

SECOND AMENDED AND RESTATED BYLAWS

Version 3.0 (August 3, 2023)



PBAT

Prescribed Burn Alliance of Texas

Taking the WILD out of Fire

**SECOND AMENDED AND RESTATED BYLAWS OF
PRESCRIBED BURN ALLIANCE OF TEXAS**

(a Texas 501(c)(3) Nonprofit Corporation)

**ARTICLE I.
NAME AND PURPOSE**

Section 1.01 Name. These Second Amended and Restated Bylaws (the “**Bylaws**”) govern the affairs of the Prescribed Burn Alliance of Texas, a Texas nonprofit corporation (the “**Corporation**”), organized under the Nonprofit Corporations chapter of the Texas Business Organizations Code, as amended (the “**TBOC**”). These Bylaws fully replace and supersede any prior bylaws of the Corporation and shall take effect at 12:01 a.m. Central Daylight Savings Time on August 4, 2023.

Section 1.02 Purpose. The Corporation shall exist for the purpose of promoting the common good and general welfare of the people in Texas by educating, training, and practicing safe prescribed burn techniques that reduce or eliminate fuel load build-up in open spaces, providing fire protection and/or prevention from wild or unexpected fires in and near these burned open spaces. Prescribed burning is a useful tool for improving wildlife habitat and improving quality of vegetation to support native species in open spaces in addition to improving public safety. To advance its purpose, the Corporation may receive and maintain a fund or funds of real or personal property, or both, and subject to the restrictions and limitations hereinafter set forth, may use and apply the whole or any part of the income therefrom and the principal thereof exclusively for charitable, scientific and educational purposes either (a) directly, (b) by contributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended (collectively, the “**Code**”), or by contribution to organizations for use solely for charitable, scientific or educational purposes to the extent not prohibited by state law and provisions set out in federal tax law that must be complied with to maintain the Corporation’s federal and state tax status.. The Corporation shall be and is a nonprofit corporation under the laws of the State of Texas.

**ARTICLE II.
OFFICES AND REGISTERED AGENT**

Section 2.01 Principal Office. The Corporation’s principal office will be located at the Texas A&M Institute of Renewable Natural Resources, C/O Roel Lopez, 1919 Oakwell Farms Parkway, Suite 100, San Antonio, Texas 78218. The Corporation may have such other offices, in Texas or elsewhere, as the Board of Directors (the “**Board of Directors**” or the “**Board**”) may determine. The Board may change the location of any office of the Corporation.

Section 2.02 Registered Office and Registered Agent. The Corporation will maintain a registered office and registered agent in Texas whose office is identical with such registered office, as required by the TBOC. The registered office may, but need not, be identical with the Corporation’s

principal office in Texas. The Board may change the registered office and the registered agent as permitted in the TBOC.

ARTICLE III. MEMBERS

Section 3.01 Classes of Members. The Corporation shall have two classes of members: Regular Members (as further defined in Section 3.02) and Honorary Members (as defined in Section 3.03). Regular Members and Honorary Members are collectively referred to herein as the “**Members**”.

Section 3.02 Eligibility as Regular Member. Texas prescribed burn associations, co-ops, and initiatives or other non-governmental organizations with goals and objectives similar those of the Corporation (each, a “**PBA**”) are eligible to be Regular Members of the Corporation (“**Regular Members**”). In order to be a Regular Member of the Corporation, an organization must agree to the Bylaws and policies of the Corporation and must evidence that acceptance through a majority vote of its membership or its directors. A PBA may apply for Regular Membership in the Corporation by submitting a letter of intent to join to the President of the Corporation. Applications for Regular Membership shall be approved by a majority vote of the voting membership of the Board of Directors of the Corporation at the next regularly scheduled Board meeting following receipt of the application. Each Regular Member will appoint two (2) designated representatives who shall be the primary contact between the PBA and the Corporation and who are eligible to represent the Regular Member at membership meetings and to vote on the Regular Member’s behalf. Designated representatives must be individuals who are over the age of 18 years of age and who are active members in good standing of their PBA. The number of Regular Members and the eligibility and qualifications of membership may be fixed from time to time by action of the Board of Directors. No decrease in the number of Regular Members shall shorten the term of any existing Regular Member’s membership.

Section 3.03 Eligibility as Honorary Member. An organization or person who has made a substantial contribution to the furtherance of the activities of the Corporation is eligible to be an “**Honorary Member**” of the Corporation. Honorary Members shall be selected by the affirmative majority vote of the Board of Directors. Honorary Members shall be entitled to all of the privileges as a Regular Member without the necessity of payment of dues, excluding the right to vote. An Honorary Member’s membership will continue until terminated in accordance with Section 3.08 or resignation in accordance with Section 3.09 below.

Section 3.04 Membership Renewal. Regular Membership in the Corporation shall renew annually to coincide with the date of the annual membership meeting. A Regular Member shall provide notice of its intention to renew its current membership status on or before that meeting by providing to the President or Secretary written affirmation of the Regular Member’s desire for renewal via electronic mail (email), U.S. Postal Service, or in person containing the following information:

- (a) Current name and location of the Regular Member; and
- (b) Names and contact information for the Regular Member’s two (2) representatives (including proxy designations in the event such Regular Member’s representative(s) are unable to attend the annual meeting).

