

By-Laws of The Board of Trustees of Johnson C. Smith University

The Board of Trustees, as the ultimate institutional authority, adopts overall policies for the government and operation of the University. In its fiduciary capacity, it holds title to all properties of the University, including all endowment funds. It administers the invested fund and sets the annual budget. Its powers are set forth in the University Charter, as amended, pertinent portions of which are as follows:

Article 4. This corporation shall have full power and authority:

- a. To employ a President of the corporation upon such terms and conditions as the Board of Trustees, as hereinafter provided, shall fix and determine;
- b. To employ, or to delegate to the President the authority to employ, subject to approval of the Board of Trustees, all such officers, professors, teachers, instructors and employees as may be necessary for the operation of the corporation and to prescribe their titles and duties;
- c. To approve the curricula which shall be offered, and the degrees or certificates which shall be awarded upon satisfactory completion of any given course of study;
- d. To fix tuition, fees, and other charges for students attending or applying for attendance at Johnson C. Smith University, Incorporated;
- e. To prescribe and require the use of entrance examinations;
- f. To adopt and enforce all reasonable rules, regulations and by-laws for the government and operation of the corporation under these Articles of Incorporation and for the discipline of students.

Amended and Restated By-Laws of Johnson C. Smith University, Incorporated Charlotte, North Carolina

Adopted: October 13, 2011 Revised Effective: August 23, 2013
Revised Effective: June 14, 2021

Article I: Members

Section 1

The Corporation, hereinafter referred to as "The University," has no members.

Article II: Board of Trustees

Section 1

The management of the affairs, property and business of the University shall be vested in a Board of Trustees. The Board of Trustees will have a minimum of twelve (12) and a maximum of fifteen (15) trustees, as determined by the Board from time to

time. Trustees need not be residents of the State of North Carolina. No fewer than four (4) trustees shall be alumni of the University.

Section 2

The Board of Trustees is responsible for establishing the mission of the University and for adopting all policies regarding the affairs (financial and otherwise), property and business of the University. The policies made by the Board of Trustees are administered and/or implemented by the administration and faculty of the University. In addition, the Board of Trustees is responsible for adopting policies regarding Board matters including conflicts of interest and code of conduct policies.

Section 3

The Board of Trustees shall have at least four (4) regular quarterly meetings per year and such additional regular meetings as the Board of Trustees may determine. The Board of Trustees shall normally hold two of the regular meetings during or around the months of April and October of each year on the campus of Johnson C. Smith University, at such time as shall be designated by the Chair of the Board of Trustees. The two additional quarterly, regular meetings of the Board of Trustees, and any other regular meetings, shall be scheduled on such days and at such times as shall be designated by the Chair of the Board of Trustees. The regular meeting of the Board of Trustees held during or around April of each year shall be the Annual Meeting. Any action required or permitted to be taken at a meeting of the Board of Trustees (or a Board Committee) may be taken without a meeting if the action is taken by all trustees of the Board of Trustees (or Board Committee). The action must be evidenced by one or more unrevoked written consents signed by all trustees of the Board of Trustees (or Board Committee) before or after such action, describing the action taken and included in the minutes or filed with the University's records.

Section 4

The trustees may participate in a regular or special meeting of the Board (or Board Committee) through the use of any means of communication by which all trustees of the Board of Trustees (or Board Committee) participating in the meeting may simultaneously hear each other during the meeting, and (except as provided in Article II, Section 9(d) below) such participation in a meeting shall constitute presence at the meeting.

Section 5

The Chair of the Board of Trustees may, or upon written request signed by any five (5) trustees shall, call a special meeting of the Board of Trustees. Written notice of any such special meeting, stating the date, time and place thereof and the matter(s) to be

considered and acted on thereat, shall be mailed to each trustee at least ten (10) days prior to the date set for such meeting.

Section 6

At all meetings of the Board of Trustees, two-thirds (2/3) of the trustees then in office shall constitute a quorum for the transaction of business, but a lesser number than a quorum may adjourn to a fixed date. If a quorum is present, the act of a majority of the trustees (but no fewer than six (6)) shall be required for Board of Trustee action.

