

Hearty Helpings, INC.

BY-LAWS

These By-Laws of Hearty Helpings, Inc. (the “Corporation”) were adopted at a meeting of the Board of Directors of the Corporation held on January 23, 2023, and effective as of that date.

ARTICLE I **MEMBERS**

The sole member of the Corporation shall be FeedMore Western New York, Inc. (the “Sole Member”). The Sole Member shall take all actions as Sole Member by and through its Board of Directors or an officer of the Sole Member acting upon the authorization and direction of the Board of Directors.

ARTICLE II **BOARD OF DIRECTORS**

Section 1. Powers and Responsibilities. The business, property, and affairs of the Corporation shall be managed and controlled by its board of directors (the “Board”), which may exercise in the name and on behalf of the Corporation all of the rights and privileges legally exercisable by the Corporation as a corporate entity, and to do all such lawful acts and things except as otherwise prohibited by law, by the Certificate of Incorporation, or by these By-Laws.

Section 2. Composition. The Board shall consist of five directors. Four of the directors shall be elected by the Sole Member, as follows: two persons from among the members of the Executive Committee of the Sole Member; and two persons elected by the Sole Member from (a) the Board of the Sole Member, (b) the Consumer Ambassador Council of the Sole Member, or (c) the community, as determined by the Sole Member in its sole discretion. The President/CEO of the Sole Member shall be, ex officio, the fifth member of the Board for so long as such person holds the office of President/CEO of the Sole Member. As used in this Article, “entire Board of Directors” means the total number of Directors entitled to vote which the Corporation would have if there were no vacancies.

Section 3. Qualifications. In selecting persons to serve as directors of the Corporation (individually, a “Director” and collectively the “Directors”) in accordance with the preceding paragraph, the sitting Board shall select outstanding citizens and leaders of the community who have shown themselves interested in the stated purposes of the Corporation. All of the Directors shall be at least eighteen (18) years of age.

Section 4. Election and Terms. Directors shall be elected at the annual meeting of the Corporation. Each Director shall hold office from the time of his/her election, but shall be responsible as a Director from such time only if he/she consents to election or otherwise from the time he/she accepts or attends his/her first meeting of the Board. Each elected Director shall hold office until the next annual meeting for the election of Directors or until a successor is duly elected and qualified, until removed, or until his/her resignation has been tendered, provided that if such

Director is a member of the Board or the Community Ambassador Council of the Sole Member, then such Director's term of office in the Corporation shall expire when such Director ceases to be a member of the Board or the Community Ambassador Council, as applicable, of the Sole Member. Each elected Director may not serve for more than six consecutive full one-year terms,¹ unless such Director has been elected by the Board to serve as an officer, in which case, such Director may serve as such officer for up to one additional year in such capacity. If an elected Director has served for six consecutive full one-year terms, the Director may not serve again as a Director of the Corporation for at least one (1) year.

Section 5. Resignation. Any Director may resign and such resignation shall take effect upon written receipt thereof by the Secretary of the Corporation, or upon such time subsequent thereto as set forth in the notice of resignation.

Section 6. Removal. Any Director may be removed with cause by the affirmative vote of two-thirds of the entire Board at any meeting of the Board, notice of which shall have referred to the proposed action.² "Cause" includes, but is not limited to, being absent from two (2) consecutive regular Board meetings without being excused by the Chairman.

Section 7. Newly-Created Directorships and Vacancies. Any vacancy on the Board of Directors caused by the resignation, removal or death of a Director who was elected or appointed by the Sole Member shall be filled by a person selected by the Sole Member. The newly-elected Director shall serve for the unexpired term of the Director whose resignation, removal or death caused the vacancy. The Board may elect Directors to fill newly created directorships or vacancies on the Board, and those Directors so elected shall serve until the next annual meeting at which the election of Directors is in the regular order of business and until his/her successor is elected.

Section 8. Audit Oversight.

(a) The Board, or a designated audit committee of the Board comprised solely of Independent Directors (as hereinafter defined) ("Audit Committee"), shall oversee the accounting and financial reporting processes of the Corporation and the audit of the Corporation's financial statements and shall perform such other duties as are required under applicable law. The Audit Committee, if one is designated, shall consist of three (3) or more Independent Directors. The Board or Audit Committee shall annually retain or renew the retention of an independent auditor to conduct the audit and, upon completion thereof, review the results of the audit and any related management letter with the independent auditor.

(b) In the event that the Corporation (i) is required to file an independent certified public accountant's audit report with the Attorney General pursuant to subdivision 1 of Section 172-b of the Executive Law and (ii) in the prior fiscal year had or in the current fiscal year

¹ Corresponds to FeedMore limit of 2 3-year terms.

² Note that the Sole Member, by statute, may remove board members of a subsidiary such as this corporation at any time, with or without cause, whether or not these bylaws so state.

reasonably expects to have annual revenue in excess of One Million Dollars (\$1,000,000.00), then, in such event, the Board or Audit Committee shall, in addition to those duties set forth in subsection (a) of this section:

(A) review the scope and planning of the audit with the independent auditor prior to the commencement of the audit;

(B) upon completion of the audit, review and discuss with the independent auditor: any identified material risks and weaknesses in internal controls; any restrictions on the scope of the audit or access to requested information; any significant disagreements between the auditor and management; and the adequacy of the Corporation's accounting and financial reporting processes;

(C) annually consider the performance and independence of the independent auditor; and

(D) if the foregoing duties are performed by an Audit Committee, report its activities to the Board.

