

BYLAWS
OF
WEST VIRGINIA FIRST FOUNDATION, INC.

The following constitutes the Bylaws of West Virginia First Foundation, Inc., hereinafter referred to as the "Corporation" or the "Foundation."

ARTICLE I
NAME; OFFICES; POWERS; PURPOSE

1.1 Name. The name of this Corporation is "West Virginia First Foundation, Inc."

1.2 Offices. The principal office of the Corporation shall be at 3510 MacCorkle Ave SE, Charleston, WV 25304. The Corporation may have such other offices, either within or outside the State of West Virginia, as the Board of Directors may determine or require from time to time.

1.3 Authority. In pursuit of its objects and purposes, the Corporation shall have all the same powers and authority as set forth in W. Va. Code § 31E-3-302, as amended, or any successor law, and all other powers and authority necessary or convenient for carrying out the objects and purposes set forth in Section 1.5 hereof.

1.4 Limitations.

a. No part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation and the Corporation. The Corporation shall not participate in, or intervene in (including publishing or distributing statements) any political campaign on behalf of or in opposition to any candidate for public office.

b. In the event of dissolution of the Corporation, the assets of the same shall be liquidated in the manner set forth in the Articles of Incorporation. The Board of Directors will adopt, in accordance with the Internal Revenue Code and applicable state law, a plan to distribute the assets of the Corporation upon dissolution.

1.5 Purpose.

a. These Bylaws were developed pursuant to the terms, provisions, and principles stated in the West Virginia First Memorandum of Understanding (the "MOU") entered into by and among the State of West Virginia, counties, cities, villages, and towns located within the geographic boundaries of the State of West Virginia. (the MOU is attached hereto as Appendix [X]). Unless otherwise defined herein, all defined terms have the meaning provided under the MOU. The MOU directed that the State and Local Governments create a separate and private section 501(c)(3) foundation for the purpose of receiving and disbursing Opioid Funds and other purposes set forth in the MOU, the Articles of Incorporations, and these Bylaws. The Corporation has been formed as a nonprofit corporation under the West Virginia Nonprofit Act (W. Va. Code §§ 31E-1-101 *et seq.*) and as such has the full authority to take all actions permitted under West Virginia law, the Articles of Incorporation, and these Bylaws.

b. As described in the Articles of Incorporation, the Corporation is organized and at all times hereafter shall be operated exclusively for charitable, scientific, and educational purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the

“Code,” which shall include any subsequent corresponding Code of Federal tax law). More specifically, the purposes of the Corporation are as follows:

i. To promote the health and safety of West Virginians by implementing evidence-based strategies, programming and/or services used to (i) expand the availability of treatment for individuals affected by substance use disorders and/or addiction; (ii) develop, promote and provide evidence-based substance use prevention strategies; (iii) provide substance use avoidance and awareness education; (iv) engage in enforcement to curtail the sale, distribution, promotion or use of opioids and other drugs; and (v) decrease the oversupply of licit and illicit opioids and (v) to support recovery from addiction to be performed by qualified providers

ii. To advocate for the interests of West Virginians by working with the State of West Virginia, and its counties, cities, villages, etc., to determine the best way to provide West Virginians with the programs and services described in Section 1.5(b)(i) above.

iii. To promote the design, implementation, operation, and maintenance of a fully interoperable statewide network to facilitate the best use of abatement funds and information in West Virginia.

iv. To fund the programs and services described in Section 1.5(b)(i) above by disbursing through a competitive grant process funds to private organizations and government agencies engaged in such programs.

v. The Corporation shall not engage in activities which do not further the exempt purposes of the Corporation, except for those nonexempt activities which are an insubstantial part of its activities as determined by the Internal Revenue Service.

vi. To perform any lawful act for which corporations may be created and transact business in the state of West Virginia, consistent with not-for-profit status.

vii. To do any and all lawful acts and engage in any and all activities consistent with or in furtherance of its general purpose.

ARTICLE II **MEMBERS**

The Corporation shall have no Members.