Section 7

Trustees, as such, shall not receive any salary for their services; provided, however, that nothing herein contained shall be construed to prevent any trustee from serving the University in any other capacity and receiving compensation thereof.

Section 8

The University, including the Board of Trustees, may conduct transactions including voting, balloting, providing meeting notices, communicating with trustees and conducting other University business using electronic communications pursuant to Section 55A-1-70 and Article 40 of Chapter 66 of the General Statutes of the State of North Carolina.

Section 9

- a. The trustees will be divided into three (3) classes (with approximately one-third (1/3) of the trustees comprising each class). Except as contemplated by Article II, Section 9(6) below, the terms of office for each class will be staggered so that each year, at its Annual Meeting, the Board of Trustees shall elect the trustees of one such class. At the Annual Meeting each year, the Board of Trustees by a majority vote of the trustees then in office, shall elect persons to fill vacancies on the Board of Trustees created by the termination of those terms of trustees which expire at the conclusion of such Annual Meeting. The term of each trustee shall commence promptly after the meeting at which the trustee is elected, and each trustee shall hold office until his or her death, resignation, retirement or removal or, if a successor to such trustee will be elected, until such successor is elected and qualifies at the third Annual Meeting following the trustee's election. The Board of Trustees may, by majority vote of the trustees then in office, at any meeting of the Board of Trustees, elect any persons to fill any other trustee vacancy, created by reason of death, resignation, retirement, removal or any other cause. The term of any trustee who is elected to fill a vacancy will be for the remainder of the unexpired term of such vacancy.
- b. At the Board meeting at which these Amended and Restated Bylaws ("Bylaws") become effective, the Board of Trustees shall, for transitional purposes, elect trustees for each of the three (3) classes of the Board. Class A trustees will serve until the first Annual Meeting after such election. Class B trustees will serve until

the second Annual Meeting after such election, and Class C trustees will serve until the third Annual Meeting after such election. Thereafter the successors in each class of trustees shall be elected to serve for terms of three (3) years.

c. No trustee shall serve more than four (4) consecutive three (3) year terms as a trustee except in one or more of the following cases:

i. If an individual is initially elected to fill an unexpired trustee term of less than three (3) years, such individual may be re-elected to four (4) consecutive three (3) year terms.

ii. Any individual, who at the time of his or her election as a trustee under Article II, Section 9(b) above, has served more than twelve consecutive years as a trustee, may serve no more than two (2) additional years as a trustee following such election (or until his or her successor is elected and qualifies at the second Annual Meeting following such election). Any individual, who at the time of his or her election as a trustee under Article II, Section 9(b) above, has served less than twelve consecutive years as a trustee, may serve the number of additional three-year terms as a trustee as set forth in the table below:

d. Any trustee may be removed from the Board of Trustees for cause, in compliance with the Board's policy regarding trustee removal, by the affirmative vote of a majority of the trustees then in office. "Cause" is defined as any trustee who engages in any activity which reflects adversely on the reputation of the University, or in any activity which demonstrates the unworthiness or the inability of such trustee to properly and effectively discharge the duties of the office of trustee. Notwithstanding Article II, Section 4, "cause" also includes the failure of any trustee to physically attend three (3) consecutive regular meetings of the Board of Trustees that are held in person.

Section 10

Any trustee at large, whose past services as a trustee, as determined by the Board of Trustees, are considered truly outstanding and exemplary, and who has indicated a desire to retire from the active participation in the affairs of the Board of Trustees but has indicated a desire to continue his or her participation with and contribution to the welfare of the University, may, upon the recommendation of the Governance Committee and the approval of at least seventy-five percent (75%) of all trustees then in office, be appointed an Emeritus Trustee. The term of office of an Emeritus Trustee shall commence promptly after the meeting at which he or she is appointed, and he or she shall hold such office until death, resignation, retirement or removal by at least seventy-five percent (75%) of all trustees then in office.

