

**AMENDED AND RESTATED
BYLAWS OF THE FALCON FOUNDATION**

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ARTICLE I INCORPORATION

The Falcon Foundation was established in Dallas, Texas, in 1958 and incorporated under the laws of Texas as a not for profit corporation. On November 15, 1984 the Falcon Foundation (the "Foundation") was incorporated in the State of Colorado as a nonprofit corporation and the Texas Corporation was merged into the Colorado Corporation. The Foundation has been organized in accordance with Section 501(c)(3) of the Internal Revenue Code.

ARTICLE II PURPOSE

The purpose of the Foundation is to support charitable, educational and other undertakings in support of the mission of the United States Air Force (USAF) Academy. A primary effort is to provide scholarships to selected preparatory schools, or other appropriate education or training for motivated young men and women seeking admission to the Academy and a career in the U.S. Air Force.

ARTICLE III OFFICES

The principal office of the Foundation shall be located in Doolittle Hall at the USAF Academy, Colorado. Other offices may be established as the Governing Trustees may determine. The President of the Foundation, at the above address, is the Registered Agent of the Foundation.

ARTICLE IV MEMBERS (TRUSTEES)

SECTION 1. Classes of Members: The Foundation shall have four categories of members as designated below. The Board of Trustees is the sole body for adding or deleting individuals to the Foundation's membership list.

A. Eligibility. The following categories of individuals are eligible for consideration to become members of the Foundation:

- 1) Retired, resigned, or honorably separated commissioned officers and noncommissioned officers of the US Air Force;
- 2) Current and former civilian employees of the Federal Government;
- 3) Members of the Air Force Reserve and National Guard Bureau (not on extended active duty), as well as Special Government Employees (SGEs) of the Federal

Government (including individuals serving in unique or temporary roles performing work for the Federal Government and not falling within categories 1 or 2 above).

4) Individuals who support the United States Air Force and USAF Academy, and who possess an appropriate background, experience and interests.

All nominees shall be subject to the following criteria:

5) Each must be favorably recommended by the Nominating Committee following vetting and due diligence, as set forth in greater detail in the Policy Manual;

6) Each must be in current compliance with the requirements and spirit of the Foundation's rules concerning Conflict of Interest and Code of Ethics, and, in accordance with procedures set forth in greater detail in the Policy Manual, each should not pose any significant concerns regarding future compliance.

In addition, to the foregoing, the Board of Trustees may modify the categories and/or criteria above, as they deem suitable and proper, provided however, that any criteria or qualifications shall apply uniformly to all nominees of the same class or category of membership.

B. The designation of category and the number, and rights of the members of each category shall be as follows:

1) **Active:** The Active Members shall be the voting Trustees of the Foundation and have the right to vote on any matter brought to the Board of Trustees for a vote. The number of Active Members shall not exceed 200, not including Senior Trustees. On initial acceptance by the Board of Trustees each new Active Member will be assigned randomly to a one, two or three year term in order to maintain approximately the same number of voting Trustees in each of the three-year groups. Active Members who demonstrate active support for the Foundation are eligible for re-election. An active member may be determined to be not actively supporting the Foundation, and therefore ineligible for re-election, if that member is significantly delinquent in his/her obligations regarding payment of dues, or attendance at meetings, or annual certifications or disclosures regarding Conflicts of Interest or Code of Ethics, or is delinquent in a combination of those obligations, provided there are no sufficiently mitigating circumstances. For active members whose term is expiring, the factors above will be considered by the Nominating Committee (NC), which shall make a recommendation to the Governing Trustees (GT) regarding eligibility for re-election on a case by case basis. The GT shall make the final determination regarding eligibility for re-election. Members determined by the GT to be ineligible for re-election shall be deemed to have allowed their membership to lapse. If re-elected, any subsequent term shall be three years. Active Members are expected to contribute annual dues as prescribed by the Board of Trustees and newly-elected membership shall not commence until such contribution is made.

2) **Senior:** The Board of Trustees may invite any person who has held the position of Chief of Staff of the Air Force, or Chairman or Vice Chairman of the Joint Chiefs of Staff, to become a Senior Trustee. The appointment is for life or until the member resigns or is removed by the Board of Trustees. Senior Trustees are considered to be Active Members in all respects.

3) **Honorary:** Persons deemed deserving by the Board of Trustees may be elected as Honorary Members for life. Honorary Members are non-voting members of the Board of Trustees. The names of such members will be set forth in any list of the members of the Board of Trustees. There shall be no limit on the number of Honorary Members.

