

BYLAWS
OF
THE UNIVERSITY OF MEMPHIS RESEARCH FOUNDATION

ARTICLE 1: PURPOSE AND ORGANIZATIONAL MATTERS

Section 1. Purpose. The University of Memphis Research Foundation (hereinafter "Research Foundation") was formed to promote the objectives of The University of Memphis (hereinafter "University") in providing higher education, conducting research, providing public service, and assisting in economic development in Tennessee. In furtherance of these objectives, the Research Foundation will facilitate acquisition of sponsored research funds from public and private sources, accept donations to support activities of the Research Foundation, pursue appropriate legal protection for proprietary technologies developed through University research, hold and manage intellectual property assets on behalf of the University, and promote commercialization of research products and transfer of University technologies to appropriate partners for their further development and commercialization. In accordance with the Research Foundation's charter, the Research Foundation is authorized to perform similar activities in support of other State institutions.

The Research Foundation is organized exclusively for charitable, scientific, literary and educational purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding section of any future federal tax code (hereinafter, the "Code"); and, to the extent consistent with the provisions herein, to do any and all things allowable under the Tennessee Nonprofit Corporation Act. The Research Foundation is organized to operate for the benefit of the University, which is owned and operated by a governmental unit, as an organization described in Sections 170(b)(1)(A)(iv) and 509(a)(1) of the Code, but only to the extent that such functions and purposes are exclusively for charitable, scientific, literary and educational purposes. Specifically, the Research Foundation is organized to benefit the University of Memphis, a public institution of higher education, for the following purposes:

- a. developing and administering sponsored research and other projects conducted by the faculty and staff of the University of Memphis;
- b. coordinating a sponsored research program for the University of Memphis;
- c. encouraging, promoting, and aiding in the fulfillment of the educational, service and research functions of the University; and
- d. using and applying the whole or any part of the income and principal received exclusively for charitable, educational, and scholarly purposes; and
- e. encouraging, promoting and aiding the transfer of technologies generated in the course of research conducted by University faculty, staff and students.

Section 2: Powers. The Research Foundation is empowered to and may exercise all rights and powers conferred on nonprofit corporations under the laws of Tennessee, or which may hereafter be conferred, including the power to contract, rent, buy or sell personal or real property, borrow money, seek gifts, grants or other forms of aid, to enter into any form of financing arrangement with any lending institution, investor or governmental entity in connection with its activities, and to sue or be sued; provided however, that the Research Foundation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Research Foundation, as set forth above. Specifically and without limiting the general powers granted to the Research Foundation under Tennessee law, the Research Foundation shall have the following powers:

- a. to encourage, promote and carry on scholarly research and allied supportive activities, including studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries and processes; and to provide financial support for the publication and distribution of the results thereof;
- b. to encourage, promote and carry on projects which will fulfill the research, teaching, and service functions of the University;

- c. to accept, negotiate, and enter into contracts to support research, teaching, and service functions by the faculty and staff of the University;
- d. to accept, administer, and disburse gifts, grants, and bequests of property of every kind or to hold said property in trust in such a manner as the Research Foundation deems appropriate for the furthering of the purposes of the Research Foundation;
- e. to provide or assist in providing funds, scholarships, fellowships, professorships, support services and facilities for scientific and other research by which discoveries, inventions, and publications for the advancement of humankind may be developed and to determine the appropriate use of such discoveries, invention, and publications, and to make gifts or enter into agreements or contracts with other corporations, organizations, institutions of person for this purpose and to pay the necessary and appropriate expense therefore;
- f. to apply for, take out, receive (by purchase or gift), hold, administer, license and dispose of patents, patent rights, copyrights, licenses, assignments of inventions, discoveries, processes, secrets, and other intellectual property protection for any inventions or publications, and the income thereof, provided, however, that all income from all such sources shall be devoted to the scientific, charitable, and educational purposes of the Research Foundation, and none of such income shall accrue to any officer, director, or employee of the Research Foundation for remuneration for services, except as an inventor or author of a project;
- g. to receive grants from government or other sources and to distribute such grants for the support of scientific, educational, and other research;
- h. to sell, exchange, convey, mortgage, lease, transfer, or otherwise dispose of any such property, both real and personal, as the purposes of the Research Foundation may require, subject to such limitations as may be prescribed by law;
- i. to invest and reinvest its funds in such stocks, bonds, debentures, mortgages, or in other such securities and property as its Board of Directors shall deem advisable,

subject to the limitations and conditions contained in any bequest, devise, grant, or gift, provided such limitations and conditions are not in conflict with the provisions of the Internal Revenue Code and its Regulations as they now exist or as they may be hereafter amended;

- j. to engage in all other activities which support and effectuate the purposes of the Research Foundation and which are not prohibited by law.

