

## KSURSF Board Meeting Minutes

January 5, 2016

Attendees: Ken Harmon, voting member; Randy Hinds, voting member; Charles Amlaner, voting member; Flora Devine, voting member; Mark Anderson, voting member; John Marshall, non-voting advisor; Anna McCoy, KSURSF accountant (non-voting); Carolyn Elliott-Farino, non-voting secretary.

The meeting was called to order at 3:05 PM.

1. **Approval of minutes of previous meeting, 16 June 2015.** The minutes were approved.
2. **Audit report for FY 15.** The audited financial statements were approved. See attached report.
3. **Discussion of consolidation of SPARC with KSURSF.** Nearly all awards have been transferred from SPARC to KSURSF. The remaining grants to transfer include: i) EPA (Bill Diong) – documents all submitted and awaiting response from EPA; ii) NSF (Jennifer Louten) – documents all submitted and awaiting transfer from NSF; iii) DoS Afganistan (Hussein Abaza) – documents all submitted and awaiting final document from DoS.
4. **Overhead distribution at SPARC and SPSU through June 30, 2015.** This was reviewed.
5. **Extra compensation issues with legacy SPSU faculty.** The Board discussed the differences between the Kennesaw (KSU) and Marietta (ex SPSU) campuses regarding extra compensation for faculty for grant/contract work, in addition to teaching a full load. KSU does not allow extra compensation on federally-funded projects and also limits extra compensation in general, expecting faculty to reduce their teaching load; SPSU used to allow this. This has been a learning curve for the ex SPSU faculty, but we are working with them, and in many cases, the chairs and deans who authorize the extra compensation.
6. **Total/combined grant/contract and account activity for FY 2015.** This was reviewed.
7. **Revised bylaws for discussion.** Minor changes to the bylaws were approved. In Sections 4.2 and 6.2 several *ex officio* position titles were updated; a provision was included for the Board to elect a faculty member to the Board; and the following clause was added: “If the title of an *ex officio* member changes, but the substance of the position remains the same, there shall be no need to amend the bylaws to revise this section.” The approved revised bylaws are attached.
8. **KSURSF Faculty Representative Qualifications.** John Salerno drafted a document outlining suggested qualifications for the faculty representative to the KSURSF Board and the Board voted to use these as a guideline when electing a faculty member to the Board. The guidelines are attached.
9. **Board Conflict of Interest Disclosures.** Updated disclosures were collected from all Board members.
10. **Attorney General’s office investigation into Gary Coltek.** KSURSF staff met with the Assistant Attorney General and answered questions about his division’s interactions with KSURSF. Staff also provided requested documents for her review. This was a discussion item.

**11. Reports of other officers and committees.** Nothing to report.

**12. Other new business.** The Board discussed the proposal to pay for business incubator space at Ignite HQ for TreeCabin, a student group that has assigned rights to intellectual property to KSURSF. More information was needed and no decision was made. John Marshall said that he would introduce the students to the GRA venture fund capital people.

**13. Adjournment.** There being no other business, the meeting was adjourned at 4:53 PM.

**KENNESAW STATE UNIVERSITY RESEARCH AND SERVICE  
FOUNDATION, INC.**

**STATEMENT OF FUNCTIONAL EXPENSES  
YEAR ENDED JUNE 30, 2015**

	<u>Program Services</u>			<u>Total</u>
	<u>Research Grants and Contracts</u>	<u>Development of Intellectual Property</u>	<u>Management and General</u>	
<b>Expenses</b>				
Advertising	\$ 44,353	\$ -	\$ -	\$ 44,353
Bank fees	3,374	-	7,737	11,111
Consultants/Honorariums	801,642	-	88	801,730
Amortization	-	-	529	529
Dues and subscriptions	31,260	-	155	31,415
Equipment	8,221	-	9,758	17,979
Gifts and contributions	35,205	-	202	35,407
Management fee	49,066	14	-	49,080
Information technology services	-	-	750	750
Insurance	46,372	-	3,345	49,717
Legal and accounting	477	60,316	20,376	81,169
Licenses and permits	13,843	-	-	13,843
Materials and supplies	93,089	-	1,517	94,606
Meals and entertainment	257,082	459	3,192	260,733
Miscellaneous	1,748	-	-	1,748
Postage	12,871	-	-	12,871
Printing	34,470	-	-	34,470
Promotional material and incentives	10	-	-	10
Recruiting expense	2,946	-	-	2,946
Registration fees	58,095	-	20,030	78,125
Rent	462,140	-	-	462,140
Research subcontracted to KSU	3,941,224	-	3,839	3,945,063
Salaries and wages	54,530	75,761	75,761	206,052
Scholarships	10,993	-	-	10,993
Sponsorships	11,755	-	-	11,755
Stipends	22,700	-	-	22,700
Telephone	6,163	-	-	6,163
Travel	327,668	-	731	328,399
Utilities	3,191	-	-	3,191
<b>Total expenses</b>	<u>\$ 6,334,488</u>	<u>\$ 136,550</u>	<u>\$ 148,010</u>	<u>\$ 6,619,048</u>

