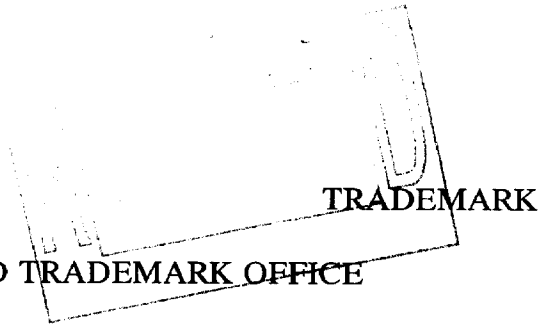


05-27-1999



101047648

MRP 5-20-99



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECORDATION FORM COVER SHEET

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

Please record the attached original documents or copy thereof:

1. Name and address of conveying party(ies):

KINDER-CARE LEARNING CENTERS, INC.
a Delaware corporation
2400 Presidents Drive
Montgomery, Alabama 36104-2586

2. Name and address of receiving party(ies):

KINDER-CARE LEARNING CENTERS, INC.
a Delaware corporation
650 N.E. Holladay Street, Suite 1400
Portland, Oregon 97232

3. Nature of conveyance: Name Change

Execution Date: March 31, 1993

4. Application number(s) or registration number(s):

A. Registration No.: 1,770,879
Mark: HELPING AMERICA'S BUSIES FAMILIES
Registration Date: May 11, 1993

B. Registration No.: 1,613,837
Mark: CENTERLINE
Registration Date: September 18, 1990

C. Registration No.: 1,594,176
Mark: KINDERCARE
Registration Date: May 1, 1990

D. Registration No.: 1,580,750
Mark: KINDER-CARE AT WORK
Registration Date: January 30, 1990

TRADEMARK
01 FC:481
02 FC:482
06/26/1999 DMSUYEH 00000166 1770879
40.00 DP
425.00 DP

- E. Registration No.: 1,575,598
Mark: FOLLOW THE RAINBOW TO KINDER-CARE AND DESIGN
Registration Date: January 2, 1990
- F. Registration No.: 1,571,321
Mark: FOLLOW THE RAINBOW TO KINDER-CARE
Registration Date: December 12, 1989
- G. Registration No.: 1,538,530
Mark: MY WINDOW ON THE WORLD
Registration Date: May 9, 1989
- H. Registration No.: 1,536,887
Mark: LET ME DO IT
Registration Date: April 25, 1989
- I. Registration No.: 1,513,719
Mark: KINDER BEAR
Registration Date: November 22, 1988
- J. Registration No.: 1,425,219
Mark: DESIGN ONLY
Registration Date: January 13, 1987
- K. Registration No.: 1,345,219
Mark: DESIGN ONLY
Registration Date: June 25, 1985
- L. Registration No.: 1,270,349
Mark: KINDEROO (STYLIZED)
Registration Date: March 13, 1984
- M. Registration No.: 1,238,509
Mark: KINDERCARE AND DESIGN
Registration Date: May 17, 1983
- N. Registration No.: 1,224,603
Mark: KINDERCARE
Registration Date: January 18, 1983
- O. Registration No.: 1,209,300
Mark: KLUBMATES AND DESIGN
Registration Date: September 14, 1982

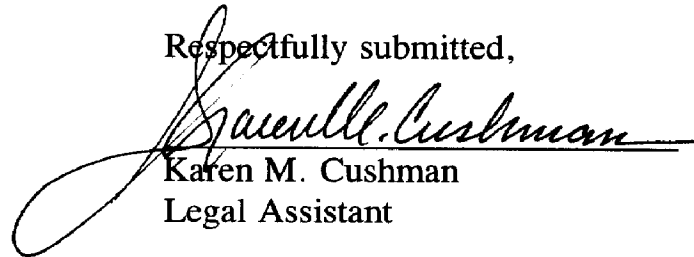
- P. Registration No.: 1,205,811
Mark: KINDUSTRY
Registration Date: August 17, 1982
- Q. Registration No.: 1,142,919
Mark: KINDERCARE AND DESIGN
Registration Date: December 9, 1980
- R. Registration No.: 922,565
Mark: KINDERCARE AND DESIGN
Registration Date: October 19, 1971