4) **Associate:** Active Members who are unable or unwilling to attend the minimum number of meetings of the Board of Trustees but who desire to remain associated with the Foundation can opt to become Associate Members. Associate Members are dues-paying members of the Foundation, and non-voting members of the Board of Trustees. There shall be no limit to the number of Associate Members in the Foundation.

SECTION 2. Election of Members: Members of the Foundation shall be elected by the voting Trustees in attendance at a duly constituted meeting of the Board of Trustees.

SECTION 3. Voting Rights: Each voting Trustee shall be entitled to one vote on each matter submitted to a vote at any meeting of the Board of Trustees. Although welcome to attend meetings of the Board of Trustees, Honorary and Associate Members shall not be entitled to vote nor participate in the governance of the Foundation, nor shall they be counted for purposes of determining a quorum at any meeting of the Board of Trustees.

SECTION 4. Termination of Membership: Any member may be suspended or expelled by the vote of two-thirds of the voting Trustees attending a duly constituted meeting of the Board of Trustees. Termination of membership shall automatically result in termination as a Trustee.

SECTION 5. Resignation: Any member may resign by filing a written resignation with the Secretary or the President. Such resignation shall be effective as of the date of its receipt.

SECTION 6. Responsibility of Board of Trustees: The Board of Trustees shall be responsible for furthering the purposes of the Foundation and, in doing so, shall:

- A. Provide guidance and input to the Governing Trustees in furthering the goals, objectives and strategic direction of the Foundation,
- B. Approve the Foundation's strategic plan as presented to the Board of Trustees by the Governing Trustees,
- C. Generally advise and assist the Foundation and the Governing Trustees.

D. Accomplish a self-assessment once every two years.

E. Trustees, in their capacity as Trustees, shall have no fiduciary responsibility for the general business and affairs of the Foundation.

SECTION 7. Meetings: Two regular meetings of the Board of Trustees shall be held each year, one in the Spring and one in the Fall. The Fall meeting shall serve as the annual meeting of the Trustees at which time the Governing Trustees and officers will be elected.

SECTION 8. Special Meetings: The Chairman of the Board may call a special meeting of the Board of Trustees. The Chairman of the Board shall also call a special meeting of the Board of Trustees at the written request of the President or of any five Trustees. The written request shall state the purpose or purposes of the special meeting. Notice of the special meeting shall be in writing (by mail or electronic mail), shall state the time, place, and agenda of the meeting, and shall be given so that a Trustee will have received it five days prior to the time of the meeting.

SECTION 9. Quorum: One-fourth (1/4) of the total number of Trustees represented shall constitute a quorum.

SECTION 10. Manner of Acting: The act of a majority of the voting Trustees present at a meeting at which a quorum is present shall be considered the act of the Board of Trustees, unless the act of a greater number is required by law or by these Bylaws.

SECTION 11. Compensation: Trustees, as such, shall not receive any salary for their services. Nothing contained herein shall be construed to preclude any Trustee from receiving compensation for serving the Foundation in any other capacity.

ARTICLE V GOVERNING TRUSTEES

SECTION 1. General Powers: The business and affairs of the Foundation shall be managed by the Governing Trustees, which shall constitute the Board of Directors of the Foundation under the provisions of the Colorado Revised Nonprofit Corporation Act, and may exercise all powers of the Foundation and do all such acts as do not violate the laws of the United States, the State of Colorado, the Articles of Incorporation or these Bylaws, provided that no act violates the tax exempt status of the Foundation. The Governing Trustees shall be responsible and accountable to the Board of Trustees. Among the specific duties of the Governing Trustees shall be to:

- A. Annually evaluate the performance of the President and determine the compensation of the President based on review and recommendations of the Compensation Committee,
- B. Develop and adopt an annual operations plan and budget for the Foundation,
- C. Review and assess budget, financial and investment matters for the Foundation based on review and recommendations of the Investment and Finance Committees,
- D. Otherwise direct and assess the performance of Foundation management,
- E. Accomplish a self-assessment once every two years.

SECTION 2. Number, Composition, Election and Appointment:

A. Number: The Governing Trustees shall be no greater than fifteen (15). Subject to this limitation and the provisions relative to composition as prescribed in **Paragraph B.** of this **SECTION 2**, the voting members of the Board of Trustees shall establish the number of Governing Trustees from time-to-time by setting, and reducing or increasing, the number of at-large Governing Trustees; provided, however, that the reduction in the number of at-large Governing Trustees will not have the effect of eliminating or reducing the term of any then-serving at-large Governing Trustee. This action by the Board of Trustees of establishing the number of Governing Trustees:

- 1) Shall require a majority vote of the voting Trustees in attendance at a meeting of the Board of Trustees at which a quorum is present
- 2) Shall not require or constitute an amendment to these Bylaws.