Section 3.05 Suspension of Membership and Reinstatement. A Regular Member's failure to request membership status renewal will result in the suspension of that Regular Member from the current membership roster including the rights and responsibilities granted active Regular Members contained within these Bylaws. Active Regular Members may be reinstated at any time subsequent to the annual meeting by providing a written request containing the above described information to the President or Secretary, however status and contact information may not be publicly updated until such time as regularly scheduled media updates are performed.

Section 3.06 Membership Fees and Dues. The Board may set and change the amount of an initiation fee, if any, and the dues payable to the Corporation by Regular Members. Dues are payable upon admission to membership and upon membership renewal, in each case as set by the Board.

Section 3.07 Voting Rights. Each Regular Member is entitled to one (1) vote on each matter submitted to a vote of the Regular Members. A Regular Member may change its designated representatives at any time by giving written notice to the Secretary. If both of the designated representatives of a Regular Member are present at a meeting, they are only entitled to one (1) vote on each matter submitted, and that vote shall be exercised as they, among themselves, determine.

Section 3.08 Terminating Members. The occurrence of any of the following events shall result in the termination of membership: the dissolution, liquidation, or resignation of a Member. A Member that fails to comply with the Bylaws and policies of the Corporation may be expelled from the Corporation by a majority vote of the Board with no further cause of action.

Section 3.09 Resignation. Any Member may resign from the Corporation by submitting a written resignation to the Secretary of the Board. The resignation need not be accepted by the Corporation to be effective. A Regular Member's resignation will not relieve him or her of any obligations to pay any dues, assessments, or other charges that had accrued and were unpaid before the effective date of the resignation.

Section 3.10 Reinstatement. A former Regular Member may submit a written request for reinstatement of membership. The Board or a committee designated by the Board to handle the matter may reinstate membership on any reasonable terms that the Board or committee deems appropriate.

Section 3.11 Transferring Membership. Membership in the Corporation is not transferable or assignable. Membership terminates when the Corporation dissolves or otherwise ceases to exist.

Section 3.12 Certificate of Membership. The Board may cause to be issued non-transferrable certificates, cards or other instruments permitted by law evidencing membership in the Corporation.

**ARTICLE IV.
MEETINGS OF MEMBERS**

Section 4.01 Annual Meeting. The Board shall hold an annual Members' meeting at such time as the Board designates. Annual meetings shall occur every twelve months. At each annual Members' meeting, the Board shall present an annual report giving the financial status of the Corporation, an annual budget for adoption by the Regular Members, annual statistics on burns, membership and current contact information, dues collected and not collected, any proposed changes to dues, and, on a bi-annual basis, the proposed slate of Officers for the following two-year term.

Section 4.02 Special Meetings. Special meetings of the Members may be called by the President, the Board, or not less than one-tenth (1/10th) of the Regular Members.

Section 4.03 Place of Meeting. The Board may designate any place inside Texas as the place of meeting for any annual meeting or for any special meeting called by the Board.

Section 4.04 Notice of Meetings. Written or printed notice of any Members' meeting, including the annual meeting, will be delivered to each record Member not less than ten (10) nor more than sixty (60) days before the date of the meeting. The record date for determining the Members entitled to notice of any meeting of Members will be the date on which notice is mailed to the Members entitled to notice of the meeting. Notice will be given by or at the direction of the President or Secretary, or the Officers or persons calling the meeting. Notice may be provided by electronic mail or facsimile as provided by law and shall state the place, day, and time of the meeting.

Section 4.05 Eligibility to Vote at Members' Meetings. A Regular Member in good standing is entitled to vote at a meeting of the Members of the Corporation through its designated representatives. A Regular Member in good standing is one who has paid all required fees and dues and is not suspended as of the date of the meeting.

Section 4.06 Quorum. Regular Members holding one-half (1/2) of the votes that may be cast at a meeting who attend the meeting in person or by proxy will constitute a quorum at a meeting of Members. The Regular Members present at a duly called or held meeting at which a quorum is present may continue to transact business, even if enough Regular Members leave so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of Regular Members required for a quorum. If a quorum is not present at any time during a meeting, a majority of the Regular Members who are present may adjourn and reconvene the meeting once a quorum is reached without further notice.

Section 4.07 Actions of Membership. The vote of a majority of voting Regular Members in good standing, present and entitled to vote at a meeting at which a quorum is present, is enough to constitute the act of the membership unless the TBOC, the Corporation's Certificate of Formation or these Bylaws require a greater number. A Member is present for purposes of a quorum if it is represented by a designated representative in person, by proxy, or through the submission of an email vote received by the Secretary. Voting will be by ballot or voice.

Section 4.08 Proxies. A Member entitled to vote at a meeting of Members of the Corporation may vote by proxy. All proxies must be in writing, bear the signature of both the designated representative and an officer of the Regular Member giving the proxy, and must specify the date on which they are executed. No proxy is valid after eleven (11) months from the date of its execution unless the proxy specifically states a later date. Proxies are not valid if they purport to be valid to an indefinite date in the future or if they purport to be valid for more than five (5) years from their date of execution.

Section 4.09 Voting by Mail or Electronic Voting. The Board may authorize Members to vote by mail or by electronic ballot on the election of Directors and Officers or on any other matter that the Members may vote on.

