

**ARTICLES OF INCORPORATION  
OF FCMM**

*Pursuant to the provisions of Minnesota Statutes, Chapter 317A, known as the Minnesota Nonprofit Corporation Act (“Act”), the undersigned incorporator adopts the following Articles of Incorporation:*

**ARTICLE I**

**Name**

The name of this corporation shall be FCMM.

**ARTICLE II**

**Purposes**

The Corporation is organized and operated exclusively for religious, charitable and educational purposes as permitted for organizations described in Section 501(c)(3) of the Internal Revenue Code, as amended (“**Code**”). The Corporation is the church benefits board of the Evangelical Free Church of America, within the meaning of Section 414(e)(3)(A) of the Internal Revenue Code, and shall sponsor and administer such benefits and other programs as it deems necessary and advisable for the benefit of the missionaries, ministers, lay workers and ministerial candidates of the churches, integrated auxiliaries and other organizations affiliated with the Evangelical Free Church of America or any churches, conventions or associations of churches or conventions associated with or sharing common bonds of faith with the Evangelical Free Church of America. Subject to the foregoing, the specific purposes for which the Corporation is organized include, but are not limited to, the following:

- (a) to sponsor and administer church employee benefits programs and other programs for the financial and personal protection of the ministers and lay employees of churches and other employing organizations that are associated with or share common bonds of faith with the Evangelical Free Church of America;
- (b) to serve as the trustee and fiduciary of the Free Church Ministers and Missionaries Retirement Plan and to administer such plan in the sole and exclusive benefit of the participant members and their beneficiaries; and
- (c) to engage in and conduct such activities as may be consistent with its purposes and authorized by the Board, provided such activity is within the permitted activities of an organization that is tax-exempt under section 501(c)(3) of the Code.

## **ARTICLE III**

### **Powers and Limitations**

The Corporation may exercise generally any power consistent with the purposes described above that a nonprofit Corporation organized under the provisions of the Act may exercise. The Corporation shall pay no dividends or other pecuniary gain, directly or indirectly to its trustees or officers, as such, nor shall any part of the net earnings of the Corporation inure to the benefit of or be distributable to its trustees, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II above. No substantial part of the Corporation's direct or indirect activities shall consist of carrying on any propaganda or otherwise attempting to influence legislation. The Corporation shall not participate in or intervene in (including publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any activities or have any purposes that are not permitted for (a) an organization exempt from federal income taxation under Section 501(c)(3) of the Code and other related legislation and regulations as they now exist or may hereafter be amended, or (b) an organization contributions to which are deductible under Section 170(c)(2) of the Code and related legislation and regulations as they now exist or may hereafter be amended.

The Corporation shall not lend any of its assets to any trustee or officer of the Corporation or guarantee to any other person the payment of a loan made to a trustee or officer of the Corporation.

## **ARTICLE IV**

### **Registered Office**

The address of the registered office is 901 East 78<sup>th</sup> Street, Minneapolis, Minnesota 55420.

## **Article V**

### **Form of Organization**

The Corporation is organized on a nonstock trusteeship basis. Accordingly, the Corporation has no capital stock, has no members, and the management and financial affairs of the Corporation shall be vested in its board of trustees. The board of trustees shall consist of such number of trustees as may be permitted by law and as shall be provided in the bylaws of

the Corporation. The trustees shall serve for a period and shall be elected and qualified in a manner as provided in the bylaws.

The Corporation is a ministry of the Evangelical Free Church of America. FCMM's affiliation with the Evangelical Free Church of America shall not confer upon the Evangelical Free Church of America any economic interest in FCMM and shall not cause the Evangelical Free Church of America to be responsible for the debts and obligations of FCMM.

## **Article VI**

### **Action Without a Meeting**

An action required or permitted to be taken at a board meeting may be taken by written action signed, or consented to by authenticated electronic communication, by all of the trustees in office. The written action is effective when signed, or consented to by authenticated electronic communication, by all of the trustees in office, unless a different effective time is provided in the written action. An "electronic communication" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication, and that may be directly reproduced in paper form by the recipient through an automated process. "Authenticated" means, with respect to an electronic communication, that the communication is delivered to the principal place of business of the Corporation, or to an officer or agent of the Corporation authorized by the Corporation to receive the communication, and that the communication sets forth information from which the Corporation can reasonably conclude that the communication was sent by the purported sender.

