

BYLAWS OF
THE
LOS ALAMOS NATIONAL LABORATORY
FOUNDATION

A New Mexico Nonprofit Corporation
(As Amended and Restated, effective September 22, 2020)

ARTICLE I.

Name, Principal Office, and Registered Office

Section 1.1. Name. The name of the Corporation is the LOS ALAMOS NATIONAL LABORATORY FOUNDATION (hereinafter referred to as the "Foundation").

Section 1.2. Principal Office. The principal office of the Foundation will be located in the City of Espanola, County of Rio Arriba, State of New Mexico. The location of the principal office of the Foundation may be changed at any time by the Board of Directors (the "Board"), and the Foundation may have such other offices, either within or without the counties of Rio Arriba, Los Alamos, or Santa Fe in the State of New Mexico, as the business of the Foundation may require from time to time.

Section 1.3. Registered Office. The registered office of the Foundation required by the New Mexico Nonprofit Corporation Act (the "Act") (NMSA 1978 §§53-8-1, *et seq.*) to be maintained within the State of New Mexico will be located in Espanola, New Mexico. The location of the registered office of the Foundation may be changed at any time by the Board.

ARTICLE II.

Purposes and Powers

Section 2.1. Exempt Purposes. The Foundation is organized and operated exclusively as an exempt charitable and educational organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or similar provision of any future revenue law) (the "Code"), without profit to any Director or Officer. Notwithstanding any other provision of these Bylaws, the Foundation will not carry on any activities not permitted to be carried on:

(A) by a corporation exempt from federal income tax under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code; or (B) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a)(2), and 2522(a)(2) of the Code. No substantial part of the activities of the Foundation will consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Foundation will not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office. Subject to the foregoing, the Foundation may also engage in all other activities that are permissible by law.

Section 2.2. Specific Purposes. The Foundation is organized for the purpose of receiving and administering gifts and grants in support of charitable and educational public service activities in northern New Mexico. In recognition of the interdependence of the Los Alamos National Laboratory (the "Laboratory") and northern New Mexico communities, the Foundation exists to enhance the vitality of the region by investing in education, learning, and community development in accordance with the provisions of these Bylaws. To the extent not inconsistent with law and the exempt purposes stated in Section 2.1, and in furtherance and not in limitation of the specific purposes set forth in this Section 2.2, it is expressly provided that the Foundation is organized for the purposes of engaging in any lawful act or activity for which a nonprofit corporation may be organized under the Act.

Section 2.3. Prohibitions. No Director, Officer, employee, or other person connected with the Foundation, or any other private individual or organization organized for profit, will receive at any time any of the net assets, earnings, or pecuniary profit from the operations of the Foundation. However, this provision will not prevent payment of reasonable compensation to any such person for services performed for the Foundation in effecting any of its public or charitable purposes, provided that such compensation is permitted by these Bylaws and fixed by resolution of the Board. Further, no person or persons will be entitled to share in the distribution of, and will not receive, any of the corporate assets on dissolution of the Foundation.

Section 2.4. Private Foundation Prohibitions. The Foundation will operate in a manner that prevents it from becoming a private foundation within the meaning of Section 509 of the Code. However, if at any time the Foundation is, or is treated as if it were, a "private foundation" within the meaning of Section 509 of the Code, then the following additional restrictions will apply:

(A) The Foundation will distribute its income for each tax year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code;

(B) The Foundation will not engage in any act of self-dealing as defined in Section 4941(d) of the Code;

(C) The Foundation will not retain any excess business holdings as defined in Section 4943(c) of the Code;

(D) The Foundation will not make any investments in such manner as to subject it to tax under Section 4944 of the Code; and

(E) The Foundation will not make any taxable expenditure as defined in Section 4945(d) of the Code.

Section 2.5. Powers. The Foundation will have all of the powers of a nonprofit corporation under the Act and, in furtherance of and not by way of limitation, the Foundation will have the following powers:

(A) To receive and disburse funds in accordance with the purposes of the Foundation;

(B) To receive, hold, and display real and personal properties; and

(C) To the extent not inconsistent with law and the exempt purposes stated in Sections 2.1 and 2.2, to do each and every act consistent with carrying out its purposes as allowed by the laws of the State of New Mexico.

