

ARTICLES OF AMENDMENT AND RESTATEMENT

OF

ARTICLES OF INCORPORATION

OF

**ARIZONA STATE UNIVERSITY FOUNDATION FOR A NEW AMERICAN
UNIVERSITY**

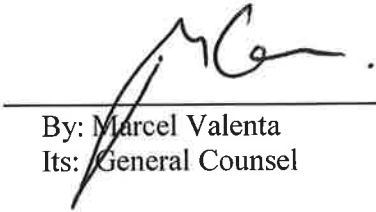
Pursuant to the provisions of Sections 10-11002, 10-11006 and 10-11007 of the Arizona Revised Statutes, the undersigned corporation adopts the following amendments and restatement of its Articles of Incorporation, as amended:

FIRST: The name of the Corporation is "Arizona State University Foundation for A New American University."

SECOND: The document attached hereto as Exhibit "A" sets forth a restatement of the Articles of Incorporation, which contain amendments to the Articles of Incorporation.

THIRD: The document attached hereto as Exhibit "A" was duly adopted by an act of the board of directors of the Corporation on May 20, 2016 to be effective July 1, 2016.

DATED: June 27th, 2016.


By: Marcel Valenta
Its: General Counsel

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
ARIZONA STATE UNIVERSITY FOUNDATION
FOR A NEW AMERICAN UNIVERSITY**

These Amended and Restated Articles of Incorporation supersede and take the place of the heretofore existing Articles of Incorporation and any amendments or restatements thereof of Arizona State University Foundation for a New American University, all pursuant to the Arizona Nonprofit Corporation Act, as amended from time to time ("ANCA"), Sections 10-3101 through 10-11702 of the Arizona Revised Statutes.

**ARTICLE I
NAME**

The name of the corporation is Arizona State University Foundation for A New American University (the "Corporation").

**ARTICLE II
PURPOSE AND CHARACTER OF AFFAIRS**

The Corporation is organized and shall operate exclusively for charitable, scientific, literary or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue law) ("Code"), and to assist Arizona State University ("ASU") to achieve its educational purposes. In furtherance of these purposes, the Corporation is authorized to transact any and all lawful business for which nonprofit corporations may be incorporated under the ANCA. The character of affairs which the Corporation intends to conduct is to receive, administer and apply funds for the benefit of ASU.

**ARTICLE III
ACTIVITIES AND RESTRICTIONS**

No dividends, liquidating dividends, or distributions shall be declared or paid by the Corporation to any private individual or officer or director of the Corporation.

No substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, unless by appropriate election a greater part is permitted without jeopardizing the Corporation's exemption under Code Section 501(c)(3). The Corporation shall neither participate in, nor intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, including the publishing or distribution of any statements.

No part of the net earnings or net income of the Corporation shall inure to the benefit of any private individual or officer or director of the Corporation; provided, however, that such a person may receive reasonable compensation for personal services rendered, or reimbursement for reasonable expenses incurred, which are necessary to carrying out the exempt purposes of the Corporation.

Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on by a Corporation exempt from federal income tax under Code Section 501(c)(3) or by a Corporation contributions to which are deductible under Code Section 170(c)(2). Should the Corporation be determined to be a private foundation as defined in Code Section 509(a), the income of the Corporation shall be distributed at such time and in such manner as not to subject it to tax under Code Section 4942 and the Corporation shall not engage in any act of self-dealing, or retain any excess business holdings, or make any taxable expenditures as defined in Code Sections 4941(d), 4943(c), and 4945(d), respectively, or make any investments in such manner as to subject it to tax under Code Section 4944; or make any indemnification that would give rise to a penalty excise tax under Chapter 42 of the Code

Notwithstanding anything to the contrary contained herein, the Corporation shall not engage in any activity that is not permissible for organizations exempt under Code Sections 501(c)(3), 509(a)(1) and 170(b)(1)(A)(iv).

ARTICLE IV MEMBER

The Corporation shall have a sole corporate member who shall be identified in the bylaws of the Corporation ("Bylaws"). The rights of the sole member shall be as specified in the Bylaws.