See Notes to Financial Statements.

Southern Polytechnic Applied Research Corporation  
Statement of Revenues and Expenditures - Statement of Functional Expense  
From 7/1/2014 Through 6/30/2015

1 - SPARC

	Research	Academic Support	Institutional Support	Community Education	Public Service	Management and General	Total
<b>Revenue</b>							
State Allocations	314,931.73	0.00	0.00	0.00	0.00	0.00	314,931.73
Sales & Service	2,837.30	0.00	0.00	0.00	0.00	0.00	2,837.30
Grants & Contracts	1,635,960.19	8,064.10	10,000.00	0.00	349,542.60	42,019.04	2,045,585.93
Total Revenue	<u>1,953,729.22</u>	<u>8,064.10</u>	<u>10,000.00</u>	<u>0.00</u>	<u>349,542.60</u>	<u>42,019.04</u>	<u>2,353,354.96</u>
<b>Expense</b>							
Subawards	657,466.28	24,109.13	0.00	0.00	-0.02	2,173.34	683,748.73
Consultant	144,217.69	0.00	0.00	0.00	-2,240.00	36,100.00	178,077.69
Utilities	300.00	0.00	0.00	0.00	0.00	0.00	300.00
Maintenance	3,400.00	0.00	0.00	0.00	0.00	0.00	3,400.00
Hospitality	8,867.33	3,609.95	0.00	0.00	0.00	1,936.69	14,413.97
Contractual Other	44,833.99	0.00	0.00	0.00	60,000.00	0.00	104,833.99
Travel	144,456.60	0.00	0.00	0.00	0.00	7,199.47	151,656.07
Supplies	449,464.05	720.48	2,512.22	0.00	2,626.54	351.41	455,674.70
Bank Charges	720.00	0.00	0.00	0.00	0.00	2,784.07	3,504.07
Professional Services	0.00	0.00	0.00	0.00	0.00	4,825.00	4,825.00
Insurance	34,055.00	0.00	0.00	0.00	0.00	4,492.00	38,547.00
Advertising	6,487.98	0.00	0.00	0.00	0.00	0.00	6,487.98
Postage	64,077.11	85.79	0.00	0.00	0.00	188.53	64,351.43
IT	4,651.42	0.00	0.00	0.00	0.00	4,799.00	9,450.42
Dues & Subscriptions	1,728.11	362.95	0.00	0.00	0.00	700.00	2,791.06
Other	421,487.78	94.50	0.00	-204.58	-6,650.00	6,669.39	421,397.09
Total Expense	<u>1,986,213.34</u>	<u>28,982.80</u>	<u>2,512.22</u>	<u>-204.58</u>	<u>53,736.52</u>	<u>72,218.90</u>	<u>2,143,459.20</u>
Increase (Decrease) in Net Assets	-32,484.12	-20,918.70	7,487.78	204.58	295,806.08	-30,199.86	219,895.76
Net Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Beginning Net Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Adjustments to Net Assets							
Net Assets	22,884.00	0.00	0.00	0.00	0.00	0.00	22,884.00
Total Adjustments to Net Assets	22,884.00	0.00	0.00	0.00	0.00	0.00	22,884.00
Ending Net Assets	<u>-9,600.12</u>	<u>-20,918.70</u>	<u>7,487.78</u>	<u>204.58</u>	<u>295,806.08</u>	<u>-30,199.86</u>	<u>242,779.76</u>

2071,240

**KENNESAW STATE UNIVERSITY  
RESEARCH AND SERVICE FOUNDATION, INC.**

**BYLAWS**

**Article One  
OFFICES**

Section 1.1 Registered Office and Agent. The address of the registered office of the corporation is Kennesaw Hall, Room 4429, Kennesaw State University, 1000 Chastain Road, M.B. #0104, Kennesaw, Georgia 30144. The registered agent at such address is the Chairperson of the Board of Directors as defined in 4.2 below. Either may be changed as provided by law. At such time, the Articles of Incorporation and the Bylaws shall be deemed to be amended accordingly.

