



## UNIVERSITY OF NORTH GEORGIA FOUNDATION, INC.

### BY-LAWS

Adopted at a meeting of the Board of Trustees of University of North Georgia Foundation, Inc. on June 4, 2021, these By-Laws are to become effective immediately.

#### **Article I** **Names and Purposes**

##### *Section 1 – Name, Location, Official Seal, Registered Office and Agent*

The name of the organization is University of North Georgia Foundation, Inc., incorporated under the laws of the State of Georgia and is hereinafter referred to as the Foundation. The principal office and place of business of the Foundation is the office of the Chief Executive Officer of the Foundation, which currently is University of North Georgia, P.O. Box 1599, Dahlonega, Lumpkin County, Georgia 30533. The official seal adopted by the Board of Trustees is kept by the Secretary and shall be affixed to all legal documents or transactions as required. The Foundation will appoint a registered agent for the Foundation. The registered office will be the corporate mailing address of the UNG Foundation, unless otherwise specified. The registered agent and registered office will be maintained by the Foundation on the records of the Secretary of State of Georgia.

##### *Section 2 – Purposes and Objectives*

The Foundation is organized to promote the welfare and future development of the University of North Georgia, hereinafter referred to as the University, in its educational purposes within the meaning of Section 501(c)(3), and to receive gifts which qualify under Section 170, of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future Internal Revenue Service law; to seek gifts for the benefit of the University through current funds, endowment giving and other fund-raising programs; to operate in accordance with generally accepted business and accountability principles, and to prudently manage the investment and the disbursement of these assets in a manner consistent with the Foundation's own enabling documents, those of the University System of Georgia, and the University's mission, vision and values.

The vision, mission, and strategic initiatives of the University of North Georgia Foundation are:

### **Vision**

To be recognized and respected as a premier foundation that supports, creates, and enhances educational and other opportunities at the University of North Georgia which otherwise would not be possible through tuition and state funding alone.

### **Mission**

The University of North Georgia Foundation, Inc. supports the mission of the University of North Georgia by promoting philanthropy from all constituents, managing and investing its assets responsibly, providing financial assistance for students, faculty and staff, and serving in an advisory role to the President of the University.

### **Strategic Initiatives**

- **To raise private funds** from alumni, friends, corporations and charitable foundations to support the *Mission and Vision* of the University of North Georgia and to fulfill its obligations as the University System of Georgia's designated Leadership Institution and The Military College of Georgia.
- **To provide merit and need-based scholarships** to students.
- **To support high quality educational initiatives and activities** for all students, faculty and staff.

### *Section 3 – Limitations*

The Foundation shall not carry on any activity prohibited by a foundation exempt from federal income tax under Section 501 (c) (3) or 170 (c) (2) (B) of the Internal Revenue Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue Law. No part of the net earnings of the Foundation shall inure to the benefit of, or be distributed to, its trustees, officers, employees, or other private persons, except that the Foundation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 1, Section 2. The avoidance of conflict of interest shall be a guiding principle in all Foundation endeavors. No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Foundation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

### *Section 4 – Fiscal Year*

The Foundation's fiscal year is July 1 – June 30, inclusive, unless otherwise defined by the Board of Trustees.

### *Section 5 – Existence and Distributions Upon Dissolution*

It is the intent of this Foundation that it has perpetual existence. In the event of dissolution of the Foundation, either voluntary or involuntary, all assets and property which remain after the discharge of the Foundation's liabilities and unless otherwise designated by the donor of an asset shall be paid over or distributed by the Board of Trustees to the University or to any other non-profit corporation or corporations organized to support the University or any of its Colleges, Schools, Departments, or affiliated organizations as determined by the Board of Trustees in its sole discretion, and shall be used or distributed for no other object or purpose whatsoever; provided, however, that any such organization must be exempt from federal income taxes under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended, and be an associated entity approved by the University.

### *Section 6 - Operations*

6.1. All contracts and other instruments and documents authorized by the Board of Trustees for the transaction of the business of the Foundation shall be executed in the name of the Foundation, by the Chairman of the Board of Trustees, the Chief Executive Officer, or Chief Operations Officer, unless otherwise authorized, and attested by the secretary under the seal of the Foundation, and witnessed as the law may require with respect to the particular kind of instrument, except checks for the disbursements of funds.

