

of the

EMPIRE STATE MEDICAL, SCIENTIFIC
AND EDUCATIONAL FOUNDATION, INC.

ARTICLE I

NAME, PURPOSE, LOCATION

Section 1. The name of the Corporation shall be The EMPIRE STATE MEDICAL, SCIENTIFIC AND EDUCATIONAL FOUNDATION, INC. hereinafter referred to as the “Corporation.”

Section 2. The purposes of the Corporation shall be as set forth in its Certificate of Incorporation.

Section 3. The principal office of the Corporation shall be located in the State of New York. The Corporation may have additional offices at such other places as the Board of Directors may from time to time designate.

ARTICLE II

MEMBERSHIP

Section 1. The Corporation shall have one member, which shall be the Medical Society of the State of New York (MSSNY) (the ~~m~~Member). ~~The Member is defined shall act through as the MSSNY House of Delegates, or in the absence of the House of Delegates, the MSSNY Council.~~

~~Section 2. The Member shall have the right to vote for or upon any matter or business of the Corporation which may be properly brought before the members of a New York not-for-profit corporation, whether at a regular meeting, special meeting or otherwise, however called and noticed.~~

~~Section 3. The Corporation shall be entitled to recognize the exclusive right of the Member to vote at all meetings of the membership, and to take all other actions permitted by law, the Corporation’s Certificate of Incorporation or these Bylaws to be bound to recognize any equitable or legal claim to or interest in the membership of the Member on the part of any other person.~~

Section 2. The Corporation recognizes the right of the Member to vote for or upon any matter or business of the Corporation which may be properly and legally brought before any New York State not-for-profit corporation and to take actions permitted by law, the Corporation’s Certificate of Incorporation, or the bylaws of the Corporation, whether at a regular meeting or a special meeting, properly called and noticed.

¹ As amended by the Board of Directors and approved by the voting member of the Corporation on ~~March 31, 2008~~.

ARTICLE III

MEMBERSHIP MEETINGS' QUORUM; VOTING

Section 1. Annual Meeting. The annual meeting of the Member of the Corporation for the election of Directors and for the transaction of any other business which may be properly brought before the meeting shall be held ~~each year during the third week of December, at the Corporation's principal office annually, or~~ at such ~~other~~ place and time as mutually agreed upon by the Board of Directors ~~and the Member shall designate.~~

Section 2. Special Meetings. Special meetings of the Member may be called by or at the request of the Board of Directors, the President ~~of the Corporation,~~ or the Member. Any special meeting so called shall be held at the principal office of the Corporation or any other mutually agreed upon site at the time stated in the call thereof.

Section 3. Notice of Meetings. Written notice of the time, place and purpose of all meetings of the Member shall be served ~~either personally or~~ by mail, email or other appropriate communication, not less than ten or more than forty days before the meeting, and if mailed, such notice shall be directed to the Corporation and to the Member at its address as shown on the books of the Corporation. ~~Any meeting may be held without notice on written waiver signed by the Member.~~

Section 4. Quorum; Voting. ~~The presence of the member Member) shall constitute a quorum at any meeting of the Member.~~ Any corporate action to be taken by the Member shall be authorized by a the vote of the -vote of the MSSNY House of Delegates or in the absence of the House of Delegates, the MSSNY Council duly duly assembled with proper quorum. ~~Member at a meeting duly held at which the Member is present~~

Section 5. Action by Unanimous Written Consent. Any action required or permitted to be taken by the Member (as defined in Article II, Section 1) may be taken without a meeting, if the Member unanimously consents in writing to such action. Any certificate or other document filed under any provision of law which relates to actions so taken, shall state that the action was taken by the written consent of the Member without a meeting, and shall state that these Bylaws authorized the Member to so act. Such statement shall be prima facie evidence of such authority.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. Powers. The property, business and affairs of the Corporation shall be managed and controlled by the Board of Directors. The Board of Directors shall have, in addition to the powers and authority expressly conferred upon it by these Bylaws, the right, power and authority to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation as a corporation organized under the New York Not-for-Profit Corporation Law but subject, nevertheless, to the statutes of the State of New York, and to the provisions of the Certificate of Incorporation and the Bylaws of the Corporation.

Section 2. Composition and Eligibility.