ARTICLE III.

Membership

The Foundation will not have any members as provided under the Act. All decisions and acts contemplated or required by law to be made by members may be made by the Board.

ARTICLE IV.

Board of Directors

Section 4.1. Number, Qualification, and Tenure. The number of Directors will be at least ten (10), but not more than twenty (20), as determined from time to time by the Board. The number of authorized Directors may only be increased at an Annual Meeting of Directors. Members of the Board will fairly represent regional, educational, and community interests, as well as the interests of the Foundation's donors and contributors, who may include, but not be limited to, the entity charged by contract or law to operate the Laboratory (the "Operator") for the United States Department of Energy ("DOE"). Each Director will be appointed for a nominal term of three (3) years commencing at the Annual Meeting during which the Director is appointed. A Director may not serve more than two consecutive terms (not including service by a Director for the unexpired term of a predecessor Director pursuant to Section 4.6), but may be reappointed after the expiration of one (1) year following the completion of the Director's second term. Notwithstanding the foregoing term limitation, a Director's tenure may, by vote of the remaining disinterested Directors, be extended:

(A) To a third three (3)-year term in cases where an Officer is serving a two (2)-year term of office as Chair or Vice Chair and the Officer's tenure as a board member would expire during his/her term as Chair or Vice Chair; and

(B) By one (1) year where the Director holds an office other than Chair or Vice Chair and the Director's continued service as a Director and/or Officer is deemed reasonably necessary by the Board for the continuity and stability of the Foundation.

Section 4.2. Responsibilities and Policies. The Board is responsible for the Foundation's overall vision, mission, policies, and goals. The Board has fiduciary responsibility for the assets and affairs of the Foundation. The Board is hereby vested with all the powers possessed by the Foundation itself, so far as this delegation of authority is not inconsistent with the Act,

the laws of the State of New Mexico, the Code, the Articles of Incorporation of the Foundation ("Articles"), or these Bylaws.

Section 4.3. Powers of Directors. The Board may exercise all of the powers granted to Directors under the Act, including, but not limited to, the following powers:

- (A) Appoint, remove, supervise, and, except as otherwise provided in these Bylaws, prescribe the duties of all Officers of the Foundation;
- (B) Employ, discharge, supervise, and prescribe the duties and fix the compensation of the Foundation's President and Chief Executive Officer ("President and CEO");
- (C) Hold meetings at such times and places as is deemed proper, and monitor the Foundation's programs and services;
- (D) Create committees;
- (E) Audit the financial affairs of the Foundation;
- (F) Accept or decline on behalf of the Foundation any contributions, gifts, bequests, or devises for any purpose of the Foundation;
- (G) Approve and oversee the implementation of the Foundation's vision, mission, goals, strategic plan, and policies;
- (H) Inspect and copy, at any reasonable time, all books, records, and documents of every kind and to inspect the physical properties of the Foundation; and
- (I) Require the President and CEO to produce such records, reports, and other information as is necessary to enable the Board to fulfill its governance obligations.

Section 4.4. Delegation of Authority. Subject to Board oversight, the Board delegates authority for the implementation of the Foundation's vision, mission, goals, strategic plan, and policies, as set by the Board, and for the day-to-day management of the Foundation's personnel, property, business, and affairs, to the President and CEO. As set forth herein, below, the Board may also delegate some portion of its responsibilities to Committees of the Board. All delegations of responsibility hereunder are made solely to the extent consistent with the Act, the laws of the State of New Mexico, the Code, the Articles, and these Bylaws, and are accompanied by concomitant delegations of power.

Section 4.5. Appointment of Directors. The appointment of Directors to the Board will be made by nomination through the Governance Committee and by subsequent approval of the Board. A simple majority of the members of the Board then in office will be sufficient to approve or disapprove of such an appointment.

Section 4.6. Vacancies and Resignations. Vacancies on the Board will exist (A) on the death, resignation, or removal of any Director or (B) whenever the number of authorized Directors is increased. Any Director may resign by giving written notice to the Chair or Secretary of the

Board. Such resignation will be effective in accordance with its terms or upon receipt. Any vacancy occurring on the Board may be filled at any meeting of the Board where a majority of the Directors is present. A Director appointed to fill a vacancy because of death, resignation, or removal may be appointed for the unexpired term of the Director's predecessor in office. A Director appointed to fill a vacancy because of the increase in the number of authorized Directors will be filled at the Annual Meeting.

