

BYLAWS OF THE
THE UNIVERSITY AT ALBANY FOUNDATION
(A Not-For Profit Corporation)

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ARTICLE I. NAME AND PURPOSES

Section 1.1 **Name:** The Name of the Corporation is THE UNIVERSITY AT ALBANY FOUNDATION (hereinafter, “Corporation” or “Foundation”).

Section 1.2 **Organization:** The Corporation was organized under, and is governed by New York Not-For-Profit Corporation Law.

Section 1.3 **Principal Office:** The principal office of the Corporation shall be maintained in the City and County of Albany.

Section 1.4 **Purposes:** 1) The purposes of the Corporation are educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 ("Code"), as amended, and within this meaning the purposes are the encouraging, soliciting, receiving, accepting, holding, investing, and managing of money and property of every description, and the disbursement thereof for the promotion, development and advancement of the welfare of the State University of New York at Albany ("University") its students, faculty, staff and alumni, and any other organization, qualified as an exempt organization under Section 501(c)(3) of the Code and its regulations, which has among its corporate purposes providing assistance to the University, including but not limited to library aid, classroom, laboratory and other equipment, scholarships, fellowships, professorships, and other grants and loans of financial assistance.

2) To provide facilities by lease or otherwise, (a) to the University for any of its lawful purposes, (b) to The Research Foundation of State University of New York for research activities by faculty, staff and students of the University, and (c) in conjunction with use by the University or The Research Foundation of State University of New York, to other organizations, whether public or private, whose proximity to the educational or research activities of the University or its faculty, staff or

students enhances such activities or provides career development opportunities for students of the University.

3) To receive and/or purchase, hold, and to manage and administer such property as may be received or purchased by the Foundation, and to use and apply all or any part of the income or earnings therefrom as well as the principal thereof exclusively for cultural, scientific, literary or educational purposes, either directly or by contributions to organizations which are organized and authorized to carry out such activities, provided however, that said organizations qualify as exempt organizations under Section 501(c)(3) of the Code and its regulations as they now exist or as they may hereafter be amended, provided, however, that no part of such income or such principal shall be contributed to any organization whose net earnings, or any part thereof, inure to the benefit of any private shareholder or individual or any substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

4) To encourage cooperation between the business and industrial sector and the higher education institutions of the Capital Region in joint efforts to sustain economic growth and development and to enrich the cultural life.

5) The Corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income, or profit of the Corporation is distributable to, or inures to the benefit of its members, directors, or officers except to the extent permitted under the New York State Not-for-Profit Corporation Law.

Section 1.5 **Members:** The Members of the Corporation shall be the Directors of the Corporation. The members shall have all rights of members as specified in the New York State Not-for-Profit Corporation Law.

ARTICLE II. BOARD OF DIRECTORS

Section 2.1 Powers: The Corporation shall have one governing body which shall be called the Board of Directors (“the Board”). The property and affairs of the Corporation shall be managed by the Board of Directors, except as otherwise expressly provided by law or in the Certificate of Incorporation or in the Bylaws.

Section 2.2 Directors of the Board: The Board shall consist of elected and ex officio directors:

Section 2.2.1 Ex officio Directors: (including “interim” officers.)

- (i) President of the University
- (ii) Chairman of the University Council
- (iii) President of the Alumni Association
- (iv) President of the Benevolent Association
- (v) Vice President for University Advancement
- (vi) Vice President for Finance and Business
- (vii) Executive Director of the Foundation

Section 2.2.2 Elected Directors:

- (i) 5 members from persons nominated by the Alumni Association Board
- (ii) 1 member from persons nominated by the Benevolent Association Board
- (iii) 10 members from persons nominated by the University President
- (iv) 3 members, who are members of the University’s faculty, from persons nominated by the University President

- (v) 1 member who is a member of the University's student body, from persons nominated by the University President.
- (vi) 30 at-large members from persons nominated by the Board

Section 2.3 **Number of Directors:** The Board can from time to time reduce or increase the number of Directors, but in no event shall the Board be comprised of more than sixty-five Directors, including the ex officio Directors. If there is a reduction in the number of Directors, such reduction shall be taken from the at-large Directors and no reduction in the number of Directors shall affect ex officio Directors or the Directors elected pursuant to Section 2.2.2 (i), (ii), (iii), (iv) or (v) above. Any increase in the number of Directors shall be added to the at-large Directors under Section 2.2.2 (vi) above.

