



Item: AF: A-5

AUDIT AND FINANCE COMMITTEE
Wednesday, April 20, 2011

SUBJECT: REQUEST FOR APPROVAL OF AMENDMENT AND RESTATEMENT OF THE FLORIDA ATLANTIC UNIVERSITY RESEARCH CORPORATION ARTICLES OF INCORPORATION AND BY-LAWS.

PROPOSED COMMITTEE ACTION

Review and recommend approval to the Board of Trustees of the First Amended and Restated Articles of Incorporation and the First Amended and Restated By-Laws of the FAU Research Corporation (FAURC).

BACKGROUND INFORMATION

Section 1004.28, Florida Statutes, provides for Board of Trustees oversight of University direct support organizations. The FAURC is an FAU direct support organization primarily intended to assist FAU with its research and training mission by commercializing FAU created and owned technology and intellectual property through licensing. The FAURC was originally incorporated in 1990. Since 1990, changes within Florida and within FAU require that the FAURC Articles of Incorporation and Bylaws be amended. References in those documents to the Florida Board of Regents and to an FAU Broward Provost are two examples demonstrating the need for updating and amending the FAURC's Articles and Bylaws.

The primary changes are to reflect the current composition of the FAURC's Board of Directors. The FAURC's Board of Directors is comprised of various FAU officers such as the FAU President, Provost, and Vice President for Finance. As stated, some FAU positions which served on the original FAURC Board have been eliminated. The updated Articles of Incorporation and Bylaws reflect these changes. Therefore, the Broward Provost is no longer listed as a FAURC Board member and the Chair of the Florida Board of Regents no longer appoints a Board member. That authority, reflecting the current Florida statute, is now with the Chair of the Florida Atlantic University Board of Trustees who has the option to appoint a FAURC Board member. Additionally, the Vice President for Research, a position created at FAU after 1990, is now reflected as a member of the FAURC's Board of Directors. The Amended and Restated Articles now refer to the By-Laws (Article I) for the listing of the FAU positions which serve on the FAURC's Board of Directors. The original Articles (Article VII) listed the FAU positions whose office holders were appointed as Directors of the FAURC Board. This change was to

avoid redundancy and to avoid the need to re-file the Articles in the event of a change in the Board's composition. However, the approval process for such a change remains the same.

In addition to updating the Board's composition, provision for electronically delivered notices of meetings and teleconference meetings have been added to the By-Laws. Lastly, the Officers of the FAURC (the FAURC's President, Secretary and Treasurer), appointed by the President of Florida Atlantic University, can now be appointed for longer than a one year term.

IMPLEMENTATION PLAN/DATE

Upon approval of the Board of Trustees, the First Amended and Restated Articles of Incorporation of the FAU Research Corporation will be filed with the Florida Department of State, Division of Corporations.

FISCAL IMPLICATIONS

Not Applicable.

Supporting Documents: The First Amended and Restated Articles of Incorporation of the FAU Research Corporation (Red-lined and Clean) and the First Amended and Restated Bylaws of the FAU Research Corporation (Red-lined and Clean).

Presented by: Mr. David Kian, Senior Vice President-Strategic Relations and General Counsel
Phone: 561- 297-3007

First Amended and Restated

ARTICLES OF INCORPORATION

OF THE FLORIDA ATLANTIC UNIVERSITY RESEARCH CORPORATION

ARTICLE I

Name

The name of this Corporation is the Florida Atlantic University Research Corporation, “FAU Research Corporation” or “the Corporation” and its principal place of business and mailing address is 777 Glades Rd, Boca Raton, FL 33431.

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ARTICLE II

Enabling Law

This Corporation is organized pursuant to the Florida Not For Profit Corporation Act.

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ARTICLE III

Purposes

Section 1. This Corporation is organized and shall be operated exclusively for scientific and educational purposes, not for pecuniary profit, and as a direct-support organization for Florida Atlantic University, as defined in Section 1004.28, Florida Statutes. Among other not for profit purposes, the purposes of this Corporation include the promotion and encouragement of, and assistance to, the research and training activities of faculty, staff, and students of Florida Atlantic University through income derived from or related to the use, development, and commercialization of University work product. Among other things, the Corporation shall provide means by which discoveries, inventions, processes, and work products of faculty, staff, and students of the University may be patented, developed, applied, utilized, and licensed in order that the results of such research shall be made available to the public and that funds be made available from such discoveries, invention, processes, and work products for further research and academic endeavors at Florida Atlantic University.

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Section 2. All the assets and earnings of the Corporation shall be used exclusively for the exempt purposes set forth above, including the payment of expenses incidental thereto.

ARTICLE IV

Section 1. Powers. The Corporation shall have all the powers and authority as are now or may hereafter be granted to not for profit corporations under the laws of the State of Florida. Upon certification as a direct support organization by Florida Atlantic University's Board of Trustees, the Corporation shall be authorized to use the property, facilities and personal services of Florida Atlantic University, to receive, hold, invest or administer assets or property and to make expenditures for the benefit of Florida Atlantic University in accordance with Florida law.

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Section 2. Limitations on Powers. The Corporation shall not have the power to:

- A. Take any action in violation of Chapter 617, Florida Statutes, or these Articles of Incorporation.
- B. Conduct any activities not permitted to be carried on by organizations exempt under Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, and its regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170 (c)(2) of such Code, and regulations as they now exist or as they may hereafter be amended.

