

Adopted as of June 1, 2023

BYLAWS OF  
UNIVERSITY AUXILIARY SERVICES AT ALBANY, INC.

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A corporation governed by the  
Not-for-Profit Corporation Law of New York

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ARTICLE I  
NAME AND PURPOSE

Section 1.     Name.     The name of the corporation is UNIVERSITY AUXILIARY SERVICES AT ALBANY, INC. (the "Corporation").

Section 2.     Purpose.     The Corporation shall be a not-for-profit charitable corporation as defined in section 102 of the New York Not-for-Profit Corporation Law ("NPCL"). The general purposes of the Corporation shall be within the meaning of Section 501(c)(3) of the Internal Revenue Code and its regulations, and Article 2 of the NPCL and are as further specified in the Corporation's certificate of incorporation for the benefit of the campus community, including faculty, staff and students in collaboration and coordination with the educational mission and goals of The University at Albany, State University of New York (the "University").

ARTICLE II  
MEMBERSHIP

Section 1.     No Members.     The Corporation, as permitted by Section 601(a) of the NPCL, has no members.

ARTICLE III  
BOARD OF DIRECTORS

Section 1.      Management of Corporate Affairs. Except as otherwise provided by law, the certificate of incorporation of the Corporation or these Bylaws, the activities, property and affairs of the Corporation will be managed by the Board of Directors (the "Board") in accordance with the State University of New York Guidelines for Auxiliary Service Corporations (the "SUNY Guidelines"), as may be amended from time to time, and any contract or other memorandum of understanding then in force between the Corporation and the University. Except as otherwise provided by law, the certificate of incorporation of the Corporation, these Bylaws or the SUNY Guidelines, the Board shall have the power to hold meetings at such times and places it deems advisable, to appoint committees, to select and employ an Executive Director responsible to the Board, to manage the operations of the Corporation, to employ other necessary employees, to approve periodic fiscal reports, the audited financial statements, and the annual budget of the Corporation and authorize proper expenditures from same, and to take such other measures as may be necessary or proper to carry out the purposes of the Corporation.

Section 2.      Election and Term of Office. Except as otherwise provided by law or these by-laws, each Director of the Corporation will be confirmed at an annual meeting of the Board and shall serve for their term in accordance with these Bylaws and until their successor is elected and qualified. All non-student Directors for the upcoming academic year shall be determined prior to commencement of the preceding spring term and all student Directors shall be determined before the annual meeting of the Board each Fall so that they may complete appropriate orientation and be confirmed at the annual meeting of the Board each Fall.

Section 3.      Number and Qualifications. All Directors shall be at least eighteen (18) years of age. As used in these by-laws, the term "entire Board" means the total number of directors entitled to vote which the Corporation would have if there were no vacant director positions. No decrease in the number of Directors will shorten the term of any incumbent Director. The Board shall be composed of Directors from each of the following constituencies representing the students, faculty and officers of the administration of the University, the size of the Board and exact number of directors from each constituency to be determined by the Board from time to time, provided that the Student Directors must always comprise not less than one- third and not more than one-half of the

Board. Until further action by the Board, the size of the Board shall be seventeen (17) voting Directors, comprised as follows:

*Student Directors:* There shall be seven (7) Student Directors. Student Directors must be full-time matriculated students in academic good standing as defined by the University, selected as follows.

- *Student Association President, or their designee;*
- *President of the Graduate Student Association, or their designee;*
- *Student Senate Chair, or their designee;*
- *Four (4) undergraduate students, three (3) of which must live on campus with a meal plan, must be appointed by the Student Association each spring for the following academic year.*
  - *The Executive Director of UAS, President of the UAS Board, and Student Affairs may make recommendations to the Student Association President for consideration.*

*Administrative Directors:* There shall be five (5) Administrative Directors. Administrative Directors must be employed full-time at the University, selected as follows:

- *The Director of Residence Life, or their designee;*
- *The Vice President for Finance and Administration or their designee;*
- *The Vice President for Student Affairs or their designee;*
- *The University President, or their designee;*
- *One (1) administrative appointment to be made by the University President*

*Faculty Directors:* There shall be four (4) Faculty Directors. All full-time teaching and non-teaching faculty (non-teaching faculty include campus professional staff as per SUNY guidelines) and librarians are eligible to serve as Faculty Directors, selected as prescribed in Article V, Section 4.

*Alumnus Director:* There shall be one (1) Alumnus Director; the Executive Director of the

Alumni Association, or his/her designee.

In addition, as per Article VII, Section 1, the Executive Director shall serve as an ex officio, non-voting member of the Board.

Section 4.      Terms of Directors. Except for ex-officio Directors, the term of each Director shall be three (3), years commencing at the annual meeting of their election. Each Director on the Board serving as a result of an ex- officio position shall serve for so long as they shall continue to serve in such office. Any designee of an ex-officio director shall continue to serve in such capacity until the holder of such office changes or is no longer the holder of such office. Each Director shall hold office until the expiration of the term for which they are elected or appointed until their prior death, resignation or removal and until their successor has been appointed or elected and qualified.

