

Amended as of August 22, 2008

**BYLAWS OF  
THE AMERICAN COLLEGE OF EMPLOYEE BENEFITS COUNSEL, INC.**

**ARTICLE I.**

**Name**

The name of the corporation is The American College of Employee Benefits Counsel, Inc. (hereinafter the “College”).

**ARTICLE II.**

**The Nature of the College**

**Section 1. Nonprofit Corporation.** The College is organized as a nonprofit, nonstock corporation formed under the General Corporation Law of the State of Delaware and, except as otherwise limited by the Certificate of Incorporation, shall have all powers permitted to any such corporation.

**Section 2. Purpose.** The College is dedicated to elevating the standards of the practice and advancing the public’s understanding of employee benefits law. In pursuit of these goals, the College is dedicated to fostering excellence and professionalism in employee benefits by: (i) setting high standards for employee benefits education and practice; (ii) encouraging the study and development of employee benefits laws and fostering professional discussions of significant employee benefit issues; and (iii) recognizing those employee benefits attorneys who have dedicated their careers to the field of employee benefits and who in doing so have demonstrated their leadership, character, ability and professional responsibility.

**Section 3. Membership Admissions Standards.** The College is a professional, educational and honorary association of experienced employee benefits lawyers, including lawyers engaged in the private and public practice of law, government, academia, consulting, corporate law departments, judges and related types of employment, as determined from time to time by the Board of Governors (hereinafter referred to as “Employee Benefits Practitioners”).

The College honors employee benefits attorneys whose performance in the practice of their profession and dedication to employee benefits law over the years exemplifies the highest standards of professionalism and achievement by granting them membership as Fellows. Membership will be extended by invitation to individuals who have proven to their peers, and to the bar and public, through sustained performance related to the practice or support of employee benefits law, that they: (i) have completed at least twenty years experience (or such other period of time as the Board of Governors may approve by a vote of two-thirds of its members) as an Employee Benefits Practitioner following admission to the practice of law; (ii) possess and have exhibited throughout their career the highest level of character, integrity, professional expertise, leadership and ethical standards; (iii) have demonstrated a sustained commitment to the development and pursuit of public awareness and understanding of the law of employee benefits through such activities as writing, speaking, participating in public policy analysis, public education or public service; and (iv) provide exceptionally high quality professional services to clients, the bar and the public.

**ARTICLE III.**  
**The Membership**

**Section 1. Classes of Membership.** The classes of membership are Fellows, Honorary Fellows, Emeritus Fellows and In Memoriam Fellows. Only those persons who have met the standards of qualification required for their class of membership, as may be established by the Board of Governors from time to time, are eligible for membership. Fellows are those individuals who have been elected and inducted into the College.

(a) **Fellows:** Any person who has substantially met the qualifications as described in Article II, Section 3 for a period of not less than twenty years (or such shorter period of time as the Board of Governors may from time to time establish) are eligible for consideration for election as a Fellow and to have all the rights and privileges of Fellows. The tenure of practice and specialty, as well as the stature justifying consideration for the honor of election to the College, will be verified by the nominators from personal observation or sources of unimpeachable integrity.

(b) **Honorary Fellows:** Any person who has given outstanding service or made a valuable contribution to employee benefits law will be eligible for election as an Honorary Fellow and to have all the rights and privileges of a Fellow, except the rights to vote and hold office, but will not be required to pay dues.

(c) **Emeritus Fellows:** The Board of Governors may admit or reclassify as an Emeritus Fellow any person who met the qualification requirements of a Fellow (whether or not the person has been admitted as a current Fellow) during the person's period of active practice but is no longer actively engaged or employed as an Employee Benefits Practitioner. A person may be admitted to the status of Emeritus Fellow upon nomination in accordance with the procedures for nomination of Fellows, or upon application to the Board of Governors in accordance with such procedures as the Board of Governors may from time to time establish. Emeritus Fellows will have all the rights of Fellows except the right to vote and hold office, but will not be required to pay an initiation fee or dues. If an Emeritus Fellow returns to active practice as an Employee Benefits Practitioner, the Emeritus Fellow must promptly notify the College and the Emeritus Fellow will (upon payment of any back dues from the date of his or her return to active practice or such employment) be reinstated to the status of Fellow. The practice of law or employment as an Employee Benefits Practitioner for this purpose will include only compensated services (excluding expense reimbursements) and not services rendered on a pro bono basis.

