

AMENDED AND RESTATED  
BYLAWS  
OF  
CLEMSON UNIVERSITY LAND STEWARDSHIP FOUNDATION, INC.

**Article I**  
**Offices**

**Section 1.1. Registered Office.** The registered office of Clemson University Land Stewardship Foundation, Inc., a South Carolina nonprofit corporation (the “*Foundation*”), shall be located in the State of South Carolina (the “*State*”), or such other place as may be designated by the Board of Directors (as defined in Article III) of the Foundation.

**Section 1.2. Principal Office.** The principal office of the Foundation shall be located at the same address as the registered office or such other place within the State as may be designated by the Board of Directors.

**Section 1.3. Other Offices.** The Foundation may have offices at such other places within or without the State, as the Board of Directors may from time to time determine and as the activities of the Foundation may require.

**Article II**  
**Purpose and Objectives**

**Section 2.1. Purpose.** The Foundation is organized exclusively for charitable, scientific, eleemosynary, and educational purposes within the meaning of 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, (the “*Code*”) and is organized, and at all times shall be operated, exclusively for the benefit of, or to carry out the purposes of Clemson University, an institution of higher learning and agency of the State of South Carolina (“*Clemson*”).

**Section 2.2. Objectives.** The objects and purposes of the Corporation shall be:

- (a) To receive, hold, lease, mortgage, develop, administer, and manage real property and related assets for the benefit of Clemson University, directly and/or through the Clemson University Foundation, a South Carolina nonprofit corporation (“*CUF*”);
- (b) To solicit funds from gifts, grants or otherwise from private, public, and governmental entities;
- (c) To receive contributions of real estate, to hold manage, lease, mortgage, develop, administer and sell such real estate, and to contribute or distribute all or a portion

of the net proceeds from sales of such real estate to Clemson University and/or CUF;

- (d) To invest and reinvest cash and property, whether real, personal, intangible or mixed;
- (e) To expend, disburse, contribute, distribute, sell, lease or in any other way to lawfully dispose of assets and property for the benefit of Clemson University; and
- (f) To promote, support and aid any and all other activities and programs, to create such entities, and to take such other actions as necessary which will further the mission and programs of Clemson University and/or CUF.

**Section 2.3. Authority:** Except as may be limited by the Articles of Incorporation (the “*Articles*”) or these bylaws (the “*Bylaws*”), 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 the Articles or with the laws of the 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, for the benefit of Clemson;
- (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 Foundation 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 without the State;
- (k) To elect or appoint directors, 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 directors, 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 on behalf of itself, Clemson, CUF, any affiliate of Clemson, 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 construct buildings and other improvements to real property;
- (q) To establish investment policies and procedures and to establish endowment funds;
- (r) To acquire, construct, and operate facilities for the benefit of itself, Clemson, CUF, and/ or any affiliate of Clemson;
- (s) To assist, collaborate, and work with any tax-exempt organization which is established for the support and benefit of Clemson, on projects, activities, and endeavors for the benefit or support of Clemson; and
- (t) 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; 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 Code.

**Section 2.4. Prohibition Against Private Inurement:** No part of the net earnings of the Foundation shall inure to the benefit of or be distributable to its members, directors, officers,

or other persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this Article II.

**Section 2.5. 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 2.6. Exempt Activities:** Notwithstanding any other provision of these Bylaws, no director, officer, employee, or representative of the Foundation shall take any action or carry on any activity by or on behalf of the Foundation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Code and its Regulations as they now exist or as they may be amended, or by an organization contributions to which are deductible under Section 170(c)(2) of the Code and its Regulations as they now exist or as they may be amended.

**Section 2.7. Policies, Procedures and Guidelines.** From time to time, the Board of Directors may adopt, amend, or restate policies, procedures and guidelines to carry out the purposes and objectives of the Foundation.