## **Article VII**

### **Dedication of Assets**

The Corporation shall hold and administer all its assets and accumulated income to effectuate its tax-exempt purposes. No part of the income or assets of the Corporation shall inure to the private benefit of any individual or trustee. If the Corporation's purposes fail or if the Corporation ceases to be approved as a tax-exempt organization under the Code, and any such defect is not cured, or if the Corporation voluntarily dissolves, then any surplus property remaining after payment of all promised benefits and any debts shall be distributed as follows:

- (a) to the Evangelical Free Church of America, or its successor, so long as that organization is qualified as tax-exempt under Section 501(c)(3) of the Code or the corresponding provisions of any future federal tax laws; or if it is not so qualified,
- (b) to such other organizations as the board of trustees (or in default of designation by the board of trustees, a court of competent jurisdiction of the county in which the principal office of the Corporation is then located) shall designate as best

accomplishing the purposes for which the Corporation was formed, provided that each such organization receiving such assets is qualified as tax-exempt under Section 501(c)(3) of the Code or the corresponding provisions of any future federal tax laws.

Notwithstanding any provision herein to the contrary, nothing contained herein shall be construed to affect the disposition of property and assets held by the Corporation in trust or subject to any other condition or testamentary, executory or special limitation, and such property, upon dissolution of the Corporation, shall be transferred in accordance with the trust, condition or limitation imposed with respect to it.

The Corporation shall be dissolved after all its property has been so distributed.

### **Article VIII**

#### **Amendments**

The Corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation by an affirmative vote of a majority of the trustees of the Corporation then in office. Notwithstanding the foregoing, any amendment to these Articles that would materially impact the rights of the Evangelical Free Church of America shall be effective only upon an affirmative vote of a majority of the trustees of the Corporation then in office and approval subsequent thereto by the board of directors of the Evangelical Free Church of America. Amendments to the foregoing articles that do not materially impact the rights of the Evangelical Free Church of America may be made by an affirmative vote of a majority of the trustees of the Corporation then in office without subsequent approval by the board of directors of the Evangelical Free Church of America.

### **Article IX**

#### **Incorporator**

The incorporator of the Corporation is:

Rev. Richard Stanghelle  
c/o Free Church Ministers and Missionaries  
901 East 78<sup>th</sup> Street  
Minneapolis, MN 55420-1300

The incorporator, by signing below, certifies that he is authorized to sign these Articles and that the information in these Articles is true and correct. The incorporator also understands that if any of the information is intentionally or knowingly misstated that criminal penalties will apply as if the incorporator has signed these Articles under oath.

  
\_\_\_\_\_  
Signature of Incorporator

August 1, 2012  
\_\_\_\_\_  
Date

**BYLAWS**  
**OF**  
**FCMM**

Adopted and effective as of August 1<sup>st</sup>, 2012.

**ARTICLE 1**

**PURPOSES AND POWERS**

The purposes for which the corporation is formed and the powers which it may exercise are set forth in its articles of incorporation.

**ARTICLE 2**

**TRUSTEES**

2.1 **Powers.** The corporation's business and financial affairs shall be managed by or under the direction of the board of trustees, except as otherwise provided by statute, the articles of incorporation or these bylaws. The board of trustees shall have all powers and responsibilities prescribed or allowed by law, including, without limitation, the following:

- (a) To uphold the ministry of the corporation through individual and corporate prayer;
- (b) To establish and uphold the corporation's mission, vision, and values;
- (c) To establish priorities, goals, and strategies for the corporation and regularly evaluate the corporation's work and ministry in light of those priorities, goals, and strategies;
- (d) To exercise responsibility for the financial policy and practices of the corporation;
- (e) To serve as the administrator and trustee of the Free Church Ministers' and Missionaries' Retirement Plan (the "Plan");
- (f) To delegate, consistently with these bylaws, such responsibility for the administration of the corporation as may be required by the death, incapacity, or absence of any officer;
- (g) In the event of the death, incapacity, resignation, or removal of the President, to provide for an effective transition until a new President is appointed;
- (h) To review at least annually the performance and compensation of the President; and
- (i) To select an independent certified public accounting firm, which shall submit an annual audit report of the corporation's finances to the board of trustees for its review.

