any other Board Committees or appoint the members of any Board Committees; or

(i) approve any merger, reorganization, voluntary dissolution, or disposition of substantially all of the assets of this corporation.

Section 2. Advisory Committees. In addition to the Committees described below, the Board of Directors may establish one or more Advisory Committees to the Board. The members of any Advisory Committee may consist of directors or non-directors and may be appointed as the Board determines. Advisory committees may not exercise the authority of the Board to make decisions on behalf of this corporation, but shall be restricted to making recommendations to the Board or Board Committees, and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee.

Section 3. Executive Committee. The members of the Executive Committee shall be the Chairman of the Board, Vice-Chairman, Secretary and Treasurer of this corporation, who shall serve on the Executive Committee at the pleasure of the Board. The Executive Committee, unless limited by a resolution of the Board, shall have and may exercise all of the authority of the Board in the management of the business and affairs of the Corporation between meetings of the Board; provided, however, that the Executive Committee shall not have the authority of the Board with respect to those matters enumerated in Section 1. Actions taken by the Executive Committee shall be reported to the Board no later than the next regular meeting of the Board.

Section 4. Founders' Committee. The Founders' Committee, which shall be an Advisory Committee to the Board, shall consist of not less than five nor more than 15 members. The following ten individuals shall comprise the initial membership of the Founders' Committee: Mel Barton, D.P.M.; Randall Sarte, D.P.M.; Richard Viehe, D.P.M.; Aaron Meltzer, D.P.M.; John Pagliano, D.P.M.; Don Anderson; Doug Taylor, D.P.M.; David Mullens, D.P.M.; Jeff Spanko, D.P.M.; and Don Green, D.P.M. Additional members shall be elected by majority vote of the members of the Founders' Committee. Each Founders' Committee member shall serve a term of three years, with approximately one-third of the members elected annually to provide for staggered terms. The Founders' Committee shall designate directors as provided in Article III, and shall provide such assistance to the Board as the Board shall request from time to time. The members of the Founders' Committee shall annually elect a Chair from among themselves, who shall serve at the pleasure of the Committee.

Section 5. Audit Committee. For any tax year in which this corporation has gross revenues of \$2 million or more, this corporation shall have an Audit Committee whose members shall be appointed by the Board of Directors, and who may include both directors and non-directors, subject to the following limitations: (a) members of the finance committee, if any, shall constitute less than one-half of the membership of the Audit Committee; (b) the chair of the Audit Committee may not be a member of the Finance Committee, if any; (c) the Audit

Committee may not include any member of the staff, including the Chairman of the Board or chief executive officer and Treasurer or chief financial officer; (d) the Audit Committee may not include any person who has a material financial interest in any entity doing business with this corporation; and (e) Audit Committee members who are not directors may not receive compensation greater than the compensation paid to directors for their Board service.

If the Audit Committee is composed and appointed as required by Section 1 above (concerning Board Committees), it shall be deemed a Board Committee on which the other directors are entitled to rely as provided in Article IV, Section 14, of these Bylaws; otherwise, the Board of Directors shall remain responsible for oversight and supervision of the Audit Committee as an Advisory Committee.

The Audit Committee shall: (1) recommend to the Board of Directors the retention and, when appropriate, the termination of an independent certified public accountant to serve as auditor, (2) negotiate the compensation of the auditor on behalf of the Board, (3) confer with the auditor to satisfy the Audit Committee members that the financial affairs of this corporation are in order, (4) review and determine whether to accept the audit, and (5) approve performance of any non-audit services provided to this corporation by the auditor's firm.

Section 6. Meetings.

A. Of Board Committees. Meetings and actions of Board Committees shall be governed by and held and taken in accordance with the provisions of Article IV of these Bylaws concerning meetings and actions of the Board of Directors, with such changes in the content of those Bylaws as are necessary to substitute the Board Committee and its members for the Board of Directors and its members. Minutes shall be kept of each meeting of any Board Committee and shall be filed with the corporate records.

B. Of Advisory Committees. Subject to the authority of the Board of Directors, Advisory Committees may determine their own meeting rules and whether minutes shall be kept.

The Board of Directors may adopt rules for the governance of any Board or Advisory Committee not inconsistent with the provisions of these Bylaws.

ARTICLE VI SCHOOL ADVISORY BOARD

Section 1. Membership; Term. The School Advisory Board, which shall be an Advisory Committee to the Board, shall consist of the following representatives from each California school of podiatric medicine: the President or Dean of the School (*ex officio*); the Director of Alumni Affairs (or equivalent official) of the School (*ex officio*); and two (2) faculty members. The faculty representatives of each school shall be selected by the school in its sole discretion, to serve a term of one year, with a limit of three consecutive terms. A faculty member may serve again after being absent from the School Advisory Board for at least one year. So long as the California School of Podiatric Medicine ("CSPM") remains affiliated with

SMU, CSPM shall be eligible to have representation on the School Advisory Board equal to that of any other California school of podiatric medicine, and, in addition, the President of SMU shall be a member of the School Advisory Board (*ex officio*).