### **Article III** **Board of Directors**

**Section 3.1. General Powers/Authority.** Subject to the Articles, these Bylaws, and the Nonprofit Act, the business and affairs of the Foundation shall be governed by a board of directors (the “**Board of Directors**” or the “**Board**” and each individual serving on the Board as provided in these Bylaws shall be referred to and defined herein as a “**Director**” and collectively as the “**Directors**”). Authority in, responsibility for, and governance of the affairs of the Foundation shall be vested in the Board of Directors.

**Section 3.2. Number and Composition.** The number of voting Directors constituting the Board shall be not less than eleven (11) Directors, but in the event of a vacancy, the Board may act with a lesser number until such vacancy is filled. The Board shall be composed as follows:

(a) **Voting Directors.** The only Directors who shall be counted towards quorum requirements as described below and possess the right to vote on matters before the Board, in all instances under the Articles, these Bylaws, or applicable law shall be the “**Elected Directors**” and the “**Clemson Directors,**” who are defined as follows.

1. **Elected Directors.** Six (6) individuals shall be elected to serve as an “**Elected Director.**” The initial Elected Directors shall be appointed by the incorporator of the Corporation. Thereafter, the Elected Directors shall be elected by majority vote of the voting Directors then in office at an Annual Meeting (as defined in Section 4.1) where a quorum is present.

2. **Clemson Directors.** Each of the following Directors, also referred to herein as the Clemson Directors, shall serve on the Board in an ex-officio capacity during his or her engagement in the role identified below, or any such successor title, position, or office thereto, whether or not in an interim capacity.
  - i. Three (3) Directors shall be appointed by the Board of Trustees of Clemson University (the “*CU BOT Directors*”);
  - ii. Two (2) Directors shall be appointed by the Board of Directors of CUF (the “*CUF Directors*”).

The Elected Directors and Clemson Directors may also, from time to time herein, be referred to as the “*Voting Directors.*”

- (b) **Non-Voting Directors.** The immediate past Chair of the Board shall be a member of the Board. If the immediate past Chair’s term of appointment as a Director expires contemporaneous with the expiration of his or her term as Chair, then he or she shall serve as a non-voting Director for the term described in Section 3.4. The Board of Directors may, but are not required, to elect by majority vote any number of non-voting Directors. Non-voting Directors shall have no voting rights with respect to any matters before the Board of Directors. The term of office of each non-voting Director shall expire at the first annual meeting of the Board of Directors of the Foundation after his or her election.

Notwithstanding anything to the contrary, at all times, a majority of the Voting Directors on the Board shall be comprised of individuals, who are neither employed nor engaged to provide services to Clemson or any affiliate of Clemson, including without limitation CUF, and have not been so for a minimum period of one year upon the date of commencement of service as a Director. In the event of any increase or decrease in the size of the Board for whatever reason, the Directors shall work together with Clemson to ensure that the foregoing parameter is maintained at all times.

**Section 3.3 Director Qualifications.** Since a primary function of the Board of Directors is to develop policies which will facilitate the generation, investment, and management of real property interests and related development activities to meet the priority needs of Clemson and the Foundation, Directors should be individuals who have the interest, commitment or expertise to assist in these endeavors. Directors shall not be related to each other by blood, marriage, or common and close business interests, and the Directors and individuals with the authority to nominate, elect, or appoint Directors shall follow this requirement when considering candidates for a directorship with the Foundation.

**Section 3.4 Term of Office.**

- (a) **Term/ Term Limitations.**

1. **Elected Directors.** Each Elected Director shall hold office for a term of four (4) years (“*Term*”) or until his or her death, resignation, retirement, removal, or disqualification, and until his or her successor is elected. An Elected Director shall be eligible for no more than two (2) consecutive Terms until a period of one year has elapsed following the completion of his or her second consecutive Term; provided, however, upon a finding of extraordinary circumstances, this Term limitation may be waived any number of times by the vote of a majority of the Board of Directors. After a lapse of one (1) year, any such individual may be re-elected as an Elected Director.
  2. **Clemson Directors.** The term of office for any Clemson Director shall be as follows:
    - i. Each CU BOT Director shall hold office for one or more Terms or until his or her death, resignation, retirement, removal, or disqualification. Each CU BOT Director may serve an unlimited number of Terms.
    - ii. Each CUF Director shall serve a term of one (1) year and may be appointed by CUF as a CUF Director for no more than eight consecutive terms of (1) year, until a period of one year has elapsed following the completion of the eighth consecutive Term.
- (b) **Non-Voting Directors.** The Board shall have the ability to appoint any number of individuals to serve as an Honorary Director, with the right to address the Board, but shall not have the right to vote upon any matter before the Board; their presence, or lack thereof, shall not be counted toward any quorum requirement or otherwise for purposes of meetings of the Board. Each such Honorary Director shall hold office for terms of one (1) year by vote of a majority of the Board at the Annual Meeting. An individual may serve as an Honorary Director for an unlimited number of terms.

