

AMENDED & RESTATED
BYLAWS
OF THE
UNIVERSITY OF SOUTH CAROLINA - BUSINESS PARTNERSHIP FOUNDATION

ARTICLE I
OFFICES

Section 1.1. Registered Office. The registered office of UNIVERSITY OF SOUTH CAROLINA - BUSINESS PARTNERSHIP FOUNDATION, a South Carolina nonprofit corporation (hereinafter the “*Foundation*”) shall be located in South Carolina.

Section 1.2. Principal Office. The principal office of the Foundation shall be located within South Carolina.

Section 1.3. Other Offices. The Foundation may have offices at such other places within or outside of South Carolina, as the Board of Trustees (as defined in Section 3.1 below) may from time to time determine and as the activities of the Foundation may require.

ARTICLE II
PURPOSES, AUTHORITY AND LIMITATIONS

Section 2.1. Purposes. The Foundation is organized exclusively for eleemosynary, charitable, scientific, and educational purposes, including, for such purposes, the making of distributions to organizations which qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future United States internal revenue law (hereinafter referred to as the “*Code*”). To the extent permitted within the meaning of Section 501(c)(3) of the Code, the purpose of the Foundation is to make the Darla Moore School of Business of the University of South Carolina one of the best in the world. Towards this end, the Foundation shall:

- (a) Establish continuing collaboration between the University of South Carolina (the “*University*”), the business community of the State of South Carolina, and business communities throughout the world for the enhancement and improvement of the Darla Moore School of Business of the University of South Carolina (“*DMSB*”). As part of this collaboration, encourage and assist in supporting research in business and related areas.
- (b) Bring together representatives from different businesses and government and other organizations and assist in conducting conferences, seminars and management

programs to further the education, development and effectiveness of management personnel worldwide.

- (c) Solicit and receive gifts, bequests, things of value and accept the same subject to such conditions and trusts as may be imposed thereon for the exclusive benefit of the DMSB in conjunction with regular funds from the University.
- (d) Build an endowment fund and supervise the effective management of this fund; and disburse monies as determined by the Board of Trustees and in accordance with the limitations of any gift.
- (e) Determine in cooperation with the administration of the DMSB, appropriate projects and programs of that school to be financed in whole or in part by funds raised or by income from the endowment fund.

Section 2.2. Authority. Except as may be limited by the Foundation's Articles of Incorporation (the "**Articles**") or Bylaws and in all cases only to the extent in furtherance of its purposes as set forth in Section 2.1 above, the Foundation will have such powers as are now or may hereafter be granted corporations under the South Carolina Nonprofit Corporation Act of 1994, as amended, Chapter 31, Title 33, S.C. Code (the "**Nonprofit Act**"), including the authority:

- (a) To sue and be sued, complain, and defend in its corporate name;
- (b) To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing or in any other manner reproducing it;
- (c) To make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this State for regulating and managing the affairs of the Foundation;
- (d) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property or any legal or equitable interest in property, wherever located;
- (e) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (f) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interest in or obligations of any entity;
- (g) To make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

- (h) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by Section 33-31-832 of the Nonprofit Act;
- (i) To be a promoter, partner, trustee, member, associate, or manager of any partnership, joint venture, trust, or other entity. When acting as a trustee of a trust in which it has a beneficial interest, the corporation is not conducting a trust business with regard to that trust for purposes of Section 34-21-10 of the Nonprofit Act;
- (j) To conduct its activities, locate offices, and exercise the powers granted by the Nonprofit Act within or outside of South Carolina;
- (k) To elect or appoint Trustees, officers, employees, and Agents of the Foundation, define their duties, and fix their compensation;
- (l) To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former Trustees, officers, employees, and agents;
- (m) To make donations not inconsistent with law for the public welfare or for charitable, religious, scientific, or educational purposes and for other purposes that further the interest of the Foundation;
- (n) To accept gifts, devises, and bequests, subject to any conditions or limitations, contained in the gift, devise, or bequest so long as the conditions or limitations are not contrary to the Nonprofit Act or the purposes for which the Foundation is organized;
- (o) To carry on a business;
- (p) To have and exercise all other authorities necessary to carry out its purposes and to perform all other acts as permitted by law to a nonprofit corporation under the laws of the State of South Carolina; provided, however, that the Foundation shall not engage in any activity not permitted by a tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code.

Section 2.3. Prohibition Against Private Inurement. No part of the net earnings of the Foundation shall inure to the benefit of, or be distributable to, any member, Trustee, officer of the Foundation, or any private person (except that reasonable compensation may be paid for services rendered to or for the Foundation in furtherance of one or more purposes stated in Section 2.1 above), and no member, Trustee, or officer of the Foundation, or any private individual shall be entitled to share in the distribution of any of the corporation assets on dissolution of the Foundation.

