

**FOUNDING INSTRUMENT AND STATUTES OF:  
FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR**

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**FOUNDING INSTRUMENT  
OF  
FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR  
(the Foundation)**

**A. OFFICIAL NAME**

The official name of the Foundation is: FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR, and shall use the acronym: "FPR".

**B. ORGANIZATIONAL FORM**

Foundation

**C. ADDRESS OF THE FOUNDATION**

Foundation for Poverty Reduction  
C/o Asian Development Bank Special Office in East Timor  
ADB-World Bank Building  
Avenida dos Direitos Humanos  
Dili, East Timor

**D. PURPOSE OF THE FOUNDATION**

The Foundation is established for the Purpose of the Public Benefit, which Benefit will be advanced through supporting any activity that improves directly or indirectly the living standards or economic well being of citizens of East Timor, especially the poor.

The Foundation has or will acquire and intends to acquire gifts of money and property to advance its Purpose.

**E. AMOUNT AND SOURCES OF INITIAL CAPITAL**

The initial capital shall be US\$100, to be provided from the Microfinance Development Project (Grant 8186 – ETM/TF) funds.

**F. CONTACT INFORMATION**

Name of Secretary:	(To be appointed pursuant to the Articles of Association)
Address of Secretary	c/o ADB SOET, ADB-WB Building, Dili, East Timor

**G. BOARD OF TRUSTEES**

The members of the Board of Trustees appointed for the first time are:

Name	Date, place of birth	Occupation	Address	Citizenship
<p><b>Ex-Officio TRUSTEES</b></p> <p>1 Nominee of ADB</p> <p>2 Nominee of AusAID, or, in the event of the failure of AusAID to nominate, a nominee of ADB</p> <p>3 Nominee of Portugal or, in the event of the failure of Portugal to nominate, a nominee of ADB</p>				
<p><b>General TRUSTEES</b></p> <p>4 East Timorese representative nominated by the Minister of Economy and Development</p> <p>5 East Timorese representative nominated by the Minister of Economy and Development</p>				<p>East Timorese</p> <p>East Timorese</p>

**H. The STATUTES of the Foundation are attached.**

## **STATUTES:**

### **FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR**

#### **PART I PRELIMINARY**

##### **Interpretation**

1. In these Articles except insofar as the context or subject matter otherwise indicates or requires, the term:
  - a. "Foundation" means the legal entity incorporated under Executive Order No. 2001/7 whose operations these STATUTES govern, and whose name is FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR.
  - b. "Trustee" means the Trustee or Trustees for the time being of the Foundation whether original, additional or substituted.
  - c. "Ex-Officio Trustees" refers only to the designated representatives or nominees to the Board of Trustees of the Asian Development Bank or any of the participating major donors to the Trust Fund for East Timor.
  - d. "General Trustees" refers to non Ex-Officio Trustees appointed to the Board of Trustees.
  - e. "Property" includes vehicles and equipment, furniture, land & buildings, cash, shares, debentures, bonds, deposits, current accounts, savings accounts, or any other kind of asset from time to time belonging to or vested in or under the control or management of the Foundation or which may in the future be vested in it.
  - f. "Special Trusts" refer to any property received by the Foundation from any sources other than Trust Fund for East Timor (TFET) for any Purpose consistent with the Purpose and General Objects of the Foundation, and to be applied as directed either by the relevant donor, or, at the donor's direction, the Board of Trustees.
  - g. "Executive Order" means the Executive Order No. 2001/7 on the Establishment of the Foundation on Poverty Reduction of East Timor.
  - h. "Financial Year" means the financial year of the Foundation shall commence on the 1st day of January in any year and cease on the 31st day of December of the same year.

##### **Name**

2. The Foundation operating in accordance with these STATUTES shall be named "FOUNDATION FOR POVERTY REDUCTION OF EAST TIMOR Incorporated" and shall be registered as a Foundation pursuant to the provisions of Executive Order No. 2001/7.