ARTICLE III **BOARD OF DIRECTORS**

3.1 General Provisions; Powers. The affairs of the Corporation shall be managed by its board of directors (the “Board”). The Board shall consist of eleven (11) directors. Except as otherwise provided by law, the Corporation’s Articles of Incorporation, or these Bylaws, the Board shall manage, regulate, govern and conduct the affairs and business of the Corporation directly and through its officers in fulfillment and furtherance of the purposes of the Corporation as described in the Articles of Incorporation. The Board shall also have the power and authority to do and perform all acts and functions consistent with these Bylaws and the laws of West Virginia.

3.2 Number, Appointment, Election, Qualifications, and Terms of Directors.

a. Number and Qualifications. The Board shall consist of eleven (11) voting directors (“Directors”), which shall be chosen as follows:

i. Five (5) Directors shall be appointed by the Governor of West Virginia and confirmed by the Senate to represent the interests of the State pursuant to the appointment process described in Schedule [X]. The Governor shall not appoint more than one person from any given Region. However, this provision may be waived by a vote of four of the six Local Government members.

ii. One (1) Directors shall be selected from each of the six Regions to represent the interests of the Local Governments. The Local Governments in each Region shall make the selection of the Director to represent their Region pursuant to the selection process described in Article X(C)(b) of the Bylaws. In addition to other qualifications required hereunder, Directors from each Region must be a resident of the Region they represent.

iii. The Executive Director of the Foundation shall be appointed by the West Virginia Attorney General and shall have the right to attend all Board meetings unless otherwise excused but shall vote only in the event of a tie.

b. Qualifications. The Board shall have the requisite knowledge, skill, and experience to further the Corporation’s mission and purposes. Directors should have expertise in a variety of disciplines, such as substance abuse treatment, mental health, law enforcement, pharmacology, finance, and healthcare policy and management. Directors shall be eighteen (18) years or old and support the Approved Purposes. Directors shall be residents of the State of West Virginia.

c. Appointment of Regional Board Members. Each Region shall create their own governance structure, ensuring that all Local Governments have input and equitable representation regarding regional decisions including representation on the Board.

d. Term. The initial terms of the Directors shall be staggered as follows:

i. Five (5) Directors shall be appointed to serve an initial three (3) year term, four (4) Directors shall be appointed to serve an initial two (2) year term and two (2) Directors will be appointed to serve a one (1) year term. The initial Directors shall draw lots to determine their initial term. There shall be no term limits and Board members may be reappointed for consecutive terms.

ii. After their initial terms, each Director appointed thereafter will serve a three (3) year term. Such Directors shall serve until their successors are appointed and qualified, except in the event of their earlier death, resignation, or removal.

3.3 Vacancies. Any vacancies on the Board shall be filled pursuant to the process applicable to the appointment by the Governor for the five directors so appointed and by the Region for the applicable region for those six directors so appointed.

3.4 Resignation or Removal. Directors may resign at any time by tendering his or her resignation in writing to the Corporation which shall become effective upon receipt by the Corporation at its principal place of business. A Director may be removed, with or without cause, by an affirmative vote of eight members of the Board. Resignation or removal of a Director shall also constitute his or her resignation or removal as an Officer. A Director who resigns is still eligible to serve as a member of any Committee with the approval of the Board.

3.5 Compensation of Directors. Directors shall receive no compensation for any services

rendered on the Board or its Committees. However, upon specific approval of the Board, nothing contained herein shall be construed to preclude any Director from receiving compensation from the Corporation for other services actually rendered in any other capacity. Directors may be reimbursed for travel or other expenses incurred incident to the performance of their duties as members of the Board, consistent with normal reimbursement standards and rates. Notwithstanding the foregoing provisions, the Executive Director shall receive compensation, to be determined by the Board, for services rendered to the Corporation.

ARTICLE IV **MEETINGS OF THE BOARD**

4.1 Annual Meeting. The initial meeting of the Board shall occur no later than November 6, 2023. All subsequent annual meetings of the Board shall be held in October of each year, or on such other date as shall be designated by the Board, for the purpose of the transaction of such business as may properly come before the meeting.

4.2 Regular Meetings. Regular meetings of the Board shall be held not less often than quarterly at such place and time as shall be approved by resolution of the Board.

4.3 Special Meetings. Special meetings of the Board may be called at any time by the Chair of the Board and shall be called upon receipt of the written request of a majority of the voting Directors. Unless otherwise agreed by a majority of the voting Directors, any special meeting shall be held at the offices of the Corporation, as designated in the notice of the meeting.