Section 2.4. Additional Limitations. No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Foundation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Section 2.5. Exempt Activities. Notwithstanding any other provision of these Bylaws, the Foundation shall not carry on any activities not permitted by an organization exempt under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be amended, or by an organization, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code and Regulations as they now exist or as they may be amended.

Section 2.6. Operating Policies, Procedures and Guidelines. From time to time, the Board of Trustees may adopt, amend, or restate operating policies, procedures and guidelines to carry out the purposes and objectives of the Foundation.

ARTICLE III **BOARD OF TRUSTEES**

Section 3.1. General Powers/ Authority. Subject to the Articles, these Bylaws, the Nonprofit Act, and applicable law, the business and affairs of the Foundation shall be governed by a board of trustees (the “*Board of Trustees*” or the “*Board*”). Authority in, responsibility for, and governance of the affairs of the Foundation shall be vested in the Board of Trustees.

Section 3.2. Number, Qualifications, and Method of Appointment. The Board of Trustees shall consist of “*At-Large Trustees*,” “*Leadership Trustees*,” and “*USC Trustees*” as described below (collectively referred to herein as the “*Trustees*” and each, as a “*Trustee*”):

(a) At-Large Trustees. The number of At-Large Trustees constituting the Board shall be a minimum of five (5) and a maximum size of up to fifteen (15) individuals. The At-Large Trustees shall have full right and privilege to vote upon any matter before the Board. The affirmative vote of a majority of the voting Trustees at a regular or special meeting of the Board shall appoint the At-Large Trustees.

(b) Leadership Trustees. The following Trustees shall be considered Leadership Trustees, with no right to vote upon any matter before the Board, and shall serve ex-officio:

- (i) The President of the University; and
- (ii) The Dean of DMSB (also referred to herein as the “*Dean*”).

(c) USC Trustees. Two (2) Trustees shall be voting members of the board of trustees of the University (“*USC BoT*”), with full right and privilege to vote upon any matter before the Board (each a “*USC Trustee*”). The chair of the USC BoT shall appoint each USC Trustee.

(d) Notwithstanding anything to the contrary herein, a majority of the Trustees serving on the Board shall, at all times, be neither employed nor engaged by the University, including as a director or officer, of the University. Thus, a majority of all Trustees, whether voting or non-voting, are expected to be At-Large Trustees, who are independent of the University in terms of employment or engagement.

Section 3.3. Terms of Office. The terms of the Trustees are as follows:

(a) Each Trustee shall hold office for a term of three (3) years (“*Term*”) or until death, resignation, retirement, removal or disqualification. Each At-Large Trustee shall be permitted to serve for no more than three Terms, unless the Board determines that special circumstances support the waiver of such Term limitation, such as continuation in a role as an officer in the event that term lengths are inconsistent. After a lapse of one year, an individual, who has previously served, may be re-elected as an At-Large Trustee, as the case may be.

(b) No limitations shall apply to any Leadership Trustee or USC Trustee with regard to the number of Terms that he or she may serve as a Leadership Trustee or USC Trustee, as the case may be.

Section 3.4. Resignation of Trustees. Any Trustee may resign at any time. Such resignation shall be made in writing, shall be submitted to the Secretary or the Chair, and shall take effect at such time as is specified in the notification.

Section 3.5. Removal of Trustees.

(a) At-Large Trustees. Any individual may be removed as an At-Large Trustee at any time, with or without cause, at a meeting of the Board called for that purpose by the affirmative vote of two-thirds (2/3rds) of all of the voting Trustees. Any Trustee proposed to be removed shall be entitled to at least ten (10) days notice in writing of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting.

(b) USC Trustees. Any USC Trustee may be removed at any time for any reason by the chair of the USC BoT.

Section 3.6. Vacancies.

(a) Any vacancy occurring among the At-Large Trustees may be filled by a majority vote of a quorum of the Board or a majority of the remaining voting Trustees, if the number remaining is less than a quorum of the Board.

(b) Any vacancy occurring among the Leadership Trustees may be filled by the University pursuant to its hiring practices.

(c) Any vacancy occurring in the USC Trustees may be filled by the chair of USC BoT pursuant to such chair’s right of appointment as described in Section 3.2(c) above.

(d) A Trustee elected/ appointed to fill a vacancy shall be elected for the unexpired Term of such individual's predecessor in office.

Section 3.7. Exculpation of Trustees. No Trustee shall be liable to anyone for any acts on behalf of the Foundation nor any admission with respect to the Foundation committed by such Trustee except for such Trustee's own willful, wanton, or gross negligence pursuant to Section 33-31-180 et seq. of the South Carolina Code of Laws, 1994, as amended.

