

# **Rules of Business Practice for the 2005-2010 USP Board of Trustees**

**January 1, 2008**

## **I. GENERAL**

### **1.01 Governance**

These Rules of Business Practice (“Rules”) are adopted in accordance with Chapter VI, Section 32 of the Bylaws, and shall govern the activities of the 2005-2010 Board of Trustees (“Board”) and its committees. The current edition of *Robert’s Rules of Order, Newly Revised* shall be followed in conducting Board business where these Rules are silent.

### **1.02 Quorum**

As provided in Chapter VI, Section 4 of the Bylaws, six voting members of the Board shall be required for a quorum.

### **1.03 Amendments**

These Rules may be amended from time to time by majority vote of the Board.

## **2. STANDARDS OF CONDUCT**

### **2.01 Code of Ethics and Policies**

The members of the Board shall be required to adhere to the principles and policies contained in the USP Code of Ethics and USP Policies.

### **2.02 Conflicts of Interest**

(a) A Board member shall not use his or her membership in any way that is, or appears to be, motivated by private gain for himself, herself or any outside interest.

(b) As provided in Chapter VI, Section 6(b) of the Bylaws, no member of the Board who has a financial interest that may conflict, or may appear to conflict, with his or her duties and responsibilities as a Board member, shall vote on matter in which he or she has such financial interest. An employee’s interest shall be presumed to coincide with that of his or her employer. It shall be the responsibility of the Board member to advise the chairman should a particular situation arise in which he or she may have a conflict of interest, or the appearance of a conflict of interest, not evident from the statement of interests.

(c) As provided in Chapter VI, Section 6(c) of the Bylaws, where it appears that a conflict of interest may exist, or may be perceived to exist, any member of the Board may excuse him or herself from a deliberation of the Board; alternatively, such member may be excused from a deliberation of the Board by an affirmative vote of not less than two-thirds of the members of the Board (other than himself or herself). The minutes of such meeting shall note that the member was excused from such deliberation.

(d) Each Board member annually shall submit to the Secretary of the Board a statement of all employment, professional, research, and financial interests that relate either directly or indirectly to matters within the scope of activities of the USP Convention. Such statement shall be updated as necessary to keep it current or as requested periodically by the Secretary.

### **2.03 Confidentiality**

Each member of the Board shall maintain the confidentiality of all information gained in the course of his or her activities as a Board member, and shall not use or disclose such information for any purpose, unless such information is already publicly available.

### **2.04 Compensation and Expenses**

(a) As provided in Chapter VI, Section 6(a) of the Bylaws, no member of the Board shall receive compensation for his or her services. Members of the Board shall be reimbursed for traveling and other expenses incurred while on official USP business in accordance with the USP travel and expense reimbursement policy.

(b) No member of the Board shall receive any loans except for advances to pay for billed or anticipated travel expenses while on official USP business (e.g., registrations, advance ticket purchases, etc.)

## **3. CHAIRPERSON**

The Chairperson of the Board shall be elected by a majority vote of the Board in accordance with Chapter VI, Section 2 of the Bylaws. The Governance Committee shall serve as the nominating committee for the election of the Chairperson and shall present candidates to the Board prior to the election. The Chairperson shall hold office for one year or until his or her successor is elected. In the event of absence of the Chairperson, a member of the Executive Committee appointed by the Chairperson shall serve as chair.

## **4. MEETINGS**

### **4.01 Types of Meetings**

Meetings of the Board shall be scheduled in accordance with Chapter VI, Section 4 of the Bylaws. Meetings may take place in which members are present in a single location (face-to-face meetings) or, as provided in Chapter VI, Section 5 of the Bylaws, in which all members may be present by teleconference, videoconference, Internet, or similar electronic means, provided that all members present are able to hear or perceive each other's comments simultaneously (telephonic meetings).

