Required Elements of University-Associated Entity Relationship

The University of North Carolina encourages the establishment of private organizations, known for purposes of these regulations as Associated Entities, to support the constituent institutions and other units of the University, consistent with G.S. 116-30.20. Associated Entities engage in activities that are critical to and aligned with the mission, goals, and objectives of the constituent institutions and institutional units with which they are associated. Activities undertaken by Associated Entities include fundraising, provision of services to students and campus organizations, research support, and collaborating with organizations outside the University to promote and support initiatives and activities that are related to the University's mission of teaching, research, and service. Associated Entities and the constituent institutions and units of the University with which they are associated rely on the dedicated guidance, support, and leadership of Associated Entity directors, officers, donors, and volunteers to pursue shared goals and objectives.

Each Associated Entity becomes affiliated with either a constituent institution or General Administration pursuant to the written approval of the chancellor (in the case of an entity associated with a constituent institution) or the president (in the case of an entity associated with General Administration). Associated Entities are in turn, subject to the direction of the applicable Associated Entity's governing body and provide funding and other support to the Approving Institution. In recognition of and to facilitate such support, Associated Entities are permitted in accordance with these regulations and pursuant to written agreements with Approving institutions, to represent that they are affiliated with the University or a constituent institution. In addition, many Associated Entities benefit from resources of the constituent institution in carrying out their activities.

These regulations establish a framework of cooperation and coordination within which the chancellor or the president of the Approving Institution are expected to structure the Approving Institution's engagement with its Associated Entities. The authority and responsibility for establishing and maintaining cooperative and mutually beneficial relationships between the Approving Institution and its Associated Entities rests with the chancellor or, as the case may be, the president, of the applicable Approving Institution. These regulations recognize the independence of each Associated Entity as an organization that is separate from the Approving Institution, while ensuring the Approving Institution maintains essential oversight and control over the Approving Institution's name, marks, resources, and activities that could impact accreditation standards, and compliance responsibilities applicable to the Approving Institution. Further, these regulations recognize that funds raised by Associated Entities are to be used to support the Approving Institution consistent with donor intent and applicable law. Accordingly, these regulations articulate standards for governance and operations of Associated Entities in their support of and interaction with their Approving Institutions, and create pathways of communication to ensure that the University and its constituent institutions are informed about the activities of its Associated Entities so that those activities remain aligned with the mission, goals, and objectives of the Approving Institution. The president adopts these regulations to apply to any University Associated Entity.

A. Definitions. As used in these regulations:

1. An "Associated Entity" means any foundation, association, corporation, limited liability company (LLC), partnership, or other nonprofit entity that was: (a) established by officers of the University; or (b) that is controlled by the University; or (c) that raises funds in the name of the University; or (d) that has a primary purpose of providing services or conducting activities in furtherance of the University's mission pursuant to an agreement with the University; or (e) that has a tax-exempt status that is based on being a support organization for the University.

2. An "Athletically Related Associated Entity" means an Associated Entity that supports or conducts activities in furtherance of an Approving Institution's intercollegiate athletics program, as determined by the chancellor of the Approving Institution.

3. "Approving Institution" means (a) a constituent institution of the University of North Carolina that approves an Associated Entity, or (b) the General Administration for an Associated Entity approved by the president.

4. "General Administration" means the Office of the President and the affiliated programs of the University associated with General Administration that are not centers or institutes of a constituent institution.

5. "Major Associated Entity" means an Associated Entity which has annual expenditures of $100,000 or more.

6. "Minor Associated Entity" means an Associated Entity which has annual expenditures of less than $100,000.

7. "Special Purpose Entity" means an Associated Entity (including any approved subsidiary or affiliate of an Associated Entity) that is: (a) established by an Approving Institution or is controlled by an Approving Institution; (b) undertakes a specified activity for the Approving Institution as its sole purpose (e.g., constructing or managing facilities, research development, or intellectual property management); and (c) does not engage in fundraising activities.

8. "State" means the State of North Carolina.

9. "University" means the University of North Carolina, including its constituent institutions.

10. When "president or chancellor" is used in these regulations, it means the chancellor if the Approving Institution is a constituent institution and it means the president if the Approving Institution is the General Administration.

B. Creation and Approved Status of Associated Entities

1. Associated Entity Must be Approved. An Associated Entity (including any subsidiary or affiliate of an existing Associated Entity) must be approved in writing by the president, the chancellor, or the president's or chancellor's designee. An Associated Entity must be approved in order to receive University-provided services or to be able to use any University names, logos, or marks.