ARTICLE V. BOARD OF DIRECTORS

Section 5.01 Management of Corporation. The Board will manage corporate affairs, and will have the power to conduct the business of the Corporation as enumerated by these Bylaws or as approved by the membership. All actions beyond the duties of the Board enumerated in these Bylaws or outside the authority granted to the Board by the membership shall require the prior approval of a majority of the Regular Members evidenced by a duly adopted resolution of the Regular Members or by amendment to these Bylaws.

Section 5.02 Qualifications, Number, and Tenure of Directors. Directors of the Corporation shall be the Officers (as defined at Article VI) and the Standing Committee Chairs (as defined at Article VII) (collectively, the “Directors”). Directors need not be Texas residents. The first Board of Directors shall consist of those persons named as the initial Board of Directors in the Certificate of Formation. Thereafter, the number of Directors will be a number determined by the membership that is not less than eight (8). Directors may serve for an unlimited number of terms. Each Director will serve for a term of two (2) years. A decrease in the number of Directors may not shorten the term of an incumbent Director.

Section 5.03 Vacancies. The membership, through a majority vote, will fill any vacancy of an Officer resulting from the death, resignation, or removal of such Officer. The Board will fill any vacancy of a Standing Committee Chair, as provided in Article VII. A Director or Standing Committee Chair selected to fill a vacancy will serve for the unexpired term of his or her predecessor in office.

Section 5.04 Annual Meeting. The annual meeting of the Board may be held at such time as the Board designates. The annual Board meeting will be held immediately after, and at the same place as, the annual Members’ meeting.

Section 5.05 Regular Meetings. The Board may provide for regular meetings by resolution stating the time and place of such meetings, held inside Texas.

Section 5.06 Special Meetings. Special Board meetings may be called by, or at the request of, the chair of the Board or any two (2) Directors. A person or persons authorized to call special meetings of the Board may fix any place within or without Texas as the place for holding a special

meeting. The person or persons calling a special meeting will inform the Secretary of the Corporation of the information to be included in the notice of the meeting. The Secretary of the Corporation will give notice to the Directors, as these Bylaws require.

Section 5.07 Notice. Written or printed notice of any meeting of the Board will be delivered to each Director not less than three (3), nor more than twenty (20) days before the date of the meeting. The notice will state the place, day, and time of the meeting, who called it, and the purpose or purposes for which it is called. Notice may be provided by regular mail, facsimile, or electronic mail.

Section 5.08 Quorum. A majority of the number of Directors then in office constitutes a quorum for transacting business at any Board meeting. If a quorum is never present at any time during a meeting, a majority of the Directors present may adjourn and reconvene the meeting once a quorum is reached without further notice.

Section 5.09 Duties of Directors. Directors will discharge their duties, including any duties as Committee Members, in good faith, with ordinary care, and in a manner they reasonably believe to be in the Corporation's best interest. Ordinary care is the degree of care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In the discharge of any duty imposed or power conferred on Directors, they may in good faith rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more Officers or employees of the Corporation, legal counsel, public accountants, or other persons, as to matters the Director reasonably believes are within the person's professional or expert competence, or a committee of the Directors of which the Director is not a member. A Director is not relying in good faith if the Director has knowledge concerning a matter in question that renders reliance unwarranted. Directors are not deemed to have the duties of trustee of a trust with respect to the Corporation or with respect to any property held or administered by the Corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

Section 5.10 Interested Directors. Contracts or transactions between Directors, Officers, or Members who have a financial interest in the matter are not void or voidable solely for that reason. Nor are they void or voidable solely because the Director, Officer, or Member is present at or participates in the meeting that authorizes the contract or transaction, or solely because the interested party's votes are counted for that purpose. However, every Director with any direct or indirect interest in the transaction must disclose all material facts concerning the transaction, including all potential benefit and potential conflicts of interest, to the other members of the Board or other group authorizing the transaction. The transaction must be approved by a majority of the uninterested Directors in accordance with the TBOC.

Section 5.11 Actions of Board of Directors. The vote of a majority of Directors present and voting at a meeting at which a quorum is present is enough to constitute the act of the Board, unless the act of a greater number is required by the TBOC, the Corporation's Certificate of Formation or by some other provision of these Bylaws. For the purpose of determining the decision of the Board, a Director who is represented by proxy in a vote is considered present.

Section 5.12 Proxies. A Director may vote by proxy. All proxies must be in writing, must bear the signature of the Director giving the proxy, and must bear the date on which the proxy was executed by the Director. No proxy is valid after three (3) months from the date of its execution.

Section 5.13 Compensation. Directors may not receive salaries for their services. The Board may adopt a resolution providing for paying Directors a fixed sum and expenses of attendance, if any, for attending each Board meeting. A Director may serve the Corporation in any other capacity and receive compensation for those services. Any compensation that the Corporation pays to a Director will be reasonable and commensurate with the services performed.

Section 5.14 Resignation and Removing Directors. Resignations are effective upon receipt by the Secretary (or receipt by the President or other Officer if the Secretary is resigning) of written notification or a later date if provided in the written notification. The Board may vote to remove a Director at any time, without cause. A meeting to consider removing a Director may be called and noticed following the procedures provided in these Bylaws for a special meeting of the Board of Directors. The notice of the meeting will state that the issue of possibly removing the Director will be on the agenda. At the meeting, the Director may present evidence of why he or she should not be removed and may be represented by an attorney at and before the meeting. The Corporation will consider possible arrangements for resolving the problems that are in the mutual interest of the Corporation and the Director. A Director may be removed by the affirmative vote of fifty-one percent (51%) of the entire Board.

