

**State of Alabama**  
**Jefferson County**

CERTIFICATE OF \_\_\_\_\_ INCORPORATION \_\_\_\_\_

OF

\_\_\_\_\_ PEDIATRIC HEART TRANSPLANT STUDY FOUNDATION \_\_\_\_\_

The undersigned, as Judge of Probate of Jefferson County, State of Alabama, hereby certifies that \_\_\_\_\_ Articles of

\_\_\_\_\_ INCORPORATION \_\_\_\_\_

duly signed and verified pursuant to the provisions of Alabama \_\_\_\_\_ NONPROFIT \_\_\_\_\_ Corporation Act, have been received in this office and are found to conform to law.

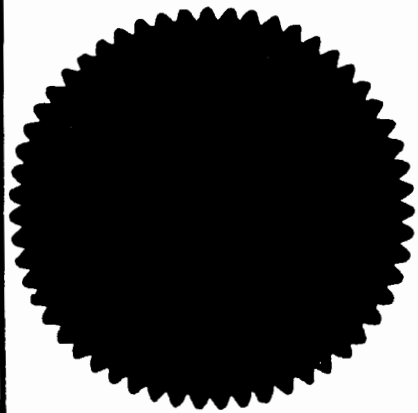
Accordingly the undersigned, as such Judge of Probate, and by virtue of the authority vested in him by law, hereby, issues this Certificate of \_\_\_\_\_ INCORPORATION \_\_\_\_\_

of \_\_\_\_\_ PEDIATRIC HEART TRANSPLANT STUDY FOUNDATION \_\_\_\_\_

and attaches hereto a copy of the \_\_\_\_\_ Articles of

\_\_\_\_\_ INCORPORATION \_\_\_\_\_

Given Under My Hand and Official Seal on this the \_\_\_\_\_ 22ND \_\_\_\_\_ day of \_\_\_\_\_ JULY \_\_\_\_\_, 2010 .



*Alan L. King*  
\_\_\_\_\_  
Judge of Probate



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Bk: LR201006 Pg: 7373  
Jefferson County, Alabama  
I certify this instrument filed on:  
07/22/2010 03:22:39 PM NPINC  
Judge of Probate- Alan L. King

**ARTICLES OF INCORPORATION  
OF  
PEDIATRIC HEART TRANSPLANT STUDY FOUNDATION**

For the purpose of forming a nonprofit corporation under the Alabama Nonprofit corporation Act, § 10-3A-1 et seq., Code of Alabama (1975), and any act amendatory thereof, supplementary thereto or substituted therefor (hereinafter referred to as the "Act"), the undersigned incorporator does hereby sign, verify and adopt these Articles of Incorporation, and, upon the filing for record of these Articles of Incorporation in the Office of the Judge of Probate of Jefferson County, Alabama, the existence of a nonprofit corporation under the name set forth in Article I hereof shall commence.

**ARTICLE I  
NAME**

The name of the corporation is Pediatric Heart Transplant Study Foundation (hereinafter referred to as the "Foundation").

**ARTICLE II  
DURATION**

The Foundation shall have perpetual existence; provided, however, that the Foundation's existence may be terminated pursuant to the provisions of the Act and of these Articles of Incorporation governing the dissolution of the Foundation.

**ARTICLE III  
PURPOSES**

The objects and purposes of the Foundation and the powers which it may exercise are as follows:

(a) The Foundation is organized exclusively for charitable, religious, scientific, literary or educational purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder, as they now exist or as they may hereafter be amended from time to time (the "Code"), and to promote and advance such purposes by any activity in which a corporation organized under the Act may engage, and to receive and maintain a fund or funds of real or personal property, or both, and to administer and apply the income and principal thereof, within the United States of America, for such purposes.

(b) Without in any way limiting the foregoing, the Foundation's primary charitable purpose is to advance the science and treatment of children while listed for a heart transplant and following heart transplantation. In furtherance of such purpose, the Foundation will raise and administer funds to encourage and stimulate basic and clinical research and to promote new therapeutic strategies for enhancing the outcomes and quality of life for children undergoing heart transplantation.