B. Composition: The Governing Trustees shall consist of:

- 1) The following four (4) elected officers: the Chairman of the Board, the Vice Chairman, the President and the Vice President;
- 2) The Chairs of the Foundation's Standing Committees.
- 3) Such number of at-large Governing Trustees as required to cause the number of Governing Trustees to be that number established in accordance with the provisions

of **Paragraph A.** of this **SECTION 2.** The elected officers as specified in **Article VI, SECTION 1** who do not serve as Governing Trustees may be invited to attend meetings of the Governing Trustees as the agenda for such meetings necessitates.

C. Election: All of the Governing Trustees shall be elected by the voting members of the Board of Trustees from among those persons who are voting members of the Board of Trustees. The elected officers shall be elected as prescribed in **Article VI, SECTION 2** of these Bylaws. The Chairs of the Standing Committees shall be elected as prescribed in **Article VII, SECTION 1** of these Bylaws. The at-large Governing Trustees shall be elected at the Fall Meeting of the Board of Trustees.

D. Terms: The term of service for elected officers shall be as prescribed in **Article VI, SECTION 2** of these Bylaws. The term of service for committee chairs shall be as prescribed in **Article VII, SECTION 3** of these Bylaws. The term of service for at-large Governing Trustees shall be three (3) years, with the terms being staggered in a manner determined by the voting Trustees to be reasonable so as to provide for continuity of service of the at-large Governing Trustees. At-large Governing Trustees shall be limited to two consecutive terms of service.

SECTION 3. Meetings: The Governing Trustees may hold such number of regular meetings as established by the Governing Trustees from time-to-time. However, the Governing Trustees shall hold two regular meetings in conjunction with the Spring and Fall meetings of the Board of Trustees.

SECTION 4. Special Meetings: The Chairman of the Board may call a special meeting of the Governing Trustees. The Chairman of the Board shall also call a special meeting of the Governing Trustees at the written request of the President or of any three Governing Trustees. The written request shall state the purpose or purposes of the special meeting. Notice of the special meeting shall be in writing (by mail or electronic mail), shall state the time, place, and agenda of the meeting, and shall be given so that a Governing Trustee will have received it five days prior to the time of the meeting.

SECTION 5. Quorum: A majority of the total number of Governing Trustees shall constitute a quorum.

SECTION 6. Manner of Acting: The act of a majority of the Governing Trustees present at a meeting at which a quorum is present shall be considered the act of the Governing Trustees, unless the act of a greater number is required by law or by these Bylaws.

SECTION 7. Compensation: Governing Trustees, as such, shall not receive any salary for their services. Nothing contained herein shall be construed to preclude any Governing Trustee from receiving compensation for serving the Foundation in any other capacity.

SECTION 8. Action Without a Meeting

A. Director Action. Any action required or permitted by Articles 121 to 137 of the Colorado Revised Nonprofit Corporation Act to be taken at a board of directors' meeting may be taken without a meeting if notice is transmitted in writing to each member of the board and each member of the board by the time stated in the notice:

- 1) Votes in writing for such action, or;
- 2) Votes in writing against such action, abstains in writing from voting, fails to respond or vote, and fails to demand in writing that action not be taken without a meeting.

B. Notice. The notice required by **SECTION 8. A.** shall state:

- 1) The action to be taken;
- 2) The time by which a director must respond;
- 3) That failure to respond by the time stated in the notice will have the same effect as:
 - a) Abstaining in writing by the time stated in the notice;
 - b) Failing to demand in writing by the time stated in the notice that action not be taken without a meeting;
- 4) Any other matters the corporation determines to include.