Notwithstanding the foregoing, the following actions of the board of trustees shall be taken only if approved by the board of directors of the Evangelical Free Church of America (“EFCA”):

- (a) The dissolution of the corporation;
- (b) The merger of the corporation;
- (c) The sale, exchange, lease, or other transfer of all or substantially all of the assets of the corporation other than in the ordinary course of business; and
- (d) The material amendment of selected articles and sections of the corporation’s articles of incorporation and bylaws, each as provided in Article VIII of the articles of incorporation and in Article 8 of these bylaws

**2.2 Qualifications and Eligibility.** The corporation shall have elected and *ex officio* trustees. Each elected trustee must (a) be a member in good standing of an EFCA church, (b) agree to sign annually, without reservation, the Statement of Faith adopted by the EFCA from time to time, (c) be recommended by the board of trustees as a qualified trustee within the 12 months immediately preceding such trustee’s first election to the board of trustees, (d) have had such recommendation as a qualified trustee affirmed by the EFCA board of directors within that same period of time, and (e) not be an employee of the corporation. If any elected trustee fails to meet any of the foregoing qualifications, that trustee shall be deemed to have resigned effective as of the date that the trustee failed to meet that qualification. Each *ex officio* trustee shall be currently holding the office upon which his position is based.

**2.3 Number and Term of Trustees.** The board of trustees shall consist of at least seven (7) and no more than eleven (11) trustees as determined from time to time by the board of trustees, two of whom shall be *ex officio* trustees, and the balance of whom shall be elected, as follows:

- (a) *Elected Trustees.* Each elected trustee shall be elected at the Annual Meeting (defined below) of the board for a three year term unless a shorter term is designated by the board at the time of election or until such successor is elected. At least three (3) of the elected trustees shall be clergy members enrolled in the Plan but no more than fifty percent of the elected trustees shall be members of the Plan. An elected trustee may be re-elected for an unrestricted number of consecutive terms.

There shall be, as nearly as possible, an annual rotation whereby the terms of approximately one-third of the elected trustees shall expire each year, and at each Annual Meeting, an equal or similar number of trustees shall be elected to fill the places so vacated or otherwise unoccupied. In order to achieve the initial classification of the board, the initial terms of the three classes of the first board shall be one year, two years, and three years, respectively.

- (b) *Ex-officio Trustees.* The President of the corporation shall be an *ex officio* member of the board of trustees. The EFCA President shall also serve as an *ex officio* member of the board of trustees. The EFCA President may designate a representative, who may be an employee of the EFCA, to attend board and

committee meetings in his absence (with the exception of executive sessions, unless invited by the governing body to attend) and enter into all discussions. The EFCA President's representative shall not have a vote.

*Ex officio* trustees shall serve as long as they hold the office upon which their position is based, and shall be deemed to have resigned immediately upon their relinquishment of that office.. *Ex officio* trustees shall have all the same rights, privileges, and obligations of the other trustees, including, without limitation, the power to vote.

2.4 **Vacancies.** Except as otherwise provided in the articles of incorporation, a vacancy occurring in an elected trustee position (including a vacancy resulting from an increase in the number of trustees) may be filled by the board or, if the trustees remaining in office constitute fewer than a quorum, by the affirmative vote of a majority of the remaining trustees. A vacancy that will occur at a specific date, by reason of resignation effective at a later date, may be filled before the vacancy occurs, but the newly elected or appointed trustee may not take office until the vacancy occurs. Each trustee chosen to fill a vacancy shall serve the duration of the unexpired term.

2.5 **Removal.** An elected trustee shall be removed from office automatically if (1) the trustee has three unexcused absences from regularly scheduled meetings of the board over a period of two years or (2) the Secretary certifies that he has not received a trustee's signed annual EFCA Statement of Faith after reasonable written notice and opportunity to comply with this trustee qualification. An elected trustee may be removed with or without cause upon the affirmative vote of two-thirds of the board members present at a meeting at which a quorum is present. The board member whose removal is under consideration shall be deemed to have a conflict of interest with regard to that decision, and the provisions of Section 2.19 of these bylaws shall apply.

2.6 **Resignation.** A trustee may resign by written notice to the corporation. A resignation is effective upon its receipt by the corporation or at a later time specified in the notice.