(c) The Foundation shall possess and may exercise all the powers and privileges vested in a nonprofit corporation by the Act or by any other law of the State of Alabama, together with all powers necessary or convenient to the conduct, promotion or attainment of the activities or purposes for which the Foundation is organized; provided, however, that the Foundation's activities shall be subject to any restrictions set forth in these Articles of Incorporation and the Foundation shall not conduct any activities not permitted to be carried on by an organization exempt from federal income tax under § 501(c)(3) of the Code or by an organization, contributions to which are deductible under § 170(c)(2) of the Code.

The foregoing clauses of this Article III shall be construed equally as objects, purposes and powers and the foregoing enumeration of specific objects, purposes or powers shall not be construed or held to limit or restrict in any manner the powers of the Foundation expressly conferred by law, except as expressly stated herein.

#### **ARTICLE IV MEMBERS**

The Foundation shall have no members or shareholders and shall not issue any shares of stock or certificates or any evidence of membership.

#### **ARTICLE V REGISTERED OFFICE**

The location and mailing address of the initial registered office of the Foundation shall be Bradley Arant Boult Cummings LLP, 1819 Fifth Avenue North, Birmingham, Alabama 35203, Attention: K. Wood Herren. The name of the initial registered agent of the Foundation at such address is K. Wood Herren.

#### **ARTICLE VI PROHIBITED ACTIVITIES**

Notwithstanding any other provision of these Articles of Incorporation, no part of the earnings of the Foundation shall inure to the benefit of, or be distributable to, any director or officer of the Foundation, or to any private person (except that reasonable compensation may be paid for services rendered to or for the benefit of the Foundation in furtherance of one or more of its charitable purposes), and no director or officer of the Foundation, or any private person, shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Foundation. No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Foundation shall not participate in, or intervene in (including the publishing 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 of Incorporation, the Foundation shall not conduct or carry on any activities not permitted to be carried on by an organization exempt from Federal income tax under § 501(c)(3) of the Code or by an organization, contributions to which are deductible under § 170(c)(2) of the Code.

**ARTICLE VII  
BOARD OF DIRECTORS**

(a) The number of directors constituting the initial board of directors of the Foundation shall be eight (8). The names and addresses of the persons who are to serve as directors until the first annual meeting of the directors or until their successors are elected and qualify are as follows:

<u>Name</u>	<u>Address</u>
Elizabeth Blume	Children's Hospital Department of Cardiology 300 Longwood Avenue Boston, Massachusetts 02115
Anne I. Dipchand	Hospital for Sick Children 555 University Avenue Toronto, Ontario, Canada M5G1X8
Richard Kirk	Freeman Hospital High Heaton Newcastle upon Tyne, UK NE7 D7N
Jim Kirklin	University of Alabama at Birmingham Cardiothoracic Surgery, THT 760 1900 University Boulevard Birmingham, Alabama 35294-0006
William Mahle	Children's Healthcare of Atlanta at Egleston Sibley Heart Center Cardiology The McGill Building 2835 Brandywine Road, Suite 300 Atlanta, Georgia 30341
Shelley Miyamoto	The Children's Hospital of Denver 13123 East 16 <sup>th</sup> Avenue, Box 100 Aurora, Colorado 80045
David Naftel	University of Alabama at Birmingham LHRB 790 701 19 <sup>th</sup> Street South Birmingham, Alabama 35294-0007
Connie White-Williams	University of Alabama at Birmingham Transplant Operations WP 572 1530 3 <sup>rd</sup> Avenue South Birmingham, Alabama 35294-6564

(b) The number of directors constituting the board of directors of the Foundation thereafter shall be that number set forth in the bylaws of the Foundation. The manner of electing directors, filling vacancies created by the resignation or removal of directors, and increasing or decreasing the number of directors constituting the board of directors is set forth in the bylaws of the Foundation. A director may be removed from office, with or without cause, by the vote of two-thirds the number of directors constituting the board of directors at the time of such vote.

### **ARTICLE VIII INCORPORATOR**

The name and address of the sole incorporator of the Foundation is Chris Meeks, University of Alabama at Birmingham, UAHSF Department of Surgery, 500 22<sup>nd</sup> Street South, Suite 103, Birmingham, Alabama 35233.