Section 11

The following persons shall be entitled to receive notice of and be present at regular meetings of the Board of Trustees, with the right and privilege of the floor, but they are not "trustees" (under the North Carolina Nonprofit Corporation Act or these Bylaws), do not count toward a quorum and do not have the right to vote on any matters before the Board of Trustees or any committee thereof:

- a. Emeritus Trustees;
- b. the President of the University; and
- c. such other persons as the Chair of the Board of Trustees shall invite to be present, with the approval of the Board of Trustees.

The rights of any of the foregoing individuals shall be, at the discretion of the Chairman of the Board, subject to the receipt by the Chairman of a confidentiality agreement, in form and substance satisfactory to the Chairman, signed by such individual.

Section 12

There shall be no right to vote by proxy at any meeting of the Board of Trustees or any Board member.

Section 13

- a. Any person who at any time serves or has served as a trustee of the University, or who, while serving as a trustee of the University, serves or has served, at the request of the University, as a trustee, officer, partner, director, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or as trustee or administrator under an employee benefit plan, shall have a right to be indemnified by the University to the fullest extent permitted by law against (i) reasonable expenses, including attorneys' fees, incurred by him or her in connection with any threatened, pending or completed civil, criminal, administrative, investigative or arbitral action, suit or proceeding (and any appeals therein) whether or not brought by or on behalf of the University, seeking to hold him or her liable by reason of the fact that he or she is or was acting in such capacity, and (ii) reasonable payments made by him or her in satisfaction of any judgment, money decree, fine (including without limitation an excise tax assessed with respect to an employee benefit plan), penalty or settlement for which he or she may have become liable in any such action, suit or proceeding.
- b. To the extent permitted by law, expenses incurred by a trustee in defending an action, suit or proceeding (and any appeals therein) shall be paid by the University in advance of the final disposition of such action, suit or proceeding, upon receipt of an undertaking by or on behalf of such trustee to repay such amount unless it shall

ultimately be determined that the trustee is entitled to be indemnified by the University against such expenses.

- c. If a person claiming a right to indemnification under this Section 13 obtains a nonappealable judgment against the University requiring it to pay substantially all of the amount claimed, the claimant shall be entitled to recover from the University the reasonable expenses (including reasonable legal fees) of prosecuting the action against the University to collect the claim.
- d. Notwithstanding anything in this Section 13, the University shall not indemnify or agree to indemnify any person against liability or expenses he or she may incur (i) on account of such person's activities which were at the time taken, known or believed by such person to be clearly in conflict with the best interests of the University; or (ii) as a result of any improper benefit realized by such person.
- e. The Board of Trustees shall take all such action as may be necessary and appropriate to authorize the University to pay the indemnification required by this Section 13, including without limitation, to the extent needed, making a determination that indemnification is permissible in the circumstances and a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him or her. The Board of Trustees may appoint a committee or special counsel to take any or all of such actions on its behalf.
- f. Any person who at any time after the adoption of this Section 13 serves or has served as a trustee of or on behalf of the University shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of this Section 13.
- g. Unless otherwise provided herein, the indemnification extended to a person who has qualified for or been permitted indemnification under the provisions of this Section 13 shall not be terminated when the person has ceased to be a trustee, officer, employee or agent for all causes of action against the indemnified party based on acts and events occurring prior to the termination of the relationship with the University and shall inure to the benefit of the heirs, executors and administrators of such person.
- h. Notwithstanding any provision in this Section 13, in the event and to the extent that providing indemnification (or a defense) to any person otherwise entitled thereto under this Section 13 would reduce or otherwise render wholly or partly unavailable any insurance coverage otherwise available as a source of payment of indemnification or expenses of defense of such person, then, to

the extent such coverage is available, and to the extent permitted by law, the University shall not be obligated to provide any indemnification or pay any defenses costs under this Section 13.