(a) Composition. The Board shall consist of not less than nine (9) and no more than fifteen-eleven (11) members, as hereinafter set forth.

(b) Eligibility. Any individual who is over the age of twenty-one (21) and is committed to supporting and enhancing the mission of the Corporation shall be eligible to serve as a member of the Board of Directors.

(c) Term. Board members will serve a three (3) year term and will be eligible for re-election for two additional terms.

(d) Nominations. Any officer of the Member or any Director of the Corporation Board may nominate individual(s) to be considered for the Board of Directors of the Corporation. The nominations will be provided to the Nominating Committee of the Corporation who will assess all candidates and offer a final slate for consideration.

Section 3. Election.

(a) The Member shall elect members to the Board Director each year at the annual meeting of the Member from a slate of candidates nominated by the Board of Directors.—Each year at the annual meeting of the Member, the Member shall elect individuals to the Corporation Board of Directors, approved by the Nominating Committee and recommended by the Board of Directors of the Corporation.

(a)(b) The Directors shall serve staggered three (3) year terms, so that one third of the Directors are elected each year.—One third of the Directors (as determined by the Board of Directors) to be elected at the first Annual Meeting of the Member after the adoption of these by laws shall be elected for a one year term, one third for a two year term and one third for a three year term; their successors shall be elected for three year terms.

Section 4. Vacancies and Removal.

(a) Vacancies. If the office of any Director becomes vacant by reason of death, resignation, removal, disqualification or inability to act, the ~~members of the~~ Board of Directors then in office may by majority vote ~~elect~~ a successor who shall hold office until his or her successor shall have been elected and qualified.

(b) Removal. Any Director may be removed with cause by a majority vote of the Board of Directors at a meeting called for that purpose at which a quorum is present, and with or without cause by the Member at any annual meeting or special meeting called for that purpose.

Section 5. Meetings; Quorum; Voting.

(a) Annual Meeting. The Board of Directors shall hold an annual meeting on a date to be determined by the Board of Directors. The Board of Directors shall determine what shall constitute notice of meetings of the Board.

(b) Regular Meeting. Regular meetings of the Board of Directors shall be held at any place as may be determined by the Board of Directors ~~beginning at 10:00 a.m., or~~ at such ~~other~~ time as may be designated by the President.

(c) Special Meetings. Special meetings of the Board of Directors may be called by the President or by any five Directors on three days written notice to each Director either ~~personally,~~ by mail, telephone, email, or by any other reasonable means. Only business specified in the call of the meeting shall be transacted at special meetings.

(d) Quorum; Voting. At any meeting of the Board of Directors, a majority of the Directors shall constitute a quorum. Any corporate action to be taken by vote of the Board of Directors shall be authorized by a majority of the votes cast at a meeting duly held at which a quorum is present unless the law, the Certificate of Incorporation or these Bylaws require a different number.

(e) Action by Unanimous Written Consent. Any action required or permitted to be taken by the Directors may be taken without a meeting, if ~~all~~ the Directors ~~shall individually or collectively unanimously~~ consent in writing to such action. ~~Such written consent or consents shall have the same force and effect as the unanimous vote of the Directors.~~ Any certificates or other document filed under any provision of law which relates to actions so taken shall set forth the action taken, shall state that the action was taken by the unanimous written consent of the Directors without a meeting and shall state that these Bylaws authorized the Directors to so act. Such statement shall be prima ~~vaeie~~ facie evidence of such authority.

(f) Participation by Telephone Conference. Any one or more of the Directors may participate in any meeting of the Board or any committee thereof by means of a video conference, telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting. Regular minutes shall be taken of all telephonic or video conference call meetings.

(g) Waiver of Notice. Notice of any meeting of the Board of Directors may be waived by any Director by written waiver or by personal attendance at such meeting except when a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

Section 6. Participation of Employees. Salaried employees of the Corporation, shall, at the invitation of the President, ~~participate in attend~~ meetings of the Board of Directors, but shall not be eligible for membership on the Board of Directors.

ARTICLE V

OFFICERS

Section 1. Election. The Board of Directors shall elect a President, Vice President, a Secretary and a Treasurer at the annual meeting of the Board of Directors. It may also elect or provide for the appointment of such other officers and agents and the hiring of such employees as it may deem necessary and prescribe their terms of office and duties.