2. Abide by Relevant University Policies; Alignment with Mission and Goals. In order to obtain approved status, the Associated Entity must agree, pursuant to a written agreement also described in subpart F.1., to abide by the policies or regulations established by the University and by the Approving Institution, including the requirements of these regulations, and to assure that the activities of the Associated Entity align with the mission, goals, and standards of or applicable to the Approving Institution, including accreditation standards applicable to institution-related entities, and athletics conference standards applicable to intercollegiate athletics programs. Approving Institutions should make reasonable efforts to notify Associated Entities of the accreditation standards, athletic conference standards, and/or the institutional policies that may affect Associated Entities' operations.

3. Removal of Approved Status. The head of the Approving Institution may adopt policies or provide in written agreements with any Associated Entity that an Associated Entity's approved status shall be removed only upon advance written notice specifying material noncompliance with or breach of: (a) these regulations; (b) the applicable policies of the University and the Approving Institution; or (c) the written agreement required by sections B.2., or F.1. The advance written-notice period, if any, required by a written agreement or policy shall not exceed sixty (60) days, during which time the Approving Institution may consider and accept or reject a corrective action plan submitted by the Associated Entity. In the absence of any such authorized provision in the Approving Institution's written agreement with the Associated Entity and/or the Approving Institution's policies, the head of the Approving Institution may remove the approved status of an Associated Entity of that Approving Institution.

4. Compliance with Policies, Regulations, and Agreements. The head of the Approving Institution (chancellor or president) shall be responsible for taking reasonable steps to ensure that the Approving Institution and its Associated Entities operate in accordance with all requirements of these regulations, the applicable policies of the University and the Approving

Institution, and the written approvals and agreements between the Approving Institution and each Associated Entity.

C. Organizational Requirements of an Associated Entity

1. Purpose to Benefit University. The Associated Entity must be organized for the primary purpose of (a) supporting the University or one or more of its constituent institutions or programs, and/or (b) conducting activities that are in furtherance of the mission of the University or of one or more of its constituent institutions or programs.

2. State Nonprofit Entity. The Associated Entity must be organized on a nonprofit basis as a separate legal entity recognized under and in compliance with North Carolina law. If a constituent institution proposes to establish or approve an Associated Entity on a for-profit basis, it must receive prior approval from the Board of Governors.

3. Tax-Exempt Status. Except as provided in paragraph C.2. (concerning Associated Entities established on a for-profit basis), an Associated Entity must either (a) apply for, receive, and maintain both federal and State tax-exempt status, or (b) be eligible to utilize the tax-exempt status of one or more constituent institutions or tax-exempt Associated Entities.

4. Dissolution of Associated Entity. The Associated Entity's governing documents including but not limited to the articles of incorporation or by-laws if a corporation, and the articles of organization or operating agreement if a limited liability company, must address dissolution and provide that upon dissolution of the Associated Entity, unless otherwise designated by the donor of an asset, all of its assets will revert to (a) the Associated Entity's Approving Institution, (b) another Associated Entity named in the governing documents of the dissolving Associated Entity, which Associated Entity shall be approved by the same Approving Institution as the dissolving Associated Entity, and/or (c) some combination of the above.

5. Requirements for Members of Associated Entity Governing Body; Board Members for Athletically Related Associated Entities

a. All Associated Entities. At least one senior academic or administrative officer (SAAO) of the Approving Institution or a designee of the president or the chancellor of the Approving Institution must sit as an ex-officio (either voting or nonvoting) or regular member of the Associated Entity's governing body.

b. Athletically Related Associated Entities. Prior to appointing members to serve on the governing body of an Athletically Related Associated Entity, the president or chair of the Athletically Related Associated Entity's governing body shall consult with the chancellor of the Approving Institution concerning such appointment.

6. Audit Committee Required

a. A Major Associated Entity's by-laws must provide for a standing audit committee or other committee with an audit function. The audit committee must receive the report of the individual or firm that conducts the Associated Entity's annual audit and relevant tax forms to be submitted by the Associated Entity.

b. A Minor Associated Entity's by-laws must provide for a committee which has these audit functions.

c. No employee of the Associated Entity may serve on an audit committee or a committee with an audit function. If practical, each audit committee or committee with an audit function should have a financial expert as a member.

d. A Special Purpose Entity is not required to have an audit committee provided that it is subject to independent audit at the request of one or more designated trustees, sureties, insurers, certificate holders or bondholders, or is audited during the Approving Institution's audit.

e. A single member LLC is not required to have an audit committee provided its operations are audited in connection with the audit of the member.

D. Financial and Accounting Controls

1. Sound Accounting and Business Principles. An Associated Entity must use sound fiscal and business principles, ensure that a sound internal control structure is in place, and follow generally accepted accounting procedures.