ARTICLE VI. OFFICERS

Section 6.01 Officer Positions. The Corporation's Officers shall consist of a President, a Vice-President, a Secretary, and a Treasurer, and may consist of such other Officers and assistant officers as the membership may deem necessary. Officers must be active members of a Member PBA. The membership may create additional Officer positions, define the authority and duties of each such position, and elect or appoint persons to fill the positions. The same person may hold any two (2) or more offices, except for President and Secretary.

Section 6.02 Election and Term of Office. The Corporation's Officers will be elected bi-annually by the membership at the annual membership meeting, and the term of office shall be two (2) years. If Officers are not elected at this time, they will be elected as soon thereafter as possible. Each Officer will hold office until a successor is duly selected and qualified. An Officer may be elected to succeed himself or herself in the same office, except as limited by these Bylaws.

Section 6.03 Disallowed Payments. Any payments made to an Officer of the Corporation, such as a salary, commission, bonus, interest, rent, or reimbursement of expenses incurred by the Officer, which is disallowed in whole or in part as an acceptable expense by the Internal Revenue Service (the "IRS"), shall be reimbursed by such Officer to the Corporation to the full extent of such disallowance. It shall be the duty of the Board of Directors to enforce reimbursement of each such amount disallowed.

Section 6.04 Resignation and Removal. Resignations are effective upon receipt by the Secretary (or receipt by the President or other Officer if the Secretary is resigning) of written notification or

a later date if provided in the written notification. Any Officer elected or appointed by the Directors may be removed by the membership with or without cause. Removing an Officer will be without prejudice to the Officer's contractual rights, if any.

Section 6.05 Vacancies. The membership shall elect a person to fill a vacancy in any office for the unexpired portion of the Officer's term.

Section 6.06 President. The President is the Corporation's chief executive Officer and chair of the Board. He or she will supervise and control all of the Corporation's business and affairs and will preside at all meetings of the Members and of the Board. The President may execute any deeds, mortgages, bonds, contracts, or other instruments that the Board authorizes to be executed. However, the President may not execute instruments on the Corporation's behalf if this power is expressly delegated to another Officer or agent of the Corporation by the Board, these Bylaws, or statute. The President will perform other duties prescribed by the Board and all duties incident to the office of President. An individual may serve as President for a maximum of two (2) consecutive terms, and may serve as President for additional terms in the future after stepping down for at least one term.

Section 6.07 Vice-President. During the absence or disability of the President of the Corporation, the Vice-President shall have all the powers and functions of the President. The Vice-President shall perform such duties as may be prescribed by the Board of Directors from time to time. An individual may serve as Vice-President for a maximum of two (2) consecutive terms, and may serve as Vice-President for additional terms in the future after stepping down for at least one term.

Section 6.08 Treasurer. The Treasurer shall:

- (a) have charge and custody of, and be responsible for, all the Corporation's funds and securities;
- (b) keep complete and accurate accounts of receipts and disbursements of the Corporation;
- (c) receive and give receipts for moneys due and payable to the Corporation from any source;
- (d) deposit all moneys in the Corporation's name in banks, trust companies, or other depositories as these Bylaws provide or as the Board or chair of the Board directs;
- (e) write checks and disburse funds to discharge the Corporation's obligations. However, funds may not be drawn from the Corporation or its accounts for amounts greater than \$500 without the signature of the Treasurer and of one other Officer. Any expenditure of more than two hundred and fifty dollars (\$250) must be approved by a resolution of the Board before a distribution is made, provided that a line item in a budget approved by the membership does not need additional approval by resolution;
- (f) maintain the Corporation's financial books and records;

- (g) conduct an annual audit of the financial records of the Corporation and present the results of the audit to the membership at the annual membership meeting. This audit may be done by the Members and is not required to be done by a certified public accountant;
- (h) perform other duties as assigned by the chair or the Board;
- (i) if the Board requires, give a bond for faithfully discharging his or her duties in a sum and with a surety as determined by the Board; and
- (j) perform all of the duties incident to the office of Treasurer.

Section 6.09 Secretary. The Secretary will:

- (a) give all notices as provided in the Bylaws or as required by law;
- (b) take minutes of the meetings of the Members and the Board and keep the minutes as part of the corporate records;
- (c) maintain custody of the corporate records;
- (d) keep a register of the mailing address and email address of each Member, Director, Officer, and employee of the Corporation;
- (e) perform duties as assigned by the President or the Board; and
- (f) perform all duties incident to the office of Secretary.

ARTICLE VII. COMMITTEES

Section 7.01 Establishing Committees. The Board, by resolution adopted by a majority of the Directors in office, may adopt a resolution establishing one (1) or more committees delegating specified authority to a committee, and appointing or removing members of a committee. The Board shall designate each committee as either a Standing Committee (“**Standing Committee**”) or a temporary committee in the resolution establishing the committee. A committee will include one (1) or more Directors and may include persons who are not Directors. Committees shall consist of at least two (2) individuals. If the Board delegates any of its management authority to a committee, the majority of the committee will consist of Directors. The Board may also delegate to the President its power to appoint and remove members of a committee that has not been delegated any management authority of the Board. The Board may establish qualifications for membership on a committee.