Section 3.8. Membership. As provided in the Foundation's Articles of Incorporation pursuant to S.C. Code § 33-31-603, the Foundation does not have members within the meaning of S.C. Code § 33-31-140(23). Any use of "member" or "membership" in these Bylaws should be understood in its immediate context, and not to refer to "members" within such statutory definition.

ARTICLE IV **MEETINGS OF TRUSTEES**

Section 4.1. Regular Meetings. The Board shall hold regular meetings according to such schedule and at such times and places as it may fix by resolution or otherwise.

Section 4.2. Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of the Chair or by any three Trustees. Such meetings may be held at the time and place fixed by the person or persons calling the meeting.

Section 4.3. Notice of Meetings. Notice of the time and place of any regular meeting shall be served either personally, electronically by email, or by mail not less than ten (10) nor more than sixty (60) days before the regular meeting upon each person who is a Trustee. Notice of a special meeting must state the time, place and purpose or purposes thereof and shall be served personally, electronically by email, or by mail upon each member of the Board of Trustees not less than two (2) nor more than sixty (60) days before such meeting. Any Trustee may waive notice of any meeting. Attendance by a Trustee at a meeting shall constitute a waiver of notice of such meeting, except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called.

Section 4.4. Quorum. At any meeting of the Board, the presence of (i) a majority of the voting Trustees in office shall constitute a quorum for transaction of business at any meeting of the Board. In the absence of any quorum or when a quorum is present, a meeting may be adjourned from time to time by a vote of the majority of the voting Trustees without notice other than by announcement at the meeting and without further notice to any absent Trustee.

Section 4.5. Manner of Acting. Except as otherwise provided in this section or as required by South Carolina law, the act of the majority of the Trustees present in person at a meeting at which a quorum is present shall be the act of the Board of Trustees. No voting by proxy shall be permitted.

Section 4.6. Meeting by Videoconference, Telephone, and other Communication Means. Any one or more Trustees may participate in a meeting of the Board of Trustees by means of videoconference, telephone, or other communications device, which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall be deemed present in person at such meeting, including for purposes of establishing a quorum.

Section 4.7. Order of Business. At the any regular or special meeting of the Board of Trustees, the Chair, with the approval of the Board of Trustees, may prescribe the order of business.

Section 4.8. Required Vote for Certain Actions. Notwithstanding anything herein to the contrary, the vote of two-thirds (2/3rds) of all of the voting Trustees, at a duly authorized meeting of the Board where a quorum is present (a “*Supermajority Vote*”), shall be required for the following actions:

- (a) Authorizing the merger, consolidation, reorganization, restructuring or dissolution of the Foundation.
- (b) Authorizing, agreeing or completing the sale, lease, exchange or mortgage of substantially all of the Foundation’s properties or assets.
- (c) Amending, deleting or otherwise changing the Articles of Incorporation or these Bylaws.
- (d) Taking any other action described in these Bylaws that expressly requires the vote of 2/3rds of all of the voting Trustees, including without limitation, Section 3.5 (Removal of At-Large Trustees), Section 5.5 (Removal of Officers), Article X (Dissolution), and Article XI (Amendments).

Section 4.9. Unanimous Written Consent. Any action required by law to be taken at a meeting of the Board, or any action that may be taken at the meeting of the Board or of any committee of the Board may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees or committee members entitled to vote on the subject thereof. Such consent shall have the same force and effect as a unanimous vote of the Board and shall be recorded with the minutes of the Foundation.

ARTICLE V **OFFICERS OF THE BOARD OF TRUSTEES**

Section 5.1. Officers and Duties. The officers of the Foundation shall be the Chair, Vice Chair, Immediate Past Chair, Secretary, and Treasurer. All officers, with the exception of the Secretary and the Treasurer, shall be drawn from At-Large Trustees. Each of the Secretary and the Treasurer may be, but is not required to be, a Trustee. Furthermore, a Trustee may simultaneously serve as Treasurer and Secretary. These officers shall perform the duties prescribed by these Bylaws, subject to applicable law.