Section 4.7. Compensation. The Directors will not receive any stated salaries for their services. The Board may authorize reimbursement for reasonable, pre-approved expenses incurred by Directors in connection with the performance of their duties as Directors. The Board may authorize the payment for expenses of attendance by Directors at any regular or special meetings of the Board. Nothing in this Section 4.7 will preclude a Director from serving the Foundation in any other capacity and receiving reasonable compensation therefore.

Section 4.8. Seeking or Holding Elected Office. Elected officials holding a federal, state, city, municipality, county, or school board positions may not serve on the Board of the Foundation. A sitting Board member who seeks elective office shall be deemed to have resigned as a Director. After the election, if that person is not elected, the Board may, at its sole discretion, reseal such member as a member of the Board of Directors. This provision does not apply to elected tribal officials or candidates for tribal government positions.

ARTICLE V.

Meetings of the Board of Directors

Section 5.1. Regular Meetings. The Board may provide, by resolution, the time and place for the holding of regular meetings without other notice than such resolution.

Section 5.2. Special Meetings. Special meetings of the Board may be called by or at the request of the Chair at any time. Upon written request of at least two (2) Directors, the Chair will call a special meeting within fourteen (14) days. The Chair may fix the place for holding any special meeting of the Board.

Section 5.3. Annual Meeting. The Annual Meeting of the Board will be held in May of each year as fixed by resolution of the Directors for the purpose of approving the appointment of Directors, electing Officers, and transacting such other business as may come before the meeting. In the event that such annual meeting is not held by oversight or otherwise on the date herein provided, the Board will cause a meeting in lieu thereof to be held as soon thereafter as conveniently possible, and any election or business transacted at such meeting will be as valid as if transacted or held at the regularly scheduled annual meeting. Such subsequent meeting will be called in the same manner as provided herein.

Section 5.4. Notice. Notice of any special meeting of the Board will be given at least five (5) days prior to the meeting by written notice delivered personally, by mail, or electronically to each Director at the Director's most recent address. If notice is given electronically, such notice will be deemed to be delivered unless the Foundation receives electronic notification that the notice could not be delivered. Any Director may waive notice of any meeting. The attendance of a Director at any meeting will constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Except as otherwise provided by these Bylaws, neither the business to be transacted at, nor the purpose of any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

Section 5.5. Quorum. At any meeting of the Board, the presence of a majority of the Directors in person or via teleconference will constitute a quorum for the transaction of business. The Chair, or, in the absence of the Chair, the Vice Chair will act as the Chair of the meeting. In the absence of the Chair or Vice Chair, a majority of the Directors present at the meeting may choose a Chair for the meeting. If less than a quorum is present, a majority of the Directors present at the meeting may adjourn any meeting without further notice.

Section 5.6. Manner of Acting. Except as otherwise provided by law or by these Bylaws, the act of the majority of Directors present at any meeting where there is a quorum will be the act of the full Board. A quorum once attained continues until adjourned despite a voluntary withdrawal of one or more Directors which leaves less than a quorum.

Section 5.7. Reserved.

Section 5.8. Action by Unanimous Consent. Any action required or permitted to be taken at a meeting of Directors or any board committee may be in person, via teleconference, or via email, if that action is approved unanimously by all Board members or all board committee members.

Section 5.9. Interested Director Contracts or Transactions.

(A) Definitions:

(1) An "Interested Director Contract or Transaction" is any contract or transaction between the Foundation and (a) one or more of its Directors, or (b) a corporation, association, organization, or other entity in or for which one or more of the Foundation's Directors has a financial interest or serves in a position of responsibility (i.e., as a director, officer, trustee, or the like).

(2) An "Interested Director" is any Director who enters into or proposes to enter into a contract or transaction with the Foundation, or who has a financial interest in or serves in a position of responsibility for any corporation, association, organization, or other entity that enters into or proposes to enter into a contract or transaction with the Foundation.

