



**THIRD AMENDED AND RESTATED BY-LAWS  
OF  
EMERGENCY SHELTER NETWORK OF FAITH-BASED AND COMMUNITY ORGANIZATIONS INC.  
(the “Corporation”)  
DBA: NYC ESN**

*(A New York Corporation organized under Section 402 of the Not-For-Profit Corporation Law)*

ARTICLE I

MEMBERS

Section 1. Member. The sole member of the Corporation shall be the New York Disaster Interfaith Services (the “Member”).

Section 2. Annual Meeting. The annual meeting of the Member (the “Annual Meeting of the Member”) for the election of the Directors, approval of the Corporation’s annual budget and the transaction of such other business as may come before the Member, including delivery of a financial statement pursuant to Section 519 of the Not-For-Profit Corporation Law, if applicable, shall be held each year at the place (within the State of New York), time and date, in the month of February or March, as may be fixed by the Board, or, if not so fixed, as may be determined by the Chairperson of the Board. Special meetings shall be held whenever called by resolution of the Board, the Chairperson of the Board, the Executive Director, or by a delivery to the Secretary by the Member of a written demand for the call of a special meeting, such written demand specifying the date and month thereof, which shall be not less than two nor more than three months from the date of such written demand. The Secretary, upon receiving the written demand or resolution, shall promptly give notice of such meeting as provided below, or if the Secretary fails to do so within five business days thereafter, the Member signing such demand may give such notice.

Section 3. Notice of Meetings. Written or electronic notice of the place, date and hour of any meeting (other than the Annual Meeting of the Member) shall be given to the Member and if by mailing, the notice shall be by first class mail, postage prepaid, or by personal delivery, not less than ten nor more than fifty days before the date of the meeting. Personal delivery shall be deemed accomplished when notice is given at the Member’s address as listed in the records of the Secretary of the Corporation. Notice of special meetings shall indicate the purpose for which they are called and the person or persons calling the meeting.

Section 4. Organization. The Chairperson of the Board shall preside at all meetings of the Member or, in the absence of the Chairperson, an acting Chairperson shall be chosen by the Member. The Secretary of the Corporation shall act as Secretary at all meetings of the Member, but in the absence of the Secretary, the presiding officer may appoint any person to act as Secretary of the meeting.



Section 5. Waivers of Notice. Notice of any Member's meeting need not be given if the Member submits a waiver of notice, in person or by proxy, whether before or after the meeting. Waiver of notice may be written or electronic. The attendance of the Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by the Member.

Section 6. Quorum and Voting. Except as otherwise provided by law, the Certificate of Incorporation of these By-Laws, the attendance of the Member shall constitute a quorum at any meeting of the Member for the transaction of any business.

Section 7. Proxy. The Member may authorize another Director to act for such member by proxy. Every proxy must be in writing and signed by the Member or the Member's duly authorized officer, director, employee or agent, or by email and set forth information from which it can be reasonably determined that the proxy was authorized by that Member. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided by law. For the purposes of conducting meetings, all proxies shall be delivered to the Secretary or, upon the absence of the Secretary, the person appointed to act as secretary of the meeting.

Section 8. The Board may fix, in advance, a date as the record date for the purpose of determining the Member entitled to notice of any meeting or any adjournments thereof. Such record date shall not be more than fifty (50) nor less than ten (10) days before the date of the meeting. If no such record date is fixed, the record date for the determination of Member entitled to vote at the meeting shall be at the close of business on the day preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held.

Section 9. Action by the Member Without a Meeting. In lieu of meeting, including for the purposes set forth in Section 3 of this Article I, any action required or permitted to be taken by the Member may be taken without a meeting if the Member consents in writing or electronically to such action, which consent shall set forth the action so taken. If written, such consent must be executed by the Member's authorized officer, director, employee or agent signing or causing such party's signature to be affixed by any reasonable means, including facsimile signature. If electronic, such consent may be sent by electronic mail and must set forth, or be submitted with, information from which it can be reasonably determined that the transmission was authorized by the Member.

Section 10. Special Actions Requiring Vote of the Member. The following corporate actions may not be taken without approval of the Member:

any amendment of or change to the certificate of incorporation of the Corporation (the "Certificate of Incorporation");

(b) A petition for judicial dissolution;

(c) Disposing of all, or substantially all, of the assets of the Corporation;



- (d) A purchase, sale, mortgage or lease of real property of the Corporation if the property constitutes all, or substantially all, of the assets of the Corporation;
- (e) A sale, lease, exchange or other disposition of all or substantially all of the assets of the Corporation;
- (f) Approval of a plan of merger;
- (g) Authorization of a plan of non-judicial dissolution; or
- (h) Revocation of a voluntary dissolution proceeding.