ARTICLE V BOARD OF DIRECTORS

The affairs of the Corporation shall be managed by its Board of Directors, which shall consist of a number of persons to be fixed by the Bylaws from time to time, but which shall not have fewer directors than required by the ANCA which is one. The terms of office, qualifications and method of election of the directors shall be as specified in the Bylaws.

ARTICLE VI BYLAWS

The Bylaws shall govern the internal affairs of the Corporation, except as otherwise set forth herein, including, without limitation, any provisions hereinafter set forth concerning the distribution of assets upon dissolution or final liquidation of the Corporation.

ARTICLE VII AMENDMENT

These Amended and Restated Articles of Incorporation may be amended by the sole member.

ARTICLE VIII DISSOLUTION

In the event of liquidation or dissolution of the Corporation or the winding up of its affairs, all of the assets of every kind and character then owned or held by the Corporation, after the payment of all legal liabilities of the Corporation, shall be distributed and delivered exclusively to Arizona State University, or if for any reason the assets cannot be so distributed, then to an organization exclusively organized and operated for charitable, religious, scientific, literary or educational purposes which would then qualify under the provision of Section 501(c)(3) of the Code and its regulations (as they now exist or as they may hereafter be amended).

ARTICLE IX PRINCIPAL OFFICE; REGISTERED OFFICE; REGISTERED AGENT

The mailing and street address of the principal and registered office of the Corporation is 300 E. University Dr. Tempe, AZ, 85281, and the registered agent at such address is Virginia E. DeSanto.

ARTICLE X LIABILITY OF DIRECTORS

Provisions regarding the liability of directors shall be set forth in the Bylaws.


ARTICLE XI INDEMNIFICATION

Provisions regarding the indemnification of directors shall be set forth in the Bylaws.

CERTIFICATION

The undersigned officer of Arizona State University Foundation for a New American University, hereby certifies that the foregoing Amended and Restated Articles of Incorporation do not contain amendments to the Articles of Incorporation requiring approval of any other person other than the Board of Directors and that said Amended and Restated Articles of Incorporation were adopted by the Board of Directors in accordance with Sections 10-11002, 10-11006 and 10-11007 of the ANCA.

DATED: May 20, 2016.



By: Marcel Valenta
Its: General Counsel

AMENDED AND RESTATED BYLAWS
OF
ARIZONA STATE UNIVERSITY FOUNDATION
FOR A NEW AMERICAN UNIVERSITY
An Arizona Nonprofit Corporation

Adopted July 1, 2016
(Date)

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**AMENDED AND RESTATED BYLAWS
OF
ARIZONA STATE UNIVERSITY FOUNDATION
FOR A NEW AMERICAN UNIVERSITY
An Arizona Nonprofit Corporation
(the “Corporation”)**

**ARTICLE I
INTRODUCTORY PROVISIONS**

Section 1.1 Name.

The name of the Corporation is Arizona State University Foundation for A New American University.

Section 1.2 Statement of Purposes.

The Corporation’s purposes are as provided in its Articles of Incorporation as amended and restated from time to time (“Articles”).

Section 1.3 Offices.

The principal and registered office of the Corporation shall be located at 300 E. University Dr., Tempe, Arizona, or at such other place as the corporation’s board of directors (the “Board”) may designate from time to time. The Corporation may also have offices at such other locations inside or outside the State of Arizona as the Board may select and the business of the Corporation shall require. The Corporation shall maintain a registered office and registered agent in the State of Arizona. The registered office may, but need not be, the same as any of its places of business.

Section 1.4 Fiscal Year.

The fiscal year of the Corporation shall end on June 30 of each year, or on such other date as may be fixed from time to time by resolution of the Board.

Section 1.5 Governing Law.

This Corporation is governed by the Arizona Nonprofit Corporation Act (the “ANCA”), as it may be amended from time to time.

ARTICLE II

MEMBERS

Section 2.1 Classes of Members.