### **4.02 Participation by Telephone or Electronic Means**

A member may participate via teleconference, videoconference, Internet or similar electronic means and be deemed to be present at a face-to-face Board meeting only if approved by majority vote of the Board. A member may not participate by such means in more than one face-to-face Board meeting per year, unless otherwise approved by

majority vote of the Board. Anyone participating in a meeting by telephone, videoconference, Internet, or similar electronic means shall announce his/her entrance and departure from the meeting.

#### **4.03 Attendance Policy**

If an attendance problem exists regarding a member, the Chairperson will promptly contact the member to discuss the problem. The member's response will be shared by the Chairperson with the entire Board at the next Board meeting. In that meeting, the Board will decide what actions to take regarding the Board member's future membership on the Board, taking into account the reasons for the attendance problem. If the Board decides that membership should be terminated, the Chairperson may notify the member of the Board's decision and request a letter of resignation from the member. In the event the member refuses to resign, the Board may proceed to remove the member by two-thirds vote in accordance with Chapter VI, Section 25 of the Bylaws. An attendance problem shall be deemed to exist if: (i) a member has two consecutive absences for which there was no prior notification to USP of such absence; or (ii) a member has three consecutive absences, whether or not prior notification of such absence was provided to USP.

#### **4.04 Conducting Business by Correspondence**

Between meetings, the Board may conduct business by correspondence, including electronic means, as provided in Chapter VI, Section 3 of the Bylaws.

### **5. REFERRAL OF MATTER TO THE CONVENTION**

Pursuant to Chapter VI, Section 30 of the Bylaws, between stated meetings of the Convention the Board may, at its discretion, send to the Convention members a matter to be voted upon. Prior to requesting a vote, the Board shall send to the Convention members for comment the proposed question(s) to be voted upon. Depending upon the comments received, the Board may or may not modify or withdraw the question. The question(s) then may be submitted to the Convention for a ballot vote. A summary of any comments received and the Board's response to such comments shall be included with the ballot.

### **6. COMMITTEES OF THE BOARD**

#### **6.01 Standing Committees**

There shall be six standing committees of the Board: an Executive Committee, an Audit Committee, a Governance Committee, an Investment Committee, a Compensation and Continuity Committee, and an International Sites Committee.

#### **6.02 Special Committees**

Special Committees of the Board shall be appointed by the Chairperson to address a particular issue, and shall be dissolved upon completion of their charge.

#### **6.03 Secretary; Staff Support**

The Secretary to the Board shall serve as the Secretary to all standing and special committees. The EVP-CEO shall assign appropriate staff to support the work of each Board committee.

## **7. EXECUTIVE COMMITTEE**

### **7.01 Composition**

The Executive Committee shall be composed of the Chairperson, the President, the Treasurer, and the Public Member. The Executive Vice President-CEO (EVP-CEO) shall serve as an ex officio, non-voting member.

### **7.02 Functions**

The Executive Committee shall:

(a) Oversee approval and implementation of the budget, including:

1. Reviewing, and recommending to the Board for approval, the proposed annual budget.

2. Reviewing and approving proposed shifts within the approved budget of amounts greater than 1.0% of the operating budget or exceeding \$500,000.

3. Reviewing and approving proposed shifts within the approved capital budget of amounts exceeding \$250,000.

4. Reviewing and approving proposed unbudgeted or extraordinary business expenditures greater than \$100,000.

(b) Evaluate the performance of the EVP-CEO, including developing the criteria on which he or she will be evaluated, and communicating the evaluation to the Board along with any recommended changes in compensation, including salary incentives or other awards for performance, and/or other supplemental compensation.

(c) Perform such other functions as may be referred or assigned to it by the Board or the Chairperson from time to time, with the authority to act on behalf of the Board with respect to such functions; provided, however, that any decision that significantly alters the strategic direction, finances, relationships or image of USP shall be reserved to the Board as a whole, and further may be referred by the Board to the Convention as provided in Section 5 above.