## ARTICLE II

### BOARD OF DIRECTORS

#### Section 1. Powers and Initial Number.

(a) The Board shall have general power to control and manage the affairs and property of the Corporation, subject to applicable laws and in accordance with the purposes and limitations set forth in the Certificate of Incorporation and herein.

(b) The number of Directors constituting the Entire Board shall not be less than three (3) and not more than five (5). Subject to such minimum, the number of Directors may be increased or decreased from time to time, by the Member, but no decrease shall shorten the term of any then incumbent. The "Entire Board" shall consist of the total number of Directors entitled to vote which the Corporation would have if there were no vacancies. If the Member has not fixed the number of Directors within the range set forth in this paragraph, the "Entire Board" shall consist of the number of Directors within such range that were elected or appointed as of the most recently held election of Directors, as well as any Directors whose terms have not yet expired.

#### Section 2. Election and Term of Office.

(a) The Directors shall be the persons elected at the annual meeting of the Member. The Directors shall be appointed by the Member to hold office for one-year terms; provided, however, that any Director elected to fill an unexpired term (whether resulting from the death, resignation or removal or created by an increase in the number of Directors) shall hold office until the next election of Directors. Directors may be elected to any number of consecutive terms. The Member hereby waives any notice requirements under the Not-for-Profit Corporation Law for a meeting held as specified in the preceding sentence.

(b) The Board may appoint one or more individuals to serve as "Advisory Members" of the Board to advise and consult with the Board on matters deemed appropriate by the Board. Advisory Members of the Board may attend Board meetings if deemed appropriate by the Board. Advisory Members shall



otherwise have none of the duties, rights or powers of Directors, and any reference in these Third Amended and Restated By-Laws to Directors shall not include Advisory Members of the Board. Advisory Members may be removed at any time by a majority vote of the Entire Board for any reason.

Section 3. Qualifications of Directors. Each Director shall be at least eighteen (18) years of age. Each Director appointed by the Member must be a person in good standing with the Corporation.

Section 4. Duties of the Board. The Board shall:

- (a) Carry out the purposes of the Corporation and manage the affairs of the Corporation.
- (b) Present at the annual meeting of the Member a report, verified by the President and Treasurer or by a majority of the Directors, or certified by an independent public or certified public accountant or a firm of such accountants selected by the Board, showing in appropriate detail the following:
  - (i) the assets and liabilities, including the trust funds, of the Corporation as of the end of a twelve-month fiscal period terminating not more than six months prior to such annual meeting;
  - (ii) the principal changes in assets and liabilities, including trust funds, during such fiscal period in comparison with the prior fiscal period;
  - (iii) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes during such fiscal period; and
  - (iv) the expenses or disbursements of the Corporation, for both general and restricted purposes, during such fiscal period.

This annual report shall be filed with the records of the Corporation and a copy thereof entered in the minutes of the proceedings of the annual meeting of the Member. The report or at least a summary shall be distributed to the Member with the notice of the Annual Meeting of the Member.

- (c) Select all Officers for the Corporation and the members of the committees.
- (d) Establish arrangements for the supervision of the activities of all Officers, employees, agents, advisors and committees of the Corporation in the performance of their delegated responsibilities, and investigate any possible conflicts of interest within the Corporation.

Section 5. Powers of the Board. The Board may:

- (a) Appoint and discharge advisors and consultants who have skills necessary or helpful to the Corporation;
- (b) Employ and discharge persons for the furtherance of the purposes of the Corporation; and



(c) Exercise all other powers necessary to manage the affairs and further the purposes of the Corporation in conformity with the Certificate of Incorporation and these Third Amended and Restated By-Laws.

Section 6. Newly Created Directorships and Vacancies. Newly created directorships and any vacancies on the Board among the Directors may be filled by the Member, and the Director(s) so appointed shall serve until the next annual meeting of the Member. A vacancy on the Board shall be deemed to exist on the occurrence of any of the following:

- (a) The death, resignation or removal of any Director;
- (b) The declaration by the Member of a vacancy in the office of a Director who has missed two (2) consecutive meetings of the Board or a total of four (4) meetings during any fiscal year;
- (c) An increase in the authorized number of Directors by the Member; or
- (d) The failure of the Member, at any annual or other meeting of Member at which any one or more Directors are to be appointed, to appoint the full authorized number of Directors to be voted for at that meeting.

Section 7. Resignations. Any Director may resign from office at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time be specified, at the time of its receipt by the Corporation or the President. The acceptance of a resignation shall not be necessary to make it effective, but no resignations shall discharge any accrued obligation or duty of a Director.

Section 8. Removal. Any Director may be removed with or without cause by the Member, or by vote of the Directors provided there is a quorum of not less than a majority present at the meeting of directors at which such action is taken.

