

# **Rules of Business Practice for the 2010-2015 USP Board of Trustees**

**September 27, 2010**

## **1. GENERAL**

### **1.01 Governance**

These Rules of Business Practice (“Rules”) are adopted in accordance with Chapter V, Section 1 of the Bylaws, and shall govern the activities of the 2010-2015 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 Article V, Section 11 of the Bylaws, a majority of 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 Article VIII, Section 1 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 Article VIII, Section 2 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 him 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 Article VIII, Section 3 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. CHAIR**

The Chair of the Board shall be elected by a majority vote of the Board in accordance with Article V, Section 4 of the Bylaws. The Governance Committee shall serve as the nominating committee for the election of the Chair and shall present candidates to the Board prior to the election. Any elected member of the Board except the Convention President or Convention Treasurer is eligible to be elected and serve as Chair. The Chair shall hold office for one year or until his or her successor is elected. In the event of absence of the Chair, a member of the Executive Committee appointed by the Chair shall serve as chair. Except where specifically provided otherwise in these Rules, the Chair shall appoint the members and chairs of all Committees of the Board, and shall re-evaluate such appointments on a periodic basis as deemed appropriate.

## **4. MEETINGS**

### **4.01 Types of Meetings**

Meetings of the Board shall be scheduled in accordance with Article V, Section 8 of the Bylaws. Meetings may take place in which members are present in a single location (face-to-face meetings) or, as provided in Article V, Section 13 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 or her entrance and departure from the meeting.

#### **4.03 Attendance Policy**

If an attendance problem exists regarding a member, the Chair will promptly contact the member to discuss the problem. The member's response will be shared by the Chair 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 Chair 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 Article V, Section 6 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 Article V, Section 12 of the Bylaws.

### **5. COMMITTEES OF THE BOARD**

#### **5.01 Standing Committees**

There shall be four standing committees of the Board: an Executive Committee, an Audit Committee, a Governance Committee, and an Operations Committee.

#### **5.02 Special Committees**

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

#### **5.03 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.

### **6. EXECUTIVE COMMITTEE**

#### **6.01 Composition**

As provided in Article VI, Section 2 of the Bylaws, the Executive Committee shall consist of the Chair, the President, the Treasurer, and the public member Trustee. The EVP-CEO shall serve as an *ex-officio* nonvoting member.

## **6.02 Functions**

The Executive Committee shall:

- (a) Conduct the day-to-day affairs of the Convention between meetings of the Board, as provided in Article VI, Section 2 of the Bylaws. In accordance with the Bylaws, the Executive Committee shall have and exercise all the powers and perform all of the duties of the Board, subject to the limitations set forth in Article VI, Section 1 of the Bylaws and further provided that all actions taken by the Executive Committee shall require ratification by the Board at its next meeting in order for such actions to remain effective.
- (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) Establish a comprehensive succession plan for the EVP-CEO that will ensure a smooth and orderly executive transition in the event of the EVP-CEO's departure. The Executive Committee also shall ensure that appropriate succession plans exist for the EVP-CEO's direct reports.

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

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

## **7. AUDIT COMMITTEE**

### **7.01 Composition**

The Audit Committee shall consist of not less than three members of the Board, appointed by the Chair, no more than one of which shall be a member of the Operations Committee. The chair of the Audit Committee shall be appointed by the Chair from among such members; provided, however, that the chair shall not be the Treasurer.

### **7.02 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 include 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 resource 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 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.

(b) Review legal and regulatory matters that may have a material adverse impact on the organization's financial statements or reputation and any reports received by regulators.

(c) Review and make recommendations to the Board regarding disclosures in IRS filings for the organization.

(d) Oversee the development, implementation and enforcement of the USP Code of Ethics and such other policies and procedures as may be appropriate to ensure

compliance with laws and regulations and the ethical conduct of the organization, including:

1. Reviewing and recommending to the Board the adoption of and revisions to such Code of Ethics.
2. Monitoring compliance with the Code of Ethics, including receiving and reviewing regular reports from USP's Compliance Committee.
3. Establishing procedures for the receipt, retention and treatment of complaints received regarding accounting, internal controls or audit matters, and the confidential, anonymous submission by staff and volunteers of Concerns (as defined in USP's Whistleblower Policy).

