

## STATE ORGANIZATION CHARTER AGREEMENT

THIS STATE ORGANIZATION CHARTER AGREEMENT (the "Agreement") is made effective the 10<sup>th</sup> day of March, 2013, by and between NAMI, Inc. ("NAMI"), a Missouri nonprofit corporation exempt from U.S. income taxation under Section 501(c)(3) of the Internal Revenue Code, and NAMI Nebraska ("STATE ORGANIZATION").

The parties hereby agree as follows:

I. Grant of Charter to STATE ORGANIZATION.

- A. Charter. NAMI hereby grants to STATE ORGANIZATION a non-exclusive charter to be a NAMI State Organization. For only as long as this Agreement remains in effect, and as is more fully set forth elsewhere herein, STATE ORGANIZATION is authorized to use the name "NAMI" or explanatory "National Alliance on Mental Illness," and the logo of NAMI in or in connection with STATE ORGANIZATION's name, acronym and logo, subject to (i) the terms and conditions of this Agreement, and (ii) applicable provisions of NAMI's Articles of Incorporation, Bylaws, State Organization Handbook, NAMI Board of Directors Operating Policies and Procedures and other written guidance promulgated by NAMI, as they may be amended from time to time in NAMI's sole discretion ("NAMI Governing Documents"), which NAMI Governing Documents are incorporated herein and made a part hereof by reference.
- B. Term and Termination. The Term of this Agreement shall commence on the effective date set forth above and shall continue until revoked by NAMI or surrendered by STATE ORGANIZATION pursuant to the terms of the NAMI Governing Documents and this Agreement for revocation and surrender.
- C. Territory. STATE ORGANIZATION shall be considered a NAMI STATE ORGANIZATION within Nebraska (the "STATE"), pursuant to and in accordance with NAMI's mission and purposes as set forth in the NAMI Governing Documents. STATE ORGANIZATION acknowledges that its designation as a NAMI state organization is non-exclusive. STATE ORGANIZATION shall not be authorized to conduct activities outside of the STATE, provided, however, that collaborative efforts with NAMI, another NAMI state organization or a NAMI affiliate shall be permitted outside of the STATE.

- D. Authorized Activities. NAMI specifically authorizes STATE ORGANIZATION to conduct activities within the STATE as outlined in the NAMI Governing Documents, most particularly the State Organization Handbook, as well as other activities that are consistent with the mission and purposes of NAMI.

II. Membership.

STATE ORGANIZATION shall admit as members only those persons who are eligible for membership in NAMI. Members of STATE ORGANIZATION shall, upon admission to membership, automatically become members of NAMI and of the NAMI affiliate of their choosing. Membership in the STATE ORGANIZATION, as well as in NAMI, shall be automatically conferred upon those who become members of a NAMI affiliate operating within STATE ORGANIZATION's STATE. The terms and conditions of membership in STATE ORGANIZATION shall be substantially the same as the terms and conditions of membership in NAMI and shall be set forth in STATE ORGANIZATION's Bylaws.

III. Obligations of STATE ORGANIZATION.

STATE ORGANIZATION's obligations under this Agreement shall include:

- A. Corporate and Tax Status. STATE ORGANIZATION warrants that it is a legal entity separate and distinct from NAMI, that it is incorporated and that it is and at all times shall remain in good standing in the jurisdiction of its incorporation, and that, to the extent that it is eligible to do so, it is or shall promptly take such steps as are necessary to obtain status as an organization exempt from U.S. federal income tax under Section 501(c)(3) of the U.S. Internal Revenue Code ("the Code").
- B. Bylaws and Other Requirements. As a condition of receipt of its charter as a NAMI State Organization, STATE ORGANIZATION has provided to NAMI, and NAMI has approved, the Bylaws of STATE ORGANIZATION. STATE ORGANIZATION's Bylaws and activities are and shall remain, except as may otherwise be required by law, consistent with the NAMI Governing Documents. Any amendments to STATE ORGANIZATION's Bylaws must first be submitted to and approved by NAMI. STATE ORGANIZATION shall adopt a code of ethics and conflict of interest, whistleblower, document retention and compensation policies containing substantive provisions at least as stringent as those adopted by NAMI.

- C. Compliance with Laws. STATE ORGANIZATION warrants that it is and will remain in full compliance with all applicable laws, regulations and other legal standards that may affect its performance under this Agreement.
  