##### **Non-profit**

3. The Foundation is established as a non-profit entity.

##### **Registered office**

4. The registered office of the Foundation shall be:

ADB-World Bank Building  
Avenida dos Direitos Humanos  
Dili, East Timor

## **PART II            PURPOSE AND GENERAL OBJECTS**

### **Purpose of the Foundation**

5. The Foundation is established for the Purpose of the Public Benefit, which Benefit will be advanced through supporting any activity that improves directly or indirectly the living standards or economic well being of citizens of East Timor, especially the poor.
6. The Foundation has or will acquire and intends to acquire gifts of money and property to advance its Purpose.
7. These STATUTES set out the basis upon which the Foundation will hold such gifts of money and property.

### **General Objects**

8. The General Objects of the Foundation shall be to do as necessary or appropriate to achieve the purposes of the Foundation, any of the following acts or things namely:
  - a. To support any lawful activity that contributes directly or indirectly to income generation and poverty reduction for citizens of East Timor.
  - b. The Purpose of the Foundation is to initially own or control all or substantially all of the shares of a microfinance institution necessary for the implementation of Part 1 (c) of Schedule 2, section 2 of the Grant Agreement dated 18 December 2000 between the Asian Development Bank (as joint implementing agency of the Trust Fund for East Timor and representative of the International Development Association as Trustee of the Trust Fund for East Timor) and the United Nations Transitional Administration in East Timor, for the Microfinance Development Project.
  - c. With respect to the money and property received from the Trust Fund for East Timor (TFET), to invest these funds in the share capital of the Microfinance Institution, and, in due course, to grant, distribute or sell such investment to customers, persons associated with Microfinance Institution, NGOs, credit unions or any East Timor citizens on any basis and terms determined by the Board of Trustees.
  - d. With respect to the proposed investment in the Microfinance Institution, to ensure that the said Institution does not deviate from its primary objective, which is to reduce poverty through targeting its financial services (e.g., credit, savings) and related training to the poor and lower income groups of the population, especially in rural areas.
  - e. To accept and deal with Special Trusts.
  - f. To support any lawful activity that relates directly or indirectly to the provision of financial services.
  - g. To support any other lawful activity necessary or associated or ancillary to the above General Objects, or to the Foundation's Purpose, which may conveniently be undertaken, provided that these activities are approved by the Board of Trustees.
  - h. To provide the administrative structure necessary to achieve the foregoing objects.
9. Provided that none of the General Objects referred to above shall be interpreted to be of primary or secondary importance. Provided that the Purpose of the Foundation is followed, each General Object stands alone and is equal in importance to any other General Object.

### **PART III      POWERS AND DUTIES OF THE FOUNDATION**

10. Without in any way limiting the generality of the foregoing General Objects and in order to achieve the Purpose of the Foundation, the Foundation shall have the following powers and responsibilities:

- a. To receive money and property from any source by means which may seem appropriate from time to time including the receipt of donations, grants, loans and the like.
- b. To encourage interest in and support for the Foundation's activities and objectives
- c. To invest, dispose of and otherwise deal with the property of the Foundation in such manner as is appropriate and consistent with the Purpose and General Objects of the Foundation, provided that:
  - (i) such investment, disposition of property is approved in advance by the Board of Trustees, and
  - (ii) before applying the Foundation's property and income on any funds and investments to meeting the Purpose and General Objects of the Foundation, all administration, operating and other expenses incurred by the Foundation shall first be met in full.
- d. To dispose of the investment in the Microfinance Institution by grant, sale, sale at a discount, or any one or all or any other method or methods.
- e. With respect to the investment in Microfinance Institution of East Timor, to authorize any person, entity or unit to vote on its behalf at any general meeting of shareholders of the Microfinance Institution in such a manner as approved and confirmed by the Board of Trustees.
- f. To purchase, lease, hire or otherwise acquire, and to sell, lease or otherwise dispose of or deal in or with, any property of every description.
- g. At its sole and absolute discretion, to accept or acquire property upon Special Trusts consistent with the Purpose of the Foundation, either as original Trustee or as new Trustee.
- h. To open from time to time and maintain banking account or banking accounts at any bank.
- i. To establish and support by means of grant, loan, technical assistance or investment, any Foundation, NGO, entity, group or association and the like whose Purpose is consistent with that of the Foundation.
- j. To establish and support by means of grant, loan, technical assistance or investment, any microfinance institution, bank, NGO, credit union or federation of credit unions, or any entity, group, association or the like engaged in the provision of financial services, provided that any activity supported is consistent with the Purpose the Foundation.
- k. To support, by way of grant, loan, technical assistance or investment, any activity that relates to lending and credit, savings mobilization, training, capacity building, or institutional strengthening, with respect to any bank, microfinance institution, microfinance program, credit union, or groups, or associations or cooperatives or village banks or NGOs, or the like, providing microfinance services of any kind, or financial services of any kind, to individuals, groups, and to micro, small and medium enterprises wherever located.
- l. To keep proper books of account and documents in respect of all moneys received and expended and particulars and documents in respect of all sales and purchases of assets and details of liabilities.