C. Votes. Action is taken under C.R.S. 7-128-202 only if, at the end of the time stated in the notice transmitted pursuant to **SECTION 8. A.:**

- 1) The affirmative votes in writing for such action received by the corporation and not revoked pursuant to **SECTION 8.E** equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted;
- 2) The corporation has not received a written demand by a director that such action not be taken without a meeting other than a demand that has been revoked pursuant to **SECTION 8. E.**

D. Waiver. A director's right to demand that action not be taken without a meeting shall be deemed to have been waived unless the corporation receives such demand from the director in writing by the time stated in the notice transmitted pursuant to **SECTION 8. A.** and such demand has not been revoked pursuant to **SECTION 8. E.**

E. Revocation of Writing. Any director who in writing has voted, abstained, or demanded action not be taken without a meeting pursuant to C.R.S. 7-128-202 may revoke such vote, abstention, or demand in writing received by the corporation by the time stated in the notice transmitted pursuant to **SECTION 8. A.**

F. Effective Date of Action Taken. Unless the notice transmitted pursuant to **SECTION 8. A.** states a different effective date, action taken pursuant to C.R.S. 7-128-202 shall be effective at the end of the time stated in the notice transmitted pursuant to **SECTION 8. A.**

G. Written Description of Action Taken. A writing by a director under C.R.S. 7-128-202 shall be in a form sufficient to inform the corporation of the identity of the director, the vote, abstention, demand, or revocation of the director, and the proposed action to which such vote, abstention, demand, or revocation relates. All communications under C.R.S. 7-128-202 may be transmitted or received by the corporation by electronically transmitted facsimile, e-mail or other form of wire or wireless communication. For purposes of C.R.S. 7-128-202, communications to the corporation are not effective until received.

H. Effect of Action Taken. Action taken pursuant to C.R.S. 7-128-202 has the same effect as action taken at a meeting of directors and may be described as such in any document.

I. Signed Written Instruments. All writings made pursuant to C.R.S. 7-128-202 shall be filed with the minutes of the meetings of the board of directors.

ARTICLE VI OFFICERS

SECTION 1. Positions: The elected officers of the Foundation shall be a Chairman of the Board, Vice Chairman, President, Vice President, Vice President and General Counsel (VP and General Counsel), Ethics Advisor, Secretary, and Treasurer, who shall be selected from the voting members of the Board of Trustees. The Foundation may also have one or more Assistant Secretaries, one or more Assistant Treasurers, one or more Assistant VP and General Counsels, and one or more Assistant Ethics Advisors, who shall be appointed by the Chairman of the Board. All officers shall have the authority and perform the duties prescribed by the Governing Trustees. Any two or more offices may be held by the same person, except that the offices of Chairman of the Board, Vice Chairman and President shall not be occupied by the same person as Secretary. The Governing Trustees may establish other offices deemed appropriate and may elect Trustees to fill those positions.

SECTION 2. Election and Term of Office: The elected officers of the Foundation shall normally be elected annually by the Board of Trustees at the regular Fall meeting. If the election of officers should for any reason not be held at such meeting, such election shall be held as soon thereafter as possible. New offices may be created or vacancies filled at any meeting of the Board of Trustees. Each elected officer shall hold office until a successor shall have been duly elected, unless otherwise determined by the Board of Trustees. The Chairman of the Board and the President shall be elected to five-year terms. Neither shall serve more than ten years. All other officers shall be elected to one-year terms.

SECTION 3. Removal: Any officer elected by the Board of Trustees may be removed by the Board of Trustees. Such removal shall be without prejudice to the rights of the officer so removed.

SECTION 4. Vacancies: A vacancy in any office shall be filled by the Governing Trustees for the unexpired portion of the term.

SECTION 5. Chairman and Vice Chairman of the Board: The Chairman of the Board shall be the Chief Executive Officer of the Foundation. The Chairman shall supervise all of the business and affairs of the Foundation. The Chairman shall, when present, preside at all meetings of the Board of Trustees and of the Governing Trustees. In the Chairman's absence, the Vice Chairman shall preside at the meetings of the Board of Trustees and of the Governing Trustees. The Chairman shall recommend to the Nominating Committee, Trustees to be nominated as the Chairs of all Standing Committees for election by the voting members of the Board of Trustees.

SECTION 6. President and Vice President: The President shall be the Chief Operations Officer of the Foundation and shall be subject to the supervision and direction of the Chairman of the Board, subject to annual performance evaluation by the Governing Trustees. The President shall supervise and control all of the day to day operations of the Foundation. If neither the Chairman nor the Vice Chairman is available, the President shall preside at meetings of the Board of Trustees and the Governing Trustees. In the absence of the President or in the event of his inability to act, the Vice President shall perform the duties of the President. The Vice President shall perform other duties as may be assigned by the President.

SECTION 7. Vice President and General Counsel: The VP and General Counsel shall act as the Chief Legal Officer of the Foundation and shall counsel and advise the Officers and Trustees with respect to all matters and transactions. The VP and General Counsel shall perform other duties as may be assigned by the President.