Directors can be reappointed or re-elected a maximum of twice more and thus can serve a maximum of three (3), three (3) year terms, or nine (9) years total in succession. Directors who have reached their term limit must step down at the end of their term and remain off the Board for at least one (1) year, at which time they can be reappointed or re-elected to new terms.

Student, Administrative and Faculty Directors who are on leave from the University for more than one (a) semester, and who will not participate in Board activities during the period of that leave, shall be replaced on the Board in accordance with Article III, Section 5.

Section 5.      Vacancies. Vacancies occurring in the Board for any reason will be filled by the constituency or officer responsible for the selection of the Director whose position is vacant within thirty (30) days. Any vacancy not filled within the thirty (30) days allotted may be filled by Board nomination of an individual who represents the appropriate constituency and approved by a majority vote of the entire sitting Board. A Director elected to fill a vacancy will hold office until the next meeting of their constituency at which the election of Directors of the Corporation is in the regular order of business and until their successor is selected and qualified. The vacancy term will serve as their full first term.

Section 6.      Resignation. Any Director may resign at any time by giving a written resignation to the President, the Vice President or the Secretary. A resignation will be effective

upon delivery unless it specifies an effective date, in which case the resignation is effective at the time specified. Unless the resignation specifies otherwise, Board acceptance of the resignation is not necessary to make it effective. The rights of any person as a Board member of this Corporation, including the right to vote, shall cease immediately upon resignation.

Section 7.      Removal. Any Director may be removed with or without cause by the constituency or officer responsible for the appointment of that Director. Violation of any provision of these Bylaws or unexcused absence from two or more meetings of the Board during any academic year may be cause for removal. A Director may be removed from the Corporation by a majority vote of the entire sitting Board. In a vote taken to remove a Director from the Corporation, each case shall be considered alone, with the individual under consideration having the right and opportunity to defend themselves, before the Board of Directors. The Director in such case shall not have the right to vote. Actions defined in this section shall be taken only for good cause. The rights of any person as a Director of this Corporation, including the right to vote, shall cease immediately upon removal.

Section 8.      Compensation. No Director will be compensated for serving as a Director, except that the Corporation may reimburse Directors for reasonable expenses necessarily incurred in effecting one or more of the corporate purposes of the Corporation, provided that such expenses are approved by the President or the Board.

Section 9.      Independent Directors. An Independent Director is defined as a Director who: (i) is not, and has not been within the last three (3) years, an employee of the Corporation or an affiliate, and does not have a relative (as defined below) who is, or has been within the last three years, a key employee (as defined below) of the Corporation or an affiliate; (ii) has not received, and does not have a relative who has received, in any of the last three fiscal years, more than \$10,000 in direct compensation from the Corporation or an affiliate (other than reimbursement for expenses reasonably incurred as a director or reasonable compensation for service as a director); and (iii) is not a current employee of or does not have a substantial financial interest in, and does not have a relative who is a current officer of or has a substantial financial interest in, any entity that has made payments to, or received payments from, the Corporation or an affiliate for property or services in an amount which, in any of the last three fiscal years, exceeds the lesser of \$25,000 or 2% of such entity's consolidated gross revenues. For purposes of subparagraph (iii), "payments" do not include charitable

contributions. In connection with the foregoing, (i) "key employee" means any person who is in a position to exercise substantial influence over the affairs of the Corporation, as referenced in the excess benefit transaction provisions of the Internal Revenue Code and related regulations; and (ii) a "relative" of an individual means their (1) spouse, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren; or (2) domestic partner as defined in Section 2994-a of the New York Public Health Law, or any successor statute.

The Audit and Finance Committee established under Article V, Section 4, the Independent Directors on the Board, or a committee of the Board comprised solely of Independent Directors shall oversee the Corporation's conflict of interest policy and whistleblower policy matters and, if the Corporation registers and files an audit report with the New York Charities Bureau under Article 7-A of the Executive Law, also the Corporation's audit matters.

#### **ARTICLE IV** **MEETINGS OF THE BOARD**

Section 1.      Regular Meetings of the Board. Regular meetings of the Board, for the transaction of business set forth in the notice of the meeting, will be held at a time and place, within or without the State of New York, determined by the Board and specified in the notice of the meeting. Meetings of the Board of Directors shall be called at least five (5) times during the academic year, except in such emergencies where regular meetings of the Board may need to be cancelled, postponed, and/or replaced by an Executive Committee Meeting and/or Emergency Meeting.

Section 2.      Special Meetings. Special meetings of the Board may be called at any time by the President, or in their absence or disability, the Vice-President, and must be called by such officer on written request by three (3) or more Directors. Such request will state the purpose or purposes for which the meeting is to be called. Each special meeting of the Board will be held at a time and place determined by the person calling the meeting and specified in the notice of the meeting.

Section 3.      Annual Meeting. The annual meeting of the Board will be the regular meeting held within eight (8) weeks of the University's first day of classes for the fall semester of each year.