Section 9. Meetings. Meetings of the Board may be held at any place within the State of New York as the Board may from time to time fix, or as shall be specified in the notice or waivers of notice thereof. The annual meeting of the Board in each year shall be held immediately following the annual meeting of the Member. Other regular meetings of the Board shall be held no less than five times during the year. Special meetings of the Board shall be held whenever called by a majority of the Board, the Chairperson of the Board, or the Executive Director, in each case at such time and place as shall be fixed by the person or persons calling the meeting. Any one or more members of the Board or any committee thereof may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

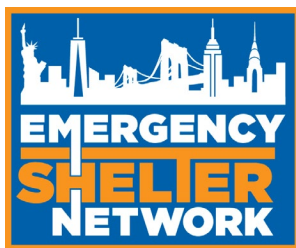


Section 10. Quorum and Voting. Unless a greater proportion is required by law in case of a board of ten members or less, a quorum shall be one-half of the entire number of Directors. Except as otherwise provided by law, the Certificate of Incorporation of the Corporation or these Third Amended and Restated By-Laws, at any meeting of the Board at which a quorum is present, the affirmative vote of a majority of the Directors present at the time of the vote shall be the act of the Board. If at any meeting of the Board there shall be less than a quorum present, the Directors present may adjourn the meeting until a quorum is obtained. Any one or more Directors of the Board or any committee thereof may participate in a meeting of the Board or committee by means of telephone, video conference or similar communications equipment provided that all persons participating in the meeting can hear each other at the same time and can participate in all matters before the board. Participation by such means shall constitute presence in person at a meeting.

Section 11. Action by the Board. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. Such consent may be written or electronic. The resolution and the written consents thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.

Section 12. Notice of Meetings. Regular meetings may be held without notice of time and place if the schedule of such meetings is fixed by the Board. Notice of the time and place of each regular meeting not fixed by the Board and of each special or annual meeting of the Board (which notice shall for each special or annual meeting be accompanied by a written agenda stating all matters upon which action is proposed to be taken and, to the extent possible, copies of all documents on which action is proposed to be taken) shall be faxed (or by other electronic means acceptable to the members), delivered by hand or mailed to each Director, postage prepaid, addressed to him or her at his or her residence or usual place of business (or at such other address as he or she may have designated in a written request filed with the Secretary of the Corporation) at least three (3) days before the day on which the meeting is to be held; provided, however, that notice of special meetings to discuss matters requiring prompt action may be delivered to Directors personally at such addresses or communicated by telephone, in either case no less than four (4) hours before the time at which such meeting be held. Notice of any meeting of the Board need not be given to any Director who signs a waiver of notice whether before or after such meeting, or who attends such meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her. Waivers of notice sent by email must be able to be reasonably determined to be sent by the Director. No notice need be given of any adjourned meeting.

Section 13. Compensation. No compensation shall be paid to Directors. This shall in no way limit the reimbursement of reasonable expenses incurred in connection with board service. Subject to the Corporation's Conflicts of Interest Policy in Article X hereof (the "Conflicts of Interest Policy"), provided that there is full disclosure of the terms of such compensation and the arrangement has been determined to be fair and reasonable and approved by the Board, a Director may receive payment for services provided to the Corporation in any capacity separate from his or her responsibilities as a Director.



Section 14. Chairperson. The Chairperson shall be the President. In the event the President cannot attend a Board meeting, the Board may elect a temporary Chairperson to preside over such meeting. The Chairperson may not be an employee of the Corporation, unless the Board approves such employee serving as Chairperson of the Board by a two-thirds vote of the Entire Board and contemporaneously documents in writing the basis for the Board approval.

### ARTICLE III

#### OFFICERS, EMPLOYEES AND AGENTS

Section 1. Number and Qualifications. The Officers of the Corporation shall be a President, a Secretary, a Treasurer and such other Officers, if any, as the Board may from time to time appoint (each an "Officer" and together the "Officers"). One person may hold more than one office in the Corporation except that no one person may hold the offices of President and Secretary. The other Officers may, but need not, be Directors of the Board. No instrument required to be signed by more than one Officer may be signed by one person in more than one capacity.

Section 2. Election and Term of Office. The Officers of the Corporation shall be elected at the annual meeting of the Board held immediately following the annual meeting of the Member. Each such Officer, whether elected at the annual meeting of the Board or to fill a vacancy or otherwise, shall hold office until the close of the election of Officers at the annual meeting next held after her or his election or until a successor shall have been elected and shall qualify, or until the death, resignation or removal of such Officer, whichever is earlier.

Section 3. Employees and Other Agents. The Board may appoint from time to time such employees and other agents as it shall deem necessary, each of whom shall hold office at the pleasure of the Board, and shall have such authority and perform such duties and shall receive such reasonable compensation, if any, as a majority of the Board may from time to time determine.

