

BYLAWS
OF
SOCIETY FOR PERSONALITY ASSESSMENT FOUNDATION

(formed under the Virginia
Nonstock Corporation Act)

ARTICLE I

Name

Section 1.01. Name. The corporate name of this organization (hereinafter referred to as the “Corporation”) is Society for Personality Assessment Foundation.

ARTICLE II

Offices

Section 2.01. Location. The principal office of the Corporation shall be located, within or without the Commonwealth of Virginia, at such place as the Board of Directors of the Corporation (the “Board”) shall from time to time designate. The Corporation may maintain additional offices at such other places as the Board may designate. The Corporation shall continuously maintain within the Commonwealth of Virginia a registered office at such place as may be designated by the Board.

ARTICLE III

Membership

Section 3.01 Member. The sole member of the Corporation shall be The Society for Personality Assessment, Incorporated, a New Jersey nonprofit corporation.¹

Section 3.02 Annual Meeting. A meeting of the member shall be held annually at such place and at such hour as may be fixed in the notice of meeting.

Section 3.03 Special Meeting. Special meetings of the member may be called at

¹ We have structured the SPAF so that the SPA is the sole member and, as such, has the right to elect the directors and approve any amendment to the Articles of Incorporation (thereby protecting its status as the sole member). In all other respects, the SPAF would be controlled by its Board. Alternatively, the SPAF could be created as a non-membership corporation with a self perpetuating Board, where the initial Board consists of the current directors of SPA.

any time by the Chairman of the Board of Directors (if any), the President, or the Board of Directors. Only business within the purposes described in the meeting notice may be conducted at a special members' meeting.

Section 3.04 Notice of Annual and Special Meetings. Notice of each meeting of the member shall be given by the Corporation, and shall state the date, time and place of the meeting and, unless it is an annual meeting, shall indicate the purpose or purposes for which the meeting is being called.

Section 3.05 Action Without Meeting. Any action required or permitted to be taken at a meeting of the member may be taken without a meeting if the action is taken by the member and evidenced by a written consent describing the action taken, signed by the member, and delivered to the Secretary of the Corporation for inclusion in the minutes or ~~filed~~ filed with the corporate records. Any action taken by written consent of the member shall be effective according to its terms when such consent is in the possession of the Corporation.

ARTICLE IV *Board of Directors*

Section 4.01. Power and Qualification of the Board of Directors. All corporate powers shall be exercised by, or under the authority of, and the business of the Corporation shall be managed under the direction of, the Board. Directors need not be residents of the Commonwealth of Virginia.

Section 4.02. Number of Directors. The number of directors constituting the entire Board shall initially be nine (9). The number of directors may be increased or decreased from time to time by resolution of the member. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

Section 4.03. Election and Term of Directors. The initial Board shall consist of those persons named in the Articles of Incorporation. As provided in the Articles of Incorporation, at each annual meeting of the member, the member shall elect the directors of the Corporation. Each director shall hold office for a term of one year until the next annual meeting of the member and until his or her successor has been elected and qualified.²

² For purposes of the SPAF, we have provided in this draft and in the Articles for the directors to be elected by the SPA (as the sole member) on an annual basis. This will permit SPA to elect the same slate of directors each year as are currently serving the SPA for such year. Alternatively, while more complicated, we could provide for the election of directors by the same method as currently set forth in SPA's Bylaws--with the officers serving as ex officio directors (and thereby serving for the term of the applicable office) and the Representatives-At-Large being elected for two year terms. We concur with the way you set up the SPAF.

Section 4.04. Vacancies. A vacancy occurring on the Board as a result of any newly-created directorship or the death, resignation, retirement, incapacity, disqualification or removal of a director shall be filled by the member. A director elected to fill a vacancy shall hold office until the next annual meeting of the member and until his or her successor is elected and qualified.

Section 4.05. Removal of Directors. A director may be removed, with or without cause, at any time by a vote of the member.

Section 4.06. Resignations. A director may resign at any time by delivering written notice to the Board, the President, or the Secretary. Such resignation shall take effect when such notice is delivered, unless the notice specifies a later effective date.