(d) **In Memoriam Fellows:** The Board of Governors may admit as an In Memoriam Fellow a person who has died and who met the qualification requirements of a Fellow during his or her professional career. If an individual who is a member of the College in any of the other classes of membership dies, the Board of Governors will convert that individual's class of membership to In Memoriam Fellow.

**Section 2. Limitation on Membership.** The Board of Governors may establish, from time to time, a limitation on the number of Fellows as necessary to maintain the standards for membership. It may also establish a limitation on Fellows from any category of practice or geographical area, or any other limitation on membership as the Board of Governors

deems necessary to maintain a balance of interests and geographical distribution that will contribute to the collegial fellowship and the objectives of the College.

### **Section 3. Election to Fellowship.**

**(a) Nominations:** To be considered for election as a Fellow, an individual must be nominated by two Fellows in good standing. No nomination may be made by (a) a person in the same firm, corporation or other entity as the candidate, or (b) a person who is related by birth or marriage to the candidate, or (c) a person who, individually or through his or her firm or employer, is regularly engaged as counsel for, or consultant to, the candidate or for the employer, partner or firm of the candidate.

**(b) Processing of Nominations:** The Board of Governors of the College, or their delegate, will determine the appropriate method of processing nominations. The nomination must be made on an application form approved from time to time by the Board of Governors or its designee. Nominations of persons to be considered for election as a Fellow must be forwarded to the Board of Governors by such date as may be established from time to time by the Board of Governors or its designee. The Board of Governors may require the payment of an application fee for purposes of offsetting the administrative costs associated with the consideration of a nomination.

**(c) Submission to the Board of Governors of the College; Voting:** The application, all appropriate information and any summary of qualifications and recommendations shall be submitted to the Board of Governors by the date specified by the Board of Governors. The Board of Governors, by a majority vote, may request any nominee to appear personally before the Board of Governors or to submit additional information that would be helpful to a decision on the nomination. After due consideration of the applications and supporting information, the Board of Governors may elect a Fellow by a vote of two-thirds of the Governors participating in the process. A member of the Board of Governors of the College may not vote on a nomination for election of a partner, business or professional associate, relative, spouse, former spouse, or client. The Board of Governors may not nominate or elect a Fellow (except a judicial or Honorary Fellow) on its own initiative. However, at all times individuals serving as members of the Board of Governors may in their own individual capacity make nominations.

**(d) Election of Judges:** The Board of Governors has the sole authority to initiate, nominate and elect judges for admission as Fellows. A Fellow who regularly practices in the jurisdiction of a judge under consideration may not initiate an application or participate in the consideration of or vote on the candidacy of that judge, provided, however, this limitation will not apply in the case of a judge or justice of a court having national jurisdiction.

**(e) Induction:** The President of the Board of Governors will on behalf of the College and its Board of Governors extend an invitation to become a Fellow to each nominee who is elected by the Board of Governors. Unless the Board of Governors determines otherwise, the elected Fellow must be present in person to be inducted into the College at the time and place designated for such induction within two years of election or the election of that Fellow will expire and be voided. Induction will be at a meeting of the College, or at such other time and place as the Board of Governors may determine to be appropriate.

(f) **Charter Fellows:** The names of the initial Fellows are set forth on Schedule A attached hereto.

**Section 4. Induction and Membership Fees.** Each Fellow must pay the induction and annual membership fees in an amount and at a time determined by the Board of Governors. The Treasurer or the Treasurer's designee shall mail to each Fellow a statement showing the amount of fees due and the date for payment. Honorary, Emeritus and In Memoriam Fellows will not be required to pay annual membership fees. Honorary, Emeritus and In Memoriam Fellows shall not be required to pay an induction fee.

**Section 5. Rights to Vote and Hold Office.** The right to vote and hold office in the College is limited to Fellows other than Honorary or Emeritus Fellows.

**Section 6. Quorum and Voting.** Forty (40) Fellows eligible to vote and present at the meeting will constitute a quorum for the transaction of business at any meeting of the Fellows whether they are present in person, by telephone or by proxy. A vote of a majority of Fellows who are present in person, telephonically or by proxy, will constitute action by the Fellows on any matter contained in the notice of the meeting. No matter may be considered at a meeting of the Fellows which was not addressed by the notice of the meeting.