6.2. The treasurer shall be the principal financial officer of the Foundation. Such officer shall prepare, in coordination with the Chief Executive Officer or Chief Financial Officer, the annual budget of the Foundation, and shall make a full and complete report, or statement, of the financial affairs of the Foundation each year and submit same to the Board of Trustees at the annual meeting. .

6.3. Operational aspects of board decisions are defined in UNG Foundation policy manuals that are reviewed regularly and updated appropriately.

## **Article II Board of Trustees**

### *Section 1 – Number and Composition*

The Board of Trustees, hereinafter sometimes referred to as the Board, shall be composed of from nine (9) to thirty (30) voting members and certain non-voting members as follows:

(a) Elected Trustees: Trustees shall be individuals who are at least age 21. An Elected Trustee shall not be a full time benefit eligible employee of the University of North Georgia during his/her term as an Elected Trustee, and shall not have been employed by the University of North Georgia at any time during the three year period prior to the commencement of service as Elected Trustee. A slate of Elected Trustee candidates shall be chosen from a larger pool of candidates which is created and managed in an ongoing manner by the Trusteeship Committee.

(b) Ex-Officio Voting Trustees: Individuals serving in the following positions at the University of North Georgia or with respect to the Foundation shall serve as *voting* Ex-Officio Trustees: the President of the University of North Georgia, and the Immediate Past Chairman of the Foundation during the first year of his/her successor as Chairman.

(c) Other Ex-Officio, but Non-Voting Trustees: Individuals serving in the following positions at or in connection with the University of North Georgia shall serve as *non-voting* Ex-Officio Trustees: the President of the Alumni Association, one faculty member representative selected by the President of the University of North Georgia, the Provost & Senior Vice President for Academic Affairs, the Senior Vice President for Business & Finance, and the Senior Vice President for Leadership and Global Engagement.

(d) Any Ex-Officio Trustee described in paragraphs (b) or (c) above shall serve as such only while holding the described office. None of the Ex-Officio Trustees described in paragraph (c) above, shall be entitled to be counted for purposes of establishing whether a quorum of Trustees is present at a meeting of the Trustees.

(e) The Trusteeship Committee may recommend to the Board, from time to time, minimum required and/or suggested levels of financial support of the Foundation and other criteria for Trustees, including Ex-Officio Trustees, and any criteria adopted by the Board may be set forth on Appendix A attached hereto.

### *Section 2 – Terms of Office*

(a) Elected Trustees: as defined in Section 1(a) of Article 2, each Elected Trustee may serve three (3) consecutive terms of three (3) years each term. No Elected Trustee is eligible to serve more than three (3) consecutive terms. After an absence as an Elected Trustee from the Board of one (1) year, a person shall be eligible for re-election to the Board.

(b) Ex-Officio Voting Trustees: The immediate Past Chairman of the Foundation (for one year after he/she has left office as Chairman), and the President of the University of North Georgia shall serve as Ex-Officio voting Trustees during their respective terms of office.

(c) An Elected Trustee may be removed only by the Required Vote (as defined in Section 3 of this Article 2) of the Elected Trustees.

The Board may remove any Officer or Trustee for cause by two-thirds (2/3) vote or sixty-six (66.7 %) of all Trustees then in office, at any regular or special meeting of the Board, provided that a statement of the reason or reasons shall have been mailed by Registered Mail to the Officer or Trustee proposed for removal at least thirty (30) days before any final action is taken by the Board. This statement shall be accompanied by a notice of the time when, and the place where, the Board is to take action on the removal. The Officer or Trustee shall be given an opportunity to be heard and the matter considered by the Board at the time and place mentioned in the notice.

(d) An Elected Trustee may resign by written notice to the Chairman. The Trusteeship Committee will make a nomination for a Trustee to fill the vacancy created by the resignation or death of an Elected Trustee, and the vacancy will be filled at the next annual meeting of the Board, for the remainder, if any, of the term of the resigning or deceased Elected Trustee.

### *Section 3 – Meetings and Procedural Rules; Definition of “Required Vote”*

The Trustees will meet three times per year, with each meeting held over a two-day period, at such

times as approved by the Trustees. The annual meeting will be the spring meeting. The Board will meet at such other times as the Chairman of the Board deems necessary. A special meeting may be called at any time by the Chairman of the Board or upon the written request of any three (3) Elected Trustees. The nature of the meeting will be stated in the notice of the special meeting. Robert's Rules of Order governs the conduct of business at each meeting of the Board of Trustees, and, may also be made applicable to meetings of any committee of the Board, at the discretion of the Chair of the particular committee. Provided there is a quorum present, the affirmative vote of two-thirds (2/3) or sixty-six percent (66.7%) of the voting Trustees present at the meeting (the "Required Vote"), is required to approve or adopt any motion or to take any action requiring Board approval.