(B) The Foundation may enter into an Interested Director Contract or Transaction if:

- (1) Each interested Director's relationship to the contract or transaction is disclosed or known to the Board (or committee of the Board, as appropriate) prior to the authorization or such contract or transaction by same; and
- (2) The Board (or committee of the Board) authorizes the contract or transaction in good faith by the affirmative vote of all disinterested Directors. A majority of Board or committee members is required for authorization.

(C) Provided that the requirements of Section 5.9(B) above have been met, no Interested Director Contract or Transaction will be void or voidable solely because of the existence of a potential or actual conflict of interest, or the fact that any Interested Director is present at or participates in the meeting of the Board (or committee of the Board) whereby such contract or transaction is authorized.

Section 5.10. Absence. Should any member of the Board be absent from three (3) consecutive regularly scheduled meetings of the Board, such member's seat on the Board may be declared vacant by the Board, and the position may be filled as provided in these Bylaws.

Section 5.11. Removal of Directors. A Director may be removed, with cause, at any duly noticed regular or special meeting of the Directors by a vote of at least two-thirds (2/3) of the entire Board. The notice of such meeting will indicate that one of the specific purposes of the meeting is the removal of such Director.

Section 5.12. Conduct of Meetings. Meetings of the Board will be conducted in substantial conformity with the current edition of *Robert's Rules of Order*.

ARTICLE VI.

Committees of the Board of Directors

Section 6.1. Power To Appoint Committees. The Board will create an Executive Committee, a Governance Committee (with a Nominations Subcommittee), a Finance Committee (with an Investment Subcommittee), and an Audit Committee. The Board may also create any other committees it deems necessary or appropriate. Each committee will include no fewer than three (3) Directors. Except for the Executive Committee and the Nominations Sub-Committee, any committee established under this Article may include within its membership voting individuals who are not Directors, so long as Directors constitute the majority of any such committee's membership. Minutes will be taken at every official committee meeting.

Section 6.2. Executive Committee. The Executive Committee will consist of the Chair (who will serve as its Chair), all other Officers, the immediate past Chair, and up to three at-large Directors, who will serve two-year staggered terms, as the Board approves.

(A) The Executive Committee will have the power of and exercise the authority of the Board in the management of the Foundation between meetings of the Board, in all matters except:

- (1) The election or removal of Officers;
- (2) The appointment or removal of Directors;
- (3) The amendment or repeal of these Bylaws;
- (4) The employment or discharge of the President and CEO; and
- (5) Any other matters of concern specifically requiring Board action by law, the Articles, or these Bylaws.

The Executive Committee may also have such specific powers and perform such specific duties as prescribed by resolution of the Board.

(B) At any meeting of the Executive Committee, the presence of a majority of its voting members in person will constitute a quorum for the transaction of business. Any one or more members of the Executive Committee may participate in a meeting of the committee by means of a 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 will constitute presence in person at the meeting.

(C) Action by the Executive Committee may be taken by the affirmative vote of a majority of its voting members present at a meeting where there is a quorum, or by a unanimous consent resolution (as set forth in Section 5.8 above). The Executive Committee will request ratification of its acts by the Board at any meeting of the Board.

(D) The President and CEO will advise the Board within five (5) days of any such action.

Section 6.3. Governance Committee. The Governance Committee will consist of a Chair, appointed by the Board, at least two (2) or more appointed Directors and such other individuals as appointed by the Board. All will be voting members. It will periodically review and recommend changes to the Bylaws will oversee a Board self-evaluation as needed, will review the experience of each Board member as his/her term expires, and will assure new Board members receive Board orientation. A representative of the Governance Committee will attend Board orientation.

