

**REVISED AND RESTATED  
DECLARATION OF TRUST  
ESTABLISHING THE  
OHIO LEGAL ASSISTANCE FOUNDATION  
AS AMENDED FEBRUARY 24, 2000**

## **ARTICLE I**

### **The Foundation**

This Revised and Restated Declaration of Trust Establishing the Ohio Legal Assistance Foundation (“Foundation”), made this 30<sup>th</sup> day of July, 1993 (“Trust Agreement”), hereby continues the foundation formerly known as the Ohio Legal Aid Societies Assistance Charitable Foundation. The Foundation originally was established by Declaration of Trust dated November 20, 1989, which Declaration is hereby superseded in full by this Trust agreement.

## **ARTICLE II**

### **Creation Pursuant to Ohio Statute**

Pursuant to Section 120.52 of the Ohio Revised Code (“R.C.”), the Ohio Public Defender (“Public Defender”) is directed to establish the Foundation for the purposes set forth herein.

## **ARTICLE III**

### **Purposes and Activities of the Foundation**

Section 1. The Foundation is created and shall be administered and operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provisions of any future United States Internal Revenue Law) (“Code”), including:

(a) To develop financial support and to actively solicit and accept gifts, bequests, donations and contributions for use in providing financial assistance to legal aid societies in Ohio, as set forth in R.C. Section 120.52;

(b) To administer the payment of moneys from the Ohio legal aid fund to nonprofit legal aid societies in accordance with the provisions of R.C. 120.51 through 120.55;

(c) To make an annual report, including an audited financial statement, to the Governor of the State of Ohio (“Governor”), the Public Defender, The Ohio General Assembly (“General Assembly”) and the Supreme Court of Ohio (“Supreme Court”) with respect to the distribution and use of moneys from the legal aid fund, pursuant to R.C. Section 120.53(G)(2);  
and

(d) To improve and facilitate equal access to justice for low income persons in Ohio.

Section 2. No part of the net earnings of the Foundation shall inure to the benefit of, or be distributable to, the members or officers of the Board of Trustees of the Foundation (“Board”), or to other private persons or organizations, except that the Foundation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except to the extent provided in Code Section 501(h)), 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 provision of this Trust Agreement, the Foundation shall not carry on any activities that are not permitted to be carried on: (a) by an organization exempt from federal income tax under Section 501(c)(3) of the Code; (b) by an organization, contributions to which are deductible under Sections 170(c), 2055(a) and 2522(a) of the Code; or (c) by an

organization that is not a private foundation under Section 509(a) of the Code.

Section 3. The Foundation shall continue forever unless terminated by the General Assembly. Upon such termination, after paying or making provision for the payment of all liabilities of the Foundation, the Foundation's assets shall be distributed by the Board for one or more exempt purposes within the meaning of Section 501(c)(3) of the Code, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

#### **ARTICLE IV**

##### **Board of Trustees**

Section 1. The property and affairs of the Foundation shall be managed and controlled by the Board and such officers and agents as the Board shall from time to time duly elect and/or appoint.

Section 2. The Board shall consist of at least twenty-seven (27) and not more than thirty-five (35) members who have demonstrated interest in and knowledge of the purposes of the Foundation.<sup>1</sup> In the course of appointing and/or electing all Board members, an effort shall be made to maintain a Board that is representative of the State of Ohio and its low income citizens, taking into consideration such factors as a candidate's involvement or association with organizations and programs dedicated to the needs of low income persons, the overall diversity of the Board and the Board's geographical representation within the State of Ohio.

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<sup>1</sup>Foundation Board voted May 13, 1999 to increase the Board size from 30 to 35 members.