SECTION 8. Ethics Advisor: The Ethics Advisor (EA) shall be responsible to the Governing Trustees for actions involving the Foundation Code of Ethics and Conflict of Interest Policy.

SECTION 9. Treasurer: The Treasurer shall have charge and custody of and be responsible for the safekeeping of all funds, properties and other assets of the Foundation. The Treasurer shall receive monies due and payable to the Foundation from any source whatsoever, and deposit all such monies in accordance with the provisions of these Bylaws and perform all duties incident to the office of Treasurer. The Treasurer shall perform other duties as may be assigned by the President. The Treasurer shall be an *ex-officio* voting member of the Investment and Finance Committees.

SECTION 10. Secretary: The Secretary shall keep the minutes of the meetings of the Board of Trustees and the Governing Trustees, and see that all notices are duly given in accordance with the provisions of the Bylaws or as required by law. The Secretary shall also keep a register of the post office address of each member and perform all duties incident to the office of Secretary. The Secretary shall perform other duties as may be assigned by the President.

SECTION 11. Assistant Treasurers, Assistant Secretaries, Assistant Ethics Advisors, and Assistant VP and General Counsels: The Assistants shall, in general, perform such duties as shall be assigned to them by the Treasurer, Secretary, VP and General Counsel, or Ethics Advisor respectively, or by the President. In addition, in the absence or inability to act of the Treasurer, Secretary, VP and General Counsel, or Ethics Advisor respectively, the Assistants shall, as designated and directed by the President, respectively perform the duties of the Treasurer, Secretary, VP and General Counsel and Ethics Advisor.

ARTICLE VII COMMITTEES

SECTION 1. Standing Committees: The Foundation shall have Standing Committees as described in this section. The Chairman of the Board shall recommend to the Nominating Committee, Trustees to be nominated as the Chairs of all Standing Committees for election by the voting members of the Board of Trustees. Except for the Nominating Committee, the chair of each committee shall appoint the members of the committee they chair, with the appointment subject to ratification by the Chairman of the Board. Members of the Nominating Committee are ratified by the Chairman and approved by the Board of Trustees. The Chairman of the Board and the President shall be *ex-officio*, voting members of all Standing Committees, except the Nominating Committee, and further provided that the President shall not be a member of the Compensation Committee or the Audit Committee.

A. Audit Committee: The Committee shall be responsible for:

- 1) Evaluating and recommending to the Governing Trustees for action the selection of the Foundation's independent auditors,
- 2) Reviewing the Foundation audit,
- 3) Reporting on the audit to the Governing Trustees. The Committee shall also monitor internal financial and accounting controls and, when appropriate, making recommendations for changes. The members of the Committee may include Trustees who are not Governing Trustees. No employee of the Foundation may be a member of the Committee.

B. Compensation Committee: The Committee shall be responsible for reviewing and making recommendations to the Governing Trustees regarding the performance of the President of the Foundation and the compensation to be paid to the President. The members of the Committee may include Trustees who are not Governing Trustees. No employee of the Foundation may be a member of the Committee. Finally, the Compensation Committee is responsible for a leadership succession planning process.

C. Finance Committee: The Committee shall be responsible for the general oversight of the finance and accounting of the Foundation, including but not limited to, QuickBooks, monthly reconcile, audit support, IRS tax filings, budget review, and accounting. All actions of the Finance Committee shall be subject to approval by the Governing Trustees.

D. Governance and Strategy Committee: The Committee shall have the responsibility to develop and recommend to the Governing Trustees,

- 1) An appropriate orientation program for new Governing Trustees,
- 2) Amendments and changes to the Bylaws and Policies of the Foundation (although this responsibility shall in no way prevent the Governing Trustees from developing on its own initiative or otherwise considering proposed amendments or changes to the Bylaws and Policies of the Foundation),
- 3) A set of corporate governance principles, and a biennial self-assessment process for the Governing Trustees, the Board of Trustees and standing committees, and
- 4) Develop long range goals and objectives,
- 5) Review and propose modification to the Strategic Plan.

- E. Investment Committee:** The Committee shall be responsible for general oversight of Foundation investments, the Investment Policy Statement, and fund managers. All actions of the Committee shall be subject to approval by the Governing Trustees.

