

BY-LAWS
OF
NYC TECHNOLOGY DEVELOPMENT CORPORATION
A Not-For-Profit Corporation
(Adopted November 16, 2012)

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**BY-LAWS
OF
NYC TECHNOLOGY DEVELOPMENT CORPORATION**

ARTICLE I

Offices

Section 1.01 Offices. The offices of NYC Technology Development Corporation (the “**Corporation**”) will be in the County of New York in the City and State of New York, at such place as the board of Directors of the Corporation (the “**Board of Directors**” or “**Board**”) may fix.

ARTICLE II

Membership

Section 2.01 Designation of Member. The Corporation will have one (1) member (the “**Member**”), being the person holding the office of Mayor of the City of New York (the “**City**”). Such Member will comprise a membership section entitled to appoint Directors of the Corporation as set forth in Section 4.02 below. The Member, as an official of the City, will serve as a Member in furtherance of the interests of the City.

ARTICLE III

Meetings of and Actions by the Member

Section 3.01 Action by the Member. Subject to Section 603(b) of the Not-For-Profit Corporation Law of the State of New York (the “**Not-For-Profit Corporation Law**”), in lieu of meeting, including for the purposes specified in Sections 3.02 and 3.03 hereof, the Member may take action, including for the appointment of Directors, by written consent, waiving any notice and other requirements under these By-Laws and the Not-For-Profit Corporation Law.

Section 3.02 Annual Meetings. The annual meeting of the Member, for the appointment of Directors and the Chairperson of the Board of Directors and for the transaction of such other business as may come before the meeting, will be held at such place within the City, and at such date and time as the Board of Directors, Chairperson or the President may from time to time prescribe.

Section 3.03 Special Meetings. Special meetings of the Member will be called by the Board of Directors, Chairperson or the President, at the request in writing of the Member. The President or Chairperson will fix the time and place for such meeting and give notice as required by Section 3.05 hereof.

Section 3.04 Proxies. The Member may vote in person or by proxy appointed by an instrument in writing by such Member or his or her duly authorized attorney and delivered to the Secretary of the meeting. No proxy shall be valid after expiration of eleven 11 months from the date of its execution, unless the Member shall have specified therein a different duration. Every proxy will be revocable at the pleasure of the Member or his or her duly authorized attorney.

Section 3.05 Notice of Meetings of the Member; Waiver of Notice. Subject to Section 606 of the Not-For-Profit Corporation Law, written notice of each meeting of the Member stating the time and place and, in the case of a special meeting, the purpose thereof and by or at whose direction the special meeting is called, will be provided to the Member. Such notice will be given by first class mail, postage prepaid, by electronic mail, or by delivery in person, not less than ten (10) nor more than fifty (50) days before such meeting, or by another class of mail not less than thirty (30) days nor more than sixty (60) days before such date.

Section 3.06 Procedure. The order of business and all other matters of procedure at every meeting of the Member will be determined by the presiding Officer.

ARTICLE IV

Directors

Section 4.01 Powers. The general management of the affairs and property of the Corporation will be vested in the Board of Directors. The Board will have the power to authorize all expenditures and take all necessary and proper steps to carry out the purposes of the Corporation and to promote its best interests.

The following actions, without limitation, shall require the approval of the Board:

- (a) Approval of contracts or leases valued in excess of \$100,000;
- (b) Adoption of an annual budget;
- (c) Amendments to the By-Laws pursuant to Section 11.03 hereof or the Certificate of Incorporation; and
- (d) Acceptance of program or project management responsibilities for specific City IT programs and projects, whenever any Director requests that an authorizing vote be held. Such request must be made in writing to the President or Chair within ten (10) business days of receiving notice from the President or Chair that the City has requested such program or project management services. This provision shall not apply to any projects specifically designated in the initial contract between the City and the Corporation.