### **7.03 Meetings; Ratification of Actions by Board**

The Executive Committee shall meet throughout the year as necessary and appropriate, generally quarterly. The Executive Committee meeting agendas shall be provided to the Board, and all actions taken at an Executive Committee meeting shall be included in the minutes of such meeting and presented to the Board for ratification at its next meeting.

## **8. AUDIT COMMITTEE**

### **8.01 Composition**

The Audit Committee shall be appointed by the Chairperson and shall be composed of at least three members of the Board, one of whom shall be the Treasurer. The Treasurer shall serve as chairperson of the Audit Committee.

### **8.02 Functions**

The Audit Committee shall:

(a) Perform the following functions with regard to independent audits of the organization:

1. Recommend to the Board suitable accounting firms to conduct such audits. The Board shall vote annually to select the audit firm to conduct the annual audit. Such selection shall ensure appropriate rotation of the firm and individuals within the firm responsible for conducting the audit.
2. Oversee the independent audit of the organization, including meeting with auditors to discuss the scope of the audit, reviewing and analyzing the audit results, discussing with auditors and management the adequacy and effectiveness of the accounting and financial controls, and discussing with the auditors and management any other problems, issues or concerns arising out of the audit.
3. Approve any non-audit service to be provided by USP's audit firm. A non-audit service shall mean any service other than those related to the preparation, completeness, and accurate reporting of the financial statements. None of the following non-audit services may be approved for the audit firm: (i) bookkeeping or other services related to the accounting records or financial statements of USP; (ii) financial information systems design and implementation; (iii) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (iv) actuarial services; (v) internal audit outsourcing services; (vi) management functions or human resources functions; (vii) broker or dealer, investment adviser, or investment banking services; and (viii) legal and expert services unrelated to the audit. Any other non-audit services, including tax services, may be provided by USP's audit firm if approved by the Audit Committee.
4. Annually, obtain and review a report by the independent auditors describing: (i) the firm's internal control procedures; (ii) any material issues raised by the most recent internal control review or other review inquiry or investigation by governmental or professional authorities within the preceding five years, respecting any independent audits carried out by the firm and any steps taken to deal with any such issues; and (iii) all relationships between the auditor and the USP.
5. Require the auditors to report to the Audit Committee in a timely fashion: (i) all critical accounting policies to be utilized; (ii) all alternative treatments of financial information that have been discussed with management, the ramifications thereof, and

the preference of the auditor; and (iii) other material written communications between the independent auditor and senior management.

6. Report to the Board on its audit-related activities at least annually.
- (b) Ensure that all financial events are recorded in an appropriate manner.
- (c) Ensure the accurate preparation of meaningful financial statements.
- (d) Safeguard the assets of the Convention through appropriate controls.
- (e) Review the findings of any examinations conducted by regulatory agencies, and make recommendations if needed.
- (f) Oversee the development, implementation and enforcement of the USP Code of Ethics and USP Policies, including:
  1. Working with staff to develop and update the Code of Ethics and Policies, and recommending the Code and Policies to the Board for its approval.
  2. Ensuring adequate training of new and existing employees with regard to the Code and Policies.
  3. Overseeing investigations of possible violations of the Code and Policies and imposition of disciplinary action when necessary and appropriate.

### **8.03 Foreign Subsidiary Oversight**

The Audit Committee also shall provide oversight to the company's foreign subsidiaries with respect to the functions described in Section 8.02 above, in accordance with local laws and the governing documents of such subsidiaries.

### **8.04 Investigatory Authority**

In performing its functions, the Audit Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the company and the authority to engage independent counsel and other advisers as it deems necessary to carry out its duties.

## **9. GOVERNANCE COMMITTEE**

### **9.01 Composition**

The Governance Committee shall be appointed by the Chairperson and shall be composed of at least three members of the Board. The Executive Vice President-CEO (EVP-CEO) shall serve as an ex officio, non-voting member.