Section 3: Prohibited Activities. Notwithstanding any other provision of these Bylaws, the Research Foundation shall not carry on any other activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Code, as amended, or the corresponding provision of any future United States Internal Revenue Law. No substantial part of the activities of the Research Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Research Foundation shall not participate in or intervene in (including the publishing or distribution of statements for) any political campaign on behalf of any candidate for public office.

No part of the net earnings of the Research Foundation shall inure to the benefit of, or be distributable to, its Directors, members, officers, or any private individual, except that the Research Foundation shall be authorized and empowered to pay reasonable compensation for services rendered, and no Director, officer, or any private individual shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the Research Foundation.

Notwithstanding anything herein to the contrary, at any time during which it is deemed a private foundation, the Research Foundation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code, as amended, or corresponding section of any future federal tax code; the Research Foundation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Code, as amended, or corresponding section of any future federal tax code; the Research Foundation will not retain any excess business holdings as defined in Section 4943(c) of the Code, as amended, or corresponding section of any future federal tax code; the Research Foundation shall not make any investments in such manner as to subject the Research Foundation to the tax under Section 4944 of the Code, as amended, or corresponding section of any future federal tax code;

and the Research Foundation shall not make any taxable expenditures as defined in Section 4945(d) of the Code, as amended, or corresponding section of any future federal tax code.

Section 4: Tax-Exempt Status. It is intended that the Research Foundation shall have the status of a corporation that is exempt from federal income taxation under Section 501(a) of the Code as amended, or corresponding section of any future federal tax code and more specifically shall be an organization described in Section 501(c)(3) of the Code. These Bylaws shall be construed accordingly, and all powers and activities of the Research Foundation shall be limited accordingly.

Section 5: Dissolution. Upon dissolution of the Research Foundation, all of the remaining assets and property of the Research Foundation shall, after the payment of the debts of the Research Foundation and the necessary expenses incident to such dissolution, be distributed, at the discretion of the Board of Directors of the Research Foundation, to the University of Memphis, for one or more exempt purposes within the meaning of Section 501(c)(3) of the Code, as amended, or corresponding section of any future federal tax code, or to one or more other tax exempt organizations which are operated in furtherance of one or more of this organization's exempt purposes, or to the federal government, or to a state or local government, for a public purpose. Subject to the foregoing in all instances upon dissolution or termination, the assets of the Research Foundation shall be distributed in accordance with the provisions of Tennessee Code Annotated Section 48-64-106 and the Tennessee Nonprofit Corporation Act, as they now exist and as they may hereafter be amended or adopted.

ARTICLE II: PLACE OF BUSINESS

The principal place of business of The University of Memphis Research Foundation shall be FedEx Institute of Technology, The University of Memphis, 365 Innovation Drive, Suite 303, Memphis, TN 38152-3115. Other places of business may be designated by the Board of Directors as required.

ARTICLE III: MEMBERSHIP

The University of Memphis Research Foundation does not have members.

ARTICLE IV: BOARD OF DIRECTORS

Section 1. **General Powers.** The Board of Directors of The University of Memphis Research Foundation shall exercise all powers described under the Tennessee Nonprofit Corporation Act, T.C.A. §48-51-101 *et seq.* All property and business of the Research Foundation shall be managed by the Board of Directors, who may appoint or employ such persons as may be necessary to assist in the management of Research Foundation property and business. Terms and conditions of any such appointment or employment shall be at the discretion of the Board. The Board of Directors shall also be responsible for developing policies and procedures concerning the operation of the Research Foundation including policies for solicitation, acceptance and management of grants, contracts and donations in support of the mission of the Research Foundation.

Section 2. **Masculine/Feminine.** Whenever used throughout these Bylaws, the masculine gender may include the feminine and the feminine gender may include the masculine.