Deleted: <#>Convey, lease, pledge, or otherwise encumber assets of the State of Florida;¶
 ¶
 <#>Issue stock, nor pay dividends;¶
 ¶
 <#>Attempt to influence legislation as a substantial part of its activities;¶
 ¶
 <#>Allow any part of its income to inure to the benefit of Directors, officers, or members of the Corporation or to any other individuals except in the furtherance of its charitable purposes, or as compensation for services rendered that are unrelated to Board rules;¶
 ¶
 <#>Participate to any extent in any political campaign for or against any candidate for public office; or¶

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Leonard Berry . . 500 NW 20th Street¶

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Marie McDemmond . . 500 NW 20th Street¶

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ARTICLE V
Incorporators

The name and address of each incorporator is as follows:

Name	Address
<u>Barry Rosson</u> <u>Vice President for Research (Interim)</u>	<u>777 Glades Road</u> Boca Raton, FL 33431-0991
<u>Dennis Crudele</u> <u>Vice President for Finance</u>	<u>777 Glades Road</u> Boca Raton, FL 33431-0991

ARTICLE VI
Membership

Section 1. Members. The members of the Corporation shall be the Board of Directors,

Deleted: , who shall be the sole voting members of the Corporation

ARTICLE VII
Management

All corporate powers and management of the Corporation shall be exercised by or under the authority of the Corporation's Board of Directors. The Board of Directors shall carry out the purposes of the Corporation in compliance with these Articles of Incorporation and the Corporation's Bylaws. The method of appointment or election of Directors shall be as stated in the Bylaws of this Corporation.

ARTICLE VIII
Officers

Section 1. The officers of this Corporation shall consist of a President, a Secretary, a Treasurer, and such other officers as may be provided in the Bylaws.

Section 2. The qualifications of officers, the time and manner of electing or appointing them, the duties of and the term of office, and the manner of removing officers shall be as set forth in the Bylaws.

ARTICLE IX
Registered Office and Registered Agent

The Board of Directors, hereby designates the Corporation's Registered Office to be located at Florida Atlantic University, 777 Glades Rd, Boca Raton, Florida 33431-0991, and hereby designates and appoints the FAU Deputy General Counsel, Jack Ludin, as registered agent of the Corporation, to accept service of process and any other acts authorized for a registered agent within this State, to serve in such capacity until a successor is selected and duly designated. Written acceptance of appointment as registered agent is filed with these Articles.

ARTICLE X
Amendments to Bylaws and Articles of Incorporation

The Bylaws of the Corporation may be adopted, altered, amended, or repealed by a majority vote of the Board of Directors at any regular or special meeting of the Board, or by all Directors signing a written statement manifesting their intention that the Bylaws be adopted,

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Section 2. Other Members. The Bylaws may provide for one or more classes of other members, who shall be admitted in such manner and who shall have such rights and privileges as are set forth in the Bylaws but who shall not have the right to vote.¶
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Section 1. The affairs of the Corporation shall be managed by a Board of Directors who shall serve without compensation. The Board of Directors shall consist of not less than five (5), nor more than twelve (12) directors. The Board shall have the authority to set the exact number of Board members as may be required from time to time. Except for the Director who is appointed by a Chairman of the Board of Regents as provided in Section 1.F. below, all Directors shall be appointed by the President of Florida Atlantic University and shall include the incumbent holders of the following named offices and persons from the following named classes:¶
¶
<#>University Provost and Vice President for Academic Affairs, Florida Atlantic University;¶
¶
<#>Broward Provost, Florida Atlantic University;¶
¶
<#>Vice President for Administration and Finance, Florida Atlantic University;¶
¶
<#>One director shall be a person selected and appointed to the Board by the President of Florida Atlantic University [said Director is the designee of the President of the University in compliance with Section 240.299(3), Florida Statutes (1988)].¶ ...

Deleted: Directors appointed by the President shall be removed in accordance with the procedure provided in the Bylaws.¶

Deleted: Section 2. The names and street addresses of the initial directors are:¶
¶
Name . . . Address¶
¶ ...

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Section 3. The names of the persons who are to serve as officers of the Corporation until their successors are appointed and qualified are:¶
¶ ...

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The above-named Incorporators, desiring to organize the Corporation under the laws of the State of Florida

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altered, amended, or repealed and in all instances, with the written concurrence of the President of Florida Atlantic University and subject to the certification of the Florida Atlantic University Board of Trustees as set forth in section 1004.28, Florida Statutes. In the event of any meeting for these purposes, each Director of the Corporation shall be given the written notice, at least ten (10) days prior to any voting taking place. The notice shall include the text of the proposed change to the Bylaws.

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The Articles of Incorporation of the Corporation may be amended by two-thirds (2/3rds) vote of the Board of Directors at any regular or special meeting of the Board or by all Directors signing a written statement manifesting their intention that an amendment to the Articles of Incorporation be adopted and, in all instances, with the written concurrence of the President of Florida Atlantic University and subject to the certification of the Florida Atlantic University Board of Trustees as set forth in section 1004.28, Florida Statutes, provided, however, with respect to any meetings, notice thereof, which shall include the text of the proposed change to the Articles of Incorporation, shall be furnished in writing to each member of the Corporation at least ten (10) days prior to the meeting at which such amendment of the Articles of Incorporation is to be voted upon.

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ARTICLE XI Term of Existence

This Corporation shall have perpetual existence, unless it shall be dissolved pursuant to the laws of the State of Florida.

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Deleted: is not in existence or that Florida Atlantic University is not exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provisions of any subsequent revenue laws), the remaining assets of the Corporation shall be distributed to such scientific, education, and charitable

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Deleted: (or corresponding provisions of any subsequent revenue laws), as may be selected by the last Board of Directors, subject to the approval of the University President and the Board of Regents, and none of the assets will be distributed to any members, directors, or officers of this Corporation.

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ARTICLE XII Dissolution and Decertification

In the event of dissolution of the Corporation, the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed to the Florida Atlantic University Board of Trustees in such manner as the Board of Directors of the Corporation may specify, or if such organization has ceased to exist, to such other organization or organizations that are exempt from the federal income tax under Section 501(c)(3), of the Internal Revenue Code of 1986, as directed by the Board of Governors of the State of Florida.