Section 6.3 (A) Nominations Subcommittee of the Governance Committee. The Nominations Subcommittee will consist of the Immediate Past Chair (who will serve as the Chair of the Nominations Subcommittee), the Chair, and one or more other Board-appointed Directors. The Nominations Subcommittee will meet as required to review the effectiveness, special needs, and diversity of the Board. It will recommend and present nominations for the appointment of Directors and the election of Officers annually to the Governance Committee and upon the occurrence of vacancies. Notice of proposed

nominations will be submitted to each Director at least ten (10) days prior to the meeting at which an election or appointment is to take place. The Nominations Subcommittee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.4. Finance Committee. The Finance Committee will consist of the Treasurer (who will serve as its Chair), two (2) or more Board-appointed Directors who are not Officers, and such other individuals as are appointed by the Board. The Finance Committee will meet quarterly, or more often if necessary, and will generally review the Foundation's financial condition and activities. In connection with this duty, the Finance Committee will review the matters set forth below, and report and make recommendations to the Board regarding same:

- (A) The Foundation's annual operating budget;
- (B) The Foundation's interim reports comparing budgeted revenues and expenses to actual and projected revenues and expenses throughout the year, as deemed necessary by the Finance Committee;
- (C) The Foundation's financial statements, as deemed necessary by the Finance Committee;
- (D) The Foundation's internal control systems;
- (E) The Foundation's accounting policies and procedures;
- (F) The Foundation's bank depository relationships for safekeeping and temporarily investing its operating fund.
- (G) Periodically review the Foundation's short-term and long-term borrowing and financing arrangements.

The Finance Committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.4 (A): **Investment Subcommittee of the Finance Committee:** An Investment Subcommittee will be appointed by the Finance Committee and will annually review the Foundation's investments to assure they are in alignment with the values and objectives of the Foundation. The Investment Subcommittee will report its findings to the Board of Directors. The Investment Subcommittee may include voting non-Board members. The Investment Subcommittee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.5. Audit Committee. The Audit Committee will consist of three (3) or more Board-appointed Directors, one of whom will serve as chair of the Audit Committee, and such other individuals as are appointed by the Board. The Audit Committee will meet as often as required to fulfill its duties. The Audit Committee will annually make a recommendation to the Board to select an

independent auditor, review the audit plan and the scope of the audit with the auditor, and review the annual audit report. The Board will approve the auditor. The Audit Committee will report to the Board the results of the audit, and will recommend to the Board any actions that should reasonably be taken by the Board with respect to the audit. The Audit Committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

Section 6.6. Other Committees. Other committees may be created by the Board as necessary or desirable for the proper administration and operation of the Foundation. Each such committee will serve at the pleasure of the Board and will be subject to the control and direction of the Board. The authority of any such committee will be specifically set forth in the resolution of the Board authorizing its creation. The Chair will appoint the chair of all other committees and, with the appointed chair, will appoint the other members of these committees. Any action or authorization of an act by any such committee within its delegated authority will be effective for all purposes as the act or authorization of the Board. Any such other committee is subject to the provisions of Sections 6.2 (B) to (D) above concerning quorum, action, ratification, and notice of action.

ARTICLE VII.

Reserved.

ARTICLE VIII.

Officers

Section 8.1. Number and Qualifications. The Officers of the Foundation will consist of a Chair, a Vice Chair, a Secretary, a Treasurer, and such other Officers as may be elected in accordance with the provisions of this Article. Each Officer must be a current Director. Only one office may be held by the same person at one time.

Section 8.2. Election and Term of Office. The Officers elected at the Annual Meeting will take office upon election. If the election of Officers is not held at such meeting, such election will be held as soon thereafter as may be convenient. Subject to the requirement of Section 8.1 that an Officer must be a Director, each Officer will hold office until such Officer's successor has been duly elected and qualified, or until such Officer's death, resignation, or removal in the manner hereinafter provided. Any Officer may succeed himself or herself. The Chair and Vice Chair may each serve either a one (1)- or two (2)-year term, as designated by the Board. All other Officers will serve one (1)-year terms.

Section 8.3. Removal. Any Officer elected by the Board may be removed with or without cause by the affirmative vote of a majority of the members of the entire Board.

Section 8.4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise shall be filled by the Board for the unexpired portion of the term. In the event of a vacancy in the office of Chair or the Chair's inability to serve for any reason, the powers and duties of that office will be exercised by the Vice Chair.

Section 8.5. Chair. The Chair will perform all the duties commonly incident to the office of the Chair and will perform such other duties as the Board will designate, including, but not limited to, the following

(A) The Chair will preside at all meetings of the Board and will chair the Executive Committee;

(B) On behalf of the Board, the Chair will have general supervision over the President and CEO and the Officers of the Foundation, and the management of the business of the Foundation, including the activities of the committees;

(C) The Chair will sign:

- i. subject to Board approval, any amendment to or repeal of these Bylaws or the Articles; and
- ii. any document or instrument requiring the signature of the Chair pursuant to any policy of the Foundation or resolution of the Board.

