

**TENNESSEE ATTORNEY GENERAL
AND REPORTER'S
NONPROFIT CORPORATIONS REQUEST
FOR INFORMATION PACKET
FOR CERTAIN
NONPROFIT DISSOLUTIONS**



**Office of the Attorney General and Reporter
Public Interest Division
Attention: Nonprofit Transactions
P. O. Box 20207
Nashville, Tennessee 37202
Telephone: (615) 741-2516
Facsimile: (615) 532-6951**



TENNESSEE ATTORNEY GENERAL AND REPORTER'S REQUEST FOR INFORMATION FORM FOR CERTAIN NONPROFIT DISSOLUTIONS

INSTRUCTIONS AND DEFINITIONS

1. All responses to the Request for Information Form must be filled in electronically, typed or clearly printed in black ink. You must use only the official forms.
2. All documents and appendices must be provided in compliance with the following:
 - a. Responses to this Request for Information Form must be in electronic format, with each document in portable document format (PDF), containing a text searchable optical character recognition (OCR) layer; responses may be on compact disc (CD), digital versatile disc (DVD), flash drive or portable hard drive.
 - b. Each page of each document must be consecutively numbered and labeled along with an abbreviation for the Nonprofit. *For example, the first page of the first document of a submission by the Nonprofit Company X would be labeled X0001.* These initials and numbers should appear in the lower right-hand corner of each document; and
 - c. The file name for each electronic document must identify the document and indicate its number range. *For example, the file name for a PDF file consisting of the Charter of Nonprofit Company X responding to Question 4 of this Request for Information Form would be "Charter (X0004 – X0013).pdf."*
 - d. Documents should be produced in electronic folders identified by the request to which the documents respond. The folders should be named to indicate the request of the documents contained therein. *For example, documents responsive to Question 19.a of this Request for Information Packet should be placed in a folder entitled within the folder entitled "Question 19."*
3. All amendments or late-filed documents or responses must be clearly labeled to indicate to which Request they respond and the date of production. Such documents must be submitted in compliance with all other instructions herein.
4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) calendar years before the date of the production of documents by the Nonprofit pursuant to this Request.
5. Responses to the Request must be supplemented, corrected, and updated until the close of the Transaction. **The Attorney General and Reporter, at his discretion, may require the production of additional documents.**

6. For each Request calling for the production of documents, produce each and every responsive document in the Nonprofit's care, possession, custody, or control, without regard to the physical location of those documents.
7. If the Nonprofit possesses no documents responsive to a paragraph of this Request, the Nonprofit and/or Acquirer must state this fact, specifying the paragraph(s) or subparagraph(s) concerned, in the response. If the Nonprofit must submit documents at a later date than that set forth in Instruction #10, the following procedure is required: the Nonprofit must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.
8. **If the Nonprofit asserts a privilege in response to a Request, the Nonprofit must state the privilege, the basis of the privilege, and identify the documents and Request to which the privilege attaches. If the privilege attaches to only a portion of a given document, then the Nonprofit must produce the full document with the privileged portions redacted.**
9. Responses to Requests not requiring the production of documents should be filled in electronically, typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8½" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the Nonprofit providing the information. *For example: Nonprofit Company X, Continuation to Request #3.*
10. The Attorney General and Reporter must receive a complete response to this initial Request for Information Form, no later than **forty-five (45) days prior to the anticipated close of your Transaction. Failure to timely provide the requested documents may result in the Attorney General and Reporter taking action to enjoin or delay your Transaction.**¹
11. All responses to this Request for Information shall be sent by United States Mail, hand-delivery, or a nationally recognized express delivery service to the following:

Public Interest Division
Office of Attorney General and Reporter
P. O. Box 20207
Nashville TN 37202
12. The Request for Information Form is not complete or valid without the Certification and Verification Affidavits (Form TNPC3 and Form TNPC5) executed under oath in the presence of a notary and attached to the Request for Information Form.
13. The Nonprofit must sign the Certification and Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Tennessee law.
14. All questions regarding these forms, the scope of any Request, any instruction, or any definitions shall be directed to the following number: (615) 741-2516.

¹ Pursuant to Tenn. Code Ann. §§ 48-51-701(c) *et seq.*

15. This Request for Information Packet should include all of the following forms:

- a. Form TNPC1: Instructions and Definitions
- b. Form TNPC2: Request for Information Form
- c. Form TNPC3: Certification and Verification Affidavit of the Nonprofit
- d. Form TNPC4: Affidavit of Officers and Directors

If your packet is missing any of the above listed forms, please contact the Office of the Attorney General and Reporter at (615) 741-2516. Your response to the Request for Information Form is not complete until the Office of the Attorney General and Reporter has received all of the above listed forms, fully completed.