(a) Delegation. To the fullest extent allowed by law, the Board may delegate to any Officer or agent any powers possessed by the Board and may prescribe their respective title, terms of office, authorities and duties.

(b) Executive Director. The Board may elect an Executive Director. The Executive Director shall supervise the day-to-day affairs of the Corporation and shall, along with the President, keep the Board fully informed about the activities of the Corporation. The Executive Director shall have authority to execute contracts or instruments as specified in Article V, Section 1 below. The Executive Director, if so determined by the Board, shall be the Chief Executive Officer of the Corporation. The Board may recommend a Program Director and with the approval of the Member, the appointed Program Director shall assist the Executive Director.



Section 4. Removal. Any Officer, employee or agent of the Corporation may be removed with or without cause by a vote of the majority two-thirds (2/3) of the Entire Board.

Section 5. Vacancies. In case of any vacancy in any office, a successor to fill the unexpired portion of the term may be elected by the Board or, temporarily, by the Officers. If the Officers elect a successor, such successor shall serve until the next regularly scheduled Board meeting.

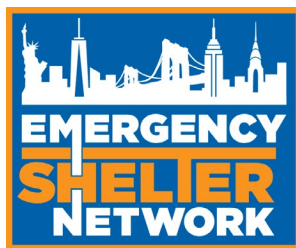
Section 6. Powers and Duties. The agents and Officers of the Corporation shall each have such powers and perform such duties in the management of the affairs, property and business of the Corporation, subject to the control of the Board, as generally pertain to their respective offices and such additional powers and duties as may be authorized from time to time by the Board. Each Officer shall serve a term of one year. If an Officer shall become unable to perform his/her duties due to any circumstances including illness, incapacity or death, the President subject to the approval of the Board, may appoint a substitute. Notwithstanding the foregoing, the powers and duties of the Officers of the Corporation shall, unless otherwise specified by action of the Board, be as follows:

(a) President. The President shall have general supervision of the affairs of the Corporation and shall keep the Board fully informed about the activities of the Corporation. The President shall serve as the Chairperson of the Board. If the President shall become unable to perform his/her duties due to any circumstances, the Secretary shall perform the duties of the President unless otherwise directed by the Board. The President shall perform such other duties as shall from time to time be assigned by the Board. The President shall have authority to execute contracts or instruments as specified in Article V, Section 1 below.

(b) Secretary. The Secretary shall keep the minutes of the annual meeting and all meetings of the Board and other records of the Corporation (except financial records) in books provided for that purpose. He or she shall be responsible for the giving and serving of all notices of the Corporation, receiving the annual disclosure statements required by the Corporation's Conflict of Interest Policy and shall perform all the duties customarily incidental to the office of the Secretary, subject to the control of the Board, and shall perform such other duties as shall from time to time be assigned by the Board.

(c) Treasurer. The Treasurer shall keep or cause to be kept full and accurate financial records, accounts of receipts and disbursements of the Corporation, and shall deposit or cause to be deposited all moneys, evidences of indebtedness and other valuable documents of the Corporation in the name and to the credit of the Corporation in such banks or depositories as the Board may designate. At the annual meeting for each of the Member and the Board, he or she shall render a report of the Corporation's accounts showing in appropriate detail: (a) the assets and liabilities of the Corporation as of a twelve-month fiscal period terminating not more than six months prior to the meeting; (b) the principal changes in assets and liabilities during that fiscal period; (c) the revenues or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period; and (d) the expenses or disbursements of the Corporation, for both general and restricted purposes during said fiscal period. Such report shall be filed with the minutes of the annual meeting of the Board. The report to the Board may consist of a verified or certified copy of any report by the Corporation to the





Internal Revenue Service or the Attorney General of the State of New York which includes the information specified above. The Treasurer shall, at all reasonable times, exhibit the Corporation's books and accounts to any Officer or Director of the Corporation, and whenever required by the Board, render a statement of the Corporation's accounts and perform all duties incident to the position of Treasurer, subject to the control of the Board.

(d) Directors. Any Officer may also serve as a Director, subject to the qualifications set forth in Article II.

Section 7. Compensation. No Officer shall be compensated. Any employee or agent of the Corporation is authorized to receive a reasonable salary or other reasonable compensation for services rendered to the Corporation when authorized by a majority of the Board, and only when so authorized. If an employee or agent is a Director, then such employee or agent may not be present at or otherwise participate in any Board or committee deliberation or vote concerning such person's compensation; provided that nothing in this section shall prohibit the Board or authorized committee from requesting that a person who may benefit from such compensation present information as background or answer questions at a committee or Board meeting prior to the commencement of deliberations or voting related thereto.

