

**BYLAWS OF THE
SMITH COUNTY BAR FOUNDATION**

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**ARTICLE I
NAME, LOCATION & OFFICES**

1.01 **Name.**

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The name of this corporation Corporation is the SMITH COUNTY BAR FOUNDATION.

2.01 1.02 **Principal Office.**

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The principal office of the Corporation Foundation is located in Tyler, Texas, with the initial registered office of the Corporation Foundation being 100 North Broadway, Suite 21B, Tyler, Texas 75702. For purposes of these Bylaws, a reference to the "principal office" of the Corporation Foundation shall be deemed to refer to such location as may be determined by the Executive Board and set forth in a resolution duly adopted. The Corporation Foundation may have such other offices within the State of Texas as the activities of the Corporation Foundation may require and the Executive Board may determine.

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**ARTICLE II
SEAL**

2.01 **Seal.**

No corporate seal shall be required.

**ARTICLE III
PURPOSES OF THE
CORPORATION FOUNDATION**

3.1 2.01 **Purposes.**

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The purpose or purposes for which the Corporation Foundation is organized are as follows:

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1. To operate exclusively for charitable, educational and scientific

purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code (the "Code"), including exempt purposes which

support, promote and encourage activities for the furtherance of justice and legal research and the establishment of scholarships; the institution and maintenance of legal aid facilities for the indigent or working poor; the acceptance of aid and grants from governmental and private sources, promote education among members of the general public as to their legal rights and responsibilities, and any other exempt activity which will promote and aid an improved system for the administration of justice and the improvement of the Bench and Bar in Smith County, Texas, and elsewhere; and.

2. To receive and administer real and personal property acquired by gift, grant, purchase, or otherwise for educational, scientific and charitable purposes.; and
3. To make grants or other payments to qualified charitable organizations; charitable, educational and scientific purposes, within the meaning of Section 501(c)(3) of the Code.

3.2 2.02 **Powers, Duties and Restrictions.**

The powers, duties and restrictions of the Foundation are as follows:

1. The CorporationFoundation shall possess all corporate powers provided by chapter 22 of the Texas Business Organizations CodeNon-Profit Corporation Act, and shall be entitled to engage in any legitimate pursuit not in contravention of the laws of the State of Texas and permitted corporationcorporationss exempt from tax under Section 501(c)(3) of the Code.
2. The Executive Board shall have the authority to accept or reject property offered to the CorporationFoundation as gifts based on whether any restrictions on the use of such gifts by the donor allows the gift to be used by the CorporationFoundation in a reasonable manner for the purposes of the CorporationFoundation.
3. All gifts accepted by the CorporationFoundation shall be used only in accordance with any directions, restrictions, or designations from the donor which accompany the gift, or otherwise in accordance with the exempt purposes of the CorporationFoundation if no such directions, restrictions or designations are given.

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4. Unless otherwise required by the provisions of the preceding subparagraph 3.02.3, only the income produced by each property held by

the Corporation as Charter Fellow donations or other endowed funds, or a reasonable percentage per year of the fair market value of a property held by the Corporation in lieu of income, both as determined by the Executive Board, shall be distributable by the Corporation in furtherance of its purposes.

- 5.3. The Corporation shall render a full accounting of its financial affairs to the Smith County Bar Association Executive Board on an annual basis within a reasonable time after the Corporation's ~~annual meeting~~ *fiscal year*.

ARTICLE III
V EXECUTIVE BOARD OF THE
FOUNDATION

- 4.1 3.01 **Governance Management of the Corporation Foundation.**
~~The~~ affairs of the Corporation ~~Foundation~~ shall be governed managed by its elected Officers and Directors (the "~~Executive Board~~"). The policy making responsibilities of the Foundation shall be vested in the Board, which shall control its properties, be responsible for its finances, and direct its affairs.

