

Division of Corporations

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**FLORIDA PROFIT/NON PROFIT CORPORATION****Vital Cares ~~Charitable~~ Foundation, Inc.**

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**ARTICLES OF INCORPORATION  
OF  
VITAL CARES FOUNDATION, INC.**

The undersigned, acting as the incorporator of Vital Cares Foundation, Inc., under Chapter 617 of the Florida Statutes, and Section 501(c)(3) of the Internal Revenue Code of 1986, including its regulations, all as amended from time to time (the "Internal Revenue Code"), submits the following Articles of Incorporation.

**ARTICLE 1  
NAME**

The name of this corporation (the "Corporation") is Vital Cares Foundation, Inc.

**ARTICLE 2  
INITIAL PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The initial principal place of business and mailing address of the Corporation is:

3225 Aviation Avenue  
Suite 700  
Miami, FL 33133

Mailing Address:  
PO Box 43-2040  
Miami, FL 33243-2040

**ARTICLE 3  
DURATION AND COMMENCEMENT OF EXISTENCE**

The Corporation will have perpetual existence, commencing with the filing of these Articles of Incorporation with the Florida Department of State.

**ARTICLE 4  
PURPOSES**

The Corporation is organized and will be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. In furtherance of such purposes, the Corporation is authorized:

(a) To promote, support, and engage in activities carried on for charitable purposes, by the direct conduct of such activities, and by making grants to other organizations

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engaged in charitable activities. The charitable activities to be conducted by the Corporation may include, but are not limited to, providing relief to communities and persons (including current and future employees of the subsidiaries of the member and Femwell Group Health, Inc.) affected by: (i) natural and other qualified disasters as that term is defined pursuant to Section 139 of the Internal Revenue Code, (ii) personal economic hardship, and (iii) other emergencies, including family emergencies.

(b) To receive and maintain personal or real property, or both; and, subject to the restrictions and limitations set forth below, to use and apply the whole or any part of the income from such property and the principal thereof exclusively for charitable, educational, literary, or scientific purposes either directly or by contributions to other charitable organizations.

(c) To receive assistance, money (as dues or otherwise), real or personal property and any other form of contributions, gift, bequest, or devise from any person or entity, to be used in the furtherance of the objects and purposes of the Corporation; to enter into agreements or contracts for contributions to the Corporation for its objects and purposes, provided that gifts will be subject to acceptance by the Board of Directors as required by the Bylaws of the Corporation.

(d) To establish an office and employ such personnel as may be necessary and appropriate in the judgment of the Board of Directors, and pay reasonable compensation for the services of such persons.

(e) To distribute, in the manner, form, and method, and by the means determined by the Board of Directors of the Corporation, any and all forms of contributions or other funds received by it in carrying out charitable and educational programs of the Corporation in the furtherance of its stated purposes. Money and real or personal property contributed to the Corporation in furtherance of these objects and purposes are and will continue to be used exclusively for such purposes.

(f) To invest and reinvest surplus funds in such securities and properties as the Board of Directors may from time to time determine.

(g) To purchase, acquire, own, hold, guarantee, sell, assign, transfer, mortgage, pledge, loan, or otherwise dispose of and deal in any bonds, securities, evidence of indebtedness, or other personal property, as well as to purchase, acquire, own, hold, sell, transfer, mortgage, or otherwise dispose of and deal in real estate; and, as the owner of any such real or personal property, to exercise all the rights, powers, and privileges of ownership.

(h) To contract and be contracted with, and to sue and be sued.

(i) To adopt and use an official seal for the Corporation.

(j) To do all acts and things requisite, necessary, proper and desirable to carry out and further the objects for which this Corporation is formed; and, in general, to have all the rights, privileges, and immunities, and enjoy all the benefits of the laws of the State of Florida

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applicable to corporations of this character, including but not limited to the powers described in section 617.0302 of the Florida Statutes, subject however to the requirements of Section 501(c)(3) of the Internal Revenue Code and to the other limitations provided in these Articles of Incorporation.

## **ARTICLE 5 MEMBERSHIP**

The Corporation shall have one or more members. A designation of the class or classes of members, and the qualifications and rights of the members of each class, and the names of the initial member or members, shall be set forth in the Bylaws.

## **ARTICLE 6 DIRECTORS**

Subject to the powers reserved to the members in the Bylaws of the Corporation, all corporate powers will be exercised by or under the authority of, and the affairs of the Corporation will be managed under the direction of, a Board of Directors. The number of Directors (not less than three) will be as provided in the Bylaws. The initial Board of Directors shall have three (3) members, and their names and addresses are as follows:

Jennifer J. Perez, Esq.

3225 Aviation Avenue  
Suite 700  
Miami, FL 33133

Kerry Kuhn, MD

3225 Aviation Avenue  
Suite 700  
Miami, FL 33133

Glenn Salkind, MD

3225 Aviation Avenue  
Suite 700  
Miami, FL 33133

The terms for which the directors are to serve, and the method by which the directors are to be elected, will be stated in the Bylaws.

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**ARTICLE 7**  
**COMPENSATION AND INDEMNIFICATION OF**  
**DIRECTORS, OFFICERS AND MEMBERS**

**7.1 Compensation.** A director, officer or member of the Corporation may receive reasonable compensation for personal services rendered as a director, officer or member, or in any other capacity, so long as the services are reasonable and necessary to carrying out the charitable purposes of the Corporation, and may be reimbursed for expenses or advances paid on behalf of the Corporation, provided they are reasonable in character and amount and approved for payment in the manner provided by the Bylaws. Provisions relating to compensation payable to directors, officers or members of the Corporation will be stated in the Bylaws. Any such compensation shall be limited to reasonable compensation for personal services rendered to the Corporation, which services shall be reasonable and necessary to carrying out the charitable purposes of the Corporation.