- (a) Chair. The Chair shall have all the powers and shall perform all the duties conventionally associated with the office including, but not limited to, chairing all Board meetings, developing agendas for Board meetings, and working to ensure Board participation. The Chair may sign, with any other proper officer of the Foundation authorized by the Board of Trustees, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Trustees has authorized to be executed, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be delegated by the Board of Trustees to some other officer or agent;.
- (b) Vice Chair. The Vice Chair shall assist the Chair in the duties of that office and shall perform all duties of the Chair during the Chair's absence or departure from office.
- (c) Immediate Past Chair. The Immediate Past Chair shall advise the Chair and the Board in order to ensure continuity in leadership and institutional knowledge of the Foundation.
- (d) Secretary. The Secretary shall keep a correct record of all the proceedings of the meetings of the Board, and if necessary, any committee meetings. The Secretary shall attend to the giving of notices, have custody of the corporate seal and records, and affix the seal to all instruments required to be executed under seal as authorized by the Board. The Secretary shall perform such other duties as are incident to the office of Secretary and shall have such other powers and duties as may be conferred upon the role by the Board. The Secretary will be responsible for the foregoing activities; however, the Secretary is authorized to delegate operational responsibility, subject to the oversight of the Secretary, to appropriate Foundation staff or other qualified persons.
- (e) Treasurer. The Treasurer shall perform such duties as are incident to the office of Treasurer and shall have such other powers and duties as may be conferred to the Treasurer by the Board of Trustees. The Treasurer shall ensure the development of an annual budget and financial statements, and distribution of these materials to the Trustees. The Treasurer shall ensure that all required reports are filed with the Internal Revenue Service, the state of South Carolina, and any financial institutions deemed necessary and will assist with all compliance requirements associated with the maintenance of Section 501(c)(3) status of the Foundation. The Treasurer will be responsible for the foregoing activities; however, the Treasurer is authorized to delegate operational responsibility, subject to the oversight of the Treasurer, to appropriate Foundation staff or other qualified persons.
- (f) Other Officers. The Board may create, from time to time, other positions of office as it deems necessary.

Section 5.2. Officer Term. Each officer shall hold office for a term of two (2) years or until death, resignation, retirement, removal or disqualification. The term lengths for the officers,

as provided in this Section 5.2., shall also be referred to herein as an “*Officer Term*”. Each officer shall be permitted to serve for no more than one Officer Term in such specific officer role, unless the Board determines that special circumstances support the waiver of such Officer Term limitation. After a lapse of one year, an individual, who has previously served, may be re-elected as to such prior officer position. Notwithstanding the foregoing, in the event that an individual serving as Secretary or Treasurer is not a Trustee of the Foundation (a “*non-Trustee*”), then there shall be no limit to the number of Officer Terms that can be served consecutively by any non-Trustee in either the role of Secretary or Treasurer.

Section 5.3. Election of Officers. The vote of a majority of the Board shall be required to appoint all officers, except the Secretary, the Treasurer, and the Immediate Past Chair. The Chair shall appoint individual(s) to serve as Treasurer and Secretary, but the Board reserves the right to reject subsequently such appointments by a majority vote at the next meeting of the Board. Upon the conclusion of the Officer Term of the Chair, such individual shall automatically become the Immediate Past Chair.

Section 5.4. Resignation of Officers. Any officer may resign at any time. Such resignation shall be made in writing, shall be submitted to the Secretary or the Chair, and shall take effect at such time as is specified in the instrument.

Section 5.5. Removal of Officers. Any officer may be removed from office, with or without cause, by the affirmative vote of two-thirds (2/3rds) of all of the voting Trustees, at a special or regular meeting called for that purpose. Any such officer proposed to be removed shall be entitled to at least ten (10) days notice in writing of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting.

Section 5.6. Vacancies. A vacancy in any elected office may be filled by a majority vote of the Board, at a regular or special meeting where a quorum is present. An officer elected to fill a vacancy shall be elected for the unexpired Officer Term of the predecessor in office.

ARTICLE VI **COMMITTEES**

Section 6.1. Standing, Ad Hoc, and Special Committees. The Board of Trustees or the Chair may establish such standing committees, special committees, and ad hoc committees, as each of them shall from time to time determine. Each committee so established shall be tasked with a mission, which is consistent with the charitable purpose of the Foundation.

Section 6.2. Composition of Committees. Each committee shall be composed of such persons, whether Trustees or not, as shall be determined and appointed by the Chair; provided that only Trustees may serve on the Executive Committee and the Governance Committee. A Trustee will chair all committees. Unless otherwise provided in these Bylaws, the Chair shall appoint the chair of each committee. Unless otherwise provided by the express action of the Board, the Chair may remove anyone at any time, with or without reason, from any committee, to which the Chair had the original power of appoint of such individual thereto. The Chair and Vice Chair shall serve

as ex-officio, non-voting members of all committees on which they do not serve as regular members.

Section 6.3. Conduct. Committees shall meet as appropriate during the year. Reports shall be filed by the chair of each committee with the President and distributed to the Board upon the request of the Chair. Unless stated elsewhere herein, the term of committee membership will be one year from time of appointment or until a successor committee member is appointed. Whenever possible the members of each committee shall have an educational and/or work experience background, which will benefit the activities and goals of the committee.