#### *Section 4 – Quorum*

One-half, plus one, of the voting Trustees in office (including Elected and voting Ex- Officio Trustees) will constitute a quorum.

#### *Section 5 – Action Without Meetings; Objections to Propriety of Meeting; Participation in Meetings Other Than In Person*

Action taken by at least two-thirds (2/3) or sixty-six percent (66.7%) of the voting Trustees without a meeting, will constitute Board or committee action if written consent to the action in question is signed by those voting Trustees or voting members of the committee, as the case may be, who took such action, and filed with the minutes of the proceedings of the Board or committee.

If a meeting of Trustees otherwise valid is held without proper call or notice, action taken at such meeting otherwise valid is deemed ratified by a Trustee who did not attend unless promptly after having knowledge of the action taken and of the impropriety in question he files with the Secretary of the Foundation his or her written objection to the holding of the meeting or to any specific action so taken.

Any one (1) or more Trustees or members of a committee may participate in a meeting of the Board or committee by means of conference telephone, electronic video screen communication or other communications equipment. Participation in a meeting through use of conference telephone constitutes presence in person at the meeting as long as all members participating in such meeting can hear one another. Participation in a meeting through the use of electronic video screen communication or other communications equipment (other than conference telephone) constitutes presence in person at that meeting if all of the following apply: (a) each member participating in the meeting can communicate with all of the other members concurrently, (b) each member is provided the means of participating in all matters before the Board of Trustees or committee, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Foundation or by the committee, and (c) the Foundation adopts and implements some means of verifying that (i) a person participating in the meeting is a Trustee or other person entitled to participate in the Board of Trustees or committee meeting, and (ii) all actions of, or votes by, the Board of Trustees or committee are taken or cast only by voting Trustees or voting members of the committee, as the case may be, and not by persons who are not voting Trustees or voting members of the committee.

#### *Section 6 – Powers and Duties; Director Liability*

(a) The Board of Trustees may exercise all power and authority of the Foundation and carry out

such legal acts and duties for the furtherance of the aims of the Foundation and transaction of its affairs as are not prohibited by statute, these By-Laws or by the Articles of Incorporation of the Foundation. The Board may employ such accountants as it deems advisable for the proper verification of all accounts and require an officer of the Foundation to carry such bonds as it deems advisable. Each Trustee must discharge his/her duties as a Trustee, including his/her duties as a member of a committee, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Trustee believes in good faith to be in the best interests of the Foundation.

(b) A Trustee who votes for or assents to any distribution of assets of the Foundation contrary to any lawful restrictions in the Georgia Nonprofit Corporation Code (the “Georgia Code”), the Articles of Incorporation, or these By-Laws, shall be liable to the Foundation for the amount of the distribution that exceeds what could have been distributed without violating such restrictions. A Trustee held liable for an unlawful distribution under the preceding sentence is entitled to contribution from each other Trustee who voted for or assented to the distribution without complying with the applicable standard of conduct for Trustees specified in paragraph (a) above, and from each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of the Georgia Code. A Trustee will not be liable as provided above, if the Trustee performed his duties in compliance with paragraph (a) above, or (unless the Trustee’s actual knowledge concerning the matter in question makes such reliance unreasonable) if he relied on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or employees of the Foundation whom the Trustee reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, public accountants, or other persons as to matters the Trustee reasonably believes are within their professional or expert competence; or (iii) a committee of the Board of which he is not a member if the Trustee reasonably believes the committee merits confidence.

#### *Section 7 – Remuneration*

No trustee shall be paid any salary by the Foundation. The Chairman, or designee, may be reimbursed for required travel on behalf of the Foundation and / or the University when asked to represent UNG or the UNG Foundation. Requests for reimbursement must be submitted and approved by the executive committee prior to incurring the expense.