In the event of the decertification of the Corporation by the Florida Atlantic University Board of Trustees, the Corporation shall cease using the name of Florida Atlantic University and

shall transfer, convey and disburse all assets and funds to the Florida Atlantic University Board of Trustees,

Deleted: Board of Regents

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The undersigned, constituting the incorporators of this Corporation, for the purpose of forming this Corporation not for profit under the laws of the state of Florida, have executed these Articles of Incorporation this ____ day of _____, 2011

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Barry Rosson

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Leonard Berry¶
¶
¶
Marie McDemmond¶
¶
¶
¶

Dennis Crudele

STATE OF FLORIDA,
COUNTRY OF PALM BEACH

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COUNTY

Before me, a notary public duly authorized in the state and county aforesaid to take acknowledgments, personally appeared, Barry Rosson, to me well known person described as an incorporator in and who executed the foregoing First Amended and Restated Articles of Incorporation, and he acknowledged before me that he executed and subscribed to these First Amended and Restated Articles of Incorporation.

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Deleted: Marie McDemmond

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Notary Public, State of Florida at Large

My Commission Expires: _____

STATE OF FLORIDA
COUNTRY OF PALM BEACH

Before me, a notary public duly authorized in the state and county aforesaid to take acknowledgments, personally appeared, Dennis Crudele, to me well known person described as an incorporator in and who executed the foregoing First Amended and Restated Articles of Incorporation, and he acknowledged before me that he executed and subscribed to these First Amended and Restated Articles of Incorporation.

Notary Public, State of Florida at Large

My Commission Expires: _____

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COUNTY

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CERTIFICATE DESIGNATING PLACE OF
BUSINESS OR DOMICILE FOR THE
SERVICE OF PROCESS WITHIN FLORIDA
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

_____ FLORIDA ATLANTIC UNIVERSITY RESEARCH CORPORATION, DESIRING TO ORGANIZE OR QUALIFY UNDER THE LAWS OF THE STATE OF FLORIDA, WITH ITS PRINCIPAL PLACE OF BUSINESS IN THE CITY OF BOCA RATON, STATE OF FLORIDA, HAS NAMED JACK LUDIN, ESQ., LOCATED AT 777 GLADES ROAD, ADM 370, BOCA RATON, FLORIDA 33431-0991 AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN FLORIDA.

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Dated _____

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE-
STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I
HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY
WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND
COMPLETE PERFORMANCE OF MY DUTIES.

Jack Ludin, Esq.

Dated _____

First Amended and Restated

ARTICLES OF INCORPORATION

OF THE FLORIDA ATLANTIC UNIVERSITY RESEARCH CORPORATION

ARTICLE I

Name

The name of this Corporation is the Florida Atlantic University Research Corporation (“FAU Research Corporation” or “the Corporation”) and its principal place of business and mailing address is 777 Glades Rd, Boca Raton, FL 33431.

ARTICLE II

Enabling Law

This Corporation is organized pursuant to the Florida Not For Profit Corporation Act.

ARTICLE III

Purposes

Section 1. This Corporation is organized and shall be operated exclusively for scientific and educational purposes, not for pecuniary profit, and as a direct-support organization for Florida Atlantic University, as defined in Section 1004.28, Florida Statutes. Among other not for profit purposes, the purposes of this Corporation include the promotion and encouragement of, and assistance to, the research and training activities of faculty, staff, and students of Florida Atlantic University through income derived from or related to the use, development, and commercialization of University work product. Among other things, the Corporation shall provide means by which discoveries, inventions, processes, and work products of faculty, staff, and students of the University may be patented, developed, applied, utilized, and licensed in order that the results of such research shall be made available to the public and that funds be made available from such discoveries, invention, processes, and work products for further research and academic endeavors at Florida Atlantic University.

Section 2. All the assets and earnings of the Corporation shall be used exclusively for the exempt purposes set forth above, including the payment of expenses incidental thereto.

ARTICLE IV

Section 1. Powers. The Corporation shall have all the powers and authority as are now or may hereafter be granted to not for profit corporations under the laws of the State of Florida. Upon certification as a direct support organization by Florida Atlantic University's Board of Trustees, the Corporation shall be authorized to use the property, facilities and personal services of Florida Atlantic University, to receive, hold, invest or administer assets or property and to make expenditures for the benefit of Florida Atlantic University in accordance with Florida law.

Section 2. Limitations on Powers. The Corporation shall not have the power to:

- A. Take any action in violation of Chapter 617, Florida Statutes, or these Articles of Incorporation.
- B. Conduct any activities not permitted to be carried on by organizations exempt under Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, and its regulations as they now exist or as they may hereafter be amended, or by an organization, contributions to which are deductible under Section 170 (c)(2) of such Code, and regulations as they now exist or as they may hereafter be amended.

ARTICLE V
Incorporators

The name and address of each incorporator is as follows:

Name	Address
Barry Rosson Vice President for Research (Interim)	777 Glades Road Boca Raton, FL 33431-0991
Dennis Crudele Vice President for Finance	777 Glades Road Boca Raton, FL 33431-0991

ARTICLE VI
Membership

Section 1. Members. The members of the Corporation shall be the Board of Directors.

ARTICLE VII
Management

All corporate powers and management of the Corporation shall be exercised by or under the authority of the Corporation's Board of Directors. The Board of Directors shall carry out the purposes of the Corporation in compliance with these Articles of Incorporation and the Corporation's Bylaws. The method of appointment or election of Directors shall be as stated in the Bylaws of this Corporation.

ARTICLE VIII
Officers

Section 1. The officers of this Corporation shall consist of a President, a Secretary, a Treasurer, and such other officers as may be provided in the Bylaws.