Section 3. (a) The initial Board shall be appointed by the Public Defender in his capacity as the sole trustee of the Foundation under the original Declaration of Trust executed on November 20, 1989. In making these initial appointments, the Public Defender shall consult with the Chief Justice of the Supreme Court (“Chief Justice”), the Governor, the Attorney General of the State of Ohio (“Attorney General”), the Treasurer of the State of Ohio (“Ohio Treasurer”) the Speaker of the House of the General Assembly (“Speaker of the House”), the President of the Senate of the General Assembly (“President of the Senate”) the Ohio State Bar Association and the Metropolitan Bar Leaders’ Conference.

(b) In making appointments to the initial Board, the Public Defender shall designate with respect to each appointee: (i) the term to be served by the appointee (in accordance with Article IV, Section 5 of this Trust Agreement); (ii) the status of the appointee (in accordance with Article IV, Section 4 of this Trust Agreement); and (iii) the individual or entity that will select all future successors to the appointee’s position (in accordance with Article IV Section 3(c) of this Trust Agreement).

(c) Thereafter, members of the Board shall be appointed/elected in the following manner: the Governor, the Attorney General, the Ohio Treasurer, the Public Defender, the Speaker of the House and the President of the Senate shall each appoint one (1) member; the Chief Justice, in consultation with the Ohio State Bar Association and the Metropolitan Bar Leaders’ Conference, shall appoint six (6) members; and the remaining members shall be nominated by existing Board members and elected at a duly called meeting of the Board.

Section 4. The Board shall be composed of at least sixty (60) percent lawyers who are licensed to practice law in Ohio. In addition, at least twenty (20) percent of the Board shall be

composed of individuals who are involved in or associated with statewide organizations and programs that are dedicated to the needs of low income persons.

Section 5. The term of office for each member of the Board shall be three (3) years. However, the initial Board shall have members appointed with terms of one (1), two (2) and three (3) years, in equal numbers, so that one-third (1/3) of the Board members' terms will expire each year.

Section 6. Board members may succeed themselves. ~~; provided, however, that no Board member shall serve more than two (2) consecutive full terms of three (3) years each.~~ [Deleted per board amendment 2/24/00.] Section 7. Any member of the Board may resign by tendering a written resignation to the Board.

Section 8. Any member of the Board may be removed by a majority vote of the members present at a duly called Board meeting if that member had missed three (3) consecutive regular meetings of the Board. However, no member shall be removed from the Board under this Section unless he or she has been notified after missing the second consecutive regular meeting that removal action might be taken following the member's absence from the third consecutive regular meeting.

Section 9. In the event of a vacancy on the Board, the remaining members of the Board may, at their option, fill a vacant and unexpired term by a majority vote of such remaining members present at a duly called Board meeting; provided, however, that any such action of the Board shall remain consistent with the other provisions of this Trust Agreement.

Section 10. No member of the Board shall receive compensation for services rendered; provided, however, that reimbursement for reasonable expenses may be made in accordance with

policies established by the Board.

Section 11. Each member of the Board shall have one (1) vote. A simple majority of those present and voting at any duly called meeting of the Board shall decide all matters other than amendments to this Trust Agreement. Members may not vote by proxy.

## ARTICLE V

### Meetings of the Board

Section 1. There shall be a minimum of four (4) regular meetings of the Board each year. Additional meetings may be held at the discretion of the Board. Notice of the place, date and time of all meetings must be made by mail or telephone to each Board member at least three (3) days in advance of said meeting, informing each member of the purpose of the meeting. The giving of notice shall be deemed to be waived by any member of the Board who attends and participates in a meeting, other than to protest the lack of proper notice, and may be waived, in writing, by any Member of the Board either before, during or after such meeting.

Section 2. A quorum shall consist of one-third (1/3) of the total members then serving on the Board.

Section 3. Any action which might be taken at any meeting of the Board may be taken without such meeting by a writing or writings signed by all of the members of the Board. The writing or writings evidencing such action taken without a meeting shall be filed with the Secretary of the Board for insertion in the permanent records relating to the meetings of the Board.

## ARTICLE VI

### Officers of the Board

Section 1. The officers of the Board shall consist of a President, Vice President, Secretary and Treasurer. The officers shall be elected by the Board and shall hold their office for a term of one (1) year or until resignation.