Section 4.07. Quorum of Directors and Action by the Board. Unless a greater proportion is required by law or by the Articles of Incorporation or these Bylaws, a majority of the number of directors then in office shall constitute a quorum for the transaction of business. Except as otherwise provided by law or by the Articles of Incorporation or these Bylaws, the vote of a majority of the directors present at a meeting at which a quorum is present shall constitute the action of the Board.

Section 4.08. Meetings of the Board. An annual meeting of the Board shall be held each year at such time and place as shall be fixed by the Board, for the election of officers and for the transaction of such other business as may properly come before the meeting.

Regular meetings of the Board shall be held at such times as may be fixed by the Board. Special meetings of the Board may be held at any time whenever called by the President or any two directors.

Regular and special meetings of the Board may be held at such places, within or without of the Commonwealth of Virginia, as the Board may determine.

Section 4.09. Notice of Meetings. (a) No notice need be given of regular meetings of the Board. Written notice of each special meeting of the Board shall be given to each director as prescribed by resolution of the Board.

(b) A director may waive notice of a Board meeting by delivering a written waiver to the Secretary of the Corporation, which shall be filed with the minutes of proceedings of the Board. A director's attendance at or participation in a meeting waives any required notice to him or her of such meeting, unless at the beginning of such meeting or promptly upon his or her arrival, such director objects to holding the meeting or transacting business at the meeting, and does not thereafter vote for or assent to action taken at the meeting.

(c) Unless otherwise required by law or by these Bylaws, a notice

need not specify the business to be transacted at, or the purpose of, any meeting of the Board; provided, however, if such notice does specify the business to be transacted at, or the purpose of, a meeting of the Board, such notice shall not limit the actions the Board may take at such meeting.

Section 4.10. Action by Directors in Lieu of a Meeting; Meetings by Conference Telephone. (a) Unless otherwise restricted by the Articles of Incorporation or these Bylaws, any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if all directors consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the directors shall be filed with the minutes of the Board or filed with the corporate records reflecting the action taken.

Any action taken under this Section 4.10(a) shall be effective when the last director signs the consent, unless the consent specifies a different effective date, in which event the action taken shall be effective as of the date specified therein, provided, the consent states the date of execution by each director. Such consent shall have the same force and effect as a unanimous vote.

(b) Unless otherwise restricted by the Articles of Incorporation or these Bylaws, any one or more members of the Board may participate in a regular or special meeting of the Board or of a committee thereof by means of conference telephone or similar means of communications equipment by means of which all persons participating in the meeting may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 4.11. Compensation of Directors. The Corporation shall not pay any compensation to directors for services rendered to the Corporation, except that directors may be reimbursed for expenses incurred in the performance of their duties to the Corporation, in reasonable amounts as approved by a majority of the entire Board.

ARTICLE V *Committees*

Section 5.01. Committees; Authority. The Board, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees, each of which shall consist of two or more directors, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board, except that a committee may not exercise authority prohibited by law. Other committees not having and exercising the authority of the Board may be designated and appointed by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual

director, of any responsibility imposed upon it, him or her by law.

ARTICLE VI
Officers, Agents and Employees

Section 6.01 Officers. The Board shall elect a President³, a Secretary, a Treasurer, and such other officers as the Board may deem necessary. The same individual may simultaneously hold more than one office.

Section 6.02. Term of Office and Removal. Unless otherwise provided by resolution of the Board, the President, Secretary and Treasurer and such other officers as the Board may deem necessary shall be elected at each annual meeting of the Board. Each officer shall hold office for the term for which he or she has been elected or appointed and until his or her successor has been elected and qualified. The Board may remove any officer at any time, with or without cause. Removal of an officer shall be without prejudice to his or her contract rights, if any. The election or appointment of an officer shall not of itself create any contract rights.

Section 6.03. Vacancies. A vacancy in any office occurring as a result of any newly-created office or the death, resignation, removal, incapacity or disqualification of an officer may be filled by action of the Board. An officer elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until his or her successor is elected and qualified.

Section 6.04. Resignation. An officer may resign at any time by delivering written notice to the Corporation. Such resignation shall take effect when such notice is delivered, unless the notice specifies a later effective date.

Section 6.05. Powers and Duties of Officers. Subject to the control of the Board, all officers as between themselves and the Corporation shall have such authority and perform such duties in the management of the Corporation as may be provided in these Bylaws or by the Board and, to the extent not so provided, as generally pertain to their respective offices.