Section 2. The qualifications of officers, the time and manner of electing or appointing them, the duties of and the term of office, and the manner of removing officers shall be as set forth in the Bylaws.

ARTICLE IX
Registered Office and Registered Agent

The Board of Directors, hereby designates the Corporation's Registered Office to be located at Florida Atlantic University, 777 Glades Rd, Boca Raton, Florida 33431-0991, and hereby designates and appoints the FAU Deputy General Counsel, Jack Ludin, as registered agent of the Corporation, to accept service of process and any other acts authorized for a registered agent within this State, to serve in such capacity until a successor is selected and duly designated. Written acceptance of appointment as registered agent is filed with these Articles.

ARTICLE X
Amendments to Bylaws and Articles of Incorporation

The Bylaws of the Corporation may be adopted, altered, amended, or repealed by a majority vote of the Board of Directors at any regular or special meeting of the Board, or by all Directors signing a written statement manifesting their intention that the Bylaws be adopted,

altered, amended, or repealed and in all instances, with the written concurrence of the President of Florida Atlantic University and subject to the certification of the Florida Atlantic University Board of Trustees as set forth in section 1004.28, Florida Statutes. In the event of any meeting for these purposes, each Director of the Corporation shall be given the written notice, at least ten (10) days prior to any voting taking place. The notice shall include the text of the proposed change to the Bylaws.

The Articles of Incorporation of the Corporation may be amended by two-thirds (2/3rds) vote of the Board of Directors at any regular or special meeting of the Board or by all Directors signing a written statement manifesting their intention that an amendment to the Articles of Incorporation be adopted and, in all instances, with the written concurrence of the President of Florida Atlantic University and subject to the certification of the Florida Atlantic University Board of Trustees as set forth in section 1004.28, Florida Statutes, provided, however, with respect to any meetings, notice thereof, which shall include the text of the proposed change to the Articles of Incorporation, shall be furnished in writing to each member of the Corporation at least ten (10) days prior to the meeting at which such amendment of the Articles of Incorporation is to be voted upon.

ARTICLE XI Term of Existence

This Corporation shall have perpetual existence, unless it shall be dissolved pursuant to the laws of the State of Florida.

ARTICLE XII Dissolution and Decertification

In the event of dissolution of the Corporation, the winding up of its affairs, or other liquidation of its assets, the Corporation's property shall not be conveyed to any organization created or operated for profit or to any individual, and all assets remaining after the payment of the Corporation's debts shall be conveyed or distributed to the Florida Atlantic University Board of Trustees in such manner as the Board of Directors of the Corporation may specify, or if such organization has ceased to exist, to such other organization or organizations that are exempt from the federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 as directed by the Board of Governors of the State of Florida.

In the event of the decertification of the Corporation by the Florida Atlantic University Board of Trustees, the Corporation shall cease using the name of Florida Atlantic University and

shall transfer, convey and disburse all assets and funds to the Florida Atlantic University Board of Trustees.

The undersigned, constituting the incorporators of this Corporation, for the purpose of forming this Corporation not for profit under the laws of the state of Florida, have executed these Articles of Incorporation this ____ day of _____, 2011

Barry Rosson

Dennis Crudele

STATE OF FLORIDA
COUNTRY OF PALM BEACH

Before me, a notary public duly authorized in the state and county aforesaid to take acknowledgments, personally appeared, Barry Rosson, to me well known person described as an incorporator in and who executed the foregoing First Amended and Restated Articles of Incorporation, and he acknowledged before me that he executed and subscribed to these First Amended and Restated Articles of Incorporation.

Notary Public, State of Florida at Large

My Commission Expires: _____

STATE OF FLORIDA
COUNTRY OF PALM BEACH

Before me, a notary public duly authorized in the state and county aforesaid to take acknowledgments, personally appeared, Dennis Crudele, to me well known person described as an incorporator in and who executed the foregoing First Amended and Restated Articles of Incorporation, and he acknowledged before me that he executed and subscribed to these First Amended and Restated Articles of Incorporation.

Notary Public, State of Florida at Large

My Commission Expires: _____

CERTIFICATE DESIGNATING PLACE OF
BUSINESS OR DOMICILE FOR THE
SERVICE OF PROCESS WITHIN FLORIDA
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

IN COMPLIANCE WITH SECTION 48.091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

FLORIDA ATLANTIC UNIVERSITY RESEARCH CORPORATION, DESIRING TO ORGANIZE OR QUALIFY UNDER THE LAWS OF THE STATE OF FLORIDA, WITH ITS PRINCIPAL PLACE OF BUSINESS IN THE CITY OF BOCA RATON, STATE OF FLORIDA, HAS NAMED JACK LUDIN, ESQ., LOCATED AT 777 GLADES ROAD, ADM 370, BOCA RATON, FLORIDA 33431-0991 AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN FLORIDA.

Dated _____

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE-
STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I
HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY
WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND
COMPLETE PERFORMANCE OF MY DUTIES.

Jack Ludin, Esq.
Dated _____

FIRST AMENDED AND RESTATED

BYLAWS

Florida Atlantic University Research Corporation
(A Not-For-Profit Corporation)

ARTICLE I

Board of Directors

Section 1. Membership and Term of Office. The Board of Directors shall consist of up to eleven voting members. The members shall be the President of Florida Atlantic University, or designee, in compliance with section 1004.28(3), Fla. Stat., the University Provost, the Vice President for Finance, the Vice President for Research, a University faculty member selected by the President of FAU, and a person selected and appointed by the Chair of the Florida Atlantic University Board of Trustees, in compliance with section 1004.28(3), Fla. Stat. The remaining members shall be selected and appointed by the President of Florida Atlantic University. The Director who is appointed by the Chair of the Florida Atlantic University Board of Trustees shall serve until the Chair selects and appoints a successor. All Directors appointed by the University President shall serve a two year term, shall be eligible for reappointment, and if a successor has not been appointed at the end of a two year term, that Director shall continue to serve until the University President selects and appoints a successor.

