

VIRGINIA STATE UNIVERSITY FOUNDATION
ARTICLES OF AMENDMENT AND RESTATEMENT

1. Name. The name of the Corporation is the Virginia State University Foundation (the "Foundation").
2. The Amendment and Restatement. The Amendment deletes Articles II through VI of the Articles of Incorporation and replaces such Articles with new Articles II through VIII that contain required language under Section 501(c)(3) of the Internal Revenue Code, set forth the manner of the appointment and election of trustees, and provide for indemnification of officers and trustees of the Foundation. The Restatement restates the Articles of Incorporation as amended, in their entirety. The Amendment and Restatement required Board Approval.
3. Board Action. The Board of Trustees, by unanimous written consent dated June 6, 2002, found that the best interests of the Foundation would be served by amending and restating its Articles of Incorporation in the manner described in Section 2 and directed that the proposed Amendment and Restatement, a copy of which is attached hereto, be approved.
4. Member Action. The Foundation has no members.
5. Certificate Required by Law. These Articles of Amendment and Restatement contain all of the information required by Section 13.1-1889 of the Code of Virginia, and this paragraph constitutes the Certificate required by that Section.

Dated: 7/01, 2002

VIRGINIA STATE UNIVERSITY FOUNDATION

By: 

Larry J. Saunders, Chairman

VIRGINIA STATE UNIVERSITY FOUNDATION

AMENDED AND RESTATED ARTICLES OF INCORPORATION

**ARTICLE I
NAME**

The name of the corporation is Virginia State University Foundation (hereinafter referred to as the "Foundation"), a Virginia nonstock corporation.

**ARTICLE II
PURPOSE**

The Foundation is organized and shall be operated to receive, maintain, and administer assets in perpetuity exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code by conducting and supporting activities which promote the advancement and further the aims and purposes of Virginia State University ("University"), a Virginia public corporation and an organization described in sections 501(c)(3) and 170(b)(1)(A)(ii) of the Internal Revenue Code. Without limiting or expanding the foregoing, the purpose of the Foundation shall be to except monies and in-kind gifts from individual donors and the private sector for the benefit of the University and to safeguard, invest, and distribute the funds as requested by the donors or the Board of Trustees of the Foundation for the benefit of the University. No activities shall be transacted or monies disbursed in conflict with the mission of the University

**ARTICLE III
RIGHTS AND RESTRICTIONS**

No part of the net earnings of the Foundation shall inure to the benefit of or be distributable to its incorporator, trustees, officers, or other private 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 Article II hereof. No substantial part of the activities of the Foundation shall be the carrying on of propagahda, 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 or in opposition to any candidate for public office.

ARTICLE IV DISSOLUTION

Upon the dissolution of the Foundation, and after all of its liabilities and obligations have been paid, satisfied, and discharged, or adequate provisions made therefor, all of the Foundation's remaining assets shall be distributed to Virginia State University if it is then an organization described in sections 501(c)(3) and 170(c)(2)(B) of the Internal Revenue Code and, if not, to one or more organizations selected by the Foundation's Board of Trustees that are then organized and operated exclusively for charitable or educational purposes within the meaning of sections 501(c)(3) and 170(c)(2)(B) of the Internal Revenue Code.

ARTICLE V MEMBERS

The Foundation shall have no Members.

ARTICLE VI TRUSTEES

The number of trustees of the Foundation shall be not less than eleven (11) and not more than fifteen (15). The Foundation's Board of Trustees shall consist of the following classes of trustees.

(a) Permanent Trustees. The Foundation shall have two (2) trustees who are designated as the Permanent Trustees. The Permanent Trustees shall be those individuals who hold the following official positions within the Virginia State University:

- (i) Vice President for Development; and
- (ii) Vice President for Administration and Finance.

Each Permanent Trustee shall serve ex officio for a term that equals his or her tenure in such specified office. The current Permanent Trustees of the Foundation are Jacqueline F. Fraser and Edward J. Mazur. No individual shall be a Permanent Trustee without his or her prior consent.

(b) Appointed Trustees. The Foundation shall have two (2) trustees who are designated as the Appointed Trustees. One Appointed Trustee shall be appointed annually by the Board of Visitors of Virginia State University at its annual meeting. The other Appointed Trustee shall be appointed annually by the Board of Directors of the Virginia State University National Alumni Association at its annual meeting. The current Appointed Directors are Elwood L. Bland and J. Otis Harris, Jr. Appointed Trustees may serve an unlimited number of consecutive terms. No individual shall be appointed as an Appointed Trustee without his or her prior consent.