Section 6.4. Standing Committees. The Foundation shall have the following standing committees as listed below. Within a reasonable period of time following assumption of office, and except for those individuals expressly appointed pursuant to these Bylaws, the Chair shall appoint individuals to serve on all standing committees as well as an individual to serve as the chair of each such committee; provided, however, the Board reserves the right to remove subsequently any such appointment by a majority vote at the next meeting of the Board.

The standing committees are as follows:

(a) **Executive Committee.** The Executive Committee shall consist of the Chair, Vice Chair, the chairs of the Finance Committee, Governance Committee, and up to one other At-Large Trustee who may be appointed by and at the discretion of the Chair. The Dean of DMSB shall serve on the Executive Committee, ex-officio, in a non-voting capacity. The chair of the Executive Committee shall at all times be the Chair. The Executive Committee shall supervise the business of the Foundation and assist in the development and implementation of the policies of the Foundation. The Executive Committee shall perform such other duties or functions not covered by the other standing or temporary committees appointed by the Chair, and as otherwise provided in the Articles and these Bylaws. During the intervals between meetings of the Board, the Executive Committee shall have and may exercise all of the authority of the Board, except for (i) the decisions in Section 4.8 and Articles X (dissolution) and XI (amendment) and, (ii) with regard to the removal, election, or appointment of any officer or Trustee as provided in Articles III and V, all of which are actions and decisions reserved solely for the Board, and (iii) as otherwise limited by the Nonprofit Act or applicable law. Furthermore, the Executive Committee may not take any action in contradiction or conflict with, reverse, veto, or overrule any express, prior action of the Board. The Executive Committee shall report on the actions and decisions that it takes to the Board in a timely manner.

(b) **Governance Committee.** Notwithstanding anything to the contrary, the chair of the Governance Committee and the individuals that serve on the Governance Committee shall all be Trustees. The Governance Committee shall be tasked with a purpose to review, develop and suggest, from time to time, amendments to various governing documents, including but not limited to, Articles of Incorporation and Bylaws, and corporate policies, to ensure that such governing documents support appropriately the then-current needs of the Foundation. The Governance Committee shall ensure the development and maintenance of charters for all committees. In consultation with the Chair, the Governance Committee shall be responsible to present to the Board of Trustees nominations for At-Large Trustees and officers for election by the Board of Trustees,

including the filling of vacant positions. The Governance Committee shall develop and recommend general procedures to the Board for the election of At-Large Trustees and officers of the Foundation.

(c) Audit Committee. The Audit Committee shall assist the Board in all aspects of any audit of the Foundation. Under no circumstance may the Treasurer serve on the Audit Committee. On an annual basis, the Audit Committee shall select an independent auditor who shall be a certified public accountant. The Audit Committee shall initially receive and evaluate the independent audit of the Foundation's financial transactions and the drafts of any federal and state tax returns for presentation to the Board. It is the responsibility of the Audit Committee to respond to, and as requested, work with the certified public accountant in connection with the periodic audit of the Foundation's books of account and to address risk management associated with the Foundation.

(d) Finance Committee. The Finance Committee shall work closely with the Treasurer and advise the Board of Trustees as to the budget and financial management of the Foundation, its assets, investments, and operations. The Finance Committee shall also advise the Board of the general fiscal policy and management of the Foundation, as well as provide recommendations and guidance with regard to any investments of the Foundation, including without limitation asset allocation strategies and the hiring of investment managers.

(e) External Relations Committee. The External Relations Committee shall make recommendations to the Board regarding the Foundation's relations with external entities, such as governments, and professional, public and private institutions, organizations, and individuals, as well as explore opportunities to connect with private industry and external stakeholders.

Section 6.5. Quorum. A majority of the individuals serving on the committee shall constitute a quorum and the affirmative vote of the majority of the committee members present at a meeting at which a quorum is present shall be the act of any committee.

Section 6.6. Advisory Boards and Groups. The Board may provide for such other advisory boards, councils, or groups consisting in whole or in part of persons who are not Trustees of the Foundation, as it deems necessary or desirable. It shall be the function and purpose of each such body to advise the Board of Trustees on issues presented. Appointments to and the filling of vacancies on any such other advisory boards shall be made by the Chair, subject to the confirmation of the Board.

Section 6.7. External Committees and Boards. By virtue of its relationship with the University and its affiliated foundations, the Foundation may be called upon to populate certain positions on committees or boards of other nonprofit organizations that are affiliated with the University. In all such cases, the Board hereby delegates such power of appointment to the Chair to the extent permitted by applicable law.

Section 6.8. Term of Office. Each member of a committee shall serve as a member of such committee for terms of one year, to run concurrent with the fiscal year unless the committee

shall be sooner terminated. There shall be no limit to the number of terms that an individual may serve on a committee.