4.4 Place and Notice of Board Meetings. The annual meeting of the Board shall be held without any additional notice other than this Bylaw. Each regular meeting of the Board shall not require any additional notice other than a standing resolution of the Board providing a time and place for such regular meeting. Directors shall be given written notice of any special meeting of the Board at least two (2) days prior thereto, and such notice shall set forth the time and place of the meeting, and the matters to be considered at the special meeting. Notice shall be delivered to each Director either personally or by mail or electronic mail to his or her residence, place of business, or other address as shown by the records of the Corporation. If mailed, such notice will be deemed to be delivered three (3) days after its deposit in the United States mail in a sealed envelope correctly addressed, with postage thereon prepaid. If notice is given by facsimile transmission, such notice will be deemed to be delivered when the transmitting party confirms by prompt telephonic communication the receipt by the addressee. If the notice is given by electronic mail, such notice will be deemed to be delivered when the return receipt is received by the Corporation. The attendance of any Director at any such meeting without protesting the lack of proper notice at the commencement of the meeting shall be deemed to be a waiver by him or her of notice of the meeting.

4.5 Quorum. Six voting Directors shall constitute a quorum for the transaction of business. A majority of the voting Directors present, whether or not a quorum exists, may adjourn any meeting of the Board to another time and place without further notice.

4.6 Manner of Acting. Unless otherwise stated or required under West Virginia law, the Articles of Incorporation, or these Bylaws, the act of a majority of the voting Directors at a meeting at which a quorum is present shall be the act of the Board.

4.7 Board Action Without a Meeting. The Board may act, in lieu of a meeting, by unanimous agreement in writing as provided in *W. Va. Code* § 31E-8-821. Any action which may be taken at a meeting of the Board may be taken without a meeting if consent is set forth in writing and signed by all Directors and is filed in the minutes of the proceedings of the Board. For purposes of these Bylaws, a Director's

signature may be evidenced by a written signature, a facsimile of a written signature, or an electronic signature.

4.8 Meeting Participation. Directors may participate in a meeting of the Board by means of a virtual meeting, conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at the meeting. Directors may select a designee to attend and vote if the Board member is unavailable to attend a board meeting.

ARTICLE V

OFFICERS; EXECUTIVE DIRECTOR

5.1 Officers. The officers of the Corporation shall consist of the Chair, the Vice Chair, the Immediate Past Chair, the Secretary, Treasurer, the Executive Director, and any such other officers as the Board may deem advisable (collectively the "Officers"). The Officers, except for the Executive Director, shall be elected by the Board at its annual meeting. Officers shall be members of the Board and a Director may hold more than a single office. The Executive Director shall be appointed pursuant to Section 5.9.

5.2 Vacancies. Except for the Executive Director, a vacancy in any office because of death, resignation, or removal shall be filled in accordance with Article 3.3.

5.3 Resignation or Removal of Officers. An Officer may resign at any time by tendering his or her resignation in writing to the Chair of the Board. The resignation becomes effective immediately upon receipt. Except for the Executive Director, an Officer may be removed, with or without cause, by a majority of the voting Directors present at any meeting of the Board whenever, in its judgment, the best interests of the Corporation will be served thereby.

5.4 Chair. The Chair shall preside at all meetings of the Board and the Executive Committee. Except as otherwise provided herein, the Chair shall appoint the chairpersons and members of all standing Committees and the chairpersons and members of special Committees, subject to the approval of the Board. The Chair shall have such other duties and responsibilities as delegated to him or her by these Bylaws and by the Board from time to time.

5.5 Vice Chair. In the absence of the Chair of the Board, or in the event of his or her inability to act, the Vice Chair shall perform the duties of the Chair and in so acting shall have all the powers and authority of the Chair. The Vice Chair shall perform such other duties as from time to time shall be assigned to him by the Board or the Chair.

5.6 Secretary. The Secretary, or his or her designee, shall cause to be kept all the records of the Corporation, record the minutes of the meetings of the Corporation, send out all notices of the meetings, attest to the seal of the Corporation where necessary or required, and keep a register of the addresses of each Director. The Secretary shall perform such other duties as may be prescribed from time to time by the Board or the Chair.