Section 4.      Notice of Meetings. Notice of each regular or special meeting of the Board stating the time and place of the meeting will be given by the President, the Vice President or the Secretary to each Director at least five (5) days before the meeting, except that as per Article V, Section 10 notice of meetings of the Executive Committee will be given not less than twenty-four (24) hours before such meeting, except in emergencies as per Article IV, Section 12. Such notice shall be delivered by mailing the notice, postage prepaid, addressed to each Director at their residence or usual place of business, or by delivering the notice to each Director personally, by facsimile, by electronic communication or by telephone.

A Director's attendance at a meeting without protesting, before or at the commencement of such meeting, the lack of notice to them constitutes waiver of notice. A Director may also waive notice by submitting a waiver of notice before or after a meeting. Such waiver of notice may be written or electronic. If written, the waiver must be executed by the Director signing such waiver or causing their signature to be affixed to such waiver by any reasonable means including but not limited to facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the director.

Notice of the Annual meeting shall at minimum be posted on the UAS website and be listed in the electronic events calendar of the University at Albany. Notice of all other meetings of the full Board of Directors of the Corporation shall at minimum be posted on the UAS website.

Section 5.      Minutes. Minutes of all meetings of the Corporation corporate books and papers of whatever kind shall be made available upon the President of the University's request. The Directors and Officers of the Corporation shall inform the President of the University upon matters of corporate business affecting the interest of the University. Support services to the Board of Directors, including but not limited to clerical support for the production of minutes, will be provided by the office of the Executive Director.

Section 6.      Procedure. To the extent not inconsistent with these By-Laws, the Corporate Certificate of Incorporation or New York State Law, all meetings of the Board of Directors shall be governed by Robert's Rules of Order, Newly Revised. The order of business and all other matters of procedure at every meeting of the Board of Directors will be as follows, unless as otherwise determined

by the person presiding at the meeting:

*Call to Order*

*Public Comment*

*Approval of the minutes*

*Executive Director's report*

*Old Business*

*New Business*

*Committee Reports*

*Other matters*

*Adjournment*

Other matters of procedure may be determined by the person presiding at the meeting.

Section 7.      Quorum. At all meetings of the full Board of Directors, except as otherwise provided by law, the certificate of incorporation or these Bylaws, a quorum is required for the transaction of business. The quorum will consist of a majority of the entire Board. Except that as per Article IV, Section 11 Emergency Meetings, where a majority or a minimum of three (3) voting Directors, whichever is lesser shall constitute a quorum and except that as per Article V, Section 10, where a majority or minimum of three (3) committee members, whichever is lesser, shall constitute a quorum at any committee meeting of the Board of Directors of the Corporation.

Section 8.      Action by the Board. Each Director shall be entitled to one (1) vote except the Executive Director who is a non-voting member as per Article III, Section 3, and except as otherwise provided by law, the certificate of incorporation or these Bylaws, the vote of a majority of the Directors present will decide any question that may come before the meeting. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time or place without notice other than announcement at the meeting of the time and place to which the meeting is adjourned. Directors may not vote by proxy. Non-director members of Ad Hoc and Corporate Committees per Article V, Section 7 and Section 8, may only vote at the Committee level.

Section 9.      Action Without a Meeting. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or committee consent to the adoption of a resolution authorizing the action. Such consent may be written or electronic. If written, the consent must be executed by the director by signing such

consent or causing their signature to be affixed to such consent by any reasonable means including, but not limited to, facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Director. The resolution and the written consents will be filed with the minutes of the proceedings of the Board or committee.

Section 10. Presence at Meeting by Telephone or Similar Communications. Any member of the Board or any committee thereof who is not physically present at a meeting may participate by means of a conference telephone or similar communications equipment or by electronic video screen communication if it is feasible and practical. Participation by such means shall constitute presence in person at a meeting as long as all persons participating in the meeting can hear each other at the same time and each director can participate in all matters before the Board or committee, including, without limitation, the ability to propose, object to, and vote upon a specific action to be taken by the Board or committee.

Section 11. Confidentiality. It is the policy of the Corporation that the directors treat as confidential the proceedings of all Board and committee meetings, and all information concerning the business activities of the Corporation, except as otherwise authorized by the Board or until there has been general public disclosure, or unless the information is a matter of public record or common knowledge.

Section 12. Emergency Board of Directors Meetings. In the event of any emergency (herein defined as any catastrophe, disaster or other similar emergency condition recognized by the Federal Government, the State of New York, SUNY Central and/or the State University at Albany), as a result of which emergency a quorum of the Board of Directors cannot readily be convened for action, and whereas a quorum of the Executive Committee is not available, an Emergency Meeting may be called to be comprised of any Directors available and any available members of the corporation's senior management team. Notice of the time and place of the meeting shall be given by the person calling the meeting to the available Directors and managers by any means feasible at the time, and with as much advance notice and information as the circumstances permit in the judgment of the person calling the meeting. A majority or a minimum of three (3) voting Directors, whichever is lesser, shall constitute a quorum at any Emergency meeting. The Directors convened at an Emergency meeting shall be vested

with the powers and duties of the Board of Directors only until a quorum of the Executive Committee or original members of the Board of Directors prior to such emergency can be convened for action.