- 4.2 3.02 **Executive Board.**
The ~~Executive Board~~ of the Corporation shall consist of the elected Officers and Directors of the Corporation ~~Foundation~~. In addition, the ~~Executive Board~~ shall include the immediate pPast President and the Executive Director on a non-voting, ex-officio basis. The ~~Executive Board~~ of the Corporation shall have authority to increase the number of Officers and any such new position or positions shall be filled by vote of the ~~Executive Board~~ of the Corporation. The maximum number of Ddirectors shall be twenty (20) and the minimum number of Directors shall be fifteen (15)~~fifteen~~ *twenty*. Directors' terms shall be staggered over a three (3) year period.

- 4.3 3.03 **Officers.**
The Officers of the Corporation ~~Foundation~~ shall be a President, Vice President, Secretary and Treasurer. The ~~Executive Board~~ of the Corporation may create additional Officer pPositions, define the

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authority and duties of each such position, and elect or appoint persons to fill the positions. No person may hold more than one Officer positionoffice at the same time.

4.4 3.04 **President.**

The President's duties are to preside at all meetings of the CorporationFoundation and all meetings of the ~~Executive Board~~. The President also performs all

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duties ordinarily incident to the office and shall recommend such actions as the President she or she deems proper.

4.5 3.05 **Vice President. (President-Elect).**

The Vice President's duties are to act as President in the absence of the President, plan programs in cooperation with the Executive Board, and perform such other duties as may be assigned by the President of the Corporation.

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4.6 3.06 **Secretary.**

The Secretary's duties are to keep minutes of meetings of the Executive Board, send all notices as provided in the Bylaws, and be custodian of all CorporationFoundation records. The Secretary performs such other duties as may be assigned by the Executive Board, performs all duties incident to the office of Secretary, and shall deliver all CorporationFoundation records to the Secretary's his or her successor in office.

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4.7 3.07 **Treasurer.**

The Treasurer receives and disburses the funds of the CorporationFoundation, and deposits or invests the funds of the CorporationFoundation in a manner approved by the Executive Board. The Treasurer submits monthly financial reports to the Executive Board, and performs all duties incident to the office of Treasurer.

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43.08 **Executive Director.**

The Executive Director shall be the Chief Administrative and Executive Officer of the Foundation. The Executive Director shall be a non-voting member of the Board and all committees of the Board. The duties, responsibilities and compensation of the Executive Director shall be determined by the Board.

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43.09 **Ex-Officio Members.**

The Board may from time to time, and at its own discretion, appoint individuals in the community to be ex-officio members of the Board. Ex-officio members shall serve in an advisory capacity to the Board for a term of one (1) year. Ex-officio members shall have all the rights and privileges of a member of the Board except the right to vote and hold office.

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4.8 3.10 **Nomination and Election of Officers and Directors.**

The Officers and Directors shall be nominated and elected by the ~~Executive Board~~ of the Corporation. Subject to amendment of these Bylaws as hereinafter provided, Each Officer shall serve a term of one (1) year and each Director shall serve a term of up to three (3) years, or until the Director's his or her successor is elected and qualified. Directors are limited to two (2) consecutive terms. *Each officer and director will be required to comply with the Foundation's Conflict of Interest policies and affirm this annually.*

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4.9 3.11 **Regular Meetings.**

The ~~Executive Board~~ shall meet regularly but no less often than quarterly at a date, time and place as shall be determined by the ~~Executive Board~~ of the Corporation. No notice of regular meetings of the ~~Executive Board~~ of the Corporation is required other than a notice resolution of the ~~Executive Board~~ of

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the Corporation stating the date, time and place of the meetings. The President may designate any place within Smith County, Texas as the place of meeting for any regular regular or special meetings of the Board.

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4.10 3.12 **Special Meetings.**

Special meetings of the Executive Board may be called by or at the request of the President or any two (2) members of the Executive Board. Written notice of any special meeting of the Executive Board shall be delivered to each Officer and Director not less than three (3) days before the date of the special meeting. The notice shall state the place, datey and time and place of the special meeting, who called the special meeting, and the purpose or purposes for which the special meeting is called. The President may designate any place within Smith County, Texas as the place of meeting for any special meetings of the Board.