- m. To reimburse any Trustee, representative or nominee, and any officer, employee or agent of the Foundation for all expenses properly incurred by that person in connection with the affairs of the Foundation.
- n. To pay reasonable remuneration to any officer or employee of the Foundation in return for services rendered to the Foundation.
- o. To employ and remunerate any person, entity, firm, agent, project management unit whose services are required for the administration and operation of the Foundation.
- p. To employ and remunerate any person, entity, firm, agent, project management unit, NGO, Foundation, association, government or district government, whose services are required to enable the Foundation to meet all or any of its General Objects.
- q. To pay all usual professional and business or trade charges for services rendered, time expended and all acts done by a Trustee, officer or employee of the Foundation, or by any firm or entity of which that Trustee, officer or employee is a member, employee or associate, in connection with the affairs of the Foundation.
- r. To borrow money on such terms as the Foundation sees fit, for any purpose or activity that supports the Purpose of the Foundation provided this is approved by the Board of Trustees.
- s. To do all or any of the things which a Foundation is authorized to do by law.
- t. To do all such other things as are necessary for, or incidental to or conducive to, the attainment of the Purpose and General Objects of the Foundation.

#### **PART IV SPECIAL TRUSTS**

11. When property is accepted by the Foundation as Special Trusts all the powers and provisions of these STATUTES shall, except as provided by any terms of Special Trusts, be deemed to be incorporated in the terms of such Special Trusts.

#### **PART V CAPITAL AND INCOME**

12. When property is accepted or acquired by the Foundation for the Purpose of any or all of the General Objects of the Foundation, the Foundation may apply both capital and income including the proceeds of the sale or mortgage thereof towards any of such General Objects and may accumulate such income until the same can be usefully applied to all or any of such General Objects.

13. When property is accepted by the Foundation for any Special Trusts, the Foundation may apply both capital and income including the proceeds of the sale or mortgage thereof in or towards the objectives of the Special Trusts, or may accumulate income until the same can be usefully applied to all or any of the objects of the Special Trusts.

#### **PART VI BOARD OF TRUSTEES**

14. The Board of Trustees shall be the governing body of the Foundation and shall be responsible for the control, management and administration of the affairs of the Foundation.

15. All the powers and duties of the Foundation shall be exercised or carried out by a properly constituted meeting of the Board of Trustees comprising a quorum consisting of at least the

majority (one-half the number of Trustees plus one) of the Board of Trustees provided that the Ex-Officio members also constitute the majority in the quorum of the Board of Trustees.

16. In carrying out their responsibilities the Board of Trustees may delegate any of their powers, authorities and discretions to any person, entity, firm, project management unit, or committee appointed by them for such Purpose or Purposes and for such period or periods as they may determine and may at any time rescind, extend or vary any such delegation of power.

17. The Board of Trustees shall consist of the Ex-Officio Trustees and General Trustees

#### **Ex-Officio Trustees**

18. Ex-Officio Trustees shall comprise the majority of the Board of Trustees and shall consist of at least three but not more than five representatives or nominees of: (i) the Asian Development Bank; and/or (ii) the participating major donors to the Trust Fund for East Timor.

19. Any Ex-Officio Trustee, or its representative or nominee may appoint any persons, or any other Ex-Officio Trustee, as its proxy, and to attend and vote on its behalf at any meeting of the Board of Trustees.

20. Ex-Officio Trustees, acting as a body, may appoint a General Trustee as member of the Board of Trustees.

#### **General Trustees**

21. Only East Timor citizens or permanent residents may be appointed as General Trustees

22. At least two but not more than four General Trustees, provided that these shall comprise a minority of the total Board of Trustees, shall be selected and nominated by the Government from: (i) civil society (NGOs); (ii) the Church; and/or (iii) a maximum of one representative from the Government or public service.