Section 4.02 Number and Qualifications of Directors. The Board of Directors will consist of no less than three (3) and no more than seven (7) Directors, which number shall include: (a) three (3) *Ex Officio* Directors appointed by the Member; (b) one (1) *Ex Officio* Director appointed by the Member on recommendation of the City Comptroller; (c) one (1)

Director appointed by the Member, upon recommendation of the City Comptroller, in consideration of his or her information technology or project management background; (d) one (1) Director appointed by the Member, upon recommendation of the Speaker of the New York City Council, in consideration of his or her information technology or project management background; and (e) one Director appointed by and in the sole discretion of the Member in consideration of his or her information technology or project management background; provided, however, that if the initial contract between the Corporation and the City is not registered within 30 days of its filing with the Comptroller, then i) the two Board members contemplated to be appointed pursuant to subdivisions b and c of this section shall instead be two non-ex-officio appointees, appointed by and in the sole discretion of the Member in consideration of their information technology or project management backgrounds; and ii) the supermajority voting requirements of sections 5.05(b) and 11.03 of these By-Laws shall be null and void. Other than the *ex-officio* Directors set forth above, Directors shall not be officers or employees of the City.

For purposes of these By-Laws, “*Ex Officio* Director” means any Director who holds a particular office or position in the government of the City and is appointed as a Director of the Corporation by virtue of holding such position.

Until such time as a Board of Directors is first appointed by the Member, the Initial Directors shall continue to serve as the Directors of the Corporation; provided, however, that such powers shall expire sixty days following the Organizational Meeting; and provided further that the Mayor must act on any recommendation for appointment within ten business days of receiving such recommendation.

Section 4.03 Term. The Member will appoint the Directors as set forth in Section 4.02 hereof in accordance with the procedures set forth in Article III hereof. Each

Director will serve for a term of one (1) year or shall continue until the appointment and qualification of such Director's successor, death, resignation or removal of such Director pursuant to Section 4.06 hereof; provided, however, that the terms of *ex officio directors* shall not be designated and such directors shall continue to serve until they leave their office or position of employment, or until their successor is appointed, whichever is earlier.

Section 4.04 Compensation of Directors. Directors of the Corporation, as such, will receive no compensation from the Corporation but may receive reimbursement for reasonable expenses.

Section 4.05 Resignation. Any Director may resign at any time by delivering a resignation in writing to the President, the Secretary or the Chairperson. Such resignation will take effect upon receipt or at the time specified in the notice and, unless otherwise specified therein, the acceptance of such resignation will not be necessary to make it effective.

Section 4.06 Removal. In accordance with Section 706(c)(2) of the Not-For-Profit Corporation Law, a Director may be removed with or without cause and with or without notice by the Mayor or, for cause, by vote of the Directors; provided, however, that a Director appointed on recommendation of the Comptroller or Speaker may not be removed without cause.

Section 4.07 Notice to Directors of Waivers of Selection Criteria.

Whenever a contract for goods and/or services is to be awarded pursuant to any Waiver of the Selection Criteria, as may be provided in the Procurement Policy of the Corporation, notice shall first be given in writing to each member of the Board of Directors.

Section 4.08 Notice to Directors of Hiring of Contract Employees.

Whenever the President determines to exercise his or her power to approve the hiring of employees or contract employees, notice shall first be given in writing to each member

of the Board of Directors, including the salary or hourly cost of such employee. For purposes of this section, a Contract Employee shall mean an individual whose terms and conditions of employment are defined by a contract directly between such employee and the Corporation, or an individual who provides consulting services on a full-time basis to the Corporation, under terms and conditions set forth in a contract between the Corporation and the individual's employer and whose work is directed by the President of the Corporation.

ARTICLE V

Meetings of Directors

Section 5.01 Annual Meetings. The annual meeting of the Directors will be held at such time and place as the Board of Directors may from time to time prescribe.

Section 5.02 Regular Meetings. In addition to the Annual Meeting, there will be at least four (4) regular meetings of the Board of Directors during each fiscal year of the Corporation, with each Regular Meeting to be called by the Chairperson or the President.

Section 5.03 Special Meetings. Special meetings of the Board of Directors will be called by the Chairperson or the President, or by either at the request in writing of three (3) or more Directors, or by any one Director pursuant to Section 4.01(d). The Chairperson or the President will fix the time and place for each such meeting.