Section 2. Qualifications. The President, Vice President, Secretary and Treasurer shall be elected from the members of the Board of Directors.

Section 3. Terms of Office, Vacancies and Removal of Officers. The Officers shall serve until their successors are elected and qualified. Any Officer may be removed with or without cause at any meeting of the Board of Directors by the affirmative vote of a majority of all the members of the Board of Directors. The Board of Directors may at any meeting fill for the unexpired term any vacancy which occurs in any office of the Corporation.

Section 4. President. The President shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Board of Directors ~~and of the members of the Corporation~~ and shall be an ex-officio member of all committees. In addition, the President shall perform such other duties as the Board of Directors shall require.

Section 5. Executive Vice President. The Executive Vice President shall be an employee of the Corporation and shall be responsible for the conduct and supervision of the daily business of the Corporation, and for the supervision of all employees of the Corporation. In discharging the foregoing duties, the Executive Vice President shall be responsible and shall report to the President and the Board, and shall carry out such additional and specific duties as may from time to time be assigned to him or her by the President and/or Board. He or she shall serve at the pleasure of the Board. ~~The Executive Vice President shall perform all duties of the President in the absence of the President, and shall, within 48 hours, report his activities to the President or Vice President as appropriate.~~

Section 6. Vice President. The Vice President shall perform such duties as may be required by the President, ~~and shall perform all duties of the President in the absence of the President.~~ In the event of the President's death, resignation, removal, incapacity, or refusal to act, the Vice President shall succeed him or her and shall serve for the remainder of the term of his or her immediate predecessor, until and unless the Board of Directors fills such vacancy pursuant to Article IV, Section 4(a) of these Bylaws.

Section 7. Secretary. The Secretary shall keep the minute books of meetings of the Board of Directors ~~and members~~; shall give and serve all required notices of meetings; shall have custody of the seal of the Corporation and affix it to such instruments or documents as may be authorized by the Board of Directors; shall keep, and shall make such records available for inspection during business hours at the principal office of the Corporation by any member of the Board of Directors; and shall perform all other duties incident to the office of Secretary.

Section 8. Treasurer. The Treasurer shall be responsible for and coordinate all financial and related activities of the Corporation, shall have the custody of the corporate funds and obligations, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all monies and other valuable items in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the Board monthly vouchers for such disbursements, and shall render to the Board monthly an account of all transactions as the Treasurer and of the financial condition of the Corporation. The Treasurer shall be a member of the Finance Committee of the Corporation, and shall perform all other duties incident to the office of the Treasurer.

~~Section 9. Bonding. If required by the Board of Directors, each Officer of the Corporation shall cooperate with the Corporation in obtaining a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.~~

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ARTICLE VI

COMMITTEES

Section 1. Executive Committee. An Executive Committee, which shall act in the name of and with the full power of the Board of Directors during intervals between meetings of the Board, shall be established. The Executive Committee, the chairperson of which shall be the President, shall consist of Officers of the Corporation as set forth in Section 2, Article V hereof, plus ~~three~~ one (1) additional Directors nominated by the President and approved by the Board of Directors. ~~The Executive Committee shall serve as an on-going Program Evaluation Committee.~~ Actions of the Executive Committee shall be subject to review and amendment by the Board of Directors at any subsequent meeting of the Board of Directors.

Section 2. Standing Committees. There shall be established the following ~~standing~~ committees, which shall be appointed by the President from among the members of the Board of Directors ~~and, at the discretion of the President, from among the members of the Corporation and such other individuals whose background and experience indicate their knowledge of, and involvement with, the health care delivery system in New York State:~~ (i) Nominating Committee; (ii) Financial Committee. The Board of Directors shall specify the purpose, charge, objectives, staffing support, membership and term for each such committee. Each such committee shall, subject to the approval of the Board of Directors, adopt rules for its own governance.