### **ARTICLE IX BYLAWS**

The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors of the Foundation.

### **ARTICLE X INDEMNIFICATION OF DIRECTORS AND OFFICERS**

In amplification and not in limitation of the provisions of applicable law:

(a) Pursuant to § 10-11-1 et seq. and § 6-5-336 of the Code of Alabama (1975), as amended, all non-compensated directors, officers and other volunteers of the Foundation shall be immune from suit and shall not be subject to civil liability arising from the conduct of the affairs of the Foundation except when the act or omission of such person that gives rise to the cause of action amounts to willful or wanton misconduct or fraud or gross negligence.

(b) The Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Foundation), by reason of the fact that he or she is or was a director or officer of the Foundation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such claim, action, suit or proceeding, unless he or she acted intentionally or willfully against the best interests of the Foundation. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person acted intentionally or willfully in a manner that was opposed to the best interests of the Foundation.

(c) The Foundation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Foundation to procure a judgment in its favor by reason of the fact that he or she is or was a director or officer of the Foundation against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Foundation, and except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for intentional or willful misconduct in the performance of his or her duty to the Foundation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(d) Any indemnification under paragraphs (b) and (c) above (unless ordered by a court) shall be made by the Foundation only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because he or she has met the applicable standard of conduct set forth in paragraphs (b) and (c) above. Such determination shall be made (i) by the board of directors of the Foundation by a majority vote of the directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (ii) if a majority of disinterested directors so directs, by independent legal counsel.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Foundation in advance of the final disposition of such claim, action, suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if and to the extent that it shall ultimately be determined that he or she is not entitled to be indemnified by the Foundation as authorized in this Article X. Such undertaking shall be an unlimited, unsecured general obligation of the officer of the Foundation and shall be accepted without reference to his or her ability to make repayment.

(f) The indemnification authorized by this Article X shall not be deemed exclusive of and shall be in addition to any other rights to which those indemnified may be entitled under any statute, rule of law, provision of articles or certificate of incorporation, bylaws, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person. No amendment, modification, or repeal of this Article X shall diminish the right to indemnification with respect to any claim, cause, or matter in any then pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification or repeal.

(g) The Foundation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Foundation, against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Foundation would have the power to indemnify him or her against such liability under the provisions of this Article X.

(h) There shall be no personal or individual liability of any director or officer for any debts, liabilities or obligations of the Foundation of any kind whatsoever.

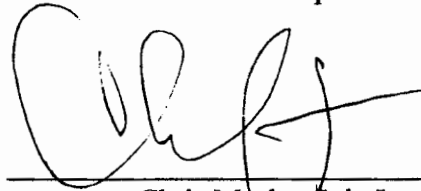
## ARTICLE XI DISSOLUTION

Upon the dissolution of the Foundation and the winding up of its affairs, the assets of the Foundation remaining after payment of all costs and expenses of such dissolution shall be distributed as determined by the board of directors of the Foundation to one or more charitable healthcare organizations, academic medical centers, or medical research institutions exempt from federal income tax under § 501(c)(3) of the Code to be used for purposes that are substantially the same as the purposes of the Foundation described in Article III of these Articles of Incorporation. No assets of the Foundation shall be distributed to any officer or director of the Foundation or to any private individual.

## ARTICLE XII AMENDMENTS

These Articles of Incorporation may be amended from time to time in accordance with the terms and provisions of the Act; provided, however, that no such amendment shall be made which would in any way result in the operation of the Foundation for the private advantage or pecuniary profit of any director or officer thereof or permit the operation of the Foundation for any purpose other than the charitable purposes enumerated in § 501(c)(3) of the Code.

**IN WITNESS WHEREOF**, the undersigned, acting as the sole incorporator of Pediatric Heart Transplant Study Foundation, executes these Articles of Incorporation on this 21<sup>st</sup> day of July, 2010.



Chris Meeks, Sole Incorporator

This instrument prepared by  
K. Wood Herren, Esq.  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
(205) 521-8000

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Jefferson County, Alabama  
07/22/2010 03:22:39 PM NPINC  
Fee - \$26.00

Total of Fees and Taxes-\$26.00  
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