**Section 3.5. Resignation of Directors.** Any Director may resign his or her directorship at any time. Such resignation shall be made in writing, shall be submitted to the Chair or Secretary (as defined in Article V) and shall take effect at such time as the later of submission to the Chair or Secretary or the time that is specified in such writing.

**Section 3.6. Removal of Directors.**

- (a) A Clemson Director may only be removed pursuant to written notice to the Chair or Secretary by the person or entity with the power to appoint such individual.
- (b) An Elected Director or non-voting Director may be removed from the Board of Directors by the affirmative vote of two-thirds (2/3) of the Voting Directors then in office at any meeting called for that purpose, and at which a quorum is present.

**Section 3.7. Vacancies.**

- (a) A vacancy of an Elected Director position shall be filled by the vote of a majority of the remaining Directors even though less than a quorum, or by the sole remaining Director. In the event of a vacancy of an Elected Director position, the Chair shall recommend one or more individuals for the Nominations Committee to consider for presentation to the Board.
- (b) In the case of the Clemson Directors, any vacancy may only be filled by appointment to the Directorship by the entity charged with making such appointments, whether or not in an interim capacity.
- (c) A Director elected to fill a vacancy shall be elected for the unexpired Term of his or her predecessor in office, and service during such unexpired or “short” Term shall not be counted towards any term limitation provided in Section 3.4 for such Director, if applicable.

**Section 3.8. Compensation/ Expenses.** No Director, by reason of his or her office, shall be entitled to receive any salary or compensation, but nothing herein shall be construed to prevent a Director from receiving any compensation from the organization for duties other than as a Director.

**Section 3.9. Exculpation of Directors.** No Director shall be liable to anyone for any acts on behalf of the Foundation nor any admission with respect to the Foundation committed by such Director except for his or her own willful, wanton, or gross negligence pursuant to Section 33-31-834 of the Nonprofit Act.

**Section 3.10. Conflict of Interest.** The Foundation will maintain a Conflict of Interest Policy pursuant to Article X of these Bylaws. In accordance with that policy, any Director or officer shall declare himself or herself as “abstaining” from voting on any matter in which such Director or officer may be considered to have a conflict of interest. Such abstaining declaration shall be made for the record at the beginning of any such motion or discussion and shall be recorded in the official minutes of the meeting. The same conflict of interest procedures shall apply to any Director or officer participating in any committee vote.

**Section 3.11. Membership.** As provided in the Foundation’s Articles 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 Directors**

**Section 4.1. Annual and Regular Meetings.** The annual meeting of the Board shall be the meeting immediately preceding the fiscal year end (“*Annual Meeting*”). The Board shall hold

regular meetings according to such schedule and at such times and places as the Board or the Chair may designate.

**Section 4.2. Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the Chair, the Vice Chair (as defined in Article V), or any two (2) Voting Directors. Such special 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, place, and purpose of any Annual Meeting, or any regular meeting shall be served to each Director either personally, by facsimile, electronic mail, or mail not less than five (5) nor more than forty (40) days before the meeting. Notice of the time, place, and purpose of any special meeting shall be served to each Director either personally, by facsimile, electronic mail, or mail not less than two (2) nor more than forty (40) days before the meeting. Any Director may waive notice of any meeting by filing a written, signed waiver with the minutes of the Foundation or the corporate records. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director 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 of Directors, the presence of a majority of the Voting Directors in office immediately before the meeting 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 Directors without notice other than by announcement at the meeting and without further notice to any absent Director.