### **9.02 Functions**

The Governance Committee shall perform the following functions:

- (a) Develop with staff a program to orient new Board members to the organization and their roles and responsibilities.
- (b) Recommend to the Board standards and measurements to evaluate performance of members of the Board.
- (c) Periodically, on behalf of the Board, conduct a Board self-assessment, and report to the Board its findings along with any recommendations.
- (d) Make recommendations to the Board on how to improve and make more efficient and effective the Board's performance.
- (e) Review recommendations of the Convention Membership Committee on the invitation of new members to the Convention and other membership issues, and make recommendations regarding the same to the Board.
- (f) Review and make recommendations to the Board regarding proposed changes to these Rules.

## **10. INVESTMENT COMMITTEE**

### **10.01 Composition**

The Investment Committee shall be appointed by the Chairperson and shall be composed of at least two members of the Board, one of whom shall be the Treasurer. The Treasurer shall serve as chairperson of the Investment Committee.

### **10.02 Functions**

The Investment Committee shall be responsible for oversight of the organization's investment policy and performance of the investment portfolio, and shall work with staff and any outside financial advisor(s) to:

- (a) Develop and recommend to the Board investment policies and asset allocation guidelines that will maintain a sufficient reserve and maximize the return on the reserve based on an acceptable level of investment risk and expected short/long term needs;
- (b) Monitor the performance of the portfolio, and provide to the Board a quarterly review of portfolio performance;
- (c) Recommend to the Board the engagement or change in the engagement of an outside financial advisor; and
- (d) Conduct at least annually a full investment policy review with the Board.

## **11. COMPENSATION AND CONTINUITY COMMITTEE**

### **11.01 Composition**

The Compensation and Continuity Committee shall be appointed by the Chairperson and shall be composed of at least three members of the Board.

### **11.02 Functions**

The Compensation and Continuity Committee, working with staff, shall perform the following functions:

- (a) Review and make recommendations to the Board regarding the overall compensation philosophy and principles of the organization.
- (b) Review the structure of the staff compensation program, including salary levels, benefits, and the Success Sharing Plan and the extent to which they are achieving desired purposes.
- (c) Review and make recommendations to the Executive Committee and the Board regarding employee benefit plans and employee benefits, with the Board retaining responsibility for final approval of the insurer or insurers through whose policies the plan benefits are to be funded and the rules and procedures for administration of the plan.
- (d) Based on input from the EVP-CEO, review and make recommendations to the Board regarding the proposed metrics for organizational performance under the Success Sharing Plan.
- (e) Review the succession plans for the EVP-CEO and his or her direct reports.

## **12. INTERNATIONAL SITES COMMITTEE**

### **12.01 Composition**

The International Sites Committee shall be appointed by the Chairperson and shall be composed of up to five members of the Board. Such appointments shall be made on a rotating basis to allow every member of the Board to serve on the International Sites Committee at some time during the cycle. At least one member of the International Sites Committee shall also be a member of the Audit Committee.

### **12.02 Functions**

The International Sites Committee shall be responsible for oversight of the organization's international sites, and shall work with staff to:

- (a) Review plans and activities related to the potential development of an international site, determine whether such a site is consistent with the international strategy adopted by the Board, and make recommendations to the Board with regard to the establishment of such sites.
- (b) Following approval by the Board to establish a site, monitor the development activity relating to such site and report to the Board on such activity.

(c) Review and approve the incorporation documents for any subsidiary corporation formed for the operation of an international site to ensure consistency with overall Board direction and understanding regarding the scope, purpose and function of such site. Upon request, the Committee shall also receive and review minutes of subsidiary board meetings.

(d) Once a site has been developed and is operational, provide ongoing oversight for such site to ensure that the strategic and financial objectives established for the site are being met.