5.7 Treasurer. The Treasurer, or his or her designee, shall keep a full and accurate account of receipts and expenditures, and shall make disbursements in accordance with the approved budget, as authorized by the Board or a special committee. The Treasurer shall present interim financial reports when requested by the Board and shall make a full report at the annual meeting. The Treasurer shall perform such other duties as may be prescribed from time to time by the Board or the Chair.

5.8 Immediate Past Chair. The Immediate Past Chair shall serve by virtue of his or her prior Office of Chair and shall perform such duties as may be prescribed from time to time by the Board or the Chair.

5.9 Executive Director.

a. After the appointment of the initial Directors and as may be necessary from time to time thereafter, the West Virginia Attorney General, upon consultation with the Board, shall appoint the Executive Director; *provided, however*, the Board, within ten days of such appointment, may reject the Attorney General's selection of the Executive Director with the affirmative vote of eight members of the Board. If the Board rejects the Attorney General's appointee, the Attorney General shall appoint another person as the Executive Director, which appointee may also be rejected by the affirmative vote of eight members of the Board within ten (10) days of such appointment. This process shall be continued until an appointee has not been rejected by the Board.

b. The Executive Director shall have at least six years' experience in healthcare, finance and management and will be responsible for the management, organization, and preservation of the public/private partnership's records. The Executive Director may be removed by the Board upon the concurrence of the votes of three-fourths of the members of the Board at a meeting for which the Executive Director has been provided at least ten (10) days' notice of the time, place, and purpose of the meeting whereby the removal will be discussed and has been given an opportunity to be heard at the meeting. The Executive Director shall have the right to attend all Board meetings unless otherwise excused.

c. The Executive Director shall oversee the day-to-day operations of the Corporation and shall perform such other duties as the Board may delegate to him or her from time-to-time. The Executive Director shall report as directed to the Chair between Board meetings. The Executive Director shall sign, with any other officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments that the Board has authority to execute except in cases where signing or execution shall have been expressly delegated, by the Board, these Bylaws, or statute, to some other Officer or agent of the Corporation. The Executive Director shall serve as a non-voting, *ex officio*, member of all Committees. Any additional terms of employment of the Executive Director shall be set forth in the Executive Director's employment agreement.

ARTICLE VI

COMMITTEES OF THE BOARD

6.1 Committees of the Board. The Corporation may have such Committees as determined by the Board. The members and responsibilities of each Committee shall be determined by the Board.

6.2 Standing Committees. Standing Committees shall be those named in subsequent sections of this Article and shall have and may exercise all of the powers provided for in this Article, and the Board Chair shall prepare and present to the Board for its consideration and approval a listing of proposed Committee chairs and Committee members. Standing Committees shall become thoroughly informed of their duties, give careful consideration to matters of policy, and make recommendations to the Board. The Standing Committees of the Corporation shall be the Executive Committee, the Finance Committee, and the Expert Panel Committee.

6.3 Special Committees. Special Committees shall be created, as required, by resolution of the Board. The purpose, duties, number of members, and reporting requirements of special Committees shall be specified in the resolution creating the Committee, and the Board Chair shall prepare and present to the Board for its consideration and approval a listing of proposed Committee chairs and Committee members.

6.4 Limitation of Powers. No Committee shall have any authority to take any action not within the scope of the Committee authorization in these Bylaws, or in the resolution of the Board creating the Committee, or to exercise any power specifically required to be exercised by the Board under the Articles of Incorporation, these Bylaws, or the laws of the State of West Virginia.

6.5 Committee Members Term of Office. Each member of a Committee shall be appointed for one (1) year (unless otherwise specified in these Bylaws), and shall continue in office until the next annual meeting of the Board and until his or her successor is appointed unless the Committee of which he or she is a member shall be sooner terminated by the Board, or until his or her death, resignation, or removal as a Committee member or Director, whichever first occurs.

6.6 Committee Meetings. Regular meetings of a Committee may be established by a standing resolution providing for the time and place of such regular meetings. Special meetings of any Committee of the Board may be called by the chair of such Committee by giving notice of such meeting, setting forth its time and place, delivered personally or by mail, facsimile, or electronic mail to the residence, place of business, or other address as shown by the records of the Corporation at least twenty-four (24) hours in advance of the meeting. Each Committee shall keep minutes of its meetings and report to the Board as necessary with recommendations.