**Section 7. Discipline and Expulsion.**

(a) **Vote of the Board of Governors of the College:** The Board of Governors, by a vote of two-thirds of those present (in person, telephonically or by proxy) and entitled to vote, may expel from membership, call for the resignation of, or otherwise discipline or censure any Fellow for reasonable cause which includes, but is not limited to, misconduct of the Fellow connected with the College or the Fellow's profession or conduct injurious or derogatory to the order, dignity, peace, reputation, interests, purposes or objectives of the College. The issue of discipline and expulsion will be considered by the Board of Governors upon the request in writing of three Fellows or upon the request of any member of the Board of Governors at a regular or special meeting of the Board of Governors. A Fellow charged with such misconduct must be given written notice of the charges, mailed to the address of the Fellow appearing on the membership register, and provided an opportunity for hearing at a time and place designated in the notice, not less than thirty (30) days from the date of the mailing. The Board of Governors may establish a committee of the Board of Governors to conduct such a hearing, to investigate the matter, and to report its conclusions to the Board of Governors of the College which may act upon the report without further notice or hearing.

(b) **Revocation of License:** Any Fellow whose license or right to practice such person's profession has been revoked pursuant to disciplinary procedures of any court, bar association, professional organization or other body with the right to do so shall cease to be a Fellow of the College.

(c) **Failure to Pay Membership Dues:** The Board of Governors will establish, from time to time, procedures to determine when any Fellow who is more than six (6) months delinquent in the payment of annual membership fees shall be dropped from membership and under what circumstances such Fellow's status as a member of the College may be reinstated; provided, however, that no Fellow will be reinstated prior to such delinquency

being remedied. The Treasurer will notify a Fellow of delinquency of payment of dues and the termination rules by written notice mailed to the address of the Fellow appearing on the membership roster, not less than fifteen (15) days prior to date of termination. The Board of Governors may abate any delinquency in the account of a Fellow with respect to the period preceding such Fellow's election as an Emeritus Fellow.

**Section 8. Refunds.** No dues will be refunded to any Fellow whose membership terminates for any reason, unless such refund is approved by the Board of Governors.

## **ARTICLE IV.**

### **Officers**

**Section 1. Officers.** The Officers of the College are a President, a Secretary and a Treasurer, each of whom will be elected by and will be a member of the Board of Governors of the College. Such other Officers and Assistant Officers, including one or more Vice Presidents (the number thereof to be determined by the Board of Governors) as deemed necessary or desirable, may be elected or appointed by the Board of Governors. Any two offices may be held by the same person, provided that the President may not hold any other office.

**Section 2. Election and Term of Office.** The Officers of the College will be elected annually by the Board of Governors of the College at the first meeting of the Board immediately following the annual meeting of the Fellows. If the election of Officers will not be held at such meeting, such election will be held as soon thereafter as may be convenient. Each Officer will hold office until such person's successor shall have been duly elected and qualified or until such person's death, resignation or removal in the manner hereinafter provided. Except as otherwise specifically provided by the Board of Governors, no Officer may hold any office for more than three one-year terms. A year for purposes of this Article IV means the period from the end of an annual meeting to the end of the next annual meeting of the Fellows.

**Section 3. President.** The President is the chief executive and principal operating officer of the College. The President in general will supervise the business and affairs of the College; will preside at all meetings of the Board of Governors and of the Executive Committee, if such has been designated by the Board of Governors; may sign with the Secretary or any other proper officer of the College thereunto, authorized by the Board of Governors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Governors authorizes to be executed, except in cases where signing authority thereof shall be expressly delegated by the Board of Governors or by these Bylaws to some other officer or agent of the College, or the law provides to be otherwise signed or executed; and in general will perform such other duties as may be set forth in these Bylaws or by the Board of Governors or by any Executive Committee serving from time to time. The President has the authority to employ and discharge the staff of the College.

**Section 4. Vice President.** In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice President (or in the event there is more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation, then as specified by the Board of Governors) will all perform the duties of the President and, when so acting, will have all the powers of and be

subject to any restrictions upon the President. The Vice President will perform such duties as from time to time may be assigned by these Bylaws or by the President (when the Vice President is not acting as or for the President) or by the Executive Committee or by the Board of Governors.

**Section 5. Secretary.** The Secretary will: (i) keep the minutes of the Board of Governors' meetings in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be the custodian of the corporate records; (iv) keep a register of the mailing address of each Board of Governors member which has been furnished to the Secretary; and (v) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by these Bylaws or by the Board of Governors or by the President or by the Executive Committee, if any.