Section 3. **Number of Directors.** The number of voting members of the Board of Directors shall be thirteen (13) or such other number as may be designated by resolution of a majority of the members of the Board of Directors, provided that the number of voting members shall never be more than fifteen (15) nor less than five (5).

Section 4. **Composition of Board.** The initial (founding) Board of Directors shall be composed of thirteen (13) voting members which shall consist of University Directors and At-Large Directors (as further described and defined herein). The Incorporator shall appoint the initial Board of Directors as directed by the President of the University of Memphis, with the advice of the Provost. The composition of the Board of Directors will be as indicated herein below.

A. **University Directors.** At least two (2) members and no more than one less than a majority of the Board of Directors shall be employees of the University and shall be appointed by the President of the University.

If, at any time, a University employee serves as Executive Director of the Research Foundation, that individual will serve as a non-voting, ex officio member of the Board of Directors.

B. **At-Large Directors.** Non-employees of The University of Memphis shall make up a majority of the Board of Directors. These At-Large Directors shall be selected from individuals with expertise in banking, business, technology, research, technology transfer and commercialization, law or other fields relevant to the business of the

Research Foundation. At least one (1) member of the Board of Directors who is not employed by the University shall be an alumnus of The University of Memphis.

Section 5. Procedures and Terms for Appointment to the Board of Directors.

- A. After the expiration of the terms of office of the initial Board of Directors, the At-Large Directors shall be elected to the Board by a vote of the then-existing Board of Directors. The initial slate of At-Large Directors shall be appointed by the Incorporator at the direction of the President of the University in her capacity as Chair of the Board of Directors of the Research Foundation, in consultation with the Provost. The Board of Directors may remove any Director for cause. The slate of all subsequent At-Large Directors to be elected or proposed to be elected to the Board of Directors shall be in compliance with the requirements of Article IV, Section 4 and shall be determined in consultation with the President of the University. The replacement for any position held by a University Director which becomes vacant or has an expired term shall be appointed by the President of the University.

B. With the exception of University Directors as listed in Section 4 (A), the terms of members of the Board of Directors shall expire in alternate years such that no more than two members of the Board of Directors' terms of service shall expire in the same year. For the initial Board of Directors, two (2) of the At-Large Directors shall have a one (1) year term, two (2) of the At-Large Directors shall have a two (2) year term, and two (2) of the At-Large Directors shall have a three (3) year term. The initial At-Large Directors will be assigned to the respective terms by the Incorporator at the direction of the President of the University. The University Directors appointed to serve as initial members of the Board shall serve three year terms.

C. All subsequent terms shall be three years, unless a Director is serving by virtue of their employment position with the University.

Section 6. Interim Appointments. Upon the death, extended illness, resignation, or other circumstances of termination of an individual Board member's service, a similarly qualified individual shall be appointed by the Chair of the Board of Directors to complete the unexpired term. The replacement appointment shall be made within 30 days of termination the Board member's service.

Section 7. Successive Terms. Individual members of the Board of Directors may be elected to serve successive terms.

Section 8. Compensation. A Director shall not receive financial or other compensation for performance of his or her duties as a Director, but with prior approval of the Chair of the Board, may be reimbursed for any personal funds expended in the performance of his or her duties as a member of the Board of Directors. Directors who serve as officers of the Research Foundation may be compensated for work done in fulfilling these duties as indicated in Article V, Section 9 (C).

Section 9. Discharge of Duties. A Director shall discharge his or her duties as a Director, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the Research Foundation. In discharging his or her duties, a Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (i) one (1) or more officers or employees of the Research Foundation whom the Director reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel,

public accountants, or other persons as to matters the Director reasonably believes are within the person's professional or expert competence; or (iii) a committee of the Board of Directors of which he is not a member, as to matters within its jurisdiction, if the Director reasonably believes the committee merits confidence. However, a Director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by this By-Law unwarranted. A Director shall not be liable for any action taken as a Director, or any failure to take any action, if he has performed the duties of his or her office in compliance with this By-Law or if he is immune from suit pursuant to the provisions of Section 48-58-601 of the Tennessee Nonprofit Corporation Act, as now in effect or as may be hereafter amended. A Director shall not be deemed to be a trustee with respect to the Research Foundation or with respect to any property held or administered by the Research Foundation, including without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