The Corporation shall have a single class of voting members and the sole member of that class shall be ASU Enterprise Partners ("Member"). Any reference in these Bylaws to "member" or "members" or "sole member" shall be deemed to refer only to such Member unless otherwise specifically provided.

Section 2.2 Responsibilities and Voting Rights of Member.

Any voting rights specified herein shall be exercised by the Member as the sole voting member of this Corporation, through action of its board of directors or through its designated representative. The following actions shall not be taken by the Corporation without the approval of the Member:

- (a) Election and removal of directors.
- (b) Amendment of the Articles of Incorporation of the Corporation.
- (c) Amendment of the Bylaws of the Corporation.
- (d) Merger, consolidation or dissolution of the Corporation.
- (e) The creation of any subsidiaries or affiliates of the Corporation.
- (f) Adoption of the strategic and annual business plans and adoption of the annual budget prepared by the Corporation.
- (g) The selection of banking affiliations, accounting firms, and legal counsel not specifically provided for in an approved budget.
- (h) The selection and retention of the President of the Corporation.
- (i) The making of any capital expenditures.
- (j) The selection of the manner and location of investment of any financial assets.
- (k) The creation or extension of any loans by or any borrowing by the Corporation.
- (l) Sale of any capital assets by the Corporation.

Section 2.3 Meetings.

The sole Member is not required to hold annual meetings. Rather, the sole Member may act through resolutions of its governing body or it may designate a representative and delegate

authority to its designated representative to act on its behalf. If the sole Member chooses to meet, special meetings of the sole Member may be called by, or at the request of, the sole Member to be held at such place and time as the sole Member specifies. If the sole Member chooses to hold a meeting, the sole Member shall call and conduct any such meeting of its governing body according to the procedures outlined in its own governing documents and designate the meeting a meeting of the sole Member of the Corporation.

Section 2.4 Action by Written Consent.

Any action required or permitted to be taken at any meeting of the sole Member may be taken without a meeting if the action is approved by the sole Member or the sole Member's designated representative. Any action taken without a meeting shall be evidenced by one (1) or more written consents describing the action taken, signed by the sole Member or its designated representative, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. Action taken by consent is effective when the sole Member or its designated representative signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be described as such in any document.

Section 2.5 Transfers.

The sole Member may not transfer its membership or any right or rights arising therefrom other than to a successor-in-interest by merger, change in control or operation of law.

ARTICLE III **BOARD OF DIRECTORS**

Section 3.1 Authority.

Subject to any limitations set forth elsewhere in these Bylaws or the Articles, the operations and affairs of the Corporation, including the administration, management, preservation, and protection of the property of the Corporation, shall be under the general direction of a board of directors.

Section 3.2 Number, Term, and Election.

The Board shall consist of a minimum of one (1) voting director and a maximum of twenty-five (25) voting directors (each, a "Director") (the actual number to be determined from time to time by the Board). In the event that the number of Directors exceeds ten (10) persons, the Directors, other than any Ex officio Director, shall be divided into two (2) classes with approximately the same number of Directors in each class, and the term of one such class shall expire in each year. With the exception of Ex officio Directors, whose terms shall be determined by the office pursuant to which each Ex officio Director serves, each Director shall serve for a term of two (2) years, unless a shorter term is specified when elected (for example, to fill a vacancy or to allocate Directors among the two classes), or until such Director's successor has been duly elected and qualified or until the Director's earlier death, resignation or removal. Directors shall be elected by the Board at the annual meeting of the Board or any special meeting called for that purpose. No voting Director who has served three (3) consecutive full terms of two (2) years shall be eligible for re-election until he or she has not served as a voting Director for one (1) year;

provided that a Director who is serving as the Chair or Vice-Chair at the end of his or her third consecutive term is eligible to serve four (4) consecutive two-year terms if elected by the Board to a fourth term in order to continue his or her service as Chair or Vice-Chair and such limitation shall not apply to any Ex officio Director. The following persons by reason of their office shall be the only ex officio members of the Board (each an "Ex officio Director"): (i) the President of ASU and any two (2) persons selected by him or her from the ASU staff; (ii) the President and Chief Executive Officer of the Member; (iii) the Chief Financial Officer of the Member; and (iv) the President of the Corporation, all of whom shall be voting Directors.