Section 2.4 **Term:** Directors shall serve staggered terms of two years each, except for the Director who is a member of the student body. The term of elected Directors shall run from July 1 of the year of election and end on July 30 of the following second year. If less than the total number of Directors are elected for each Director group, as defined below, the President shall determine which Directors' terms will start in accordance with Section 2.4.1 or Section 2.4.2.

Section 2.4.1 **Years Ending in an Odd Number:**

- (i) 3 Directors nominated by the Alumni Association Board
- (ii) 5 Directors nominated by the University President
- (iii) 2 faculty Directors nominated by the University President
- (iv) 15 at-large members

Section 2.4.2 **Years Ending in an Even Number:** The remaining Directors shall be elected in the years ending in an even number.

Section 2.4.3 **Student Body Director:** The Director who is a member of the student body shall be elected each year.

Section 2.4.4 New or Replacement Directors: At the first election of Directors, or in the first election of any Directors added as a result of an amendment to these Bylaws, or by an increase by the Board in the number of Directors, each nominating entity with more than one Director shall designate whether that nominee's term, if elected, will end in an even numbered or odd numbered year. In the event a Director's office becomes vacant before the conclusion of the term, a replacement to fill the remainder of the term shall be chosen, by nomination and election pursuant to the procedure described above.

Section 2.5 Authority of Directors: Each Director, including the ex officio Directors, shall have the same powers and one vote on any matters before the Board, except for the Executive Director of the Corporation, who shall have no vote.

Section 2.6 Limitation of Authority: Notwithstanding any other provision of these Bylaws, no Director, officer, employee or representative of the Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501 (c) (3) of the Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170 (c) (2) of such Code and Regulations

Section 2.7 Donor Requirement: Each Director, except for the ex officio Directors, is expected to be a Donor to the Corporation. A Donor is a person who has contributed money, property or services to the Corporation.

Section 2.8 Removal of Director: Any Director may be removed with cause upon a majority vote by the Board.

Section 2.9 Resignation by Director: Any Director may resign by delivering a written resignation to an officer of, or to, the Corporation at its principal office. Such

resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 2.10 Vacancies: Elections to fill vacancies occurring among officers or Directors may be held by the Members at a meeting of the Board with quorum. Directors elected to fill the un-expired term of an open office shall serve for the remainder of the term of office. Directors elected to fill the un-expired term of a Director's term, shall serve until the term of the vacant seat expires.

Section 2.11 Director Emeritus: The Board may from time to time appoint a person as a director emeritus in recognition of such person's services and contributions made to the Foundation. Each director emeritus shall have all the rights and power of an elected director, except that the director emeritus cannot vote as a director.

ARTICLE III. MEETINGS OF THE FOUNDATION

Section 3.1 Meetings: Meetings shall be held at a time, date and place determined by the President or the Executive Director. A copy of the minutes of each meeting of the members, Board, or the Executive Committee, shall be filed with the Executive Director promptly following said meeting, and shall be distributed promptly to the membership of the entity as appropriate.

Section 3.1.1 Annual Meeting: The meeting immediately prior to the fiscal year end of the Corporation shall be the annual meeting.

Section 3.1.2 Regular Meetings: At least two (2) regular meetings shall be held per fiscal year in addition to the annual meeting.

Section 3.1.3 Special Meetings: A special meeting of the Board may be called by the President or by one-third of the non ex officio Directors. A special meeting of the Executive Committee may be called by the President or by any two voting members.