Section 1.2 Office. The principal office of the corporation shall be located at Kennesaw Hall, Kennesaw State University, Kennesaw, Georgia 30144. The corporation may have offices at such place or places (within or without the State of Georgia) as the Board of Directors may from time to time appoint or the business of the corporation may require to make desirable.

**Article Two  
PURPOSE**

The purposes of this corporation are as stated in the Articles of Incorporation of the corporation as heretofore or hereafter amended.

**Article Three  
SEAL**

The corporate seal shall have inscribed thereon the name of the corporation, the year of its organization, and the word "Georgia." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced otherwise. In the event it is inconvenient to use such a seal at any time, the authorized signature of an officer of the incorporation, followed by the word "Seal" enclosed in parentheses, shall be deemed the seal of the corporation.

**Article Four  
BOARD OF DIRECTORS**

Section 4.1 Powers and Duties. All of the business and affairs of the corporation shall be administered by, or under the authority of, a Board of Directors consisting of at least five (5) members, named or elected pursuant to Section 4.2. Each director shall have one vote and may vote on any question before the Board, including voting for himself or herself to hold office or other position of management.

Section 4.2 Selection.

- (1) The Provost and Vice President for Academic Affairs of Kennesaw State University shall be a member *ex officio*, and shall have full voting power;
- (2) The Senior Vice Provost of Kennesaw State University shall be a member *ex officio*, and shall have full voting power;
- (3) The Vice President for Research of Kennesaw State University shall be a member *ex officio* and shall have full voting power;
- (4) The Chief Business Officer of Kennesaw State University shall be a member *ex officio* and shall have full voting power;
- (5) The Faculty Senate of Kennesaw State University shall appoint one faculty member who shall, at the time of appointment to the Board of Directors, be a tenured member of the Corps

- of Instruction holding the rank of associate professor or professor, and shall have full voting power;
- (6) The Division of Legal Affairs shall appoint one member who shall, at the time of appointment to the Board of Directors, hold the rank of associate legal counsel or higher, and shall have full voting power;
  - (7) The Board shall elect one faculty member who shall, at the time of appointment to the Board of Directors, be a tenured member of the Corps of Instruction holding the rank of associate professor or professor, and shall have full voting power;
  - (8) Other members of the Board may be elected at any time by the affirmative vote of a majority of Board members, or as authorized by resolution of the Board.
  - (9) If the title of an *ex officio* member changes, but the substance of the position remains the same, there shall be no need to amend the bylaws to revise this section.

Section 4.3 Term of Office. Those directors who hold their position on the Board of Directors by virtue of their position as officials of Kennesaw State University shall serve on the Board for unlimited terms, as long as they hold their positions in good standing at Kennesaw State University. The board member appointed by the Faculty Senate of Kennesaw State University as provided by section 4.2 above, shall serve on the Board of Directors for a term of three (3) years duration. The faculty board member elected by the Board as provided by section 4.2 above, shall serve on the Board of Directors for a term of three (3) years duration. Other members of the Board may be elected at any time by the affirmative vote of a majority of Board members, or as authorized by resolution of the Board, and shall serve for terms of three (3) years duration.

Section 4.4 Removal. Any member of the Board of Directors appointed or selected pursuant to this Article may be removed by the affirmative vote of a majority of the members of the Board for failure to attend meetings without just cause, non-performance of duties and responsibilities, or for any other just and sufficient cause.

Section 4.5 Directors Emeriti. In addition to the active members of the Board of Directors provided for herein and in the Articles of Incorporation, the Board of Directors of this corporation may, from time to time, appoint and designate any number of "Directors Emeriti" who shall have no vote on the Board of Directors and whose presence at the meetings of said Board shall not be counted toward a quorum. The purpose and function of said Directors Emeriti shall be to act as advisors to the Board of Directors. No person shall be appointed a Director Emeritus unless he or she shall have reached a status which prevents his or her being re-elected to serve as an active member of said Board, and unless he or she shall have served the previous ten (10) years as an active member of said Board.