Section 6.9. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 6.10. Rules. Subject to the requirements of this Article VI, each committee may adopt rules for its own governance not inconsistent with these Bylaws.

ARTICLE VII **PRESIDENT AND STAFF**

Section 7.1 President. The President shall be the chief executive officer of the Foundation, shall be principally responsible for the general management and day-to-day operations of the Foundation, and shall be responsible to the Board for all of the President's actions. The Board shall appoint and engage the individual serving as President and shall have the authority to terminate any such appointment and engagement. All policies of the Foundation shall be established by the Board with the consultation of the President, who shall be responsible for implementations of Board-enacted policies. The President shall have the responsibility for oversight and management of financial, outreach, programmatic, and other affairs of the Foundation, shall ensure that assets are accounted for and stewarded in accordance with the purpose of Foundation, the intent of donors, and these Bylaws. Additionally, the President shall recommend to the appropriate committee of the Board such changes in personnel, policy, or programs as he or she deems necessary or desirable. The President shall supervise the staff, personnel, and independent contractors of the Foundation and shall be responsible for the firing or termination of employment or engagement of such persons.

Section 7.2 Vice-Presidents. The President is authorized to hire one or more Vice-Presidents to assist the President in the execution of the President's duties and responsibilities. He or she shall see that all orders and resolutions of the Board are carried into effect. A Vice-President shall perform such other duties and have such other authority and powers as the President may from time to time prescribe consistent with these Bylaws.

Section 7.3 Compensation. The salaries and benefits of the President shall be established by the Board. The salaries and benefits of all other staff employed directly by the Foundation shall be fixed by the President within the annual budget established by the Board. Such salaries and benefits shall be reasonable in amount and shall be reviewed periodically with appropriate data as to comparability of similar positions at similar charitable organizations.

ARTICLE VIII **SUBSIDIARIES**

Section 8.1. Authorization. To the extent permitted under applicable law, the Board is authorized to form one or more subsidiaries of the Foundation.

Section 8.2. Corporate Solutions, LLC. The Foundation, acting by and through its Board, shall be the sole member of Corporate Solutions, LLC, a South Carolina limited liability company (“CS”). CS shall be governed in accordance with (i) its Articles of Organization, (ii) its Operating Agreement, a true copy of which is on file at the principal office of CS, and (iii) applicable law. The Chair, or his or her designee shall serve as the chair of the executive committee of CS.

ARTICLE IX **INDEMNIFICATION**

Section 9.1. Expenses and Liabilities. To the maximum extent permitted by the Nonprofit Act, the Foundation shall indemnify each of its Trustees, officers and Agents against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that any such person is or was an agent of the Foundation. For purposes of this Article, an “*Agent*” of the Foundation includes any person who is or was a Trustee, officer, or employee of the Foundation; or is or was serving at the request of the Foundation.

Section 9.2. Advance of Expenses. To the extent permitted by law, the Foundation may advance expenses incurred or to be incurred by a Trustee, officer, or Agent in connection with any proceeding arising by reason of the fact that such person was or is a Trustee, officer, or Agent of the Foundation, provided such advance is authorized by the Board of Trustees and permitted by law.

Section 9.3. Insurance. The Board of Trustees may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Trustee, officer, or Agent of the Foundation against any liability asserted against or incurred by such persons in said capacity or arising out of such individual’s status as such, whether or not the Foundation would have the power to indemnify such persons against that liability under the provisions of this Article.

Section 9.4. Bond. The Board of Trustees may by resolution require any or all officers, Agents, and employees of the Foundation to give bond to the Foundation, with sufficient sureties, conditioned on the faithful performance of the duties of their respective offices or positions, and to comply with such other conditions as may from time to time be required by the Board.

ARTICLE X **CONFLICTS OF INTEREST**

The Board of Trustees shall implement and enforce the Conflicts of Interest Policy attached to these Bylaws as Appendix A. No modification or amendment to such policy shall be made without complying with Article XIII of these Bylaws.

ARTICLE XI **DISSOLUTION**

Section 11.1. Distribution on Dissolution. In accordance with the then-current Articles of Incorporation of the Foundation, upon the dissolution of the Foundation, the remaining assets of the Foundation shall be distributed to the Darla Moore School of Business of the University of South Carolina or to one or more nonprofit exempt organizations) within the meaning of Section 501(c)(3) of the Internal Revenue Code, dedicated to the support of the Darla Moore School of Business of the University of South Carolina, as determined by the USC BoT.

ARTICLE XII **AMENDMENTS**

These Bylaws may be amended or repealed, and new bylaws may be adopted by the affirmative vote of two-thirds (2/3rds) of all of the voting Trustees then holding office. Notice of proposed changes to the Bylaws must be provided to the Board at least ten (10) days prior to any meeting of the Board where such changes may be considered for approval.