- D. Recordkeeping, Reporting and Inspection. STATE ORGANIZATION shall maintain reasonable records related to all of its programs, activities and operations, including without limitation minutes of the meetings of its members and board of directors. STATE ORGANIZATION shall submit regular written reports, as outlined in the NAMI Governing Documents, most particularly the State Organization Handbook, to NAMI summarizing its programs, activities and operations, including but not limited to budget, financial statements, a list of outgoing and elected officers and directors, and a roster of current STATE ORGANIZATION members, with contact information. Upon the written request of NAMI and at NAMI's expense, STATE ORGANIZATION shall permit NAMI or NAMI's designated agent to review appropriate records of STATE ORGANIZATION pertaining to its programs, activities and operations. Alternatively, STATE ORGANIZATION shall send to NAMI copies of such records.
  
- E. Programs and Activities. STATE ORGANIZATION shall endeavor to sponsor and conduct programs and activities that further the purposes and objectives of NAMI, and shall use its best efforts to ensure that such programs and activities are consistent with NAMI's stated values. STATE ORGANIZATION shall endeavor to use, to the extent possible, materials available through NAMI in support of such programs and activities. STATE ORGANIZATION shall send to NAMI on a regular basis a schedule of upcoming meetings, conferences and seminars, as well as other programs and activities that STATE ORGANIZATION intends to sponsor or conduct. NAMI may, at its sole discretion and expense, send representatives to observe such programs and activities. STATE ORGANIZATION shall not take a public position on any federal, state or local legislative, regulatory or other issue that is inconsistent with NAMI's Public Policy Platform.
  
- F. Diversity. STATE ORGANIZATION shall at all times adhere to NAMI policy regarding diversity and inclusiveness.
  
- G. Insurance. Unless otherwise agreed by the parties, STATE ORGANIZATION shall at all times maintain policies of comprehensive general liability and director and officer liability insurance with coverage amounts acceptable to NAMI, each of which names NAMI as an

additional insured, and each of which requires notice to NAMI prior to cancellation.

- H. NAMI Affiliates. STATE ORGANIZATION, shall, pursuant to procedures adopted from time to time by NAMI, receive, review and, if appropriate, recommend acceptance by NAMI of applications by groups located within the STATE to become NAMI Affiliates. If requested by NAMI, STATE ORGANIZATION may assume legal responsibility for the operation and activities of unincorporated NAMI Affiliates operating within the STATE.

IV. Intellectual Property and Confidential Information.

- A. Limited License. In accordance with NAMI's non-exclusive grant to STATE ORGANIZATION of a charter to be an state organization of NAMI in the STATE, STATE ORGANIZATION is hereby granted a limited, revocable, non-exclusive, non-divisible, non-transferable, non-assignable license to use, during the Term of this Agreement in or in connection with STATE ORGANIZATION's name, acronym and logo and for other official STATE ORGANIZATION-related purposes, the following NAMI Intellectual Property:
- (i) the name "NAMI" or explanatory "National Alliance on Mental Illness," the logo of NAMI, and other NAMI trademarks, service marks, trade names, and logos identified by NAMI from time to time;
  - (ii) NAMI's membership mailing, telephone, and electronic mail lists with respect to past, current or prospective members of NAMI located within or in the vicinity of the STATE ("the Mailing List"), and
  - (iii) all copyrighted or proprietary information and materials provided by NAMI to STATE ORGANIZATION, including without limitation all NAMI-authored or directed programs and program materials.
- B. Use of NAMI Intellectual Property. The authority to use the NAMI Intellectual Property is limited to those activities authorized under this Agreement, subject to the terms and conditions of this Agreement and any written guidelines contained in the NAMI Governing Documents, most particularly the State Organization Handbook, or subsequently provided to STATE ORGANIZATION by NAMI.
1. The NAMI Intellectual Property is and shall remain

at all times the sole and exclusive property of NAMI. The NAMI Intellectual Property may be used by STATE ORGANIZATION if and only if such use is made pursuant to the terms and conditions of this limited and revocable license.