2. Annual CPA Audit. A Major Associated Entity and its single member subsidiaries (LLC or corporations) must be audited on an annual basis by an independent CPA firm in good standing with the North Carolina Board of CPA Examiners and with substantial experience in performing audits for organizations of similar scope and complexity to the Major Associated Entity. A Minor Associated Entity must have an annual audit conducted either by the Approving Institution's internal auditor, another University internal auditor, or an independent CPA firm. A Special Purpose Entity must be audited every two years. A Special Purpose Entity which has annual expenditures of $100,000 or more must be audited by an independent CPA firm. A CPA firm providing an audit for a Major Associated Entity may not provide nonauditing services to the Associated Entity other than tax preparation services that are preapproved by the audit committee.

a. An Associated Entity of a constituent institution must provide copies of the audit report, management letters, and responses to management letters to the chancellor of the Approving Institution, through the chancellor to the governing board of the Approving Institution and the president, and through the president to the Board of Governors.

b. An Associated Entity of the General Administration must provide copies of the audit report, management letters, and responses to management letters to the president, and through the president to the Board of Governors.

3. Annual Budgets. Each Associated Entity must create an annual operations and capital budget. If requested to do so, an Associated Entity shall meet with the head of the Approving Institution (or designee) to review the Associated Entity's proposed annual operations and capital budget, and any subsequent proposed material changes to such annual operations and capital budget. Each Associated Entity in setting its budget shall consider in good faith all suggestions offered by the head of the Approving Institution (or designee) regarding the proposed budget of the Associated Entity and how the budget might be better aligned with the mission, goals, and objectives of the Approving Institution.

4. Officer and Employee Compensation. All salary and nonsalary compensation provided by the Associated Entity to its officers or employees must be approved by the Associated Entity's governing board. The Associated Entity must comply with Board of Governors Policy Section 300.1.1 concerning the prohibition of payments to specified University employees. This requirement does not prohibit the Associated Entity from reimbursing its officers or employees for expenditures made on behalf of the Associated Entity. Each Athletically Related Associated Entity shall, if requested, make available for inspection information detailing the salary and nonsalary compensation and reimbursements provided to each officer and each employee of the Associated Entity and each employee of the University assigned to the Associated Entity for the prior year.

5. Indemnification of University. The Approving Institution may require an Associated Entity to indemnify and hold the Approving Institution and the University harmless from any damages or liabilities that the Approving Institution or the University incurs as a result of the Associated Entity's actions.

6. University-Associated Entity Monetary Transfers. All transfers of funds from the Associated Entity to the University or to the Approving Institution must be documented in writing or electronically in a form that has a retrievable transaction trail. Each Athletically Related Associated Entity shall, if requested by the chancellor of the Approving Institution, submit an annual report summarizing transfers of funds from the Associated Entity to the Approving Institution or to third parties for the benefit of the Approving Institution for the prior year.

7. Whistleblower Protection. An Associated Entity must have a confidential and anonymous mechanism to encourage individuals to report any inappropriateness within the entity's financial management and must prohibit punishment of or retaliation against any employee for reporting problems.

8. Chief Executive Officer. The chief financial officer of the Approving Institution may not be the chief executive officer of an Associated Entity.

9. Acquisition of Debt. A Minor Associated Entity may not acquire debt in excess of $100,000 that is not to be publicly traded without first notifying the president or the chancellor or designee of the Approving Institution and consulting with the vice president for finance of the University. A Major Associated Entity may not acquire debt in excess of $500,000 that is not to be publicly traded without first notifying the president or the chancellor or designee of the Approving Institution and consulting with the vice president for finance of the University. In determining the level of scrutiny to give to the proposed transaction, the vice president shall take into account the amount of the debt in relationship to the Associated Entity's assets and income and the extent of experience of the Associated Entity in entering into similar debt transactions. A Special Purpose Entity that issues debt to construct facilities for the University must provide a financial or construction audit to the vice president for finance of the University at the vice president's request or to the governing board of the Approving Institution at the request of the chair of the governing board.

10. Audit Findings. Within 90 days of the issuance of an audit report with audit findings, the Associated Entity must demonstrate to the president or the chancellor of the Approving Institution and to the vice president for finance that satisfactory progress has been made to implement a corrective action plan. Failure of an Associated Entity to receive an unqualified audit opinion, to comply with the reporting requirements of this regulation, or to satisfactorily implement a corrective action plan in response to an audit finding may result in the Associated Entity's losing its approved status.

E. Insurance and Bonding

1. Bonding Required. Officers and employees of Major Associated Entities who have check-signing authority or who handle cash or negotiable instruments must be bonded in an amount determined to be reasonable by the Associated Entity's governing body, in collaboration with the Approving Institution. The governing body of a Minor Associated Entity should consider requiring bonding of appropriate employees.

2. Insurance. The governing body of an Associated Entity, working in collaboration with the Approving Institution's insurance and risk management personnel, should evaluate the potential risks arising from the operation of the Associated Entity and obtain commercially reasonable amounts of general liability and directors'/officers' insurance.