Section 3.3 Vacancies.

Vacancies occurring on the Board by death, resignation, refusal to serve, increase in the number of Directors or otherwise shall be filled by the Board, and each Director so appointed shall serve for the unexpired portion of the term of the Director being replaced, and until the Director's successor is elected and qualified or until such Director's earlier death, resignation, or removal. If such unexpired term is one (1) year or less, such unexpired term shall not be counted toward the term limit set forth in Section 3.2 of these Bylaws with respect to the Director elected to fill such vacancy. If such unexpired term is more than one (1) year, such unexpired term shall be counted as a full term with respect to the Director elected to fill such vacancy for purposes of said term limit.

Section 3.4 Resignation.

Any Director may resign at any time by giving written notice to the President, the Secretary, or the Board. Such resignation shall take effect at the time specified therein or, if no time is specified, at the time of acceptance of the resignation as determined by the Board. Any Director other than an Ex officio Director who is absent from three (3) consecutive meetings of the Board without good cause shown and acceptable to the Board shall be deemed to have resigned.

Section 3.5 Removal of Directors.

The Board may, by majority vote, remove any Director from office at any time, with or without assigning any cause when it deems such removal to be in the best interests of the Corporation.

Section 3.6 Compensation.

No compensation shall be paid to any Director for services as a Director, including the Chair and Vice Chair. The Corporation may, but is not obligated to, at the discretion of the Board, reimburse a Director for travel and actual expenses necessarily incurred in attending meetings and performing other duties as a director on behalf of the Corporation. An Ex officio Director may be a salaried officer of the Corporation. Directors may also be compensated for their personal and professional services rendered to or on behalf of the Corporation not in their capacity as a Director if approved in advance by the Board and subject to compliance with the Corporation's conflicts of interest policy.

Section 3.7 Meetings.

Meetings of the Board, annual, regular or special, shall be held at such time, on such day, and at such place as the Chair, President or not less than twenty percent (20%) of the Directors shall designate. Except as the Board may otherwise determine, one or more persons may participate in a meeting of the Board or any committee thereof by means of conference telephone or other electronic technology by means of which all persons participating in the meeting can hear and be heard by each other at the same time.

Section 3.8 Quorum and Valid Action.

At all meetings of the Board, the presence of one-third (1/3) of the Directors in office and entitled to vote shall constitute a quorum. The act of a majority of the Directors entitled to vote at a meeting at which a quorum is present shall be the act of the Board. A majority of the Directors present and entitled to vote, whether or not a quorum exists, may adjourn any meeting of the Board to another time and place. Notice of any such adjourned meeting shall be given to the Directors who are not present at the time of adjournment.

Section 3.9 Voting.

Each Director shall be entitled to one vote on each matter submitted to a vote of the Board.

Section 3.10 Notices.

Written notice of the date, time and place of each meeting of the Board shall be given to all Directors at least two (2) days in advance of the date thereof. Such notice shall set forth the date, time and place of the meeting. Notice may be given to the Director personally or by sending a copy thereof by any of the following methods:

- (a) By first class or express mail (postage prepaid), or by courier services (charges prepaid), to the Director's address supplied by the Director for the purpose of notice. Notice pursuant to this paragraph shall be deemed to have been given to the Director entitled thereto when deposited in the U.S. mail or with a courier service for delivery to that Director.
- (b) By facsimile transmission, e-mail, or other electronic communication to the Director's facsimile number or e-mail address supplied by the Director to the Corporation for the purpose of notice. Notice pursuant to this paragraph shall be deemed to have been given to the Director entitled thereto when sent.

Section 3.11 Waiver of Notice.