Section 4.6 Compensation. No member of the Board of Directors shall receive any compensation from the corporation for services performed by said member in his or her capacity as director except where compensation is specifically fixed by the Board of Directors, and directors may be reimbursed by the corporation for the reasonable expenses actually and necessarily incurred by them in performance of their official duties as directors.

Section 4.7 Attendance. To insure regular attendance at meetings of the Board of Directors, any member thereof who, on account of other pressing business, continuing sickness, or any other cause is absent for three (3) consecutive meetings of the Board may be subject to resignation as a member of the Board.

Section 4.8 Vacancies. If a vacancy should occur on the Board of Directors by reason of death, resignation, removal, disqualification, or otherwise, the vacancy shall be filled by the selection of a new member in the same manner as for and for the remainder of the term of the member who vacated.

## **Article Five**

### **MEETINGS OF THE BOARD OF DIRECTORS**

Section 5.1 Regular Meetings. Meetings of the Board of Directors shall be held semi-annually during the second and fourth quarters of each fiscal year of the corporation. Regular meetings shall be

held at such times and places as the Board of Directors shall determine by resolution, and until such determinations by said Board, the Chairperson of the Board may determine the time and place thereof. Notice of every regular meeting, specifying the time and place thereof, shall be given by mail to each director, addressed to his and her usual address, not less than five (5) days before the meeting. A meeting may be held at any time and any place upon agreement of all the then qualified members of the Board. The Chair may call additional meetings of the Board at his or her discretion by providing three (3) days written notice of the meeting to the members of the Board of Directors. Further, the Chair shall call additional meetings in the manner described if he or she gets a written request for a meeting from at least three (3) members of the Board of Directors.

Section 5.2 Quorum. At all meetings of the Board, an attendance of a majority of the then qualified members shall constitute a quorum, and a majority of such quorum may take any action that the board is empowered to take, excepting alterations or amendments to the Bylaws or the Articles of Incorporation as provided in Article Seventeen hereof. If at any meeting there shall be no quorum, the directors present by majority vote may adjourn the meeting from time to time without notice other than announcement at the meeting until such quorum is obtained. If the number of members stated herein as constituting a quorum shall not be present at any meeting, any absent member may signify in writing his assent to an action or resolution proposed at such meeting and the same shall be considered as a vote thereon as fully as though the member were present at the meeting, and for purposes of a quorum such written consent by this member shall constitute the member as being present at the meeting. Attendance by any member of the Board of Directors at a meeting shall serve as a waiver of notice of such meeting as to such member attending. Any member may waive, in writing, notice of a meeting, regular or special, including a waiver of notice concerning the time, place and purpose thereof, which waiver may be executed before, during or after such meeting.

Section 5.3 Order of Business. The order of business at each regular meeting of the Board of Directors shall be as follows:

1. Approval of minutes of previous meeting
2. Report of the Chairperson
3. Reports of other officers
4. Report of the Executive Committee
5. Reports of other committees
6. Unfinished business
7. New business

## Article Six OFFICERS

Section 6.1 Designation. The officers of the corporation shall consist of a Chairperson and Chief Executive Officer, a Vice Chairperson, a Chief Operating Officer, a Treasurer, and a Secretary. The Board may elect, in its discretion, an Assistant Secretary and an Assistant Treasurer.

Section 6.2 Appointment. The Provost and Vice President for Academic Affairs of Kennesaw State University shall serve as Chairperson and CEO of the corporation, and the Senior Vice Provost of said University shall serve as Vice Chairperson. The Vice President for Research shall serve as the Chief Operating Officer. The Treasurer shall be elected from among the members of the Board of Directors by a majority vote. The Board may appoint a Secretary who is not already a member of the Board and this shall be a non-voting position; alternatively, the Board may elect a Secretary from among the members of the Board by a majority vote. Any two (2) or more offices may be held by one person, except the same person may not be Chairperson and Secretary. In the event any of the corporate offices of Chairperson, Vice Chairperson, Chief Operating Officer, Treasurer, or Secretary shall be vacant, the Board shall fill on an interim basis the corporate office or offices until filled by said Kennesaw State University personnel.