5. Name and address of party to whom correspondence concerning document should be mailed:

Gary W. Glisson
Stoel Rives LLP
900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
(503) 224-3380

6. Total number of registrations involved: 18
7. Total fee (37 CFR 3.41): \$465.00
8. The Commissioner is hereby authorized to charge any additional fees which may be required in connection with the recording of this document or to credit any overpayment to Deposit Account No. 19-4455.
9. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Respectfully submitted,



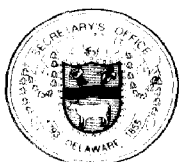
Karen M. Cushman
Legal Assistant

Total number of pages comprising cover sheet and conveyance: 23

Date: May 14, 1999
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204-1268
Telephone: (503) 224-3380
Attorney Docket No. 28954/19

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "KINDER-CARE LEARNING CENTERS, INC.", CHANGING ITS NAME FROM "KINDER-CARE LEARNING CENTERS, INC." TO "KINDER-CARE LEARNING CENTERS, INC.", FILED IN THIS OFFICE ON THE THIRTY-FIRST DAY OF MARCH, A.D. 1993, AT 10 O'CLOCK A.M.



Edward J. Freel

Edward J. Freel, Secretary of State

2107446 8100

991190147

AUTHENTICATION: 9741482

DATE: 05-13-99

TRADEMARK
REEL: 001902 FRAME: 0640

RESTATED CERTIFICATE OF INCORPORATION
OF
KINDERCARE LEARNING CENTERS, INC.

It is hereby certified that:

1. (a) The present name of the corporation is KINDERCARE LEARNING CENTERS, INC. (hereinafter called the "Corporation").

(b) The name under which the Corporation was originally incorporated was Kinder Sub, Inc. and the date of filing the original Certificate of Incorporation of Corporation with the Secretary of State of the State of Delaware was November 14, 1986.

2. Provision for the making of this Restated Certificate of Incorporation is contained in an Order of the United States Bankruptcy Court for the Middle District of Alabama, Northern Division (the "Court") in Case No. 92-04393.

3. Such Order authorizes and directs the execution of this Restated Certificate of Incorporation.

4. In accordance with Sections 242, 245 and 303 of the General Corporation Law of the State of Delaware, this Restated Certificate of Incorporation restates and integrates and further amends the provisions of the Certificate of Incorporation of the Corporation filed November 14, 1986, as thereafter amended and supplemented (the "Certificate of Incorporation").

5. The text of the Certificate of Incorporation is hereby restated and further amended to read in its entirety as follows:

Article 1. The name of the Corporation is KINDERCARE LEARNING CENTERS, INC.

Article 2. The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

Article 3. The nature of the business or purposes to be conducted or promoted is:

(a) To offer and provide day care, educational, recreational, and other related services, to infants, children and adults and to engage in marketing programs, including the selling of franchises for the operation of centers rendering such services;

(b) To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

Article 4. The total number of shares of capital stock of all classes which the Corporation shall have the authority to issue is Fifty Million (50,000,000) shares consisting of: (a) Forty Million (40,000,000) shares of common stock with a par value of \$.01 per share (the "Common Stock"); and (b) Ten Million (10,000,000) shares of preferred stock with a par value of \$.01 per share (the "Preferred Stock"). All persons who shall acquire any capital stock of the Corporation shall acquire the same subject to the provisions of this Restated Certificate of Incorporation.

Pursuant to Section 6.8 of the Plan of Reorganization of the Corporation as confirmed by the United States Bankruptcy Court for the Middle District of Alabama, Northern Division in Case No. 92-04393 (the "Plan"), as of the Effective Date (as that term is defined in the Plan), any and all of the authorized capital stock of the Corporation, whether issued or unissued, including any right to acquire such capital stock pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, exchange rights, warrants, options, or other rights, existing immediately prior to the Effective Date, was deemed cancelled and of no further force or effect without any action on the part of the stockholders or Board of Directors of the Corporation. Other than their rights pursuant to the Plan, the holders of such cancelled capital stock and any cancelled right to acquire such capital stock have no rights arising from or relating to such capital stock (or the stock certificates representing such cancelled stock) or any right to acquire such capital stock on the cancellation thereof.