ARTICLE V: OFFICERS

- Section 1. Officers. The Officers of the Board of the Directors of the Research Foundation shall be a Chair, Vice Chair, Secretary, Treasurer and the Executive Director of the Research Foundation. The Board of Directors shall, in its discretion, appoint or employ such additional Officers as may be necessary to conduct the business of the Research Foundation. Each officer so appointed shall hold office at the pleasure of the Board, and shall exercise such powers and perform such duties as assigned by the Board. The initial officers shall be appointed by the Incorporator at the direction of the President of the University in her capacity as Chair of the Board of Directors of the Research Foundation, in consultation with the Provost.
- Section 2. Chair of the Board of Directors. The President of the University shall serve as Chair of the Board of Directors of the Research Foundation at all times, and he or his designee shall preside over all meetings of the Board of Directors. The Chair shall fulfill all duties and obligations and have all of the rights of a "President" as defined in Sections 48-58-401 and 48-58-402 of the Tennessee Nonprofit Corporation Act.
- Section 3. Vice Chair. The Vice Chair shall be a non-University employee member of the Board of Directors, and shall be responsible for any and all duties designated by the Chair. In addition, the Vice Chair shall assume the duties of the Chair when the Chair is unable to fulfill these duties.

- Section 4. Executive Director of the Research Foundation. The Executive Director of the Research Foundation shall be appointed by the Chair of the Board of Directors of the Research Foundation. This person shall report directly to the Chair of the Research Foundation and be responsible to the Board of Directors of the Research Foundation. Duties of the Executive Director of the Research Foundation are described in Section 9.
- Section 5. Secretary of the Research Foundation. The Secretary of the Research Foundation shall be a member of the Board of Directors of the Research Foundation and shall be elected by the Board of Directors. The Secretary will be responsible for taking and maintaining minutes of all Board of Directors meetings as well as for maintaining corporate records books, and for other duties as assigned by the Board of Directors. The Secretary may be the same individual as the Treasurer.
- Section 6. Treasurer of the Research Foundation. The Treasurer of the Research Foundation shall be a member of the Board of Directors and shall be elected by the Board of Directors. The Treasurer will serve as chief financial officer for the Research Foundation. The Treasurer will review monthly balance sheets prepared by the Executive Director of the Research Foundation, ensure that an annual budget is prepared and approved by the Board of Directors, arrange for annual external audits, and perform other duties as assigned by the Board of Directors, and ensure that Federal tax returns and annual reports to the state are filed in a timely manner. The Treasurer may be the same individual as the Secretary.
- Section 7. Terms. The term of office of the Vice Chair, the Secretary and the Treasurer of the Research Foundation shall be two (2) years. Any officers may be reelected for successive terms.
- Section 8. Successors. If the office of any Officer becomes vacant by reason of death, resignation, removal, disqualification, or otherwise, the Board of Directors of the Research Foundation may elect a successor who shall hold office for the remaining term of the vacant office.
- Section 9. Duties of the Executive Director.
- A. The Executive Director of the Research Foundation shall have and exercise general control and supervision over the financial and business affairs of the Research Foundation and shall perform such other duties and exercise such other powers as may be assigned to him by the Board of Directors as necessary for the continued operation of the Research Foundation. The Executive Director shall report directly to the Chair of the Board, and be responsible to

the Board of Directors for the operation of all business and financial dealings of the operation of the Research Foundation. The Executive Director may be either: (1) an employee of the Research Foundation who receives compensation for services directly from the Research Foundation, or (2) an employee of the University.

- B. The Executive Director of the Research Foundation shall make an annual report to the Board of Directors with respect to the Research Foundation's property and business activities, and shall provide information to the Board of Directors as requested from time to time for review and consideration by the Board.
- C. The Executive Director, Treasurer and Secretary of the Research Foundation may be compensated for their services at a rate determined and set by the Board of Directors.

Section 10. Discharge of Duties. An officer with discretionary authority shall discharge his or her duties under that authority in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interest of the Research Foundation. In discharging his or her duties, an officer shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by: (i) one (1) or more officers or employees of the Research Foundation whom the officer reasonably believes to be reliable and competent in the matters presented; or (ii) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence. However, an officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes the reliance otherwise permitted by these Bylaws unwarranted. An officer shall not be liable for any action taken as an officer, or any failure to take any action, if he or she has performed the duties of the office in compliance with these Bylaws.

