

BYLAWS
OF
OPEN SPOON FOUNDATION, INC.

Dated: July 22, 2011

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OPEN SPOON FOUNDATION, INC.

B Y L A W S

ARTICLE I

Offices

Section 1.1 Principal Office. The principal office of the Corporation shall be in the State of Texas.

Section 1.2 Registered Office. The registered office of the Corporation required by the Texas Business Organizations Code to be maintained in the State of Texas may be, but need not be, identical with the principal office, and the address of the registered office may be changed from time to time by the Board of Directors of the Corporation (the “Board” and each member of such Board, a “Director”).

Section 1.3 Other Offices. The Corporation may also have offices at such other places both within and without the State of Texas as the Board may from time to time determine or the business of the Corporation may require.

ARTICLE II

Members

Section 2.1 Members. The Corporation has no members as such. The persons from time to time constituting the Board of the Corporation are, for the purpose of any statutory provision or rule of law relating to non-profit corporations, the members of the Corporation and shall exercise all the rights and powers of members thereof.

ARTICLE III

Directors

Section 3.1 Number and Qualification. The property, business and affairs of the Corporation shall be managed and controlled by a Board composed of not less than three (3) Directors nor more than eleven (11) Directors. Directors need not be residents of the State of Texas. The initial Board of Directors shall be five (5). The number of Directors may be increased or decreased by resolution adopted by a majority of the Board. No decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director.

Section 3.2 Election and Term of Office. The Board named in the Certificate of Formation of the Corporation (the "Certificate of Formation") shall hold office until their respective successors are elected at an appropriate regular or special meeting of the Board.

Section 3.3 Resignation. Any Director may resign at any time by giving written notice to the Executive Director or Secretary. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.4 Removal. Any Director or Directors may be removed, either with or without cause, and another person or persons may be elected to serve for the remainder of his or her or their term by a vote of two-thirds (2/3) of the Board. Removal of a Director may be accomplished at any regular meeting or any special meeting of the Board called expressly for that purpose. At such a meeting, all Directors shall be eligible to vote on the issue of removal, regardless of whether such Director is himself the subject of the removal action.

Section 3.5 Vacancies. Any vacancy occurring in the Board because of the death or disability of a Director, shall be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board; *provided, however*, any such

Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting or at a special meeting of the Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

Section 3.6 General Powers. In addition to the powers and authorities expressly conferred upon them by these Bylaws, the Board may exercise all such powers of the Corporation and do all such lawful acts and things as are not prohibited by law or by the Certificate of Formation or by these Bylaws.

Section 3.7 Compensation. Directors as such shall not receive any stated salary for their services, but by resolution of the Board, a fixed sum for expenses of attendance, if any, may be allowed for attendance at any regular or special meeting of the Board provided that nothing contained herein shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE IV

Meetings of the Board

Section 4.1 Place of Meetings. The Directors of the Corporation may hold their meetings, both regular and special, either within or without the State of Texas.

Section 4.2 Regular Meetings. Regular meetings of the Board may be held without notice at such time and place as shall from time to time be determined by the Board.

Section 4.3 Special Meetings. Special meetings of the Board may be called by the Executive Director on three (3) days' notice to each Director given either personally, by mail, by facsimile or by e-mail. Special meetings shall be called by the Executive Director or Secretary in like manner and like notice on the written request of any Director. Neither the purpose of nor the business to be transacted at any special meeting of the Board need be specified in the notice or waiver of notice of such meeting. Attendance of a Director at a

meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

Section 4.4 Quorum and Action. At all meetings of the Board the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the Directors at any meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law, the Certificate of Formation or these Bylaws. If a quorum shall not be present at any meeting of Directors, the Directors present may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present.

Section 4.5 Presumption of Assent to Action. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 4.6 Telephone Meetings. Directors may participate in and hold a meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 4.6 shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 4.7 Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board, or any committee thereof, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the members of the Board, or committee, as the case may be, and such consent shall have the same force and effect as a unanimous vote at a meeting.

ARTICLE V

Committees of the Board

Section 5.1 Membership and Authorities. The Board, by resolution adopted by a majority of the full Board, may designate two (2) or more Directors to constitute such committees as the Board may determine, each of which committees to the extent provided in such resolution shall have and may exercise all of the authority of the Board in the business and affairs of the Corporation, except in those cases where the authority of the Board is specifically denied to the committee or committees by applicable law, the Certificate of Formation or these Bylaws. The designation of a committee and the delegation thereto of authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed upon it or him or her by law.

Section 5.2 Minutes. Each committee designated by the Board shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 5.3 Vacancies. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve, any committee.