Whenever any written notice whatsoever is required to be given under the provisions of applicable law, the Articles or these Bylaws, a waiver of such notice in writing signed by the person or persons entitled to notice, whether before or after the time of the meeting stated in such notice, shall be deemed equivalent to the giving of such notice. Attendance of a Director at a meeting shall constitute a waiver of notice of the meeting unless the Director attends for the

express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

Section 3.12 Consents.

Any action that may be taken at a meeting of the Directors may be taken without a meeting, if a consent or consents in writing setting forth the action so taken shall be signed by all of the Directors in office and entitled to vote and shall be filed with the Secretary of the Corporation. Alternatively, all Directors may consent to the action by the unanimous written consent feature on the Board website. Such consent shall have the same effect as a unanimous written consent.

Section 3.13 Action as Member or Owner of Subsidiary Entities.

The Corporation shall have such rights as a member or shareholder of any subsidiary or affiliated entity as shall be established in the governing documents of such entity. The Corporation shall exercise any membership or shareholder rights it holds through the action of the Board, which authority may be delegated to the President and Chief Executive Officer, the Treasurer or such other officer as the Board may determine.

ARTICLE IV **OFFICERS**

Section 4.1 Officers.

Subject to the rights reserved to the Member pursuant to Section 2.2(i), the officers of the Corporation shall consist of the offices set forth below. A person may hold more than one office of the Corporation.

- (a) *Chair.* The Chair shall preside at all meetings of the Board, shall act as liaison between the President and the Board, and shall perform such other duties as are typical of a chair or as the Board may prescribe. The Chair shall sign all instruments in writing documenting the actions of the Board but shall not have the power to enter into contracts or agreements on behalf of the Corporation except as authorized or directed by the Board.
- (b) *Vice Chair.* The Vice Chair shall assist the Chair in the conduct of Board meetings and in communications with the Board. In the absence or disability of the Chair, the Vice Chair shall perform the duties and exercise the powers of the Chair and shall perform such other duties as the Board may prescribe.
- (c) *President.* The Corporation shall employ a President to serve as the principal executive officer and administrative agent of the Corporation. The President shall manage the day-to-day activities and operations of the Corporation, subject to the oversight of the Board, and shall exercise the powers and perform the functions that are from time to time assigned to him or her by the Board. The President shall be appointed by and serve at the pleasure of the Board, subject to the provisions of any written contract

between the President and the Corporation and during his or her term shall be an Ex-officio Director of the Board. Compensation for the President shall be determined by the Board.

- (d) *Treasurer.* The Chief Financial Officer of the Member shall serve as the ex officio Treasurer of the Corporation and an Ex-Officio Director during his or her term. The Treasurer shall see that (i) full and accurate accounts of receipts and disbursements are kept, (ii) a system is in place such that all monies and other valuable effects are deposited in the name and to the credit of the Corporation in such depositories as shall be determined by the Treasurer, (iii) the Directors at the regular meetings of the Board or whenever they may require it, receive an account of the financial condition of the Corporation, and (iv) an annual audit of the Corporation's books and records is performed by an independent auditor selected by the Board. The Treasurer shall also perform such other duties as may be prescribed by the Board. In performing these functions, the Treasurer may rely on employees of the Corporation or any affiliated corporation who possess special financial training and skills and whose employment responsibilities include management of the Corporation's financial affairs. In the absence or disability of the Treasurer, the Assistant Treasurer, if any, shall perform all the duties of the Treasurer and when so acting shall have all of the powers of and be subject to all of the restrictions upon the Treasurer.
- (e) *Secretary.* The General Counsel of the Member shall serve as ex officio Secretary of the Corporation to act as Corporate Secretary, but such person shall not be a member of the Board. The Secretary shall make or cause to be made minutes of all meetings of the Board. The Secretary shall be responsible for the timely mailing or delivery of all notices of meetings of the Board, shall affix the corporate seal at the direction of the President and, generally, shall perform all duties incident to the office of secretary of a corporation and such other duties as may be required by law, by the Articles or by these Bylaws, or which may be assigned from time to time by the Board.
- (f) *Other Officers.* The President in consultation with the Chair may appoint other officers with such executive titles as he or she may deem appropriate who shall have such responsibilities and perform such duties the President may prescribe from time to time.