Notwithstanding anything contained in this Restated Certificate of Incorporation to the contrary, the Corporation will not issue nonvoting equity securities to the extent prohibited by Section 1123 of the Bankruptcy Code; provided, however, that this paragraph: (a) will have no further force and effect beyond that required under Section 1123 of the Bankruptcy Code, (b) will have such force and effect, if any, only for so long as such Section is in effect and applicable to the

Corporation, and (c) in all events may be amended or eliminated in accordance with applicable law from time to time in effect.

The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of the classes of capital stock of this Corporation which are fixed by this Restated Certificate of Incorporation, and the express grant of authority to the Board of Directors to fix by resolution or resolutions the designations and the powers, preferences and rights, and the qualifications, limitations and restrictions of the shares of Preferred Stock, which are not fixed by this Restated Certificate of Incorporation, are as follows:

A. PREFERRED STOCK. The Preferred Stock may be issued from time to time in any amount, not exceeding in the aggregate (including all shares of any and all series thereof theretofore issued and not theretofore or concurrently therewith redeemed or theretofore converted) the total number of shares of Preferred Stock hereinabove authorized, as Preferred Stock of one or more series, as hereinafter provided. All shares of any one series of Preferred Stock shall be alike in every particular. Each series of Preferred Stock shall be distinctively designated by letter or descriptive words and all series shall rank equally and be identical in all respects except as permitted by the provisions of this Paragraph A.

Authority is hereby expressly granted to and vested in the Board of Directors of the Corporation to cause the Preferred Stock to be issued from time to time in one or more series and in connection therewith to fix by resolution or resolutions (collectively, a "Preferred Stock Designation") providing for the issue of such series, the number of shares to be included in such series and the designations and such voting powers, full or limited, or no voting powers, and such of the preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of such series of the Preferred Stock which are not fixed by this Restated Certificate of Incorporation, to the full extent now or hereafter permitted by the laws of the State of Delaware; provided, however, that any action of the Board of Directors hereunder in authorizing the issuance of any Preferred Stock and the terms thereof shall be taken by the affirmative vote of at least two-thirds (2/3) of the directors then in office. Without limiting the generality of the grant of authority contained in the preceding sentence, the Board of Directors, acting as aforesaid, is authorized to determine any or all of the following, and the shares of each series may vary from the shares of any other series in any or all of the following respects:

(1) The number of shares of such series (which may subsequently be increased, except as otherwise provided by the resolutions of the Board of Directors, acting as aforesaid, providing for the issue of such series, or decreased to a number not less than the number of shares then outstanding) and the distinctive designation thereof;

(2) The dividend rights, if any, of such series, the dividend preferences, if any, as between such series and any other class or series of capital stock, whether and the extent to which shares of such series shall be entitled to participate in dividends with shares of any other series or class of capital stock, whether and the extent to which dividends on such series shall be cumulative, and any limitations, restrictions or conditions on the payment of such dividends;

(3) Whether the shares of such series shall be subject to redemption, and the price or prices at which, the time or times during which, and any other terms or conditions on which the shares of such series may be redeemed, if redeemable;

(4) The rights, if any, of such series, and the preferences, if any, as between such series and any other class or series of capital stock, in the event of any voluntary or involuntary liquidation, merger, consolidation, distribution or sale of assets, dissolution or winding-up of the Corporation and whether and the extent to which shares of any such series shall be entitled to participate in such event with any other class or series of capital stock;

(5) The voting powers, if any, in addition to the voting powers prescribed by law of shares of such series, and the terms of exercise of such voting powers;

(6) Whether shares of such series shall be convertible into or exchangeable for shares of any other series or class of capital stock, or any other securities, and the terms and conditions, if any, applicable to such right; and

(7) The terms and conditions, if any, of any purchase, retirement or sinking fund which may be provided for the shares of such series.

Notwithstanding anything to the contrary in this Paragraph A, no Preferred Stock may be issued in violation of the terms of Section 7.21 of the Credit Agreement, dated March 31, 1993, by and among the Corporation, the lenders listed therein and Toronto Dominion (Texas), Inc., as agent, as such Section is in effect on the date hereof or amended hereafter with the consent of the Corporation, except to the extent the terms of

such Section are waived by the agent on behalf of the majority Lenders pursuant to the Credit Agreement.