ARTICLE VI: COMMITTEES

Section 1. Establishment of Committees. The Board of Directors may establish standing or *ad hoc* committees as the Board may determine to be necessary to the Research Foundation, and such committees shall have the powers and duties prescribed to them by the Board of Directors.

Section 2. Authorization to Act. An act, or authorization of an act, by any committee created by the Board of Directors, within the authority

delegated to it, shall be as effective as though the act were performed, or authorized to be performed, by the Board. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing the bylaws; electing, appointing, or removing any member of any such committee or any Director or officer of the Research Foundation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Research Foundation; authorizing the voluntary dissolution of the Research Foundation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the Research Foundation; or amending, altering, or repealing any resolution of the Board of Directors. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or an individual Director, of any responsibility imposed on it or him or her by law. Committees shall at all times remain subject to the control and supervision of the Board of Directors.

Section 3. Executive Committee. The Executive Committee of the Board of Directors shall supervise the immediate operation of the Research Foundation and resolve problems that may arise between meeting dates of the Board of Directors.

- A. The Executive Committee shall be empowered with the authority given it by the Board of Directors, and shall exercise the authority given by the Board in dealing with matters that may arise between meeting dates of the Board of Directors.
- B. The Executive Committee shall not have authority to recommend or elect Directors or to remove from office any officers or committee members appointed by the Board of Directors.
- C. The Executive Committee shall consist of the Officers of the Board of Directors.

Section 4. Committee Members. Members of committees established by the Board of Directors need not be members of the Board and shall serve such terms as determined by the Board.

ARTICLE VII: MEETINGS OF THE BOARD

- Section 1. Purpose. The purpose of the meetings of the Board of Directors shall be to transact any and all business of the Research Foundation including but not limited to appointment of members of the Board of Directors, ratification of acts of the Board undertaken since the last meeting, ratification of acts of committees undertaken since the last Board meeting, and changes to the Research Foundation Bylaws.
- Section 2. Location. Meetings of the Board of Directors of The University of Memphis Research Foundation shall be held at the principal office of the Research Foundation or at any such other place as chosen by a majority of the Board members.
- Section 3. Frequency. Board meetings shall be held semi-annually, except that special meetings may be called in the time period between meetings as needed to conduct the business of the Research Foundation. The Executive Director shall give notice of regular meetings of the Board no less than five (5) business days in advance of such meeting, and no less than two (2) business days in advance of special meetings.
- Section 4. Special Meetings. Requests for special meetings shall be given in writing to the Executive Director of the Research Foundation, and shall state the purpose for the special meeting. The Executive Director shall schedule a special meeting and provide the appropriate notice to the members of the Board of Directors, not less than seven (7) business days nor more than sixty (60) business days from receipt of the request.
- Section 5. Business conducted at Special Meetings. At a special meeting of the Board of Directors, the business transacted therein shall be limited to that which has been stated in the notice of the meeting provided to the members of the Board, unless a majority of the members of the Board of Directors agree to consider additional business.
- Section 6. Quorum. If a number of members of the Board of Directors constituting a majority of the Board are present, a quorum shall exist for conducting the meeting. A valid meeting cannot be held if a quorum does not exist. The quorum must exist when the meeting is called, and will not be invalidated if some members of the Board of Directors leave before the meeting is adjourned.
- Section 7. Majority Vote. At a duly called meeting with a quorum, the vote of a majority of the Directors present shall determine the passage of any Research Foundation resolution or other business matter.

- Section 8. Right to Vote. Only those persons who are shown to be members of the Board of Directors in good standing on the day of any meeting of the Board shall be entitled to vote.
- Section 9. Conduct of Meetings. The Chair of the Board of Directors or his designee shall call and preside over all meetings.
- Section 10. Participation in meetings via electronic means. One or more directors may participate in a meeting of the Board by means of telephone, internet, videoconference, or other communication means, provided that the director(s) have access to all documents, visual aids, and discussion presented at the meeting, as well as full opportunity to participate in discussion of matters transacted at the meeting to the extent he/she desires.