## ARTICLE V EXECUTIVE AND OTHER COMMITTEES

Section 1. Committees of the Board. The Board, by resolution or resolutions adopted by a majority of the entire Board, may designate from among its members an Executive Committee and such other committees of the Board as it may deem advisable. Each such committee of the Board will consist of three (3) or more Directors, and all members of committees of the Board, with the exception of Ad Hoc Committees, Article V, Section 7, must be Directors.

To the extent possible, membership on all committees shall consist of Board representation of various Board constituents. To the extent possible, the Co-Chairperson of every committee will be a student. Each committee of the Board will serve at the pleasure of the Board and will have, to the extent provided in the resolution establishing the committee, all the authority of the Board except as otherwise provided by law.

Section 2. Executive Committee. The Board of Directors by resolution adopted by a majority of the Board members in office will appoint an Executive Committee at the first meeting of the UAS Board of Directors. Committee members shall be comprised solely of independent directors representative of the administration, faculty and student sections of the Board, to consist of five (5) Board members, including the President, Vice President, Secretary, Treasurer and one (1) other student. In the interim between meetings of the Board, the Executive Committee has all the authority of the Board except as otherwise provided by law. All acts done and power and authority conferred by the Executive Committee within the scope of its authority are deemed to be, and may be specified as being, the acts of and under the authority of the Board.

This committee is responsible for long range planning for the Corporation, the periodic review and recommended amendment as necessary of the Corporate by-laws and Board and committee recruitment and development including oversight of the elections process for faculty directors. A non-student member of the Executive Committee shall interface with the University Senate's Governance Committee on matters related to the election of Faculty Directors by campus-wide ballot.

Additionally, pursuant to Article VII, Section 2, the Executive Committee shall be responsible for

ensuring that the performance evaluation of the Executive Director is conducted annually and will oversee and approve any salary adjustment. The Committee may elect to delegate this responsibility to an appropriate individual such as the Board President or University Vice President for Finance and Administration.

Section 3. Finance and Audit Committee. The Board of Directors, by resolution adopted, establishes the Finance and Audit Committee. Committee members shall be comprised solely of independent directors appointed by the President of the Corporation in consultation with the Vice President of the Corporation at the first meeting of the UAS Board of Directors, and shall consist of no fewer than three (3) independent directors. The Chairperson of the Finance and Audit Committee shall be the Vice President for Finance and Administration or their designee, whichever is currently serving on the Board of Directors as Treasurer. A Co-Chairperson of the Finance and Audit Committee should be elected at its first meeting following committee selection.

The Finance and Audit Committee shall have general supervision over the finances of the Corporation, and shall act in place of the Board in all matters of investment and reinvestment of corporate funds, and shall perform such other duties as from time to time may be delegated to it by the Board. The Finance and Audit Committee shall oversee the accounting and financial reporting processes of the Corporation and any audit of the Corporation's financial statements, and shall retain or renew the retention of an independent auditor to conduct the audit and, upon completion thereof, review the results of the audit and any related management letter with the independent auditor.

In addition, such Finance and Audit Committee shall:

- i) *Review with the independent auditor the scope and planning of the audit prior to the audit's commencement;*
- ii) *Upon completion of the audit, review and discuss with the independent auditor: (A) any material risks and weaknesses in internal controls identified by the auditor; (B) any restrictions on the scope of the auditor's activities or access to requested information; (C) any significant disagreements between the auditor and management; and (D) the adequacy of the corporation's accounting and financial reporting processes*
- iii) *Annually consider the performance and independence of the auditor;*

*iv) and report on the Audit Committee's activities to the Board*

The Finance and Audit Committee shall be subject to the direction and control of the Board of Directors and shall meet no less than two (2) times per semester.

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The Board of Directors dissolved the Governance Committee, by resolution adopted.

Section 5. Services Committee. The Board of Directors, by resolution adopted, establishes the Services Committee. Committee members shall be appointed by the President of the Corporation in consultation with the Vice President of the Corporation at the first meeting of the UAS Board of Directors, and shall consist of no fewer than three (3) Board members. The Committee shall elect the Chairperson and Co-Chairperson of the Services Committee at its first meeting following committee selection. This committee is responsible for oversight of all service contracts for the Corporation, including but not limited to dining, beverage, vending and bookstore contracts. This Committee will work with Corporation management to develop annual meal plans for Board approval and review annual plans for operational changes and capital improvements. The Committee shall be subject to the direction and control of the Board of Directors and shall meet no less than two (2) times per semester.

Section 6. Program Committee. The Board of Directors, by resolution adopted, establishes the Program Committee. Committee members shall be appointed by the President of the Corporation in consultation with the Vice President of the Corporation after the first meeting of the UAS Board of Directors, and shall consist of no fewer than three (3) Board members. The Committee shall elect the Chairperson and Co-Chairperson of the Program Committee at its first meeting following committee selection. This committee will administer the UAS Program Fund, which is dedicated to campus programs and events by reviewing proposals and making decisions on which groups and events will be supported, and at what levels from this fund. The Committee shall be subject to the direction and control of the Board of Directors and shall meet no less than two (2) times per semester.