16. All of the forms in the Request for Information Packet shall be construed in conformity with the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. §§ 48-51-101, *et seq.*,

17. In the lower right-hand corner of each page of the Request for Information Form, type or print the name of the Nonprofit in the space provided.

18. All Nonprofits must complete Forms TNPC3, and TNPC4 in addition to form TNPC2.

DEFINITIONS

1. "**Affiliate**" means any parent, subsidiary or other person controlling, controlled by or under common control with such person. For purposes of this definition, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.
2. "**Attachment**" means each document or thing sent or provided with any document or thing, and includes each document or thing sent with it, whether a letter, memorandum, contract, document, or other writing or object.
3. "**Document**" means all writings or any other record of any kind, including originals and each and every non-identical copy (if different from the original for any reason). "Documents" includes, but is not limited to:
 - a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intraoffice communications;
 - b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;
 - c. bulletins, printed matter, computer printouts, computer-generated output, teletypes, telefax, electronic mail, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;
 - d. photographs, charts, graphs, sketches, microfiche, microfilm, analog or digital audio recordings, videotapes, video recordings, digital video, and motion pictures; and
 - e. any electronic or mechanical records or representations of any kind (including, but not limited to: information stored on tapes, cassettes, diskettes, compact disc, digital versatile disc, and computer hard drives and other electronic storage medium).
4. "**Expert**" means one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant, financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the Nonprofit and/or Acquirer.
5. "**Financial Statement**" means any compilation or statement (audited, unaudited, or draft) of the Nonprofit's financial position. "Financial Statements" (regardless of precise terminology) include, but are not limited to: tax returns, balance sheets, statements of income and expenses, statements of profit and loss, statements of stockholders equity, and statements of changes in financial position. Each and every financial statement should include each and every related footnote of the respective financial statement.
6. "**Foundation**" means a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes. See also Tenn. Code Ann. § 48-51-501, as amended from time to time, and Internal Revenue Code § 501(c)(3) and § 509, as

amended from time to time.

7. "**Nonprofit**" means the notifying nonprofit and its Affiliates (see Affiliate definition). The Nonprofit should be the entity filing the notice with the Attorney General and Reporter.
8. "**Nonprofit Act**" means the Tennessee Nonprofit Corporation Act, Tenn. Code Ann. §§ 48-51-101, *et seq.*
9. "**Person**" means any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, company, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the Nonprofit and/or Acquirer, the term "person" includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the Nonprofit and/or Acquirer.
10. "**Request**" means any request for information pursuant to the Nonprofit Act or this Request for Information Form.
11. "**Transaction**" means the proposed dissolution of the Nonprofit which resulted in the submission of notice to the Attorney General and Reporter pursuant to the Nonprofit Act.

**TENNESSEE ATTORNEY GENERAL AND REPORTER'S
REQUEST FOR INFORMATION FORM FOR CERTAIN
NONPROFIT DISSOLUTIONS**

PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND DEFINITIONS FORM (TNPC1) PRIOR TO COMPLETING THIS FORM.

1. **Name of Nonprofit Filing this Notice.** Identify the Nonprofit (including its Federal Employer Identification Number (FEIN)) filing notice pursuant to the Nonprofit Act or Hospital Act:

2. **Contact Person for Nonprofit.** Provide the full legal name, title, address, telephone, e-mail and facsimile number for the contact person responsible for completing this Request for Information Form (this individual will also receive any requests for additional information for documents):

3. **Directors and Officers.** Identify by full legal name and title each and every director and officer of the Nonprofit, historical and current. If any director or officer has been removed or resigned during the period covered by this Request for Information, please so indicate and provide the reasons for such removal or resignation.

4. **Organizational Documents.** Attach as Appendix A all organizational documents relating to the Nonprofit filing this Request. Include organizational documents for all Affiliates. For the purposes of this Request, "organizational documents" means the

charter, articles of incorporation, bylaws, or any other governing document of the Nonprofit, and any and all amendments to each such governing document.

5. **Value of Nonprofit Assets.** What is the aggregate approximate value of the Nonprofit's assets to be acquired in the Transaction or held by the Nonprofit to be dissolved?