**Section 4.5. Meeting by Telephone.** Any one or more Directors may participate in a meeting of the Board of Directors by means of a conference telephone, electronic, or similar communications device which allows all persons participating in the meeting to hear each other during the conduct of business, and such participation in a meeting shall be deemed presence in person at such meeting.

**Section 4.6. Order of Business.** At meetings of the Board of Directors, the Chair, with the approval of the Board, may prescribe the order of business.

**Section 4.7. Manner of Acting.** Except as otherwise provided in this section or as required by State law, the act of the majority of the Directors present in person at a meeting at which a quorum is present shall be the act of the Board of Directors. No voting by proxy shall be permitted.

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

- (1) Authorizing the merger, consolidation, reorganization, restructuring, bankruptcy, liquidation, or dissolution of the Foundation;
- (2) Authorizing, agreeing, or completing the sale, lease, exchange or mortgage of substantially all of the Foundation's properties or assets;
- (3) Amending, deleting or otherwise changing the number of Directors or the manner of appointment, removal or filling of vacant Directorships pursuant to Article III of these Bylaws;
- (4) Amending, deleting or otherwise changing Sections 2.1 and 4.8, Articles X, XIV, or XV of these Bylaws, or the Conflict of Interest Policy attached hereto as Appendix A;
- (5) Amending, restating, modifying, or otherwise changing Paragraphs 1, 6, and 8 of Attachment 1 to the Foundation's Articles; or
- (6) Changing the name of the Foundation.

**Section 4.9. Informal Action by All Directors.** 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, including through electronic signature, setting forth the action so taken, shall be signed by all of the Directors 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 or committee and shall be recorded with the minutes of the Foundation.

## **Article V** **Officers**

**Section 5.1. Officers and Duties.** The officers of the Board shall be a Chair, a Vice Chair, a CEO (as defined in Articles VII), a Secretary, and a Treasurer. These officers shall perform the duties prescribed by these Bylaws.

- (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.
- (b) **Vice Chair.** The Vice Chair shall assist the Chair, shall chair all Board meetings and fulfill all duties and responsibilities of the Chair in the Chair's absence or vacancy, and shall perform all the duties conventionally associated with the office.
- (c) **Chief Executive Officer** – The CEO of the Foundation shall oversee the overall operations of the Foundation; shall submit, with the Annual Report, recommendations on the conduct of the affairs of the Foundation for the following

year for review by the Board; and shall perform such other duties as are delegated by the Board. The CEO shall meet regularly with the Board and Executive Committee at the request and discretion of the Board and the Executive Committee and shall report on the business and condition of the Foundation at each Annual Meeting and each other regular meeting of the Board.

- (d) **Secretary.** The Secretary shall keep a correct record of all the proceedings of the meetings of the Board of Directors, and if necessary, any committee meetings. He or she 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 of Directors. He or she 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 him or her by the Board of Directors from time to time.
- (e) **Treasurer.** The Treasurer shall have charge of all the moneys and securities belonging to the Foundation. He or she shall deposit such moneys and securities in the name of the Foundation with banks and other financial institutions as the Board of Directors shall designate. He or she shall perform other duties as are incident to the office of Treasurer and shall have other powers and duties as may be conferred upon him or her by the Board of Directors. The Treasurer or any Assistant Treasurer appointed by the Board shall authorize the disbursement of funds in accordance with the signature authorization policy approved by the Board. The Treasurer and any Assistant Treasurer shall perform such other duties as the Board may prescribe from time to time.
- (f) **Other Officers.** The Board of Directors may create, from time to time, other positions of office as it deems necessary, including but not limited to, one or more “Assistant Secretaries” and “Assistant Treasurers,” with such authority and responsibilities as conveyed by the Board at the time of the appointment.