Section 2. Purpose. Powers and Duties of the Board of Directors. The property, affairs, activities, and concerns of the Corporation shall be vested in the Board of Directors. All management functions shall be exercised by the Board of Directors, subject to delegation by the Board to the officers and the Executive Committee, if one is appointed. The President of Florida Atlantic University shall have authority and responsibility to monitor and control the use of the University's resources and name, The Board shall carry out the purposes of the Corporation as set forth in the Articles of Incorporation and shall have all powers granted to a not for profit corporation under Florida law. All references to the Articles of Incorporation refer to the original Articles until the First Amended and Restated Articles of Incorporation are approved and filed. At that time, the Bylaw references to the Articles of Incorporation shall refer to the First Amended and Restated Articles of Incorporation.

Section 3. Meetings. A regular annual meeting of the Board of Directors shall be held, at a date and time set by the Board of Directors. Notice of the meeting, signed by the Secretary, shall be mailed, physically or electronically, or delivered personally to the last recorded address of each Director at least ten (10) days before the time appointed for the meeting. Special meetings of the Board may be called by the President of the Corporation or Secretary of the Corporation, two or more Directors, or the President of the University. Notice of any special

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- Deleted:** University Provost and Vice
- Deleted:** for Academic Affairs
- Deleted:** the Broward Provost for Florida Atlantic University, and the Vice President for Administration and Finance of Florida Atlantic University shall be members of the Board of Directors. The fourth and fifth members of the Board of Directors shall be selected and appointed to the Board by the President of Florida Atlantic University, one of which shall be the
- Deleted:** of the President of the University
- Deleted:** Section 240.299
- Deleted:** Florida Statutes (1990). The sixth and seventh members of the Board of Directors shall be persons employed by Florida Atlantic University as members of the University's
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- Deleted:** accordance
- Deleted:** Section 240.299
- Deleted:** Florida Statutes (1988). The ninth member of the Board of Directors shall be a person not employed by Florida Atlantic University, who shall be selected and appointed to the Board by the President of the University. The University Provost and Vice President for Academic Affairs, the Broward Provost, and the Vice President for Administration and Finance shall serve as Director for such time as each respective individual continues to serve in their position with the University. The Director,
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- Deleted:** .
- Deleted:** in accordance with applicable Florida laws and Board of Regents and Florida Atlantic University
- Deleted:** in the month of January

meeting of the Board of Directors shall be given at least five (5) days prior thereto by personal delivery or sent by mail, physically or electronically, or delivered personally to each Director at the address as shown by the records of the Corporation. Notice of a meeting of the Board of Directors need not be given if any Director signs a waiver of notice either before or after the meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Business to be transacted at the meeting need not be specified in the notice or waiver, unless specifically required by law or by these Bylaws. The President of the Corporation shall act as Chair of the Board of Directors and shall preside at meetings of the Board of Directors; in the absence of the President of the Corporation, the Board may appoint any Director to preside. Proxies, general or special, shall not be accepted for any purpose in the meetings of the Board of Directors. Members of the Board may participate in a meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting. All telephone meetings or meetings by means of similar communications equipment, all document retention, and all responses to public records requests must be in compliance with Florida law.

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Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, a majority of those present may adjourn the meeting, from time to time, without further notice, until a quorum is present.

Section 5. Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

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Section 6. Vacancies. Whenever any vacancy occurs on the Board of Directors by death, resignation, or otherwise, it shall be filled without undue delay. In the case of a University officer who is a Director, the person who is acting as the officer for the University will fill the vacancy. All appointments to other vacancies (except for the Director appointed by the Chair of the Board of Trustees) shall be made by the President of the University.

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Section 7. Removal. Any Director or Directors (except for the Director appointed by the Chair of the Board of Trustees) may be removed from office by the President of Florida Atlantic University at any time.

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Section 8. Order of Business. The order of business shall be as follows at all meetings of the Board of Directors and Executive Committee:

- (a) Calling of the roll.
- (b) Proof of notice of meeting or waiver of notice.

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- (c) Reading of the minutes.
- (d) Receiving communications.
- (e) Reports of officers.
- (f) Reports of committees.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

Any question as to the priority of business shall be decided by the Chair without debate. This order of business may be altered or suspended at any meeting by a majority vote of the members present.

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ARTICLE II Officers

Section 1. Number. The officers of this Corporation shall be a President, a Secretary, and a Treasurer.

Section 2. Appointment. The officers shall be appointed by the President of Florida Atlantic University, shall serve for a term of one (1) year, and may be reappointed. The President of Florida Atlantic University may appoint officers for longer terms and may remove an officer at any time.

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Members¶
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The Board of Directors shall have the power, with the concurrence of the President of Florida Atlantic University, to admit and expel other members as described in Article VI, Section 2, of the Articles of Incorporation, to set qualifications for members in addition to those set out in the Articles of Incorporation, and to establish the voting and other rights and privileges of members.¶
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ARTICLE III¶

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Section 3. Duties of Officers. The duties and powers of the officers of the Corporation shall be as follows:

(a) President. The President of the Corporation shall be the FAU Vice President for Research, be a member ex officio of all committees with the right to vote, and will be a Director of the Corporation. At the regular annual meeting of the Board of Directors and at such other times as the President of the Corporation deems proper, the President of the Corporation shall communicate to the Board of Directors such matters and make such suggestions as in the President of the Corporation's opinion tend to promote the prosperity and usefulness of the Corporation. The President of the Corporation shall act as the Chief Executive Officer of this Corporation and shall do and perform such other duties as may be assigned to the President of the Corporation by the Board of Directors or the Executive Committee. The President of the Corporation shall report to the University President or designee. The President of the Corporation is authorized to execute, in the name of the Corporation, with the Secretary attesting, or in the absence or unavailability of the Secretary, with the Treasurer attesting, all contracts and other documents or legal instruments authorized or issued by the Board of Directors or the Executive Committee.