Section 4.2 Term of Office.

The Chair and the Vice Chair shall be elected for two-year terms and serve until the officer's earlier death, resignation, removal, or, if re-elected, for as long as the officer is a Director. Each officer who is an employee of the Corporation shall serve until the officer's successor is duly appointed and takes office or until the officer's earlier death, resignation, or removal.

Section 4.3 Election or Appointment.

The Chair and the Vice Chair shall be elected by the Board at the annual meeting of the Board immediately prior to the expiration of the term for such office or at a special meeting of the Board called for such purpose. Other officers shall be appointed as provided in Section 4.1.

Section 4.4 Vacancies.

Subject to the rights reserved to the Member pursuant to Section 2.2(i), any vacancy in the positions of the Chair or Vice Chair shall be filled by the Board, and each officer appointed to fill the vacancy shall serve for the unexpired portion of the term of the officer being replaced, and until the officer's successor is elected and qualified or until such officer's earlier death, resignation, or removal. A vacancy in the office of President shall be filled in accordance with the terms of Section 4.1(c). The President may fill vacancies in executive offices (other than the President) upon consultation with the Chair and subject to the rights reserved to the Member pursuant to Section 2.2(i).

Section 4.5 Resignation and Removal of Officers.

Any officer may resign at any time by giving written notice to the Chair, the Secretary, or the Board, in the case of the Chair, Vice Chair, or the President, and to the President, in case of other officers. Such resignation as an officer shall take effect at the time specified therein or, if no time is specified, at the time the notice is delivered. Any officer may be removed from office at any time by the Board in its sole discretion, in the case of the Chair, the Vice Chair or the President, or by the President in case of other officers. Such removal shall be without prejudice to the contract rights, if any, of the person so removed, but election of a Director shall not of itself create contract rights.

Section 4.6 Compensation.

Officers, other than the Chair and Vice Chair, may receive reasonable compensation for their services as employees of the Corporation, including for their service as officers, and reimbursement for reasonable expenses in conducting their duties in accordance with procedures established by the Board and policies of the Corporation.

ARTICLE V **COMMITTEES**

Section 5.1 Committees.

The Corporation shall have such standing and ad hoc committees as the Board may deem advisable in the administration and conduct of the affairs of the Corporation. Each committee shall have such power and authority as provided for in these Bylaws or in the resolution creating such committee, except as such authority is limited by statute, by these Bylaws, by resolution creating or controlling the committee, or by any limitation imposed by the Board on such authority and power. The duties of each committee shall be enumerated in a charter approved by the Board. Each committee shall meet as necessary to accomplish its goals. Except as otherwise provided in these Bylaws or in the resolution creating the applicable committee, committee

chairpersons and members shall be appointed annually by a governance or similar committee and may be reappointed to a committee for an unlimited number of terms, subject to the term limitation provided in Section 3.2. Only Directors, including Ex officio Directors entitled to vote, may be voting members of a Board committee. A person who is not a Director may be appointed to any committee of the Board; provided, however, that such non-Director shall have no right to vote. The chairperson of each committee shall determine the date and place of all committee meetings. Each committee may adopt its own rules of procedure not inconsistent with these Bylaws or its charter. The Board may also establish advisory committees to the Board or to a committee of the Board that include voting members who are not Directors but such committees shall not be delegated, and shall not, have any power or authority of the Board.

Section 5.2 Limitation on Power of Committees.

No such committee shall have any power or authority as to the following:

- (a) the authorization of distributions;
- (b) the filling of vacancies in the Board or any of its committees;
- (c) the hiring or removal of the President and Chief Executive Officer;
- (d) the amendment or repeal of any resolution of the Board;
- (e) action on matters committed by the Bylaws or a resolution of the Board to another Committee of the Board;
- (f) the fixing of compensation of Directors for serving on the Board or any Committee of the Board; or
- (g) any other action not permitted to be taken by such committee pursuant to the ANCA.