ARTICLE XIII **SEPARATE ORGANIZATION**

Although the intention of the Foundation is to cooperate, augment and aid, in the ways previously enumerated, the mission and programs of the University, and any other nonprofit exempt organization(s) within the meaning of Section 501(c)(3) of the Internal Revenue Code organized for the support and benefit of the University, it is here and now to be clearly stated that the Foundation is a separate organization to be operated under its own charter and articles of incorporation as laid down in the law of South Carolina for this and nonprofit corporations.

ARTICLE XIV **CONFIDENTIAL INFORMATION**

In accepting an appointment as a Trustee, each Trustee agrees to hold in confidence information concerning the University, the DMSB, and the Foundation activities, business, and relationship, or other information provided to the Trustee, which is described orally or in writing as confidential, and is more fully described in a confidentiality agreement and conflict of interest disclosure statement to be executed annually by each Trustee.

ARTICLE XV
CONTRACTS, CHECKS AND DEPOSITS

Section 15.1. Contracts. In addition to the Chair as provided in Section 5.1(a) and the President as provided in Section 7.1, the Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the Foundation and such authority may be general or confined to specific instances.

Section 15.2. Loans. No loans shall be contracted on behalf of the Foundation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Trustees.

Section 15.3. Checks and Drafts. All checks, drafts, or other orders for the payment of money issued in the name of the Foundation shall be signed by the Chair, the President, or the Treasurer or such officers or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Board of Trustees.

Section 15.4. Deposits. All funds of the Foundation not otherwise employed shall be deposited from time to time to the credit of the Foundation in such depositories as the Board of Trustees may select.

ARTICLE XVI
AUDIT, BOOKS, & RECORDS

Section 16.1. Accounting, Books and Records.

- (a) **General.** The Foundation will maintain appropriate corporate and accounting records. The Foundation's books and records will be maintained as provided in this Section.
- (b) **Financial Reports.** The Foundation will maintain at its principal office its financial reports as of the end of the most recent fiscal year, including at a minimum a balance sheet and a statement of operations of such year, accompanied by the report of the certifying accountant.
- (c) **Corporate Records.** The Foundation will maintain at its principal office the following written corporate records: Articles of Incorporation and all amendments from time to time in effect; Bylaws and all amendments from time to time in effect; a current list of Trustees and officers and their addresses of record; IRS Forms 990, 1023, such additional tax information as may be required under § 6104 of the Internal Revenue Code; and the Foundation will maintain in writing or in a format convertible into writing the minutes of all Board and Committee meetings and action without meeting for the past three years.

Section 16.2. Fiscal Year. The fiscal year of the Foundation shall be a year ending June 30th but may be changed from time to time by the Board of Trustees.

Section 16.3. Audit. The Board of Trustees is authorized to develop an appropriate audit policy of the Foundation, consistent with these Bylaws and applicable law, and commensurate with the scope of the Foundation's activities.

Section 16.4. Compliance with IRS Disclosure Requirements. Records of the Foundation will be maintained and provided in accordance with § 6104 of the Internal Revenue Code. The operating policies, procedures and guidelines of the Foundation will contain such provisions, including language addressing conduct of meetings and disclosure of records, as to ensure the Foundation's compliance with IRS disclosure regulations.

Section 16.5. Compensation. No officer or Trustee shall by reason of such individual's office be entitled to receive any salary or compensation, but nothing herein shall be construed to prevent an officer or Trustee from receiving any compensation from the organization for duties other than as a Trustee or officer. This limitation shall not apply to any employee or staff of the Foundation who may be serving in the role of Secretary and/ or Treasurer.

ARTICLE XVII **RESTRICTIONS AND DONATIONS**

Section 17.1. The Foundation may receive as its sources of income, gifts, bequests from wills, and restricted and unrestricted monies or properties of any kind or description from any and all sources, but no gift, bequest or devise of any such property shall be received and accepted if it be for other than charitable purposes as limited to and including charitable, scientific, literary, or other educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 as now in force or afterwards amended or as shall, in the opinion of the Trustees, jeopardize the federal income tax exemption of the Foundation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 as now in force or afterwards amended.

ARTICLE XVIII **REGULATION**

Section 18.1. General. The regulation of the business and conduct of the affairs of the Foundation will conform to federal and state income tax laws and any other applicable federal and state law, including, but not limited to, the Nonprofit Act. In the interpretation of these Bylaws, wherever reference is made to the United States Code (U.S.C.), the United States Internal Revenue Code, Internal Revenue Laws or Treasury Regulations thereunder, the Nonprofit Act, the South Carolina Code or any other statute, or to any section thereof, such reference will be construed to mean such Code, Act, laws, statutes, or section thereof, and the regulations thereunder, as the case may be, as heretofore or hereafter amended or supplemented or as superseded by laws or regulations covering equivalent subject matter.