- F. Nominating Committee:** The Committee shall have the responsibility to nominate a slate of officers, at-large Governing Trustees, and prospective new members to the Board of Trustees for election by the voting members of the Board of Trustees. The names of prospective new members may be presented at any duly constituted meeting of the Board of Trustees by the Committee. The Committee shall also have the responsibility to nominate to the Board of Trustees a slate of Trustees to be elected as Chairs for the standing committees and a slate of Trustees to be elected to serve on the Committee, based on recommendations made by the Chairman of the Board. No Nominations will be accepted from Trustees at meetings of the Board of Trustees. In addition to the foregoing, the Committee shall vet all nominations for potential conflicts of interest or other problematic issues.

SECTION 2. Other Committees: Other committees not having and exercising the authority of the Board of Trustees in the management of the Foundation, may be designated by a resolution adopted by a majority of the Governing Trustees present at a meeting at which a quorum is present. Members of such committees shall be Trustees of the Foundation. The Chairman of the Board shall appoint the chairs of such Other Committees, with the appointment of the chairs subject to ratification by the voting members of the Board of Trustees. The chair of each such Other Committee shall appoint the members of the committee they chair, with the appointment subject to ratification by the Chairman of the Board. The Chairman of the Board and the President shall be ex-officio, voting members of all Other Committees of the Foundation.

SECTION 3. Term of Office: Each member of a committee and the Chair shall continue as such until the member resigns or is removed by the Chairman of the Board.

SECTION 4. Quorum: Unless otherwise provided in the resolution of the Governing Trustees designating a committee, fifty percent of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

SECTION 5. Rules: Each committee may adopt rules for its own government not inconsistent with the Articles of Incorporation, these Bylaws, or with policies and procedures adopted by the Governing Trustees.

ARTICLE VIII STANDARDS OF CONDUCT AND CONFLICT OF INTEREST FOR TRUSTEES AND OFFICERS

SECTION 1. Standard of Conduct for Trustees and Officers:

A. Code of Ethics:

1) **Highest Ethical Standards:** The purpose of The Falcon Foundation is to support charitable, educational and other undertakings in support of the mission of the United States Air Force Academy – an institution dedicated to the highest ethical standards, emphasizing a strict Honor Code for its cadets. It is therefore the policy of The Falcon Foundation to nurture and uphold the very highest standards of ethical conduct, legal and moral behavior, and loyalty to our Foundation. All Trustees are obligated to adhere to this Code of Ethics and to foster a culture of scrupulous ethical awareness and highly principled conduct.

2) **Duties:** All Trustees have a duty to adhere to the following key principles:

a) Legal Compliance: comply with all applicable laws and regulations, whether federal, state or local, as well as the Foundation’s Bylaws and Policies. All Trustees will conduct themselves and the Foundation’s business in accordance with the letter and spirit of such legal and policy mandates.

b) Integrity: demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude in all our activities in order to inspire confidence and trust in our activities.

c) Respect and Fairness: treat each other and those with whom we deal equitably, respectfully and fairly in all aspects, without regard to status. We support equal opportunity and tolerance, and will avoid discrimination or harassment.

d) Conflict of Interest: avoid allowing one’s personal or professional interests to become at odds or in conflict with the business or best interests of the Foundation. All Trustees must strictly comply with the Foundation’s Conflict of Interest Policy, including the obligation to disclose potential conflicts of interest, to comply with COI determinations made by the EA and/or the GTs, and to execute annual updates to their COI Disclosure Statement.

e) Loyalty: maintain a strong loyalty to our Foundation and its mission, avoiding any activity that would adversely affect our ability to faithfully and loyally perform our service for the Foundation. Trustees may be loyal members of other charitable or service organizations similar to the Foundation, but must avoid serving in executive or fiduciary positions (including being a member of a Standing Committee) with both the Foundation and another organization whose interests compete with those of the Foundation.

f) Confidentiality: maintain strict confidentiality of any private, privileged, or nonpublic information entrusted to us. We will respect and protect the privacy interests of our donors in accordance with the Foundation's policy on Donor Privacy.

g) Responsibility & Accountability: support the faithful protection of the funds entrusted to us, ensuring adherence to the highest professional principles of good stewardship. We will transparently conduct our business and financial affairs, maintaining accurate financial records and reporting our financial results and condition in a timely manner. We will support periodic audits and internal reviews of our compliance with known legal, regulatory and financial reporting requirements and sharing the results with the Board of Trustees.

h) Reporting: report and/or seek guidance regarding potential or actual breaches of this Code, treating such reports as confidentially as the law will allow. We will not retaliate against any individual or group who reports a potential or actual breach of the code, realizing that the Foundation will make all reasonable efforts to fairly and timely investigate, resolve and act upon all such reports.

i) Annual Review & Certification: annually review this Code of Ethics and sign and update the Certification (See Policy and Procedures Manual).

j) Administration and Enforcement: this Code of Ethics shall be administered and enforced by the Ethics Advisor.