Section 2. Duties and Responsibilities. The School Advisory Board shall represent the interests of each school and shall advise the Board of Directors regarding how this corporation might promote those interests. The School Advisory Board may provide such additional assistance to the Board as the Board shall request from time to time.

ARTICLE VII OFFICERS

Section 1. Officers. The officers of this corporation shall be a Chairman of the Board, a Vice-Chairman, a Secretary, and a Treasurer. The corporation may also have, at the discretion of the directors, such other officers as may be appointed by the Board of Directors. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the Chairman of the Board. No member of the School Advisory Board may serve as an officer of this corporation.

Section 2. Election. The officers of this corporation shall be elected annually by the Board of Directors, and each shall serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. Removal. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board of Directors or by an officer on whom such power of removal may be conferred by the Board of Directors.

Section 4. Resignation. Any officer may resign at any time by giving written notice to this corporation. Any resignation shall take effect on receipt of that notice by any other officer than the person resigning or at any later time specified by that notice and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of this corporation under any contract to which the officer is a party.

Section 5. Vacancies. A vacancy in any office for any reason shall be filled in the same manner as these Bylaws provide for election to that office.

Section 6. Chairman of the Board. The Chairman of the Board, who may also be referred to as the Chairman or the Chair, shall be the chief executive officer of this corporation and shall, subject to control of the Board, generally supervise, direct and control the business and other officers of this corporation. The Chairman of the Board shall be selected from among the directors. The Chairman of the Board shall preside at all meetings of the Board of Directors. The Chairman of the Board shall have the general powers and duties of management usually vested in the office of president of the corporation and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 7. Vice-Chairman. The Vice-Chairman shall, in the absence of the Chairman of the Board, carry out the duties of the Chairman of the Board, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws. The Vice-Chairman shall be selected from among the directors.

Section 8. Secretary. The Secretary shall supervise the keeping of a full and complete record of the proceedings of the Board of Directors and its committees, shall supervise the giving of such notices as may be proper or necessary, shall supervise the keeping of the minute books of this corporation, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws. The Secretary shall be selected from among the directors.

Section 9. Treasurer. The Treasurer shall be the chief financial officer of this corporation and shall supervise the charge and custody of all funds of this corporation, the deposit of such funds in the manner prescribed by the Board of Directors, and the keeping and maintaining of adequate and correct accounts of this corporation's properties and business transactions, shall render reports and accountings as required, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws. The Treasurer shall be selected from among the directors.

ARTICLE VIII CERTAIN TRANSACTIONS

Section 1. Loans. Except as permitted by Section 5236 of the California Nonprofit Public Benefit Corporation Law, this corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer; provided, however, that this corporation may advance money to a director or officer of this corporation or any subsidiary for expenses reasonably anticipated to be incurred in performance of the duties of such director or officer so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

Section 2. Self-Dealing Transactions. Except as provided in Section 3 below, the Board of Directors shall not approve, or permit the corporation to engage in, any self-dealing transaction. A self-dealing transaction is a transaction to which this corporation is a party and in which one or more of its directors has a material financial interest, unless the transaction comes within California Corporations Code Section 5233(b).

Section 3. Approval. This corporation may engage in a self-dealing transaction if the transaction is approved by a court or by the Attorney General. This corporation may also engage in a self-dealing transaction if the Board determines, before the transaction, that (a) this corporation is entering into the transaction for its own benefit; (b) the transaction is fair and reasonable to this corporation at the time; and (c) after reasonable investigation, the Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Board in good faith, with knowledge of the material facts concerning the transaction and the director's interest in the

transaction, and by a vote of a majority of the directors then in office, without counting the vote of the interested director or directors.

Where it is not reasonably practicable to obtain approval of the Board before entering into a self-dealing transaction, a Board Committee may approve such transaction in a manner consistent with the requirements above; provided that, at its next meeting, the full Board determines in good faith that the Board Committee's approval of the transaction was consistent with the requirements above and that it was not reasonably practical to obtain advance approval by the full Board, and ratifies the transaction by a majority of the directors then in office without the vote of any interested director.

ARTICLE IX INDEMNIFICATION AND INSURANCE

Section 1. Right of Indemnity. To the fullest extent allowed by Section 5238 of the California Nonprofit Public Benefit Corporation Law, this corporation may indemnify its agents, in connection with any proceeding, and in accordance with Section 5238. For purposes of this Article, "agent" shall have the same meaning as in Section 5238(a), including directors, officers, employees, other agents, and persons formerly occupying such positions; "proceeding" shall have the same meaning as in Section 5238(a), including any threatened action or investigation under Section 5233 or brought by the Attorney General; and "expenses" shall have the same meaning as in Section 5238(a), including reasonable attorneys' fees.