**Section 5.2. Election of Officers.** Except in the event of action required to fill a vacancy in any officer position, the officers of the Board shall be elected at the Annual Meeting to take office upon the first day of the following fiscal year of the Foundation. Only an Elected Director shall be eligible to serve as the Chair or the Vice Chair. No other officer of the Board is required to be a Director, in order to serve in such officer position. Notwithstanding the foregoing, the CEO shall be engaged to serve in such capacity for such duration as contemplated in Article VII of these Bylaws.

**Section 5.3. Officer Terms.** The term for each officer shall be two (2) years. Each Director serving as the Chair and as the Vice Chair shall not serve consecutive terms in such officer role. Each individual serving as Secretary and as Treasurer may serve any number of consecutive terms in such officer role. Notwithstanding the foregoing, there shall be no restriction to the length of time that an individual may be engaged as the CEO of the Foundation as contemplated in Article VII.

**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 Chair or Secretary, and shall take effect

at such time as is specified in the writing to the Chair or Secretary, but in no case shall the effective date of resignation be on a date prior to the submission of the writing to the Chair or Secretary.

**Section 5.5. Removal of Officers.** Any officer may be removed from office at any time with or without cause by the affirmative vote of two-thirds (2/3) of the Voting Directors present at a special meeting of the Board called for that purpose. Any such officer proposed to be removed shall be entitled to at least ten (10) days' notice in writing by mail of the Board meeting, at which such removal is to be voted, and he or she shall be entitled to appear before and be heard at such meeting. Notwithstanding anything to the contrary, the CEO may be removed pursuant to the terms of his or employment, by action of the Board, or if Clemson is his or her employer, by Clemson.

**Section 5.6. Vacancies.** A vacancy in any elected office may be filled by a majority vote of a quorum of the Board of Directors. An officer elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

## **Article VI** **Committees**

### **Section 6.1. Standing and Ad Hoc Committees.**

- (a) **Standing Committees.** As described in this Article VI, the Board shall have the following standing committees: Executive Committee, Finance and Audit Committee, and Nominations Committee.
- (b) **Ad Hoc Committees.** From time to time, the Board of Directors or the Chair may establish any number of ad hoc or special committees for any duration and purpose, consistent with the Articles and Bylaws of the Foundation, with such authority, responsibilities, and powers as granted to such ad hoc upon establishment (subject to oversight of the Board).
- (c) **Composition.** On an annual basis, the Chair shall appoint all individuals to serve on each committee, unless these Bylaws or resolution of the Board provides for specific committee appointments, or the committee shall be sooner terminated. The authority, responsibilities, and powers of the various standing committees may be limited or increased from time to time, as the Board may so decide. Unless otherwise specified in these Bylaws or by resolution of the Board, the Chair shall appoint a chair to each committee, and each such chair must be a Voting Director. Except for the Executive Committee, which may only be comprised of Voting Directors and such ex-officio appointments as described in Section 6.2, any other committee may include one or more individuals who are not Directors, but who may add additional knowledge, expertise, or experience of value to such committee, and, at the

discretion of the Chair at the time of appointment, may have the ability to vote on any action, matter, or recommendation of such committee.

**Section 6.2. Executive Committee.** There shall be an Executive Committee of the Foundation which shall be chaired by the Chair and shall include but not be limited to the Vice-Chair, one Elected Director of the Board who is appointed by the Chair, and the CEO of the Corporation; the CEO shall serve on the Executive Committee in a non-voting capacity. The Board may appoint additional Voting Directors to serve on the Executive Committee. the Executive Committee shall have and may exercise all of the authority of the Board, except for such actions related to (i) removal of directors and officers, (ii) any action that requires a Supermajority Vote of the Board, either pursuant to the Foundation's Articles of Incorporation, the then-current Bylaws of the Corporation, or applicable law, (iii) any amendment to the Articles of Incorporation or the Bylaws of the Corporation, and (iv) the dissolution of the Corporation. All such powers related to action requiring a Supermajority Vote are expressly reserved as powers of the Board, and as otherwise limited by applicable law. It is expressly understood that the executive committee shall have the power to make compensation decisions for employees and independent contractors to the Corporation, and such decisions shall be final and binding upon the Corporation.