The Committee's oversight role shall include ensuring that Board members visit international sites during their development and once they are operational, as appropriate. As used in this Section, an "international site" shall mean a full-service site established by the organization which includes laboratory facilities, and shall not include an office established solely for sales and marketing purposes.

### **13. EXECUTIVE VICE PRESIDENT AND CHIEF EXECUTIVE OFFICER (EVP-CEO)**

#### **13.01 Responsibilities and Authority of EVP-CEO**

(a) The EVP-CEO shall serve at the will of the Board, as provided in Chapter VI, Section 16 of the Bylaws. The EVP-CEO shall have the responsibilities, duties and authority set forth in Chapter III of the Bylaws. The EVP-CEO shall perform such additional duties as may be requested by the Board from time to time consistent with the provisions of Chapter III.

(b) Pursuant to Chapter VI, Section 7 of the Bylaws, the EVP-CEO or his or her designee is authorized to execute on behalf of the Convention contracts and agreements of an ordinary or routine managerial nature occurring in the usual or regular course of business.

(c) As provided in Chapter IV, Section 1 of the Bylaws, the EVP-CEO's designee shall serve as Secretary to the Board and the Convention. The Secretary shall act under the direction of the EVP-CEO.

#### **13.02 Absence**

In the event of an unanticipated absence of the EVP-CEO, responsibility for his/her functions shall be assumed in accordance with the interim succession plan for the EVP-CEO reviewed by the Compensation and Continuity Committee pursuant to in Section 11.02(e) above and approved by the Board. The interim successor shall retain such functions until the EVP/CEO re-assumes his/her responsibilities or selection of a new EVP/CEO, as determined by the Board.

### **14. MANAGEMENT OF ASSETS**

#### **14.01 Oversight by Treasurer**

In addition to those responsibilities contained in the Constitution and Bylaws, the Treasurer shall be responsible for:

- (a) Overseeing that accurate and complete financial records are kept.
- (b) Monitoring the cash flow of the organization through analysis of the various budget and financial reports that are prepared by staff.
- (c) Overseeing that there are both adequate physical controls and internal controls over the assets of the organization.
- (d) Anticipating financial issues and problems and advising the Board of their potential consequence.

#### **14.02 Checking Accounts**

Two checking accounts shall be maintained: one account for payroll and the other a general account for all transactions other than payroll. Both accounts shall require two signatures for withdrawal of funds. The two signatures are those of (i) the Treasurer or Chairperson and (ii) the EVP-CEO, or Chief Financial and Administrative Officer, or Secretary. Facsimile signatures of the aforementioned officers may be utilized provided they are applied in accordance with established procedures.

### **15. CERTIFIED FINANCIAL REPORTS**

#### **15.01 Submission of Financial Statements**

The EVP-CEO shall submit to the Board annual and quarterly financial statements.

#### **15.02 Certification**

The EVP-CEO, the Chief Financial and Administrative Officer, and others, as determined by the Board, shall certify to the Board for each annual financial report to the Board that:

- (a) The signing individual has reviewed the report.
- (b) Based on the signing individual's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact.
- (c) Based on the signing individual's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of USP as of, and for, the periods presented in the report.
- (d) The signing individual:
  - 1. Is responsible for establishing and maintaining internal controls;

2. Has evaluated the effectiveness of the internal controls of the USP as of a date within 90 days prior to the report; and

3. Has presented in the report his or her conclusions about the effectiveness of these internal controls based on his or her evaluation as of that date.

(e) The signing individual has disclosed to USP's auditors and the Audit Committee:

1. All significant deficiencies in the design or operation of internal controls, which could adversely affect the USP's ability to record, process, summarize, and report financial data, and have identified for the USP's auditor any material weaknesses in internal controls; and

2. Any fraud, whether or not material, that involves management or other employees who have a significant role in USP's internal controls.