Section 7. Ad Hoc Committees. The Board of Directors, by resolution adopted or majority vote, may from time to time establish various Ad Hoc Committees to address specific programs and/or issues, as deemed necessary by the Board. Committee members shall be appointed by the President of the Corporation in consultation with the Vice President of the Corporation at or after the Board meeting at which the Ad Hoc Committee is established. Persons other than Directors may be members of Ad

Hoc committees. Non-director Ad Hoc Committee members may be recruited and selected via the process determined by the Executive Committee and submitted to the Board for approval. Total number of non-director committee members may not exceed one-third of the committee total. The Executive Committee, will, whenever possible, solicit interested volunteers to serve as members of the Board's various Ad Hoc committees. The Committee shall elect the Chairperson and Co-Chairperson of the Ad-Hoc Committee at its first meeting following committee selection. Ad Hoc Committees shall be subject to the direction and control of the Board of Directors and shall meet as designated by the Board of Directors and/or necessary to fulfill the objective of the Committee. Ad Hoc Committees will have no authority to act on behalf of the Board or to bind the Board.

Section 8. Committees of the Corporation. In addition to committees of the Board, the Board may by resolution adopted, create committees of the Corporation to serve at the pleasure of the Board and to perform tasks assigned by the Board. Persons other than Directors may be members of committees of the Corporation. Committees of the Corporation will have no authority to act on behalf of the Board or to bind the Board.

Section 9. Acts and Proceedings. Each committee will keep regular minutes of its proceedings and report its actions to the Board when required.

Section 10. Meetings of Committees. Committees will meet at such times and places as the chairperson of the committee determines and the notice of the meeting specifies. Meetings of committees of the Board will be governed by the provisions of Article IV, Sections 4, 5, 6, 7, 8, 9, 10 and 11, which govern meetings of the entire Board, which include the following exceptions:

- i) notice of meetings of the Executive Committee will be given not less than twenty-four hours before such meeting.*
- ii) a majority or minimum of three (3) committee members, whichever is lesser, shall constitute a quorum at any committee meeting of the Board of Directors of the Corporation.*
- iii) Non-director members of Ad Hoc and Corporate Committees per Article V, Section 7 and Section 8, may only vote at the Committee level.*

## ARTICLE VI OFFICERS

Section 1.      Qualifications. At its annual meeting, the Board will elect from among its members a President, a Vice President, and a Secretary. The Vice President for Finance and Administration or their designee, shall be the Treasurer. The Board may from time to time elect additional officers having titles, authority and duties determined by the Board. No more than two (2) of the four (4) officers described in this Article VI, Sections 3, 4, 5 and 6 shall be Directors from a single constituency, as defined within Article III, Section 3. All officers must be at least eighteen (18) years of age. A person shall not be eligible for nomination, election, or a position as an officer if convicted of a felony or misdemeanor. (Misdemeanors excepted from penal law are traffic and conservation law violations.)

Section 2.      Term of Office. Unless otherwise determined by the Board, officers will hold office until the next annual meeting of the Board and until their successors have been elected and qualified.

Section 3.      The President. The President will be the chief executive and administrative officer of the Corporation and in the absence of an Executive Director will have the general powers and duties of supervision and management of the Corporation and will perform all such other duties as usually pertain to the office or are properly required by the Board. The President will preside at all meetings of the Board. No employee of the Corporation shall serve as President or hold any other title with similar responsibilities. The University President or their designee cannot serve as the President of the Board.

Section 4.      The Vice-President. A Vice-President will, in the absence or at the request of the President, perform the duties and exercise the powers of the President. A Vice-President will also have such powers and perform all such other duties as usually pertain to the office or are properly required by the Board. To the extent possible, the Vice-President will be a student.

Section 5.      The Secretary. The Secretary will ensure that the minutes of the Board are properly kept. They will: attend to the giving and serving of all notices of the Corporation;

have charge of such books and papers as the Board may direct; attend to such correspondence as may be assigned; and perform all such other duties as usually pertain to the office or are properly required by the Board. .

Section 6.     The Treasurer. The Treasurer will ensure monitoring of the financial activities of the Corporation by the Board and will serve as liaison between the Executive Director and the Board of Directors for fiscal matters as requested. The Treasurer will perform all such other duties as usually pertain to the office or are properly required by the Board. The Treasurer will present the annual audited report to the Board setting forth in full the financial resources of the Corporation. The Vice President of Finance and Administration, or their designee, pursuant to this Article VI, Section 1, will be The Treasurer. The Finance and Audit Committee, will be chaired by the Treasurer.

Section 7.     Removal. Any officer may be removed or have their authority suspended by the Board at any time, with or without cause by a majority vote of the entire sitting Board. In a vote taken to remove a Director from the Corporation, each case shall be considered alone, with the individual under consideration having the right and opportunity to defend themselves, before the Board of Directors. The Director in such case shall not have the right to vote. Actions defined in this section shall be taken only for good cause.