**Section 6.3 Finance and Audit Committee.** There shall be a Finance and Audit Committee of the Foundation. The Chair shall appoint at least three (3) Voting Directors of the Board to serve on the Finance and Audit Committee for the Foundation designating one as Chair of the Finance and Audit Committee. The Chair, the CEO and the Treasurer shall serve as ex-officio, non-voting members of the Committee. It is the responsibility of the Finance and Audit Committee to provide financial oversight of the Foundation's revenues and expenses, to measure performance against the board approved annual operating plan, measure performance of land management projects and contract for and to receive an independent audit of the Foundation's financial transactions each year.

**Section 6.4 Nominations Committee.** There shall be a Nominations Committee of the Foundation. The Chair shall appoint at least three (3) Voting Directors of the Board to the Nominations Committee designating one as the chair of the Nominations Committee. The CEO, and Secretary will serve as ex-officio, non-voting members of the Nominations Committee. It is the responsibility of the Nominations Committee to identify and nominate, for election to the Board, candidates who have strong interests and backgrounds to carry out the mission of the Corporation. The Nominations Committee shall also identify and nominate candidates for the Chair and Vice-Chair.

**Section 6.5. Ex-Officio Committee Members.** The Chair and Vice Chair may serve as ex-officio, non-voting members of all committees on which they do not serve as regular members.

**Section 6.6. Quorum.** A majority of the Voting Directors on the committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee, unless otherwise proscribed by the Articles, the Bylaws, or applicable law.

**Section 6.7. Rules.** Subject to the requirements of this Article 6, each committee may adopt rules and establish its own charter not inconsistent with these Bylaws or with the rules adopted by the Board.

## **Article VII** **Chief Executive Officer & Staffing**

The Foundation shall engage an individual to serve as the president and chief executive officer (the “*CEO*”) who shall be responsible to the Board for all of his or her actions and the general management and operation of the Foundation. In accordance with the purpose of the Foundation as provided in Section 2.1, the CEO shall have the responsibility for oversight and management of the Foundation’s daily operations and financial affairs of the Foundation; shall be responsible for maintaining all financial transactions, the collection of accounts, and receipts of all gifts and legacies; and shall see that all funds are expended as intended by the donor. The CEO shall supervise the staff and personnel of the Foundation. Additionally, the CEO 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 CEO shall recruit other staff as needed, within the budgetary parameters established by the Board.

## **Article VIII** **Finances and Reports**

**Section 8.1. Income and Disbursements.** The Treasurer, or his or her delegate, shall deposit all receipts received by the Foundation and disburse such funds for operations of the Foundation and for support of Clemson through appropriate depositories. All receipts to and disbursements from the Foundation shall be recorded by the Treasurer, or his or her delegate, and such records shall be subject to examination by any Director through a request by the Chair.

**Section 8.2. Budget.** A statement of the proposed operating income and expenditures for the following year shall be prepared by the Treasurer and presented to the Board, for approval and will serve as guidance for the collection of income and operating expenditures.

**Section 8.3. Checks, Drafts, Etc.** Such officer or officers, agent or agents of the Foundation, as the Board authorizes by resolution, shall sign all checks, drafts, or orders for the payment of money on behalf of the Foundation.

**Section 8.4. Audit.** Pursuant to such policy of the Board, as may be determined and amended from time to time, the Board shall designate a qualified firm of certified public accountants to audit the financial and related records of account of the Foundation as of each fiscal year-end, and to report to the Board the results of each annual audit.

**Section 8.5. Fiscal/ Tax Year.** The fiscal and tax year of the Foundation shall be July 1 to June 30 of the succeeding year but may be altered by resolution of the Board of Directors.

**Section 8.6. Reports; Other Information.**

- (a) The Treasurer shall provide to the Board an annual report of the operations and financial condition of the Foundation, including any audited financial statements and audit communications, and such other financial reports as may be requested by the Chair.
- (b) By the last day of the fifth month following the close of the tax year, the Foundation shall provide a written notice to the President of Clemson and the Chairman of the Clemson Board of Trustees, describing the type and amount of support provided by the Foundation to Clemson during the prior tax year, a copy of the Foundation's Form 990 that was most recently filed as of the date the notification is provided; and a copy of the supporting organization's governing documents, as most recently amended, to the extent not previously provided.
- (c) All books and records of the Foundation shall be available for review and/or audit by Clemson, or any person acting on its behalf.