**Article Seven**  
**DUTIES OF OFFICERS**

Section 7.1 Chairperson. The Chairperson shall be the chief executive officer of the corporation, shall chair the Board of Directors, shall preside over meetings of said Board, and shall have executive supervision over the conduct of the business and affairs of the corporation. The Chairperson shall also perform whatever additional powers the Board of Directors shall from time to time assign or as are reasonably incidental to the office.

Section 7.2 Vice Chairperson. In the absence or disability of the Chairperson, or in the event the said chairperson declines to act in that role, the Vice Chairperson shall be authorized to perform, and shall perform, all the duties and exercise the authority of the said Chairperson.

Section 7.3 Chief Operating Officer. The Chief Operating Officer shall be the chief operating officer of the corporation. The Chief Operating Officer shall have, subject to the direction of the Board of Directors and its Executive Committee, direct administrative supervision over, and immediate authority with respect to the conduct of business and affairs of the corporation. The Chief Operating Officer shall prepare the agenda for and attend each meeting of the Board of Directors unless otherwise directed by the Board, and shall prepare the agenda for and attend each meeting of the Executive Committee unless otherwise directed by the chairperson of said Committee. The Chief Operating Officer shall also perform whatever additional powers the Board of Directors shall from time to time assign or as are reasonably incidental to the office.

Section 7.4 Treasurer. The Treasurer shall have general supervision over the care and custody of the funds and securities of the corporation and shall deposit the same, or cause the same to be deposited, in the name of the corporation in such bank or banks as the Board of Directors may designate; shall, whenever required by the Board of Directors, render or cause to be rendered financial statements of the corporation; shall have the powers and perform the duties usually incident to the office of the Treasurer; and shall exercise such other duties and authority as may be determined and assigned to said officer by the Board of Directors. In the absence or disability of the Treasurer, the Assistant Treasurer, if there be one, shall possess all the powers and perform all the duties of that office.

Section 7.5 Secretary. The Secretary shall keep full minutes for all meetings of the Board of Directors and of the Executive Committee; shall have the authority to give all notices required by law or by these Bylaws; shall have custody of the corporate records and of the corporate seal of the corporation; shall be empowered to affix the corporate seal to documents, execution of which on behalf of the corporation under its seal is duly authorized, and when so affixed may attest the same; shall exercise the powers and perform the duties usually incident to the office of Secretary; and shall exercise such other duties and authority as may be determined and assigned to said officer by the Board of Directors, by the Chairperson, or by the Vice Chairperson. In the absence of or disability of the Secretary, the Assistant Secretary, if there be one, shall possess all of the powers and perform all the duties of that office and shall assist in the keeping of minutes as specified by the Secretary.

Section 7.6 Vacancies. If the office of any officer becomes vacant by reason of death, resignation, removal, disqualification, or otherwise, the vacancy shall be filled by the selection of a new officer in the same manner as for his or her predecessor in office.

Section 7.7 Other Administrative Officers. The Chairperson may from time to time, with the approval of the Board of Directors, appoint such other administrators deemed necessary to carry out their purposes of the corporation. The Chairperson may delegate such powers and such administrative duties and authority as may be necessary or proper to such administrators.

**Article Eight**  
**COMMITTEES**

Section 8.1 Executive Committee. The Board of Directors shall have an Executive Committee consisting of the Officers of the Board. The Executive Committee, when the Board of Directors is not in



session, shall have and may exercise all the authority of the Board of Directors except for those actions prohibited under OCGA Section 14-3-825(e). The act of the majority of the members of the Executive Committee shall be the acts of the Board of Directors. Whenever a vacancy shall occur in an elected position in the Executive Committee, other than by expiration of term, it shall be filled by the selection of another director by the Chairperson to fill the unexpired term. The Chairperson of the Board shall serve as Chairperson of the Executive Committee, and the Chairperson shall appoint a Vice Chairperson of the Executive Committee to act in the absence of the Chairperson. The Executive Committee shall meet upon the call of the Committee Chairperson or upon request of any three members of the Committee. The Chairperson shall endeavor to give notice of meetings to all members of the Executive Committee, but meetings shall be valid whether or not notice has been given to all members, provided that a majority of the Committee attends the meeting and that an effort has been made, at least 24 hours before the meeting, to notify all members of the meeting.