#### **Powers re the Foundation**

23. The Board of Trustees shall have the following specific powers with respect to the Foundation:

- a. To appoint a Chairperson from amongst the Ex-Officio Trustees.
- b. To change the number of Board of Trustees provided the Ex-Officio Trustees always comprise the majority.
- c. To approve any change to the STATUTES of the Foundation.
- d. To approve the terms of any proposed investment in the Microfinance Institution and to approve the strategy for the disposal of this investment.
- e. To determine the strategy for the divestment of part or all of the Foundation's shares in the Microfinance Institution.
- f. To approve the appointment of any person, entity, manager, firm, committee or project management unit, or the like, to assist with the operations and management of the Foundation.
- g. To accept Special Trusts.
- h. To determine the investment and disposal policy for any property or funds vested in or accrued to the Foundation, and to authorize all specific investments or disposals.
- i. To approve such other matters as are referred to in these STATUTES.
- j. To interpret and add to the objects of the Foundation provided that these conform with the Purpose and General Objects of the Foundation.
- k. In the event that there is a doubt whether any powers of the Trustees shall be exercised by the Board of Trustees, then the Ex-Officio Trustees shall be the final arbiter of this fact.



### **Powers re the investment in the Microfinance Institution**

24. The Board of Trustees shall have the following specific powers with respect to the Foundation's investment in the Microfinance Institution:

- a. When the Foundation exercises its rights as a shareholder of the Microfinance Institution, and all rights given to the Foundation as "Controlling Shareholders" in the Articles of Association of the Microfinance Institution, no action or decision shall be taken by the Board of Trustees without a quorum with the Ex-Officio members comprising a majority of such quorum. These rights of the Board of Trustees with respect to Microfinance Institution include but are not restricted to the following:
  - (i) approval of any changes to the Articles of Association.
  - (ii) appointment and removal of directors by notice to the Microfinance Institution.
  - (iii) approval of changes to the share capital.
  - (iv) approval of new shareholders, and the terms of issue of new ordinary or preference shares.
  - (v) approval of the registration of a transfer of shares to any person or entity.
  - (vi) approval of any dividends.
  - (vii) approval of capitalization of profits.
  - (viii) approval for the Microfinance Institution to purchase its own shares.
  - (ix) approval to request a general meeting of shareholders.
  - (x) approval of directors' remuneration.
  - (xi) prescribing policies, strategies etc. to the directors if required from time to time.
  - (xii) prescribing level of debt or deposit liabilities to be incurred by the Microfinance Institution.
  - (xiii) prescribing prudential ratios to be maintained by the Microfinance Institution, if needed.
  - (xiv) approving the appointment as Chairperson or Managing Director a person approved by the Foundation.
  - (xv) requiring an inspection of the Microfinance institution's financial affairs, books and documents.
- b. The Board of Trustees comprising a quorum may at any time require the Foundation, as shareholder of the Microfinance Institution, to do any or all of the following:
  - (i) issue any directive to the Board of Directors of the Microfinance Institution.
  - (ii) call a general meeting of shareholders to change the articles of association of the Microfinance Institution in a form as determined by the Board of Trustees.
  - (iii) issue a notice, or call a general meeting of shareholders to dismiss some or all of the directors or managers of the Microfinance Institution, or vary their terms of employment or remuneration, and appoint others in their place, as determined by the Board of Trustees.
  - (iv) call a general meeting to discuss any matters determined by the Board of Trustees.

- (v) take any other action the Board of Trustees, in their absolute discretion, shall consider necessary.

### **Confidentiality**

25. All proceedings and decisions made at any meeting of the Board of Trustees or its Committees shall be confidential, except as may be provided by law, provided that the Board of Trustees may authorize the issue of press releases on decisions and actions of the Foundation in a format approved by the Board of Trustees.