Section 5.04 Quorum. A meeting of the Board of Directors duly called will not transact business unless a quorum is present. A quorum for the transaction of business or of any specified item of business will consist of a majority of the Board of Directors then in office; provided, that an *ex officio* Director may attend meetings through a designee. If a quorum is not present, a majority of the Directors present may adjourn the meeting from time to time to such

time and place as they may determine, without notice other than announcement at the meeting, until enough Directors to constitute a quorum will attend.

Section 5.05 Voting. (a) All questions to be determined by the Board of Directors, except for those for which a greater number or particular constituency is specifically prescribed by law, the Certificate of Incorporation, or these By-Laws, will be determined by affirmative vote of at least a majority of the entire Board of Directors then in office, including a majority of *Ex Officio* Directors, or their designees, appointed pursuant to Section 4.02 hereof, at any meeting at which a quorum is present.

(b) An affirmative vote of all but one of the then-appointed members of the Board of Directors shall be required to authorize an action for which a vote is required by subdivision (d) of Section 4.01 hereof; provided, however, that any abstention shall reduce the number of affirmative votes required to approve such an action, and provided further that absence by an *ex officio* Director shall be deemed an abstention for purposes of this subdivision.

Section 5.06 Notice of Meetings of Directors; Waiver of Notice. Written notice of each meeting of the Board of Directors stating the time and place, and in the case of a special meeting the purpose thereof and by or at whose direction the special meeting is called, will be provided to each Director.

Such notice will be given by first class mail, postage prepaid, by electronic mail, or by delivery in person, not less than five (5) days before such meeting, directed to each Director at his or her address or electronic mail address as it appears in the records of the Corporation or, if such Director will have filed with the President a written request that notices be mailed to some other address or electronic mail address, then directed to such Director at such other address or electronic mail address.

The notice of any meeting of the Directors may be waived by a Director by signing a written waiver of notice before or after the meeting or by attending the meeting without protesting lack of notice prior thereto or at the commencement of the meeting. No notice need be given of any adjourned meeting. Meetings of the Directors may also be held at any place and time without notice provided that written consent is received from each of the Directors.

Section 5.07 Participation in Meetings by Videoconferencing. Directors may participate in meetings of the Board of Directors by means of videoconference or similar equipment which allows all persons participating in the meeting to see and hear each other at the same time. Participation by such means will constitute presence in person at such meeting.

Section 5.08 Procedure. The order of business and all other matters of procedure at every meeting of Directors will be determined by the person presiding at the meeting.

Section 5.09 Chairperson of the Board. The Chairperson of the Board of Directors will be appointed by the Member in accordance with the provisions of Article III hereof. The Chairperson will serve in such position until his or her successor is appointed by the Member. The Chairperson will preside at all meetings of the Board of Directors, provided that, in the absence of the Chairperson from any meeting of the Board of Directors, the Directors present at the meeting will select one of their number to preside thereat. The Chairperson will be, ex officio, a member of all committees of the Board. The Chairperson will have such other duties as are properly required by the Board of Directors. Until such time as a Chairperson is first appointed by the Member, the Director elected to Chair the Organizational Meeting shall continue to serve as Chairperson of the Board.

Section 5.10 Minutes of Board Meetings.

The Secretary will keep regular minutes of all meetings and proceedings of the Board. Such minutes will be open to the inspection of any Director subject to Section 8.02 hereof.

Section 5.11 Annual Report. The President and Treasurer will present at the annual meeting of the Directors an annual financial report, including a balance sheet showing the financial and other affairs of the Corporation. If the Member or his or her representative shall be present at such annual meeting, such presentation shall include such requirements as are necessary to meet the requirements of Section 519 of the Not-For-Profit Corporation Law.

Section 5.12 Annual Audit Report. The Treasurer, in consultation with the President, shall report to the audit committee of the Board on the results of the annual audit of the Corporation's financial statements. The Chair of the audit committee will present the Annual Audit Report to the full Board of Directors. The Treasurer and President will also meet with and provide financial updates to the audit committee of the Board on a regular basis throughout each fiscal year.