2.7 **Directors' Compensation.** The board of trustees shall serve without compensation for their service as trustees or officers of the corporation. Trustees may be reimbursed for their reasonable and appropriate expenses, if any, of attendance at meetings. The corporation may pay reasonable compensation to a trustee or officer for providing services to the corporation in any other capacity, including that of salaried employee or agent of the corporation. Trustees who serve as salaried employees or agents of the corporation shall not participate in any vote of the board with respect to their compensation.

2.8 **Regular Meetings.** Regular meetings of the board of trustees shall be held at the date, time, and place that the board determines. The board shall meet at least annually, and the first such meeting in each calendar year shall be known as the "**Annual Meeting**" for purposes of these bylaws. A notice to trustees is not required for a regular meeting, except that, when the board establishes or thereafter changes the schedule of regular meetings, or changes the date, time, or place of a previously scheduled regular meeting, notice of the action shall be given to each trustee who was absent from the meeting at which the action was taken.

2.9 **Special Meetings.** The Chairperson, the President, or trustees constituting at least one-third of the trustees then in office may call a special meeting of the board of trustees by giving notice to each trustee.

2.10 **Notice of Meetings.** Except as otherwise provided by these bylaws, notice of the date, time, and place of each meeting of the board of trustees shall be given to each trustee by either of the following methods:

(a) by mailing a written notice of the meeting to the address that the trustee designates or, in the absence of designation, to the last known address of the trustee, at least five days before the date of the meeting; or

(b) by delivering a written notice of the meeting to the trustee at least two full business days before the meeting, personally or by a form of electronic communication to which the trustee has consented, to the trustee's last known office or home. For the purposes of these bylaws, "**electronic communication**" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication, and that may be directly reproduced in paper form by the recipient through an automated process.

2.11 **Waiver of Notice.** A trustee's attendance at or participation in a meeting waives any required notice to the trustee of the meeting, unless, at the beginning of the meeting or promptly upon the trustee's arrival, the trustee objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting. A trustee may waive notice in writing or by electronic communication before or after a meeting.

2.12 **Purpose of Meetings.** Neither the business to be transacted at, nor the purpose of, a regular or special meeting need be specified in the notice or waiver of notice of the meeting. If the purpose is stated in the notice, the business transacted at the meeting is not limited to the purpose stated.

2.13 **Quorum and Required Vote.** A majority of the trustees then in office, or of the members of a committee of the board of trustees, constitutes a quorum for the transaction of business, unless the articles of incorporation, these bylaws, or, in the case of a committee, the board resolution establishing the committee, provide for a larger or smaller number. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the board or of the committee, unless the vote of a larger number is required by statute, the articles of incorporation, these bylaws, or, in the case of a committee, the board resolution establishing the committee.

2.14 **Action by Written Consent.** Action required or permitted to be taken at a meeting of the board of trustees or a committee of the board may be taken without a meeting if, before or after the action, all members of the board then in office or of the committee consent to the action in writing or by authenticated electronic communication. The written consents shall be filed with the minutes of the board or committee. The consent has the same effect as a vote of the board or committee for all purposes. The written action is effective when signed, or consented to by authenticated electronic communication, by all of the trustees in office, unless a different effective

time is provided in the written action. For the purposes of these bylaws, “**authenticated**” means, with respect to an electronic communication, that the communication is delivered to the principal place of business of the corporation, or to an officer or agent of the corporation authorized by the corporation to receive the communication, and that the communication sets forth information from which the corporation can reasonably conclude that the communication was sent by the purported sender.

2.15       **Electronic Participation in Meeting.** With permission of the chairperson, a member of the board of trustees or of a committee of the board may participate in a meeting by means of conference telephone or other means of remote communication through which all persons participating in the meeting can communicate with each other. Such participation in a meeting constitutes presence in person at the meeting.

2.16       **Committees of Trustees.** The board of trustees shall organize itself as deemed helpful in carrying out its responsibilities. At a minimum, an audit committee shall be established as a standing committee of the board. The board of trustees may designate one or more committees consisting of one or more trustees. Any board committees shall be appointed by the Chairperson, with the approval of the board, and may include persons with specialized background or expertise from outside the board.