Section 8.     Resignation. Any officer may resign at any time by giving a resignation in writing to the Board, the President or the Secretary. A resignation will be effective upon Delivery, unless it specifies an effective date, in which case the resignation is effective at the time specified. Unless the resignation specifies otherwise, Board acceptance of the resignation is not necessary to make it effective.

Section 9.     Vacancies. If any Board office becomes vacant for any reason, the Board has the power to fill that vacancy.

Section 10.    Duties of Officers May Be Delegated. If an officer is absent or unable to perform their duties, or for any other reason that the Board deems sufficient, the Board, except where otherwise provided by law, may delegate the powers or duties of any officer to any other officer or to any director.

Section 11.      Officers Holding Two or More Offices. Any two (2) or more Board offices, except those of President and Secretary, may be held by the same person, but no officer will execute or verify any instrument in more than one (1) capacity if such instrument is required by law or otherwise to be executed or verified by two (2) or more officers.

Section 12.      Compensation. No officers shall receive any compensation from the Corporation for service rendered in an official capacity, but officers shall be reimbursed for reasonable expenses incurred in the performance of official duties.

## ARTICLE VII EXECUTIVE DIRECTOR OF THE CORPORATION

Section 1.      Appointment and Duties. The Board will appoint an Executive Director for the Corporation who shall be directly responsible for the management and daily operations of the Corporation. The Executive Director shall recommend to and implement policy for the Board of Directors. The Executive Director shall recommend to the Board of Directors any significant changes of services, management structure or personnel and set the salaries for such personnel consistent with the approved annual Corporation salary plan and operating budget. The Executive Director reports to and serves at the pleasure of the Board of Directors of the Corporation. The Executive Director shall serve as an ex officio, non-voting member of the Board.

Section 2.      Evaluation and Salary. The Executive Committee shall be responsible for ensuring that the performance evaluation of the Executive Director is conducted annually and will oversee and approve any salary adjustment. The Committee may elect to delegate this responsibility to an appropriate individual such as the Board President or University Vice President for Finance and Administration.

## ARTICLE VIII ASSETS AND FUNDS

Section 1.      Ownership. No Director, officer or employee of the Corporation shall have

any right, title or interest in any of the assets and funds of the Corporation; all assets and funds of the Corporation shall be owned exclusively by the Corporation.

Section 2.      Disposition. All funds of the Corporation shall be deposited in an account or accounts in the name of the Corporation in a bank or banks and shall be used solely either to earn interest or to pay the proper expenses of the Corporation. Funds shall be withdrawn from such bank account or accounts upon the written authorization and signature of such persons as the Board of Directors may designate. Any funds in the Corporation which in the judgment of the Board of Directors shall not be immediately required to effect the purposes of the Corporation may be invested in such securities as in the judgment of the Board of Directors is sound and proper. Any surplus may be used for the benefit of the University in accordance with the purposes of the Corporation as expressed in its general purpose clause, at the discretion of the Board of Directors. Upon dissolution, the net assets of the Corporation must be distributed in accordance with the Corporation's Articles of Incorporation.

Section 3.      Corporate Books and Papers. All corporate books and papers of the Corporation shall be made available upon request to the President of the University and the SUNY Vice Chancellor of Finance and Chief Financial Officer of Finance and Chief Financial Officer. The Corporation shall keep books of accounts and records of all its operations. It shall maintain systems of bookkeeping and accounting acceptable to the State University of New York and to the State Comptroller and shall permit inspection of said books, records and papers of any kind by the State University of New York and the State Comptroller.

Section 4.      Audit. All books, records and accounts of the Corporation shall be subject to examination and audit by the State University of New York at any time. The Corporation will have an annual audit conducted by an independent certified public accountant ("CPA") or CPA firm, within ninety (90) days after the close of the Corporation's fiscal year. Copies of all audit reports shall be made available to the President of the University and the State University of New York for review and acceptance (in accordance with SUNY Guidelines).

Section 5.      Loans to Directors and Officers. No loans will be made by the Corporation to its Directors or officers.

Section 6.      Gifts. The Board, the Executive Committee or any authorized officer, employee or agent of the Corporation may accept on behalf of the Corporation any contribution, gift, bequest or devise for any general or special purpose or purposes of the Corporation.

Section 7.      Fiscal Year. The fiscal year of the corporation shall be July 1st through June 30th.

Section 8.      Reports. At a meeting of the Board to take place within six (6) months of the end of the previous fiscal year, the Treasurer will present to the Board a report, verified by the President and Treasurer and certified by an independent public or certified public accountant or a firm of such accountants selected by the Board, showing in appropriate detail the following:

- a)      the assets and liabilities, including the trust funds, of the Corporation as of the end of a 12-month fiscal period of the Corporation terminating not more than six months prior to said meeting;
- b)      the principal changes in assets and liabilities, including trust funds, during said fiscal period;
- c)      the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, during said fiscal period; and
- d)      the expenses or disbursements of the Corporation, for both general and restricted purposes, during said fiscal period.

## ARTICLE IX CONFLICT OF INTEREST POLICY

Section 1.      Purpose. The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a Related Party Transaction, or other transaction or arrangement that might benefit the private interest of an officer, Director, or Key Employee or might result in a possible excess benefit transaction. This policy supplements but does not replace any other applicable state and federal laws governing conflicts of interest applicable to the Corporation.