All actions of the Executive Committee shall be subject to revision, amendment, or repeal by the Board of Directors except to the extent that actions shall have been taken pursuant to or in reliance upon actions of the Executive Committee prior to any such revision, amendment, or repeal by the Board of Directors.

Section 8.2 Other Committees. Other committees not having and exercising the authority of the Board of Directors may be created by resolution of the Board of Directors. The Chairperson of the Board shall designate a chairperson for each committee and the Board shall elect members of such committees.

### Article Nine

#### STANDARDS OF CARE FOR DIRECTORS AND OFFICERS

Section 9.1 Standards for Directors. A director shall discharge his duties as director, including his duties as a member of the committee:

- (a) in good faith; and
- (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

In discharging his duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented; or
- (b) legal counsel, public accountants, investment bankers, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (c) a committee of the Board of Directors of which he is not a member if the director reasonably believes the committee merits confidence

However, a director is not acting in good faith if he has knowledge concerning the matter in question that makes unwarranted the reliance otherwise permitted by this section.

A director shall not be liable for any action taken as a director or any failure to take any action if he performed the duties of his office in compliance with this Section 9.1.

Section 9.2 Standards for Officers. An officer with discretionary authority shall discharge his duties under that authority:

- (a) in good faith; or
- (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

In discharging his duties, an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

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

- (b) legal counsel, public accountants, investment bankers, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence;

However, an officer is not acting in good faith if he has knowledge concerning the matter in question that makes unwarranted the reliance otherwise permitted by this Section 9.2.

A director or officer shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of the property.

## **Article Ten**

### **SURETY BONDS AND INDEMNIFICATION**

Section 10.1 Surety Bonds. The Board of Directors may require all officers and employees of the corporation who administer corporation funds to furnish adequate surety bonds approved by the Board of Directors as to form and coverage. The cost of all surety bonds shall be paid by the corporation. Such bonds shall be filed with the Chief Operating Officer and a copy provided to the Chief Business Officer of Kennesaw State University.

Section 10.2 Standards for Indemnification. Under the circumstances prescribed in Sections 10.4 and 10.5 of this Article, the corporation shall indemnify and hold harmless any person who was or is a party threatened to be made a party of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the corporation) by reason of the fact that he 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 or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connected with such action suit or proceeding if he acted in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, 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 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 action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 10.3 Indemnification in Action by Corporation. Under the circumstances prescribed in Sections 10.4 and 10.5 of this Article, the corporation shall indemnify and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite an adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the court shall deem proper.

Section 10.4 Indemnification in Successful Action. To the extent that director, officer, employee or agent of the corporation has been successful on the merit or otherwise in defense of any action, suit or proceeding referred to in Sections 10.1 and 10.2 of this Article or in defense of any claim, issue or matter therein, he/she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection therewith.

Section 10.5 Determination of Indemnification. Except as provided in Section 10.3 of this Article and except as may be ordered by a court, any indemnification under Sections 10.1 and 10.2 of this Article shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 10.1 and 10.2. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, by the firm of independent legal counsel then employed by the corporation, in written opinion.

Section 10.6 Timing of Reimbursement. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this Article.

Section 10.7 Non-Exclusive. The indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights in respect of indemnification or otherwise to which the persons seeking indemnification or advancement hereunder may be entitled, shall continue as to a person who has ceased to be a director, officer, employee or agent of the corporation, and shall inure to the benefit of the heirs, executors, or administrators of such persons.

Section 10.8 Insurance. The corporation may purchase and maintain insurance 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, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this article.

## **Article Eleven**

### **INTERESTED DIRECTORS AND OFFICERS**

No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee that authorizes the contract or transaction, or solely because his or their votes are counted for such a purpose, if:

- (a) The material facts as to his interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors constitute less than a quorum; or
- (b) The contract or transaction is fair as to the corporation as of the time it is authorized, approved, or ratified by the Board or committee thereof.

Interested directors may be counted in determining the presence of a quorum at a meeting of the Board or committee thereof which authorizes the contract or transaction.

## **Article Twelve**

### **FINANCES**

Section 12.1 Fiscal Year. The fiscal year of the corporation shall be from July 1 through June 30.