3.13 **Quorum.**

One-third (1/3) of the Officers and Directors eligible to vote shall constitute a quorum of the Board for the transaction of business. Unless otherwise stated in these Bylaws, a majority (51%) of a quorum shall be required to pass any vote of the Board.

A quorum for the transaction of business at any meeting of the Executive Board. The Officers and Directors present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough Officers and Directors leave the meeting 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 Officers and Directors required to constitute a quorum. If a quorum is present at no time during the meeting, a majority of the Officers and Directors present may adjourn and reconvene the meeting one time without further notice.

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4.12 **Actions of Executive Board.**

The Executive Board shall try to act by consensus. However, the vote of a majority of Officers and Directors present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the Executive Board unless the act of a greater number is required by the Bylaws. An Officer or Director who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the decision of the Executive Board.

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5.033.14 **Meetings Via Remote Communications Technology.**

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Subject to the provisions required or permitted by Texas law for notice of meetings and unless otherwise restricted by the Articles of Incorporation of the Foundation or these Bylaws, the Board or any committee of the Board may hold meetings by means of a telephone conference or similar communications equipment, or another suitable remote electronic communications system, including video conferencing technology or the Internet, or any combination thereof, so long as (1) each person participating in the meeting consents to the meeting being held by means of that system; and (2) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with all other persons participating in the meeting. In this event, participation in such meeting shall constitute presence in person at the meeting, except where a person participates for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. If voting is to take place at a meeting held by remote communications technology, the Board shall implement reasonable measures to verify that each person voting at a meeting by means of remote communications is sufficiently identified and shall keep a record of any vote or action taken in the minutes of the next regularly scheduled Board meeting.

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5.043.15 Action Without Meeting.

Except for actions relating to the termination of the Executive Director, removal of an Officer or Director, or dissolution of the Foundation, any action required to be taken at a meeting of the Board, or any other action which may be taken at a meeting of the Board, may be taken without a meeting, if written consent to a proposed action is expressly indicated by three quarters (3/4) of the voting members of the Board via electronic mail or similar electronic communication to the President, with courtesy copies to all other members of the Board and the Executive Director. Any action taken by the Board pursuant to this section shall be recorded in the minutes of the next regularly scheduled meeting of the Board.

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5.103.16 Vote.

Each voting member of the Board shall be entitled to one vote. Voting by proxy is not allowed.

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4.13 Informal Action.

Unless specifically prohibited by the Articles of Incorporation of this

Corporation or these Bylaws, any action required to be taken at a meeting of the ~~Executive~~ Board, or any other action which may be taken at such a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by the Officers and Directors entitled to vote with respect to the subject matter thereof as the case may

be. Any such consent signed by the Officers and Directors shall have the same effect as a unanimous vote at a meeting, and may be stated as such in any document filed.

4.14 3.17 **Vacancies.**

Any vacancy occurring in the ~~Executive Board~~, with the exception of the President, by reason of the resignation, removal, or death of an Officer or Director shall be filled by the ~~Executive Board~~ Officers of the Corporation Foundation. If the vacancy involves the President, a new President shall be elected selected from among the serving members of the Board by majority vote of the Board. An Officer or Director so elected to fill a vacancy shall serve out be elected for the unexpired term of the Officer or Director's his predecessor in office.

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4.15 3.18 **Compensation.**

The Officers and Directors shall not receive any stated salaries or other compensation for services rendered to the Corporation Foundation in their capacity as Officers and Directors, but nothing herein shall be construed to preclude any Officer or Director from serving the Corporation Foundation in any other capacity and receiving compensation therefore.