F. Provision of Administrative and Other Services by University for Associated Entity

1. Written Agreement Required. The Associated Entity must enter into a written agreement with the Approving Institution in which the Associated Entity agrees to abide by the policies and regulations established by the University and by the Approving Institution. An Associated Entity may only use University or constituent institution assets, facilities, and personnel pursuant to the terms of the written agreement.

2. Reimbursement of Costs. Any reimbursement to the Approving Institution or the University for services the Approving Institution or the University provides to the Associated Entity must be made pursuant to a written agreement between the University or the Approving Institution and the Associated Entity entered into before the service is provided.

3. Control of University Personnel. When University personnel provide services for the Associated Entity and there arises a conflict between the University and the Associated Entity, the University's employee must comply with the policies, regulations, and directives of the University.

G. Acceptance of Gifts by Associated Entity

1. Direction and Control of Fundraising and Development Activities. The fundraising and development activities of the Associated Entity shall be conducted subject to the policies and regulations of the Approving Institution and the University and coordinated with the Approving Institution's development office. Absent prior approval from the Approving Institution, the Associated Entity may not engage in fundraising or development activities that impose obligations on the Approving Institution, or receive gifts that impose obligations on the Approving Institution.

2. Restricted or Conditional Gifts that Require University Approval. An Associated Entity may not accept any restricted or conditional gifts that impose an obligation on the University or the Approving Institution or the State to expend resources in addition to the gift or that impose an obligation on the University's or the Approving Institution's operations without the Approving Institution's prior approval. In addition, an Associated Entity may not accept a gift which has any restriction that is unlawful.

3. Notification to Donors of Restricted Gift Policies. An Associated Entity must advise prospective donors of all restricted or conditional gifts to the Associated Entity if acceptance of the gift is conditioned upon the Approving Institution's approval.

H. Conflict of Interest and Ethics Policies

1. Policies Required. The Associated Entity must have in place conflict of interest and ethics policies, as approved by the Approving Institution, pertaining to relationships between the Approving Institution, the Associated Entity, members of the governing body of the Associated Entity and persons doing business with the Associated Entity, and establishing required ethical standards for the members of the governing body and employees of the Associated Entity.

2. Transactions Between Associated Entity and its Employees. All transactions (other than reimbursements as provided in section D.4.) between the Associated Entity and an individual member, manager, officer, director, or employee of the Associated Entity must be approved by the Associated Entity's governing body. For the avoidance of doubt, only an individual designated as a member pursuant to state law shall be considered a "member" for purposes of this section.

3. Recusal from Business Decisions. No Associated Entity individual member, manager, officer, director, or employee having a private business interest in an Associated Entity business transaction may be involved in the decision with respect to whether the Associated Entity should enter into such transaction.

4. Associated Entity Scholarships. No Associated Entity scholarship or fellowship award may be made to an individual member, manager, officer, director, or employee of the Associated Entity or to a family member of such person unless the recipient of the award is determined by an independent awards committee or is overseen by the Approving Institution's Financial Aid and Scholarship Office. For the avoidance of doubt, only an individual designated as a member pursuant to state law shall be considered a "member" for purposes of this section.

I. Reports Required to be Submitted by Associated Entity to University

1. The Associated Entity must file annual reports with the president or chancellor of Approving Institution covering the following items:

a. A list of all members of the Associated Entity's governing body;

b. A copy of the publicly disclosed portion of the Associated Entity's Form 990, or other series 990 form or other similar information return; and

c. A copy of the Associated Entity's CPA audit report and related management letters and responses to management letters.

2. At the request of the chancellor, president, or the chair of governing body of the Approving Institution, the Associated Entity must meet with the requesting person, his or her designee, or the internal auditor of the Approving Institution and allow that person to inspect any information requested.

J. Miscellaneous Requirements

1. Associated Entity Communications. An Associated Entity must conduct business in its own name and all correspondence, advertisements, and other communications by the Associated Entity must clearly indicate that the communication is from the Associated Entity, and not from the Approving Institution or the University.

2. Lobbying and Political Activities. An Associated Entity must comply with all provisions of the Internal Revenue Code and all State laws regarding lobbying and political activity.

3. Associated Entity Courses and Seminars. An Associated Entity may not offer any course or seminar in which the University's name is used without first obtaining the permission of the institution(s) whose name(s) will be used.

4. Record Retention Schedule. An Associated Entity must have a policy governing retention and destruction of documents including electronic files and which prohibits destruction of documents if an audit other than in the ordinary course, investigation into wrongdoing, or litigation is anticipated or underway.

K. Waiver

If the application of any of the requirements of these regulations to a particular Associated Entity in specific circumstances is of limited benefit and is unduly burdensome, the president may waive that requirement as to that specific Associated Entity under circumstances that are set out in writing and supported by the Approving Institution.

L. Effective Date

Every Associated Entity shall be in compliance with these regulations no later than July 1, 2015.