#### *Section 8 – Trustee’s Conflict of Interest*

Any transaction of the Foundation in which a Trustee or a person related to the Trustee has a direct or indirect financial interest must be authorized, approved, or ratified in good faith, after receipt of any disclosure required by law, by a majority, but not less than two (2), of the Trustees who have no direct or indirect financial interest in the transaction, even though less than a quorum. For purposes of this Section, a Trustee or a person related to the Trustee has an indirect interest in a transaction if:

(a) Another entity in which the Trustee or person related to the Trustee has a material financial interest, or in which the Trustee or related party is a director, general partner, agent or employee, is a party to the transaction; or

(b) Another individual which is a party to the transaction is a general partner, principal or employer of the Trustee.

For purposes of this Section 8, a related party of a Trustee means (i) the spouse (or a parent or sibling thereof) of the Trustee or a child, grandchild, sibling, parent (or spouse of any thereof), or an individual having the same home as the Trustee, or a trust or estate in which any of the foregoing individuals is a substantial beneficiary; or (ii) a trust, estate, incompetent, conservatee, or minor of which the Trustee is a fiduciary.

*Section 9 - Trustee, Officer, Employee and Agent Indemnification*

The Foundation's Indemnification Policy for its Trustees, Officers, Employees and Agents is set forth in **Appendix B** to these By-Laws.

**Article III**  
**Officers**

*Section 1 – Title of Officers*

The officers of the Board will consist of a Chairman, Vice Chairman, Secretary, and Treasurer. Each of the officers must be or have previously served as an Elected Trustee of the Foundation except as provided in the last grammatical paragraph of this Section 1, will be nominated by the Trusteeship Committee and elected by the voting Trustees of the Foundation. The Chairman must currently be serving, or elected and scheduled to begin service as an elected Trustee, at the time of his/her election as Chairman. All others are voting Trustees.

The Board shall appoint a Chief Executive Officer and a Chief Operating Officer, who shall not be members of the Board, and such assistants as the duties of the Chief Executive Officer and Chief Operating Officer may reasonably require. Any appointment of an officer who is also an employee of the University of North Georgia will be with the concurrence of the President of the University. The Foundation will not compensate its CEO or COO, or any of its staff, as these are expected to be persons who are employees of the University and not employees of the Foundation, which will have no employees.

*Section 2 – Election of Officers and Terms of Officers*

Officers will be elected by the board at the annual meeting for terms of three years. With the exception of the Treasurer, officers may not be re-elected for a second consecutive term. The Chief Executive Officer and Chief Operating Officer of the Foundation will serve as non-voting officers of the Board throughout the course of their employment with the University.

An officer may resign by written notice to the Chairman. The Trusteeship Committee will make a nomination for an officer to fill the vacancy created by the resignation or death of an officer, and the vacancy will be filled at the next regularly scheduled, or special, Board meeting, or by written consent of the Board pursuant to Article 2, Section 5, of these By-Laws, for the remainder of the term of the resigning or deceased officer. For Officers, terms of service an elected trustee while in office will be “frozen.” Once service as an officer is completed, if any portion of the Elected Trustee term remains, then the Elected Trustee will serve

the remainder of such Elected Trustee term. The immediate past Chairman will remain on the board, regardless of term and term limits, for one additional year following their last year of service as Chairman.

### *Section 3 – Duties of the Chairman*

The Chairman shall preside at all meetings of the Board and have all powers and duties incident to such office. The Chairman will be a voting member of the Board. The Chairman shall conduct and have charge of the affairs of the Foundation subject to approval by the Required Vote of the Board; and shall submit, with the annual report, recommendations of the conduct of the affairs of the Foundation for the following year. The Chairman shall appoint the Chair of each Committee, except the Executive Committee (of which the Chairman is the Chair) and the Finance and Audit Committee (of which the Treasurer is the Chair), as well as the Elected Trustees to serve on each Committee. The Chairman, or a designee of the Chairman, will have authority to sign checks, drafts and other orders to pay debts issued in the name of the Foundation, to file statements and reports with federal and state governmental agencies, to execute contracts approved by the Board, and to execute on behalf of the Foundation, along with the Secretary, any other instrument or writing. The Chairman will have oversight responsibility of officers of the Board in the performance of their duties, exercise discretion concerning policies of the Board and the Foundation, and will also be responsible for the implementation of resolutions adopted by the Board. The Chairman shall have such other authority and powers not specified above, and perform such other duties, as the Board may prescribe from time to time.