Section 3.2 Notice of Meetings: In lieu of mailing a written notice, a notice forwarded by telephone, facsimile or other electronic transmission (including e-mail) shall be sufficient.

Section 3.2.1 Annual and Regular Meetings: Written notice of all regular meetings of the Board shall be mailed, to all directors not less than 5 days prior to the meeting.

Section 3.2.2 Special Meeting of the Board: A special meeting of the Board may be called upon 10 days notice to the Directors.

Section 3.2.3 Special Meeting of the Executive Committee: A special meeting of the Executive Committee may be called upon five days notice to each member of the Executive Committee.

Section 3.3 Quorum: A quorum for the transaction of business at any meeting of the various constituent units of this Corporation shall be:

- (i) For the Board: 15 voting directors;
- (ii) For any Committee of the Board: a majority.

Action may be taken by unanimous written consent of the Directors.

Section 3.4 Presence at Meetings and Proxy Voting: Members of the Board, or any committee thereof, may participate in a meeting of such Board or committee by means of a telephone conference or similar equipment which allows all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting. From time to time it may be desirable to solicit the vote (by proxy or directly) of the members, the Board, the Executive Committee, at other than a duly constituted meeting. When authorized by a majority vote of those attending a duly constituted meeting of the members, the Board or the Executive Committee, or by a majority of the Board or of the Executive Committee, a vote by mail, telephone or by electronic means upon any question, motion or resolution may be taken of the members, of the Board, or of the Executive Committee. Such mail vote shall be as conclusive and binding as though taken in a duly constituted meeting called for the purpose and if by proxy each vote shall constitute attendance for the purpose of a quorum. If the question, motion, or resolution is approved such approval shall be entered in its proper order in the minutes of the body among whose membership the voting was conducted.

Section 3.5 Open Meeting Policy: Meetings of the Board or of the Membership or the annual meeting shall be open to attendance by any active member of any of the organizations whose Boards are empowered to nominate Directors to the Board.

ARTICLE IV. OFFICERS AND EXECUTIVE DIRECTOR: POWERS AND DUTIES

Section 4.1 Officers: The officers of the Corporation shall be a President, Vice President, Secretary, Treasurer and such other officers as are authorized by the Board. The officers shall be elected by the Board from among the Directors who hold office not ex officio. Any officer, other than the President, Vice President, Secretary and Treasurer, shall have such duties as established by the Board.

Section 4.1.1 President: The President shall be the executive head of the Corporation. The President shall preside at all meetings of the members, Board, and Executive Committee. The President shall see that notice of all regular and special meetings of the members, Board, and Executive Committee is duly given. The President, subject to the approval of the Board, shall appoint such standing, special, or other committees as from time to time are established by the members or the Board. The President shall sign and execute for the Corporation, Board, and Executive Committee all documents issued by those bodies when duly authorized to do so, and shall affix or cause to be affixed the Corporate seal thereto when necessary.

Section 4.1.2 Vice President: The Vice President shall act in the place of the President during the latter's absence or disability and shall carry out the duties of the Office of President should it become vacant prior to the expiration of the term of the incumbent until the Directors shall elect a President.

Section 4.1.3 Secretary: The Secretary shall conduct or cause to be conducted such part of the correspondence of the Corporation as shall be assigned to that office. The Secretary shall keep or have kept an accurate record of the proceedings of all meetings of the members, Board, and Executive Committee and shall certify such minutes or Board actions as true copies when required. The Secretary shall assure that all

books, papers, documents, and records of the Corporation, are housed permanently at the principal office of the Corporation. The Secretary shall notify or cause to be notified, all Directors, officers, and chairpersons of the several standing and special committees of their election and appointment.