6. **Description of Transaction.** Attach as Appendix B a detailed description of the Transaction, including a detailed explanation of the purpose of the dissolution and how the Nonprofit's assets will be distributed.
7. **Closing Date.** What is the expected date of closing of the Transaction?

8. **Governmental Filings.** Attach as Appendix C all government filings with respect to the Transaction, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the Transaction. Include copies of forms provided to each such entity, the answers to information or questions on such forms, and each attachment submitted in connection therewith.
9. **Meetings with Governmental Officials.** Attach as Appendix D summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #13. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Internal Revenue Service or any other state, federal or local governmental entity in connection with the Transaction.
10. **Meeting Minutes and Other Information.** Attach as Appendix E the following documents with respect to each meeting, whether regular, special, or otherwise, of the board of directors or board of trustees for the Nonprofit:
 - a. Announcements and the persons to whom the announcements were sent;
 - b. Agenda;
 - c. Minutes and/or resolutions of the board of directors or board of trustees for each of the Nonprofit and the Acquirer which reflect or discuss the Transaction, including those regarding the final vote;
 - d. Each written report or document provided to the board or board members, including, but not limited to, each committee report and each Expert's report;
 - e. Each proposal or document referencing or regarding possible or actual sale, merger, acquisition, dissolution, or distribution of assets of the Nonprofit;
 - f. Each presentation to the board or any committee to the board; and
 - g. Each attachment to (a) through (f).

11. **Valuation Information.** Attach as Appendix F each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the valuation during the last three (3) fiscal years of the Nonprofit, its assets, its properties, their worth as a going concern, their fair market value, or their price for sale. If applicable, explain how the Nonprofit determined that the Transaction represents fair market value for the assets of the Nonprofit.

This Request shall include, but not be limited to, any appraisals of the common stock of any for-profit subsidiaries of the Nonprofit, any appraisals of the value of any for-profit subsidiaries of the Nonprofit, and any real estate appraisals involving property held by the Nonprofit.

12. **Mission Statement.** Attach as Appendix G any and all mission statements of the Nonprofit.
13. **Financial Records.** Attach as Appendix H all of the following for the last three (3) fiscal years for the Nonprofit, unless otherwise indicated:
- a. Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available;
 - b. Consolidating statements (balance sheets and income statements for each fiscal year);
 - c. If separate audited financial statements are prepared for any Affiliates, please provide those audits, together with comparative year-to-date financial statements for each such Affiliated;
 - d. Each balance sheet, income statement, profit and loss statement, statement of change in financial position of the above-named parties, any entity or company they control, operate, manage, or are affiliated with;
 - e. A detailed schedule of operating expenses, unless already provided with the audits;
 - f. An analysis (aging) of accounts receivable by major category of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable by the parties;
 - g. Debts, liens, security interests, mortgages, or other interests of any kind in the assets of the Nonprofit, including amounts outstanding, the Person to whom the underlying obligation is owed, and whether such Person has participated in decision-making in any way with respect to the Transaction;
 - h. Management compensation (salary, bonus, other benefits) for the five (5) officers of the Nonprofit receiving the greatest amount of compensation;
 - i. Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under- or over-funding in the pension plan or a current litigation

judgment not reflected in the most recent audit;

- j. Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the above-named parties; and
- k. Form 990s or other tax returns.

14. **Foundation Issues.**

- a. Attach as Appendix I the detailed written plan of the preservation, protection, and use of any and all proceeds from the dissolution of the Nonprofit. State and fully explain whether any money, property, or proceeds resulting from the Transaction or the operation of the foundation will benefit any director, officer or for-profit person or entity, directly or indirectly. The detailed plan shall include bylaws, a conflict of interest statement, a defined mission, the proposed investment policy, and granting procedures.
- b. Attach as Appendix J proof that any asset purchase agreement or other contract, by whatever name, does not incorporate or place any restrictions which any for-profit entity may place on the use of charitable or nonprofit funds and any other funds or property, either now or in the future, by any foundation created or endowed to preserve, disburse, or protect the funds.
- c. Attach as Appendix K a report indicating, showing, explaining, and discussing the properties and assets, whether cash, securities, intangible property, and all other property (listing each encumbrance), available for charitable purposes before and after the Transaction and showing or discussing what entity or person will control, manage, operate, deploy, and use the charitable or nonprofit properties or assets. Include in your response the full legal name, title, business address, and telephone number of the individual preparing said report.