ARTICLE VI

Committees

Section 6.01 Committees. The Board of Directors shall establish an audit committee, a governance committee and any additional committees, which, to the extent provided in the resolution or resolutions establishing such committees, may designate Directors to serve as members thereof. Each committee of the Board will act in an advisory capacity only and shall not exercise any powers of the Board of Directors. All power and authority to manage the Corporation shall be vested in and exercised by the Board of Directors.

The Chairperson of the Board will appoint the members of each committee of the Board, with the consent of the Board, and shall appoint the chairperson of each committee. Each

member of a committee will serve at the pleasure of the Board. The chairperson of each committee will be responsible for convening meetings of the committee and reporting to the Board of Directors at each regular meeting of the Board or at such other times as the Board may require.

Section 6.02 Meetings of Committees. Any committee (with regard to such committee) or the Board of Directors (with regard to all committees) will have the power to fix the time and place of holding meetings of committees and the method of giving notice thereof; but unless otherwise prescribed, meetings of any committee may be called in the same manner and upon the same notice, and notice of such meetings may be waived in the same manner, as provided in these By-Laws with respect to meetings of the Board of Directors.

Section 6.03 Quorum. At all meetings of any committee, except where otherwise provided by law, the Certificate of Incorporation or these By-Laws, a quorum will be required for the transaction of business. Unless otherwise provided by law, a quorum will consist of the presence in person of a majority of the members of the committee. If a quorum is not present, a majority of the members of the committee present may adjourn the meeting from time to time to such time and place as they may determine, without notice other than announcement at the meeting, until a quorum will be present. Once a quorum is present to organize a meeting, it is not broken by the subsequent withdrawal of any members of the committee.

Section 6.04 Voting. All questions to be determined by any committee, except those for which a greater number is specifically prescribed by law, the Certificate of Incorporation, or these By-Laws, will be determined by vote of a majority of the members of the committee present at any meeting at which a quorum is present.

Section 6.05 Participation in Meetings by Videoconferencing. Members of any committee may participate in meetings by means of videoconference or similar equipment which allows all persons participating in the meeting to see and hear each other at the same time. Participation by such means will constitute presence in person at such meeting.

Section 6.06 Records of Committee Meetings. Each committee will keep records of all its meetings and proceedings which will be included in the records of the Corporation.

ARTICLE VII

Officers

Section 7.01 Officers

The officers of the Corporation will consist of a President, a Vice-President, a Treasurer, a Secretary and such other officers as may be elected by the Board of Directors from time to time (each, an “Officer” and, collectively, the “Officers”). The same person may not simultaneously hold the office of both President and Secretary.

Section 7.02 Election or Appointment; Term of Office.

Each Officer will be elected annually by the Board of Directors except as set forth below. Each Officer will hold his or her respective office until the election or appointment and qualification of his or her successor or his or her prior death, resignation or removal. The Board of Directors may elect the President for a term coinciding with the term of his or her contract if she or he has one. Any vacancy occurring in any office may be filled at any ensuing meeting of the Board of Directors.

Section 7.03 President.

The President will be the chief executive officer of the Corporation and will have general charge and supervision of the business and affairs of the Corporation, subject to the control and direction of the Board of Directors. The President will keep the Board of Directors fully informed concerning the affairs of the Corporation, and will freely consult with members of the Board concerning the activities thereof

The President will have sole authority to hire and terminate employees and Contract Employees, as such term is defined in Section 4.08 hereof; provided, however, that the Board of Directors may direct the removal of any such employee or Contract Employee upon a determination that a conflict of interest exists. The President shall also perform such other duties as are incident to his or her office or as are assigned to him or her by the Board of Directors or the Chairperson.

Section 7.04 Vice President. The vice president or vice presidents may be designated by such title or titles as the board of directors may determine. At the request of the president, a vice president shall perform the duties and exercise the functions of the president. In addition, in the president's absence, the vice president, or vice presidents in such order as the president may from time to time designate, shall perform the duties and exercise the functions of the president. The vice president or vice presidents shall perform such other duties as may be assigned to him/her or them by the board of directors or the president.