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4.16 3.19 **Presumption of Assent.**

An Officer or Director of the Corporation who is present at a meeting of the ~~Executive Board~~ at which action on any Foundation corporate matter is taken shall be conclusively presumed to have assented to the action taken unless the Officer or Director's his dissent shall be entered in the minutes of the meeting or unless they he shall file their his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to an Officer or Director who voted in favor of such action.

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4.17 ~~Removal of Officers or Directors. Remove this section and replace with the one in italics below~~

Any Officer or Director may be removed by the Executive Board of the CORPORATION, with or without cause, whenever in its judgment the best interests of the Corporation would be served thereby. Such removal

shall be effective upon mailing of written notice of any action in this regard undertaken by the Executive Board to the Officer or Director to be

removed.

4.173.20 **Resignation or Removal of Officers or Directors.**

An Officer or Director may resign from the Board by providing written notice of resignation to the President and such resignation is effective upon acceptance by the Officers. An Officer or Director who fails to attend three (3) consecutive Executive Board meetings without excuse and without prior notice to the President or the Executive Director may shall be deemed to have resigned from the Board without the necessity of any action being taken by the Executive Board. A majority of the members of the Board may vote to remove an Officer or Director may be removed by a majority vote of the Board at any time for good cause as determined in the sole discretion of by the Board. A meeting to consider removing of an Officer or Director may be called and noticed utilizing following the procedures provided in these Bylaws for noticing and calling a special meeting of the Board.

**ARTICLE IV
COMMITTEES**

(This is new section and will result in renumbering of sections following - but we did not have this in the previous bylaws - I thought it should go before the Indemnification section but that is just my feeling we can place it anywhere we like)

5.1 5.01 **Standing Committees.**~~Standing Committees.~~

There shall be the following standing committees of the Foundation: Civics, Constitution Day, Endowment, Fellows, Grants. Law Day, and Volunteer Attorney. The Board shall define the activities and scope of authority of each committee. Each committee shall consist of a Chairperson and as many members as the President shall appoint. The President shall appoint and remove committee chairpersons and members.

(I am not sure if some of these should be standing committees - as an example I think the Endowment committee was to clarify matters with ETCF and their work may be concluded) (Also - should we have a finance/audit committee? That is common in a lot of organizations - but may not be necessary for ours)

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5.2 **Special Committees.**

The Board may from time to time establish standing committees and define the purpose, activities and scope of authority of each such standing committee. Each standing committee shall consist of a Chairperson and as many members as the President shall appoint. Standing committee Chairpersons and members may be removed or replaced at the President's discretion.

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5.03.02 **Nominating Committee.**

The Nominating Committee shall be a standing committee of the Foundation composed of the current Officers and the immediate past President, with the Executive Director serving as an ex officio member. The Nominating Committee shall meet at least once annually for the purpose of proposing a slate of Officers and Directors for election to the Board for the next fiscal year.

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5.03 **Special Committees.**

The President, with the advice and consent of the Officers, may from time to time establish special committees to carry out special purpose or short term projects of the Board. The President shall define the purpose, activities, scope of authority and length of existence of each such special committee. Each special committee shall consist of a Chairperson and as many members as the President shall appoint. Special committee Chairpersons and members may be removed or replaced at the President's discretion. Special committees shall be dissolved by the President when their work has been completed.

establish special committees and define their duties. The President shall appoint and remove members of special committees.

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ARTICLE VI TRANSACTIONS OF THE FOUNDATION

(This is new section and will result in renumbering of sections following - but we did not have this in the previous bylaws - I thought it should also go before the Indemnification section but that is just my feeling we can place it anywhere we like)

6.1 6.01 **Expense ReimbursementAppropriation.**
Expense reimbursementsAppropriations of Association funds for Officers, Directors, or committees or for other expense expenses shall be determined by the Executive Board.

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6.2 6.02 **Transactions.**
The Executive Board may authorize any Officer or agent of the Foundation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the Foundation by majority vote.