Section 7.02 Procedures & Authority. For both types of committees, the Board may make provisions for appointment of the committee chair, establish procedures to govern its activities, and delegate authority as may be necessary or desirable for the efficient management of the property, affairs, business, and/or activities of the Corporation. No committee has the authority of the Board to:

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- (a) amend the Certificate of Formation;
- (b) adopt a plan of merger or of consolidation with another corporation;
- (c) authorize the sale, lease, exchange, or mortgage of all or substantially all of the Corporation's property and assets;
- (d) authorize voluntary dissolution of the Corporation;
- (e) revoke proceedings for voluntary dissolution of the Corporation;
- (f) adopt a plan for distributing the Corporation's assets;
- (g) amend, alter, or repeal these Bylaws;
- (h) elect, appoint, or remove a member of a committee or a Director or Officer of the Corporation;
- (i) approve any transaction to which the Corporation is a party and that involves a potential conflict of interest;
- (j) take any action outside the scope of authority delegated to it by the Board;
or
- (k) take final action on a matter requiring Membership approval.

Section 7.03 Non-Delegation of Fiduciary Duty. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it or him or her by law.

Section 7.04 Authorization of Standing Committees. The following Standing Committee is authorized: Nominating. The Board will define the activities, classification, and scope of authority of each committee by resolution.

Section 7.05 Term of Office. Each committee member will continue to serve on the committee until the next annual Members' meeting and thereafter until a successor is appointed. However, a committee member's term may terminate earlier if the committee is terminated, or if the committee member dies, ceases to qualify, resigns, or is removed as a Member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy on a committee will serve for the unexpired portion of the terminated committee member's term.

Section 7.06 Committee Chair and Vice-Chair. One (1) member of each committee will be designated as the committee chair, and another member of each committee will be designated as the vice-chair. The chair of a Standing Committee shall also be a Director of the Corporation. The chair and vice-chair will be appointed by the President, with approval of the Board. The chair will call and preside at all meetings of the committee. When the chair is absent, cannot act, or refuses

to act, the vice- chair will perform the chair's duties. When a vice-chair acts for the chair, the vice-chair has all the powers of, and is subject to all the restrictions on, the chair.

Section 7.07 Notice of Meetings. Written or printed notice of a committee meeting will be delivered to each member of a committee not less than three (3) or more than twenty (20) days before the date of the meeting. The notice will state the place, day, and time of the meeting, and the purpose or purposes for which it is called.

Section 7.08 Quorum. One-half (1/2) of the number of committee members then serving on such committee shall constitute a quorum for transacting business at any meeting of the committee. No action may be approved without the vote of at least a majority of the number of committee members required for a quorum. If a quorum is never present at any time during a meeting, the committee chair may adjourn and reconvene the meeting once a quorum is reached without further notice.

Section 7.09 Actions of Committees. The vote of a majority of committee members present and voting at a meeting at which a quorum is present is enough to constitute the act of the committee unless the act of a greater number is required by the TBOC, the Corporation's Certificate of Formation or by some other provision of these Bylaws.

Section 7.10 Proxies. A committee member may not vote by proxy.

Section 7.11 Compensation. Committee members may not receive salaries for their services. The Board may adopt a resolution providing for reimbursing committee members for expenses of attendance, if any, for attending each meeting of the committee. A committee member may serve the Corporation in any other capacity and receive compensation for those services. Any compensation that the Corporation pays to a committee member will be reasonable and commensurate with the services performed.

Section 7.12 Rules. Each committee may adopt its own rules, consistent with these Bylaws or with other rules that may be adopted by the Board.

Section 7.13 Report to Board of Directors. Each committee shall keep regular minutes of its proceedings and report the same to the Board of Directors at each regular meeting of the Board. A committee shall report any action taken at a meeting of the committee to the Board at the next Board meeting following the committee meeting, except that, when the meeting of the Board is held within two (2) days after the committee meetings, the report may be made at the second Board meeting following the committee meeting.

ARTICLE VIII. TRANSACTIONS OF THE CORPORATION

Section 8.01 Contracts. The Board may authorize any Officer or agent of the Corporation to enter into a contract or execute and deliver any instrument in the name of, and on behalf of, the Corporation. This authority may be limited to a specific contract or instrument, or it may extend to any number and type of possible contracts and instruments.

Section 8.02 Deposits. All the Corporation's funds will be deposited to the credit of the Corporation in banks, trust companies, or other depositories that the Treasurer selects.

Section 8.03 Gifts. The Board may accept, on the Corporation's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation. Acceptance of any grant or gift, restricted or unrestricted, does not imply any form of endorsement by the Corporation for the source, services, products, or policies, nor does it imply any benefit to be granted by the Corporation. The Corporation may refuse any gift where, in the judgment of the Board of Directors, the acceptance of the gift may be injurious to the Corporation. The Board may make gifts and give charitable contributions not prohibited by these Bylaws, the Certificate of Formation, state law, and provisions set out in federal tax law that must be complied with to maintain the Corporation's federal and state tax status.

Section 8.04 Loans. The Corporation may not make any loan to a Director or Officer of the Corporation.

