

**CERTIFICATE OF INCORPORATION
OF
MIDWEST HOLY CROSS ASSOCIATES, INC.**

**UNDER SECTION 402 OF THE
NOT-FOR-PROFIT CORPORATION LAW**

We, the undersigned, for the purposes of forming a Corporation pursuant to the Not-For-Profit Corporation Law, hereby certify:

FIRST: The name of the Corporation is: **MIDWEST HOLY CROSS ASSOCIATES, INC.**

SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law.

THIRD: The Corporation is organized, and at all times shall be operated, exclusively for charitable and religious purposes. Consistent with the foregoing, the purpose of the corporation shall be to:

- (a) foster spiritual growth by participating in the building of community in the traditions and charism of Holy Cross;
- (b) offer and seek support in ministering to the people of God;
- (c) promote the physical and spiritual needs of those in need through individual and community activities; and
- (d) do any other act or thing incidental to or connected with the foregoing purposes or in the advancement thereof, but not for the pecuniary, profit or financial gain of its members, directors, officers or any private person.

FOURTH: The following provisions are inserted for the regulation and conduct of the affairs of the Corporation:

To have and exercise any and all powers, rights and privileges which a corporation organized under the Not-For-Profit Corporation law of the State of New York may now or hereafter have or exercise by law; provided, however, that:

(A) No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation) and no member, trustee, officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

(B) No substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation; nor shall it in any manner participate or intervene (including the publication or distribution of statements) in any political campaign on behalf of any candidate for public office.

(C) Notwithstanding any other provision of this Certificate, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under the Code and by an organization, contributions to which are deductible under the Code.

(D) No compensation or payment shall ever be paid or made to any officer, director, trustee, or employee of the Corporation except as a reasonable allowance for actual expenditures or services made or rendered to or for the Corporation. None of the income, property, or assets of the Corporation shall ever be distributed to or divided among any such persons nor ever be used for or inure to the benefit of any member or private individual as prescribed by Section 501 (c)(3) of the Code.

(E) Notwithstanding any other provision of this certificate, if at any time or times the Corporation is a private foundation within the meaning of Section 509 of the Code, then during such time or times:

(1) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the corporation to tax under Section 4942 of the Code;

(2) The Corporation shall not engage in any act of self-dealing, as defined in Section 4941 (d) of the Code;

(3) The Corporation shall not retain any excess business holdings, as defined in Section 4943 (c) of the Code;

(4) The Corporation shall not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code;

(5) The Corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Code.

(F) Any references herein to any provision of the Internal Revenue Code of 1986 shall be deemed to mean such provision as now or hereafter existing, amended, or superseded, as the case may be.

FIFTH: The management of the affairs of the Corporation shall be vested in the board of directors except as otherwise provided in the Certificate or in the by-laws of the corporation. The names and addresses of the initial corporate members until the first meeting are:

Brother Chester Freel, C.S.C.
54515 State Road 933 North
Notre Dame, Indiana 46556

Brother Raymond Papenfuss, C.S.C.
Brothers of Holy Cross
Box 460
Notre Dame, IN 46556

Brother Kenneth Haders, C.S.C.
Bonaventure House
665 Moorfield Road
Fairlawn, OH 44333-4243

SIXTH: The Corporation shall be a Type B corporation under Section 201 of the Not-For-Profit Corporation Law.

SEVENTH: The office of the Corporation is to be located in Columbia County.

EIGHTH: The Secretary of State of New York is designated as the agent of the corporation upon whom process against the Corporation may be served, and the post office address to which the Secretary of State shall mail a copy of any such process served upon him/her is:

Chairperson
Midwest Holy Cross Associates, Inc.
St. Joseph's Spiritual Life Center
495 Maple Lane
Valatie, New York 12184

NINTH: In addition to all other rights and powers of membership prescribed by New York law, this Certificate and/or the by-laws of the Corporation, the Corporation hereby reserves to the corporate members of the corporation the following powers:

- (a) To approve and interpret the Corporation's purposes and the statement of philosophy and mission established by the Corporation and to require that the Corporation operates in conformance with the Corporation's philosophy, mission and purposes;
- (b) To approve and amend the Certificate of Incorporation and by-laws of the Corporation;
- (c) To approve any plan of merger, consolidation, or reorganization of the Corporation;
- (d) To approve any plan of dissolution of the Corporation and the distribution of the assets of the Corporation upon dissolution;
- (e) To approve the establishment, merger, consolidation, reorganization, or dissolution of any organizational relationship of the corporation, including subsidiary corporations, partnerships, joint ventures, and like relationships;
- (f) To appoint and remove, with or without cause, the directors of the corporation;
- (g) To approve any debt of the Corporation in excess of an amount to be fixed from time to time by the members, except for any debt necessary to finance the cost of compliance with operational or physical plant standards required by applicable law;
- (h) To approve the capital and operating budgets of the Corporation to ensure that such budgets conform to the philosophy, mission and purposes of the Corporation;
- (i) To ratify the strategic plan of the Corporation, provided that such right of ratification shall not permit the members to exercise any of the governance authority which under applicable law would require approval from any agency or department of New York State;

- (j) To approve the sale, acquisition, lease, transfer, mortgage, pledge or other alienation of real or personal property of the Corporation in excess of an amount to be fixed from time to time by the members;
- (k) To ratify settlements of litigation when such settlements exceed applicable insurance coverage or the amount of any applicable self-insurance fund;
- (l) To approve the appointment of an Executive Director, and after consultation with the Board of Directors to terminate the employment of the Executive Director, with or without cause; and
- (m) To approve the appointment of the Board Chairperson and remove the Chairperson, with or without cause.

The foregoing reserved powers shall be exercised by unanimous action of the members. For these purposes, the power to approve includes the power to initiate action without a prior recommendation from another body or entity and the power to reject a recommended action and return the matter to the recommending body or entity with reasons for the rejection and/or suggested changes. The power to ratify means that action approved by another body or entity shall be accepted or rejected without implementing an alternative.

TENTH: In the event of dissolution, all of the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to the Congregation of Holy Cross, Midwest Province of Brothers, an Indiana nonprofit corporation, which shall continue the general religious and charitable purposes of the corporation, or its successor which would qualify as an organization described in Internal Revenue Code Section 501 (c)(3) at that time. In no event shall any of such assets or property be distributed to any director, officer or any private individual for other than a charitable purpose.

IN WITNESS WHEREOF, the undersigned incorporator, being at least nineteen years of age, has signed this Certificate of Incorporation this 15th day of June 2012, and hereby affirms the truth of the statements contained herein under penalty of perjury.

Incorporator:



Michael L. Costello
33 Elk Street
Albany, New York 12207

Midwest Holy Cross Associates, Inc.

EIN # 46-1567341

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OF
MIDWEST HOLY CROSS ASSOCIATES, INC.**

Under Section 402 of the New York Not-For-Profit Corporation Law

Filed by:

(Name)

Tobin and Dempf, LLP
(Michael L. Costello)

(Mailing Address)

33 Elk Street

(City, State and Zip code)

Albany, New York 12207
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