2. NAMI's logo may not be revised or altered in any way, and must be displayed in the same form as produced by NAMI. The NAMI Intellectual Property may not be used in conjunction with any other trademark, service mark, or other mark without the express prior written approval of NAMI.
3. The NAMI Intellectual Property must be used by STATE ORGANIZATION in a professional manner and solely for official STATE ORGANIZATION-related purposes. STATE ORGANIZATION shall not permit any third party to use the NAMI Intellectual Property without NAMI's express prior written approval. STATE ORGANIZATION shall not sell or trade the NAMI Intellectual Property without NAMI's express prior written approval. The NAMI Intellectual Property may not be used for individual personal or professional gain or other private benefit. The NAMI Intellectual Property may not be used in any manner that, in the sole discretion of NAMI, discredits NAMI or tarnishes its reputation and goodwill; is false or misleading; violates the rights of others; violates any law, regulation or other public policy; or mischaracterizes the relationship between NAMI and STATE ORGANIZATION.
4. STATE ORGANIZATION shall maintain the confidentiality of the Mailing List and shall not sell, lease, rent, trade, transmit, or otherwise disseminate the Mailing List, in whole or in part, to any third party without the express prior written approval of NAMI. STATE ORGANIZATION may, in consultation with NAMI, utilize the Mailing List for purposes of membership development. STATE ORGANIZATION may, without consulting further

with NAMI, utilize its membership list for any appropriate purpose, provided that, upon termination of this Agreement, STATE ORGANIZATION shall return such membership list to NAMI and delete all membership list information from its computer database, if any.

5. In any authorized use by STATE ORGANIZATION of the NAMI Intellectual Property, STATE ORGANIZATION shall ensure that the applicable trademark and copyright notices are used pursuant to the requirements of United States law or state law and any other guidelines that NAMI may prescribe.
6. NAMI reserves the right to prohibit use of any of the NAMI Intellectual Property, as well as to impose other sanctions, if it determines, in its sole discretion, that STATE ORGANIZATION's usage thereof is not in strict accordance with the terms and conditions of this limited and revocable license.
7. All rights of usage of the NAMI Intellectual Property by STATE ORGANIZATION shall terminate immediately upon the revocation, surrender or other termination of this Agreement. STATE ORGANIZATION's obligations to protect the NAMI Intellectual Property shall survive the revocation, surrender or other termination of this Agreement.

V. Relationship of Parties.

The relationship of NAMI and STATE ORGANIZATION to each other is that of independent contractors. Nothing herein shall create any joint venture, partnership, or agency relationship of any kind between the parties. Unless expressly agreed to in writing by the parties, neither party is authorized to incur any liability, obligation or expense on behalf of the other, to use the other's monetary credit in conducting any activities under this Agreement, or to represent to any third party that STATE ORGANIZATION is an agent of NAMI. STATE ORGANIZATION shall include, in all of its publications and contracts, the following statement: "[Insert name of STATE ORGANIZATION] is a legal entity separate and distinct from NAMI, Inc."

STATE ORGANIZATION acknowledges and agrees that its voting rights within NAMI shall be as set forth in NAMI's Bylaws.

VI. Reciprocal Indemnification.

STATE ORGANIZATION shall hold NAMI, its officers, directors, members and agents, harmless from and against any and all third party claims, actions, suits, demands, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees and expenses), and liabilities of every kind and character whatsoever, which may arise out of the acts or omissions of STATE ORGANIZATION, its officers, directors, members and agents, whether in connection with this Agreement or otherwise. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.

NAMI shall hold STATE ORGANIZATION, its officers, directors, members and agents, harmless from and against any and all third party claims, actions, suits, demands, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees and expenses), and liabilities of every kind and character whatsoever, which may arise out of the acts or omissions of NAMI, its officers, directors, members and agents, whether in connection with this Agreement or otherwise. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.

VII. Revocation or Surrender of Charter.

- A. Revocation of Charter. NAMI, through its Board of Directors, shall have the authority to revoke the charter of STATE ORGANIZATION if the Board of Directors determines that the conduct of STATE ORGANIZATION is in material breach of any provision of this Agreement. Revocation shall be accomplished in accordance with applicable provisions of the NAMI Governing Documents.
- B. Surrender of Charter. STATE ORGANIZATION may surrender its charter in accordance with applicable provisions of the NAMI Governing Documents.
- C. Effect of Revocation or Surrender. Upon revocation or surrender of the charter granted hereunder, this Agreement shall be considered immediately terminated, and (i) the grant of rights hereunder, including without limitation the right to utilize NAMI Intellectual Property in a state organization name or otherwise, shall be revoked; and (ii) all steps necessary for STATE ORGANIZATION to cease use of the NAMI Intellectual Property, including all steps necessary to adopt a name which does not incorporate or infringe upon the NAMI Intellectual Property,

shall be taken immediately. Following termination of this Agreement, NAMI may in its sole discretion, subject to a further written agreement, grant the former state organization the right to continue to offer NAMI signature and other programs.

Termination of STATE ORGANIZATION's charter shall not result in termination of the affiliate status of NAMI Affiliates within that territory or of the NAMI membership of individuals in that territory.