(D) Subject to Article XI of these Bylaws, the Chair may also sign all other official documents and instruments on behalf of the Foundation;

(E) Other than the Nominations Subcommittee, Finance Committee, and Audit Committee, the Chair will appoint the Chairs of Board committees; and

(F) The Chair will be an *ex officio* member of all committees on which he or she does not otherwise serve.

(G) The Chair becomes the Immediate Past Chair upon conclusion of his or her term of office as Chair.

Section 8.6. Immediate Past Chair. The Immediate Past Chair will serve on the Executive Committee. The Immediate Past Chair will serve as Chair of the Nominations Subcommittee. The current Immediate Past Chair's term concludes when the current Chair's term of office concludes and he/she becomes the next Immediate Past Chair. In the case that the current Chair resigns, dies, is incapacitated or removed by the Board the current Immediate Past Chair will continue as Immediate Past Chair.

Section 8.7. Vice Chair. Except as specifically limited by vote of the Board, the Vice Chair will perform the duties and have the powers of the Chair during the absence or disability of the Chair. This includes, but is not limited to, the signing of official documents. The Vice Chair will also perform such other duties and have such other powers as the Chair and/or the Board may designate.

Section 8.8. Treasurer. The Treasurer will have oversight of all financial accounts, records, funds, and securities of the Foundation. The Treasurer will chair the Finance Committee and, in

general, perform all duties commonly incident to the office of treasurer, including signing tax returns. The Treasurer will also perform such other duties and have such other powers as the Chair and/or the Board may designate.

Section 8.9. Secretary. The Secretary will act as secretary of the Board; keep, or cause to be kept, minutes of all meetings of the Board in one or more books provided for that purpose; and, in general, perform all duties commonly incident to the office of secretary. Subject to Board approval, the Secretary will sign any amendment to or repeal of these Bylaws or the Articles. In the absence of the Secretary, the Chair may designate any person to act as secretary for Board meetings. The Secretary and such other persons as he or she may delegate will: (A) ensure that all notices are given in accordance with these Bylaws and as required by law; (B) have charge of the books, records, and other papers of the Foundation; and (C) ensure that all reports, statements, and other documents required by law are properly kept or filed, except to the extent that they are to be kept or filed by the Treasurer or some other designee of the Board. The Secretary will also perform such other duties and have such other powers as the Chair and/or the Board may designate.

Section 8.10. Reserved.

Section 8.11. Expenses. The Board may authorize reimbursement for expenses incurred by Officers in connection with the performance of their duties.

Section 8.12. Resignation. Any Officer may resign effective upon giving written notice to the Chair or Secretary unless such notice specifies a later time for the effectiveness of such resignation.

ARTICLE IX.

President and Chief Executive Officer

Section 9.1. President and Chief Executive Officer. The President and Chief Executive Officer (“CEO”) will be the principal employee and spokesperson of the Foundation. The President and CEO will be hired by the Board pursuant to any employment arrangements as determined by the Board.

(A) Duties of the President and Chief Executive Officer. Subject to Board oversight, the President and CEO will be responsible for implementing the Foundation's vision, mission, goals, strategic plan, and policies, as approved by the Board, and for the day-to-day management of the Foundation's personnel, property, business, and affairs, including, but not limited to the hiring, dismissing, and management of the employees of the Foundation. The President and CEO will be responsible for providing the Board with sufficient written information, reports and other documentation to allow informed decision making by the Board and otherwise to allow the Board to fulfill its governance obligations under the Articles, these Bylaws, the Act, the Code and any other applicable law. In connection with performing his or her duties hereunder and subject to Article XI of these Bylaws, the President and CEO will have authority to sign all official documents and instruments on behalf of the Foundation other than (i) those instruments and documents requiring the signature of the Chair pursuant to Section 8.5 of these Bylaws, and (ii) those instruments and

documents requiring the signature of the Treasurer under Section 8.8 or the Secretary under Section 8.9 of these Bylaws. The President and CEO will further have such additional responsibilities and perform such additional duties as are prescribed by the President and CEO's most recent employment contract or current job description approved by the Board. In the event of a conflict between these Bylaws and any such employment contract or job description, these Bylaws will prevail.