**Section 6. Treasurer.** If required by the Board of Governors, the Treasurer will give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board of Governors shall determine. The Treasurer will: (i) have, with such other officer or officers as the Board shall designate, charge and custody of and be responsible for all fund and securities of the College; receive and give receipts for monies due and payable to the College from any sources whatsoever, and deposit all such monies in the name of the College in such banks, trust companies or other depositories as are selected in accordance with these Bylaws; and (ii) in general perform all of the duties as from time to time may be assigned to such person by these Bylaws or by the Board of Governors or by the President or by the Executive Committee, if any.

**Section 7. Assistant Secretaries and Assistant Treasurers.** The Assistant Secretaries and Assistant Treasurers, in general, will perform such duties as may be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Governors, and, in the absence of the Secretary or Treasurer, respectively, will have all of the powers and duties of the Secretary or Treasurer, respectively. Assistant Secretaries and the Assistant Treasurer will, respectively, if required by the Board of Governors, give bond for the faithful discharge of their duties in such sums and with such sureties as the Board of Governors shall determine.

**Section 8. Immediate Past President.** The last preceding President (who is not continuing as President) shall serve as Immediate Past President for a one year term after serving as President. The Immediate Past President will be a member of the Board of Governors if he or she is not otherwise a duly elected member of the Board.

**Section 9. Resignations.** Any Officer may resign at any time by giving written notice of resignation to the Board of Governors or to the President of the College. Any such resignation will take effect at the time of receipt of such notice or on the date specified in the notice.

**Section 10. Removal.** Any Officer or agent elected or appointed by the Board of Governors may be removed by the Board of Governors whenever in its judgment the best interest of the College would be served thereby.

**Section 11. Vacancies.** A vacancy in any office, because of death, resignation, removal, disqualification or otherwise, will, to the extent required by these Bylaws, be filled by the Board of Governors of the College for the unexpired portion of the term.

**Section 12. Compensation.** The Officers will serve without compensation, but, subject to guidelines set by the Board of Governors, may be reimbursed for reasonable expenses incurred on behalf of the College.

**ARTICLE V.**  
**Board of Governors of the College**

**Section 1. General Powers.** Except as otherwise provided in the Certificate of Incorporation, the business and affairs of the College will be under the direction of the Board of Governors.

**Section 2. Number, Election, Tenure and Qualifications.** There shall be fifteen members of the Board of Governors, or such additional number as the Fellows may determine by a majority vote of the Fellows who are present at a meeting called for such purpose or as provided in Article IV, Section 8 with respect to the Immediate Past President. Members of the Board of Governors will be elected annually for three year terms, or until their successors are duly elected and qualified. Members of the Board of Governors will be elected from the Fellows (other than Honorary or Emeritus Fellows) at a meeting of the Fellows by a majority vote of the Fellows who are present (in person, telephonically or by proxy). A Governor who has served two consecutive terms of three years is not be eligible for reelection for a period of two years thereafter. A year for purposes of this Article V means the period from the end of an annual meeting to the end of the next annual meeting of the Fellows.

**Section 3. Resignation.** Any member of the Board of Governors may resign at any time by giving written notice to the President, Secretary or the Board of Governors. A resignation of any member of the Board of Governors shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation will not be necessary to make it effective.

**Section 4. Removal of a Member of the Board of Governors.** Any member of the Board of Governors may be removed, either with or without cause, at any time, by the vote of at least three-fifths of the members of the Board of Governors.

**Section 5. Vacancies.** Any vacancy in the Board of Governors may be filled by the affirmative vote of a majority of the remaining members of the Board of Governors at a meeting called for that purpose. A Board of Governors member elected to fill a vacancy will be elected until the next meeting of the Fellows at which time a replacement member will be elected by the Fellows for the unexpired term of the predecessor in office. Any position of a Board of Governors member to be filled by reason of an increase in the number of members of the Board of Governors will be filled by election at a regular meeting of the Fellows or at a special meeting of the Fellows called for that purpose.

**Section 6. Presiding Officer.** The President or another officer will preside at all meetings of the Board of Governors.

**Section 7. Quorum.** A majority of the members of the Board of Governors fixed by Section 2 of this Article V will constitute a quorum for the transaction of business at any meeting of the Board of Governors, but if less than such majority is present at a meeting (in person, telephonically or by proxy), a majority of the Board of Governors present may adjourn the meeting from time to time without notice.

**Section 8. Manner of Acting.** The act of the majority of the Board of Governors present at a meeting at which a quorum is present will be the act of the Board of Governors, unless a greater vote is required by the Bylaws. Any action required or permitted to be taken may be taken without a meeting, if, prior to such action, a written consent thereto is signed by each member of the Board of Governors and such written consent is filed with the minutes of meetings of the Board of Governors. Additionally, the Board of Governors may conduct the business of the College by conference call or electronic communication, provided due notice of such call or communication is given to the members of the Board of Governors.