2.17       **Audit Committee.** There shall be an Audit Committee composed of at least (3) trustees, at least one of whom has financial, accounting or other business experience. The Chairperson may appoint an individual from outside the board with expertise in financial, accounting or other business experience in lieu of one of those trustees. The Audit Committee shall recommend an independent certified public accounting firm for the board’s engagement for its annual audit of its financial statements, shall be responsible for meeting with the auditors to review its reports and shall address any concerns that the auditors or any other individual or organization may bring to the attention of the board, its officers or the Audit Committee about the corporation’s compliance with applicable financial, accounting and legal standards.

2.18       **Presidential Search Committee.** In the event the President dies, resigns, retires, becomes incapacitated, or is removed, or in the event any of the foregoing conditions is reasonably anticipated, the board shall appoint a search committee to identify, evaluate, and nominate one or more candidates for appointment by the board of trustees to the office of President. The search committee shall not have the authority of the board of trustees to hire the President, but may have other duties, responsibilities, powers, and authority as designated by the board from time to time. The search committee shall be comprised of the then acting President of the EFCA or his designee from the EFCA board of directors, two or more trustees of the corporation, and such other persons (who need not be trustees) as are appointed by the board of trustees. The Chairperson of the board shall appoint the chair of the search committee. The search committee shall make a recommendation to the board with respect to its appointment of a President, and shall thereafter automatically dissolve until the need for the search committee arises again. If the board elects not to follow the recommendation of a search committee, or the EFCA chooses not to affirm the appointment, the search committee shall nevertheless have automatically dissolved upon its recommendation, and a new search committee shall thereafter be appointed under the terms of this Section, and the process shall repeat until a President is appointed.

2.19 **Conflict of Interest.** The corporation shall adopt a conflict of interest policy. Any possible conflict of interest on the part of any trustee or a member of the trustee's immediate family shall be disclosed to the other trustees and made a matter of record through an annual disclosure procedure. When any such conflict of interest becomes relevant to any matter requiring board or committee action, it shall be called to the attention of the board or committee and the trustee shall not vote on the matter in which the trustee or member of the trustee's immediate family has a possible conflict of interest, shall not use personal influence in connection therewith, and shall not be counted in determining the quorum for the meeting; however, any trustee who is excluded from voting because of such possible conflict of interests may briefly state the trustee's position in the matter when the trustee's knowledge of the matter will assist the board or committee. The minutes of the meeting shall reflect that a disclosure was made and that the interested trustee abstained from voting.

## ARTICLE 3

### OFFICERS

3.1 **Appointment.** The board of trustees shall appoint or elect a Chairperson, a President, a Treasurer and a Secretary. The Chairperson must be selected from among the elected trustees. The board may also elect one or more Vice Chairpersons, Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers and agents that it deems necessary. The board of trustees need not appoint or elect an officer to an office that is already filled and whose specified term has not expired. The same person may hold two or more offices (except that the Chairperson and President shall be different individuals), but an officer may not execute, acknowledge, or verify an instrument in more than one capacity if the instrument is required by law, the articles of incorporation, or these bylaws to be executed, acknowledged, or verified by two or more officers.

3.2 **Term and Removal.** An officer shall hold office for the term the board specifies upon election or appointment and until a successor is elected or appointed and qualified, or until the officer's resignation or removal. The board may remove an officer, including, without limitation, the President, with or without cause, upon the affirmative vote of two-thirds of the board members present at a meeting at which a quorum is present. An officer may resign by written notice to the corporation. The resignation is effective upon its receipt by the corporation or at a later date specified in the notice.

3.3 **Chairperson of the Board.** The Chairperson of the board shall preside when present at all meetings of the board of trustees. The Chairperson shall perform any other duties and exercise any other authority that the board prescribes and, unless otherwise provided by board resolution, is an *ex officio* member of all committees. Except where by law the signature of the President is required, the Chairperson possesses the same power and authority as the President to make and execute contracts, instruments, papers, and documents of every kind in the name of and on behalf of the corporation.

3.4 **Vice Chairperson of the Board.** During the unavailability or disability of the Chairperson, or while that office is vacant, the Vice Chairpersons, if one or more has been appointed, and in the order the board designates if there is more than one, may exercise all of the

powers and discharge all of the duties of the Chairperson. A Vice Chairperson shall perform any other duties that the board prescribes.

3.5 **President.** The President shall be appointed by the board and must (a) be a member in good standing of an EFCA church and (b) agree to sign annually, without reservation, the Statement of Faith adopted by the EFCA from time to time. Upon appointment by the board of trustees, the appointment must be affirmed by the EFCA board of directors prior to the President's appointment to such role.