Section 2. Approval of Indemnity. On written request to the Board of Directors in each specific case by any agent seeking indemnification, to the extent that the agent has been successful on the merits, the Board shall promptly authorize indemnification in accordance with Section 5238(d). Otherwise, the Board shall promptly determine, by a majority vote of a quorum consisting of directors who are not parties to the proceeding, whether, in the specific case, the agent has met the applicable standard of conduct stated in Section 5238(b) or Section 5238(c), and, if so, may authorize indemnification to the extent permitted thereby.

Section 3. Advancing Expenses. The Board of Directors may authorize the advance of expenses incurred by or on behalf of an agent of this corporation in defending any proceeding prior to final disposition, if the Board finds that:

(a) the requested advances are reasonable in amount under the circumstances;
and

(b) before any advance is made, the agent will submit a written undertaking satisfactory to the Board to repay the advance unless it is ultimately determined that the agent is entitled to indemnification for the expenses under this Article.

The Board shall determine whether the undertaking must be secured, and whether interest shall accrue on the obligation created thereby.

Section 4. Insurance. The Board of Directors may adopt a resolution authorizing the purchase of insurance on behalf of any agent against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, and such insurance may provide for coverage against liabilities beyond this corporation's power to indemnify the agent under law.

ARTICLE X GRANTS ADMINISTRATION

Section 1. Purpose of Grants. This corporation shall have the power to make grants and contributions and to render other financial assistance for the purposes expressed in this corporation's Articles of Incorporation.

Section 2. Board of Directors Oversight. The Board of Directors shall exercise itself, or delegate, subject to its supervision, control over grants, contributions, and other financial assistance provided by this corporation. The Board shall approve a process for reviewing and approving or declining all requests for funds made to this corporation, which shall require such requests to specify the use to which the funds will be put, and include a mechanism for regular Board review of all grants made. The Board shall similarly approve a process for authorizing payment of duly approved grants to the approved grantee.

Section 3. Refusal; Withdrawal. The Board of Directors, in its absolute discretion, shall have the right to refuse to make any grants or contributions, or to render other financial assistance, for any or all of the purposes for which the funds are requested. In addition, the Board, in its absolute discretion, shall have the right to withdraw its approval of any grant at any time and use the funds for other purposes within the scope of the purposes expressed in this corporation's Articles of Incorporation, subject to any rights of third parties under any contract relating to such grant, and subject to Article XI, Section 8, regarding the dedication of this corporation's assets to certain purposes.

Section 4. Accounting. The Board of Directors shall determine under what circumstances to require that grantees furnish a periodic accounting to show that the funds granted by this corporation were expended for the purposes that were approved by the Board.

Section 5. Restrictions on Contributions. Unless otherwise determined by resolution of the Board of Directors in particular cases and subject to Article XI, Sections 8 and 9, this corporation shall retain complete control and discretion over the use of all contributions it receives, and all contributions received by this corporation from solicitations for specific grants shall be regarded as for the use of this corporation pursuant to the solicitation and not for any particular organization or individual mentioned in the solicitation in a manner that would result in earmarking under federal tax law. This corporation may accept contributions earmarked by the donor exclusively for allocation to one or more other organizations only if the Board of Directors of this corporation has approved in advance the charitable activity for which the donation was made, such as the approval of the funding and support of the activities of CSPM.

**ARTICLE XI
MISCELLANEOUS**

Section 1. Fiscal Year. The fiscal year of this corporation shall end each year on December 31.

Section 2. Contracts, Notes, and Checks. All contracts entered into on behalf of this corporation must be authorized by the Board of Directors or the person or persons on whom such power may be conferred by the Board from time to time, and, except as otherwise provided by law, every check, draft, promissory note, money order, or other evidence of indebtedness of this corporation shall be signed by the person or persons on whom such power may be conferred by the Board from time to time.

Section 3. Annual Reports to Directors. The Chairman of the Board shall furnish an annual written report to all directors of this corporation and to the President of SMU containing the following information:

(a) the assets and liabilities, including the trust funds of this corporation, as of the end of the fiscal year;

(b) the principal changes in assets and liabilities, including trust funds, during the fiscal year;

(c) the revenue or receipts of this corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

(d) the expenses or disbursements of this corporation, for both general and restricted purposes, for the fiscal year; and

(e) any transaction during the previous fiscal year involving more than \$50,000 between this corporation (or its parent or subsidiaries, if any) and any of its directors or officers (or the directors or officers of its parent or subsidiaries, if any) or any holder of more than ten percent of the voting power of this corporation or its parent or subsidiaries, if any, or any of a number of such transactions in which the same person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than \$50,000, as well as the amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any director or officer of this corporation. For each transaction, the report must disclose the names of the interested persons involved in such transaction, stating such person's relationship to this corporation, the nature of such person's interest in the transaction and, where practicable, the value of such interest.