ARTICLE VIII: FINANCES

- Section 1. Funds. The current funds of the Research Foundation shall be deposited in such bank or banks, in such types of accounts, and subject to such deposit and withdrawal procedures as may be directed by the Board of Directors by resolution. Reserve funds of the Research Foundation shall be invested in such kinds and types of securities as may be directed by the Board of Directors by resolution.

All gifts to the Research Foundation or other income not otherwise designated by the donor shall go into the general fund of the Research Foundation and shall be used exclusively for the use and benefit of the University of Memphis, in accordance with the general purpose of the Research Foundation. The Research Foundation may receive, manage, invest, and disburse conditional gifts only if such gifts are for the exclusive use and benefit of the University of Memphis.

The Board may from time to time provide procedures for the establishment of special or designated funds to be administered by the Board under the conditions of their creation in accordance with the Articles of Incorporation.

- Section 2. Income and Disbursements. All income, including contributions, received by the Research Foundation shall be deposited by the Treasurer in a special account or accounts in such banks, trust companies, or other depositories as the Board may select. All disbursements shall be made under a proper authority of the Board. All contributions to and disbursements from the Research Foundation

shall be recorded by the Treasurer and such records shall be subject to examination at any reasonable time, upon request, by any director.

- Section 3. Budget. An itemized statement of the proposed operating income and expenditures for the following year shall be prepared by the Treasurer and submitted to the Board annually. When approved by the Board, such budget shall be the only authorization for expenditures for operating expenses of the Research Foundation subject to subsequent changes made by the Board and the provisions of Section 4 below.
- Section 4. Negotiable Instruments. All checks, drafts, bills of exchange, notes, or other instruments or orders for the payment of money shall be signed in the name of the Research Foundation or, if made payable to the Research Foundation, may be endorsed for deposit to the credit of the Research Foundation, by such officer or officers, person or persons, as the Board of Directors may from time to time designate by resolution.
- Section 5. Audit. The financial records and accounts of the Research Foundation shall be audited annually, or at such other times as directed by the Board of Directors, by a certified public accountant or firm thereof designated for that purpose by the Board of Directors.
- Section 6. The Fiscal Year. The fiscal year of the Research Foundation shall be July 1 to June 30 of the succeeding year but may be altered by resolution of the Board.
- Section 7. Finance and Audit Committee. A Finance and Audit Committee shall assist the Board's oversight of the integrity of the Foundations' financial statements by serving as the designated liaison with the foundations independent auditors. This responsibility includes assisting in the review and selection of the independent auditors for Board approval through the request for proposal process. The audit committee shall meet with the independent auditors in a private session at least once a year as part of the communication process. The audit committee shall be appointed by the Board from existing Board Members and shall consist of three members who will each serve three year terms. The Board may also appoint up to three "ex-officio" non-voting members with special expertise to assist the Audit Committee. The "ex-officio" members do not have to be regular members of the Board.

ARTICLE IX: REPORTS

A detailed annual report of the work and financial condition of the Research Foundation shall be made by the Chair annually and shall be transmitted to the Board of Directors.

ARTICLE X: AGENTS AND EMPLOYEES

The Board of Directors may appoint such agents and employees with powers to perform such acts and duties on behalf of the Research Foundation as the Board may see fit, so far as may be permitted by the Bylaws and to the extent permitted by law.

ARTICLE XI: EXECUTION OF CONTRACTS, DEEDS AND TRANSFERS AND REPRESENTATION WITH REFERENCE TO SECURITIES

Section 1. Execution of Contracts and Deeds. The Chair of the Board of Directors, the Vice Chair of the Board, and the Executive Director of

the Research Foundation are authorized to enter into, to execute, and to deliver deeds, bonds, mortgages, contracts, pledges, transfers and other obligations or instruments in the name of and on behalf of the Research Foundation, that do not exceed the maximum amount annually determined by the Board of Directors. Approval by a majority of the Board of Directors shall be required for any transaction exceeding the maximum amount.

Section 2. Voting Securities Owned by the Research Foundation. Unless otherwise ordered by resolution of the Board, the Treasurer shall have full authority on behalf of the Research Foundation to attend, to act, and to vote at any meeting of the stockholders, bondholders, or other security holders of any corporation, trust, or association in which the Research Foundation may hold securities. At any such meeting the Treasurer shall possess all of the rights and powers incident to the ownership of such securities, which, as owner thereof, the Research Foundation might have possessed if present, including the authority to delegate such authority to a proxy. The Board may, by resolution, confer like authority upon any other person or persons.