Article III: Officers

Section 1

The officers of the University shall consist of a Chair of the Board of Trustees, a Vice Chair of the Board of Trustees, a President, one or more Vice Presidents (including Executive Vice Presidents), a Secretary and a Treasurer of the University. The Chair, Vice Chair and Secretary of the Board of Trustees shall be elected by the Board of Trustees annually at the Annual Meeting and shall serve for a term of one (1) year or until such time as their respective successors shall have been elected and qualified. The Chair, Vice Chair and Secretary shall not serve more than six (6) consecutive one (1) year terms; however, if an individual is initially elected to fill an unexpired term for an office, such individual may be re-elected to six (6) consecutive one (1) year terms for such office. All other officers of the University shall be elected by the Board of Trustees at such times and for such term or terms as the Board of Trustees shall determine from time to time. If the Board of Trustees shall create the office of Vice President for Finance, the person elected to this office shall also be elected to the office of Treasurer, it being the intention that the functions of the office of Vice President for Finance and the office of Treasurer shall be exercised by one and the same person. Any two or more offices may be held by the same person except (a) the offices of Chair and Vice Chair and the offices of President and Secretary. The Board of Trustees may elect officers at any meeting for the purpose of filling any vacancy or vacancies which may occur in the offices.

Section 2

The Board of Trustees may appoint from time to time such subordinate officers and assistant officers as it may deem necessary and appropriate for the purpose of conducting the University's affairs. The title and duties of any subordinate officer or assistant officer so appointed shall be determined and defined by the Board of Trustees at the time of appointment, and any such officer may be dismissed and removed by the Board of Trustees at any time.

Section 3

The Chair of the Board of Trustees shall preside at all meetings of the Board of Trustees and shall perform such other duties as the Board of Trustees may from time to time direct.

Section 4

The Vice Chair of the Board of Trustees shall preside at the meetings of the Board of Trustees in the absence of the Chair of the Board of Trustees and shall perform such other duties as the Board of Trustees may from time to time direct.

Section 5

The President of the University shall be the chief executive officer of the University and as such, subject to the control of the Board of Trustees, shall be responsible for, and shall have general supervision over, the affairs of the University, including all academic affairs, fundraising and institutional development and athletics. In addition, the President of the University or his or her designee shall oversee and supervise the Council of Deans. With the approval of the Board of Trustees, the President shall appoint all members of the faculty and the administration upon such terms and conditions as are provided by the tenure and appointment policy established by the Board of Trustees. The President shall have full power and authority, with the approval of the Board of Trustees, to retire from active service such persons as shall be qualified for such retirement and have such other powers and perform such other duties as are generally and customarily performed by the chief executive officers of universities and such other duties as from time to time may be assigned to him or her by the Board of Trustees.

Section 6

The Vice Presidents of the University shall perform such duties of an executive and/or administrative nature as may be assigned to them by the Board of Trustees or the President with the consent of the Board of Trustees. In the absence of the President, or during his or her inability to act, certain Vice Presidents as expressly authorized by the Board, may exercise any of the powers and duties of the President, subject to the control and direction of the Board of Trustees.

Section 7

The Secretary of the University shall be responsible for issuing notice of all meetings of the Board of Trustees and shall make and preserve records of all such meetings. The Secretary shall be the custodian of the seal of the University and shall perform such other duties as the Board of Trustees and/or the President may from time to time direct. The Secretary of the University shall also maintain a complete and current listing of the classes of the trustees of the Board, and the terms and total years of service and total years of consecutive service of each trustee of the Board, which listing shall be distributed at each meeting of the Board, along with a listing of all vacant positions to be filled by the Board.

Section 8

The Treasurer of the University shall receive the funds of the University and deposit such funds in one or more banks or other depositories approved by the Board of Trustees, and shall disburse the same upon vouchers issued by such officer or officers as may be designated from time to time by the Board of Trustees. The books and accounts of the Treasurer shall be open at all times for inspection by the members of the Board of Trustees. The Treasurer shall perform such other duties as the Board of Trustees and/or the President from time to time may direct.

Section 9

The President and the Treasurer of the University shall report to the Board of Trustees at its regular meetings and shall render such additional reports as the Board of Trustees from time to time may direct.