6.7 Resignation or Removal of Committee Members. A member of any Committee may resign at any time by tendering his or her resignation in writing to the Chair of the Board. A Director who resigns is still eligible to serve as a member of any Committee with the approval of the Board. The Board may by a majority of the voting Directors remove any member from a Committee, with or without cause.

6.8 Rules and Voting. Each Committee may adopt rules for its own governance not inconsistent with these Bylaws or with the rules adopted by the Board. The action of a majority of the members present or in attendance telephonically at a meeting at which a quorum is present shall be the action of the Committee.

6.9 Minutes. Each Committee shall keep regular Minutes of its proceedings and report the same to the Board as required.

6.10 Committee Action Without a Meeting. Each Committee may act, in lieu of a meeting, by unanimous agreement in writing as provided in *W.Va. Code* § 31E-8-821. Any action which may be taken at a meeting of the Committee may be taken without a meeting if consent is set forth in writing and signed by all Committee Members and is filed in the minutes of the proceedings of the Committee. For purposes of these Bylaws, a Committee member's signature may be evidenced by a written signature, a facsimile of a written signature, or an electronic signature.

6.11 Executive Committee. The Executive Committee shall be comprised of the Chair, Vice Chair, Secretary, Treasurer, the Immediate Past Chair, and one (1) additional Director appointed by the Chair and approved by the Board. The Executive Committee shall meet in accordance with any standing resolution of the Committee, or when called by the Chair. The Executive Committee shall perform the duties delegated to it by these Bylaws, shall transact all business referred to it by the Board, shall perform when necessary the duties of the Board between regular meetings of the Board, shall make a report for approval of all transactions to the Board, and shall act in emergencies on behalf of the Board.

6.12 Audit and Finance Committee. The Audit and Finance Committee shall be composed of three (3) members. The Audit and Finance Committee will work with the Chair, the Treasurer, the Executive Director, and appropriate staff on matters pertaining to the budget and finances of the

Corporation. The Audit and Finance Committee will assist the Board in fulfilling its oversight responsibilities for the integrity of the Foundation's financial statements and reports. This committee shall oversee, on an annual basis, a private, independent, external review and audit of the Foundation's financial statements and oversee the establishment, maintenance, and implementation of internal controls over the Foundation's financial reporting.

6.13 Expert Panel Committee. The Expert Panel Committee will include experts in the fields of substance abuse treatment, mental health, law enforcement, pharmacology, finance and healthcare policy and management. The purpose of the Expert Panel Committee is to assist the Board in making decisions about strategies for abating the opioid epidemic in local communities around the state. The Executive Director and any Director shall have the right to attend all meetings of the Expert Panel Committee.

ARTICLE VII

CONFLICT OF INTEREST POLICY

7.1 Purpose. The purpose of the conflict-of-interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Director, or might result in a possible excess benefit transaction under the Internal Revenue Code. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

7.2 Definitions.

a. Interested Person. Any Director, Officer, or member of a Committee with Board-delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

b. Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

i. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement; or

ii. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

iii. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

c. Compensation. Compensation includes money as well as direct and indirect remuneration, such as gifts or favors that are substantial in nature.

7.3 Procedures.

a. Duty to Disclose. In connection with any actual or possible conflicts of interest, an interested person must disclose in writing the existence of his or her financial interest and all material facts to the Board and members of Committees with Board-delegated powers considering the proposed transaction or arrangement. All disclosure notices received hereunder shall be noted for record in the minutes of a meeting of the Board or applicable Committee.

b. Procedures for Addressing the Conflict of Interest.

i. An interested person may make a presentation at the Board or Committee meeting, but after such presentation, he or she shall abstain from making motions, voting, executing agreements, or taking any other similar action on behalf of the Corporation to which the conflict might pertain.

ii. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the Board or Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or Committee members shall decide if a conflict of interest exists. If a conflict of interest is determined to exist, the interested person shall not take part in any discussions of the proposed arrangement or transaction, and shall absent himself or herself from any meetings, votes, or other deliberations thereon.

iii. Upon receipt of a disclosure notice from an interested person regarding a transaction, that transaction shall not be entered into by the Corporation without the authorization of the Board based upon the determination by the majority of disinterested voting Directors that the transaction is fair and reasonable to the Corporation at the time it is authorized.

