

AMENDED AND RESTATED
ARTICLES OF INCORPORATION¹

OF
VIRGINIA COMMONWEALTH UNIVERSITY
REAL ESTATE FOUNDATION

A Virginia Nonstock Corporation

1. Name. The name of the Corporation is Virginia Commonwealth University Real Estate Foundation.

2. Purpose. The purpose of the Corporation is to accept, acquire, lease, hold, develop, operate, manage, sell, dispose of and otherwise deal in real estate for the exclusive benefit of Virginia Commonwealth University and the Virginia Biotechnology Research Park Authority. The following real estate owned by or to be transferred to the Corporation from Virginia Commonwealth University Foundation shall be indirectly owned by the Commonwealth of Virginia and by Virginia Commonwealth University, and upon request of the Board of Visitors of Virginia Commonwealth University, the Corporation shall convey such real estate to the Commonwealth of Virginia for the use of Virginia Commonwealth University:

- a. 1315 Floyd Avenue, 10 North Brunswick Street, 1128 Floyd Avenue and 107 North Morris Street (Cathedral Properties);
- b. 327 West Main Street (Flowers);
- c. 600 West Franklin Street and 601 West Grace Street (Lindsey House);
- d. 930-944 West Grace Street (Grace Street Properties);
- e. 102-104 North Linden Street;
- f. 17-21 South Pine Street and 620 West Cary Street (Kahootz); and
- g. 1015 Grove Avenue (Grove Avenue Baptist Church).

¹ LAST REVISIONS:

Subject to the limitations set forth below, the Corporation may conduct any or all lawful affairs, not required to be state specifically in these Articles, for which corporations may be formed under the Virginia Nonstock Corporation Act.

3. Activities and Powers. (a) The Corporation shall not be operated for profit. It may engage only in activities that may be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and by a corporation to which contributions are deductible under Sections 170(c), 2055 and 2522 of the Code. To the extent consistent with Section 501(c)(3) of the Code, the Corporation may exercise any and all powers conferred upon nonstock corporations by Sections 13.1-826 and -827 of the Virginia Nonstock Corporation Act.

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation (except as otherwise permitted by Section 501(h) of the Internal Revenue Code); and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

(c) No part of the net earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation, or any person having a personal or private interest in the activities of the Corporation, except that the Corporation may pay reasonable compensation for services rendered and may make payment or distributions in furtherance of the purposes set forth in Article 2.

4. Members. The Corporation shall have no members. All voting power, including without limitation power to vote on amendments to these Articles of Incorporation, shall be vested in the Board of Directors.

5. Directors. (a) The number of Directors of the Corporation shall be as specified in its Bylaws.

(b) The person holding the office of President of Virginia Commonwealth University shall be an ex officio Director with full voting powers. The person holding the office of Executive Director of the Virginia Biotechnology Research Park Authority shall be an ex officio Director with full voting powers. Other Directors shall be elected by the incumbent Directors in the manner provided in the Corporation's Bylaws. At least two Directors shall be elected from persons nominated by the Board of Visitors of Virginia Commonwealth University; at least two Directors shall be elected from persons nominated by the Board of Trustees of the Medical College of Virginia Foundation; and at least two Directors shall be elected from persons nominated by the Board of Trustees of the Virginia Commonwealth University Foundation.

(c) Directors shall serve for terms of two (2) years each and shall be divided into two (2) classes as nearly equal in number as possible.

6. Registered Office and Agent. The address of the initial registered office of the Corporation shall be Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219-4074. The initial registered office is located in the City of Richmond. The initial registered agent shall be Joseph C. Carter, Jr., who is a member of the Virginia State Bar, and whose office is identical with the Corporation's initial registered office.

7. Dissolution. Upon the dissolution of the Corporation and the winding up of its affairs, the assets of the Corporation shall be distributed to either or both of Virginia Commonwealth University or the Virginia Biotechnology Research Park Authority in such proportions (which may be 100% to one and 0% to the other) as the Board of Directors shall determine, or if either of Virginia Commonwealth University or the Virginia Biotechnology

Research Park Authority is not describe in Section 170(c)(1) of the Internal Revenue Code or in Sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code when distributions are to be made to it, then to one or more entities organized and operated exclusively for educational purposes and then so described.

8. Indemnification.

(a) In this Article:

“applicant” means the person seeking indemnification pursuant to this Article.

“expenses” include counsel fees.

“liability” means the obligation to pay a judgment, settlement, penalty, fine, including any excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

“party” includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

“proceeding” means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

(b) In any proceeding brought by or in the right of the Corporation or brought by or on behalf of shareholders of the Corporation, no director or officer of the Corporation shall be liable to the Corporation or its shareholders for monetary damages with respect to any transaction, occurrence, or course of conduct, whether prior to or subsequent to the effective date of this Article, except for liability resulting from such person’s having engaged in willful misconduct or a knowing violation of the criminal law or any federal or state securities laws.