B. COMMON STOCK.

(1) Dividend Rights. Subject to the preferential dividend rights of the Preferred Stock, if any, as may be determined by the Board of Directors of the Corporation pursuant to Paragraph A of this Article 4, the holders of shares of the Common Stock shall be entitled to receive such dividends as may be declared from time to time by the Board of Directors of the Corporation.

(2) Rights Upon Liquidation. Subject to the preferential rights of the Preferred Stock, if any, as may be determined by the Board of Directors of the Corporation pursuant to Paragraph A of this Article 4, in the event of any voluntary or involuntary liquidation, dissolution or winding up of, or any distribution of the assets of, the Corporation, each holder of shares of the Common Stock shall be entitled to receive, ratably with each other holder of Common Stock, that portion of the assets of the Corporation available for distribution to its stockholders as the number of shares of the Common Stock held by such holder bears to the total number of shares of Common Stock then outstanding.

(3) Voting Rights. The holders of shares of the Common Stock shall be entitled to vote on all matters (for which a stockholder of Common Stock shall be entitled to vote thereon) at all meetings of the stockholders of the Corporation, and shall be entitled to one vote for each share of the Common Stock entitled to vote at such meeting, voting together with the holders of the Preferred Stock, if any, who are entitled to vote (except as otherwise may be determined by the Board of Directors pursuant to Paragraph A of this Article 4 or as required by law).

C. OTHER PROVISIONS:

(1) The relative powers, preferences and rights of each series of Preferred Stock in relation to the powers, preferences and rights of each other series of Preferred Stock shall, in each case, be determined by the Board of Directors pursuant to authority granted in Paragraph A of this Article 4 and the consent, by class or series vote or otherwise, of the holders of such of the series of Preferred Stock as are from time to time outstanding shall not be required for the issuance by the Board of Directors of any other series of Preferred Stock whether or not the powers, preferences and rights of such other series shall be fixed by the Board of Directors as senior to, or on a parity with, the powers, preferences and rights of such outstanding series, or any of them; provided, however, that the

Board of Directors may provide in the resolution or resolutions as to any series of Preferred Stock adopted pursuant to Paragraph A of this Article 4 that the consent of the holders of a majority (or such greater proportion as shall be therein fixed) of the outstanding shares of such series voting thereon shall be required for the issuance of any or all other series of Preferred Stock.

(2) Subject to the provisions of subparagraph 1 of this Paragraph C, shares of any series of Preferred Stock may be issued from time to time as the Board of Directors of the Corporation shall determine and on such terms and for such consideration as shall be fixed by the Board of Directors; provided, however, that any action of the Board of Directors hereunder in authorizing the issuance of any Preferred Stock, the terms thereof or the consideration therefor shall be taken by the affirmative vote of at least two-thirds (2/3) of the directors then in office.

(3) Shares of Common Stock may be issued from time to time as the Board of Directors of the Corporation shall determine and on such terms and for such consideration as shall be fixed by the Board of Directors; provided, however, that any such action hereunder in authorizing the issuance of any Common Stock or the terms of such issuance or the consideration therefor shall be taken by the affirmative vote of at least two-thirds (2/3) of the directors then in office.

Article 5. The private property of the stockholders of the Corporation shall not be subject to the payment of corporate debts to any extent whatsoever.

Article 6. The Corporation is to have perpetual existence.

Article 7. The following provisions are inserted for the conduct of the affairs of the Corporation, and it is expressly provided that the same are intended to be in furtherance and not in limitation or exclusion of the powers conferred by statute:

A. The business, affairs and property of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors (exclusive of directors (the "Preferred Stock Directors") who may be elected by the holders of any one or more series of Preferred Stock which may at any time be outstanding, voting separately as a class or classes pursuant to rights to elect directors under specified circumstances), shall consist of not less than three (3) nor more than fifteen (15) members, and the Board of Directors on the date

of filing of this Restated Certificate of Incorporation shall consist of 15 members. The number of directors constituting the Board of Directors shall be decreased or increased only by the affirmative vote of at least a majority of the combined voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class; provided, however, that the Board of Directors may at any time between annual meetings of stockholders increase or decrease the number of directors serving on the board within the limits established by this Restated Certificate of Incorporation by the affirmative vote of at least two-thirds (2/3) of the directors then in office.