## ARTICLE IV

### COMMITTEES

Section 1. Creation. The Board may from time to time create such committees as the business of the Corporation may require, and delegate such authority to such committees as the Board may deem appropriate, subject to this Article IV and as allowed by applicable law. Notwithstanding the foregoing, any Committee of the Corporation (as defined below) shall not have authority to bind the Board.

Section 2. Appointment and Procedure of Committee. Each member of a committee shall be appointed by the Board for a term of one year and until the election and qualification of his or her successor or his or her earlier death, resignation or removal. The Board may appoint alternate members of any committee to act as substitutes for any absent member at meetings of such committee. The Board may fill any vacancy in any committee for the unexpired term. The Board shall appoint a chairperson of each committee. Except as otherwise provided by these Third Amended and Restated By-Laws or by the Board, each committee shall determine its own rules of procedure. Each committee shall keep records of its proceedings and report the same from time to time to the Board.

Section 3. Committees of the Corporation. The Board may create committees of the Corporation ("Committees of the Corporation"), which shall not have the authority to bind the Board. Committees of the Corporation shall be chaired by Directors, although the members of such committees need not be Directors. Any vacancies on any Committees of the Corporation shall be filled by individuals selected by the Board or by the President subject to the approval of the Board.



Section 4. Powers. Each committee will have such authority as is provided in the resolution designating such committee, but no committee shall be empowered or authorized to vote on or take any action with respect to the following matters:

- (a) submission to the Member of any action with respect to which the Member's approval is required by law, the Certificate of Incorporation of the Corporation or these Third Amended and Restated By-Laws;
- (b) filling of vacancies on the Board or on any committee;
- (c) fixing of compensation of the Directors for serving on the Board or on any committee;
- (d) amendment or repeal of any clause or clauses of these Third Amended and Restated By-Laws or the adoption of new By-Laws;
- (e) amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable;
- (f) election or removal of Officers and Directors;
- (g) approval of a merger or plan of dissolution;
- (h) adoption of a resolution recommending to the Member action on the sale, lease, exchange or other disposition of all or substantially all the assets of a corporation;
- (i) approval of amendments to the Certificate of Incorporation; or
- (j) purchasing or selling any real property, or leasing, mortgaging, pledging, hypothecating or otherwise transferring or selling other structures owned by the Corporation, except in accordance with policies previously adopted by the Board, to be implemented by the committee(s).

Section 5. Audit Oversight.

- (a) Unless such functions are undertaken by the Independent Directors of the Board (as defined in Section 2(c) of Article X below), an audit committee (the "Audit Committee") shall be comprised solely of Independent Directors, and shall oversee the accounting and financial reporting processes of the Corporation and the audit of the Corporation's financial statements. The Audit Committee shall annually retain or renew the retention of an independent auditor to conduct the audit and, upon completion therefor, review the results of the audit and any related management letter with the independent auditor.
- (b) The Audit Committee, as applicable, shall, in addition to those duties set forth in paragraph (a) above:



- (i) review with the independent auditor the scope and planning of the audit prior to the audit's commencement;
- (ii) upon completion of the audit, review and discuss with the independent auditor: (1) any material risks and weaknesses in internal controls identified by the auditor; (2) any restrictions on the scope of the auditor's activities or access to requested information; (3) any significant disagreements between the auditor and management; and (4) the adequacy of the Corporation's accounting and financial reporting processes;
- (iii) annually consider the performance and independence of the independent auditor; and
- (iv) report on the committee's activities to the Board.

## ARTICLE V

### CONTRACTS, CHECKS, BANK ACCOUNTS, INVESTMENTS AND GIFTS

Section 1. Contracts, Checks and Notes. The Executive Director, President and Secretary shall be authorized to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. The Executive Director, President, Secretary and Treasurer shall be authorized to sign all checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation. If a check or other instrument is for two thousand dollars (\$2,000.00) or greater, two of the authorized signatories shall sign. The Board may authorize any other Officer or Officers, agent or agents of the Corporation, in addition to the Officers so authorized above or elsewhere in these Third Amended and Restated By-Laws, to enter into any writing as it shall deem appropriate. Such authority may be general or confined to specific instances.

Section 2. Deposits and Investments. The funds of the Corporation may be retained in whole or in part in cash, and be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select, or invested and reinvested from time to time in such property, real, personal or otherwise, including stocks, bonds or other securities, as the Board may deem desirable, provided that no such deposits or investments may be made which would alter the status of the Corporation as a charitable corporation validly organized under Section 402 of the Not-For-Profit Corporation Law of the State of New York and meeting the tests for tax-exemption under Section 501(c)(3) of the Internal Revenue Code of 1986 (as it may be amended, the "Code"), or the corresponding section of any future federal tax code.