(c) The Corporation shall indemnify (i) any person who was or is a party to any proceeding, including a proceeding brought by a shareholder in the right of the Corporation or brought by or on behalf of shareholders of the Corporation, by reason of the fact that he is or was a director or officer of the Corporation, or (ii) any director or officer who is or was serving at the request of the Corporation as a director, trustee, partner or officer of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability incurred by him in connection with such proceeding unless he engaged in willful misconduct or a knowing violation of the criminal law. A person is considered to be serving an employee benefit plan at the Corporation's request if his duties to the Corporation also impose duties, or otherwise involve services by him, to the plan or to participants in or beneficiaries of the plan. The Board of Directors is hereby empowered, by a majority vote of disinterested Directors, to enter into a contract to indemnify any director or officer in respect of any proceedings arising from any act or omission, whether occurring before or after the execution of such contract.

(d) The provisions of this Article shall be applicable to all proceedings commenced after the adoption hereof, arising from any act or omission, whether occurring before or after such adoption. No amendment or repeal of this Article shall have any effect on the rights provided under this Article with respect to any act or omission occurring prior to such amendment or repeal. The Corporation shall promptly take all such actions, and make all such determinations, as shall be necessary or appropriate to comply with its obligation to make any indemnity under this Article and shall promptly pay or reimburse all reasonable expenses, including attorneys' fees, incurred by any such director or officer in connection with such actions and determinations or proceedings of any kind arising therefrom.

(e) The termination of any proceeding by judgment, order, settlement, convictions, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the applicant did not meet the standard of conduct described in Section (b) or (c) of this Article.

(f) Any indemnification under section (c) of this Article (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the applicant is proper in the circumstances because he has met the applicable standard of conduct set forth in section (c).

The determination shall be made:

- (i) By the Board of Directors by a majority vote of a quorum consisting of directors not at the time parties to the proceeding;
- (ii) If a quorum cannot be obtained under subsection (i) of this section, by majority vote of a committee duly designated by the Board of Directors (in which designation directors who are parties may participate), such committee consisting solely of two or more directors not at the time parties to the proceeding;
- (iii) By special legal counsel:
 - (A) Selected by the Board of directors or its committee in the manner prescribed in subsection (i) or (ii) of this section; or
 - (B) If a quorum of the Board of Directors cannot be obtained under subsection (i) of this section and a committee cannot be designated under subsection (ii) of this section selected by majority vote of the

full Board of Directors, in which selection directors who are parties may participate.

Any evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is appropriate, except that if the determination is made by special legal counsel, such evaluation as to reasonableness of expenses shall be made by those entitled under subsection (iii) of this section (f) to select counsel.

(g) (i) The Corporation shall pay for or reimburse the reasonable expenses incurred by any applicant who is a party to a proceeding in advance of final disposition of the proceeding or the making of any determination under section (f) if the applicant furnishes the Corporation:

(A) a written statement of his good faith belief that he has met the standard of conduct described in section (c); and

(B) a written undertaking, executed personally or on his behalf to repay the advance if it is ultimately determined that he did not meet such standard of conduct.

(ii) The undertaking required by paragraph (B) of subsection (a) of this section shall be an unlimited general obligation of the applicant but need not be secured and may be accepted without reference to financial ability to make repayment.

(iii) Authorizations of payments under this section shall be made by the persons specified in section (f).

(h) The Board of Directors is hereby empowered, by majority vote of a quorum consisting of disinterested Directors, to cause the Corporation to indemnify or contract to indemnify any person not specified in section (c) of this Article who was, is or may become a

party to any proceeding, by reason of the fact that he is or was an employee or agent of the Corporation, or is or was serving at the request of the Corporation as director, officer, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, to the same extent as if such person were specified as one to whom indemnification is granted in section (c). The provisions of sections (c) through (g) of this Article shall be applicable to any indemnification provided pursuant to this section (h).

(i) The Corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it in accordance with this Article and may also procure insurance, in such amounts as the Board of Directors may determine, on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprises, against any liability asserted against or incurred by him in any such capacity or arising from his status as such, whether or not the Corporation would have power to indemnify him against such liability under the provisions of this Article.

(j) Every reference herein to directors, officers, employees or agents shall include former directors, officers, employees and agents and their respective heirs, executors and administrators. The indemnification hereby provided and provided hereafter pursuant to the power conferred by this Article on the Board of Directors shall not be exclusive of any other rights to which any person may be entitled, including any right under policies of insurance that may be purchased and maintained by the Corporation or others, with respect to claims, issues or matters in relation to which the Corporation would not have the power to indemnify such person under the provisions of this Article. Such rights shall not prevent or restrict the power of the

Corporation to make or provide for any further indemnity, or provisions for determining entitlement to indemnity, pursuant to one or more indemnification agreements, bylaws, or other arrangements (including, without limitation, creation of trust funds or security interest funded by letters of credit or other means) approved by the Board of Directors (whether or not any of the directors of the Corporation shall be a party to or beneficiary of any such agreements, bylaws or arrangement); provided however, that any provision of such agreements, bylaws or other arrangements shall not be effective if and to the extent that it is determined to be contrary to this Article or applicable laws of the Commonwealth of Virginia.

(k) Each provision of this Article shall be severable, and an adverse determination as to any such provision shall in no way affect the validity of any other provision.

Dated: June 22, 1994

Amended: September 24, 1998