7.4 Annual Statements. Each Director, Officer, and member of a Committee with Board-delegated powers shall annually sign a statement which affirms that such person:

- a. Has received a copy of the conflicts of interest policy;
- b. Has read and understands the policy;
- c. Has agreed to comply with the policy; and
- d. Understands that the Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

ARTICLE VIII

CONTRACTS, CHECKS, DEPOSITS, AND FUNDS

8.1 Contracts. The Board may authorize any Officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

8.2 Checks, Drafts, Etc. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such Officer or agent of the Corporation, and in such manner, as shall from time to time be determined by resolution of the Board.

8.3 Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation at such banks, trust companies, or other depositories as the Board may select.

8.4 Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purpose or for any special purpose of the Corporation.

8.5 Loans. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances. The Board may encumber and mortgage real estate, and pledge, encumber, and mortgage stocks, bonds, and other securities and other personal property of all types, tangible and intangible, and convey any such property in trust or otherwise to secure the payment of

corporate obligations.

8.6 Other Funds. The Foundation and any Foundation supervised entity may receive funds including stocks, bonds, real property, government grants, private-sector donations, and cash in addition to the proceeds of the Litigation. These Non-Opioid additional funds shall be subject only to the limitations, if any, contained in the individual award, grant, donation, gift, bequest, or deposit consistent with the mission of the Foundation.

8.7 Advisors. The Foundation shall consult with a professional investment advisor to adopt a Foundation investment policy that will seek to assure that the Foundation's investments are appropriate, prudent, and consistent with best practices for investments of public funds. The investment policy shall be designed to meet the Foundation's long-term and short-term goals as approved by the Board.

ARTICLE IX

BOOKS; RECORDS; REPORTS

9.1 The Corporation shall keep as permanent records minutes of all meetings of the Board, a record of all actions taken by the Board without a meeting, and a record of all actions taken by a committee of the Board in place of the Board on behalf of the Corporation. The Corporation shall maintain appropriate accounting records. The Corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. The Corporation shall keep a copy of the following records at its principal office:

- a. The Articles of Incorporation and all amendments to them currently in effect;
- b. These Bylaws and all amendments to them currently in effect;
- c. Resolutions adopted by the Board and records of all action taken by the Board without a meeting;
- d. A list of the names and business addresses of the current Directors and Officers.

9.2 A Director is entitled to inspect and copy the books, records and documents of the Corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a Director, but not for any other purpose or in any manner that would violate any duty to the Corporation.

9.3 The Foundation shall publish a consolidated report detailing annual financial expenditures within 15 days of the last day of the state fiscal year covered by the report. The consolidated report shall incorporate an analysis of annual financial reports submitted by West Virginia Local Governments and Regions concerning their uses of opioid funds during the previous fiscal year.

ARTICLE X

GENERAL

10.1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of July and end on the 30th day of June in each year.

10.2 Waiver of Notice. Whenever any notice is required to be given under the provisions of the

West Virginia Nonprofit Corporation Act, or under the provisions of the Articles of Incorporation or the Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

10.3 Review. All operations of the Corporation and all Corporation supervised entities, including the Regions, shall be subject to audit and review by the Attorney General and other officials as applicable under law.

ARTICLE XI

LIABILITY; INDEMNIFICATION

11.1 Liability to Corporation. No Director or Officer of the Corporation shall be liable to the Corporation for monetary damages for any action taken, or any failure to take any action, as a Director or Officer, except liability (i) for the amount of any financial benefit received by the Director to which he or she is not entitled; (ii) for an intentional infliction of harm on the Corporation; (iii) for a violation of *W. Va. Code* § 31E-8-833 regarding unlawful distributions; or (iv) for any intentional violation of criminal law. No Director or Officer shall be held personally liable for negligence, either through act or omission, or whether actual or imputed, in the performance of managerial functions performed on behalf of the Corporation to the fullest extent provided by law, including but not limited to *W. Va. Code* § 55-7C-3. Additionally, to the fullest extent provided by law, any Officer or Director of the Corporation shall be considered a “qualified director” pursuant to *W. Va. Code* § 55-7C-2.