Section 2.      Definitions.

- a)      *"Interested Person"*: An Interested Person is any (i) Related Party or (ii) any Director, officer, Key Employee or member of a committee with Board-delegated powers, who has a direct or indirect Financial Interest, or who has any other interest or relationship that could reasonably be viewed as having the potential to affect their decision-making judgment.
- b)      *"Financial Interest"*: A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
- (i)      an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement,
  - (ii)     a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or
  - (iii)    a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.
- c)      *"Compensation"* includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.
- d)      A *"Conflict of Interest"* shall exist (i) when an Interested Person has a Financial Interest in a proposed transaction, or (ii) with respect to all proposed Related Party Transactions.
- e)      *"Deciding Body"* means the Finance/Audit Committee, if any, and otherwise the independent Directors of the Board or another committee of the Board comprised solely of independent Directors.
- f)      A *"Relative"* of an individual means their (i) spouse, ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children,

Grand children, and great-grandchildren; or (ii) domestic partner as defined in Section 2994-aof the New York Public Health Law, or any successor statute.

g) *"Related Party"* means (i) any Director, officer or Key Employee of the Corporation or any affiliate of the Corporation; (ii) any Relative of any Director, officer or Key Employee of the Corporation or any affiliate of the Corporation; or <sup>1</sup> (iii) any entity in which an individual described in clauses (i) and (ii) has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

h) *"Related Party Transaction"* means any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which the Corporation or any affiliate of the Corporation is a participant.

i) *"Key Employee"* means any person who is in a position to exercise substantial influence over the affairs of the Corporation, as referenced in the excess benefit transaction provisions of the Internal Revenue Code and related regulations.

### Section 3. Procedures.

a) Duty to Disclose. In connection with any actual or possible Conflict of Interest, an interested person must disclose the existence of the financial or other interest. and be given the opportunity to disclose all material facts to the Deciding Body.

b) Determining Whether a Conflict of Interest Exists. After disclosure of the interest and all material facts, and after any discussion with the Interested Person, they will leave the Deciding Body's meeting while the determination of a Conflict of Interest is discussed and voted upon. The remaining Deciding Body members will decide if a Conflict of Interest exists.

c) Procedures for Addressing the Conflict of Interest. The Deciding Body will determine by a majority vote of the disinterested Directors whether the transaction or arrangement is fair, reasonable and in the Corporation's best interest. In conformity with the above determination it will make its decision as to whether to

d) Additional Procedures for Addressing a Conflict of Interest that is a Related Party Transaction. The Corporation shall not enter into a Related Party Transaction unless the transaction is determined by the Deciding Body to be fair, reasonable and in the Corporation's best interest at the time of such determination. Any Director, officer or Key Employee who has an interest in a Related Party Transaction shall disclose in good faith to the Deciding Body the material facts concerning such interest. In addition, with respect to any Related Party Transaction in which a Related Party has a substantial financial interest, the Deciding Body shall: (i) prior to entering into the transaction, consider alternative transactions to the extent available; (ii) approve the transaction by not less than a majority vote of the Directors or committee members present at the meeting; and (iii) contemporaneously document in writing the basis for the Deciding Body's approval, including its consideration of any alternative transactions.

e) No Improper Attempts to Influence Vote. The Interested Person with the Conflict of Interest is prohibited from making any attempt to influence improperly the deliberation or voting on the matter giving rise to the Conflict of Interest.

f) Violations of the Conflicts of Interest Policy. If the Deciding Body has reasonable cause to believe that an individual has failed to disclose actual or possible Conflicts of Interest, it will inform the individual of the basis for such belief and afford the individual an opportunity to explain the alleged failure to disclose. If, after hearing the individual's response and after making further investigation as warranted by the circumstances, the Deciding Body determines the individual has failed to disclose an actual or possible Conflict of Interest, it will take appropriate disciplinary and corrective action up to or including termination of employment or removal from the Corporation by a majority vote of the sitting Board of Directors under the conditions set forth in Article II, Section 3.

The willful making of false allegations will be subject to disciplinary action up to or including termination of employment or removal from the Corporation by a majority vote of the total Board of Directors under the conditions set forth in Article II, Section 3.

g) Records of Proceedings. The minutes of the Deciding Body's meeting will contain the names of persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest, the nature of the

Financial Interest, any action taken to determine whether a conflict of interest was present, the Deciding Body's decision as to whether a Conflict of Interest in fact existed, the names of persons who were present for discussions, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Section 4. Compensation. Any person (or family member of such person) who receives compensation or other payment, directly or indirectly, from the Corporation is precluded from voting on matters pertaining to their compensation or other payment. Directors who receive compensation, directly or indirectly, from the Corporation may provide information to the Deciding Body regarding compensation.