Section 7.05 Treasurer. The Treasurer will have the care and custody of all the moneys and securities of the Corporation. He or she will deposit moneys received by him/her for the Corporation as provided in Section 8.01 hereof. He or she will cause to be entered in books of the Corporation to be kept for that purpose, full and accurate accounts of all moneys received by him/her and paid by him/her on account of the Corporation. He or she will render a statement

of the condition of the finances of the Corporation at any annual meeting of the Member as provided by Section 519 of the Not-For-Profit Corporation Law or at such other time as the Member shall require. He or she will make an annual report to the Member concerning assets held for a specific purpose, the use made of such assets and the income thereof as provided in Section 513(b) of the Not-For-Profit Corporation Law. He or she will make and sign such reports, statements and instruments as may be required of him/her by law or the Board of Directors, and will perform such other duties as are incident to his/her office or as are properly required of him/her by the Board of Directors or the President.

Section 7.06 Secretary. The Secretary will act as Secretary of each meeting of the members and the Board of Directors. In the absence of the Secretary, the presiding officer of the meeting will appoint a Secretary of the meeting. In addition, the Secretary will:

- (a) record and keep the minutes of all meetings of the members and the Board of Directors and shall record all actions taken by the Member in accordance with Section 3.01 hereof, in each case, in books to be kept for that purpose;
- (b) see that all notices and reports are duly given or filed pursuant to these By-Laws or as required by law;
- (c) be custodian of the records (other than financial) and have charge of the seal of the Corporation and see that it is used upon all papers or documents whose execution on behalf of the Corporation under its seal is required by law or duly authorized pursuant to these By-Laws; and
- (d) in general, perform all duties incident to the office of Secretary and such other duties as the Chairperson or the Board of Directors may from time to time assign to the Secretary.

Section 7.07 Removal. Any Officer may be removed, either with or without cause, at any meeting of Directors, notice of which will have referred to the proposed action.

Section 7.08 Execution of Contracts, Deeds and Agreements. All authorized contracts, deeds and agreements may be executed in the name of the Corporation by the Chairperson or the President or the Secretary.

Section 7.09 Execution of Checks, Notes, Drafts and Other Negotiable Instruments. All checks, notes, drafts and other negotiable instruments will be signed by the Chairperson or the President. The Treasurer must co-sign such checks, notes, drafts and other negotiable instruments. If the President and Treasurer are the same person, or if one such officer is incapacitated or traveling outside of the City then the Secretary shall co-sign the aforementioned instruments.

Section 7.10 Compensation of Officers.

The Officers shall receive such salary or compensation as the Board of Directors determines.

ARTICLE VIII

Finances and Records

Section 8.01 Finances. The funds of the Corporation will be deposited in its name with such bank or banks, trust company or trust companies as the Board of Directors may from time to time designate. Except as provided in Section 7.08 hereof, no Officer, alone or with others, will have the power to make any checks, notes, drafts or other negotiable instruments in the name of the Corporation or to bind the Corporation thereby.

Section 8.02 Keeping and Inspection of Records. There will be kept, at the principal office of the Corporation, a complete set of books and records of the Corporation. They

will include, but not be limited to, the By-Laws, minutes of meetings and such other books, records and papers of the Corporation as the Board of Directors will require. These records will be open to inspection during business hours by any Director within ten (10) business days after receipt by the President of a written request for such inspection.

ARTICLE IX

Indemnification

Section 9.01 Indemnification of Member, Directors and Officers. To the maximum extent permitted by law, the Corporation will indemnify each Member, Director and Officer, whether or not then in office, who is made or threatened to be made a party to any action, suit or proceeding, civil or criminal, arising out of the such Member's, Director's or Officer's act or omission to act as a Member, Director or Officer of the Corporation, against (i) the reasonable expenses, costs and counsel fees incurred by each of them in the defense of such action, suit or proceeding and (ii) amounts paid or incurred pursuant to a judgment or in settlement of any such action, suit or proceeding.