B. Directors shall hold office from the date of their election until the next annual meeting of stockholders or until their respective successors shall be elected and qualified. Directors need not be stockholders.

C. The Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by this Restated Certificate of Incorporation or by the By-laws directed or required to be exercised or done by the stockholders.

D. Subject to the rights of the holders of any one or more series of Preferred Stock then outstanding to elect directors under circumstances specified in any Preferred Stock Designation and notwithstanding any other provision of this Certificate of Incorporation or the By-laws, any director or the entire Board of Directors of the Corporation may be removed from office at any time, with or without cause, by the affirmative vote of the holders of at least a majority of the combined voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

Article 8. A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty by such director as a director, except for liability as a director (A) for any breach of the director's duty of loyalty to the Corporation or its stockholders; (B) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (C) under Section 174 of the Delaware General Corporation Law; or (D) for any transaction from which the director derived an improper personal benefit. If the General Corporation Law of the State of Delaware is amended after this Certificate of Incorporation becomes effective to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation

shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law of the State of Delaware, as so amended.

Article 9. Indemnification.

Section 9.1 Certain Definitions. As used in this Article, the term:

- (a) "Corporation" includes any domestic or foreign predecessor entity of this Corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.
- (b) "Change in Control" shall have occurred if, during any period of two consecutive years, individuals who at the beginning of such period constitute the Board of Directors of the Corporation cease for any reason to constitute at least a majority thereof, unless the election of each new director was approved in advance by a vote of at least a majority of the directors then still in office who were directors at the beginning of the period.
- (c) "Director" means an individual who is or was a director of the Corporation or an individual who, while a director of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the Corporation's request if his duties to the Corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.
- (d) "Expenses" includes attorneys' fees.
- (e) "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with

respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

- (f) "Officer" means an individual who is or was an officer of the Corporation or an individual who, while an officer of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. An officer is considered to be serving an employee benefit plan at the Corporation's request if his duties to the Corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Officer" includes, unless the context requires otherwise, the estate or personal representative of an officer.
- (g) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.
- (h) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.
- (i) "Reviewing Party" shall mean the person or persons making the entitlement determination pursuant to Section 9.4 of this Article, and shall not include a court making any determination under this Article or otherwise.

Section 9.2 Basic Indemnification Arrangement.

- (a) Except as provided in subsections 9.2(d), 9.2(e) and 9.2(f) below, the Corporation shall indemnify an individual who is made a party to a proceeding because he is or was a director or officer against liability incurred by him in the proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and, in the case of any criminal proceeding, he had no

reasonable cause to believe his conduct was unlawful.

- (b) A person's conduct with respect to an employee benefit plan for a purpose he believed in good faith to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 9.2(a).
- (c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, be determinative that the proposed indemnitee did not meet the standard of conduct set forth in subsection 9.2(a).
- (d) The Corporation shall not indemnify a person under this Article in connection with a proceeding by or in the right of the Corporation in which such person was adjudged liable to the Corporation, unless, and then only to the extent that, the Reviewing Party, or a court of competent jurisdiction acting pursuant to Section 9.5 of this Article, determines that, in view of the circumstances of the case, the indemnitee is fairly and reasonably entitled to indemnification.
- (e) Indemnification permitted under this Article in connection with a proceeding by or in the right of the Corporation shall include reasonable expenses, penalties, fines (including an excise tax assessed with respect to an employee benefit plan) and amounts paid in settlement (provided that such settlement and the amounts paid in connection therewith are not unreasonable, as determined by the Reviewing Party responsible for making the determination that indemnification is permissible as described in Section 9.4(b) below) in connection with the proceeding, but, unless ordered by a court, shall not include judgments.
- (f) Notwithstanding any other provision of this Article, no person shall be entitled to indemnification or advancement of expenses hereunder with respect to any proceeding or claim brought or made by him against the

Corporation, other than a proceeding or claim seeking or defending such person's right to indemnification or advancement of expense pursuant to Section 9.5 hereof or otherwise.