(f) The signing individual has indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

## **16. PROCEDURES FOR INDEMNIFICATION OF TRUSTEES, OFFICERS, COMMITTEE MEMBERS, PANELISTS, AND EMPLOYEES**

### **16.01 Definition**

For purposes of this indemnification policy, the terms "USP official" or "official" shall mean a current or former officer, member of the Board, Council of Experts or Expert Committee member, ad hoc Advisory Panel member, employee, or agent of USP.

### **16.02 Insurance**

USP may purchase and maintain insurance on behalf of any person who is a USP official or who served as a USP official against any liability asserted against and incurred by such person in any capacity or arising out of such person's position, whether or not USP would have the power to indemnify the individual against liability under the following provisions of this Section 16.

### **16.03 Scope of Indemnification**

(a) The organization may indemnify any USP official against reasonable expenses, judgments, fines, penalties and settlements actually incurred in connection with or arising out of any judicial, administrative, arbitration or other formal legal proceeding (Proceeding) by reason of the official's service on behalf of USP unless it is established that:

1. the act or omission of the official was material to the matter giving rise to the Proceeding, occurred after March 17, 1993, and was committed in bad faith or was the result of negligence, willful misconduct, or active and deliberate dishonesty; or

2. the official actually received an improper personal benefit in money, property, or services; or

3. in the case of any criminal Proceeding, the official had reasonable cause to believe that the act or omission was unlawful.

(b ) The termination of any Proceeding by judgment, order, or settlement does not create a presumption that the official did not meet the requisite standard of conduct set forth in subsection (a) above. The termination of any Proceeding by conviction, a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, creates a rebuttable presumption that the official did not meet that standard of conduct.

(c) An official may not be indemnified in respect of any Proceeding charging improper personal benefit to the official, whether or not involving action in his or her official capacity, if the official is adjudged to be liable on the basis that personal benefit was improperly received.

(d) An official may not be indemnified in respect of any Proceeding by or in the right of USP if the result of the Proceeding is that the official is adjudged to be liable to USP.

(e) An official who has been successful, on the merits or otherwise, in the defense of any Proceeding relating to the official's acts or omissions on behalf of USP shall be indemnified against reasonable expenses incurred by the official in connection with the Proceeding.

#### **16.04 Determination of Standard of Conduct**

(a) Indemnification may not be made by the organization unless a determination has been made that the official has met the requisite standard of conduct set forth in Section 16.03(a).

(b) Such determination shall be made:

1. By the Board, by a majority vote, or by a majority vote of a committee of the Board consisting solely of two or more members designated to act in such matter by a majority vote of the Board; or

2. By special legal counsel selected by the Board or by a committee of the Board designated to make such selection under the same process set forth in subsection 1.

(c) Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, as described in subsection (b) above.

### **16.05 Reimbursement of Expenses**

(a) Reasonable expenses incurred by an individual who is a party to a Proceeding or threatened Proceeding may be paid or reimbursed by USP in advance of the final disposition of the Proceeding, after a determination that the facts then known to those making the determination would not preclude indemnification under this section, upon receipt by USP of:

1. a written affirmation by the official of the individual's good faith belief that the standard of conduct necessary for indemnification by USP as indicated in subsection 16.03(a) has been met; and

2. a written undertaking by or on behalf of the official to repay the amount if it shall ultimately be determined that the standard of conduct has not been met; provided, however, that such undertaking shall be an unlimited general obligation of the official but need not be secured and may be accepted without reference to financial ability to make the repayment.

(b) Determinations and authorizations of payments under this paragraph shall be in the manner specified in section 16.04.

(c) This policy does not limit USP's power to pay or reimburse expenses incurred by an official in connection with an appearance as a witness in a Proceeding at a time when the official has not been made a named defendant or respondent in the Proceeding.

### **16.06 Actions with Respect to Employee Plan**

Actions taken or omitted by a USP official as a trustee with respect to an employee benefit or welfare plan in the performance of the official's duties for a purpose reasonably believed by the official to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the organization.