Notwithstanding the foregoing, either the Financial Committee or a separately appointed Audit Committee, consisting exclusively of independent Directors, having no conflicts of interest, will have the responsibility to assure the independence of the organization's financial auditors, and review the organization's critical accounting policies and decisions and the adequacy of its internal control systems, and shall be charged with overseeing the accounting and financial reporting processes of the Corporation and the auditing of its financial statements. Such duties and responsibilities shall include the following:

- a. annually retain or review the retention of the Corporation's independent outside auditor;
- b. review with the independent auditor the results of the audit and any management letter;
- c. oversee the adoption and implementation of, and compliance with, any Conflict of Interest Policy or Whistleblower Policy of the Corporation;
- d. review with the independent auditor the scope and planning of the audit prior to its commencement;
- e. review and discuss with the independent auditor (i) any material risks and weaknesses in internal controls identified by the auditor, (ii) any restrictions on the scope of the auditor's activities or access to requested information, (iii) any significant disagreements between the auditor and management, and (iv) the adequacy of the Corporation's accounting and financial reporting processes;
- f. annually consider the performance of the auditor; and
- g. annually report to the Board of the Corporation.

Section 3. Additional ~~Standing Committees and Ad Hoc~~ Committees. The President shall have the authority to establish such other ~~standing and ad hoc~~ committees, and to determine their respective purposes, objectives, charges, staffing, terms and membership, as the President may, from time to time determine to be in the best interests of the Corporation.

Section 4. Powers.

- a) All committees of the Board shall have only such powers and duties as are specified by the Board of Directors and defined in these Bylaws.
- b) All committee members shall be subject to the conflict of interest provisions of Article IX hereof.

ARTICLE VII

PROPERTY; INVESTMENT; EXECUTION OF INSTRUMENTS

Section 1. Disposition of Property Received. All property, whether real, personal or mixed, and any undivided interest or interests therein received by the Corporation by gift, grant, purchase, lease, bequest, devise or otherwise, either absolutely or jointly with any other person or persons or corporation shall ~~in~~ be held by the Corporation or disposed of by it in such manner, not inconsistent with the purposes of this Corporation, and its status as a corporation described in Section 501 (c)(3) of the Internal Revenue Code of 1986, as the ~~14~~ Board of Directors shall determine, and as approved by the Member.

Section 2. Investments. Unless otherwise specified by the terms of the instrument under which the funds are received, the funds of the Corporation may be invested from time to time in such manner as the Board of Directors, or such committee as the Board may designate for the purpose, anyd ~~deems~~ advantageous, whether or not the investments are of the character which would be required by law for similar funds held by ~~trustees~~ Directors.

Section 3. Execution of Instruments. The Board of Directors, except as otherwise provided in these Bylaws, may by resolution, 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. ~~s~~ Such authority may be general or confined to specific instances. ~~Unless so authorized Any Officer or Agent of the Corporation, may not to~~ bind the Corporation by any contract or engagement, ~~to~~ pledge its credit or ~~to~~ render it liable ~~pecuniarily financially~~ for any purposes or in any amount, unless so authorized by the Board of Directors.

Section 4. Checks and Notes. All checks, drafts, promissory notes, orders for the payment of money, and other evidences of indebtedness of the Corporation shall be issued in the name of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 5. Deposits. All funds of the corporation shall be deposited promptly to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select or as may be required under escrow agreements.

ARTICLE VIII

MINUTE BOOK, REPORTS

Section 1. Minutes of the Meetings. The Corporation shall keep at its principal office, or at such other place as the Board of Directors may order, a Corporate Record book of minutes of all meetings of Directors, with the time and place convened, whether regular or special, and, if special, how authorized, the notice given, the names of those present thereat, and the proceedings thereof. Minutes may be in paper or electronic format.

Section 2. Records of Account. The Corporation shall keep and maintain adequate and correct accounts of its properties and business transactions, including accounts of its assets, liabilities, equities, receipts, disbursements, gains and losses.

Section 3. Inspection of Records by Directors. The records of account shall at all reasonable times be open for inspection by any Director. Every Director shall have the absolute right at any reasonable business time to inspect all books, records, documents of every kind, and all physical properties of the Corporation.

Section 4. Annual Report and Financial Statement. The Board of Directors shall require the preparation of a written annual report including a financial statement, for the presentation at the annual meetings of the Board of Directors and ~~members~~ the Member. Such report shall summarize the Corporation's activities for the year. The financial statements shall include a balance sheet, as of the close of business of the Corporation's fiscal year, and a summary of receipts and disbursements. This financial statement shall be prepared in such manner and form as is sanctioned by generally accepted financial principles, and shall be attested by a certified public accountant.