- (g) If any person is entitled under any provision of this Article to indemnification by the Corporation for some portion of liability incurred by him, but not the total amount thereof, the Corporation shall indemnify such person for the portion of such liability to which he is entitled.
- (h) The Corporation shall indemnify a director or officer to the extent that he has been successful, on the merits or otherwise, in the defense of any proceeding to which he was a party, or in defense of any claim, issue or matter therein, because he is or was a director or officer, against reasonable expenses incurred by him in connection with the proceeding.

Section 9.3 Advances for Expenses.

- (a) The Corporation shall pay for or reimburse the reasonable expenses incurred by a director or officer as a party to a proceeding in advance of final disposition of the proceeding if:
 - (i) Such person furnishes the Corporation a written affirmation of his good faith belief that he has met the standard of conduct set forth in subsection 9.2(a) above, and
 - (ii) Such person furnishes the Corporation a written undertaking (meeting the qualifications set forth below in subsection 9.3(b)), executed personally or on his behalf, to repay any advances if it is ultimately determined that he is not entitled to indemnification under this Article or otherwise.
- (b) The undertaking required by subsection 9.3(a)(ii) above must be an unlimited general obligation of the proposed indemnitee but

need not be secured and shall be accepted without reference to financial ability to make repayment. If a director or officer seeks to enforce his rights to indemnification in a court pursuant to Section 9.5, such undertaking to repay shall not be applicable or enforceable unless and until there is a final court determination that he is not entitled to indemnification, as to which all rights of appeal have been exhausted or have expired.

Section 9.4 Authorization of and Determination of Entitlement to Indemnification.

- (a) The Corporation acknowledges that indemnification of a director or officer under Section 9.2 has been pre-authorized by the Corporation in the manner described in subsection 9.4(b) below. Nevertheless, the Corporation shall not indemnify a director or officer under Section 9.2 unless a separate determination has been made in the specific case that indemnification of such person is permissible in the circumstances because he has met the standard of conduct set forth in subsection 9.2(a); provided, however, that no such entitlement decision need be made prior to the advancement of expenses and that, regardless of the result or absence of any such determination, the Corporation shall make any indemnification mandated by Section 9.2(h) above.
- (b) The determination referred to in subsection 9.4(a) above shall be made, at the election of the Board of Directors (unless a Change in Control shall have occurred, in which case the proposed indemnitee director or officer shall be entitled to designate that the determination shall be made by special legal counsel selected by him):
 - (i) by the Board of Directors of the Corporation by majority vote of a quorum consisting of directors not at the time parties to the proceeding;
 - (ii) if a quorum cannot be obtained under subdivision (i), by a majority vote of a committee duly designated by the

Board of Directors (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding;

(iii) by special legal counsel:

- (1) selected by the Board of Directors or its committee in the manner prescribed in subdivision (i) or (ii); or
- (2) if a quorum of the Board of Directors cannot be obtained under subdivision (i) and a committee cannot be designated under subdivision (ii), selected by a majority vote of the full Board of Directors (in which selection directors who are parties may participate); or

(iv) by the stockholders; provided that shares owned by or voted under the control of directors or officers who are at the time parties to the proceeding may not be voted on the determination.

(c) As acknowledged above, the Corporation has pre-authorized the indemnification of directors and officers hereunder, subject to a case-by-case determination that the proposed indemnitee met the applicable standard of conduct under subsection 9.2(a). Consequently, no further decision need or shall be made on a case-by-case basis as to the authorization of the Corporation's indemnification of, or advancement of expenses to, directors and officers hereunder. Nevertheless, except as set forth in subsection 9.4(d) below, evaluation as to reasonableness of expenses of a director or officer in the specific case shall be made in the same manner as the determination that indemnification is permissible, as described in subsection 9.4(b) above, except that if the determination is made by special legal counsel, evaluation as to reasonableness of

expenses shall be made by those entitled under subsection 9.4(b)(iii) to select counsel.

- (d) Notwithstanding the requirement under subsection 9.4(c) that the Reviewing Party evaluate the reasonableness of expenses claimed by the proposed indemnitee, any expenses claimed by the proposed indemnitee shall be deemed reasonable if the Reviewing Party fails to make the evaluation required by subsection 9.4(c) within thirty (30) days following the proposed indemnitee's written request for indemnification for, or advancement of, expenses.
- (e) The Reviewing Party, however chosen, shall make the requested determination as promptly as reasonably practical after a request for indemnification is presented.