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(b) Secretary. The Secretary shall keep full and accurate minutes of all the meetings of the Board of Directors and Executive Committee, if one has been appointed, in a book provided for that purpose and shall transmit all notices required by the Bylaws of this Corporation. The Secretary shall have custody of the corporate seal of the Corporation. The Secretary may sign documents with the Corporation President in the name of the Corporation and, when required, shall affix thereto the seal of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to the inspection of any Director, and shall, in general, perform all duties incident to the management of the office of Secretary for the Board of Directors and the Executive Committee.

(c) Treasurer. The Treasurer shall receive and keep the funds of the Corporation and pay out the same only in accordance with guidelines established by the Board of Directors or the Executive Committee. The Treasurer shall deposit all monies, checks and other credits to the account of the Corporation in such bank or banks or other depositories as the Board of Directors may designate. The Treasurer shall review all receipts and vouchers for payments made to and all vouchers and checks made by the Corporation and shall regularly maintain a full and accurate account of all funds received and paid out by the Corporation. The Treasurer shall render to the Board of Directors an account and statement of actions at the annual meeting of the Board and at such other times as the Board may determine, including preparing and presenting an annual budget. The Treasurer shall at all reasonable times exhibit the Corporation's books and accounts to any Director of the Corporation, and shall, in general, perform all duties incident to the management of the office of Treasurer and such other duties as may be assigned to the Treasurer by the Board of Directors or the Executive Committee.

Section 4. Checks. Checks or drafts on the funds of the Corporation shall be signed by any two of the officers or Directors authorized to do so by the Board of Directors.

Section 5. Audit. The President of the Corporation shall arrange for the auditing, at least annually, of the books, records, and accounts of the Corporation. The annual audit and management letter shall be forwarded to the Florida Atlantic University Board of Trustees for review and oversight.

 Section 6. Compensation of Officers. The officers shall receive no special salary or compensation for being officers of the Corporation other than their usual salaries as employees of Florida Atlantic University.

ARTICLE III Executive Committee

Section 1. Composition. The Corporation Board may appoint an Executive Committee consisting of four Directors, and will include the Director who is the President of the Corporation.

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Section 2. Powers. The Executive Committee, if one is appointed, has and may exercise all of the authority of the Board of Directors in the management of the Corporation, except that such Executive Committee shall not have authority to (a) designate individuals for the office of Director or membership on the Executive Committee or (b) amend the Articles of Incorporation or these Bylaws.

Section 3. Meetings. Meetings of the Executive Committee may be called by the President of the Corporation, two or more members of the Executive Committee, or the President of the University. Notice of any meeting shall be given at least three (3) days prior thereto by personal delivery or sent by mail, physically or electronically, to each member of the Executive Committee. Notice of the meeting need not be given to any member who signs a waiver of notice either before or after the meeting. The attendance of a member at any meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Business to be transacted at the meeting need not be specified in the notice or waiver, unless specifically required by law or by these Bylaws. The President of the Corporation shall act as Chair of the Executive Committee and shall preside at meetings of the Executive Committee; in the absence of the President of the Corporation, the Executive Committee may appoint any member thereof to preside. Proxies, general or special, shall not be accepted for any purpose in meetings of the Executive Committee. Members of the Executive Committee may participate in a meeting of the Executive Committee by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 4. Quorum. A majority of the Executive Committee shall constitute a quorum for the transaction of business of any meeting of the Executive Committee. If a quorum is not present, a majority of those present may adjourn the meeting, from time to time, without further notice, until a quorum is present.

Section 5. Manner of Acting. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the Executive Committee, unless the act of a greater number is required by law or by these Bylaws.

ARTICLE IV Additional Committees

Section 1. Standing Committees. At the first meeting of the Board of Directors or as soon thereafter as is practical, the President of the Corporation shall, subject to the approval of the Board of Directors, appoint such additional committees as may be deemed necessary and advisable to assist in the conduct of the Corporation's affairs.

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Section 2. Special Committees. The President of the Corporation may, at any time, appoint other committees on any subject for-which there are no standing committees.

Section 3. Committee Quorum. A majority of any committee of the Corporation shall constitute a quorum for the transaction of business, unless any committee shall by majority of its entire membership decide otherwise.

Section 4. Committee Vacancies. The various committees shall have the power to fill vacancies in their membership.

ARTICLE V

Seal

The seal of this Corporation shall be as more particularly shown in the following impression:

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ARTICLE VI

Amendments

The Bylaws of this Corporation may be amended by a two-thirds vote of the Directors of this Corporation at any duly organized meeting, subject to final approval by the President of the University and the Florida Atlantic University Board of Trustees. Upon statutory enactments, amendments to existing laws or promulgation of rules affecting University support organizations by the Florida Board of Governors or the University, the Board of Directors shall meet and amend the Bylaws to remain in conformity with such changes. A special meeting may be held for such purposes.

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ARTICLE VII

Fiscal Year

The fiscal year of this Corporation shall commence on July 1 of each year and end on June 30.

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ARTICLE VIII

Employment

Salaries, benefits and other compensation of employees of the Corporation, if any, shall be approved by the University President or designee, who shall be a Vice President of the

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Any person employed by the Corporation shall not be considered to be an employee of the State of Florida by virtue of such employment.