The foregoing report shall be accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of this corporation that such statements were prepared without an audit from the books and records of this corporation. The report and any accompanying material may be sent by electronic transmission in compliance with Article XI, Section 5, of these Bylaws.

Section 4. Required Financial Audits. This corporation shall obtain a financial audit for any tax year in which it receives or accrues gross revenue of \$2 million or more, excluding grant or contract income from any governmental entity for which the governmental entity requires an accounting. Whether or not they are required by law, any audited financial statements obtained by this corporation shall be made available for inspection by the Attorney General and the general public within nine months after the close of the fiscal year to which the statements relate, and shall remain available for three years (1) by making them available at this corporation's principal, regional, and district offices during regular business hours and (2) either by mailing a copy to any person who so requests in person or in writing or by posting them on this corporation's website.

Section 5. Electronic Transmissions. Unless otherwise provided in these Bylaws, and subject to any guidelines and procedures that the Board of Directors may adopt from time to time, the terms "written" and "in writing" as used in these Bylaws include any form of recorded message in the English language capable of comprehension by ordinary visual means, and may include electronic transmissions, such as facsimile or email, provided (i) for electronic transmissions from the corporation, the corporation has obtained an unrevoked written consent from the recipient to the use of such means of communication; (ii) for electronic transmissions to the corporation, the corporation has in effect reasonable measures to verify that the sender is the individual purporting to have sent such transmission; and (iii) the transmission creates a record that can be retained, retrieved, reviewed, and rendered into clearly legible tangible form.

Section 6. Amendments. Proposed amendments to these Bylaws shall be submitted in writing to the directors at least one week in advance of any Board meeting at which they will be considered for adoption. The vote of two-thirds of the directors then in office or the unanimous written consent of the directors shall be required to adopt a Bylaw amendment; provided, however, that no amendment to these Bylaws shall take effect without the written consent of a majority of the Designators. No amendment to these Bylaws affecting the status or rights of SMU or CSPM to receive funds and support from this corporation, including but not limited to any changes affecting the use of funds and support to CSPM, the distribution of this corporation's remaining assets in the event of a dissolution, the SMU President's right to attend Board meetings or the participation of the President and other representatives of SMU on the School Advisory Board, shall take effect without the written consent of SMU.

Section 7. Governing Law. In all matters not specified in these Bylaws, or in the event these Bylaws shall not comply with applicable law, the California Nonprofit Public Benefit Corporation Law as then in effect shall apply.

Section 8. Dedication of Assets. This corporation shall use all assets it holds or receives, whether restricted or unrestricted (including, but not limited to, endowments and donor-restricted funds), as required by the charitable trust doctrine under California law ("Charitable Trust Law"). Assets held or received by this corporation before March 1, 2009 (the "Filing Date"), with the exception of a scholarship fund in the name of Lawrence B. Harkless, D.P.M., the Dean of the College of Podiatric Medicine for scholarships at the Western University of Health Sciences established before the Filing Date (the "Harkless Fund"), shall be known as the "Original Corpus". From and after the Filing Date, the Original Corpus shall include all

accumulated unspent earnings on those assets and shall be used exclusively to support the activities of CSPM, as further provided in an Agreement between this corporation and SMU dated February 28, 2009 (the "Agreement"). This corporation may use any assets it receives on or after the Filing Date in any manner permitted by the Articles of Incorporation; these Bylaws, as amended; the Charitable Trust Law, and the Agreement.

Section 9. Compliance with Donor Intent. This corporation will abide by any other use restrictions imposed by donors on the assets of this corporation at the time of contribution, either before or after the Filing Date, subject to the Charitable Trust Law and the provisions of the California Uniform Management of Institutional Funds Act or its successor ("UMIFA"). Except for the Harkless Fund, all donations received by this corporation prior to the Filing Date were originally raised for the benefit of and are intended to support the activities of the CSPM (or its predecessor) whether or not the donation was restricted by the donor at the time of the donation.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am presently the duly elected and acting Secretary of California Foundation for Excellence in Podiatric Medicine, a California nonprofit public benefit corporation, and that the above Bylaws, consisting of 14 pages, are the Bylaws of this corporation as adopted by the Board of Directors, on March 1, 2009.

DATED: March 1, 2009

Douglas M. Taylor
Secretary

EXHIBIT C

SCHOLARSHIP FUND

FFE has established a scholarship fund in the name of Lawrence B. Harkless, D.P.M., the Dean of the College of Podiatric Medicine, which currently holds \$1,000 committed for scholarships at the Western University of Health Sciences.