(B) Vacancy of President and CEO. In the event of the death, resignation, incapacitation or termination of the President and CEO, the Chair will assume or assign the duties of the President and CEO to staff as needed until a new or acting President and CEO is hired.

ARTICLE X.

Indemnification of Directors, Officers, and President and CEO

Section 10.1 Indemnification. The Foundation will indemnify each Director and Officer of the Foundation and the President and CEO, and their heirs, legal representatives and assigns, against expenses, costs and attorney's fees actually and reasonably incurred in connection with the defense of any action, suit or proceeding, civil or criminal, in which the Director, Officer or President and CEO is made a party by reason of being or having been an Officer, Director, or President and CEO. The indemnification may include any amounts paid to satisfy a judgment or to compromise or settle a claim. The Director, Officer, or President and CEO will not be indemnified if she or he is adjudged to have been guilty of willful misconduct or recklessness in the performance of duty to the Foundation. Advance indemnification may be allowed of a Director, Officer, or President and CEO for expenses to be incurred in connection with the defense of the action, suit, or proceeding, provided that the Director, Officer, or President and CEO was not entitled to indemnification by reason of willful misconduct or recklessness in the performance of duty to the Foundation.

Section 10.2. Insurance. The Foundation shall purchase and maintain insurance on behalf of any person who is or was a Director, Officer, or President and CEO of the Foundation, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Foundation would have the duty or the obligation to indemnify such person against such liability under the provisions of this Article X.

Section 10.3. Limitation on Indemnification. Notwithstanding anything contained in this Article X to the contrary, except for proceedings to enforce rights to indemnification the Foundation will not be obligated to indemnify any Director, Officer, or President and CEO in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board.

ARTICLE XI.

Execution of Instruments, Deposits, and Funds

Section 11.1. Contracts, Instruments and Documents Requiring Written Board Approval. Prior written Board authorization is required for any Officer, agent, or employee of the Foundation to enter into or execute (and deliver) any of the following in the name or on behalf of the Foundation.

(A) any contract, instrument, document, or other matter that commits the Foundation to or otherwise renders it liable for any obligation in excess of Fifty Thousand Dollars (\$50,000);

(B) any document or instrument relating to the sale, mortgage, pledge, or other hypothecation or disposition of all or substantially all of the assets of the Foundation;

(C) any document or instrument relating to the merger or consolidation of the Foundation; and

(D) any document or instrument relating to the voluntary dissolution of the Foundation.

Subject to the foregoing and except as otherwise provided in these Bylaws, the Chair and the President and CEO will have such signing authority as is provided for in Sections 8.5 and 9.1 of these Bylaws, respectively, without Board approval. Except as otherwise provided in these Bylaws, the Board may additionally authorize, in writing, any other Officer, agent or employee of the Foundation to enter into any contract or execute and deliver any instrument in the name or on behalf of the Foundation, and such authority may be general or confined to specific instances. Unless authorized by these Bylaws and, as necessary, the Board, no Director, Officer, agent, or employee will have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount. Any unauthorized commitment may or may not be ratified by the Board at its sole discretion. The Officer, agent, or employee responsible for making the unauthorized commitment may be solely and personally liable for any costs incurred.

Section 11.2. Checks, Notes, and Loans. Except as otherwise specifically provided in these Bylaws or determined by resolution of the Board or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Foundation will be executed on behalf of the Foundation by such Officers or employees as the Board may, by resolution, from time to time determine.

Section 11.3. Deposits. All funds of the Foundation will be deposited from time to time to the credit of the Foundation in such banks, trust companies, or other depositories as the Board may select. For the purpose of the deposit, any Officer, or any employee authorized by the Board, may endorse, assign, and deliver checks, drafts, and other orders for the payment of money that are

payable to the Foundation.