Section 5. Initial and Annual Statements. Each Director, principal officer, Key Employee, and member of a committee with Board-delegated powers will annually sign a statement which affirms that they are aware of and understand the Corporation's conflict of interest policy, has agreed to comply with the policy, and understands that the Corporation is charitable and, in order to maintain its federal tax exemption, it must engage primarily in activities that accomplish one or more of its tax-exempt purposes. In addition, each Director shall initially (prior to their initial election) and annually thereafter complete, sign and submit to the Secretary of the Corporation a written statement identifying, to the best of their knowledge, any entity of which such Director is an officer, Director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship, and any transaction in which the Corporation is a participant and in which the Director might have a Conflict of Interest. The Secretary of the Corporation shall provide a copy of all completed statements to the Chair of the Deciding Body.

Section 6. Periodic Reviews. To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board will conduct periodic reviews, including, at a minimum, whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining, and whether any partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess

benefit transaction. The Corporation may, but need not, use outside advisors to assist it in its periodic reviews. If outside advisors are used, their use will not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

## ARTICLE X INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right of Indemnification. The Corporation will indemnify any person who is made, or is threatened to be made, a party to an action or proceeding by reason of the fact that they (or their testator or intestate) was a Director or officer of the Corporation. Such indemnification will be in accordance with and to the fullest extent permitted by the New York Not-For-Profit Corporation Law or other applicable law, as such law now exists or is subsequently adopted or amended. It will apply to any action or proceeding or related appeal, whether criminal, civil, administrative or investigative, and will apply regardless of whether the Director or officer is in office at the time of the action or proceeding. However, the Corporation will indemnify a Director or officer in connection with an action or proceeding initiated by that director or officer only if the action or proceeding was authorized by the Board.

Section 2. Advancement of Expenses. The Corporation may pay expenses incurred by a Director or officer in connection with an action or proceeding described in Section 1 of this Article IX in advance of the final disposition of that action or proceeding. Such advances may be paid only if (a) the Director or officer agrees in a signed writing to repay the advance if they are ultimately found not to be entitled to indemnification, and (b) the advance is approved by the Board acting by a quorum consisting of Directors who are not parties to the action or proceeding or, if such a quorum is not obtainable, then by vote of a majority of the entire Board. To the extent permitted by law, the Board may advance expenses under this provision without having to find that the Director or officer met the applicable standard of conduct required for indemnification.

Section 3. Availability and Interpretation. To the extent permitted under applicable law, the rights provided in Sections 1 and 2 of this Article IX:

- a) will be available with respect to events occurring prior to the adoption of this Article IX;

- b) will continue to exist after any rescission or restrictive amendment of this Article IX with respect to events occurring prior to such rescission or amendment;
- c) will be interpreted on the basis of applicable law in effect at the time of the occurrence of the event or events giving rise to the action or proceeding or, at the sole discretion of the Director or officer (or their testator or intestate), on the basis of applicable law in effect at the time the rights are claimed; and
- d) will be in the nature of contract rights that may be enforced in any court of competent jurisdiction as if the Corporation and the Director or officer seeking such rights were parties to a separate written agreement.

Section 4.      Other Rights. The rights provided in Sections 1 and 2 of this Article IX are not exclusive of any other rights to which a Director or officer of the Corporation or other person may now or subsequently be otherwise entitled, whether contained in the certificate of incorporation, these by-laws, a resolution of the Board or an agreement providing for such indemnification; the creation of such other rights is expressly authorized. Without limiting the generality of this section, the rights provided in Sections 1 and 2 of this Article IX are not exclusive of any rights, pursuant to statute or otherwise, of a Director or officer or other person to have their costs and expenses in an action or proceeding assessed or allowed in their favor, against the Corporation or otherwise.

Section 5.      Severability. If this Article IX or any part of it is held unenforceable in any respect by a court of competent jurisdiction, it will be deemed modified to the minimum extent necessary to make it enforceable, and the remainder of this Article IX will remain fully enforceable. Any payments made pursuant to this Article IX will be made only out of funds legally available for such payments.

## ARTICLE XI AMENDMENTS

Section 1.      Procedure. These Bylaws may be amended at any meeting of the Board of Directors by a majority vote of the Directors provided the notice of the proposed amendment, containing the specific wording of the proposed amendment, has been stated in the notice of meeting. The amendment process also includes securing the approval of the University President and SUNY as follows:

If substantial changes (e.g., impacts the mission; adds, significantly changes, or eliminates services; creation of a single member corporation, etc.) are proposed to the charter or by-laws of the corporation during the term of the agreement, sixty (60) days prior written notice of such proposed change(s) shall be reported to the campus president and the university controller. No such change will take effect without the written approval of the campus president and the university controller. Changes to the charter or by-laws of a less significant nature (e.g., term limits, signature authority, creation of subcommittees, etc.) should be reported to the president and the university controller within 30 days of approval by the corporation's board. (SUNY Guidelines, Exhibit B-1; 2016)

Section 2.      Severability.    If a provision of these Bylaws is or becomes illegal, invalid, or unenforceable in any jurisdiction, that shall not affect the validity or enforceability of any other provision of these Bylaws.

Approved by Board of Directors as of April 28, 2023

Submitted to President of the University August 10, 2023

Submitted to the University Controller August 10, 2023