Section 4.1.4 Treasurer: The Treasurer shall be the fiscal officer of the Corporation. The Treasurer shall be charged with the safekeeping of all funds and properties of the Corporation. The Treasurer shall receive or cause to be received all monies and securities of the Corporation, including any subscriptions, beneficiary aid and other fees, and shall deposit or cause to be deposited such monies and securities in depositories approved by the Board, or its Investment Committee, if it establishes one. The Treasurer shall maintain or have maintained complete and accurate accounts of all receipts and expenditures and shall be prepared to report on the Corporation's financial condition at regular and special meetings of the members and the Board. The Treasurer, at Corporation expense, shall give bond for faithful performance of the duties of the office, unless the giving of said bond is waived by the Board.

Section 4.2 Terms of Office: The terms of office for the officers shall be one year and shall continue until their successors are elected and qualified. The terms of officers shall run from July 1st of the year of election.

Section 4.3 Reports By Officers: The President shall make a detailed written report of the Corporation's activities to be presented at the Annual Meeting. The officers shall make such other reports and shall have other powers and shall perform such other duties as shall be prescribed by these Bylaws, by the Board, or by the Executive Committee.

Section 4.4 Executive Director: The Executive Director shall be elected by the Board and shall be the chief operating officer of the Corporation. The Executive Director shall be a member ex officio of the Board, and of the Executive Committee, and of all other committees of the Board, but shall have no vote. The Executive Director shall oversee the day-to-day operations and activities of the Corporation, and shall have such

other powers and duties as shall be assigned to the office by the Board. The Executive Director shall report on the activities of the corporation at each regular meeting of the Board. The Executive Director further shall make a detailed written report of the activities of the Corporation to be presented at the Annual Meetings of the Board.

Section 4.5 **Removal of Officer:** Officers elected by the Board may be removed upon a majority vote by the Board.

ARTICLE V. COMMITTEES OF THE BOARD AND COUNCILS

Section 5.1 Committees: The Board can, from time to time, create, alter and abolish committees of the Board and define the duties and responsibilities and set the membership thereof. Each committee shall have at least three members. Members of the committees and sub-committees and chairs of such bodies shall be appointed by the President upon the approval of the Board.

Section 5.1.1 Standing Committees: The Board of Directors shall have five standing committees and two sub-committees comprised of its members and such other persons as the President deems advisable to appoint to their service. The standing committees shall be:

- (i) Executive Committee
- (ii) Audit Committee
- (iii) Finance Committee
 - a. Investment Sub-Committee
 - b. Real Property Sub-Committee
- (iv) Nominating Committee
- (v) Campaign and Development Committee

Section 5.1.2 Committee Chairs: In all instances, the Chair of the committee shall be a Director.

Section 5.1.3 Reports to the Board of Directors: All committees shall keep a record of its proceedings and report them to the Board at the next regular or special meeting following the committee's meeting. Sub-committees shall keep a record of its proceedings and report them to their committees at the next meeting following the sub-committee's meeting.

Section 5.2 Executive Committee:

Section 5.2.1 Membership: The Executive Committee shall consist of the officers, the ex officio Directors, the Chairs of any committees and sub-committees of the Board, and the Executive Director who shall have no vote.

Section 5.2.2 Purpose: The Executive Committee shall have as its purpose to act on behalf of the Board and to discuss and offer counsel on Corporation operations as needed.

Section 5.2.3 Powers and Duties: During the intervals between meetings of the Board of Directors, the Executive Committee , except as otherwise provided by law, the Certificate of Incorporation, these Bylaws or by resolution of the Board, may exercise all the powers of the Board of Directors in the management of the Corporation including the power to authorize the execution of contracts, real property transactions, investments, and the like, in all instances in which specific directions shall not have been given by the Board of Directors.

Section 5.3 Audit Committee: The Audit Committee shall have as its purposes to 1) recommend the appointment, and evaluate the performance of the Corporation's independent auditors, 2) review in detail the results of the audit, 3) review the Corporation's compliance with laws and government regulations pertaining to financial policies and practices including assurance of compliance with SUNY and IRS guidelines and 4) review and recommend policies to avoid conflicts of interest.