Section 5.4 Telephone Meetings. Members of any committee designated by the Board may participate in or hold a meeting by use of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 5.4 shall constitute presence in

person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 5.5 Action Without Meeting. Any action required or permitted to be taken at a meeting of any committee designated by the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the members of the committee, and such consent shall have the same force and effect as a unanimous vote at a meeting.

ARTICLE VI

Officers

Section 6.1 Number. The officers of the Corporation shall be an Executive Director, a Secretary and a Treasurer. The Board may also choose a Chairman and one or more Vice Presidents, Assistant Secretaries and/or Assistant Treasurers. One person may hold any two or more of these offices except those of Executive Director and Secretary.

Section 6.2 Election, Term of Office and Qualification. The officers of the Corporation shall be elected by the Board. The Board shall elect an Executive Director, a Secretary and a Treasurer, none of whom need be a member of the Board. Each officer so elected shall hold office until his or her successor shall have been duly chosen and has qualified or until his or her death, resignation or removal in the manner hereinafter provided.

Section 6.3 Subordinate Officers. The Board may appoint such other officers and agents as it shall deem necessary who shall hold their respective offices for such terms, have such authority and perform such duties as the Board may from time to time determine. The Board may delegate to any committee or officer the power to appoint any such subordinate officer or agent.

Section 6.4 Resignation. Any officer may resign at any time by giving written notice thereof to the Board or to the Executive Director or Secretary of the Corporation. Any such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.5 Removal. Any officer elected or appointed by the Board may be removed by the Board at any time with or without cause. Any other officer may be removed at any time with or without cause by the Board or by any committee or superior officer in whom such power of removal may be conferred by the Board.

Section 6.6 Vacancies. A vacancy in any office shall be filled for the unexpired portion of the term by the Board, but in case of a vacancy occurring in an office filled in accordance with the provisions of Section 6.3, such vacancy may be filled by any committee or superior officer upon whom such power may be conferred by the Board.

Section 6.7 The Chairman of the Board. The Chairman of the Board, if one shall be elected, or the Executive Director of the Corporation, shall preside at all meetings of the Directors, shall be an *ex officio* member of all standing committees, shall have general and active management of the business of the Corporation, shall have the general supervision and direction of all other officers of the Corporation with full power to see that their duties are properly performed and shall see that all orders and resolutions of the Board are carried into effect. He or she may sign any deeds, bonds, mortgages, contracts and other documents that the Board has authorized to be executed, except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board or these Bylaws to some other officer or agent of the Corporation. In addition, the Chairman of the

Board shall perform whatever duties and shall exercise all powers that are given to him or her by the Board.

Section 6.8 The Executive Director. If no Chairman of the Board shall be elected, the Executive Director shall be the chief executive officer and president of the Corporation and shall have the powers and duties of the Chairman of the Board as set forth in Section 6.7. In the absence of the Chairman of the Board, the Executive Director shall preside at all meetings of the Directors. He or she may sign any deeds, bonds, mortgages, contracts and other documents that the Board has authorized to be executed, except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board or these Bylaws to some other officer or agent of the Corporation. In addition, the Executive Director shall perform whatever duties and shall exercise all the powers that are given to him or her by the Board or by the Chairman of the Board, if one shall be elected.

Section 6.9 The Vice Presidents. The Vice Presidents shall perform the duties as are given to them by these Bylaws and as may from time to time be assigned to them by the Board or by the Executive Director. At the request of the Executive Director, or in his or her absence or disability, the Vice President designated by the Executive Director (or in the absence of such designation, the senior Vice President) shall perform the duties and exercise the powers of the Executive Director.

Section 6.10 The Secretary. The Secretary, when available, shall attend all meetings of the Board and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the committees when required. He or she shall give, or cause to be given, notice of all annual and special meetings of the Board as

required by law or these Bylaws, be custodian of the corporate records and have general charge of the books and records of the Corporation and shall perform such other duties as may be prescribed by the Board or Executive Director, under whose supervision he or she shall be. He or she may sign, with any other proper officer, certificates, cards or other instruments evidencing membership rights, if any, voting rights, if any, or ownership rights, if any, as may be authorized by the Certificate of Formation and shall keep in safe custody the seal of the Corporation, and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his or her signature or by the signature of the Treasurer or an Assistant Secretary.

Section 6.11 Assistant Secretaries. The Assistant Secretaries shall perform such duties as are given to them by these Bylaws or as may from time to time be assigned to them by the Board or by the Secretary. At the request of the Secretary, or in his or her absence or disability, the Assistant Secretary designated by the Secretary (or in the absence of such designation, the senior Assistant Secretary) shall perform the duties and exercise the powers of the Secretary.