### *Section 4- Duties of the Vice-Chairman*

In the absence of the Chairman, the Vice Chairman shall preside at any meeting of the Board and otherwise perform the duties of the Chairman. In the event that the office of Chairman shall become vacant for any reason, the Vice Chairman shall assume the duties of the Chairman until the next meeting of the Board, at which time a successor Chairman shall be elected to complete the unexpired term. In the event the office of Vice Chairman becomes vacant for any reason, the Chairman shall select an Elected Trustee to fill the vacancy until the next regular meeting of the Board, at which time a successor Vice Chairman shall be elected to fill the unexpired term. The Vice Chairman shall have such other authority and powers not specified above, and perform such other duties, as the Board may prescribe from time to time or as the Chairman may delegate to the Vice Chairman.

### *Section 5 – Duties of the Chief Executive Officer*

The Chief Executive Officer (“CEO”) shall serve as the lead staff officer of the Foundation. The CEO should build and manage the staff, develop and implement written policies and procedures which are not inconsistent with these By-Laws to regulate the day-to-day operations of the Foundation and the staff, assist the Chairman in meetings and agenda preparation, and represent the operations of the Foundation to all University interests and external inquiries. The CEO will also direct fund raising activities, including annual giving, major and leadership giving, corporate development, philanthropic foundation solicitations, trust relations, estate planning, and capital campaigns. The CEO is vested with full executive and administrative power to negotiate and sign leases, contracts, and other agreements on behalf of the Foundation for the performance of Foundation business as authorized by the Board of Trustees or the Executive Committee. The CEO shall be an Ex-Officio member without vote on all committees of the Foundation.



#### Section 6 – *Duties of the Chief Operating Officer*

The Chief Operating Officer (COO) should work with the CEO to regulate the day-to-day operations of the Foundation and the staff. The COO will direct all administrative operations which includes financial management (accounting, budgeting, forecasting, endowment payout and scholarship awarding, UNG Foundation annual audit and IRS 990), data management, data reporting, prospect research, and donor relations activities. The COO will be responsible for the operations of the UNG Foundation including financial management, investment management, board meeting operations, UNG Foundation policies and procedures, manage the professional staff committee liaisons to the UNG Foundation to include the finance/audit committee and investment committee. The COO is vested with full executive and administrative power to negotiate and sign leases, contracts and other agreements on behalf of the Foundation for the performance of Foundation business as authorized by the Board of Trustees, the Executive Committee or CEO. The COO shall be an Ex-Officio member without vote on all committees of the Foundation.

#### Section 7 – *Duties of All Officers*

(a) An officer with discretionary authority shall discharge the officer's duties under that authority with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the officer believes in good faith to be in the best interests of the Foundation.

(b) An officer is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of his office in compliance with paragraph (a), above, or (unless his actual knowledge concerning the matter in question makes such reliance unreasonable) if he relied on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by (i) one or more officers or designated representative whom the officer reasonably believes to be reliable and competent in the matters presented; or (ii) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within their professional or expert competence.

### **Article IV Committees**

The Foundation shall have standing committees and such special committees as the Board deems necessary or desirable. The Chairman of the Foundation, after consultation with the Board, shall, at each annual meeting of the Board, commencing with the fiscal year of the Foundation beginning July 1st, appoint the Chairs (except for the Finance and Audit Committee, for which the Treasurer of the Foundation is the Chair) and members of each committee, to serve for the next fiscal year of the Foundation.

Each standing committee other than the Executive Committee will report to the Executive Committee. No committee shall have the authority as to the following matters:

- (a) To approve dissolution, merger or the sale, pledge, or transfer of all or substantially all of the Foundation's assets.
- (b) To elect, appoint or remove Trustees.

(c) To adopt, amend, or repeal the Articles of Incorporation of the Foundation or these By-Laws.

The designation of any committee and the delegation thereto of authority shall not operate to relieve the Board of Trustees or any member thereof of any responsibility or liability imposed upon it or the individual Trustees by law; and any resolutions adopted or other action taken by any such committee, if within the scope of authority delegated to it by the Board of Trustees, shall be deemed for all purposes to be adopted or taken by the Board of Trustees.

Committee meetings will be scheduled as determined by the Chair of each committee, but may be scheduled on days different than days on which meetings of the Board occur. The Executive Committee will meet in the month prior to the date scheduled for the Board of Trustees meeting, or more often as deemed necessary by the Chairman of the Foundation. Unless otherwise specified by the Chair of a particular committee, each committee will meet three times per year. A committee meeting may be attended by telephone conference or other electronic means of communication authorized by the last grammatical paragraph of Section 5 of Article 2.