**Article IX**  
**Execution of Contracts and Deeds**

Except as otherwise provided by resolution of the Board of Directors authorizing the execution thereof, all contracts, deeds, mortgages, pledges, transfers, and other written instruments binding upon the Foundation shall be executed on behalf of the Foundation by the Chair or the Vice Chair or other such officer or agent of the Foundation as the Board may designate. All agreements between the Foundation and any other person or entity, including between the Foundation and Clemson, regarding the provision of goods or services, or the transfer of assets, shall be in writing.

**Article X**  
**Conflict of Interest**

The Board of Directors shall implement and enforce the Conflict of Interest Policy attached to these Bylaws as Appendix A. The Board shall not make any modification or amendment to such policy without complying with Section 4.8 and Article XV of these Bylaws.

**Article XI**  
**Confidential Information**

When an individual accepts an appointment as a Director, officer, member of a committee, or Ambassador, each such individual agrees to hold in confidence information that he or she receives by virtue of his or her service to the Foundation concerning Clemson and the Foundation's activities, business, and relationships, as well as any other information provided to him or her that is described whether orally or in writing as confidential. Each such individual agrees to sign, if and when requested, a confidentiality and conflict of interest disclosure statement confirming this requirement.

**Article XII**  
**Indemnification**

**Section 12.1. Expenses and Liabilities.** To the maximum extent permitted by the Nonprofit Act, the Foundation shall indemnify each of its Directors, officers and agents against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising due to 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 Director, officer, employee, or other agent of the Foundation; or while a Director, officer, employee or agent of the Foundation, is or was serving at the request of the Foundation as a director, officer, partner, Director, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise.

**Section 12.2. Advance of Expense.** To the extent permitted by applicable law, the Foundation shall advance expenses incurred or to be incurred by a Director, officer, or agent in connection with any proceeding arising due to the fact that such person was or is a Director, officer, or agent of the Foundation, provided the Board of Directors authorizes such advance.

**Section 12.3. Insurance.** The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Director, officer, or agent of the Foundation against any liability asserted against or incurred by such persons in such capacity or arising out of his or her status as such, whether or not the Foundation has the power to indemnify such persons against that liability under the provisions of this Article.

**Section 12.4. Bond.** The Treasurer and any Assistant Treasurer shall at all times be under bond in such amount as determined by the Board; and the Foundation shall pay the premium for such bond. The Board may by resolution require any officer, agent, and/ or employee of the Foundation to give bond to the Foundation, with sufficient sureties, conditioned on the faithful performance of the duties of his or her respective office or position, and to comply with such other conditions as may from time to time be required by the Board.

**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 Clemson, and any other nonprofit exempt organization(s) within the meaning of Section 501(c)(3) of the Code organized for the support and benefit of Clemson, the Foundation is a separate organization to be operated under its own charter and articles of incorporation as laid down in the law of the State for this and similar eleemosynary and educational trusts and nonprofit corporations.

**ARTICLE XIV**

## **Dissolution**

Pursuant to the voting and procedural requirements of these Bylaws, including Section 4.8, and applicable law, the Board has the sole authority to approve the dissolution of the Foundation in accordance with the then-current Articles on file with the South Carolina Secretary of State.

## **Article XV Amendment**

Except for those actions contemplated in Section 4.8 that require a vote of two-thirds (2/3) of all of the Voting Directors to approve or as specifically required to be approved by the Board under the Nonprofit Act, the Board of Directors shall have the power to make, alter, amend, restate, and repeal the Articles and the Bylaws of the by affirmative vote of a majority of the Board of Directors; provided, however, that the action is proposed at a meeting of the Board and adopted at the following meeting of the Board.