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6.03 **Ratification.**
No action by the Executive Director or by any Officer or Director of the Foundation or by any other person purporting to act on behalf of the Foundation shall be binding upon the Foundation until such action has been approved or ratified by the Board and reflected in the minutes of the Foundation.

6.3 6.04 **Deposits.**
All funds of the Foundation shall be deposited to the credit of the Foundation in banks or other depositories as the Executive Board shall select.

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6.4 6.05 **Gifts.**
The Executive Board may make gifts and charitable contributions that are not prohibited by these Bylaws or by state or federal law and are permitted corporationcorporations exempt from tax under Section 501(c)(3) of the Internal Revenue Code.

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ARTICLE V
INDEMNIFICATION OF OFFICERS AND DIRECTORS

Right to Indemnification.

7.01 **Right to Indemnification.**

5.1 The Foundation shall indemnify its Officers and Directors to the maximum extent allowed under the provisions of Section 8.101 of the Texas Business Organizations Code or any similar successor statute. The Foundation shall indemnify the Executive Director of the Foundation to the maximum extent allowed under the provisions of Section 8.101 and Section 8.105 of the Texas Business Organizations Code or any similar successor statute.

The Corporation shall indemnify any person who was, is, or is threatened to be made a named defendant or respondent in a proceeding, whether

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civil, criminal, administrative, arbitrative, or investigative, including all appeals, by reason of the fact that person is or was a Director, Officer, employee, or agent of the Corporation. Indemnification shall be against all reasonable expenses, including without limitation attorneys' fees, court costs, expert witness fees, judgments, decrees, fines, penalties and reasonable expenses actually incurred by the person in connection with the proceeding, except that if the person is found liable to the Corporation or is found liable on the basis that he or she improperly received personal benefit, indemnification shall be limited to reasonable expenses actually incurred by the person in connection with the proceeding and shall not be made in respect of any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of his or her duty to the Corporation.

5.2 Limitations on Indemnification.

1. No indemnification shall be made for obligations resulting from a proceeding in which the person is found liable on the basis that personal benefit was improperly received by him or her, or from a proceeding in which the person is found liable to the Corporation.
2. Indemnification under this Bylaw shall be available only after a determination has been made that the person acted in good faith; and
 - (a) In the case of conduct in an official capacity, reasonably believed his or her conduct to be in the best interests of the Corporation; or
 - (b) In all other cases, reasonably believed his or her conduct to be at least not opposed to the best interests of the Corporation.

The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent, shall not of itself be determinative that the person failed to act in accordance with these requirements. A person shall be deemed to have been found liable in respect of any claim, issue, or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals from the judgment be made:

- (a) By a majority vote of a quorum of Officers and Directors not named

as defendants or respondents in the proceeding; or

- (b) If such a quorum cannot be obtained, by a majority vote of a committee of the Executive Board, designated by majority vote of all Officers and Directors, consisting of two or more Officers and Directors not named defendants or respondents in the proceeding; or
- (c) By special legal counsel selected by the Executive Board or by a committee of the Executive Board by vote as set forth in subparagraphs (a) or (b) above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all Officers and Directors.

Authorization of indemnification and determination of reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination of reasonableness of expenses shall be made in the manner specified in paragraph (c) above, for the selection of special legal counsel.

5.3 Indemnity for Successful Defense.

In spite of any limitations set forth in paragraphs 5.01 and 5.02 above, to the extent that any person has been wholly successful on the merits or otherwise in defense of any proceeding referred to in those paragraphs, that person shall be indemnified against all reasonable expenses incurred by him or her, including, without limitation, attorneys' fees, court costs and expert witness fees.

5.4 Advancement of Expenses.

Reasonable expenses incurred by a Director, Officer, employee, or agent of the Corporation who was, is, or is threatened to be named a defendant or respondent in an action, suit, or proceeding may be paid or reimbursed by the Corporation in advance of the final disposition as authorized by the Executive Board. Before authorizing the advance, the Executive Board must determine that under the facts then known, indemnification would

not be precluded under these Bylaws. In addition, the Executive Board must receive:

1. A written affirmation by the Director, Officer, employee, or agent involved of that person's good faith belief that he or she had met the standard of conduct necessary under these Bylaws for indemnification; and
2. A written undertaking by or on behalf of the Director, Officer, or employee involved to repay the expenses if it is ultimately determined that he or she had not met the standard of conduct necessary under these Bylaws for indemnification.