Section 9.02 Non-Exclusive. The rights of indemnification provided in Section 9.01 will not be exclusive of other rights to which any indemnitee may be entitled as a matter of law.

Section 9.03 Contract with the City.

The Corporation may enter into an agreement with the City to provide for, *inter alia*, the indemnification of the Corporation and its Member, Directors and Officers by the City to the extent, and on the terms and subject to the conditions set forth therein.

ARTICLE X

Conflicts of Interests

Section 10.01 Private Gain. No Director or Officer will use his or her relationship with the Corporation for private gain.

Section 10.02 Conflicts of Interest No Director or Officer shall have a direct or indirect interest in any contract or other transaction relating to the operations conducted by the Corporation, nor in any contract for furnishing supplies thereto, unless 1) the holding of such interest is authorized by the concurring vote of at least two-thirds of the disinterested Directors, or 2) the interest is disclosed to the Member prior to a Director's appointment by the Member and the Member determines that any conflict posed by such interest may be cured by recusal. In the event of such interest, the Director or Officer concerned will forthwith make disclosure to the Corporation of the nature and extent of his or her interest at such time that a vote upon such contract or transaction may be taken, and such disclosure will be entered in writing upon the minutes of the meeting of the Board of Directors called to authorize such contract or transaction. Any Director who has such an interest will retire from the room in which the Board of Directors or committee is meeting. No Director who has such an interest will vote on any matter relating to such interest. Employment or service with the City or a related entity will not constitute an interest within the meaning of this section.

This Article will not preclude such Director or Officer from voting or acting on matters affecting a large group of entities or individuals including the one in which he or she has an interest. Such Director or Officer will not, however, vote or act on a matter affecting only the particular "firm" (as such term is defined in subdivision 11 of section 2601 of the New York City Charter) in which he or she has an interest

In determining whether to approve a contract or transaction in which a Director or Officer may have an interest, disinterested Directors will take into account the restrictions regarding excess benefit transactions under Section 4958 of the Internal Revenue Code of 1986, as amended.

Subject to the exceptions outlined in Section 716 of the Not-For-Profit Corporation Law, no loans will be made by the Corporation to any Director or Officer, or to any other entity in which one or more Directors or Officers is a director or Officer or holds a substantial financial interest.

Section 10.03 Definition. For purposes of this Article, “direct or indirect interest” shall mean having an “interest” as that term is defined in subdivision 12 of section 2601 of the New York City Charter.

Section 10.04 Conflicts of Interest of Paid Officers and Employees. The Corporation shall adopt and maintain a Code of Ethics which, among other things, shall set forth additional restrictions and post-employment prohibitions governing paid officers and employees of the Corporation, which restrictions and prohibitions will be substantially similar to those set forth in Chapter 68 of the New York City Charter.

ARTICLE XI

Miscellaneous

Section 11.01 Form of Corporate Seal. The seal of the Corporation will be circular in form with the words “NYC Technology Development Corporation” in the outer circle and the words “Corporate Seal 2012 New York” in the inner circle. The seal on any corporate obligation for the payment of money, if and when required, may be facsimile, engraved or printed.

Section 11.02 Fiscal Year. The fiscal year of the Corporation will end on June 30th, unless otherwise provided by the Board of Directors.

Section 11.03 Amendment of By-Laws. An affirmative vote of all but one of the then-appointed members of the Board of Directors shall be required to amend, repeal or replace these By-Laws in whole or in part; provided, however, that any abstention shall reduce the number of affirmative votes required to approve such an action, and provided further that absence by an *ex officio* Director shall be deemed an abstention for purposes of this subdivision.

Section 11.04 PAAA and Public Officers Law Compliance. The Corporation shall be subject to all the requirements governing local authorities under the Public Authorities Accountability Act (PAAA) , including but not limited to the requirements relating to the filing of financial disclosure statements with the New York City Conflicts of Interest Board. The Corporation shall also comply with the requirements of Articles 6 and 7 of the Public Officers Law (the “Freedom of Information Law” and the “Open Meetings Law”).