Dartmouth College

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DARTMOUTH COLLEGE
JOINT VENTURE POLICY

June 2012

1. Definition. As used in this Policy, "**Joint Venture**" means any joint ownership or contractual arrangement through which there is an agreement for Dartmouth College (the "College"), either directly or indirectly, to jointly undertake with another person or organization a specific business enterprise without regard to (i) whether the College controls the venture or arrangement, (ii) the legal structure of the venture or arrangement, or (iii) whether the venture or arrangement is taxed as a partnership or as an association or corporation for federal income tax purposes.

2. Required Reviews and Approval.

Prior to the College entering into or amending the terms of a Joint Venture, or creating a taxable entity, the following review and approval process should be followed:

a) **Joint Ventures with Tax-Exempt Organizations**: In the case of a joint venture with a tax-exempt organization, a written summary of the proposed activity, including its strategic objective and the rationale for conducting the activity jointly with another entity, together with all documents proposed to be executed by or otherwise binding on the College (including the Joint Venture operating agreement or similar document ("Joint Venture Documents")) shall be submitted to the Provost, General Counsel, Executive Vice President/Chief Financial Officer, Vice President for Finance, and Controller. They shall review the documents and either approve/disapprove the transaction or submit the documents to such other officials (including but not limited to the President) as they determine should review and approve/disapprove the transaction. The President shall determine whether the proposal should also be submitted to the Board of Trustees for its approval/disapproval.

b) **Joint Ventures with Taxable Organizations and Proposals to Create Taxable Entities**: In the case of a Joint Venture with a taxable organization, or a proposal to create a taxable entity, at an early stage in the consideration of the venture the College unit proposing the venture should bring the concept and a preliminary description of the activity, including its strategic objective and the rationale for conducting the activity jointly with a taxable entity or creating a taxable entity, to the attention of the Provost, General Counsel, Executive Vice President/Chief Financial Officer, Vice President for Finance, and Controller. If approved by these administrators, the concept and preliminary description should be submitted to the President for his or her consideration. If the President agrees, he shall submit the concept and preliminary description to the Board of Trustees for its review. If the proposal is given preliminary approval by the Board, the College unit proposing the Joint Venture or taxable entity should proceed to prepare a complete plan for its implementation, including the safeguards set forth in Item 3 below. The complete plan, together with the Joint Venture Documents (or documents establishing the taxable entity), should be submitted to the Provost, General Counsel, Executive Vice President/Chief Financial Officer, Vice President for Finance, and Controller. If they approve, they should forward the proposal to the President for his or her consideration. If the President concurs, he shall submit the proposal to the Board of Trustees for final review and approval/disapproval.

3. Tax Exemption Requirements. Where it is proposed that the College participate in a Joint Venture with a taxable entity, the College shall evaluate its participation in the Joint Venture under applicable Federal tax law and take steps to safeguard the College's exempt status. Examples of such safeguards include the following:

a. Assuring the Joint Venture furthers the charitable and tax- exempt purposes of the College by, for example, promoting educational purposes and research purposes in the public interest, consistent with the requirements of Section 501(c)(3) of the Internal Revenue Code and applicable IRS Revenue Rulings and similar guidance;

b. providing the College has sufficient control over the Joint Venture to ensure that the Joint Venture at all times shall be operated and managed in a manner that furthers the tax-exempt purposes of the College;

c. requiring any duty that the Joint Venture participants, the members of the Joint Venture's governing body or the Joint Venture's officers may have to maximize the Joint Venture's profits or to take, or refrain from taking, any other action, is overridden by the duty to faithfully satisfy the exempt purposes of the College without regard to the consequences for maximizing profitability;

d. assuring that the Joint Venture does not cause the College to act other than exclusively in furtherance of its tax-exempt purposes or adversely affect its tax-exempt status;

e. assuring that the Joint Venture does not directly or indirectly engage in any activities that would jeopardize the College's exemption (such as political intervention or substantial lobbying); and

f. requiring that sufficient operating controls be implemented at the Joint Venture to assure that all contracts and transactions involving the College and the Joint Venture are on an arms-length basis (or more favorable to the College).

4. Amendments. Any proposed amendments to the Joint Venture Documents or changes in the manner or method of the Joint Venture's governance or operation must not cause the Joint Venture or its operation to fail to fully satisfy the requirements set forth in Item 3 above.

5. Monitoring and Reporting Responsibilities.

a. If the proposed Joint Venture is approved and implemented, the Controller is charged with responsibility to monitor that the Joint Venture and its operation adheres to the requirements set forth in Item 3 above.

b. Each Joint Venture must submit the following items to the Controller at least annually

1. Minutes of governing board meetings of such Joint Venture held during the year; and

2. Financials statements of such Joint Venture for the year.

c) Each Joint Venture must submit the following items to the Controller within six months after each year end (unless otherwise approved by the Controller):

1. Copy of Form 1065 and Schedules K-1 (including the Schedule K-1).

2. Charity care, community benefit, and other data as prescribed by IRS Form 990 Schedule H, if applicable.

6. Document Retention. A fully executed original of each of the Joint Venture Documents and all other significant documents and agreements relating to the Joint Venture, including, without limitation (as applicable), Articles of Incorporation or Organization, Bylaws, Operating Agreement, Partnership Agreement, Management Agreement, Service Agreements and Leases, and a fully executed original of all amendments to any of the foregoing, and if available, electronic copies of each of the foregoing shall be maintained by the Controller. "Executed originals" may include facsimile or electronic signatures if permitted by the document so executed.