ARTICLE IX. BOOKS AND RECORDS

Section 9.01 Recordkeeping. The Corporation will keep correct and complete books and records of account. The books and records include:

- (a) a file-endorsed copy of all documents filed with the Texas Secretary of State relating to the Corporation, including but not limited to the Certificate of Formation, and any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or registered agent;
- (b) a copy of all bylaws and adopted policies, including these Bylaws, and any amended versions or amendments to them;
- (c) minutes of the proceedings of the Members, Board, and committees having any of the authority of the Board to be kept by the Secretary or his or her designee reflecting at a minimum the names of those in attendance and any resolutions passed and the outcomes of any votes taken;
- (d) a list of the names and addresses of the Members, Directors, Officers, and any committee members of the Corporation;
- (e) a financial statement showing the Corporation's assets, liabilities, and net worth at the end of the most recent fiscal year;
- (f) a financial statement showing the Corporation's income and expenses for the most recent fiscal year;
- (g) all rulings, letters, and other documents relating to the Corporation's federal, state, and local tax status; and

- (h) the Corporation's federal, state, and local tax information or income tax returns for each of the Corporation's most recent tax year.

Section 9.02 Inspection and Copying. Any Member, Director, Officer, or committee member of the Corporation may inspect all the corporate books and records required to be kept under these Bylaws upon written demand stating the purpose of the demand. He or she may do so through his or her attorney or other duly authorized representative. The inspection may take place at a reasonable time, no later than three (3) working days after the Corporation receives a proper written request. The Board may establish reasonable copying fees, which may cover the cost of materials and labor but may not exceed fifteen cents (15¢) per page. The Corporation will provide requested copies of books or records no later than five (5) working days after receiving a proper written request.

Section 9.03 Public Disclosure. After receiving IRS recognition of its 501(c)(3) status, the Corporation shall keep available for public inspection at its principal place of business copies of the Form 1023 (exemption application) as filed and any Form 990 (information tax return) filed within the past three years. In addition, as required by the tax code and regulations, the Corporation shall either (i) make such materials widely available to the public, such as by posting on the Internet, or (ii) provide copies of the materials to any member of the public making a request in person during normal business hours or in writing. This public disclosure obligation shall be no broader than required by law and shall not apply, for example, if the Corporation is the target of a campaign of harassment.

Section 9.04 Record Retention and Destruction Policy. All employees, Directors and Officers of the Corporation must comply with the document retention requirements within this record retention policy. Corporate records include essentially all records produced by the Corporation and its Directors, Officers and agents, whether paper or electronic. Records include but are not limited to items such as memoranda, emails, contracts, computerized desk calendars, and appointment books and expense records. This policy is meant to establish the requirements for document destruction and end the accidental or innocent destruction of necessary documents. Specific documents, identified below, are subject to a retention schedule and should not be destroyed until the expiration of the schedule.

- (a) *Financial Records.* Financial records, including bank statements, invoices and payroll records, expense reports, proof of deductions, and other documents should be maintained for at least 7 years from the date of filing the applicable tax return. Year-end financial statements, audit reports and 990 forms should be maintained permanently and should be available for public inspection upon request.
- (b) *Corporate Records.* Incorporation documents, including Certificate of Formation, Bylaws, and related documents should be kept permanently in the corporate records. Meeting minutes and related documents should also be retained in perpetuity in the corporate record book. Tax-exemption documents, including application for tax exemption (IRS Form 1023), IRS determination letter, and any related documents should be kept permanently

in the corporate record book and should be available for public inspection upon request.

- (c) *Legal Files.* Legal documents should generally be maintained for a period of 10 years.
- (d) *Legal Agreements & Contracts.* Final, executed copies of legal agreements and contracts, such as mortgages and leases, should be maintained for three years after their expiration.
- (e) *Electronic Mail.* Email that needs to be saved should be either: (i) printed in hard copy and kept in the appropriate file; or (b) downloaded to a computer file and kept electronically or on disk as a separate file.

ARTICLE X. FISCAL YEAR

Section 10.01 Fiscal Year. The Corporation's fiscal year will begin on the first day of January and end on the last day in December in each year.

ARTICLE XI. INDEMNIFICATION

Section 11.01 General Indemnification.

- (a) *Mandatory Indemnification.* The Corporation shall indemnify its present and former Directors and Officers against reasonable expenses (including court costs and attorneys' fees) actually incurred by such individual in connection with an action, suit, or proceeding ("**Proceeding**") in which the individual is a defendant or respondent because the individual is or was a Director or Officer of the Corporation if that individual is wholly successful, on the merits or otherwise, in the defense of the action, suit, or proceeding.
- (b) *Indemnification Upon Board Authorization.* The Corporation may, upon approval of the Board as set forth in Section 11.05 below, indemnify its present and former Directors, Officers, employees, and agents who are, or are threatened to be, named a defendant or respondent in any Proceeding, because the individual was or is a Director, Officer, employee, or agent of the Corporation against judgments, penalties, fines, settlements, and reasonable expenses (including court costs and attorneys' fees) actually incurred by the individual in connection therewith.

Section 11.02 Personal Interest or Liability. The Corporation shall not indemnify a Director, Officer, employee or agent as set forth in Section 11.01 above for obligations resulting from a Proceeding: (a) in which the individual is found liable on the basis that personal benefit was improperly received by him or her, whether or not the benefit resulted from an action taken in the individual's official capacity as a Director, Officer, employee or agent; or (b) in which the individual is found liable to the Corporation, except to the extent permitted in Section 11.04 below.