Section 3. Gifts. The Board may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation, provided that no contribution, gift, bequest or devise may be solicited or accepted which would alter the status of the Corporation as a charitable corporation validly organized under Section 402 of the Not-For-Profit



Corporation Law of the State of New York and meeting the tests for tax-exemption under Section 501(c)(3) of the Code or the corresponding section of any future federal tax code.

## ARTICLE VI

### OFFICE AND BOOKS

Section 1. Office. The principal office of the Corporation shall be in the County of New York, State of New York. The Corporation may also have offices at such other places within the State of New York as the Board may from time to time determine the business of the Corporation may require.

Section 2. Books. There shall be kept at the office of the Corporation correct books of account of the activities and transactions of the Corporation including a minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these Third Amended and Restated By-Laws, and all minutes of meetings of the Member and of the Board.

## ARTICLE VII

### FISCAL YEAR

The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December in each year.

## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

Section 1. Indemnification. The Corporation shall, to the fullest extent now or hereafter permitted by law, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that he or she, his testator or intestate was or is a Director, Officer, employee or agent of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees. No indemnification may be made to or on behalf of any such person if (a) his or her acts were committed in bad faith or were the result of his or her active and deliberate dishonesty and were material to such action or proceeding or (b) he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled (but in such case indemnification shall only be prohibited to the extent of any such profit or other advantage).

Section 2. Insurance. The Corporation shall purchase and maintain insurance to indemnify the Corporation for any obligation which it incurs as a result of its indemnification of Directors, Officers, employees and agents pursuant to Section 1 above, or to indemnify such persons in instances in which they may be indemnified pursuant to Section 1 above.



## ARTICLE IX AMENDMENTS

These Third Amended and Restated By-Laws may be amended or repealed by the affirmative vote of the Member. The Board may recommend amendments for consideration by the Member.

## ARTICLE X CONFLICT OF INTEREST POLICY

Section 1. Purpose. The purpose of the Conflict of Interest Policy is to protect the Corporation's interests when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Director, Officer or Key Person (as defined herein) of the Corporation. The Corporation will not enter into any such transaction or arrangement unless it is determined by the Board in the manner described below to be fair, reasonable and in the best interests of the Corporation at the time of such determination. In the event of any conflict between the terms of an agreement related to any such transaction or arrangement, the provisions of these Third Amended and Restated By-Laws shall be controlling. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to non-profit and charitable organizations.

Section 2. Definitions. For purposes of this Article X, the following defined terms shall apply.

(a) Affiliate. An "Affiliate" of the Corporation is a person or entity that is directly or indirectly through one or more intermediaries, controlled by, in control of or under common control with the Corporation.

(b) Financial Interest. A person has a "Financial Interest" if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving the Corporation.

(c) An "Independent Director" is a Director who:

(i) has not been an employee or Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;

(ii) does not have a Relative (defined below) who has been a Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;



(iii) has not received and does not have a Relative who has received more than ten thousand dollars (\$10,000) in compensation directly from the Corporation or an Affiliate of the Corporation in any of the last three (3) years (not including reimbursement for expenses reasonably incurred as a Director or reasonable compensation for services as a Director, as set by the Corporation);

(iv) does not have a substantial Financial Interest in and has not been an employee of, and does not have a Relative who has a substantial Financial Interest in or has been an officer of, any entity that has provided payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate of the Corporation if the amount paid by the Corporation to the entity or received by the Corporation from the entity for such property or services, in any of the last three (3) years, exceeded:

(1) the lesser of ten thousand dollars (\$10,000) or two percent (2%) of such entity's consolidated gross revenues if the entity's consolidated gross revenue was less than five hundred thousand dollars (\$500,000);

(2) twenty-five thousand dollars (\$25,000) if the entity's consolidated gross revenue was five hundred thousand dollars (\$500,000) or more but less than ten million dollars (\$10,000,000);

(3) one hundred thousand dollars (\$100,000) if the entity's consolidated gross revenue was ten million dollars (\$10,000,000) or more; or

(v) is not and does not have a Relative who is a current owner, whether wholly or partially, Director, Officer, or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time within the last three (3) years.

(d) Key Person. A "Key Person" is a person (other than a Director or Officer, whether or not an employee of the Corporation), who:

(i) has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of Directors and Officers;

(ii) manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income or expenses of the Corporation; or

(iii) alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.

(e) Related Party. Persons who may be considered a "Related Party" of the Corporation or an Affiliate of the Corporation under this policy include:

(i) Directors, Officers or Key Persons of the Corporation or an Affiliate of the Corporation;



(ii) Relatives of Directors, Officers or Key Persons of the Corporation or an Affiliate of the Corporation; or

(iii) any entity in which any individual in clause (i) or (ii) above has a thirty-five percent (35%) or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent (5%).