Section 6.12 The Treasurer. The Treasurer shall have the custody and be responsible for all corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all monies and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board. He or she shall disburse the funds of the Corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Executive Director and Directors, at the regular meetings of the Board, or whenever they may

require it, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation.

Section 6.13 Assistant Treasurers. The Assistant Treasurers shall perform such duties as are given to them by these Bylaws or as may from time to time be assigned to them by the Board or by the Treasurer. At the request of the Treasurer, or in his or her absence or disability, the Assistant Treasurer designated by the Treasurer (or in the absence of such designation, the senior Assistant Treasurer) shall perform the duties and exercise the powers of the Treasurer.

Section 6.14 Treasurer's Bond. If required by the Board, the Treasurer and any Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

Section 6.15 Salaries. The salary or other compensation of officers shall be fixed from time to time by the Board. The Board may delegate to any committee or officer the power to fix from time to time the salary or other compensation of officers and agents appointed in accordance with the provisions of Section 6.3 hereof.

ARTICLE VII

Indemnification

Section 7.1 Definitions. In this Article:

(a) “*Indemnitee*” means (i) any present or former Director, advisory director or officer of the Corporation, (ii) any person who while serving in any of the capacities referred to in clause (i) hereof served at the Corporation’s request as a director, officer, partner, venturer,

proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, and (iii) any person nominated or designated by (or pursuant to authority granted by) the Board or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

(b) “*Official Capacity*” means (i) when used with respect to a Director, the office of Director of the Corporation, and (ii) when used with respect to a person other than a Director, the elective or appointive office of the Corporation held by such person or the employment or agency relationship undertaken by such person on behalf of the Corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

(c) “*Proceeding*” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

Section 7.2 Indemnification. The Corporation shall indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding to which he or she was, is or is threatened to be named defendant or respondent, or in which he or she was or is a witness without being named a defendant or respondent, by reason of his or her serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in Section 7.1(a), unless it is ultimately determined that the Indemnitee (a) failed to conduct himself or herself in good faith, (b) did not reasonably believe, in the case of conduct in his or her Official Capacity, that his or her conduct

was in the Corporation's best interests and, in all other cases, that his or her conduct was at least not opposed to the Corporation's best interests, and (c) in the case of any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful; *provided, however*, that in the event that an Indemnitee is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the Indemnitee, the indemnification (i) is limited to reasonable expenses actually incurred by the Indemnitee in connection with the Proceeding and (ii) shall not be made in respect of any Proceeding in which the Indemnitee shall have been found liable for willful or intentional misconduct in the performance of his or her duty to the Corporation. Except as provided in the immediately preceding proviso to the first sentence of this Section 7.2, no indemnification shall be made under this Section 7.2 in respect of any Proceeding in which such Indemnitee shall have been (x) found liable on the basis that personal benefit was improperly received by him or her, whether or not the benefit resulted from an action taken in the Indemnitee's Official Capacity, or (y) found liable to the Corporation. The termination of any Proceeding by judgment, order, settlement or conviction, or on a plea of nolo contendere or its equivalent, is not of itself evidence of conduct by the Indemnitee meeting the requirements set forth in clauses (a), (b) or (c) in the first sentence of this Section 7.2. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee. The indemnification provided herein shall be applicable whether or not negligence or gross negligence of the Indemnitee is alleged or proven.

Section 7.3 Successful Defense. Without limitation of Section 7.2 and in addition to the indemnification provided for in Section 7.2, the Corporation shall indemnify every Indemnitee against reasonable expenses incurred by such person in connection with any Proceeding in which he or she is a witness or a named defendant or respondent because he or she served in any of the capacities referred to in Section 7.1(a), if such person has been wholly successful, on the merits or otherwise, in defense of the Proceeding.

Section 7.4 Advancement of Expenses. Reasonable expenses (including court costs and attorneys' fees) incurred by an Indemnitee who was or is a witness or was, is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Corporation at reasonable intervals in advance of the final disposition of such Proceeding, after receipt by the Corporation of a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Corporation if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Article. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. The provisions of this Article shall not be construed to apply to, or restrict in any way, the payment or reimbursement by the Corporation of expenses incurred by an Indemnitee in connection with his or her appearance as a witness or other participation in a Proceeding at a time when he or she is not named a defendant or respondent in the Proceeding.