ARTICLE VI
FIDUCIARY DUTIES AND CONFLICTS OF INTEREST

Section 6.1 Standard of Care and Fiduciary Duty.

Each Director shall stand in a fiduciary relation to the Corporation and shall perform his or her duties as a Director, including his or her duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner the Director reasonably believes to be in the best interests of this Corporation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his or her duties, each Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

- (a) one or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented;

- (b) counsel, public accountants or other persons as to matters which the Director reasonably believes to be within the professional or expert competence of such persons; and
- (c) a committee of the Board of the Corporation upon which the Director does not serve, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

A Director shall not be considered to be acting in good faith if the Director has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

Section 6.2 Conflicts of Interest.

By virtue of his or her fiduciary duty to the Corporation, each Director must act prudently and in the best interests of the Corporation, as opposed to his or her personal interest or the interest of some other person or entity. The Internal Revenue Code also requires that officers, directors, and other persons in a position to exercise substantial influence over the affairs of the Corporation (collectively, “disqualified persons”) not engage in excess benefit transactions with the Corporation. Disqualified persons are subject to onerous excise taxes if they do engage in excess benefit transactions with the Corporation. In order to facilitate compliance with these requirements, the Board shall adopt, maintain, and enforce a written conflict of interest policy. Such policy shall describe the persons covered by the policy, define a conflict of interest, require disclosure of actual and potential conflicts of interest (including through an annual written disclosure of interests by the persons covered by the policy), and describe procedures that must be followed when evaluating conflicts of interest and acting on matters involving a conflict of interest.

ARTICLE VII

LIMITATION OF PERSONAL LIABILITY OF DIRECTORS

Section 7.1 Limitation of Directors’ Personal Liability.

A Director of the Corporation shall not be personally liable for monetary damages for any action taken unless the Director has breached or failed to perform the duties of his office under Chapter 31 of the ANCA as in effect at the time of the alleged action by such Director and the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness. Such limitation on liability does not apply to the responsibility or liability of a Director pursuant to any criminal statute or for payment of taxes pursuant to any Federal, state or local law.

Section 7.2 Preservation of Rights.

Any repeal or modification of this Article 7 by the Corporation shall not adversely affect any right or protection existing at the time of such repeal or modification to which any Director or former Director may be entitled under this Article 7. The rights conferred by this Article 7 shall continue as to any person who has ceased to be a Director of the Corporation and shall inure to the benefit of the heirs, executors and administrators of such person.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Mandatory Indemnification of Directors and Officers.

The Corporation shall indemnify, to the fullest extent now or hereafter permitted by law (including but not limited to the indemnification provided by Chapter 31, Article 5 of the ANCA), each Director and/or officer (including each former Director or officer) of the Corporation who was or is or is threatened to be made a party to or a witness in any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Corporation, by reason of the fact that the Director or officer is or was an authorized representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Director or officer in connection with such action, suit or proceeding if such Director or officer acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action or proceeding by judgment, order, settlement or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that he reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 8.2 Mandatory Advancement of Expenses to Directors and Officers.

The Corporation shall pay expenses (including attorneys' fees) incurred by a Director or officer of the Corporation referred to in Section 8.1 hereof in defending or appearing as a witness in any civil or criminal action, suit or proceeding described in Section 8.1 hereof in advance of the final disposition of such action, suit or proceeding, only upon receipt of an undertaking by or on behalf of such Director or officer to repay all amounts advanced if it shall ultimately be determined that the Director or officer is not entitled to be indemnified by the Corporation as provided in Section 8.4 hereof.

Section 8.3 Permissive Indemnification and Advancement of Expenses.