The Chair of the Audit Committee will be limited to a maximum term of five years, and he or she cannot be reelected as Chair for a period of two years.

Section 5.4 Finance Committee: The Finance Committee shall have as its purposes to 1) provide oversight to all asset management and stewardship issues, 2) review and recommend providers of services for financial and fiduciary management, 3) review and

recommend the annual operating budget for the Corporation and its affiliates, 4) review and recommend the annual capital expenditures budget for the Corporation and its affiliates, 5) monitor actual financial activities in comparison to the operating and capital financial plan approved by the Board, 6) review from a financial perspective, major projects introduced during the year which would further the objectives of the Corporation and the University, 7) determine the compensation plan for the Corporation staff and 8) oversee the activities of the Investment and Real-Property sub-committees.

Section 5.4.1 Investment Sub-Committee: The Investment Sub Committee shall have as its purposes to 1) recommend to the Finance Committee policy for investing funds or changes to existing policy, 2) ascertain compliance with investment policy, 3) recommend and develop investment strategy and asset allocation parameters, 4) recommend selection, retention and termination of investments and/or investment managers, 5) review and monitor investment performance, 6) review the portfolio for investments that may present questions of ethical or moral responsibility and 7) to report to the Finance Committee and/or the Board concerning portfolio performance and composition.

Section 5.4.2 Real Property Sub Committee: The Real Property Sub Committee shall have as its purposes to 1) review and report annual current real property holdings of the corporation, including operating statements, 2) review and recommend operating standards for all real property, 3) recommend acquisition or sale of real property in concert with the Finance Committee, 4) oversee a real estate gift acquisition program and 5) evaluate and report to the Finance Committee financing options for real estate.

Section 5.5 Nominating Committee: The Nominating Committee shall have as its purposes to 1) recommend candidates for membership on the Board of Directors and Directors Emeriti, 2) recommend members to serve as officers, and 3) monitor participation by Directors and Directors Emeriti to assure compliance with policies governing such participation.

Section 5.6 Campaign and Development Committee: The Campaign and Development Committee shall have as its purposes to 1) oversee all strategic activities related to successful and timely completion of campaigns, 2) establish campaign policies regarding gift accounting, 3) monitor campaign progress and 4) serve as national/regional spokespersons on behalf of Campaigns and submit campaign and development policies for bond review.

Section 5.7 Councils: The Board can, from time to time, create, alter and abolish councils or similar bodies charged with programmatic or other assignments. Members of Councils or similar bodies and chairs shall be appointed by the President upon the approval of the Board.

Section 5.7.1 Council Chairs: In all instances, the chair of the Council or similar body shall be a Director.

Section 5.7.2 Membership: The membership of the Council or similar body may include individuals who are not Directors of the Board.

ARTICLE VI. FISCAL MATTERS

Section 6.1 **Fiscal Year:** The fiscal year of the Corporation shall end on June 30th each year.

Section 6.2 **Board Responsibility:** The Board shall be responsible for the fiscal affairs of the Corporation. The Executive Director shall submit a full accounting at the annual meeting of the members. The Corporation will endeavor to keep a status which permits donors to deduct gifts to it for the University from their taxes to the maximum extent permitted by law.

Section 6.3 **Annual Audit:** The books and records of the Corporation shall be audited annually by an independent certified public accountant.

Section 6.4 **Corporate Net Earnings:** No part of the net earnings of this Corporation shall inure to the benefit of or be distributed to nor shall there be the right to receive or be lawfully entitled to receive any pecuniary profit from the operation thereof to its members, trustees, directors, officers or other private persons except that the Corporation shall be empowered to pay reasonable compensation for services rendered in effecting one or more of such purposes and to make payments and distribution in furtherance of the purposes hereinabove set forth, and no member, director, officer or other private person shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation.