**Section 9. Presumption of Assent.** A member of the Board of Governors who is present at a meeting of the Board of Governors at which action on any matter is taken will be presumed to have assented to the action unless a dissent or record of the members' negative vote is noted in the minutes of the meeting.

**Section 10. Compensation.** The Board of Governors will serve without compensation, but, subject to guidelines set by the Board of Governors, may be reimbursed for reasonable expenses incurred on behalf of the College.

**Section 11. Initial Members of the Board of Governors.** The names of the initial members of the Board of Governors are set forth on Schedule A attached hereto.

## **ARTICLE VI.** **Meetings**

**Section 1. Annual Meetings of the Fellows.** An annual meeting of the Fellows of the College will be held each calendar year at such time and place as may be determined by the Board of Governors for the purpose of electing members of the Board of Governors and for the transaction of such other business as may come before the meeting. If the election of the members of the Board of Governors is not held at the time designated herein for the annual meeting of the Fellows, or at any adjournment thereof, the Board of Governors will cause the election to be held at a special meeting of the Fellows as soon thereafter as may be convenient. Notice of such annual meeting may be given as provided in Section 4 of this Article VI.

**Section 2. Meetings of the Board of Governors.** The Board of Governors may provide, by resolution, the time and place for regular meetings of the Board of Governors without notice other than such resolution. The Board of Governors may, from time to time, provide the time and place for the holding of regular meetings of the Fellows, the Honorary Fellows, and the Emeritus Fellows as it deems appropriate.

**Section 3. Special Meetings.** Special meetings of the Board of Governors may be called by or at the request of the President or any three members of the Board of Governors. The person or persons authorized to call special meetings of the Board of Governors

will notify the Secretary of the time and place of any special meeting of the Board of Governors. The Board of Governors may call a special meeting of the Fellows, the Honorary Fellows, and the Emeritus Fellows from time to time as it deems appropriate.

**Section 4. Notice.** A notice of a meeting of the Fellows, Honorary Fellows and Emeritus Fellows will be given at least ten (10) days previous thereto. Any notice for a meeting of the Board of Governors will be given at least two (2) days prior thereto so long as members of the Board of Governors may attend such meeting by telephone or by other electronic medium. Any such notice will be given by written notice delivered personally or mailed to each member of the Board of Governors (or each Fellow, Honorary Fellow and Emeritus Fellow) at such person's business address, or by facsimile or electronic communication, provided, however, that if such person has indicated by a writing to the Secretary that notices should be sent to some other address, that alternate address will be used. If mailed, such notice will be deemed to be delivered when deposited in the United States mail so addressed, with appropriate postage. If notice be given by facsimile or electronic communication, such notice shall be deemed to be delivered when the facsimile or electronic communication is transmitted. Any person may waive notice of any meeting. The attendance of a person at a meeting will constitute a waiver of notice of such meeting, except when a member of the Board of Governors attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Governors (or of the Fellows, Honorary Fellows or Emeritus Fellows) need be specified in the notice or waiver of notice of such meeting.

## **ARTICLE VII.** **Miscellaneous**

**Section 1. Contracts.** The Board of Governors may authorize any Officer or Officers, agent or agents, to enter into a contract or execute and deliver any instrument in the name of and on behalf of the College, and such authority may be general or confined to specific instances.

**Section 2. Loans.** No loans may be contracted on behalf of the College, and no evidences of indebtedness may be issued in its name unless authorized by a resolution of the Board of Governors. Such authority may be general or confined to specific instances.

**Section 3. Checks, Drafts.** All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the College will be signed by such Officer or Officers, agent or agents of the College and in such manner as may from time to time be determined by resolution of the Board of Governors.

**Section 4. Deposits.** All funds of the College not otherwise employed will be deposited from time to time to the credit of the College in such banks, trust companies or other depositories as the Board of Governors may select.

**Section 5. Proxies with Respect to Securities of Other Corporations.** Unless otherwise provided by resolution adopted by the Board of Governors, the President, any Vice President, the Treasurer or their agent or agents will have the right to exercise in the name and on behalf of the College the powers and rights which the College may have as the holder of

stock or other securities in any other corporation to vote or consent with respect to such stock or other securities, and the President, any Vice President or the Treasurer may instruct the person or persons so appointed as to the manner of exercising such powers and rights. The President, any Vice President or the Treasurer may execute or cause to be executed in the name and on behalf of the College all such written proxies, powers of attorney or other written instruments as such person may deem necessary in order that the College may exercise such powers and rights.