### **7.03 Foreign Subsidiary Oversight**

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

### **7.04 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.

## **8. GOVERNANCE COMMITTEE**

### **8.01 Composition**

The Governance Committee shall consist of not less than three members of the Board, appointed by the Chair. The chair of the Governance Committee shall be appointed by the Chair from among such members.

### **8.02 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) Establish a process for nominating Board members as candidates for Board Chair and for electing the Chair on an annual basis.
- (c) Review from time to time the knowledge, skills and abilities required of Board members, consider the need for additional expertise in specific areas, and make recommendations to the Board regarding the appointment of additional Board members to meet such needs as permitted by the Bylaws.

- (d) Work with management to consider the implications of evolutions in USP's corporate structure for Board governance and structure.
- (e) Periodically, on behalf of the Board, conduct a Board self-assessment, and report to the Board its findings along with any recommendations.
- (f) Make recommendations to the Board on how to improve and make more efficient and effective the Board's performance.
- (g) Review recommendations of the Council of the Convention relating to the invitation of new members to the Convention, proposed resolutions for the Convention, and other matters, and make recommendations regarding the same to the Board.
- (h) Review the proposed Rules and Procedures of the Council of Experts and the Council of the Convention as forwarded by the Convention Governance Committee, and make recommendations to the Board regarding approval of the same.
- (i) Consider and make recommendations to the Board regarding proposed changes to these Rules.

## **9. OPERATIONS COMMITTEE**

### **9.01 Composition**

The Operations Committee shall consist of not less than three members of the Board, appointed by the Chair, no more than one of which shall be a member of the Audit Committee. The Operations Committee shall be chaired by the Treasurer.

### **9.02 Functions**

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

- (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 \$1,000,000.
  - 3. Reviewing and approving proposed shifts within the approved capital budget of amounts exceeding \$500,000.

4. Reviewing and approving proposed unbudgeted or extraordinary business expenditures greater than \$400,000.

(b) Oversee the financial affairs and condition of the organization, monitoring ongoing compliance with financial covenants associated with USP's bond financing.

(c) Oversee the investment policy and performance of USP's investment portfolio, including:

1. With the assistance of outside advisors as necessary, developing and recommending 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;
2. Monitoring the performance of the portfolio, and providing to the Board a quarterly review of portfolio performance;
3. Recommending to the Board the engagement or change in the engagement of an outside financial advisor; and
4. Conducting at least annually a full investment policy review with the Board.

(d) Oversee the organization's compensation and benefits systems and programs, including:

1. Reviewing and making recommendations to the Board regarding the overall compensation philosophy and principles of the organization.
2. Reviewing 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.
3. Reviewing 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.
4. Based on input from the EVP-CEO, reviewing and making recommendations to the Board regarding the proposed metrics for organizational performance under the Success Sharing Plan, and the achievement of such metrics.

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

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

(a) The EVP-CEO shall be hired by the Board, as provided in Article IV, Section 2 of the Bylaws. The EVP-CEO shall have the responsibilities, duties and authority set forth in Article IV, Section 11 of the Bylaws. The Board may enter into a contractual agreement with the EVP-CEO providing for such additional responsibilities, duties and authority and other terms and conditions of employment as the parties may agree, providing they are consistent with the Bylaws.

(b) As provided in Article IV, Section 11 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.

### **10.02 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 approved by the 2005-2010 Board in September 2007. The interim successor shall retain such functions until the EVP/CEO re-assumes his or her responsibilities or until the selection of a new EVP/CEO, as determined by the Board.

## **11. MANAGEMENT OF ASSETS**

### **11.01 Oversight by Treasurer**

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

(a) Overseeing that accurate and complete financial records are kept.

(b) Monitoring the financial situation of the organization through analysis of the various budget and financial reports that are prepared by staff, and providing regular reports to the Board.

(c) Overseeing that there are both adequate physical controls and internal controls over the assets of the organization.

### **11.02 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 Chair and (ii) the EVP-CEO, or Chief Operating Officer, or Secretary. Facsimile signatures of the aforementioned officers may be utilized provided they are applied in accordance with established procedures.

## **12. CERTIFIED FINANCIAL REPORTS**

### **12.01 Submission of Financial Statements**

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

### **12.02 Certification**

The EVP-CEO, the Chief Operating 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.

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

#### **13.01 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.

#### **13.02 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 14.

#### **13.03 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.

#### **13.04 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 14.03(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.

#### **13.05 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 14.03(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 14.04.

(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.

**13.06 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.