ARTICLE IX

CONFLICT OF INTEREST

~~Section 1.—No contract or other transaction between this Corporation and one or more of its Directors or Officers, or between this Corporation and any other corporation, firm, association or other entity in which one or more of its Directors or Officers are directors, trustees or officers, or have a direct or indirect substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such director or directors, or officer or officers are present at the meeting of the Board, or of a committee thereof, which authorizes such contract or transaction if: (i) the material facts as to such Director's or Officer's interest in such contract or transaction and as to any common directorship, officership or financial interest are disclosed in good faith to the Board or Committee and made a matter of record; (ii) such Director or Officer neither participates in nor votes upon such matter, contract or transaction; and (iii) the Board or Committee authorizes such contract or transaction by a vote of the disinterested directors sufficient for such purpose.~~

~~Section 2.—If there was no such disclosure of knowledge, or if the interested Director or Officer voted upon such matter, contract or transaction and the vote of such interested Director or Officer was necessary for the authorization of such matter, contract or transaction at a meeting of the Board or Committee at which it was authorized, the Corporation may void the contract or transaction unless the party or parties thereto establish affirmatively that the contract or transaction was fair and reasonable to the Corporation at the time it was authorized by the Board or Committee thereof.~~

Section 1. Definition of Conflicts of Interest. A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence the Corporation's policies or actions which involve or could ultimately harm or benefit financially: (a) the individual; (b) any member of his/her immediate family (spouse, ancestors, parents, children, brothers or sisters, grandchildren, great-

grandchildren, and spouses of these individuals, or a domestic partner as defined in Section 2994-A of the Public Health Law); or (c) any organization in which he, she or an immediate family member (as defined by statute) is a director, trustee, officer, member, partner or more than 35% shareholder (or a direct or indirect ownership interest in excess of 5% of a partnership or professional corporation). Service on the board of another not-for-profit corporation shall not constitute a conflict of interest.

Section 2. Disclosure of Conflicts of Interest. A Director or Officer shall disclose a conflict of interest: (a) prior to voting on or otherwise discharging his/her duties with respect to any matter involving a conflict which comes before the Board or any Committee thereof; (b) prior to entering into any contract or transaction involving a conflict; (c) as soon as possible after the Director or Officer learns of a conflict; and/or (d) on the annual conflict of interest disclosure form. The Secretary of the Corporation shall distribute annually, 30 days prior to the Annual Meeting of Directors, to all Directors and Officers, as well as to prospective Directors and Officers, a form soliciting the disclosure of all conflicts of interest arising during the prior calendar year to date, including specific information concerning the terms of any contract or transaction with the Corporation and whether the process for approval set forth in Section 3 of this Article IX was satisfied.

Section 3. Approval of Transactions Involving Potential Conflicts of Interest. A Director or Officer who has or learns about an actual or potential conflict of interest should disclose promptly to the Secretary of the Corporation the material facts surrounding such actual or potential conflict of interest, including specific information concerning the terms of any contract or transaction with the Corporation. All efforts should be made to disclose any such contract or transaction and have it approved by the Board before the arrangement is entered into.

Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Board shall consider the material facts concerning the proposed contract or transaction including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The Board shall approve only those contracts or transactions in which (a) the terms are fair and reasonable to the Corporation and (b) the arrangements are consistent with the best interests of the Corporation. Fairness includes, but is not limited to, the concepts that the Corporation should pay no more than fair market value for any goods or services which the Corporation receives and that the Corporation should receive fair market value consideration for any goods or services that it furnishes to others. The Board shall set forth the basis for its decision with respect to approval of contracts or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the Corporation.

The Corporation shall comply with all applicable laws, rules, and regulations with respect to conflicts of interest and related party transactions.

Section 4. Validity of Actions. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or Committee which authorizes such contract or transaction. At the time of the discussion and decision concerning the authorization of such contract or transaction, the interested Director or Officer should not be present at the meeting.

Section 5. Employee Conflicts of Interest. An employee of the Corporation with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to his/her supervisor. The employee shall thereafter refrain from participating in deliberations and discussions, as well as any decision, relating to the matter and follow the direction of the supervisor as to how decisions of the Corporation which are the subject of the conflict will be determined. The President shall be responsible for determining the proper way for the Corporation to handle decisions of the Corporation which involve unresolved employee conflicts of interest. In making such determinations, the President may consult with legal counsel.