(f) Related Party Transaction. A “Related Party Transaction” is any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which the Corporation or an Affiliate of the Corporation is a participant, except that a transaction shall not be a Related Party Transaction if:

(i) the transaction or the Related Party’s Financial Interest in the transaction is de minimis;

(ii) the transaction would not customarily be reviewed by the Board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms, or

(iii) the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that the Corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.

(g) Relative. A “Relative” of an individual means

(i) his or her spouse or domestic partner as defined in Section 2994-a of the NY Public Health Law;

(ii) his or her ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren; or

(iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren, and great-grandchildren.

### Section 3. Related Party Transactions and Duty to Disclose.

(a) A Related Party Transaction is not necessarily a prohibited transaction. Under this Conflict of Interest Policy, if the Corporation contemplates entering into a Related Party Transaction, the Board, or an authorized committee thereof, must determine if the transaction is fair, reasonable and in the best interests of the Corporation at the time of such determination.

(b) If at any time during his or her term of service a Related Party acquires any Financial Interest or when any matter for decision or approval comes before the Board or authorized committee in which a Related Party has a Financial Interest, that Financial Interest or potential Related Party Transaction must be promptly disclosed in writing to each member of the Board and the President, or authorized



committee, together with all material facts. The Board will then follow the procedures in Section 4 of this Article X.

(c) Any failure by a Related Party to disclose to the Board, or authorized committee, a known Financial Interest or a known potential Related Party Transaction may be grounds for removal of such person from the Board and/or his or her termination from the Corporation.

Section 4. Disclosure and Voting.

(a) Disclosure. Any Related Party shall disclose in good faith all material facts of his or her Financial Interest to the Board or an authorized committee thereof.

(b) Non-Participation and Review. All transactions, agreements or any other arrangements between the Corporation and a Related Party, and any other transactions which may involve a potential conflict of interest, shall be reviewed by the Board, or an authorized committee thereof. All Related Parties with a Financial Interest shall not participate in such deliberations. The Board or authorized committee will then determine whether the contemplated Related Party Transaction is fair, reasonable and in the best interests of the Corporation at the time of such determination. The Corporation will not enter into any Related Party Transaction unless it is determined to be fair, reasonable and in the best interest of the Corporation at the time of such determination.

(c) Consideration of Alternate Transactions and Comparability Data. If the contemplated Related Party Transaction pertains to compensation for services or the transfer of property or other economic benefit to a Related Party, the Board or authorized committee must determine that the value of the economic benefit provided by the Corporation to the Related Party does not exceed the value of the consideration received in exchange by obtaining and reviewing appropriate comparable data prior to entering the transaction. In those instances where the contemplated Related Party Transaction does not involve compensation, transfer of property or benefits to a Related Party, the Board or authorized committee must consider alternative transactions to the extent possible, prior to entering into such transaction.

(d) Comparability Data. When considering the comparability of compensation, for example, the types of relevant Comparability Data which the Board or authorized committee may consider include, but are not limited to (1) compensation levels paid by similarly situated organizations, both exempt and non-exempt; (2) the availability of similar services within the same geographic area; (3) current compensation surveys compiled by independent firms; and (4) written offers from similar institutions competing for the same person's services. When the transaction involves the transfer of real property as consideration, the relevant factors include, but are not limited to (i) current independent appraisals of the property and (ii) offers received in a competitive bidding process.

(e) Voting. The Board, or an authorized committee thereof, shall, after considering alternate transactions and/or comparability data, determine in good faith by vote of the Board or committee whether the transaction or arrangement is fair, reasonable and in the best interest of the Corporation at the time of such decision. The transaction shall be approved by not less than a majority vote of the





Directors or committee members present at the meeting. In conformity with the above criteria, the Board or authorized committee shall make its decision as to whether to enter into the transaction or arrangement and shall document the meeting contemporaneously under Section 5 of this Article X. All Related Parties with a Financial Interest must not be present for deliberations and voting on the transaction or arrangement in which he or she has a Financial Interest. However, Related Parties are not prohibited from providing information regarding the transaction to the Board or authorized committee prior to deliberations. No Director or Officer of the Corporation shall vote, act or attempt to influence improperly the deliberations on any matter in which he or she has been determined by the Board or authorized committee to have a Financial Interest. A quorum will not be lost if one or more Directors recuse themselves because of a conflict. Any attempt to vote, act or improperly influence deliberations by a Related Party on any matter with which such person has a Financial Interest may be grounds for removal from the Board or termination from the Corporation.

(f) Compensation. A voting member of the Board of Directors or an Officer who receives compensation directly or indirectly from the Corporation for services or a Director serving as a voting member of any Committee whose jurisdiction includes compensation matters is precluded from voting or acting on matters pertaining to that Director's or Officer's compensation. No voting member of the Board or any Committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any Committee regarding compensation.