11.2 Indemnification.

a. The Corporation shall indemnify any Director or Officer who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was or is a party because he or she is a Director or Officer of the Corporation, against reasonable expenses incurred in connection with the proceeding. The Corporation shall further indemnify any Director or Officer to the extent that the laws of the State of West Virginia permit if (a) he or she conducted himself or herself in good fair; he or she reasonably believed, in the case of conduct in his or her official capacity, that his or her conduct, was in the best interests of the Corporation; and, in all other cases, that his or her conduct was at least not opposed to the best interests in the Corporation; and, in the case of a criminal proceeding, he or she had no reasonable cause to believe his conduct was unlawful; or (b) he or she engaged in conduct for which broader indemnification has been made permissible or obligatory under the articles of incorporation; *provided, however*, the Corporation shall not indemnify any such person for liability for any action taken, or any failure to take any action, as a Director or Officer for:

- i. receipt of a financial benefit to which he or she is not entitled;
- ii. an intentional infliction of harm on the Corporation;
- iii. a violation of *W. Va. Code* § 31E-8-833 regarding unlawful distributions; or
- iv. an intentional violation of criminal law.

b. The Corporation may obligate itself in advance of the act or omission of a Director or Officer giving rise to a proceeding to provide indemnification in accordance with *W. Va. Code* § 31E-8-851 or advance funds to pay for or reimburse expenses in accordance with *W. Va. Code* § 31E-8-853.

c. The Board shall have the sole discretion to determine whether amounts for which a Director

or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a matter he or she reasonably believed to be in the best interests of the Corporation, and whether, with respect to any criminal action or proceeding, he or she had no reasonable grounds for belief that such action was unlawful. The determination shall be made by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding.

d. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Corporation to indemnify under applicable law.

e. Neither the failure of the Corporation (including its Board of Directors or its independent legal counsel) to have made a determination prior to the commencement of such action that indemnification or reimbursement of the claimant is permitted in the circumstances because he or she has met the applicable standard of conduct, nor an actual determination by the Corporation (including its Board of Directors or its independent legal counsel) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

f. The rights conferred on any person hereunder shall not be exclusive of and shall be in addition to any other right which such person may have or may hereafter acquire under any statute, provision of these Articles of Incorporation, Bylaws, agreement, vote of its disinterested Directors, or otherwise.

g. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any Director, Officer, employee, or agent of the Corporation or another corporation, partnership, joint venture, trust, or other enterprise against any expense, liability, or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability, or loss under West Virginia law.

ARTICLE XII

DISBURSEMENT OF FUNDS BY THE BOARD

12.1 The Board shall develop and approve procedures for the disbursement of Opioid Funds of the Foundation consistent with the MOU.

12.2 The proposed procedures shall set forth the role of the Expert Panel Committee in advising the Regions and the Board concerning disbursements of Opioid Funds of the Foundation consistent with the approved uses set forth in the MOU.

12.3 Within 90 days of the first receipt of any Opioid Funds and annually thereafter, the Board, after receiving counsel from its investment advisors and Expert Panel Committee, shall determine the amount and timing of Foundation funds to be distributed annually. In making this determination, the Board shall consider: (a) pending requests for Opioid Funds from communities, entities, or regions; (b) the total Opioid Funds available; (c) the timing of anticipated receipts of future Opioid Funds; (d) non-Opioid funds received by the Foundation; (e) investment income; and (f) long-term financial viability of the Foundation. The Foundation may disburse its principal and interest with the aim towards an efficient, expeditious abatement of the Opioid crisis considering long term and short-term strategies.

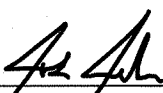
12.4 Each Local Government shall submit an annual financial report to the Foundation no later than April 30 of each year specifying the amounts spent on Approved Purposes within the Region during the previous fiscal year. A report for each Region shall be prepared no later than thirty days thereafter. Each Region's report shall incorporate the information disclosed in each Local Government's annual report. Each

Region's report shall specify (i) the amount of Opioid Funds received, (ii) the amount of Opioid Funds disbursed or applied during the previous fiscal year, broken down by categories of Approved Uses (indicating the name of the recipient, the amount awarded, a description of the use of the award, and disbursement terms), and (iii) impact information measuring or describing the progress of the Approved Use strategies.

ARTICLE XIII
AMENDMENTS TO THE BYLAWS

These Bylaws may be altered, amended, repealed, or supplemented and new Bylaws may be adopted by the act of a majority of the voting Directors.

These Bylaws were adopted by the Incorporator on 10/31/23.



Incorporator