



ARTICLES OF INCORPORATION OF EBSCO TORNADO VICTIM HELP FUND

For the purpose of forming a nonprofit corporation under the Alabama Business and Nonprofit Entities Code (§ 10A-1-1.01 *et seq.*, Code of Alabama (1975)) and the Alabama Nonprofit Corporation Law (§ 10A-3-1.01 *et seq.*, Code of Alabama (1975)), and any acts or laws amendatory thereof, supplementary thereto or substituted therefor (collectively hereinafter referred to as the "Nonprofit Corporation Law"), the undersigned organizer does hereby adopt, execute and verify these Articles of Incorporation, and, upon the filing for record of these Articles of Incorporation in the Office of the Judge of Probate of Shelby 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 filing entity being formed is EBSCO Tornado Victim Help Fund, hereinafter referred to as the "Corporation."

ARTICLE II TYPE OF FILING ENTITY

The type of filing entity being formed is a nonprofit corporation within the meaning of Section 10A-3-1.02(6) of the Alabama Nonprofit Corporation Law.

ARTICLE III PURPOSES

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

(a) The Corporation is organized and shall be operated exclusively for charitable, religious, scientific, literary or educational purposes (or any combination thereof) within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 and the Regulations promulgated thereunder (the "Code"), and to promote and advance such purposes by any activity in which a corporation organized under the Nonprofit Corporation Law may engage.

(b) Without limiting the foregoing statement of charitable purposes, the Corporation is organized to (i) provide disaster relief assistance to employees of EBSCO Industries, Inc. and its affiliated companies (collectively, "EBSCO") who have been affected by natural disasters and other catastrophic events, and (ii) to provide financial and other forms of assistance to EBSCO employees who are experiencing severe personal or family hardships.



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Shelby Cnty Judge of Probate, AL
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(c) In furtherance of the charitable purposes described in paragraph (b) above, the Corporation, by resolution of its board of directors, will establish a committee to determine the recipients of assistance from the Corporation in cases of natural disasters or other catastrophic events or severe personal or family hardships. A majority of the members of the committee shall be EBSCO employees who are not in a position to exercise substantial influence over the general management and control of the business and affairs of, and do not have a significant financial interest in, EBSCO. The committee will develop objective criteria and procedures to be followed by it for purposes of determining whether an EBSCO employee requesting disaster relief or hardship assistance from the Corporation has demonstrated a qualifying need for such assistance. The committee will also develop an application that will be available to EBSCO employees who wish to request disaster relief or hardship assistance from the Corporation. The application will solicit such information as may be required by the committee to make an informed, objective determination whether an applicant satisfies the criteria to receive financial or other assistance from the Corporation. All decisions regarding the payment of financial or other assistance to an EBSCO employee shall be within the sole and absolute discretion of the committee. The Corporation, with assistance from the committee, will maintain complete and accurate records documenting the information received from EBSCO employees applying for assistance from the Corporation, the amount and any terms of such assistance, and any other relevant information pertaining to such assistance.

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

(e) 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 Corporation expressly conferred by law, except as expressly stated herein.

ARTICLE IV MEMBERS

The Corporation 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 street address of the initial registered office of the Corporation is 5724 Highway 280 East, Birmingham, Alabama 35242. The name of the initial registered agent of the Corporation at such address is J. David Walker.

ARTICLE VI PROHIBITED ACTIVITIES

Notwithstanding any other provision of these Articles of Incorporation, no part of the earnings of the Corporation shall inure to the benefit of any director, officer or other person holding a position of influence with the Corporation, or to any private individual (except that reasonable compensation may be paid for services rendered to or for the benefit of the Corporation in connection with the accomplishment of one or more of its stated charitable purposes), and no director or 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. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation 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.

ARTICLE VII BOARD OF DIRECTORS

(a) The number of directors constituting the initial board of directors of the Corporation shall be three (3). The number of directors constituting the board of directors of the Corporation thereafter shall be that number set forth in the bylaws of the Corporation. 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>Director</u>	<u>Address</u>
F. Dixon Brooke, Jr.	5724 Highway 280 East Birmingham, Alabama 35242
J. T. Stephens	5724 Highway 280 East Birmingham, Alabama 35242
Dell S. Brooke	5724 Highway 280 East Birmingham, Alabama 35242

(b) 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 Corporation. A director may be removed from office at any time, with or without cause, by a majority of the directors.

ARTICLE VIII PRIVATE FOUNDATION RULES

In the event the Corporation should be classified as a private foundation under Section 509(a) of the Code, the objects and powers of the Corporation enumerated in Article III hereof shall be exercised subject to and consistently with the following affirmative duties:

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

(b) The Corporation shall distribute its income for each taxable year at such time and in such manner as may be required so as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code.

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

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

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

ARTICLE IX ORGANIZER

The name and address of the sole organizer of the Corporation is J. David Walker, 5724 Highway 280 East, Birmingham, Alabama 35242.

ARTICLE X BYLAWS

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

ARTICLE XI AMENDMENTS

These Articles of Incorporation may be amended from time to time in accordance with the terms and provisions of the Nonprofit Corporation Law and subject to the specific requirements set forth in Article IV for the amendment thereof. No such amendment shall be made which would in any way result in the operation of the Corporation for the private advantage or pecuniary profit of any director or officer thereof or permit the operation of the Corporation for any purpose other than charitable, religious, scientific, literary or educational purposes.

ARTICLE XII DISSOLUTION

Upon the dissolution of the Corporation and the winding up of its affairs, the assets of the Corporation remaining after payment of all costs and expenses of such dissolution shall be distributed to one or more other organizations described in Section 501(c)(3) of the Code and recognized as other than a private foundation under Section 509(a)(1) or (2) of the Code. The identity of such organization or organizations shall be determined by the board of directors of the Corporation. No assets of the Corporation shall be distributed to any officer or director of the Corporation or to any private individual.

XIII 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 Corporation shall be immune from suit and shall not be subject to civil liability arising from the conduct of the affairs of the Corporation 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 Corporation 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 Corporation), by reason of the fact that he or she is or was a director or officer of the Corporation, 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 Corporation. 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 Corporation.



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(c) The Corporation 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 Corporation 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 Corporation 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 Corporation, 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 Corporation 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 Corporation 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 Corporation 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 Corporation 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 Corporation as authorized in this Article XIII. Such undertaking shall be an unlimited, unsecured general obligation of the officer of the Corporation and shall be accepted without reference to his or her ability to make repayment.

(f) The indemnification authorized by this Article XIII 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 XIII 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.



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(g) The Corporation 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 Corporation, 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 Corporation would have the power to indemnify him or her against such liability under the provisions of this Article XIII.

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

IN WITNESS WHEREOF, the undersigned, acting as the sole organizer of EBSCO Tornado Victim Help Fund, has executed and filed these Articles of Incorporation on this 20th day of May, 2011.



J. David Walker, Organizer

This instrument prepared by:

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

Beth Chapman
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, Beth Chapman, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

Pursuant to the provisions of Title 10A, Chapter 1, Article 5, **Code of Alabama 1975**, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

EBSCO Tornado Victim Help Fund

This domestic non-profit corporation name is proposed to be formed in Shelby County and is for the exclusive use of DAVID WALKER, 5724 HIGHWAY 280 EAST, BIRMINGHAM, AL 35242 for a period of one hundred twenty days beginning May 5, 2011 and expiring September 3, 2011

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

Date **May 9, 2011**

Beth Chapman

Beth Chapman **Secretary of State**



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