Section 10

All instruments to be executed for and on behalf of the University shall be executed by the President, the Vice President for Finance or any other officer of the University upon specific written designation by the President or as designated or authorized by the Board of Trustees, or in such other manner or by such other persons as the Board of Trustees may from time to time designate or authorize. Any person having authority to sign instruments on behalf of the University may delegate from time to time by instrument in writing, all or any part of such authority to any person or persons, if prior authorization for such delegation shall have first been given by the Board of Trustees or the Executive Committee.

Section 11

An Executive Session of the Board of Trustees may be called by the Chair of the Board of Trustees at any regular or special meeting of the Board. Executive Sessions of the Board are authorized under the following circumstances:

- a. to discuss legal matters for which confidentiality is required, as determined by the Chair of the Board of Trustees;
- b. to discuss Faculty Personnel matters, specifically including, but not limited to, all appeals to the Board of Trustees authorized by the Faculty Handbook and all decisions to be made by the Board of Trustees pursuant to the Faculty Handbook (promotion, tenure, etc.);
- c. to discuss all Staff (including Executive Staff) Personnel matters, specifically including, but not limited to, all appeals to the Board of Trustees under the Staff Handbook and all discussions involving Staff or Executive Staff contracts, performance, compensation, reviews and related matters; and

d. to discuss such other matters as the Board of Trustees determines to be a proper subject of Executive Session by a majority vote of all members entitled to attend Executive Sessions.

Only trustees and the President may attend Executive Sessions of the Board of Trustees, provided that the President may not attend any Executive Session discussions regarding the President's contract, performance, compensation, review or related matters.

Article IV: Committees of the Board of Trustees

Section 1

The Board of Trustees shall have the following committees (collectively, the "Board Committees"): an Executive Committee, a Finance and Audit Committee, a Governance Committee, (collectively, the "Standing Board Committees") as well as such other committees of the Board of Trustees as the Board of Trustees may create from time to time. The composition of the Executive Committee shall be as provided in Article IV, Section 2 below. Only trustees may serve as members of a Board Committee. The Chair of the Board of Trustees shall be a member of all Board Committees. The creation of a Board Committee (other than the Standing Board Committees) and the appointment of trustees to serve on any Board Committee (other than the Executive Committee) shall be approved by the greater of (i) a majority of the trustees then in office and (ii) the number of trustees required for action under Article II, Section 6. The Chair shall nominate, for the Board's consideration, trustees to serve on all Board Committees (other than the Executive Committee) and to fill all vacancies in any such Board Committee. Each Board Committee shall consist of not less than three (3) trustees. The Chair of the Board of Trustees shall be the Chair of the Executive Committee, and the Vice Chair of the Board of Trustees shall serve as the Vice Chair of the Executive Committee. The Chair of the Board of Trustees shall appoint the Chairs and Vice Chairs of the other Board Committees from among the members of such Committee. Notwithstanding anything in these Bylaws to the contrary, neither the Executive Committee nor any other Board Committee may:

- a. Change the University's mission;
- b. Elect, appoint or remove trustees, or fill vacancies on the Board of Trustees or on any of the Board Committees;
- c. Elect, appoint or remove officers of the University, or fill any officer vacancies;
- d. Adopt the University's annual budget;

- e. Cause the University to incur indebtedness or sell or dispose of real estate or other tangible property;
- f. Confer degrees;
- g. Adopt, amend or repeal the University's Articles of Incorporation or Bylaws;
- h. Approve any dissolution or merger by the University or the sale, pledge or transfer of all or substantially all of the University's assets; or
- i. Take any action prohibited by the North Carolina Nonprofit Corporation Act.