Section 3. Sale of Securities. Unless otherwise ordered by resolution of the Board, the Chair and the Treasurer are authorized and empowered jointly to buy and sell stock held or owned by the Research Foundation, for such consideration as should meet their approval, and to that end they are further authorized to execute all bills of sale, transfers, assignments, and other writings necessary or convenient for effectuating such purposes. The Chair and the Treasurer are further authorized to give or have given the proper notices of any such action, have all such dispositions registered and noted on the books and records of this or any other corporation or partnership where required, and to do all other things necessary or convenient to accomplish such, purchases or sales.

ARTICLE XII: LIABILITY OF DIRECTORS

Section 1. Exculpation. No Director of the Research Foundation shall be personally liable to the Research Foundation for monetary damages for breach of the Director's fiduciary duty as a Director, except for: (i) any breach of the Director's duty of loyalty to the Research Foundation; (ii) any acts or omissions not in good faith or involving intentional misconduct or a knowing violation of law; or (iii) an unlawful distribution under Section 48-58-302 of the Tennessee Nonprofit Corporation Act.

Section 2. Indemnification.

- A. With respect to claims or liabilities arising out of or related to service as a Director of the Research Foundation, the Research Foundation shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.
- B. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Research Foundation.
- C. With respect to claims or liabilities arising out of or related to service as an officer of the Research Foundation, the Research Foundation shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter amended or adopted.

ARTICLE XIII: CONFLICT OF INTEREST

- Section 1. Conflict of Interest. A conflict of interest may exist when the interests or activities of any Director, officer or staff member may be seen as competing with the interest or activities of the Research Foundation, or the Director, officer or staff member derives a financial or other material gain as a result of a direct or indirect relationship.
- Section 2. Disclosure Required. Any possible conflict of interest shall be disclosed to the Board of Directors by the person concerned, if that person is a Director or the Chair of the Research Foundation, or to the Chair, or to such person or persons as he or she may designate, if the person is a member of the staff.
- Section 3. Abstention from Vote. When any conflict of interest is relevant to a matter requiring action by the Board of Directors, the interested person shall call it to the attention of the Board of Directors or its appropriate committee and such person shall not vote on the matter; provided however, any Director disclosing a possible conflict of interest may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof. Any committee, which

votes upon a matter wherein a conflict of interest exists or may exist, must consist entirely of members of the Board of Directors.

Section 4. **Absence from Discussion.** Unless requested to remain present during the meeting, the person having the conflict shall retire from the room in which the Board of Directors or its committee is meeting and shall not participate in the final deliberation or decision regarding the matter under consideration. However, that person shall provide the Board of Directors or committee with any and all relevant information.

Section 5. **Minutes.** The minutes of the meeting of the Board of Directors or committee shall reflect that the conflict of interest was disclosed and that the interested person was not present during the final discussion or vote and did not vote. When there is doubt as to whether a conflict of interest exists, the matter shall be resolved by a vote of the Board of Directors or its committee, excluding the person concerning whose situation the doubt has arisen.

Section 6. **Annual Review.** A copy of this conflict of interest by-law shall be furnished each Director, officer and senior staff member who is presently serving the Research Foundation, or who may hereafter become associated with the Research Foundation. This policy shall be reviewed annually for the information and guidance of Directors, officers and staff members. Any new Directors, officers or staff members shall be advised of this policy upon undertaking the duties of such office.

ARTICLE XIV: EFFECTIVE DATE

These Bylaws shall become effective upon their adoption by the Incorporator of the Research Foundation.

ARTICLE XV: AMENDMENT OF BYLAWS

The initial Bylaws shall be adopted by the Incorporator. These Bylaws may be amended, revised, or repealed, in whole or in part, upon majority vote of the Directors, at any meeting called, in the manner described herein, for such purpose. Such amendments shall become effective only with the written approval of the President of the University pursuant to the Charter of the Research Foundation and the provisions of Section 48-60-301 of the Tennessee Nonprofit Corporation Act.