Section 5. Audit Committee Review. The Board may delegate to the Audit Committee, which shall be composed solely of Independent Directors, the adoption, implementation of and compliance with this Conflict of Interest Policy. The Board may delegate to the Audit Committee review and approval of any Related Party Transaction involving a Related Party and the Corporation, as contained in this Policy; provided that if the Related Party Transaction is of a magnitude that would otherwise require full Board approval, the Committee shall submit the Related Party Transaction to the Board for consideration, providing its recommendation as to whether or not to approve it. In the event the Board delegates the review and approval of Related Party transactions to a committee, all references to Board in this Policy shall be deemed to refer to such Committee and all references to a majority of the Board shall be deemed to refer to a majority of such Committee.

Section 6. Records of Proceedings. The minutes of all meetings of the Board at which a Related Party Transaction is considered shall contain:

(a) The names of the persons who disclosed or otherwise were determined to have a potential or actual Financial Interest and/or conflict of interest, the nature of the potential or actual Financial Interest and/or conflict of interest, any action taken to determine whether a Financial Interest or conflict of interest exists, and the Board's decision as to whether a Financial Interest and/or conflict of interest exists.

(b) The names of the persons who were present for discussions and votes relating to any determinations under Section 4 of this Article X, including whether the Related Party left the room



during any such discussions, the content of such discussions, including discussion of alternative transactions, and whether or not the transaction with the Related Party was approved by the Board.

(c) The minutes shall be documented contemporaneously to the decision and discussion regarding the Financial Interest or conflict of interest.

#### Section 7. Initial and Annual Written Disclosures.

(a) Prior to a Director's initial election to the Board, or an Officer or Key Person's employment at the Corporation, and thereafter on an annual basis, all Directors, Officers and Key Persons shall disclose in writing to the Secretary of the Corporation (or such other person thereunto directed by the President or the Directors):

(i) any entity of which such person or a Relative of such person is an officer, director, trustee, member, owner or employee and with which the Corporation has a relationship;

(ii) any Financial Interest such person may have in any corporation, organization, partnership or other entity which provides professional or other goods or services to the Corporation for a fee or other compensation; and

(iii) any position or other material relationship such Director, Officer, Key Person or Relative of such person, may have with any not-for-profit corporation with which the Corporation has a business relationship.

(b) A copy of each disclosure statement shall be kept in Corporation's files and made available to any Director, Officer or Key Person upon request.

Section 8. Annual Statements. Each Director, Officer and Key Person shall annually sign and submit to the Secretary of the Corporation (or such other person thereunto directed by the President or the Directors) a statement which affirms such person: (a) has received a copy of the Conflicts of Interest Policy; (b) has read and understands the Conflicts of Interest Policy; and (c) has agreed to comply with the Conflicts of Interest Policy.



## ARTICLE XI

### DISPOSITION OF CORPORATE ASSETS

#### Section 1. Disposition of Assets.

(a) The Corporation may sell, mortgage or lease real property if such disposition is authorized by the Member.

(b) The Corporation may sell, lease, exchange or otherwise dispose of all or substantially all of the corporate assets, if the Entire Board adopts a resolution which specifies the terms of the proposed transaction including the consideration to be received by the Corporation. This resolution shall then be submitted to a vote at a meeting of the Member.

Section 2. Plan of Dissolution. If the Corporation is adopting a plan of dissolution or other disposition of assets, all assets shall be transferred to non-profit faith based charities involved in aiding homeless persons within the five boroughs of New York City.

## ARTICLE XII

### NON-DISCRIMINATION

In all of its dealings, the Corporation or its duly authorized agents shall not discriminate against any individual or group for reasons of age, gender, gender identity, sexual orientation, color, creed, culture, marital status, mental or physical disability, national origin, race or veteran status.



#### ARTICLE XIII

#### REFERENCE TO CERTIFICATE OF INCORPORATION

References to the Certificate of Incorporation of the Corporation in these Third Amended and Restated By-Laws shall include all amendments thereto or changes thereof unless specifically expected. In the event of conflict between the Certificate of Incorporation and these Third Amended and Restated By-Laws, the Certificate of Incorporation shall govern.

#### ARTICLE XIV

#### ORGANIZATIONAL PURPOSES

The purposes of the Corporation shall be for the charitable purpose of aiding homeless persons within the five boroughs of New York City by arranging for the shelter food and related services to such persons through a network of non-profit, religious and community organizations. The Corporation has been formed to provide resources, guidance and support to, and to further and expand upon, an existing network of organizations within New York City currently prepared to offer shelter to homeless persons and to do any other acts or things incidental to or connected with the foregoing purposes or in advancement thereof under and pursuant to the Not-for-Profit Corporation Law or any other applicable law of the State of New York or of the United States that may be now or hereafter applicable to the Corporation.