The President shall report to the Board at least annually concerning employee conflicts of interest which have been disclosed and contracts and transactions involving employee conflicts which the President has approved.

ARTICLE X

INDEMNIFICATION and INSURANCE

Section 1. Indemnification

(a) Consistent with the restriction contained in the New York Not-for-Profit Corporation Law, the Corporation shall indemnify each person who is or was a Director ~~or~~ Officer of the Corporation against any and all reasonable expense that may be incurred by him or her in connection with or resulting from any action, claim, suit or proceeding, civil or criminal, in which he ~~or she~~ may become involved by reason of being or having been a Director or Officer of the Corporation, or by reason of any past or future action taken or not taken in his or her capacity as such Director or Officer, whether or not still in office at the time of such liability or expense being incurred, provided:

- 1) such Director or Officer acted in good faith for a purpose which he or she ~~reasonable~~ believed to be in the best interests of the Corporation, and with that degree of diligence, care and skill which ~~reasonable-reasonably~~ prudent persons would exercise under similar circumstances in like positions; and
- 2) in connection with any criminal action or proceeding, he or she had no reasonable cause to believe that his or her conduct was unlawful.

(b) As set forth in this Article, the terms “liability” and “expense” shall include, but shall not be limited to: ~~;~~ counsel fees, proper expenses and disbursements, and amounts of judgments, fines or penalties and sums paid in settlement by such Director or Officer of the Corporation.

(c) In the event that a question arises as to whether or not such Director or Officer has met the standards of conduct set forth in this Article, such questions shall be conclusively determined by either: (i) the Board of Directors acting by a quorum consisting of Directors who are not involved in such claim, suit or proceeding; or (ii) the written opinion of reputable disinterested legal counsel selected by the Corporation.

(d) If any word, clause or provision of this Article shall for any reason be determined to be invalid, the provisions hereof shall not otherwise be affected thereby, but shall remain in full force and effect.

Section 2. Insurance.

(a) The Corporation shall have the power to purchase and maintain insurance:

(1) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of Directors and Officers under the provisions of this Article, and

(2) to indemnify Directors and Officers in instances in which they may be indemnified by the Corporation under the provisions of this Article.

(b) No insurance may provide for any payments other than the cost of defense, to or on behalf of any Director or Officer:

(1) if a judgment or other final adjudication adverse to the insured Director or Officer establishes that his or her acts of active and deliberate dishonesty were material to the cause of action, so adjudicated, or that he or she personally gained, in fact, a financial profit or other advantage to which he or she was not legally entitled, or

~~(3)~~ ~~_____~~ (2) in relation to any risk, the insurance of which is prohibited under the Not-for-Profit Corporation Law or the Insurance law of the State of New York.

Section 3. Right Not Exclusive. The foregoing right of indemnification shall not be deemed exclusive of any other right to which such Director or Officer may be entitled apart from this Article.

ARTICLE XI

FISCAL YEAR; CORPORATE SEAL

Section 1. Fiscal Year. The fiscal year of the Corporation shall begin January 1 and end December 31 of each calendar year.

Section 2. Corporate Seal. The Board of Directors shall adopt a corporate seal which shall be in the form of a circle and bear the full name of the Corporation and the year of its incorporation.

ARTICLE XII

RULES OF ORDER

The rules contained in ~~Sturgis Standard Code of Parliamentary Procedure~~ American Institute of Parliamentarians, Standard Code of Parliamentary Procedure, shall govern the Corporation, the Board of Directors, the Member, and all committees in all cases in which they are not inconsistent or in conflict with the law, the Certificate of Incorporation, the Bylaws of the Corporation or the standing or special rules of the Board of Directors.

ARTICLE XIII

AMENDMENTS

~~These Bylaws may be amended by an affirmative vote of the member at the annual or any special meeting of the Member.~~ The Bylaws of the Corporation may be amended by the Board of Directors with an affirmative vote by the Member. An affirmative vote by the Member for Bylaws changes shall be authorized by a two-thirds (2/3) vote at a duly held special meeting of the Member at which a quorum is present, and provided at least twenty-one days proper written notice is mailed to the Board of Directors and the Member.

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