Section 11.03 Final Judgment Required. The termination of a Proceeding by judgment, order, settlement, or conviction or on a plea of *nolo contendere* or its equivalent is not of itself determinative that the individual did not meet the requirement set forth in Section 11.01(b) above. An individual shall be deemed to have been found liable in respect of any claim, issue or matter only after the individual shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom or after such judgment becomes final and non-appealable.

Section 11.04 Limits on Indemnification. If the individual seeking indemnification hereunder is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the individual, the indemnification described in Section 11.01(b) above: (a) is limited to reasonable expenses actually incurred by the individual in connection with the Proceeding (including court costs and attorneys' fees); and (b) shall not be made in respect of any Proceeding in which the Person is found liable for willful or intentional misconduct in the performance of his or her duty to the Corporation.

Section 11.05 Determination of Indemnification. The Board of Directors may authorize indemnification under Section 11.01(b) only if the Board determines that the individual: (a) conducted himself or herself in good faith; (b) reasonably believed: (i) in the case of conduct in such individual's official capacity as a Director or Officer, that his or her conduct was in the Corporation's best interests; and (ii) in all other cases, that his or her conduct was at least not opposed to the Corporation's best interests; and (c) in the case of any criminal Proceeding, the individual had no reasonable cause to believe that his or her conduct was unlawful. A determination of indemnification under Section 11.01(b) above must be made: (a) by a majority vote of the Directors at a meeting at which a quorum is present who at the time of the vote the Directors so voting are not named defendants or respondents in the Proceeding; or (b) by special legal counsel selected by the Board of Directors by vote as set forth in Section 11.05(a) or, if such a quorum cannot be obtained, by a majority vote of all Directors.

Section 11.06 Authorization and Determination of Reasonableness of Expense. Authorization of indemnification and determination as to reasonableness of expenses (including court costs and attorneys' fees) must be made in the same manner as the determination that indemnification is permissible. A provision contained in these Bylaws, a resolution of the Board of Directors, or an agreement that makes mandatory the indemnification described in Section 11.01 above shall be deemed to constitute authorization of indemnification in the manner required herein, even though such provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

Section 11.07 Court Determination of Indemnification. If, upon application of an individual seeking indemnification hereunder, a court of competent jurisdiction determines, after giving any notice the court considers necessary, that the individual is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he or she has met the requirements set forth in Section 11.01 above or has been found liable in the circumstances described in Section 11.01(b) above, the Corporation shall indemnify the individual to such further extent as the court shall determine; but if the individual is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the individual, the indemnification shall be limited to reasonable expenses (including court costs and attorneys' fees) actually incurred by the individual in connection with the Proceeding.

Section 11.08 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and/or any Director, Officer, employee or agent of the Corporation 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 the TBOC.

Section 11.09 Amendments. Any repeal or amendment of this Article XI by the Board or the Members of the Corporation or by changes in applicable law, or the adoption of any other provision of these Bylaws inconsistent with this Article XI, will, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide broader indemnification rights on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

Section 11.10 Contract Rights. The rights provided to indemnification pursuant to this Article XI shall be contract rights and such rights shall continue as to an individual who has ceased to be a Director, Officer, agent or employee and shall inure to the benefit of the that individual's heirs, executors and administrators.

Section 11.11 Severability. If any provision or provisions of this Article XI shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article XI shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article XI. (including, without limitation, each such portion of this Article XI containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE XII. NOTICES

Section 12.01 Notice by Mail, Email, or Facsimile Transmission. Any notice required or permitted by these Bylaws to be given to a Member, Director, Officer, committee member of the Corporation may be given by mail, email or facsimile transmission. If mailed, a notice is deemed delivered when deposited in the mail addressed to the person at his or her address as it appears on the corporate records, with postage prepaid. If transmitted by facsimile, a notice is deemed delivered on successful transmission of the facsimile to the person at his or her facsimile telephone number as it appears on the corporate records. A person may change his or her mailing address, email address, and/or facsimile telephone number in the corporate records by giving written notice of the change to the Secretary of the Corporation.

Section 12.02 Signed Waiver of Notice. Whenever any notice is required by law or under the Certificate of Formation or these Bylaws, a written waiver signed by the person entitled to receive such notice is considered the equivalent to giving the required notice. A waiver of notice is effective whether signed before or after the time stated in the notice being waived.

Section 12.03 Waiving Notice by Attendance. A person's attendance at a meeting constitutes waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

ARTICLE XIII.
SPECIAL PROCEDURES CONCERNING MEETINGS

Section 13.01 Meeting by Telephone or other Remote Communications Technology. The Members, Board of Directors and any committee of the Corporation may hold meetings by means of (a) conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other; or (b) other suitable electronic communications system, including videoconferencing technology or the Internet, only if the system provides access to the meeting in a manner or using a method by which each member participating in the meeting can communicate concurrently with each other participant. The notice of a meeting by electronic means must state the fact that the meeting will be held by electronic means as well as all other matters required to be included in the notice. Participation of a person in a meeting by electronic means constitutes presence of that person at the meeting.

Section 13.02 Decision without Meeting. Any decision required or permitted to be made at a meeting of the Members, Board, or any committee of the Corporation may be made without a meeting. Action may be taken without a meeting when there are signed written consents by the number of Members, Directors, or committee members whose votes would be necessary to take action at a meeting at which all such persons entitled to vote were present and voted. Multiple matters may be combined on a single written consent, and each written consent must be signed and bear the date of signature of the person signing it. A telegram, telex, cablegram, email, or similar transmission by a Member, Director, or committee member, or a photographic, facsimile, or similar reproduction of a signed writing, will be treated as an original being signed by the Member, Director, or committee member. The original signed consents will be placed in the Corporation minute book and kept with the corporate records.