Section 18.2. Seal. The Foundation shall be authorized to adopt a seal in circular form for its use.

Section 18.3. Governing Law. These Bylaws are executed and delivered in the State of South Carolina, and they will be governed by, construed, and administered in accordance with the laws of the State of South Carolina.

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[CONFLICTS OF INTEREST POLICY TO FOLLOW]

APPENDIX A
TO
THE AMENDED & RESTATED BYLAWS OF
UNIVERSITY OF SOUTH CAROLINA - BUSINESS PARTNERSHIP FOUNDATION

CONFLICTS OF INTEREST POLICY

ARTICLE I
Purpose

The purpose of this Conflicts of Interest Policy is to protect the interest of University of South Carolina – Business Partnership Foundation, a South Carolina nonprofit corporation (hereinafter the “*Foundation*”) when it is contemplating entering a transaction or arrangement that might benefit the private interest of an officer or trustee of the Foundation. This policy is intended to supplement but not replace Sections 33-31-831 or 33-31-832 of the South Carolina Code or other applicable state laws governing conflicts of interest applicable to non-profit and charitable corporations. Capitalized terms not otherwise defined herein shall have the meaning ascribed in the Amended & Restated Bylaws, to which this Conflicts of Interest Policy is attached and incorporated.

ARTICLE II
Definitions

1. Interested Person.

Any trustee, officer, or member of a committee with Board-delegated powers who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

2. Financial Interest.

A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or family:

- a. an ownership or investment in any entity with which the Foundation has a transaction or arrangement;
- b. a compensation arrangement with the Foundation or with any entity or individual with which the Foundation has a transaction or arrangement; or
- c. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A Financial Interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a Financial Interest may have a conflict of interest only if the appropriate Board or committee decides that a conflict of interest exists.

ARTICLE III Procedures

1. Duty to Disclose.

In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence of any Financial Interest and all material facts to the trustees and members of committees with Board-delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists.

After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, the Interested Person shall leave the Board of Trustees or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board of Trustees or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest.

- a. An Interested Person may make a presentation at the Board of Trustees or committee meeting, but after such presentation, the Interested Person shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.
- b. The Chair of the Board of Trustees or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the Board of Trustees or committee shall determine whether the Foundation can obtain a more advantageous transaction or arrangement

with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

- d. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board of Trustees or committee shall determine by a majority vote of the disinterested trustees whether the transaction or arrangement is in the Foundation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Foundation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

4. Prohibited Transactions.

Notwithstanding, anything in this policy to the contrary, an Interested Person shall not, during the period of service as a Trustee, officer or member of a committee with Board-delegated powers and for a period of twelve (12) months thereafter, invest, or receive an ownership interest, through stock, options, phantom stock or otherwise, in any entity or venture in which the Foundation maintains an ownership interest excepting the Foundation's investments in publicly traded securities including mutual funds. Provided, however, the Board of Trustees, upon a vote of 75% of its members not counting the affected trustee, may waive the applicability of the above-described prohibition with respect to the 12-month period following a trustee's period of service as a trustee, officer, or member of a committee with Board-delegated powers.

5. Violations of the Conflicts of Interest Policy.

- a. If the Board of Trustees or committee has reasonable cause to believe that a member has failed to disclose an actual or possible conflict of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board of Trustees or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

ARTICLE IV Records of Proceedings

The minutes of the Board of Trustees and all committees with Board-delegated powers shall contain:

- a. The names of the 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, and the Board of Trustees' or committee's decision as to whether a conflict of interest in fact existed.

- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

ARTICLE V

Compensation Committees

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Foundation for services is precluded from voting on matters pertaining to that member's compensation.

ARTICLE VI

Annual Statements

Each trustee, principal officer, and member of a committee with Board-delegated powers shall annually sign a statement which affirms that such person—

- a. has received a copy of the Conflicts of Interest Policy,
- b. has read and understands the policy,
- c. has agreed to comply with the policy, and
- d. understands that the Foundation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

ARTICLE VII

Periodic Reviews

To ensure that the Foundation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining.
- b. Whether transactions with parties are properly recorded, reflect reasonable

payments for goods and services, further the Foundation's charitable purposes and do not result in inurement or impermissible private benefit.

ARTICLE VIII
Use of Outside Experts

In conducting the periodic reviews provided for in Article VII, the Foundation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Trustees of its responsibility for ensuring that periodic reviews are conducted.