The President shall be the chief executive officer of the corporation and shall be accountable to the board of trustees. The President shall have general supervision, direction, and control of the affairs of the corporation and shall perform all duties incident to the office of President and such other duties as may be assigned by the board of trustees. The President shall be an *ex-officio* member of the board of trustees, all board committees (with the exception of a Presidential Search Committee and a compensation committee, if any, although the board of trustees may specifically appoint the President as a member of either such committee), and the board of every corporation owned or controlled by the corporation, each with all the same rights, privileges, and obligations of the other trustees, including, without limitation, the power to vote.

3.6 **Vice Presidents.** The board may designate one or more Vice Presidents to perform the duties and exercise the authority of the President during the President's absence or disability. Each Vice President shall perform other duties that the President assigns or the board prescribes.

3.7 **Secretary.** The board may appoint a Secretary who, if appointed, shall cause to be recorded and maintained minutes of all meetings of the board and board committees. If appointed, the Secretary shall also cause to be given all notices required by law, these bylaws, or resolution of the board and shall perform other duties that the President assigns or the board prescribes.

3.8 **Treasurer.** The Treasurer shall cause to be kept in books belonging to the corporation a full and accurate account of all receipts, disbursements, and other financial transactions of the corporation. The Treasurer shall perform other duties that the President assigns or the board prescribes.

3.9 **Assistant Secretaries and Assistant Treasurers.** An Assistant Secretary or an Assistant Treasurer may perform any duty or exercise any authority of the Secretary or Treasurer, respectively. An Assistant Secretary or Assistant Treasurer also shall perform duties that the Secretary or the Treasurer, respectively, or the President assigns or that the board prescribes.

3.10 **Other Officers.** The board of directors may appoint other officers to perform duties and exercise authority that the President assigns or the board prescribes.

## ARTICLE 4

### LIMITATION OF LIABILITY

No trustee or officer of the corporation shall have any personal liability for any obligation of the corporation. A person who serves without compensation (a “**volunteer**”) as a trustee, officer, or agent of the corporation is not civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person’s responsibilities as a volunteer director, officer, or agent of the corporation, and did not constitute willful or reckless misconduct, except that the liability of a volunteer trustee, officer or agent of the corporation is not eliminated or limited for:

- (a) An action or proceeding brought by the attorney general for a breach of a fiduciary duty as a trustee;
- (b) A cause of action to the extent it is based on federal law;
- (c) A cause of action based on the person’s express contractual obligation;
- (d) An action or proceeding based on a breach of public pension plan fiduciary responsibility; or
- (e) An action or proceeding for physical injury to the person of another or for wrongful death that is personally and directly caused by the individual.

If the Minnesota Nonprofit Corporation Act (“**Act**”) is amended to further eliminate or limit the liability of a volunteer trustee, officer, or agent, then a volunteer trustee, officer, or agent (in addition to the circumstances in which a trustee, officer, or agent is not personally liable as set forth in the preceding paragraph) shall, to the fullest extent permitted by the Act as so amended, not be liable to the corporation. No amendment to or alteration, modification or repeal of this Article shall increase the liability or alleged liability of any volunteer trustee, officer, or agent of the corporation for or with respect to any acts or omissions of such trustee, officer, or agent occurring prior to such amendment, alteration, modification or repeal. Provisions of this Article added by amendment shall apply only to acts or omissions and to breaches of duty occurring after the date the amended article was adopted.

## ARTICLE 5

### INDEMNIFICATION

5.1 **Scope of Indemnity.** The corporation shall indemnify its trustees, officers, employees, non-trustee volunteers or agents of the corporation (“Indemnitees”), against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by them in connection with any actions or suits brought or threatened against them, including actions by or in the right of the corporation, by reason of the fact that such person was serving as a trustee or officer, employee, non-trustee volunteer, or agent of the corporation, to the fullest extent permitted by the Act. The corporation may indemnify other persons to the extent authorized by board resolution or by contractual agreement that the board authorizes. A change in the Act, the corporation’s articles of incorporation, or these bylaws that reduces the scope of indemnification does not apply to any action or omission that occurs before the change.