Section 2

The Executive Committee shall have and execute all of the power and authority of the Board of Trustees in the management and control of the property and affairs of the University when the Board of Trustees is not in session. Members of the Executive Committee shall include: (a) the Chair of the Board of Trustees; (b) the Vice Chair of the Board of Trustees; (c) the Chair of the Finance and Audit Committee; and (d) the Chair of the Governance Committee. The University President, the Treasurer of the University, the University Counsel, and the past Chair of the Board of Trustees (for the one (1) year period following the election of a new Chair) shall have the privilege of receiving notice of and attending Executive Committee meetings and shall have all the rights and privileges of the floor, but they are not members of the Executive Committee, do not count toward a quorum of the Executive Committee and may not vote on Executive Committee matters. The Executive Committee may establish its own rules and procedures, and shall meet regularly at such time and place as the Executive Committee shall determine. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of the business of the Executive Committee. Meetings of the Executive Committee, other than regular meetings, may be called by the Chair of the Board of Trustees upon three (3) days' notice to the members of the Executive Committee by any generally accepted means of communication, including without limitation, telephone calls, telegrams, telexes, telecopies, letters, emails and other electronic communications. The minutes of each meeting of the Executive Committee shall be presented to and reviewed by the Board of Trustees at its next regular meetings.

Section 3

The Finance and Audit Committee shall review the annual budget and make recommendations to the Board of Trustees with respect to all the operations of the University; set policies and direction for the management of the University's investments, including endowments, other restricted or partially restricted funds and

working capital; assure that all accounting and control functions provide financial information adequate for the proper governance of the University; and guide the University's long range planning at the policy level. The Finance and Audit Committee may, with the approval of the Board of Trustees, create sub committees, such as an Investment Committee, to perform¹ such portion of the Finance and Audit Committee's role as may be defined by the Finance and Audit Committee. All such sub committees shall report to the Finance and Audit Committee.

Section 4

The Governance Committee will nominate trustee candidates for the Board's consideration and approval with respect to each trustee election, including elections at Annual Meetings and elections to fill any vacancy created by reason of death, resignation, retirement, removal or any other cause. In addition, the Governance Committee shall nominate persons for election as officers of the Board of Trustees and, after consultation with the President, officers of the University other than the President; and, jointly with the President, persons to receive honorary degrees and trustee merit awards from the University. All persons recommended to the Governance Committee for receipt of honorary degrees and merit awards shall be considered by the Governance Committee in accordance with criterion and guidelines previously approved by the Board of Trustees. Written resumes or vitae of all persons, other than current trustees of the Board of Trustees (except in case of nominations of trustees for honorary degrees), nominated by the Governance Committee shall be submitted to the Board of Trustees at least ten (10) days prior to the meeting of the Board of Trustees at which the Governance Committee proposes to submit the nominations. Nominations for persons to receive honorary degrees and trustee merit awards shall be submitted to the Board of Trustees at the regular October meeting of the Board of Trustees prior to the presentment of any such degree or award. The Governance Committee shall be responsible for (a) reviewing annually the performance and effectiveness of the Board of Trustees, and its operating policies and procedures, (b) reviewing no less than every two (2) years the performance and effectiveness of the Chair, Vice Chair and Secretary and (c) making recommendations to the Executive Committee and the full Board to address any issues resulting from such review.

Section 5

A majority of the trustees of any Board Committee shall constitute a quorum for the transaction of the business of any such Board Committee. Each Board Committee may, from time to time, with the approval of the Board of Trustees, appoint such subcommittees as it shall deem appropriate and necessary. Board Committees and

subcommittees are authorized to meet via formally noticed conference calls arranged by its Chair. Each Board Committee shall make regular reports of its activities to the Board of Trustees at the regular meetings thereof.

Section 6

The Board of Trustees may establish such fact finding, investigatory and other committees and task forces, as may be necessary or appropriate from time to time. The duties and duration of any such committees and task forces shall be designated by the Board of Trustees, provided that the Board of Trustees may not delegate any of its powers to such committees and task forces. The members of committee or task force and Chair will be designated by the Board of Trustees and may include members who are not trustees.

Article V: Amendments

Section 1

These Bylaws may be amended at any meeting of the Board of Trustees by resolution adopted by two-thirds (2/3) of the trustees then in office, provided that not less than ten (10) days prior written notice of the proposed amendment shall have been given to each trustee.

I, Richard J. Osborne, the Secretary of the Board of Trustees of Johnson C. Smith University, Incorporated, do hereby certify that the foregoing Bylaws are duly adopted on August 21, 2020 to be effective as of June 14, 2021.

Secretary