Section 11.4. Contributions. Contributions, gifts, bequests, or devises for the charitable, educational, or public service purposes of this Foundation may formally be accepted only by the Board in accordance with the Foundation's gift policy. Contingent upon such formal acceptance, the President and CEO may conditionally accept on behalf of the Foundation any contribution, gift, bequest, or devise. The effective date of such formal acceptance by the Board will relate back to the date of conditional acceptance by the President and CEO.

Section 11.5. Endowments. All funds received or appropriated by the Board for indefinite investment will be separately and securely invested as an Endowment Fund in accordance with the intent of any donor and as may be accepted by the Board. The Board will specifically comply with any restrictions on investment and segregation of funds provided to or appropriated by the Foundation by the donor.

ARTICLE XII.

Corporate Records, Reports, and Fiscal Year

Section 12.1. Corporate Records. The Foundation will keep accurate and up to date:

(A) minutes of all formal meetings of the Board and its committees and subcommittees. Such minutes will indicate the time and place such meetings were held, whether they were regular or special, the names of those present, and the recommendations, decisions, and actions thereof;

(B) books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses; and

(C) copies of the Articles of Incorporation and Bylaws of the Foundation, as amended to date.

Section 12.2. Annual Report. The President and CEO will compile an annual report, which will be furnished to the Board no later than one hundred and eighty (180) days after the close of the Foundation's fiscal year. The annual report will also be furnished to other persons and/or entities as required by law or pursuant to the terms of any agreement binding the Foundation. The annual report will contain audited financial statements, or if the statements have not yet been audited, the statement of an authorized Officer of the Foundation that such statements were prepared without audit from the books and records of the Foundation.

Section 12.3. Fiscal Year. The fiscal year of the Foundation will be the period beginning on January 1 and ending on December 31 of each year.

ARTICLE XIII.

Endowments

The Foundation has established endowment funds to fund programs to support scholarships and the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory. Original funding for the endowment came from federal government appropriations.

ARTICLE XIV.

Dissolution

In the event of the dissolution of the Foundation, the Board will, after paying or making provision for the payment of all liabilities of the Foundation, distribute all of its assets to such educational or charitable institutions as the Board may determine are most capable of carrying out the objectives of this corporation as described in Article II of these Bylaws. Any such institution must be (A) exempt from Federal income tax under Section 501(c)(3) of the Code; (B) an institution, contributions to which are deductible under Sections 170(c)(2), 2055(a)(2), and 2522(a)(2) of the Code; and (C) not a private foundation as defined in Section 509 of the Code. Any assets not so disposed of will be disposed of by the state district court of the county in which the principal office of the Foundation is then located exclusively for such purposes or to such organization(s) as the court will determine, which are consistent with the Foundation's purposes as described in Article II of these Bylaws.

ARTICLE XV.

Notices

Section 15.1. Notices. Whenever written notice is required by law, the Articles of Incorporation, or these Bylaws, to be given to any Director or member of a committee, such notice may be given by mail, addressed to such Director or committee member's most recent address or electronically. For purposes of this Article, each Director's most recent address and/or number will be as the same appears on the records of the Foundation. Notice by mail will be deemed to be given five (5) days after the notice was deposited in the United States mail. Electronic notice will be deemed given unless the Foundation receives electronic notification that the notice could not be delivered. Written notice may also be given personally and will be deemed given on the date of personal delivery.

Section 15.2. Waivers of Notice. Whenever any notice is required by law, the Articles of Incorporation, or these Bylaws, to be given to any Director or member of a committee, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, will be deemed equivalent thereto. The attendance of a

Director at any meeting will constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE XVI.

Construction of Bylaws

On all questions as to the construction or meaning of these Bylaws and the rules of the Foundation, the decision of the Board will be final.


ARTICLE XVII.

Amendments

These Bylaws may be altered, amended, or repealed, in whole or in part, or new Bylaws may be adopted by the Board, provided, however, that notice of such alteration, amendment, repeal, or adoption of new Bylaws be contained in the notice of such meeting of the Board. All such amendments must be approved by an affirmative vote of at least a majority of the entire Board at a duly noticed regular or special meeting of the Board.

ADOPTED as of the 22nd day of September,
2020.

LOS ALAMOS NATIONAL LABORATORY FOUNDATION

By: 
Elmer Torres, Chair of the Board

By: 
Patricia Trujillo, Secretary of the Board