Section 9.5 Court-Ordered Indemnification and Advances for Expenses. A director or officer who is a party to a proceeding may apply for indemnification or advances for expenses to the court conducting the proceeding or to another court of competent jurisdiction. For purposes of this Article, the Corporation hereby consents to personal jurisdiction and venue in any court in which is pending a proceeding to which a director or officer is a party. Regardless of any determination by the Reviewing Party that the proposed indemnitee is not entitled to indemnification or advancement of expenses or as to the reasonableness of expenses, and regardless of any failure by the Reviewing Party to make a determination as to such entitlement or the reasonableness of expenses, such court's review shall be a de novo review. On application, the court, after giving any notice it considers necessary, may order indemnification or advancement of expenses if it determines that:

- (i) The applicant is entitled to mandatory indemnification under Section 9.2(h) above (in which case the Corporation shall pay the indemnitee's reasonable expenses incurred to obtain court-ordered indemnification);
- (ii) The applicant is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he met the standard of conduct set forth in subsection 9.2(a) above or was adjudged liable as described in

subsection 9.2(d) above (in which case any court-ordered indemnification need not be limited to reasonable expenses incurred by the indemnitee but may include expenses, penalties, fines, judgments, amounts paid in settlement and any other amounts ordered by the court to be indemnified, and, whether or not so ordered, the Corporation shall pay the applicant's reasonable expenses incurred to obtain court-ordered indemnification); or

- (iii) In the case of advances for expenses, the applicant is entitled pursuant to this Restated Certificate of Incorporation, Amended and Restated Bylaws or applicable resolution or agreement to payment for or reimbursement of his reasonable expenses incurred as a party to a proceeding in advance of final disposition of the proceeding (in which case the Corporation shall pay the applicant's reasonable expenses incurred to obtain court-ordered advancement of expenses); or
- (iv) The applicant is otherwise entitled to enforcement of his rights hereunder (in which case the Corporation shall pay the indemnitee's reasonable expenses incurred to obtain such enforcement).

Section 9.6 Indemnification of Employees and Agents.

The Corporation may, subject to authorization in the specific case, indemnify and advance expenses under this Article to an employee or agent of the Corporation who is not a director or officer, to the same extent as to a director or officer or to any lesser extent (or greater extent if permitted by law) determined by the Board of Directors.

Section 9.7 Liability Insurance. The Corporation may purchase and maintain insurance on behalf of a director or officer or an individual who is or was an employee or agent of the Corporation or who, while a director, officer, employee or agent of the Corporation, 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, partnership, joint venture, trust, employee benefit plan, or other enterprise against liability asserted against or incurred by him in that

capacity or arising from his status as a director, officer, employee, or agent, whether or not the Corporation would have power to indemnify him against the same liability under Section 9.2, Section 9.3 or Section 9.4 above.

Section 9.8 Witness Fees. Nothing in this Article shall limit the Corporation's power to pay or reimburse expenses incurred by a person in connection with his appearance as a witness in a proceeding at a time when he has not been made a named defendant or respondent in the proceeding.

Section 9.9 Report to Stockholders. If the Corporation indemnifies or advances expenses to a director or officer in connection with a proceeding by or in the right of the Corporation, to the extent required by law the Corporation shall report the indemnification or advance, in writing, to the stockholders with or before the notice of the next stockholders' meeting.

Section 9.10 Security for Indemnification Obligations. The Corporation may at any time and in any manner, at the discretion of the Board of Directors, secure the Corporation's obligations to indemnify or advance expenses to a person pursuant to this Article.

Section 9.11 No Duplication of Payments. The Corporation shall not be liable under this Article to make any payment to a person hereunder to the extent such person has otherwise actually received payment (under any insurance policy, agreement or otherwise) of the amounts otherwise payable hereunder.

Section 9.12 Subrogation. In the event of payment under this Article, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the indemnitee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Corporation effectively to bring suit to enforce such rights.

