



JUNTA DE GOBIERNO
UNIVERSIDAD DE PUERTO RICO

CERTIFICACIÓN NÚMERO 58
2016-2017

Yo, Gloria Butrón Castelli, secretaria de la Junta de Gobierno de la Universidad de Puerto Rico, CERTIFICO QUE:

La Junta de Gobierno, en su reunión ordinaria celebrada el 19 de diciembre de 2016, de conformidad con la Certificación Núm. 25 (2015-2016) que autorizaba al presidente de la Universidad a crear una estructura legal y financiera para el establecimiento de una Fundación de la Universidad de Puerto Rico que facilitara la obtención de recursos mediante donativos de empresas e instituciones, con el endoso de su Comité de Desarrollo, acordó:

Endosar los Artículos de Incorporación para la constitución de la Fundación de la Universidad de Puerto Rico, los cuales forman parte de la presente certificación.

La presidenta interina de la Universidad de Puerto Rico mantendrá a la Junta informada del desarrollo del proceso de constitución de esta entidad.

Y PARA QUE ASÍ CONSTE, expido la presente Certificación, en San Juan, Puerto Rico, hoy 23 de diciembre de 2016.



Gloria Butrón Castelli
Secretaria

**ARTICLES OF INCORPORATION OF
UNIVERSITY OF PUERTO RICO FOUNDATION, INC.
(A NOT FOR PROFIT CORPORATION)**

The undersigned, Dr. Celeste E. Freytes González, of legal age, single, and resident of San Juan, Puerto Rico, in my capacity as President of the University of Puerto Rico, hereby organize and incorporate a **Not For Profit Corporation** under the General Corporation Law of the Commonwealth of Puerto Rico (Law No. 164 approved December 16, 2009, 14 LPRA 2601 et seq.) as the same may be amended from time to time, Section 501(c)(3) of the Internal Revenue Code of 1994, as amended (the "US Code") , Section 1101.01(a)(2)(A)(i),(ii) and (iv) of the Puerto Rico Internal Revenue Code of 2011, as amended (the "PR Code") and pursuant to the Certification of the Governing Board of the University of Puerto Rico, Number 25 Series 2015-2016 approved of the 5th day of October, 2015, for the promotion and conduct of the objectives and purposes hereinafter stated, do make and file these Articles of Incorporation in writing and CERTIFY:

First: The name of the Corporation (hereinafter called the "Corporation" or the "Foundation") is UNIVERSITY OF PUERTO RICO FOUNDATION, INC.

Second: The physical and mailing address of the Corporation in the Commonwealth of Puerto Rico is located at 1187 Jardín Botánico Sur, San Juan Puerto Rico 00926. The name of the resident agent of the Corporation at such address is the University of Puerto Rico – Office of Legal Affairs.

Third: The Corporation is a **NOT FOR PROFIT corporation** and the nature, objectives and purposes transacted, promoted or carried on by it are as follows:

3.01 **PURPOSES:** Article 3 (h) (19) of Act 1 of January 20, 1966 entitled "The University of Puerto Rico Law", as amended by Act 13 of April 30, 2013 provides that the Governing Board of the University of Puerto Rico has the duty and power to authorize the creation of subsidiary or affiliated corporations to render services to the university community and to the people of Puerto Rico. In furtherance of such authorization, the Corporation shall be created and operated for charitable, educational and scientific purposes within the meaning of Section 501(c)(3) of the US Code and Section 1101.01(a)(2)(A)(i),(ii) and (iv) of the PR Code, or corresponding sections of any future versions of the US Code and the PR Code. To achieve its purposes, the Corporation shall obtain funding and other support resources through the attraction, collection and management of donations, gifts, grants, securities, properties, bequests, and other tangible benefits from individuals, philanthropic organizations and associations, businesses and corporations, government agencies and other supporting entities. The Corporation shall use its funds and support resources to provide grants for various activities, including, but not limited to, the following:

- a. Academic and research activities, infrastructure and other related priorities of the University of Puerto Rico;
- b. Student support, both at the undergraduate and graduate level, including but not limited to scholarships, fellowships, internships, training, awards and other types of assistance directly related to their academic performance and degree attainment;
- c. Faculty support, including but not limited to professorships, endowed chairs, sabbaticals and other leaves, research, training, publications, networking, awards, scholarly presentations and others aimed at improving the University of Puerto Rico's academic and research environment and standing;
- d. University of Puerto Rico-related services to the community, including but not limited to academic, educational, scientific, humanistic, artistic, research and other similar initiatives of direct pertinence to its priorities;
- e. Challenge and other matching and funding leverage initiatives and/or incentives to promote increased giving and support to the University of Puerto Rico and to the Corporation; and
- f. Other activities and initiatives of the University of Puerto Rico, particularly those not supported by recurrent state appropriations.