The Corporation may, as determined by the Board from time to time, indemnify, in full or in part, to the fullest extent now or hereafter permitted by law, any person who was or is or is threatened to be made a party to or a witness in, or is otherwise involved in, any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Corporation, by reason of the fact that such person is or was an authorized representative of the Corporation or is or was serving at the request of the Corporation as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, both as to action in his official capacity and as to action in another capacity while holding such office or position,

against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in conjunction with such action, suit or proceeding if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The Corporation may, as determined by the Board from time to time, pay expenses incurred by any such person by reason of such person's participation in an action, suit or proceeding referred to in this Section 8.3 in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as provided in Section 8.4 hereof.

Section 8.4 Scope of Indemnification.

Indemnification under this Article shall not be made by the Corporation in any case where a court determines that the alleged act or failure to act giving rise to the claim for indemnification is expressly prohibited by Chapter 31, Article 5 of the ANCA or any successor statute as in effect at the time of such alleged action or failure to take action.

Section 8.5 Miscellaneous.

Each Director and officer of the Corporation shall be deemed to act in such capacity in reliance upon such rights of indemnification and advancement of expenses as are provided in this Article 8. The rights of indemnification and advancement of expenses provided by this Article 8 shall not be deemed exclusive of any other rights to which any person seeking indemnification or advancement of expenses may be entitled under any agreement, vote of members, disinterested Directors, statute or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be an authorized representative of the Corporation and shall inure to the benefit of the heirs, executors and administrators of such person. Any repeal or modification of this Article 8 by the Board shall not adversely affect any right or protection existing at the time of such repeal or modification to which any person may be entitled under this Article.

Section 8.6 Definition of Authorized Representative.

For the purposes of this Article, the term, "authorized representative" shall mean an employee of the Corporation or a trustee, custodian, administrator, committeeman or fiduciary of any employee benefit plan established and maintained by the Corporation or by any corporation controlled by the Corporation. The term "authorized representative" shall not include money managers or investment advisors (or any employees thereof) hired by the Corporation, and shall not include agents of the Corporation unless indemnification thereof is expressly approved by the Board.

Section 8.7 Procedure for Effecting Indemnification.

Unless ordered by a court, any indemnification under this Article 8 or the ANCA shall be made only following a determination that the indemnification is proper in the circumstances because

the person seeking indemnification has met the applicable standard of conduct. Such determination shall be made

- (a) by the Board by a majority vote of a quorum consisting of Directors who were not party to the action or proceeding; or
- (b) if such a quorum is not obtainable or if obtainable and a majority vote of the disinterested Directors in office so directs, by independent legal counsel in a written opinion.

ARTICLE IX

RESTRICTIONS REGARDING THE OPERATIONS OF THE CORPORATION; ADMINISTRATION OF FUNDS

Section 9.1 No Private or Political Beneficiaries.

The Corporation shall be subject to the limitations set forth in the Articles, including with respect to benefits provided to private persons, influencing legislation and the prohibition on direct or indirect participation in political activities.

Section 9.2 No Violation of Purposes.

In no event and under no circumstances shall the Board make any distribution or expenditure, engage in any activity, hold any assets, or enter into any transaction whatsoever the effect of which under applicable federal laws then in force will cause the Corporation to lose its status as a Corporation to which contributions are deductible in computing the net income of the contributor for purposes of federal income taxation.

Section 9.3 Books and Records.

This Corporation will keep correct and complete books and records of account and will also keep minutes of the proceedings of its Board and committees. The Corporation will keep at its registered office the original or a copy of its Bylaws including amendments to date, certified by the Secretary of the Corporation.

Section 9.4 Policies.

The Board shall adopt and maintain policies relating to conflicts of interest, gift acceptance and such other policies as the Board may from time to time determine appropriate and consistent with legal or regulatory obligations.


ARTICLE X AMENDMENTS

These Bylaws may be altered, amended, or repealed from time to time by the Member.

CERTIFICATION

The undersigned officer of Arizona State University Foundation for A New American University hereby certifies that the foregoing Bylaws have been adopted by the Board in accordance with Sections 10-11020 of the ANCA.

DATED: July 1, 2016.



By: Marcel Valenta
Its: General Counsel