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University or other senior officer of the University reporting directly to the University President, and shall be set forth in the budget.

ARTICLE IX

Budget

An operating budget for the Corporation shall be prepared on an at least annual basis, be approved by the Corporation's Board and be submitted to the President of the University who shall submit the operating budget to the Florida Atlantic University Board of Trustees for review and approval.

The Corporation's expenditure plans shall be reviewed and approved on a quarterly basis by the University President or by the Research Corporation President who will report directly to the University President.

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FIRST AMENDED AND RESTATED

BYLAWS

Florida Atlantic University Research Corporation
(A Not-For-Profit Corporation)

ARTICLE I

Board of Directors

Section 1. Membership and Term of Office. The Board of Directors shall consist of up to eleven voting members. The members shall be the President of Florida Atlantic University, or designee, in compliance with section 1004.28(3), Fla. Stat., the University Provost, the Vice President for Finance, the Vice President for Research, a University faculty member selected by the President of FAU, and a person selected and appointed by the Chair of the Florida Atlantic University Board of Trustees, in compliance with section 1004.28(3), Fla. Stat. The remaining members shall be selected and appointed by the President of Florida Atlantic University. The Director who is appointed by the Chair of the Florida Atlantic University Board of Trustees shall serve until the Chair selects and appoints a successor. All Directors appointed by the University President shall serve a two year term, shall be eligible for reappointment, and if a successor has not been appointed at the end of a two year term, that Director shall continue to serve until the University President selects and appoints a successor.

Section 2. Purpose, Powers and Duties of the Board of Directors. The property, affairs, activities, and concerns of the Corporation shall be vested in the Board of Directors. All management functions shall be exercised by the Board of Directors, subject to delegation by the Board to the officers and the Executive Committee, if one is appointed. The President of Florida Atlantic University shall have authority and responsibility to monitor and control the use of the University's resources and name. The Board shall carry out the purposes of the Corporation as set forth in the Articles of Incorporation and shall have all powers granted to a not for profit corporation under Florida law. All references to the Articles of Incorporation refer to the original Articles until the First Amended and Restated Articles of Incorporation are approved and filed. At that time, the Bylaw references to the Articles of Incorporation shall refer to the First Amended and Restated Articles of Incorporation.

Section 3. Meetings. A regular annual meeting of the Board of Directors shall be held at a date and time set by the Board of Directors. Notice of the meeting, signed by the Secretary, shall be mailed, physically or electronically, or delivered personally to the last recorded address of each Director at least ten (10) days before the time appointed for the meeting. Special meetings of the Board may be called by the President of the Corporation or Secretary of the Corporation, two or more Directors, or the President of the University. Notice of any special

meeting of the Board of Directors shall be given at least five (5) days prior thereto by personal delivery or sent by mail, physically or electronically, or delivered personally to each Director at the address as shown by the records of the Corporation. Notice of a meeting of the Board of Directors need not be given if any Director signs a waiver of notice either before or after the meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Business to be transacted at the meeting need not be specified in the notice or waiver, unless specifically required by law or by these Bylaws. The President of the Corporation shall act as Chair of the Board of Directors and shall preside at meetings of the Board of Directors; in the absence of the President of the Corporation, the Board may appoint any Director to preside. Proxies, general or special, shall not be accepted for any purpose in the meetings of the Board of Directors. Members of the Board may participate in a meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting. All telephone meetings or meetings by means of similar communications equipment, all document retention, and all responses to public records requests must be in compliance with Florida law.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, a majority of those present may adjourn the meeting, from time to time, without further notice, until a quorum is present.

Section 5. Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

Section 6. Vacancies. Whenever any vacancy occurs on the Board of Directors by death, resignation, or otherwise, it shall be filled without undue delay. In the case of a University officer who is a Director, the person who is acting as the officer for the University will fill the vacancy. All appointments to other vacancies (except for the Director appointed by the Chair of the Board of Trustees) shall be made by the President of the University.

Section 7. Removal. Any Director or Directors (except for the Director appointed by the Chair of the Board of Trustees) may be removed from office by the President of Florida Atlantic University at any time.

Section 8. Order of Business. The order of business shall be as follows at all meetings of the Board of Directors and Executive Committee:

- (a) Calling of the roll.
- (b) Proof of notice of meeting or waiver of notice.

- (c) Reading of the minutes.
- (d) Receiving communications.
- (e) Reports of officers.
- (f) Reports of committees.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

Any question as to the priority of business shall be decided by the Chair without debate. This order of business may be altered or suspended at any meeting by majority vote of the members present.

ARTICLE II

Officers

Section 1. Number. The officers of this Corporation shall be a President, a Secretary, and a Treasurer.

Section 2. Appointment. The officers shall be appointed by the President of Florida Atlantic University, shall serve for a term of one (1) year, and may be reappointed. The President of Florida Atlantic University may appoint officers for longer terms and may remove an officer at any time.

Section 3. Duties of Officers. The duties and powers of the officers of the Corporation shall be as follows:

(a) President. The President of the Corporation shall be the FAU Vice President for Research, be a member ex officio of all committees with the right to vote, and will be a Director of the Corporation. At the regular annual meeting of the Board of Directors and at such other times as the President of the Corporation deems proper, the President of the Corporation shall communicate to the Board of Directors such matters and make such suggestions as in the President of the Corporation's opinion tend to promote the prosperity and usefulness of the Corporation. The President of the Corporation shall act as the Chief Executive Officer of this Corporation and shall do and perform such other duties as may be assigned to the President of the Corporation by the Board of Directors or the Executive Committee. The President of the Corporation shall report to the University President or designee. The President of the Corporation is authorized to execute, in the name of the Corporation, with the Secretary attesting, or in the absence or unavailability of the Secretary, with the Treasurer attesting, all contracts and other documents or legal instruments authorized or issued by the Board of Directors or the Executive Committee.