VIII. Miscellaneous.

- A. Entire Agreement. This Agreement:
- (i) constitutes the entire agreement between the parties;
  - (ii) supersedes and replaces all prior agreements, oral and written, between the parties; and
  - (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.
- B. Warranties. Each party covenants, warrants, and represents that it has the authority to enter into this Agreement, that it shall comply with all laws, regulations and other legal standards applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement. The provisions of this Section shall survive any revocation, surrender or other termination of this Agreement.
- C. Governing Law. All questions with respect to the construction of this Agreement or the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the Commonwealth of Virginia, United States of America, without regard to that jurisdiction's choice of law principles. Any legal action permitted hereunder shall be brought only before a federal or state court of competent jurisdiction located within the Commonwealth of Virginia, United States of America. Each party hereby consents to the personal jurisdiction of the federal and state courts located within that jurisdiction.
- D. Dispute Resolution. Except with respect to a claim by NAMI that STATE ORGANIZATION has breached its obligations under Section IV. hereof, which claim may at NAMI's discretion be asserted in a court of law, all disputes between the parties arising in any manner out of this Agreement shall first be attempted to be resolved through a face-to-face meeting between authorized representatives of the parties; any such meeting shall take place at the offices of NAMI, or at such other location as the parties



may agree. Any dispute not resolved through such face-to-face meeting shall be attempted to be resolved through non-binding mediation under the applicable rules of the American Arbitration Association; any such mediation shall take place in the Washington, DC area, or at such other location as the parties may agree. Any dispute not resolved through mediation shall be resolved by binding arbitration before a single arbitrator under the Federal Arbitration Act and the Commercial Rules of the American Arbitration Association; any such arbitration shall take place in the Washington, DC area, or such other location as the parties may agree. The award of the arbitrator shall not be subject to appeal and may be enforced in any court having jurisdiction to do so.

- E. Force Majeure. Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond its reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.
- F. Severability. If any provision contained herein is determined by a court of competent jurisdiction or an arbitration tribunal to be deemed unenforceable, said determination shall not effect the validity and enforcement of the remaining provisions hereof, unless a material failure of consideration would result thereby.
- G. Assignment. Neither party shall assign its rights herein to any person or entity without the prior written consent of the other party. The rights and obligations set forth in this agreement are binding upon, and shall inure to the benefit of, the successors and permitted assigns of the parties.
- H. Waiver. No waiver by either party, whether expressed or implied, of any right or obligation set forth in this agreement, or any breach or default, shall constitute a continuing waiver of any other right, obligation, breach or default.
- I. Authority to Execute. Each person signing this Agreement on behalf of a party warrants that he or she is duly authorized by all necessary and appropriate corporate action to execute this Agreement.
- J. Counterparts. This Agreement may be executed in counterparts.
- K. Notice. All notices and demands of any kind or nature that either party may be required or may desire to serve upon the other in connection with this Agreement shall be in writing and may be served personally, by

facsimile, by certified mail, or by overnight courier, with receipt deemed to have occurred on the date of first receipt or refusal of delivery of such notice by the addressee, to the following addresses or facsimile numbers:

If to NAMI: 3803 N. Fairfax Dr., Suite 100  
Arlington, VA 22203  
Attn.: Michael J. Fitzpatrick, Executive Director  
Facsimile (703) 312-7890

If to STATE ORGANIZATION: 415 South 25th Avenue, Building LH  
Omaha, NE 68131  
Attn.: Tom Adams, Executive Director  
Facsimile (402) 346-4070

IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this State Organization Charter Agreement to be executed by their respective duly authorized representatives on the dates set forth below.

NAMI, INC.

By: Michael J. Fitzpatrick

Name: Michael J. Fitzpatrick, MSW

Title: Executive Director

Date: March 10, 2013

NAMI Nebraska

By: Tom Adams

Name: Tom Adams

Title: Executive Director

Date: March 25, 2013

## **Exhibit A**

The Charter Agreement between NAMI and NAMI Nebraska is conditioned upon NAMI Nebraska performing the following, as soon as reasonably possible, and not later than December 1, 2013:

- Per the commitment of NAMI Nebraska to put a bylaws revision before its membership in the Fall of 2013, provide NAMI with evidence that the bylaws have been amended to reflect:
  - the inclusion of a clause that outlines a dispute resolution process that terminates with the NAMI Board of Directors; and
  - inclusion of a clause articulating the usage rights, responsibilities and privileges associated with the NAMI name and logo.