5.5 Indemnification Not Exclusive.

The indemnification provided by this Article shall not be deemed to be exclusive of any other rights to which any person indemnified may be entitled under any regulation, agreement, vote of the disinterested Officers and Directors or otherwise. The indemnification provided by this Article shall not be deemed exclusive of any other power to indemnify or right to indemnification that the Corporation or any person referred to in this Article may have or acquire under the laws of the State of Texas. Indemnification shall continue and inure to the benefit of the heirs, executors and administrators of any person entitled to indemnification under this Article.

5.6 Insurance.

The Corporation may purchase and maintain insurance or another arrangement on behalf of any person who is or was a Director, Officer, employee, or designated agent of the Corporation or who is or was serving at the request of the Corporation as a Director, Officer, partner, venturer, proprietor, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, against any liability asserted against and incurred by that person in his or her status as such, whether or not the Corporation would have the power to indemnify him or her under the provisions of this Article. If the insurance or other arrangement is with a person or entity that is not regularly engaged in the business of

insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Corporation would not have the power to indemnify the person only if including coverage for the additional liability has been approved by the Officers and Directors. Without limiting the Corporation's power to procure or maintain any kind of insurance or other arrangement, the Corporation, for the benefit of persons it has indemnified, may (1) create a trust fund; (2) establish any form of self- insurance; (3) secure its indemnity obligations by grant of a security interest or other lien on the Corporation's assets; or (4) establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Corporation or with any insurer or other person deemed appropriate by the Executive Board regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or in part by the Corporation. In the absence of fraud, the judgment of the Executive Board as to the terms and conditions of the insurance or other arrangements and the identity of the insurer or other person participating in an arrangement shall be conclusive, and the insurance or arrangement shall not be voidable and shall not subject the Officers and Directors approving the insurance or arrangement to liability, on any ground, regardless of whether Officers and Directors participating in the approval are beneficiaries of the insurance or arrangement.

ARTICLE VI
FISCAL YEAR

8.01 **Fiscal Year.**

The fiscal year of the CorporationFoundation shall end on the last day of the month of June of each year and begin on the first day of July of each year.

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ARTICLE VII
AMENDMENTS

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9.01 **Amendments to Bylaws.**

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These Bylaws may be altered, amended, or repealed by new Bylaws adopted at any meeting of the Executive Board of the Corporation by a two thirds (2/3) majority vote of the Board.

ARTICLE X
DISSOLUTION

10.01 **Action Required by Board.**

The Foundation may be dissolved only by a two thirds (2/3) majority vote of the Board. A meeting to consider dissolution of the Foundation shall be called and noticed utilizing the procedures provided in these Bylaws for noticing and calling a special meeting of the Board.

10.02 **Distribution of Assets.**

The Foundation shall use its funds only to accomplish the purposes specified in these Bylaws and no part of said funds shall inure to, or be distributed to any member of the Board, unless otherwise allowed by these Bylaws. Upon dissolution of the Foundation, any funds or assets remaining shall be distributed to one or more charitable, educational, or philanthropic organizations selected by the Board.

Officers and Directors present at the meeting; provided, however, that in the

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case of a special meeting, notice of the proposed changes shall be given in the notice of special meeting.

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Dated this ____ of _____ 2016.

I, Tim Simpson, Secretary of the said CorporationFoundation, do hereby certify that the foregoing is a true and correct copy of the Bylaws of the CorporationFoundation duly adopted by the Executive Board as of the date so stated.

Tim Simpson, Secretary
Smith County Bar Foundation