### **Appointment of Trustees**

26. The Trustees shall number no more than 9 and not less than 5 comprised as follows:
- a. The Ex-Officio Trustees, being representatives or nominees of Asian Development Bank and/or participating major donors to the Trust Fund for East Timor, as determined in the MEMORANDUM OF ESTABLISHMENT, or as varied from time to time by the Asian Development Bank and/or participating major TFET donors.
  - b. Such other persons as may from time to time be appointed by the Ex-Officio Trustees as General Trustees.

### **Removal of Trustees:**

27. A Trustee shall cease to hold office:
- a. Upon death.
  - b. Upon the giving of notice in writing to the Secretary of the Board of Trustees of the Trustee's desire to resign office.
  - c. Upon being absent for more than three (3) months without the permission of the other Trustees from meetings of the Board of Trustees held during that period.
  - d. If so required by a decision of the Board of Trustees in a properly constituted meeting with the required quorum.

### **Compensation of Trustees**

28. Trustees shall not be entitled to any fees for services rendered or meetings attended, unless specific services are requested and agreed in advance with the Chairperson or Board of Trustees.

29. In the event of a Trustee ceasing to hold office for any reason, that Trustee shall have no claim for, and not be entitled to, any payment for loss of office, or compensation of any kind, except for unpaid remuneration for specific services as agreed, or reimbursement all expenses properly incurred by that person in connection with the affairs of the Foundation.

30. General Trustees shall not be appointed until they have signed a statement agreeing to Articles 28 and 29 above.

### **Vacancy on the Board of Trustees**

31. Whenever any vacancy shall occur in the Board of Trustees it shall be filled by the appointment of a replacement by: (i) in the case of Ex-Officio Trustees, the Asian Development Bank or major donors concerned for their respective representatives; and (ii) in the case of General Trustees, the Ex-Officio Trustees upon the nomination of the Government pursuant to Article 22 herein.

## **PART VII MEETINGS OF TRUSTEES**

### **Annual Meetings**

32. Once at least in every calendar year and not more than 15 months after the holding of the last preceding general meeting an annual general meeting of the Board of Trustees shall be held. The first general meeting shall be held not less than one month nor more than three (3) months after the establishment of the Foundation. The place and time at which the above meeting shall be held shall be as determined by the Chairperson of the Board of Trustees.

33. The business of an annual general meeting shall be:

- a. To receive and consider the statement of accounts and the auditor's report thereon.
- b. To elect Trustees and an auditor in place of those retiring.
- c. To elect a Chairperson from among the Ex-Officio Trustees.
- d. To appoint a Secretary and a Treasurer in accordance with Art. 42 and 43.
- e. To transact any other business that the Trustees may decide.

34. At all subsequent annual general meetings after the first general meeting, all the General Trustees shall retire from office and may be re-appointed, or others may be appointed in their place, as determined by the Ex-Officio Trustees. The Ex-Officio Trustees shall be appointed and will remain in office upon the discretion of the Asian Development Bank, or participating major TFET donors which they respectively represent.

### **Procedure at meetings**

35. The Board of Trustees shall hold meetings at times and in places as the Chairperson or as the Trustees shall decide. A meeting shall also be called or caused to be called with all reasonable speed if at any time any two Trustees so require. Each Trustee shall be entitled to receive not less than fourteen (14) days prior notice of every meeting of the Board of Trustees, unless conditions warrant reducing the notice period as the Chairperson or at least two of the Trustees see fit, provided that each Trustee receives at least 48 hours notice.

36. The Board of Trustees may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Decisions at a meeting of the Board of Trustees shall be taken by majority vote. In the event of a tie, the Chairperson shall have a casting vote.

37. A quorum for meetings of the Board of Trustees shall consist of at least 51 percent of the total number of Board of Trustees, provided that in all cases the Ex-Officio Trustees comprise the majority of the Board of Trustees.

38. Minutes of all resolutions and proceedings of meetings and all other matters as the Board of Trustees think fit shall be entered in the minute books.

39. Any minutes of any meeting of the Board of Trustees or of any committee of the Board of Trustees if signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting shall be evidence of the matter stated in such minutes.

40. The Deputy Chairperson shall act in all situations when the Chairperson is not present or available to act.

41. A General Trustee shall declare his/her interest, and not vote upon any matters before the Board of Trustees in which he or she or any related party has directly or indirectly any interest other than an interest in common with the public or with the members of the Board of Trustees generally.