Section 12.2 Annual Budget. The Chief Operating Officer shall prepare and submit to the Executive Committee for approval a proposed annual administrative budget and estimates of project grants and expenditures, for the ensuing fiscal year, such budget to be ready for submission prior to May 31 of each year.

Section 12.3 Records and Accounts. Financial records and accounts of the corporation shall be kept in such a form consistent with proper accounting practices, and an annual financial report shall be submitted to the Board of Directors within three (3) months following the end of each fiscal year, unless otherwise directed by the Board of Directors, and such other intermediate financial reports as the Board of Directors shall direct. All financial records and accounts of the corporation shall be open to inspection by any director or any officer at any reasonable time.

Section 12.4 Audit. The financial records and accounts of the corporation shall be audited annually, or at such other times as directed by the Board of Directors, by a certified public accountant or firm thereof designated for that purpose by the Board of Directors.

Section 12.5 Funds. The current funds of the corporation shall be deposited in such banks, trust companies, or other depositories, in such types of accounts and subject to such deposit and withdrawal procedures as may be directed by the Board of Directors by resolution. Reserve funds of the corporation shall be invested in such kinds and types of securities as may be directed by the Board of Directors by resolution.

Section 12.6 Securities. The securities of the corporation shall be deposited with such banks or other depositories and in such types of accounts as may be designated by the Board of Directors by resolution.

Section 12.7 Execution of Contracts and Agreements. Officers of the corporation may execute contracts and agreements on behalf of the corporation as authorized by the Chairperson of the Board of Directors. Officers so authorized may delegate this signature authority as necessary in writing.

Section 12.8 Execution of Instruments. Officers of the corporation may execute notes, bonds, checks, drafts, deeds, mortgages and like instruments on behalf of the corporation as authorized by the Board of Directors; provided, however, that at least two (2) officers must sign each such instrument.

Section 12.9 Gifts and Donations. The Board of Directors may accept on behalf of the corporation, pursuant to the authority of a general or special resolution of the Board of Directors, any contribution, gift, bequest or devise for the general purposes or any special purpose of the corporation.

Section 12.10 Accepting Deeds. The Board of Directors is further authorized to accept warranty deeds, security deeds or mortgages on behalf of the corporation and in furtherance of any or all the objects of the business of the corporation pursuant to authority of a general or special resolution of the Board of Directors.

Section 12.11 Loans. The Board of Directors of the corporation, as the occasion may arise, when directed by the proper act of the Board of Directors, may borrow money from any individual, corporation, insurance or banking institution, and may execute on behalf of the corporation such notes or other documents as may be necessary to evidence any such loan and to secure the payment thereof, and to pledge and assign to such individual, corporation, insurance company or banking institution, any property of the corporation (other than stock in the corporation) to secure any such indebtedness, and to substitute other properties in lieu of that so pledged or assigned or conveyed to secure any such indebtedness, and to do such other act or acts as may be necessary to secure properly the person or institution from whom such money is borrowed.

### **Article Thirteen** TAX EXEMPT STATUS

The affairs of the corporation at all times shall be conducted in such an organization exempt from tax pursuant to Section 501 (c)(3) of the Internal Revenue Code.

### **Article Fourteen**

## NON-DISCRIMINATORY POLICY

The corporation shall maintain a non-discriminatory policy and no person shall be excluded from the activities of the corporation or discriminated against on the grounds of race, color, sex, sexual orientation, national origin, religion, age, veteran status, or disability; provided however, that the disability must not be such as would, even with reasonable accommodation, preclude the person's effective participation in the program.

### **Article Fifteen**

#### MISCELLANEOUS PROVISIONS

Section 15.1 Internal Revenue Code. All references in these bylaws to sections of the Internal Revenue Code are to the current Internal Revenue Code, as from time to time amended, and to the corresponding provisions of any applicable future United States Internal Revenue Law, and to all regulations issued under such sections and provisions.

Section 15.2 Construction. Whenever the context so requires, the masculine shall include the feminine and neuter, and all the singular shall include the plural, and conversely. If any portion of these bylaws shall be invalid or inoperative, then, so far as is reasonable and possible, the remainder of these bylaws shall be considered valid and operative and effect shall be given to the intent manifested by the portion held valid or inoperative.