15. **Existing Foundations or Restricted Donations.** Attach as Appendix L any and all documents reflecting any existing foundations or other restricted donations, including, but not limited to, trusts that are designated or intended to benefit the Nonprofit. Include a detailed statement setting forth your intention with regard to such restricted donations.

16. **Conflicts of Interest, Self-Interest, and Self-Dealing Issues.**

- a. Attach as Appendix M an affidavit for each officer and director of the Nonprofit using Form TNPC4, pages 1 - 5.
- b. Attach as Appendix N any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the Transaction. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing financial or employment incentives or inducements offered to any board member, director or officer.
- c. Attach as Appendix O each memorandum, report, letter, or other document suggesting or referencing any employment or position (actual or possible) with the

Acquirer for any officer or director of the Nonprofit after the Transaction is completed, as well as any assets, funds, annuity, deferred compensation or other economic or tangible benefit to be provided, whether or not in exchange for services rendered or to be rendered to the Nonprofit or the Acquirer.

17. **Persons Involved in Decision Making or Planning.** Attach as Appendix P a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other person having substantial input, at any phase of decision making or planning, into the decision or plan for the Transaction.
18. **Registered Agents for Service of Process.** Identify the registered agent for service of process, including his or her complete address, for the Nonprofit.

For
Nonprofit: _____

19. **Litigation and Proceedings.**
- a. Attach as Appendix Q a summary of all litigation to which the Nonprofit was or is a party, separated by type of litigation (e.g., malpractice, worker's compensation, etc.). The summary should include the case style, date of claim, status of claim, expected loss reserves, and ultimate disposition of the litigation (including damages or awards), as applicable.
 - b. Attach as Appendix R any of all complaints, pleadings, memoranda, orders, settlements, opinions, notices of investigation (including subpoenas, civil investigative demands or other requests for information), of any state, federal, local government department, court, agency, or any other governmental proceeding to which the Nonprofit was a party.

**CERTIFICATION AND VERIFICATION
AFFIDAVIT OF THE NONPROFIT**

To be completed by President or Chief Officer

This Request for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General and Reporter. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies.

I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General and Reporter, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Tennessee law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without the express written consent of the Attorney General and Reporter or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty of perjury.**

STATE of _____

County of _____

Affiant's
Signature: _____

Date: _____

Sworn and subscribed before me

this _____ day of _____,
_____.

Notary Public

My Commission expires: _____

Name: _____
Title: _____
Address: _____

Telephone Number: _____
Facsimile Number: _____

AFFIDAVIT OF OFFICERS AND DIRECTORS

STATE OF _____

COUNTY OF _____

I, _____, after first being duly sworn, do hereby depose and, upon personal knowledge, state as follows:

1. I am an officer/director (circle one) of _____ (insert name of Nonprofit).

2. I have been an officer/director (circle one) since _____. Please identify any committees you have served on, the length of service on each committee, and any titles you have held on such committees.

3. My home address is _____
My home telephone number is _____

4. My business address is _____
My business telephone number is: _____
My business facsimile number is: _____

5. I will/will not (circle correct response) receive any financial benefit from the Transaction

6. _____ (insert "no one in my immediate family," or the name[s] of family member[s]) will receive any financial benefit from the Transaction.

7. I am/am not compensated for my service as an officer/director (circle correct response) of _____ (insert name of Nonprofit). If your response is that you are compensated, please state the amount of your compensation per year: _____.

8. Briefly describe your educational background:

9. Briefly describe your business or work experience:

10. Explain the reasons why you voted to approve the Transaction.

11. Please briefly explain any information you had regarding valuation of _____
(insert Nonprofit's name) and other options available to _____
(insert Nonprofit's name) prior to approving the Transaction.

12. I do/do not (circle appropriate response) plan to become a director or officer of the foundation or other nonprofit entity to be created from the assets resulting from the Transaction. I will/will not (circle appropriate response) receive compensation for my service in such position. If your response is that you will be compensated, please state the amount of the compensation per year:

13. I do/do not (circle appropriate response) have any conflict of interest, self-interest, financial interest or other self-dealing with regard to the Transaction. If your answer is yes, please explain such interest in detail.

I certify, upon personal knowledge, that the information in this affidavit is true, accurate, and complete, **under penalty of perjury.**

FURTHER AFFIANT SAITH NOT.

Affiant's
Signature: _____

Date: _____

Sworn and subscribed
before me this
day of _____,

Notary Public

My Commission expires: _____