Section 6.5 **Compensation for Directors:** The Directors of the Corporation shall serve without compensation.

ARTICLE VII. CONFLICTS OF INTEREST

Section 7.1 Conflicts of Interest: Members of the Board of Directors, officers of the Board, officers of the Corporation and all employees of the Corporation must conduct their personal affairs in such a manner as to avoid any possible conflict of interest or appearance of conflict with their duties and responsibilities as members of the Corporation's organization. A conflict of interest is present whenever a Director, officer, or employee has a material personal financial interest in a proposed contract or transaction to which the corporation is a party. This interest can occur either directly or indirectly; the Director or officer may be personally involved with the transaction, or may have an employment or investment relationship with an entity with which the corporation is dealing, or it may arise from some family relationship.

Any duality of interest on the part of any Director or officer shall be disclosed to the Board of Directors, and made a matter of record through an annual procedure and also when the interest becomes a matter of Director or officer action. In general, a Director's or officer's conflict will be cleared of any consequence by, first, full disclosure and, second, approval or ratification of the subject action by a disinterested majority of Directors. Any Director having a duality of interest shall not vote or use personal influence on the matter, and shall not be counted in determining the quorum for the meeting. The minutes of the meeting shall reflect that a disclosure was made, the abstention from voting and the quorum situation.

Any new Director, officer or employee of the Corporation will be advised of this Bylaw restriction upon entering the duties of office or employment.

ARTICLE VIII. INDEMNIFICATION

Section 8.1 **Indemnification:** Each person who is, or was, a Director or officer, of the Corporation, shall be indemnified by the Corporation to the full extent permitted or authorized by the law, as it may from time to time be amended, against any liability, cost, or expense incurred by that person in his/her capacity as a Director or officer, or arising out of the person's status as a Director or officer except in cases of willful misconduct or a knowing violation of the criminal law. Each person who is, or was, an employee or agent of the Corporation, or who serves or may have served at the request of the Corporation as an employee or agent may, at the discretion of the Board of Directors be indemnified by the Corporation to the same extent as provided with respect to Directors and officers of the Corporation. The Corporation shall (a) maintain insurance at its expense to protect itself, and any such person against such liability, cost or expense, (b) pay expenses incurred in defending a civil or criminal action, suit or proceeding in advance of the final disposition of such action, suit or proceeding. The indemnification provided by this article shall not be exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law or under any written agreement.

**ARTICLE IX. ADOPTION, REVIEW AND AMENDMENT OF THE BYLAWS
AND CERTIFICATE OF INCORPORATION**

Section 9.1 **Adoption:** The Bylaws may be adopted at any regular meeting by majority vote of the total voting membership of the Board.

Section 9.2 **Review:** The Bylaws and Certificate of Incorporation shall be reviewed on a periodic basis or when needed.

Section 9.3 **Amendments:** The Bylaws or Certificate of Incorporation of the Corporation may be amended at any regular meeting of the Board by majority vote of the total voting membership of the Board, provided that notice of the intention to amend the Bylaws or Certificate shall have been presented in writing at the regular meeting immediately preceding unless such notice requirement is waived by a two-thirds majority of the Board. Such notice shall provide as far as possible the exact wording of the amendment.

ARTICLE X. MISCELLANEOUS

Section 10.1 **Dissolution:** Upon the dissolution of the Corporation, the Board shall, after the payment of all the just debts, obligations and liabilities of the Corporation (or after making adequate provision for the payment thereof) dispose of all of its assets by transfer to the University or, in concurrence with the University, to such other non-profit organization or organizations organized and operated exclusively for educational, charitable or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Code (or the corresponding provision of any future United States Internal Revenue Law), as in the judgment of the Board is best qualified and competent to promote the purposes of the University and the educational activities of its faculty and students.

Section 10.2 **Political Activities:** No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation, or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.