Section 9.13 Contract Rights. The right to indemnification and advancement of expenses conferred hereunder to directors and officers shall be a contract right and shall not be affected adversely to any director or officer by any amendment of this Restated Certificate of Incorporation with respect to any action or inaction occurring prior to such amendment; provided, however, that this provision shall not confer upon any indemnitee or potential indemnitee (in his capacity as such) the right to consent or object to any subsequent amendment of this Restated Certificate of Incorporation.

Section 9.14 Specific Performance. In any proceeding brought by or on behalf of an officer or director to specifically enforce the provisions of this Article, the Corporation hereby waives the claim or defense therein that the plaintiff or claimant has an adequate remedy at law, and the Corporation shall not urge in any such proceeding the claim or defense that such remedy at law exists. The provisions of this Section 9.14, however, shall not prevent the officer or director from seeking a remedy at law in connection with any breach of the provisions of this Article.

Section 9.15 Non-exclusivity, Etc. The rights of a director or officer hereunder shall be in addition to any other rights with respect to indemnification, advancement of expenses or otherwise that he may have under contract or the General Corporation Law of the State of Delaware or otherwise.

Section 9.16 Amendments. It is the intent of the Corporation to indemnify and advance expenses to its directors and officers to the full extent permitted by the Delaware General Corporation Law, as amended from time to time. To the extent that the Delaware General Corporation Law is hereafter amended to permit a Delaware business corporation to provide to its directors greater rights to indemnification or advancement of expenses than those specifically set forth hereinabove, this Article shall be construed to require such greater indemnification or more liberal advancement of expenses to the Corporation's directors and officers, in each case consistent with the Delaware General Corporation Law as so amended from time to time. No amendment, modification or rescission of this Article, or any provision hereof, the effect of which would diminish the rights to indemnification or advancement of expenses as set forth herein shall be effective as to any person with respect to any action taken or omitted by such person prior to such amendment, modification or rescission.

Section 9.17 Severability. To the extent that the provisions of this Article are held to be inconsistent with the provisions of Section 145 of the General Corporation Law of the State of Delaware (including subsection (f) thereof), such provisions of such statute shall govern. In the event that any of the provisions of this Article (including any provision within a single section, subsection, division or sentence) is held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions of this Article shall remain enforceable to the fullest extent permitted by law.

Article 10. A. A special meeting of the stockholders for the transaction of any proper business may be called at any time by the president, and shall be called by the president or secretary at any time upon the written request of the holders of

one-third (1/3) of the shares of capital stock of the Corporation then outstanding and entitled to vote generally in an election of directors, or upon the written request of at least three (3) directors. Unless otherwise prescribed by statute, special meetings may not be called by any other person or persons. Such meeting may be held at any time and at any place within or without the States of Alabama or Delaware which time and place shall be specified in such request. No business may be transacted at any special meeting of stockholders other than such business as may be designated in a notice calling such meeting.

B. Stockholders of the Corporation shall have the right to take any action required or permitted under this Restated Certificate of Incorporation, the By-Laws or law by written consent in lieu of a meeting to the fullest extent permitted by the General Corporation Law of the State of Delaware.

Article 11. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation. In addition to any affirmative vote required by law, by this Restated Certificate of Incorporation or by any Preferred Stock Designation, and notwithstanding any provision of this Restated Certificate of Incorporation or the Amended and Restated Bylaws other than Paragraph A of Article 7 of this Restated Certificate of Incorporation (and notwithstanding the fact that some lesser percentage may be specified by law, this Restated Certificate of Incorporation or the Amended and Restated Bylaws other than as specified in Paragraph A of Article 7 of this Restated Certificate of Incorporation), the affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) of the combined voting power of all the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend, alter, change or repeal any one or more provisions contained in this Restated Certificate of Incorporation; provided, however, that notwithstanding the foregoing, the number of directors constituting the Board of Directors as set forth in Paragraph A of Article 7 may be decreased or increased by the affirmative vote of at least a majority of the combined voting power of all the outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation, having been duly adopted and approved by the Board of Directors of KinderCare Learning Centers, Inc., all in accordance with the provisions of Section 242, Section 245 and Section 303 of the General Corporation Law of the State of Delaware, has been executed the 31st day of March, 1993.

Julius H. Yearwood, Jr.
President

Attest:

Rebecca Bryan
Secretary