(a) President. The President shall serve as the chief executive officer of the Corporation. The President shall preside at all meetings of the Board and, subject to the supervision of the Board, the President shall perform all duties customary to that office and shall manage the affairs of the Corporation in accordance with the policies and directives approved by the Board.

(b) Secretary. The Secretary shall be responsible for preparing and

³ Although you have indicated that it is the current plan to have the Assessment Advocacy Coordinator serve as President, we have drafted this provision more broadly to provide flexibility. Good!

maintaining custody of the minutes of all meetings of the Board and the member, and for authenticating records of the Corporation, shall give or cause to be given notices in accordance with these Bylaws or as required by law, and, in general, shall perform all duties customary to the office of Secretary or as may be determined from time to time by the Board.

(c) Treasurer. The Treasurer shall have custody of, and be responsible for, all funds and securities of the Corporation. He or she shall keep or cause to be kept complete and accurate accounts of receipts and disbursements of the Corporation, and shall deposit all funds and other valuable property of the Corporation in the name and to the credit of the Corporation in such banks or depositories as the Board may designate. Whenever required by the Board, the Treasurer shall render a statement of accounts. He or she shall, at all reasonable times, exhibit the books and accounts to any officer or director of the Corporation, and shall perform all duties incident to the office of Treasurer, subject to the supervision of the Board, and such other duties as shall from time to time be assigned by the Board.

Section 6.06. Agents and Employees. The Board may appoint agents and employees who shall have such authority and perform such duties as may be prescribed by the Board. The Board may remove any agent or employee at any time with or without cause. Removal without cause shall be without prejudice to such person's contract rights, if any, and the appointment of such person shall not of itself create any contract rights.

Section 6.07. Compensation of Officers, Agents and Employees. (a) The Corporation shall not pay any compensation to officers for services rendered to the Corporation, except that officers may be reimbursed for expenses incurred in the performance of their duties to the Corporation, in reasonable amounts as approved by the Board.⁴

(b) The Corporation may pay compensation to agents and employees for services rendered, and may reimburse agents and employees for expenses incurred in the performance of their duties to the Corporation, in reasonable amounts, such amounts to be fixed by the Board.

(c) The Board may require agents or employees to give security for the faithful performance of their duties.

ARTICLE VII *Miscellaneous*

Section 7.01. Fiscal Year. The fiscal year of the Corporation shall be the calendar year or such other period as may be fixed by the Board.

⁴ We have assumed you do not intend to compensate officers. If this is incorrect, we can change this provision. You are correct

Section 7.02. Corporate Seal. The corporate seal shall be circular in form, shall have the name of the Corporation inscribed thereon and shall contain the words “Corporate Seal” and “Virginia” and the year the Corporation was formed in the center, or shall be in such form as may be approved from time to time by the Board.

Section 7.03. Checks, Notes, and Contracts. The Board shall determine who shall be authorized from time to time on the Corporation’s behalf to sign checks, drafts or other orders for payment of money; to sign acceptances, notes or other evidences of indebtedness; to enter into contracts; or to execute and deliver other documents and instruments.

Section 7.04. Books and Records to be Kept. The Corporation shall keep at its office correct and complete books and records of account, the activities and transactions of the Corporation, the minutes of the proceedings of the Board and the current list of directors and officers of the Corporation and their residence addresses. Any of the books, minutes and records of the Corporation may be in written form or in any other form capable of being converted into written form within a reasonable time.

Section 7.05. Amendments. (a) The Articles of Incorporation may be amended or repealed in whole or in part only with the affirmative vote of the member.

(b) The Bylaws of the Corporation may be adopted, amended or repealed by the affirmative vote of at least a majority of the directors then in office.