**7.2 Indemnification.** Every director, officer and member of the Corporation will be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed in connection with any proceeding or any settlement of any proceeding (including any appeals) to which a director, officer or member may be a party or may become involved by reason of being or having been a director, officer or member of the Corporation, whether or not a director, officer or member at the time such expenses are incurred, but only if (i) the director, officer or member is not adjudged guilty of or liable for willful misfeasance in the performance of his or her duties, and (ii) in the case of a settlement before entry of judgment, the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification will be in addition to and not exclusive of all other rights to which a director, officer or member may be entitled by law. Appropriate liability insurance may be provided for every officer, director, member and agent of the Corporation in amounts determined from time to time by the Board of Directors.

**7.3 Interest of Directors, Officers and Members in Contracts.** Any contract, whether for compensation or otherwise, or other transactions between the Corporation and (i) one or more of its directors, officers or members, (ii) any firm of which one or more of its directors, officers or members are shareholders, partners or employees, or in which they are interested, or (iii) any corporation, association, or partnership of which one or more of its directors, officers or members are shareholders, members, directors, officers, partners, or employees, or in which they are interested, will be valid for all purposes, despite the presence of such director or directors, officer or officers, or member or members, at the meeting of the Board of Directors of the Corporation which acts upon or in reference to such contract or transaction and despite his or their participation in such action. The fact of such interest must be disclosed to or known by the Board of Directors and the Board of Directors may, nevertheless, authorize, approve, and ratify such contract or transaction by vote of majority of the directors present. This section will not be construed to invalidate any contract or other transaction which would otherwise be valid under the common and statutory law applicable thereto. This provision is subject to modification by any conflict of interest policy adopted by the Board of Directors of the Corporation.

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**7.4 Prohibition Against Self-Dealing and Excess Benefit Transactions.** Anything contained in these Articles of Incorporation to the contrary notwithstanding, the Corporation shall make no payment that would constitute "self-dealing" as defined in Section 4941 of the Internal Revenue Code, or that would result in an "excess benefit transaction" as defined in Section 4958 of the Internal Revenue Code.

## **ARTICLE 8 CHARITABLE LIMITATIONS**

Despite any other provision of these Articles of Incorporation, the Corporation may not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and section 617.0835 of the Florida Statutes. These restrictions include, but are not limited to, the following:

**8.1 No Private Inurement.** No part of the net earnings of the Corporation may inure to the benefit of, or be distributable to, the directors or officers of the Corporation, or to any other private persons, except that the Corporation is authorized and empowered (i) to pay reasonable compensation for personal services rendered to the Corporation, so long as the services are reasonable and necessary to carrying out the charitable purposes of the Corporation, and to reimburse expenses or advances made for the Corporation that are reasonable in character and amount, and (ii) to make payments and distributions to persons who are qualified to receive them in furtherance of the Corporation's charitable purposes as set forth herein. All of the net earnings and assets of the Corporation will be expended for the purposes stated in Section 501(c)(3) of the Internal Revenue Code.

**8.2 No Political Activities; No Substantial Lobbying Activities.** In accordance with the Federal tax law, the Corporation shall not participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office by publishing or distributing statements, or in any other way. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation.

**8.3 Private Foundation Rules.** In the event that, and for so long as, the Corporation is characterized as a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation:

(a) shall make distributions for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code;

(b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code;

(c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code;

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(d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and

(e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

Notwithstanding the foregoing, the Corporation has been created, and intends to function, as a publicly supported charity.

#### ARTICLE 9 DISPOSITION OF ASSETS

If the Corporation is dissolved pursuant to the Florida Statutes, the Board of Directors, after paying or making provision for the payment of all of the liabilities of the Corporation, shall dispose of all of the assets of the Corporation by transferring such assets to organizations that are exempt from tax under Section 501(c)(3) of the Internal Revenue Code as are engaged in activities of the type described in Article 4 above, as the Board of Directors determines. Any assets not so disposed of will be disposed of by the Circuit Court of the county in which the principal office of the Corporation is then located, exclusively for such charitable purposes, or to such organization or organizations as that Court determines are organized and operated exclusively for such purposes.


#### ARTICLE 10 AMENDMENTS TO BYLAWS OR ARTICLES OF INCORPORATION

The power to adopt, alter, amend, or repeal the Bylaws of the Corporation or these Articles of Incorporation is vested in the Board of Directors; subject, however, to the approval of the members, in accordance with the provisions of the Bylaws.

#### ARTICLE 11 REGISTERED AGENT

The name of the initial registered agent of the Corporation, who is authorized to receive service of process is FGH Registered Agent Services, LLC. The street address of the initial registered office of the Corporation is 3225 Aviation Avenue, Suite 700, Miami, Florida 33133.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation as of this 27 day of March, 2019.

  
Kerry Kuhn, MD, Incorporator

3225 Aviation Avenue  
Suite 700  
Miami, FL 33133

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ACCEPTANCE OF REGISTERED AGENT DESIGNATED  
IN ARTICLES OF INCORPORATION

WITNESSETH:

That Vital Cares Foundation, Inc., desiring to organize under the laws of the State of Florida, has named FGH Registered Agent Services, LLC as its agent to accept service of process within this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-referenced Corporation at 3225 Aviation Avenue, Suite 700, Miami, Florida 33133, the undersigned hereby agrees to act in this capacity, agrees to comply with the provisions of all statutes relative to the proper and complete performance of the duties of a registered agent, and accepts the duties and obligations of section 617.0503, Florida Statutes.

Dated this 27<sup>th</sup> day of March, 2019.

FGH Registered Agent Services, LLC

By:



Its: authorized to execute  
on behalf of the registered