#### *Section 2 – Executive Committee*

There shall be an Executive Committee of the Foundation composed of the Chairman, Vice-Chairman, Secretary and Treasurer, the immediate Past Chairman, the President of the University of North Georgia, and the Chairs of each of the Finance and Audit Committee, Investment Committee, Development Committee, and Trusteeship Committee. The Chairman of the Foundation shall serve as Chair of the Executive Committee. The Chief Executive Officer and Chief Operating Officer will be Ex-Officio members of the Executive Committee, but will not vote, nor will the immediate Past Chairman.

The Executive Committee shall have and exercise the authority of the Board of Trustees in the management of the business of the Foundation between the meetings of the Board of Trustees; provided, however, that the Executive Committee shall have no power to (a) authorize distributions; (b) approve dissolution, merger or the sale, pledge, or transfer of all or substantially all of the Foundation's assets; (c) elect, appoint or remove Trustees; or (d) adopt, amend, or repeal the Articles of Incorporation of the Foundation or its By-Laws. The presence of a majority of the voting members of the Executive Committee at any regular or special meeting of said Committee shall constitute a quorum for the transaction of business.

The Executive Committee is also authorized to accept on behalf of the Foundation Board all gifts from donors, including, without limitation, cash and in-kind gifts, and specialized gifts such as charitable gift annuity contracts and charitable remainder trusts where the Foundation is the guarantor or named trustee.

The Executive Committee will initiate the board's involvement in establishing a strategic framework for the UNG Foundation.

#### *Section 3 – Trusteeship Committee*

There shall be a Trusteeship Committee of the Foundation. The Chair and other members of the Trusteeship Committee shall be appointed by the Chairman of the Foundation, after consultation with the Board. The presence of a majority of the voting members of the Trusteeship Committee at any regular or special meeting of said committee shall constitute a quorum for the transaction of business. The Chief

Executive Officer and the Chief Operating Officer will be Ex-Officio members of the Trusteeship Committee, but will not vote.

The Committee shall create and manage a pool of candidates for consideration as Elected Trustees. This pool should strive to reflect not only the racial, ethnic, and gender composition of the University's constituents, but also the diverse academic components of the Foundation.

The Trusteeship Committee shall present to the Board at the annual meeting the names of nominees for consideration as Elected Trustees. In addition, the Trusteeship Committee shall present to the Board for three-year terms Elected Trustees nominated for Chairman, Vice-Chairman, Secretary and Treasurer of the Foundation.

The Trusteeship Committee will also be responsible for establishing criteria for Board members relating to their service to the Board, its committees, the University, and their financial contributions to the Foundation, and applying those criteria in making recommendations of candidates for Trustees. The criteria for Trustees are set forth in *Appendix A*, which may be revised from time to time by the Board, upon recommendation of the Trusteeship Committee.

The Trusteeship Committee will be responsible to establish and maintain a process for education, training and orientation of Trustees. The Trusteeship Committee, in cooperation with the Executive Committee, shall also establish, and monitor the Foundation's performance under, long range strategic plans, and assist the Foundation with maintaining the current status of these By-Laws.

#### *Section 4 – Investment Committee*

There shall be an Investment Committee of the Foundation. The Chair and other members of the Investment Committee shall be appointed by the Chairman of the Foundation, after consultation with the Board. The presence of a majority of the voting members of the Investment Committee at any regular or special meeting of said committee shall constitute a quorum for the transaction of business. The Chief Executive Officer and the Chief Operating Officer will be Ex-Officio members of the Investment Committee, but will not vote.

The committee will have the authority to manage the investments of the Foundation within the parameters of the Foundation's Investment Policy Statement. The Investment Committee will develop an Investment Policy Statement, following the principles of the "prudent man theory" and consistent with Georgia law, to be approved by the Board, and will also be responsible for recommending amendments to the Investment Policy Statement to be approved by the Board. The Investment Committee will also investigate and recommend outside investment advisory services, for approval by the Board, if they deem the use of outside advisors appropriate. The Investment Committee will meet three times annually or at the call of the Chair. Minutes shall be maintained for each meeting, for distribution to the Trustees.

#### *Section 5 – Development Committee*

There shall be a Development Committee of the Foundation. The Chair and other members of the Development Committee shall be appointed by the Chairman of the Foundation, after consultation with the Board. The presence of a majority of the voting members of the Development Committee at any regular or special meeting of said committee shall constitute a quorum for the transaction of business. The Chief

Executive Officer and the Chief Operating Officer will be Ex-Officio members of the Development Committee, but will not vote.