Section 7.5 Other Indemnification and Insurance. The indemnification provided by this Article shall (a) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Corporation's Certificate of Formation, any law, agreement or vote of the Directors, or otherwise, or under any

policy or policies of insurance purchased and maintained by the Corporation on behalf of any Indemnitee, both as to action in his or her Official Capacity and as to action in any other capacity, (b) continue as to a person who has ceased to be in the capacity by reason of which he or she was an Indemnitee with respect to matters arising during the period he or she was in such capacity, and (c) inure to the benefit of the heirs, executors and administrators of such a person.

Section 7.6 Construction. The indemnification provided by this Article shall be subject to all valid and applicable laws, including, without limitation, Chapter 8 of the Texas Business Organizations Code, and, in the event this Article or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and this Article shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

Section 7.7 Continuing Offer, Reliance, etc. The provisions of this Article (a) are for the benefit of, and may be enforced by, each Indemnitee of the Corporation, the same as if set forth in their entirety in a written instrument duly executed and delivered by the Corporation and such Indemnitee and (b) constitute a continuing offer to all present and future Indemnitees. The Corporation, by its adoption of these Bylaws, (x) acknowledges and agrees that each Indemnitee of the Corporation has relied upon and will continue to rely upon the provisions of this Article in becoming, and serving in, any of the capacities referred to in Section 7.1(a) of this Article, (y) waives reliance upon, and all notices of acceptance of, such provisions by such Indemnitees and (z) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his or her right to enforce the provisions of this Article in accordance with their terms by any act or failure to act on the part of the Corporation.

Section 7.8 Effect of Amendment. No amendment, modification or repeal of this Article or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Corporation, nor the obligation of the Corporation to indemnify any such Indemnitees, under and in accordance with the provisions of the Article as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

ARTICLE VIII

General Provisions

Section 8.1 Waiver of Notice. Whenever, under the provisions of applicable law or of the Certificate of Formation or of these Bylaws, any notice is required to be given to any Director, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 8.2 Seal. If one be adopted, the corporate seal shall have inscribed thereon the name of the Corporation and shall be in such form as may be approved by the Board. Said seal may be used by causing it or a facsimile of it to be impressed or affixed or in any manner reproduced.

Section 8.3 Fiscal Year. The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

Section 8.4 Checks, Notes, etc. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate.

Section 8.5 Books and Records. The Corporation shall keep correct and complete books and records of account.

Section 8.6 Financial Records and Annual Reports. The Corporation shall, for each fiscal year, maintain current and accurate financial records with full entries made with respect to all financial transactions of the Corporation, including all income and expenditures, in accordance with generally accepted accounting practices. Based on these records, the Board shall annually prepare or approve a report of the financial activity of the Corporation for such fiscal year. The report shall conform to accounting standards as promulgated by the American Institute of Certified Public Accountants and shall include a statement of support, revenue, and expenses and changes in fund balances, a statement of functional expenses, and balance sheets for all funds. All records, books, and annual reports of the financial activity of the Corporation for such fiscal year shall be kept at either the registered office or principal office of the Corporation for at least three (3) years after the closing of such fiscal year and shall be available to the public for inspection and copying there during normal business hours. The Corporation may charge for the reasonable expense of preparing a copy of a record or report.

Section 8.7 Dividends Prohibited. No dividend shall be paid and no part of the income of the Corporation shall be distributed to the officers or Directors, provided that the Corporation may pay compensation in a reasonable amount to the officers and Directors as otherwise provided in these Bylaws.

Section 8.8 Loans to Directors and Officers Prohibited. No loans shall be made by the Corporation to officers or Directors.

ARTICLE IX

Amendments

Section 9.1 Amendment by Board of Directors. The Board shall have the power to alter, amend or repeal these Bylaws or adopt new Bylaws, subject to amendment, repeal or adoption of new Bylaws by action of the members, if any, and unless the members, if any, in amending, repealing or adopting a new Bylaw expressly provide that the Board may not amend or repeal that Bylaw. The Board may exercise this power at any regular or special meeting at which a quorum is present by the affirmative vote of a majority of the Directors present at the meeting and without any notice of the action taken with respect to the Bylaws having been contained in the notice or waiver of notice of such meeting. Unless the Corporation's Certificate of Formation or a Bylaw adopted by the members, if any, provide otherwise as to all or some portion of the Bylaws, the Corporation's members, if any, may amend, repeal or adopt new Bylaws even though the Bylaws may also be amended by the Board.

ARTICLE X

Subject to All Laws

Section 10.1 Subject to All Laws. The provisions of these Bylaws shall be subject to all valid and applicable laws, including, without limitation, the Texas Business Organizations Code as now or hereafter amended, and in the event that any of the provisions of these Bylaws are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and these Bylaws shall be deemed modified accordingly, and, as so modified, to continue in full force and effect.

[End of Bylaws]