**Section 6. Fiscal Year.** The fiscal year of the College shall be the calendar year or such other period as may be fixed by the Board of Governors.

**Section 7. Books and Records.** The College will keep correct and complete books and records of account, the activities and transactions of the College, minutes of proceedings of the Board of Governors and any committee of the College, and a current list of the Fellows, Governors, and officers of the College and their addresses. Any of the books, minutes and records of the College may be in written form or in any other form capable of being reproduced.

**Section 8. Indemnification and Insurance.** The College will indemnify any current or former Governor or officer and may indemnify any current or former employee or agent, or any person who may have served as its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative, or investigative (other than an action by or in the right of corporation), to which he or she may be or is made a party by reason of being or having been such director, officer, employee or agent if he or she acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the College and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. However, there may be no indemnification in respect of any claim, issue or matter as to which he has been adjudged to be liable to the College unless and only to the extent that the court in which such action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

The College will pay expenses (including attorneys' fees) incurred by an officer or governor in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such officer or governor, to repay such amount if it is ultimately determined that he is not entitled to be indemnified by the College under this Section. Such expenses (including attorneys' fees) incurred by other employees and agents may be paid upon such terms and conditions, if any, as the Board of Governors deems appropriate.

Any indemnification (unless ordered by a court) will be made by the College only as authorized in the specific case upon a determination that indemnification of the Governor, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in title 8, § 145 (a) and (b) of the Delaware General Corporation Law. Such determination will be made (1) by a majority vote of the Governors who are not

parties to such action, suit or proceeding, even though less than a quorum, or (2) if there are no such Governors so direct, by independent legal counsel in a written opinion, or (3) by the Fellows.

The provisions of this Section are applicable to claims, actions, suits, or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions occurring before or after adoption hereof.

The indemnification and advancement of expenses provided by this Section will not be deemed exclusive of any other rights to which such governor, officer, employee or agent may be entitled under any statute, Bylaw, agreement, vote of the disinterested Fellows or governors or otherwise, and will not restrict the power of the College to make any indemnification permitted by law.

The indemnification and advancement of expenses provided by this Section will, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a governor, officer, employee or agent and shall inure to the benefits of the heirs, executors and administrators of such a person.

The Board of Governors may authorize the purchase of insurance on behalf of any person who is or was a governor, officer, employee, or agent of the College, or who is or was serving at the request of the College as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against or incurred by him in any such capacity, or which arises out of such person's status as a director, officer, employee, or agent whether or not the College would have the power to indemnify such person against that liability under law.

In no case, however, may the College indemnify, reimburse, or insure any person for any taxes imposed on such individual under Chapter 42 of the Internal Revenue Code of 1986, as now in effect or as may hereafter be amended (the "Code"). Further, if at any time the College is deemed to be a private foundation within the meaning of § 509 of the Code then, during such time, no payment shall be made under this Section if such payment would constitute an act of self-dealing or a taxable expenditure, as defined in §§ 4941(d) or 4945(d), respectively, of the Code.

If any part of this Section is found in any action, suit, or proceeding to be invalid or ineffective, the validity and the effectiveness of the remaining parts will not be affected.

**Section 9. Affiliation or Liaison Relationships.** While the College may establish subsidiaries or other affiliates and may itself become a subsidiary or affiliate of other organizations through formal action consistent with these Bylaws and applicable law, it is intended that the College will otherwise constitute an independent organization. Notwithstanding the foregoing, none of the following activities or relationships will be deemed to be inconsistent with such independence:

**a. Joint-Sponsorship Activities, Including Joint Ventures:** Nothing in this Article VII, Section 9 may prevent the College, its Board of Governors or any of its committees, task forces or other appointed bodies from engaging in, establishing, maintaining, assuming responsibility for or sponsoring any activities (jointly with one or more other organizations,

entities or individuals) which the Board of Governors or its delegate deems appropriate. Such joint activities may include, but shall not be limited to, joint ventures. By way of illustration only, and not as a limitation on the scope of any such activities, it is intended that such joint sponsorship authority may include: (i) educational programs; (ii) scholarship, grant and other award programs; (iii) research institutes, statistical or social science studies or think tanks; (iv) employee benefits proficiency testing and related certification activities; (v) employee benefits publishing activities; and (vi) office space or staff and other administrative resource sharing arrangements.