Section 7.05. Indemnification and Insurance. (a) Unless otherwise prohibited by law, the Corporation may indemnify any director, any former director, any person who while a director of the Corporation may have served at its request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not for profit, and may, by resolution of the Board, indemnify any officer, employee or agent, against any and all expenses and liabilities actually and necessarily incurred by him or her or imposed on him or her in connection with any claim, action, suit or proceeding (whether actual or threatened, civil, criminal, administrative or investigative, including appeals) to which he or she may be or is made a party by reason of being or having been such director, officer, employee or agent; subject to the limitation, however, that there shall be no indemnification in relation to such matters unless such person: (i) conducted himself or herself in good faith; (ii) believed, in the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in the best interest of the Corporation and, in all other cases, that his or her conduct was at least not opposed to the best interests of the Corporation; or (iii) in the case of any criminal proceeding, he or she had no reasonable cause to believe that his or her conduct was unlawful. Further, there shall be no indemnification in connection with a proceeding (A) by or in the right of the Corporation in which the director, officer, employee or agent was adjudged liable to the Corporation, or (B) in which improper personal benefit is charged, whether or not involving action in his or her official capacity,

in which the director, officer, employee or agent was adjudged liable on the basis that personal benefit was improperly received by him or her. Indemnification permitted under this Section in connection with a proceeding by or in the right of the Corporation is limited to reasonable expenses incurred in connection with the proceeding.

(b) The Corporation shall indemnify a director who entirely prevails in the defense of any proceeding to which he or she was a party because he or she is or was a director of the Corporation, for reasonable expenses incurred by him or her in connection with the proceeding.

(c) Amounts paid in indemnification of expenses and liabilities may include, but shall not be limited to, counsel fees and other fees; costs and disbursements; judgements, fines, and penalties against, and amounts paid in settlement by, such director, officer, employee or agent. To the extent permitted by law, the Corporation may pay for or reimburse the reasonable expenses incurred by a director, officer, employee or agent who is a party to a proceeding in advance of final disposition of the proceeding if (i) such director, officer, employee or agent furnishes the Corporation (A) a written statement of his or her good faith belief that he or she has met the standard of conduct described above, and (B) a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct, and (ii) the Board determines that the facts then known to the Board would not preclude indemnification under this Section 7.05.

(d) Any indemnification under Section 7.05(a), 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, officer, employee or agent is permissible in the circumstances because such person has met the applicable standard of conduct set forth in Section 7.05(a), by: (i) a majority vote of a quorum of the Board consisting of directors not at the time parties to the proceeding; (ii) if the quorum described in subsection (i) above is not obtainable, then by a majority vote of a committee consisting solely of two or more directors not at the time parties to the proceeding; or (iii) by independent legal counsel in a written opinion.

(e) The provisions of this Section shall be applicable to claims, actions, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to acts occurring before or after adoption hereof.

(f) The indemnification provided by this Section shall not be deemed exclusive of any other rights to which such director, officer, employee or agent may be entitled under any statute, Bylaw, agreement, vote of the Board, or otherwise, and shall not restrict the power of the Corporation to make any indemnification permitted by law.

(g) The Board may authorize the purchase of and maintain insurance on behalf of any director, officer, employee or agent of the Corporation against any liability asserted against or incurred by him or her which arises out of such person's status as a director, officer, employee or agent or who is or was serving at the request of

the Corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or otherwise, or out of acts taken in such capacity, whether or not the Corporation would have the power to indemnify the person against that liability under law.

(h) In no case, however, shall the Corporation indemnify, reimburse or insure any person for any taxes imposed on such individual under chapter 42 of the Internal Revenue Code of 1986, as amended (the "Code"). Further, if at any time the Corporation is deemed to be a private foundation within the meaning of § 509 of the Code then, during such time, no payment shall be made under this Section if such payment would constitute an act of self-dealing or a taxable expenditure, as defined in § 4941(d) or § 4945(d), respectively, of the Code. Moreover, the Corporation shall not indemnify, reimburse or insure any person in any instance where such indemnification, reimbursement or insurance is inconsistent with § 4958 of the Code or any other provision of the Code applicable to corporations described in § 501(c)(3) of the Code.

(i) If any part of this Section shall be found in any action, suit or proceeding to be invalid or ineffective, the validity and the effectiveness of the remaining parts shall not be affected.

ARTICLE VIII *Exempt Status*

Section 8.01. Exempt Status. Notwithstanding any provision in these Bylaws or in the Corporation's Articles of Incorporation, the Corporation shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax as an organization described in § 501(c)(3) of the Code or the corresponding provision of any future federal tax code, or by an organization contributions to which are deductible under §§ 170(c)(2), 2055(a)(2) and 2522(a)(2) of the Code or the corresponding provision of any future federal tax code.