(b) Secretary. The Secretary shall keep full and accurate minutes of all the meetings of the Board of Directors and Executive Committee, if one has been appointed, in a book provided for that purpose and shall transmit all notices required by the Bylaws of this Corporation. The Secretary shall have custody of the corporate seal of the Corporation. The Secretary may sign documents with the Corporation President in the name of the Corporation and, when required, shall affix thereto the seal of the Corporation. The Secretary shall have charge of all official records of the Corporation that shall be at all reasonable times open to the inspection of any Director, and shall, in general, perform all duties incident to the management of the office of Secretary for the Board of Directors and the Executive Committee.

(c) Treasurer. The Treasurer shall receive and keep the funds of the Corporation and pay out the same only in accordance with guidelines established by the Board of Directors or the Executive Committee. The Treasurer shall deposit all monies, checks and other credits to the account of the Corporation in such bank or banks or other depositories as the Board of Directors may designate. The Treasurer shall review all receipts and vouchers for payments made to and all vouchers and checks made by the Corporation and shall regularly maintain a full and accurate account of all funds received and paid out by the Corporation. The Treasurer shall render to the Board of Directors an account and statement of actions at the annual meeting of the Board and at such other times as the Board may determine, including preparing and presenting an annual budget. The Treasurer shall at all reasonable times exhibit the Corporation's books and accounts to any Director of the Corporation, and shall, in general, perform all duties incident to the management of the office of Treasurer and such other duties as may be assigned to the Treasurer by the Board of Directors or the Executive Committee.

Section 4. Checks. Checks or drafts on the funds of the Corporation shall be signed by any two of the officers or Directors authorized to do so by the Board of Directors.

Section 5. Audit. The President of the Corporation shall arrange for the auditing, at least annually, of the books, records, and accounts of the Corporation. The annual audit and management letter shall be forwarded to the Florida Atlantic University Board of Trustees for review and oversight.

Section 6. Compensation of Officers. The officers shall receive no special salary or compensation for being officers of the Corporation other than their usual salaries as employees of Florida Atlantic University.

ARTICLE III

Executive Committee

Section 1. Composition. The Corporation Board may appoint an Executive Committee consisting of four Directors and will include the Director who is the President of the Corporation.

Section 2. Powers. The Executive Committee, if one is appointed, has and may exercise all of the authority of the Board of Directors in the management of the Corporation, except that such Executive Committee shall not have authority to (a) designate individuals for the office of Director or membership on the Executive Committee or (b) amend the Articles of Incorporation or these Bylaws.

Section 3. Meetings. Meetings of the Executive Committee may be called by the President of the Corporation, two or more members of the Executive Committee, or the President of the University. Notice of any meeting shall be given at least three (3) days prior thereto by personal delivery or sent by mail, physically or electronically, to each member of the Executive Committee. Notice of the meeting need not be given to any member who signs a waiver of notice either before or after the meeting. The attendance of a member at any meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Business to be transacted at the meeting need not be specified in the notice or waiver, unless specifically required by law or by these Bylaws. The President of the Corporation shall act as Chair of the Executive Committee and shall preside at meetings of the Executive Committee; in the absence of the President of the Corporation, the Executive Committee may appoint any member thereof to preside. Proxies, general or special, shall not be accepted for any purpose in meetings of the Executive Committee. Members of the Executive Committee may participate in a meeting of the Executive Committee by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 4. Quorum. A majority of the Executive Committee shall constitute a quorum for the transaction of business of any meeting of the Executive Committee. If a quorum is not present, a majority of those present may adjourn the meeting, from time to time, without further notice, until a quorum is present.

Section 5. Manner of Acting. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the Executive Committee, unless the act of a greater number is required by law or by these Bylaws.

ARTICLE IV

Additional Committees

Section 1. Standing Committees. At the first meeting of the Board of Directors or as soon thereafter as is practical, the President of the Corporation shall, subject to the approval of the Board of Directors, appoint such additional committees as may be deemed necessary and advisable to assist in the conduct of the Corporation's affairs.

Section 2. Special Committees. The President of the Corporation may, at any time, appoint other committees on any subject for-which there are no standing committees.

Section 3. Committee Quorum. A majority of any committee of the Corporation shall constitute a quorum for the transaction of business, unless any committee shall by majority of its entire membership decide otherwise.

Section 4. Committee Vacancies. The various committees shall have the power to fill vacancies in their membership.

ARTICLE V

Seal

The seal of this Corporation shall be as more particularly shown in the following impression:

ARTICLE VI

Amendments

The Bylaws of this Corporation may be amended by a two- thirds vote of the Directors of this Corporation at any duly organized meeting, subject to final approval by the President of the University and the Florida Atlantic University Board of Trustees. Upon statutory enactments, amendments to existing laws or promulgation of rules affecting University support organizations by the Florida Board of Governors or the University, the Board of Directors shall meet and amend the Bylaws to remain in conformity with such changes. A special meeting may be held for such purposes.

ARTICLE VII

Fiscal Year

The fiscal year of this Corporation shall commence on July 1 of each year and end on June 30.

ARTICLE VIII

Employment

Salaries, benefits and other compensation of employees of the Corporation, if any, shall be approved by the University President or designee, who shall be a Vice President of the

University or other senior officer of the University reporting directly to the University President, and shall be set forth in the budget.

ARTICLE IX

Budget

An operating budget for the Corporation shall be prepared on an at least annual basis, be approved by the Corporation's Board and be submitted to the President of the University who shall submit the operating budget to the Florida Atlantic University Board of Trustees for review and approval.

The Corporation's expenditure plans shall be reviewed and approved on a quarterly basis by the University President or by the Research Corporation President who will report directly to the University President.

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