B. Reliance on Certain Information and Other Matters: In the performance of their duties, a Trustee, officer or committee member shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by the persons designated below. However, a Trustee, officer or committee member shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted. The designated persons on whom a Trustee, officer or committee member are entitled to rely are:

- 1) One or more officers or employees of the Foundation whom they reasonably believe to be reliable and competent in the matters presented;
- 2) Legal counsel, a public accountant, or other person as to matters which they reasonably believe to be within such person's professional or expert competence;
- 3) A committee of the Board of Trustees on which they do not serve if they reasonably believe the committee merits confidence.

C. Limitation on Liability: A Trustee, officer or committee member shall not be liable to the Foundation (or its members) for any action the Trustee, officer or committee member takes or omits to take as a Trustee, officer or committee member if, in connection with such action or omission, they perform their duties in compliance with this section.

SECTION 2. Conflict of Interest

A. Purpose: The Falcon Foundation, as a nonprofit, tax-exempt organization, depends on charitable contributions from the public and espouses the highest ethical standards in its support of the United States Air Force Academy. Maintenance of its tax-exempt status is important both for its continued financial stability and for the receipt of contributions and public support. Therefore, the operations of the Foundation first must fulfill all legal requirements. Successful operations also depend on the public trust and thus are subject to scrutiny by and accountability to both governmental authorities and members of the public. Additionally, Trustees have a duty to the Foundation that clearly subordinates their personal interests to the interests of the Foundation.

B. Definitions:

- 1) **Conflict of Interest (COI):** a COI exists when a Trustee enters, or proposes to enter, into a Conflicting Interest Transaction.

- 2) **Conflicting Interest Transaction:** means a contract, transaction, or other financial relationship between the Foundation and a Trustee of the Foundation, or between the Foundation and a party related to a Trustee, or between the Foundation and an entity in which a Trustee of the Foundation is a director or has a financial interest. (Note: this definition is based upon current Bylaws, which was based upon the definition in the Colorado Revised Nonprofit Corporation Act)

- 3) **Party Related to a Trustee :** means a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the Trustee, or a party related to a Trustee, has a beneficial interest, or an entity in which a party related to a Trustee is a director, officer, or has a financial interest. (Note: this definition also based upon Bylaws Art. VIII)

C. Policy:

- 1) **Duty to Disclose:** Each Trustee has a duty to disclose actual or potential COIs that may affect him/her personally. It is also expected that Trustees will report any circumstances affecting other Trustees that might involve the Foundation in a COI.

- 2) **Duty to Recuse:** If an actual or potential COI is identified regarding a specific transaction, the affected Trustee must recuse himself or herself from voting or participating in decision-making on that transaction or directly related issues.

- 3) **Administration/Enforcement:** Disclosures of COIs, related recusals, and disputes regarding COIs shall be reported to the EA, which shall have jurisdiction and responsibility to administer and enforce this COI.

4) **Duty to File Disclosure Statement:** The COI Disclosure Statement (see Policy and Procedures Manual), shall be filed by each individual nominated to become a Trustee, and if selected to be a Trustee, then updated annually thereafter while serving as a Trustee.

5) **Transaction May Proceed Under Certain Conditions:** As provided by Colorado Law, a Conflicting Interest Transaction may proceed, and not be voidable, if:

- a) The material facts as to the Trustee's relationship or interest and as to the Conflicting Interest Transaction are disclosed or are known to the Governing Trustees, and, the Governing Trustees in good faith authorize, approve, or ratify the Conflicting Interest Transaction by the affirmative vote of a majority of the disinterested Governing Trustees, even though the disinterested Governing Trustees are less than a quorum, or,
- b) The material facts as to the Trustee's relationship or interest and as to the Conflicting Interest Transaction are disclosed or are known to the members entitled to vote thereon, and the Conflicting Interest Transaction is specifically authorized, approved, or ratified in good faith by a vote of the members entitled to vote thereon, or,
- c) The Conflicting Interest Transaction is fair to the Foundation.
- d) Interested Governing Trustees may be counted in determining the presence of a quorum at a meeting of the Governing Trustees which authorizes, approves, or ratifies the Conflicting Interest Transaction.
- e) Despite the above, a Conflicting Interest Transaction may not proceed until after the EA has reviewed the potential COI and, a determination is made whether approval by Governing Trustees is appropriate.