Section 13.03 Proxy Voting. A person authorized to exercise a proxy may not exercise the proxy unless it is delivered to the Officer presiding at the meeting before the business of the meeting begins. The Secretary or other person taking the minutes of the meeting will record in the minutes the name of the person who executed the proxy and the name of the person authorized to exercise the proxy. If a person who has duly executed a proxy personally attends a meeting, the proxy will not be effective for that meeting. A proxy filed with the Secretary of the Corporation or other designated Officer remains in force until the first of the following occurs:

- (a) an instrument revoking the proxy is delivered to the Secretary or other designated Officer;
- (b) the proxy authority expires under the proxy's terms; or
- (c) the proxy authority expires under the terms of these Bylaws.

**ARTICLE XIV.
AMENDMENTS**

Section 14.01 Amendments. These Bylaws may be altered, amended, or repealed, and new bylaws may be adopted by the affirmative vote of sixty-seven percent (67%) of the Board of Directors at a meeting where a quorum is present. The Board of Directors may adopt amendments to the Certificate of Formation by a vote of two-thirds of Directors present at a meeting where a quorum is present.

Section 14.02 Notice of Proposed Amendments. The notice of any meeting at which these Bylaws are altered, amended, or repealed, or at which new bylaws are adopted will include the text of the proposed bylaw provisions, the text of any existing provisions proposed to be altered, amended, or repealed, and a summary of the rationale for the proposed changes to those provisions.

**ARTICLE XV.
DISSOLUTION**

Section 15.01 Distribution upon Dissolution. “Dissolution” means the complete disbanding of the Corporation so that it no longer functions as a corporate entity. Upon dissolution of the Corporation, the net assets, after payment of all fixed obligations of the Corporation, shall be distributed by the Board of Directors in such manner, or to such organization or organizations for one of more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as it now exists or as it may hereafter be amended, as the Board of Directors shall determine. Any of such assets not disposed of shall be disposed of by a district court of the county in which the principal office of the Corporation is then located, exclusively for such exempt purposes and to such exempt organization or organizations, as said court shall determine, which are organized and operated exclusively for such exempt purposes.

**ARTICLE XVI.
MISCELLANEOUS PROVISIONS**

Section 16.01 Legal Authorities Governing Construction of Bylaws. These Bylaws will be construed under Texas law. All references in these Bylaws to statutes, regulations, or other sources of legal authority will refer to the authorities cited, or their successors, as they may be amended from time to time.

Section 16.02 Legal Construction. To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any Bylaw provision is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the Bylaws will be construed as if they had not included the invalid, illegal, or unenforceable provision.

Section 16.03 Dispute Resolution. Any controversy, claim, or dispute arising from or related to these Bylaws shall be settled by mediation and, if necessary, legally binding arbitration in

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accordance with the Rules of the American Arbitration Association (the “Rules”). The complete text of the Rules may currently be obtained by accessing www.adj.org. Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. The parties subject to these Bylaws understand that these methods shall be the sole remedy for any controversy, claim, or dispute arising out of these Bylaws and they expressly waive their rights to file a lawsuit in any civil court against one another for such controversies, claims, or disputes, except to enforce an arbitration decision.

Section 16.04 Headings. The headings used in the Bylaws are for convenience and may not be considered in construing the Bylaws.

Section 16.05 Number. All singular words include the plural, and all plural words include the singular.

Section 16.06 Seal. The Corporation shall not have a corporate seal.

Section 16.07 Power of Attorney. A person may execute any instrument related to the Corporation by means of a power of attorney if an original executed copy of the power of attorney is provided to the Secretary to be kept with the corporate records.

Section 16.08 Parties Bound. These Bylaws will bind and inure to the benefit of the Members, Directors, Officers, committee members, employees, and agents of the Corporation and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as the Bylaws otherwise provide.

**ARTICLE XVII.
CERTIFICATE OF OFFICER**

I hereby certify that these Second Amended and Restated Bylaws were adopted by the Board of Directors of Prescribed Burn Alliance of Texas at its meeting held on this 3rd day of August 2023.

Dated: August 3, 2023

A handwritten signature in blue ink, appearing to read "C. R. Linton", is written over a light-colored rectangular background.

Print Name: C. R. (Chuck) Linton
President of the Corporation

PBAT BYLAWS CHANGE HISTORY:

Original PBAT bylaws approved by Board of Directors following formation on March 9, 2012

PBAT bylaws amended 2021

- Removed language stating that PBAT conducted prescribed burns (per Mort Kothmann email 2/5/2023)
- Required Regular Members to annually notify PBAT of intent to remain a member (per Ray Hinnant email 2/5/2023)

PBAT amended and restated bylaws approved by Board of Directors on August 3, 2023

- Updates based on bottoms up legal review by Kristin S. Houston with BakerHostetler.
- Changes to allow PBAT to provide grants to non-501(c)(3) entities with approval of Board of Directors with defined requirements
- Narrowed and clarify PBAT's indemnification obligations
- Additional detail in K. S. Houston memo to C. R. Linton, dated 7/20/2023 (document in PBAT Google Drive Records)