The Corporation shall be non-partisan, non-sectional and non-sectarian and shall take no part in or lend its influence or facilities to the nomination, election or appointment of any candidate for public office.

No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to its officers, directors or other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments in furtherance of the purposes herein set forth.

3.02 In order to accomplish the main purposes of the Corporation stated in paragraph 3.01, the Corporation is empowered to enter or perform any type of legal activity permitted under Section 501(c)(3) of the US Code and Section 1101.01(a)(2)(A)(i),(ii) and (iv) of the PR Code, or corresponding sections of any future versions of the US Code and the PR Code including, but not limited, to:

3.02.01 To adopt, apply for, obtain, register, purchase, lease, take licenses in respect of or otherwise acquire, and to maintain, protect, hold, use, own, exercise, develop and to sell and grant licenses or other rights in respect of, assign or otherwise dispose of, turn to account, or in any manner deal with and contract concerning, any trademarks, trade

names, patent rights, concessions, franchises, designs, copyrights and distinctive marks and analogous rights, and inventions, devices, processes, recipes, formulae and improvement and modifications thereof.

- 3.02.02 To purchase or otherwise acquire, and to hold, pledge, sell, exchange, or otherwise dispose of securities (which term, for the purpose of this Article Third shall include any shares of stock, bonds, debentures, notes, mortgages, or other obligations and any certificates, receipts or other instruments representing rights to receive, purchase or subscribe for the same, or representing any other rights or interests therein or in any property or assets) created or issued by any person, firm, association, corporation or governmental body and while the holder thereof to exercise all the rights, powers and privileges in respect thereof, including the right to vote, to the same extent as a natural person might or could do.
- 3.02.04 To such extent as a Not For Profit corporation or charitable institution organized under the laws of the Commonwealth of Puerto Rico may now or hereafter lawfully do, to do, either as principal or agent and either alone or through subsidiaries or in connection with other persons, firms, associations or corporations, all and everything necessary, suitable, convenient or proper for, or in connection with, or incident to, the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated, of designed directly or indirectly to promote the interests of the Corporation or the enhance the value of its properties; and in general, to do any and all things and exercise any and all powers, rights, and privileges which a Not For Profit corporation or charitable may now or hereafter be organized to do or to exercise under the laws of the Commonwealth of Puerto Rico.
- 3.02.05 No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.
- 3.02.06 Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on by a Corporation exempt from federal income taxes under section 501(c)(3) of the US Code or Section 1101.011101.01(a)(2)(A) of the PR Code, or corresponding sections of any future versions of the US Code or the PR Code.

3.02.07 The foregoing provisions of the Article Third shall be construed both as purposes and powers and each as independent purpose and power. The foregoing enumeration of specific purposes and powers, shall not be held to limit or restrict in any manner the purposes and powers of the Corporation, and the purposes and powers herein specified shall, except when otherwise provided in this Article Third be in no way limited or restricted by reference to, or inference from the terms of any provision of this or any other Article of these Articles of Incorporation.

Fourth: The Corporation may not issue capital stock but may issue bonds and other documents of indebtedness under the terms and conditions established by the By-Laws. The Corporation shall have one member, the University of Puerto Rico (the "Member").

Fifth: The name and place of residence of the incorporator is as follows:

<u>NAME</u>	<u>ADDRESS</u>
University of Puerto Rico	1187 Jardín Botánico Sur, San Juan, Puerto Rico 00926

Sixth: Provisions for the Administration of the Corporation:

6.01 The Member, as incorporator, will retain all its rights and duties and will also have the same rights and duties of a board of directors and of a board of trustees, including, but not limited to, approving bylaws and designation of officers and directors, until the Board of Directors is elected, meets and provides otherwise.

6.02 The Member, acting through its Governing Board, shall have the authority and power to appoint all of directors of the Corporation. The Member shall also have the right to designate the President of the Corporation from among the members of the Board of Directors.

6.03 The number of directors of the Corporation shall be fixed by or in the manner provided in the By-Laws, but in no case shall the number be less than nine (9). Election of directors need not be by ballot unless the By-Laws so require. Meetings of the Board of Directors may be held at such place or places within or without the Commonwealth of Puerto Rico as shall be specified in the respective notices thereof or in the respective waivers of notice thereof signed by all the directors of the Corporation at the time in office.