The Development Committee shall lead all aspects of fund-raising efforts for the Foundation in order to provide the private, philanthropic resources necessary for support of its constituencies' programs and activities, both current and long-term. The Chair of the Development Committee may appoint subcommittees for major gifts and planned gifts. The Development Committee will solicit all Trustees for their annual gifts, including any gifts contemplated under the criteria set forth in [Appendix A](#)

The scope of responsibilities include the development of a comprehensive, long-range fund raising strategy designed to meet the resource needs of the Foundation and its constituencies and to establish and oversee any policy issues related to resource development for the Foundation and its constituencies. The Committee shall work with the development staff to establish fund raising goals, plans and benchmarking activities, develop plans to engage Trustees in fund raising activities, assist development staff in the identification, cultivation, and solicitation of supporters, as appropriate, and assist the staff in increasing the recognition and visibility of the Foundation. The Development Committee will educate Trustees about the Foundation's programmatic and activity priorities and the resources needed, familiarize Board members with fund raising skills and techniques for their active engagement in resource development activities and serve as the Foundation's resource for general information related to fund raising, such as the current fund raising climate, trends in development, etc..

#### *Section 6 – Finance and Audit Committee*

There shall be a Finance and Audit Committee of the Foundation. The Treasurer of the Foundation will be the Chair. The Chairman of the Foundation will appoint the other members of this committee, after consultation with the Board. The presence of a majority of the voting members of the Finance and Audit Committee at any regular or special meeting of said committee shall constitute a quorum for the transaction of business. The Chief Executive Officer and the Chief Operating Officer will be Ex-Officio members of the Finance and Audit Committee, but will not vote.

The Finance and Audit Committee shall select a certified public accounting firm to serve as the Foundation's independent auditor and to perform a full and complete annual audit of its finances and operations. This Committee shall also have the responsibility for the financial management of the Foundation and to prepare and recommend an annual operating budget for Board approval. The Committee shall, at least annually, review the distribution of scholarships to ensure conformity with donor agreements relating to the scholarships.

#### *Section 7 – Ad Hoc Committees*

The Executive Committee of the Foundation may establish ad hoc committees as deemed necessary or appropriate for the conduction of Foundation business, generally for the purpose of performing prescribed tasks over a specified period of time, or for such other purposes as determined by the Executive Committee in its discretion.

#### *Section 8 – Non-Board Members of Committees*

The Executive Committee may appoint, or approve the appointment by the Chairman of, individuals

who are not members of the Board to both standing and *ad hoc* committees of the Board, to serve as non-voting members of such committees.

#### **Article V**

##### **Use of Title III Funds From the Predecessor Foundation**

The Foundation is a successor by merger to both the University of North Georgia Foundation – Dahlonega, Inc. and the University of North Georgia Foundation – Gainesville, Inc. It is the intention of the Board that Title III funds from the merged University of North Georgia Foundation – Gainesville, Inc. continue to be used for the purpose of scholarships on the Gainesville, Oconee and Cumming campuses of the University of North Georgia.

#### **Article VI**

##### **Method of Amending By-Laws**

The By-Laws may be amended as follows:

(a) The text of the proposed amendment must be presented by the pro-pounder, who must be a voting Trustee, in writing to the Chief Executive Officer. The Chief Executive Officer will confer with the Chairman and the Trusteeship Committee regarding the proposed amendment to determine whether it will be presented to the Board for consideration.

(b) If the proposed amendment will be presented to the Board for consideration, the Chief Executive Officer will first obtain a written legal opinion by counsel as to its effect, if any, of the proposed amendment on the exempt status within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue Law.

(c) The Secretary will mail to the members of the Board a copy of the proposed amendment no less than ten (10) days prior to the scheduled meeting of the Board at which the proposed amendment is to be considered.

(d) The Board will determine its approval or disapproval of the proposed amendment(s). Provided there is a quorum present, the affirmative vote of at least two-thirds (2/3) or sixty-six percent (66.7 %) of the voting Trustees, is required for approval of the amendment(s).

#### **Article VII**

##### **Amendments**

Approved and adopted by the Board of Trustees of the University of North Georgia Foundation, Inc., on the 17<sup>th</sup> day of February, 2023, amending the previous versions approved on June 4, 2021, March 26, 2021, February 7, 2020, June 7, 2019 and February 2018.