**b. Liaison Relationships, Including Formalized Cooperative Relationships:** Nothing in this Article VII, Section 9 may prevent the College, its Board of Governors or any of its committees, task forces or other appointed bodies from establishing liaison or outreach relations with any other organization or entity which the Board of Governors or its delegate deems appropriate. Such cooperative arrangements may be either formal or informal. By way of illustration only, and not as a limitation on the scope of any such activities, it is intended that such liaison or cooperation arrangements may include formal and informal, regularly scheduled or intermittent: (i) information exchanges; (ii) scheduling coordination; (iii) solicitation for membership; and (iv) coordinated meeting agenda and issue planning.

**c. Representation on Committees, Boards or other Bodies of other Organizations:** Nothing in this Article VII, Section 9 may prevent the College, its Board of Governors or any of its committees, task forces or other appointed bodies from establishing formal arrangements with other organizations or entities whereby one or more Members of the College are selected for service on a committee, a board or another body of such other organization with a view to encouraging, facilitating or merely considering any of the activities described in subparagraphs (a) or (b) above or for any other representational purpose that furthers or may further the objectives of the College, provided that no member shall serve in a representational capacity described in this subparagraph without the prior authorization of the Board of Governors. Nothing in this subparagraph shall prevent any member of the College from occupying any position with any other organization in his or her individual capacity (i.e., not as a formally designated representative of the College).

Except to the extent expressly stated to the contrary in documents approved by the Board of Governors in connection with any of the activities described in subparagraphs (a), (b) and (c) above, the College and its members assume no responsibilities for the acts or omissions of any other organization with which it deals in connection with such activities, including any acts or omissions of an organization taken with the concurrence or participation of a representative of the College described in (c) above.

## **ARTICLE VIII.**

### **Seal**

Unless a seal is adopted by the Board of Governors, a seal will not be required for any purpose by the College.

**ARTICLE IX.**  
**Waiver of Notice**

Whenever any notice is required to be given to any member of the Board of Governors of the College under provisions of the Bylaws or under the provisions of the Certificate of Incorporation, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE X.**  
**Amendments**

**Section 1. Certificate of Incorporation.** The Certificate of Incorporation of the College may be amended in whole or part from time to time by a vote of a majority of the Fellows pursuant to the procedure outlined in title 8, § 242(b)(3) of the Delaware General Corporation Law .

A resolution authorizing a proposed amendment to the Certificate of Incorporation may provide that at any time prior to the filing of the amendment with the Secretary of State, notwithstanding authorization of the proposed amendment by the Fellows of the College, the Board of Governors may abandon such proposed amendment without further action by the Fellows.

**Section 2. Bylaws.** The Bylaws of the College may be amended, added to or repealed, by the Fellows at any meeting of the Fellows, provided that notice of the proposed change is given in the notice of the meeting.

**ARTICLE XI.**  
**Reliance On Records And Reports**

Each member of the Board of Governors, Officer or member of any committee designated by, or by authority of, the Board of Governors, will, in the performance of such person's duties, be fully protected in relying in good faith upon the books of account or other records of the College or of any of its subsidiaries, or upon the work product of an independent certified public accountant or by an appraiser selected with reasonable care by the Board of Governors, officers or by any such committee.

**ARTICLE XII.**  
**Offices**

**Section 1. Principal Office.** The principal office of the College is located within or without the State of Delaware, at such place as the Board of Governors shall from time to time designate. The Corporation may maintain additional offices at such other places as the Board of Governors may designate from time to time.

**Section 2. Registered Office.** The College shall have and continuously maintain in the State of Delaware a registered office and a registered agent whose office is identical with such registered office as required by the Delaware General Corporation Law. The registered office may be, but need not be, identical with the principal office in the State of

Delaware, and the address of the registered office may be changed from time to time by the Board of Governors.

Adopted as of the 22<sup>nd</sup> day of August, 2008.