Section 2. The President shall act as the chair of all meetings and may designate any member of the Board to chair any meeting which the President is unable to attend. The President may call special meetings of the Board and shall make all appointments to any committees of the Board.

Section 3. The Vice President shall collaborate with and assist the President, as necessary, to ensure that the Board and its committees carry out all necessary tasks. In the absence or disability of the President, the Vice President shall carry out all duties and responsibilities of the President and/or such duties and responsibilities as are authorized by the Board.

Section 4. The Secretary shall keep the minutes of the proceedings of the Board, shall be the custodian of all books and records of the Board and shall perform such other duties as the Board from time to time may direct.

Section 5. The Treasurer shall be the chief financial officer of the Board, shall maintain an accurate account of all moneys received and distributed by the Foundation and shall perform such other duties that the Board from time to time may direct. The financial affairs of the Foundation shall be monitored periodically by a finance committee of the Board.

**ARTICLE VII**

**Executive Director**

The day-to-day affairs and operations of the Foundation shall be managed by an Executive Director hired by the Board.

**ARTICLE VIII**

**Amendments**

This Trust Agreement may be amended by a two-thirds (2/3) vote of the Board members present and voting at any duly called meeting of the Board, provided that a written notice stating that an amendment will be considered and describing the general nature of such amendment has been mailed to all of the members at least two (2) weeks prior to such meeting. However, in no event shall less than one-half (1/2) of the sitting Board members be authorized to amend the provisions of this Trust Agreement.

**ARTICLE IX**

**Nondiscrimination**

The Foundation shall not discriminate on the basis of race, gender, national origin, sexual preference, disability or any other basis prohibited by law in connection with any matter pertaining to the affairs of the Foundation, including the appointment/election of the officers and members of the Board or in the employment of the staff of the Foundation.

**ARTICLE X**

## Indemnification and Insurance

Section 1. The Foundation shall indemnify each Board member and officer, as well as each former Board member and former officer, (which Board members and officers shall hereinafter referred to as the "Indemnatee") to the greatest extent permitted by Ohio law, with respect to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, to which the Indemnatee is or was a party by reason of the fact that the Indemnatee is or was a Board member or officer of the Foundation.

Indemnification hereunder shall include all expenses, including attorney's fees, judgments, fines and amounts paid in settlement if actually and reasonably incurred by the Indemnatee in connection with such action, suit or proceeding. Such expenses shall be paid by the Foundation in advance of the final disposition of such action, suit or proceeding, promptly as they are incurred, but only upon receipt of a written agreement signed by or on behalf of the Indemnatee to repay such amounts if it ultimately is determined that the Indemnatee is not entitled to be indemnified by the Foundation.

In addition, the Foundation may indemnify or agree to indemnify any person who is or was a party to, or who is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was an employee, agent or volunteer of the Foundation; subject, however, to the limitations imposed by Ohio law.

The indemnification provided by this Section is not exclusive of, and shall be in addition to, any other rights to which the Indemnatee may be entitled. Such indemnification shall continue as to persons who have ceased to be Board members, officers, employees, agents or

volunteers, and shall inure to the benefit of the heirs, executors and administrators of such persons.

Section 2. The Foundation may purchase and maintain insurance or furnish similar protection, including but not limited to trust funds, letters of credit or self-insurance, on behalf of any person who is or was a Board member, officer or employee, agent or volunteer 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 obligation or the power to indemnify him or her against such liability under the provisions of Section 1 above and Ohio law.

## **ARTICLE XI**

### **Trust Agreement Governed by Ohio Law**

The provisions of this Trust Agreement shall be governed by Ohio law.

IN WITNESS WHEREOF, the undersigned has executed this Revised and Restated Declaration of Trust Establishing the Ohio Legal Assistance Foundation as of the date first written above.

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James Kura, Ohio Public Defender  
Grantor and Trustee