Section 15.3 Table of Contents and Headings. The table of contents and headings are for organization, convenience and clarity. Interpreting these bylaws, they shall be subordinated in importance to the other written material.

### **Article Sixteen**

#### INTERPRETATION CLAUSE

Section 16.1 Control of Bylaws. All the provisions of these Bylaws are subject to, regulated and controlled by the Articles of Incorporation, and the powers of the directors of the corporation are subject to the restrictions provided in the Articles of Incorporation.

Section 16.2 Control of Corporation. The corporation shall be controlled and operated:

(a) pursuant to the provisions as set out in the Articles of Incorporation of the corporation; and (b) pursuant to the provisions as set out in these Bylaws. If there should be any conflict between the provisions of the Articles of Incorporation and the provisions of these Bylaws, then, and in that event, the provisions of the Articles of Incorporation will in all cases control.

### **Article Seventeen**

#### AMENDMENTS

These Bylaws and the Articles of Incorporation may be altered or amended in whole or in part by a majority vote of all the members of the Board of Directors provided that notice of the character of the proposed alteration or amendment shall have been given to every director at least ten (10) days prior to the meeting at which such alteration or amendment is voted upon.

WHEREFORE the amended Bylaws are consented to, approved, adopted, ratified and endorsed by the Board of Directors of the Kennesaw State University Research and Service Foundation, Inc., on this the 13th day of October, 2011.

---

Dr. Ken Harmon  
Chairperson of the Board and Chief Executive  
Officer, KSURSF

---

Dr. Charles Amlaner  
Chief Operating Officer, KSURSF

## **Suggested Qualifications for faculty representative for Kennesaw State University Research and Service Foundation board**

### **Background**

The following description was excerpted from the Foundation web site:

*The Kennesaw State University Research and Service Foundation (KSURSF), Inc. is the contracting entity for externally funded projects at KSU. KSURSF's status as a 501 (c)(3) enables it to manage externally funded research and service projects for the University while minimizing the impact of restrictive state contracting and financial procedures. KSURSF is the applicant institution for all proposals for external funding, and awarded projects are subcontracted to KSU under a master agreement between the KSURSF and the University. KSURSF also manages the fiscal affairs for special purpose institutes and centers affiliated with the University.*

*KSURSF manages intellectual property and performs technology transfer functions for the University, taking assignment of inventions; obtaining patent, trademark, and copyright or other intellectual property protection; working with faculty to patent discoveries that have commercial and economic potential; and licensing inventions to the private sector in return for sharing royalty income with the faculty inventors to further the research mission of the University and support expanded faculty scholarship opportunities. KSURSF may also secure venture capital to support incubators and startups for relevant intellectual property development by KSU faculty and staff.*

### **Rationale**

To allow the faculty representative to have meaningful input into governance, faculty representatives must have experience relevant to KSURSF's mission, and be a credible participant in wide ranging discussions that cover broad impacts of the foundation on many aspects of university affairs. These discussions often involve representatives from groups inside and outside the university, and include topics such as finances, graduate program structure and support, fundraising from multiple external sources, intellectual property, and seed support for faculty scholarship.

**Essential Qualifications:**

- 1) Faculty representatives should be tenured, full time professors or associate professors.
- 2) Faculty representatives should be active in externally funded research/scholarship.  
(Evidence: publications, books, patents, grants, etc. )
- 3) Faculty representatives should hold no current administrative post above the level of department chair.
- 4) Faculty representatives should have a demonstrated commitment to research/scholarship, undergraduate education, and graduate education. (Evidence: products of scholarship, strong record of teaching, and participation in graduate and undergraduate programs)

**Desirable Qualifications:**

- 5) Faculty representatives should be committed to promoting scholarship and education in all colleges, departments, and campuses of Kennesaw State University. (Evidence: record of supportive behavior including inter-departmental, interschool and intercampus collaboration, other cooperative activity. )
- 6) Faculty representatives should have experience in management of grants and/or contracts, and graduate programs.
- 7) Faculty representatives should have experience developing and managing relations with foundations and federal agencies.
- 8) Faculty representatives should be experienced with issues related to intellectual property, especially concerning patents, trademarks and copyrights, commercialization and revenue sharing.
- 9) A history of collaboration with other institutions inside and outside the UGA system is valuable.
- 10) Experience with research foundations at other institutions is of potential value.