6) **Breach of COI:** If a Trustee should willfully fail to disclose a potential or actual COI affecting him/her, or fail to comply with any COI determination made by the EA and/or the GTs, or fail to comply with this COI in any other way, such action shall constitute a breach of this COI and may be determined by the EA to be a breach of the Code of Ethics as well, and the EA shall process the matter accordingly.

SECTION 3. Loans: No loans shall be made by the Foundation to its Trustees or officers.

ARTICLE IX INDEMNIFICATION

SECTION 1. Undertaking to Indemnify: The Foundation hereby undertakes to indemnify any Trustee, officer or committee member who was or is a party or is threatened to be made a party in any threatened, pending or complete action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she was a Trustee, officer or committee member of the Foundation, provided such person acted in good faith and in a manner he or she reasonably believed to be in the best interest of the Foundation and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful. Expenses (including attorney's fees) judgments, fines and amounts paid in settlement actually and reasonably incurred by said Trustee, officer or committee member in connection with such action, suit or procedure are included as items that may be indemnified.

SECTION 2. Determination: Decisions will be made by the Foundation as specific cases arise upon a determination that indemnification of the Trustee, officer or committee member is proper in the circumstances because he or she has met the applicable standard of conduct. Such determination shall be made on the specific case by a quorum of the Governing Trustees not parties to such action or, if such quorum is not obtainable, by independent legal counsel in a written opinion to the Governing Trustees.

ARTICLE X CONTRACTS, CHECKS, DEPOSITS AND FUNDS

SECTION 1. Contracts: The Governing Trustees may authorize any officer or officers, agent or agents of the Foundation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

SECTION 2. Checks, Drafts, or Orders: All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Foundation, shall be signed by such officer or officers, agent or agents of the Foundation and in such manner as shall be determined by resolution of the Governing Trustees. In the absence of such determination by the Governing Trustees, such instruments shall be signed or authorized by the Treasurer or an Assistant Treasurer and be countersigned or counter-authorized by the President or Vice President of the Foundation.

SECTION 3. Deposits: All funds of the Foundation shall be deposited to the credit of the Foundation in such banks, trust companies, fiduciaries, depositories or with such agents or trustees as the Governing Trustees may select.

ARTICLE XI BOOKS AND RECORDS

The Foundation shall keep correct and complete books and records of account and shall also keep minutes of proceedings of its Board of Trustees, the Governing Trustees, and Standing Committees having any of the authority of the Board of Trustees or the Governing Trustees, and shall keep at its principal operating office a record giving names and addresses of the Trustees entitled to vote. All books and records of the Foundation may be inspected by any member in person for any proper purposes at any reasonable time.

ARTICLE XII FISCAL YEAR

The fiscal year of the Foundation shall begin on the first day of July and end the thirtieth day of June in each year, unless otherwise determined by the Governing Trustees.

ARTICLE XIII SEAL

The Corporation shall have a Corporate Seal which shall be in the form of a circle and shall have inscribed thereon the words "The Falcon Foundation, Colorado Springs, CO". The seal shall be in the charge of the Secretary or the President.

ARTICLE XIV AMENDMENTS TO BYLAWS

These Bylaws may be altered, amended, changed, added to, or repealed and new Bylaws may be adopted by a vote of at least fifty (50) of the voting members of the Board of Trustees upon the recommendation of the Governing Trustees.

ARTICLE XV DISSOLUTION

In the event of the liquidation or dissolution of the Corporation, all the business, property and assets of the Corporation, after the payment in full of all its debts and obligations of whatsoever kind and nature, shall be donated to the Association of Graduates, a nonprofit Corporation, located at the United States Air Force Academy in Colorado Springs, Colorado. If the Association of Graduates is not then in existence, or fails to then be exempt from taxation under Section 501(c)(3) of the Code, the assets shall be donated to such other tax-exempt 501(c)(3) organizations whose purposes most resemble those of the Corporation. The recipients and assets distributed to them shall be designated by the Governing Trustees. In no event shall any of the assets or property of the Corporation or the proceeds of any of said assets or property, in the event of the dissolution thereof, go or be distributed to members of whatsoever kind or class, either for the reimbursement of any sum subscribed, donated or contributed by such members, or for any other such purpose save and except necessary expenses of liquidation or dissolution.

The foregoing Amended and Restated Bylaws were adopted as the Bylaws of the Foundation effective as of the 1st day of February 2017.