5.2 **Authorization of Indemnification.** Unless ordered by a court or otherwise provided by law, the corporation shall indemnify a person only upon determination that the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the corporation's best interests. Such determination must be made (1) by majority vote of a quorum of the board consisting of trustees who were not parties to the action or suit, (2) if a quorum of disinterested trustees is not obtainable, by a majority vote of a committee of trustees who were not parties to the action and consisting of not less than two disinterested trustees, or (3) by independent legal counsel in a written opinion.

5.3 **Advancing Expenses.** If a person is made or threatened to be made a party to a proceeding, the person may submit a written request to the corporation, for payment or reimbursement by the corporation of reasonable expenses, including attorneys fees and disbursements, incurred by the person in advance of the final disposition of the proceeding upon receipt by the corporation of a written affirmation by the person of a good faith belief that the criteria for indemnification have been satisfied and a written undertaking by the person to repay the amounts or reimbursed by the corporation if it is determined the criteria for indemnification have not been satisfied and after a determination that the facts then known to those making the determination would not preclude indemnification.

5.4 **Insurance.** The corporation may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, employee, non-trustee volunteer, or agent of the corporation or is or was serving at the corporation's request in any other enterprise against any liability incurred in such capacity.

## ARTICLE 6

### GENERAL PROVISIONS

6.1 **Voting of Securities.** Unless the board directs otherwise, the Chairperson or the President, or, during their absence or disability, the Vice Presidents in the order that the board designates, may on behalf of the corporation attend and vote at (or execute in the name or on behalf of the corporation a consent in writing or by electronic communication in lieu of a meeting of shareholders or a proxy authorizing an agent or attorney-in-fact for the corporation to attend and vote at) any meeting of security holders of any corporation in which the corporation holds securities. At such meetings such person may exercise all rights incident to the ownership of such securities which the corporation might exercise if present. The board may confer this voting power upon any other person.

6.2 **Checks.** The corporation's checks, drafts, and orders for the payment of money shall be signed in the name of the corporation in the manner and by the persons that the board of directors designates.

6.3 **Signing of Instruments.** When the board or these bylaws authorize the signing of a contract, conveyance, or other instrument without specification of the signing officer, the Chairperson, the President, any Vice President, the Secretary, or the Treasurer may sign in the name

and on behalf of the corporation and may affix the corporate seal to the instrument. The board may authorize other officers and agents to sign instruments in the name and on behalf of the corporation.

6.4 **Corporate Books and Records.** The corporation shall keep books and records of account and minutes of the proceedings of its board of trustees and committees, if any. The books, records, and minutes may be kept outside the State of Minnesota. The corporation shall keep at its registered office records containing the names and addresses of all trustees and the dates when they respectively became trustees. Any of the books, records, or minutes may be in written form or in any other form capable of being converted into written form within a reasonable time. The corporation shall convert into written form without charge any record not in written form, unless otherwise requested by a person entitled to inspect the record.

6.5 **Seal.** The corporation shall not have a corporate seal.

## ARTICLE 7

### DEDICATION OF ASSETS

7.1 **Use of Funds.** Except as otherwise provided in any trust instrument or donor agreement, the corporation's funds and property shall be used exclusively for the corporation's purposes set forth in the articles of incorporation. No part of the income or assets of the corporation shall inure to the benefit of any individual or trustee.

7.2 **Dissolution and Liquidation.** If the corporation's purposes fail or if the corporation ceases to be approved as a tax-exempt organization under the federal Internal Revenue Code, and any such defect is not cured, or in the event of voluntary dissolution, then, after paying or providing for all liabilities, the corporation's net assets and accumulated net income shall be distributed as set forth in the articles of incorporation. The corporation shall be dissolved after all its property has been so distributed.

## ARTICLE 8

### AMENDMENTS

A majority of all of the trustees then in office may amend, repeal or add any article or section of these bylaws, except that an amendment to any of the following provisions of the bylaws that would materially impact the rights of the EFCA shall only be effective if it the amendment is (1) first approved by a majority of all of the trustees of the corporation then in office, and (2) subsequently approved by the board of directors of the EFCA:

- (i) Sections 2.1 through 2.3;
- (ii) Section 2.18;
- (iii) Section 3.1;
- (iv) Section 3.5;
- (v) Article 7; and
- (vi) Article 8.

Amendments to the foregoing articles and sections that do not materially impact the rights of the EFCA may be made by a majority of all of the trustees of the corporation then in office without subsequent approval by the board of directors of the EFCA.