### **Secretary and Treasurer**

42. The Board of Trustees may from time to time appoint some person, entity, firm or project management unit as Secretary and appoint some person as Treasurer in each case to hold office for so long as the Board of Trustees think fit.

43. The same person may be both Secretary and Treasurer and need not be a Trustee.

## **PART VIII ACCOUNTS AND AUDIT**

44. The Foundation shall cause proper books of account to be kept in which full true and complete accounts of the affairs, transactions, and documents of the Foundation shall be maintained. The books of account shall be kept at the office of the Foundation or at such other place or places as the Board of Trustees shall think fit. Any Trustee or his/her authorized representative may inspect the books of account at any time.

45. The annual accounts of the Foundation shall be audited by one of the leading international firms of auditors. In addition to expressing an opinion on the truth and fairness of the financial statements, and whether proper books of account have been kept, the auditors shall also specifically report on whether expenses were properly incurred and authorized, whether all income was accounted for, and whether payments were properly authorized and disbursed, and whether all payments conform with the objects of the Foundation or Special Trusts, as the case may be.

46. The Board of Trustees shall institute a procedure requiring all proposed payments above specified limits to be approved in advance by the Chairperson, or, in his/her absence, at least 2 members of the Ex-Officio Trustees. Provided that any approved payment shall only be disbursed if properly authorized in accordance with a procedure to be determined by the Board of Trustees.

## **PART IX SERVICE OF NOTICES**

47. The Trustees, or their nominees or representatives, shall inform the Secretary of the Board of Trustees of their contact addresses, and how notices shall be sent to them. Any notice to be served upon a Trustee, or the Trustee's nominee or representative, may be served either personally, or by sending it through the post, or other convenient method as agreed by the Board of Trustees, such as by fax or email.

## **PART X INDEMNITY AND LIABILITY OF TRUSTEES AND OTHER OFFICERS**

48. Every Trustee, Auditor, Secretary, Treasurer and other Officer or Employee for the time being of the Foundation shall be indemnified out of the assets of the Foundation against any liability, arising out of the performance of his/her duty, which is incurred by him/her in defending any proceedings whether civil or criminal and in which judgment is given in his/her favor or on which he/she is acquitted or in connection with any application in which relief is granted to him/her by the Court in respect of any negligence, default, breach of duty or breach of trust.

49. The Trustees, Secretary, Treasurer and other officers or employees shall be indemnified by the Foundation from and against all losses and expenses properly incurred by them in or about the discharge of their respective duties.

## **PART XI LOANS TO TRUSTEES AND EMPLOYEES**

50. The Foundation may not make a loan to any of its Trustee, officer or employee, or any relative or any such person, or to any individual, save as authorized by Article 10k.

**PART XII CHANGES TO THE STATUTES**

51. The Board of Trustees shall have power by majority resolution of a quorum to change or revoke or add to any of the provisions of these STATUTES.

52. No such change, revocation or addition shall be made if the effect of the change or revocation would be that the Foundation loses its fundamental character as an entity that is established for the Public Benefit through supporting any activity that contributes directly or indirectly to income generation and poverty reduction for citizens of East Timor.

**PART XIII COMMON SEAL**

53. When the Foundation becomes established, the Foundation shall provide a common seal that shall be held by the Chairperson or Secretary of the Foundation. Where a document is to be executed by the Foundation, the seal shall be affixed to that document in accordance with the authority of the Board of Trustees. The seal shall be sufficient evidence of the authority to affix the seal and no person dealing with the Foundation shall be bound or concerned to see or inquire as to the authority under which any document is sealed and in whose presence.

**PART XIV WINDING UP OR DISSOLUTION**

54. On the winding up or dissolution of the Foundation after satisfaction of its debts and liabilities any property remaining (the "Surplus") shall not be paid to or distributed among the donors, Trustees or officers or employees of the Foundation. On the winding up or dissolution of the Foundation, the Board of Trustees and in accordance with the Executive Order, may dispose of the Surplus on all or any of the following methods:

- a. By giving or transferred the surplus to another Foundation or NGO which shares the same or similar Purpose of the Foundation.
- b. In such other manner and on such terms and conditions as the Board of Trustees, and in accordance with the Executive Order, may decide.

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