6.04 In furtherance and not in limitation of the powers conferred by the laws of the Commonwealth of Puerto Rico, and subject at all times to the provisions thereof, the Board of Directors is expressly authorized and empowered:

- 6.04.01 To make, amend, alter and repeal the By-Laws of the Corporation, subject to the authority of the Member to adopt, amend, alter or repeal any By- Law adopted by the Board of Directors.
- 6.04.02 To provide reserve or reserves for any proper purpose and to abolish the same when deemed appropriate.
- 6.04.03 To determine whether any, and if any, what part, of the net revenues of the Corporation shall be retained to create and increase the "Endowment Fund" and to direct and determine the use and disposition of the remaining income.
- 6.04.04 By resolution or resolutions passed by fifty-one percent (51%) or more of the totality of the members of the Board, to designate one or more committees, each committee to consist of two or more of the directors of the Corporation, which to the extent provided in such resolution or resolutions or in the By-Laws, shall have and may exercise the powers of the Board of Directors (other than the power to remove or elect officers) in the management of the purposes and affairs of the Corporation and may have power to authorize the seal of the Corporation to be affixed to all papers which may require it, such committee or committees to have such name or names, as may be stated in the By-Laws or as may be determined from time to time by resolution adopted by the Board of Directors.
- 6.04.05 To exercise all the powers of the Corporation except those conferred by the General Corporation Law, by this Certificate of Incorporation or by the By-Laws of the Corporation upon the Member.
- 6.05 Any one or all of the directors may be removed with or without cause, at any time, by an instrument or instruments in writing approved by resolution of the Governing Board of the University of Puerto Rico, as its sole Member, and addressed to the Board of Directors directing such removal.

Seventh: Liability and Immunity of, Directors and Officers

- 7.01 No director or officer shall be liable for his or her actions in the exercise of their duties and rights as such for violation of their fiduciary duty to the Corporation, except:
 - 7.01.01 For acts of disloyalty to the Corporation or its Member.
 - 7.01.02 For acts or omissions in bad faith or improper acts done intentionally or by knowingly violating the law.

7.01.03 For any transaction in which the director or officer obtains undue personal profit.

7.02 Indemnification and Hold Harmless by the Corporation

7.02.01 The Corporation shall indemnify, to the fullest extent permitted by law, any person who was or is a party or is threatened to be made a party to 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 the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a matter he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, provided that the Corporation shall not be liable for any amounts which may be due to any person in connection with a settlement of any action, suit or proceeding effected without its prior written consent or any action, suit or proceeding initiated by any person seeking indemnification hereunder without its prior written consent. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Corporation and, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his conduct was unlawful.

7.02.02 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, or agent of the Corporation, or was serving at the written request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to

the extent that the court in which such action or suit was brought shall determine 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 expense which such court shall deem proper.

- 7.02.03 To the extent that a director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) or (b) of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.
- 7.02.04 Any indemnification under paragraphs (a) or (b) of this Article (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth therein. Such determination shall be made (1) by Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (iii) by the Member.
- 7.02.05 The Corporation shall not be liable for any amounts which may be due to any person in connection with a settlement of any action, suit or proceeding initiated by any person seeking indemnification under this Article without its prior written consent.
- 7.02.06 Reasonable expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit or proceeding described in paragraphs (a) or (b) of this Article may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.
- 7.02.07 The indemnification and advancement of expenses provided by, or granted pursuant to, this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any statute, by-law, agreement, vote of directors or disinterested directors or otherwise, both as to actions in their official capacity and as to actions in another capacity while holding such office, and shall continue as to a person who has ceased

to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

7.02.08 By action of its Board of Directors, notwithstanding any interest of the directors in the action, the Corporation may purchase and maintain insurance, in such amounts as the Board of Directors deems appropriate, on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the written request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power or would be required to indemnify him against such liability under the provisions of this Article or of the General Corporation Law, or of the laws of any other State or political dependency of the United States or foreign country as may be applicable.

7.02.09 The duties of the Corporation to indemnify and to advance expenses to a director, officer, employee or agent provided in this Article shall be in the nature of a contract between the Corporation and each such person, and no amendment or repeal of any provision of this article shall alter, to the detriment of such person, the right of such person to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment or repeal.

Eighth: Dissolution of the Corporation.

In the event of the voluntary or involuntary liquidation or dissolution of the Corporation, no person or entity shall be entitled as such to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Corporation from any source after payment of all debts and obligations of the Corporation, shall be used or distributed to the University of Puerto Rico; however if the University of Puerto Rico is not a qualified distributee or is unwilling to accept the distribution, in whole or in part, then, the assets of this Corporation shall be distributed to the Commonwealth of Puerto Rico and/or any of its political subdivisions, or to such other organizations which are exempt under Section 501(c)(3) of the US Code and/or Section 1101.01 (a)(1)(A)(i),(ii) and (iv) of the PR Code as are engaged in activities that are in furtherance of the purposes of the Corporation set forth in Article Third above.

Nineth: The existence of the Corporation shall commence on the date in which this Certificate of Incorporation is filed with the Department of State of the Commonwealth of Puerto Rico.

I, the undersigned, being the sole incorporator, hereinbefore named, for the purpose of forming this Corporation pursuant to the General Corporation Law of Puerto Rico of 2009, as amended, hereby swear that the facts herein stated are true, this ____th day of January, 2017.

UNIVERSITY OF PUERTO RICO



DR. CELESTE E. FREYTES GONZÁLEZ
PRESIDENT