**APPENDIX “A”**  
**CRITERIA FOR ELECTED TRUSTEES**

The Trusteeship Committee will consider the following criteria for Elected Trustees in recommending persons to serve as Trustees of the Foundation:

- Must be at least age 21.
- Must be of high moral character and integrity.
- Must not be a current employee or have been an employee of the University within the previous three years.
- Must support the Foundation financially with an annual minimum cash gift of \$2,500 (exclusive of sponsorships, event fees, raffles, special fundraisers, athletics, alumni association dues, in-kind gifts, planned gifts, silent auctions, meeting expenses and memorial gifts). At least \$1,000 should be an unrestricted gift to the UNG Fund.
- Must commit to attend at least 2/3rds of the Board meetings during the term for which the Trustee is elected.
- Must serve on at least one Foundation committee each year.
- Must be a person who already is a strong advocate, or is likely to increase his/her advocacy, for the Foundation and the University.
- Must be a person who is willing to actively engage in fundraising activities of the Foundation.
- Must be a person who is willing to bear his/her expenses of attending Board meetings.

**APPENDIX**

**"B"**

**INDEMNIFICATION OF TRUSTEES, OFFICERS, EMPLOYEES AND AGENTS**

The following is the indemnification policy (the "Indemnification Policy") of the Foundation.

(a) Each person who was or is a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal (hereinafter, a "proceeding" and including without limitation, a proceeding brought by or on behalf of the Foundation itself), by reason that he is or was a Trustee, officer, employee or agent of the Foundation, or is or was serving at the request of the Foundation as a Trustee, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or as a trustee or administrator under an employee benefit plan, where the basis of such proceeding is alleged action in an official capacity as Trustee, officer, employee or agent or in any other capacity while serving as Trustee, officer, partner, employee, agent, trustee or administrator, shall be indemnified and held harmless by the Foundation to the fullest extent authorized by the Georgia Nonprofit Corporation Code (the "Georgia Code") as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Foundation to provide broader indemnification rights than the Georgia Code permitted the corporation to provide prior to such amendment) against all expense, liability and loss (including attorneys' fees, judgments, fines, excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith, and such indemnification shall continue as to a person who has ceased to serve in the capacity that initially entitled such person to indemnification hereunder and shall inure to the benefit of his heirs, executors and administrators; provided, however, that the Foundation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board.

(b) The right to indemnification conferred in paragraph (a) above shall be a contract right and shall include the right to be paid by the Foundation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Georgia Code so requires, the payment of expenses incurred by a Trustee, officer, employee or agent in his capacity as such (and not in any other capacity in which service was or is rendered by such person while a Trustee, officer, employee, or agent including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding shall be made only upon delivery to the Foundation of an undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such person is not entitled to be indemnified under this Indemnification Policy or otherwise not entitled to indemnification under the Georgia Code.

(c) If a claim under paragraphs (a) and (b) above hereof is not paid in full by the Foundation within ninety (90) days after a written claim has been received by the Foundation, the claimant may at any time thereafter bring suit against the Foundation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred by defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Foundation) that the claimant has not met the standards of conduct which make it permissible under the Georgia Code for the Foundation to indemnify the claimant for the

amount claimed, but the burden of proving such defense shall be on the Foundation. Neither the failure of the Foundation (including its Board or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct, set forth in the Georgia Code, nor an actual determination by the Foundation (including its Board or independent legal counsel) that the claimant has not met the applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(d) The right to indemnification and the advancement and payment of expenses conferred in this Indemnification Policy shall not be exclusive of any other right which any person may have or hereafter acquire under any law (common or statutory), the Articles of Incorporation, the By-Laws, any agreement, the vote of disinterested Trustees, or otherwise.

(e) The Foundation may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Trustee, officer, employer or agent of the corporation or is or was serving at the request of the Foundation as a Trustee, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise against any liability asserted against and incurred by that person in any such capacity, or arising out of his status as such, whether or not the Foundation would have the power to indemnify that person against such liability under the Georgia Code.

(f) If this Indemnification Policy or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Foundation shall nevertheless indemnify and hold harmless each Trustee, officer, employee and agent of the corporation, as to costs, charges and expenses (including attorneys' fees), judgements, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Indemnification Policy that shall not have been invalidated and to the full extent permitted by the applicable law.