Additionally, the Foundation shall provide notice to the President of Clemson, with copy to the Office of General Counsel of Clemson, of any proposed amendment, deletion, change, or revision in or to these Bylaws, including a copy thereof, at least forty days prior to the meeting of the Board, at which a motion to approve such amendment, deletion, change, or revision shall be presented to the Board. In addition to the approval of the Board as provided herein, any such amendment, deletion, change, or revision to Sections 2.1, 4.8, and 8.6(b) and (c), and Articles III, XIV, and XV of these Bylaws shall be effective with the additional consent of Clemson, as evidenced by the signature of the President of Clemson, not to be unreasonably withheld or delayed.

## **Article XVI Restriction**

The Foundation may receive as the Foundation's sources of income, gifts, bequests from wills, and restricted and unrestricted use of moneys 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 those terms as used in Section 501(c)(3) of the Code or as, in the opinion of the Board of Directors, shall jeopardize the federal income tax exemption of the Foundation pursuant to Section 501(c)(3) of the Code.

## **Article XVII General Provisions**

**Section 17.1. General.** The business and conduct of the affairs of the Foundation shall 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 Code, Internal Revenue Laws or Treasury

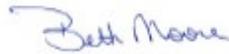
Regulations thereunder, the Nonprofit Act, the South Carolina Code or any other statute, or to any section thereof, such reference shall be construed to mean such Code, Act, Laws, Statutes, or section thereof, and the regulations thereunder, as the case may be, as heretofore or hereafter amended or supplemented or as superseded by laws or regulations covering equivalent subject matter.

**Section 17.2. Governing Law.** These Bylaws are executed and delivered in the State and shall be governed by, construed and administered in accordance with the laws of the State.

\* \* \*

The undersigned hereby certifies that the foregoing Bylaws have been adopted as the Bylaws of the Foundation pursuant to the requirements of the South Carolina state law regarding nonprofit and charitable corporations.

Date: March 23, 2020



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SECRETARY: Beth Moore



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**Appendix A**  
**TO THE BYLAWS**  
**OF**  
**CULSF 2.0, INC.**

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**CONFLICTS OF INTEREST POLICY**

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**ARTICLE I**  
**Purpose**

The purpose of this conflicts of interest policy is to protect the interests of the CULSF 2.0. (hereinafter the “*Foundation*”) when it is contemplating entering a transaction or arrangement that might benefit the private interest of an officer, committee member, or director 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 the Foundation.

**ARTICLE II**  
**Definitions**

1. Interested Person.

Any director, 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.

For purposes of clarity, a Financial Interest shall not be deemed to include the acquisition or ownership by an Interested Party, solely as a passive investor with no involvement in the operation of the business, of no more than two percent (2%) of the ownership of a corporation, partnership, company, or other entity whose stock or ownership interest is publicly traded on a national securities exchange, the NASDAQ Stock Market or over-the-counter.

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 Board or appropriate 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 his or her Financial Interest and all material facts to the Board and the 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, he or she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board 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 or committee meeting, but after such presentation, he/she 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 or chair of the committee shall appoint, if appropriate, a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. If the Chair is in a position of conflict, the Vice-Chair shall assume the foregoing responsibility.
- c. After exercising due diligence, the Board 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 or committee shall determine by a majority vote of the disinterested directors, or the disinterested committee members, as applicable, 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 his or her period of service as a director, officer, or member of a committee with Board-delegated powers and for a period of 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 Directors, upon a vote of 75% of its Directors not counting the affected Director, may waive the applicability of the above-described prohibition with respect to the 12-month period following a director's period of service as a director, officer, or member of a committee with Board-delegated powers.

5. Violations of the Conflicts of Interest Policy.

- a. If the Board or committee has reasonable cause to believe that a Director or committee member has failed to disclose an actual or possible conflict of interest, it shall inform the Director or committee member of the basis for such belief and afford the Director or committee member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the response of the Director or committee member and making such further investigation as may be warranted in the circumstances, the Board or committee determines that the Director or committee 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 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's 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 director, principal officer, and member of a committee with Board-delegated powers shall sign annually 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, at a minimum, shall 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 advisors are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.