(c) Elected Trustees. The Foundation shall have not less than seven (7) and not more than eleven (11) trustees who are designated as the Elected Trustees, who shall be selected for their expertise in selected areas such as finance or law or their ability to contribute to or raise funds on behalf of the Foundation. The current Elected Trustees of the Foundation are Larry J. Saunders, Joyce E. Henderson, John A. Johnson, Harrison Bonner, III, C. L. Ellinger O'Brien, III, Ronald A. Pemberton, A. Lynn White, and Mark C. Darrell. At the first annual meeting of the Board of Trustees, the number of Elected Trustees shall be divided into three (3) groups

each group containing one-third of the total, as nearly equal in number as possible. The terms of the Elected Trustees in the first group shall expire at the first annual meeting of the Board of Trustees after their appointment, the terms of the Elected Trustees in the second group shall expire at the second annual meeting of the Board of Trustees after their appointment, and the terms of the Elected Trustees in the third group shall expire at the third annual meeting of the Board of Trustees after their appointment. Thereafter, at each annual meeting of the Board of Trustees, one group of Elected Trustees shall be elected by the Board of Trustees for a term of three (3) years to succeed those whose terms expire. Elected Trustees may serve unlimited successive terms. No individual shall be elected as an Elected Trustee without his or her prior consent.

ARTICLE VII LIMIT ON LIABILITY AND INDEMNIFICATION

7.1 Definitions. For purposes of this Article the following definitions shall apply:

- (i) "Foundation" means this Foundation only and no predecessor entity or other legal entity;
- (ii) "expenses" include counsel fees, expert witness fees, and costs of investigation, litigation, and appeal, as well as any amounts expended in asserting a claim for indemnification;
- (iii) "liability" means the obligation to pay a judgment, settlement, penalty, fine, or other such obligation, including, without limitation, any excise tax assessed with respect to an employee benefit plan;
- (iv) "legal entity" means a corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise;
- (v) "predecessor entity" means a legal entity the existence of which ceased upon its acquisition by the Foundation in a merger or otherwise; and

(vi) "proceeding" means any threatened, pending, or completed action, suit, proceeding, or appeal, whether civil, criminal, administrative, or investigative and whether formal or informal.

7.2' Limit on Liability. In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the trustees and officers of the Foundation shall not be liable to the Foundation.

7.3 Indemnification of Trustees and Officers. The Foundation shall indemnify any individual who is, was, or is threatened to be made a party to a proceeding (including a proceeding by or in the right of the Foundation) because such individual is or was a trustee or officer of the Foundation, or because such individual is or was serving the Foundation or any other legal entity in any capacity at the request of the Foundation while a trustee or officer of the Foundation, against all liabilities and reasonable expenses incurred in the proceeding except such liabilities and expenses as are incurred because of such individual's willful misconduct or knowing violation of the criminal law. Service as a director or officer of a legal entity controlled by the Foundation shall be deemed service at the request of the Foundation. The determination that indemnification under this Section 7.3 is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made, in the case of a trustee, as provided by law, and in the case of an officer, as provided in Section 7.4 of this Article; provided, however, that if a majority of the trustees of the Foundation has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board of Trustees and such person. Unless a determination has been made

that indemnification is not permissible, the Foundation shall make advances and reimbursements for expenses incurred by a trustee or officer in a proceeding upon receipt of an undertaking from such trustee or officer to repay the same if it is ultimately determined that such director or officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of the trustee or officer and shall be accepted without reference to such trustee's or officer's ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that a trustee or officer acted in such a manner as to make such trustee or officer ineligible for indemnification. The Foundation is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its directors or officers to the same extent provided in this Section 7.3.

7.4 Indemnification of Others. The Foundation may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its trustees and officers pursuant to Section 7.3, provide indemnification and make advances and reimbursements for expenses to its employees and agents, the directors, officers, employees, and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the Foundation, and may contract in advance to do so. The determination that indemnification under this Section 7.4 is permissible, the authorization of such indemnification and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board of Trustees, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. No person's rights under Section 7.3 of this Article shall be limited by the provisions of this Section 7.4.

7.5 Miscellaneous. The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors, and administrators. Special legal counsel selected to make determinations under this Article may be counsel for the Foundation. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Foundation, and indemnification under policies of insurance purchased and maintained by the Foundation or others. However, no person shall be entitled to indemnification by the Foundation to the extent he or she is indemnified by another, including an insurer. The Foundation is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Foundation or any other legal entity at the request of the Foundation regardless of the Foundation's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude the Foundation from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If any provision of this Article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.

7.6 Amendments. No amendment, modification, or repeal of this Article shall diminish the rights provided hereunder to any person arising from conduct or events occurring before the adoption of such amendment, modification, or repeal.

**ARTICLE VIII
INTERNAL REVENUE CODE**

Each reference in these Articles of Incorporation to a section of the Internal Revenue Code means such section of the Internal Revenue Code of 1976, as amended, or the corresponding provisions of any subsequent federal tax law.