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**SCHEDULE A**

**Initial Members of the Board of  
Governors and Fellows**

T. David Cowart	Paula A. Calimafde
Ellen A. Hennessy	Donald J. Capuano
Thomas A. Jorgensen	John R. Carr III
D. Ward Kallstrom	Jeffrey C. Chang
Bernard T. King	Jeffrey N. Clayton
Judith F. Mazo	Kenneth S. Cohen
Anne E. Moran	David M. Cook
Susan P. Serota	James K. Cook
Howard Shapiro	T. David Cowart

**CHARTER FELLOWS**

Robert L. Abramowitz	Barbara B. Creed
David L. Bacon	Ronald G. Dean
Pamela Baker	Terrence M. Deneen
Dianne Bennett	Louis H. Diamond
William G. Beyer	Robert J. Doyle
Phyllis C. Borzi	Mark S. Dray
George H. Bostick	Kenneth C. Edgar
Dan S. Brandenburg	John H. Eggertsen
Mary A. Brauer	Douglas W. Ell
James T. Brickman	Karen W. Ferguson
Gregory K. Brown	A.D. Fields
Orin D. Brustad	Carol Connor Flowe
Carol V. Calhoun	Michael Footer
	Gary M. Ford

Margery S. Friedman	William P. Kenworthy
Diane J. Fuchs	William J. Kilberg
Richard A. Gilbert	Bernard T. King
Carol D. Gold	James P. Klein
Bronislaw E. Grala	Stephen J. Krass
Francis P. Grealy, Jr.	Ian D. Lanoff
Jane Friedlieb Greenman	David R. Levin
Michael D. Gunter	Jeffrey G. Lewis
Barbara S. Gutmann	Patricia G. Lewis
Susan Marie Halliday	Stuart M. Lewis
David L. Heald	Ethan Lipsig
Nell Hennessy	Elizabeth Rose Lishner
David A. Hildebrandt	W. Waldan Lloyd
Leonard S. Hirsh	Alvin D. Lurie
Thomas R. Hoecker	Scott J. Macey
Susan Katz Hoffman	Marc I. Machiz
R. Bradford Huss	Michael Macris
J. Dudley Hyde	Joyce A. Mader
Ira F. Jaffe	Kirk F. Maldonado
Riva T. Johnson	Jeffrey D. Mamorsky
Robert K. Johnson	Louis T. Mazawey
Thomas A. Jorgensen	Judith F. Mazo
D. Ward Kallstrom	Richard L. Menson
Sherwin S. Kaplan	Louis A. Mezzullo
Bernard V. Kears III	Charles S. Mishkind
Peter M. Kelly, II	Anne Elizabeth Moran

Daniel L. Morgan	C. Frederick Reish
Donald J. Myers	Robert W. Ridley
Robert E. Nagle	Ronald S. Rizzo
Michael J. Nassau	Henry Rose
Avery E. Neumark	David M. Rosenberger
Thomas C. Nyhan	Linda E. Rosenzweig
Kevin P. O'Brien	Steven J. Sacher
Jonathan M. Ocker	William A. Schmidt
Charles F. Oliphant, III	Paul J. Schneider
Paul J. Ondrasik, Jr.	Daniel J. Schwartz
Mary E. Oppenheimer	Max J. Schwartz
James M. Parker	Susan P. Serota
Timothy J. Parsons	Howard Shapiro
William T. Payne	Paul T. Shultz, III
Evelyn A. Petschek	Sherill A. Siebert
Howard Pianko	Alfred H. Sigman
Bruce D. Pingree	Mary Ellen Signorille
Charles F. Plenge	James I. Singer
Lee T. Polk	Michael S. Sirkin
David S. Preminger	Stuart A. Sirkin
Gary G. Quintiere	Roger C. Siske
James R. Raborn	Barry S. Slevin
Jani K. Rachelson	Steven D. Spencer
David L. Raish	Jane Kheel Stanley
Cecil A. ("Buzz") Ray, Jr.	Ronald E. Stauffer
James S. Ray	Norman P. Stein

Robert Stevenson  
Theresa B. Stuchiner  
A. Richard Susko  
Thomas D. Terry  
Deborah Williams Thompson  
Michael A. Thrasher  
Seth H. Tievsky  
Peter H. Turza  
Harvey B. Wallace II  
Roberta Casper Watson  
S. Sheldon Weinhaus  
David West  
Richard J. Wickersham  
Mark D. Wincek  
John F. Woyke  
Sheldon M. Young  
Karen D. Youngstrom  
Morton H. Zalutsky

CHARTER EMERITUS FELLOWS

Elliot Bredhoff  
Thomas P. Deering  
Leon E. Irish  
Harry V. Lamon, Jr.  
T. Neal McNamara  
Sidney M. Perlstadt  
Timothy St. Clair Smith

CHARTER IN MEMORIAM FELLOWS

Elliott Daniel  
Richard Fay  
Isadore Goodman  
Vivian Hobbs  
Senator Jacob Javits  
William Lieber  
John Lindquist  
William McClure  
Marty Slate