(c) The Board or Audit Committee shall oversee the adoption, implementation of, and compliance with the conflict of interest and whistleblower policies described in Article IX and Article X of these By-Laws, respectively. If the Board or Audit Committee is that of a corporation that controls other corporations, the Board or Audit Committee may perform the duties required by this section on behalf of any such controlled corporations.

(d) Only Independent Directors shall participate in any Board or Audit Committee deliberations or voting related to the matters set forth in this Section.

Section 9. Emeritus Directors. The Board, upon recommendation of the Chair and the President and CEO, may from time to time elect a former director as Director Emeritus. The criteria for electing a former director as Director Emeritus are as follows:

(a) Has made a significant contribution to the Corporation, the Sole Member, or an affiliate thereof;

(b) Has served on the Board for six (6) or more years and is no longer a Director;

(c) Has advised that he/she will no longer run for Director or other office of the Corporation, the Sole Member, or an affiliate thereof.

A Director Emeritus will have the right to attend meetings of the Board but shall have no vote.

All Directors Emeriti will be up for reelection by the Board at each Annual Meeting unless he/she requests in writing that he/she does not wish to continue as a Director Emeritus.

Section 10. Compensation. The Board shall have the authority to fix the compensation of Directors for services in any capacity. Notwithstanding the foregoing, no Director shall be

entitled to compensation for services rendered in his/her capacity as a member of the Board, but may be reimbursed for the expenses reasonably incurred by him/her in the performance of his/her duties. Nothing contained herein shall be construed, however, as preventing any Director from receiving reasonable compensation from the Corporation for services rendered to the Corporation in any capacity other than as a Director. No Director who may benefit from such compensation may be present at or otherwise participate in any Board or committee deliberation or vote concerning such Director's compensation; provided, however, that the Board or authorized committee may request that a Director who may benefit from compensation present information as background or answer questions at a committee or Board meeting prior to the commencement of deliberations or voting relating thereto.

ARTICLE III **MEETINGS**

Section 1. Place of Meetings. Meetings of the Board, regular or special, may be held at such places either within or without the State of New York as determined by the Board.

Section 2. Annual Meeting. The annual meeting of the Board shall be held in the month of April of each year or such other month as the Board shall designate. Notice of the time and place of the annual meeting shall be provided to each Director in the manner provided by these By-Laws. The annual meeting shall be held for the election of the Board of Directors and officers; the review of the annual activities and performance of the Corporation; the receiving of the annual reports of officers, Directors, and committees; and the transaction of such other business as deemed appropriate.

Section 3. Regular Meetings. The regular meetings of the Board of Directors shall be held at such time and place during each calendar year as shall be determined by the Board of Directors, but in no event shall the Board meet less than quarterly. Unless waived, a written notice of the date, time and place of any regular meeting of the Board of Directors shall be given no less than five (5) nor more than forty (40) days before the date of the meeting. Notice shall be given by fax, by e-mail or by mail and shall state the time and place of the meeting, but need not state the business to be transacted at, nor the purpose of, such meeting.

Section 4. Special Meetings. Special meetings of the Board of Directors shall be held whenever called by the Chair, the President/CEO, or by any three (3) Directors. Notice shall be given orally, by fax, by e-mail or by mail and shall state the purposes, time and place of the meeting. If notice is given orally, in person or by telephone, it shall be given not less than one (1) day before the meeting; if it is given by fax, by email or by mail, it shall be given not less than three (3) days before the meeting.

Section 5. Waiver of Notice. Notice of any meeting of the Board need not be given to any Director who submits a waiver of notice either before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her. Such waiver of notice may be written or electronic. If written, the waiver must be executed by the Director signing such waiver or causing his or her signature to be affixed to such waiver by

any reasonable means included but not limited to facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Director.

Section 6. Voting. Each member of the Board shall have one (1) vote upon each matter raised for consideration at any meeting of the Corporation. Directors shall vote in person and not by proxy.

Section 7. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business.

Section 8. Adjournment. In the absence of a quorum, the Directors present may, by majority vote and without notice other than by announcement, adjourn the meeting until a quorum shall attend.

Section 9. Organization. At each meeting for the Board of Directors, the Chair, or, in the absence of the Chair, the Vice Chair, shall preside, or in the absence of either of such officers, a chair chosen by a majority of the Directors present, shall preside. The Secretary shall act as secretary of the Board of Directors. In the event the Secretary shall be absent from any meeting of the Board of Directors, the meeting shall select its secretary.

Section 10. Action by the Board of Directors. Except as otherwise provided by law or in these By-Laws, the act of the Board of Directors means actions at a meeting of the Board by vote of a majority of the Directors present at the time of the vote, if a quorum is present at such time, excepting a vote for the purchase, sale, rent or lease of real property, which shall require a vote of two-thirds (2/3) of the Board of Directors.

Section 11. Meetings by Electronic Means. Members of the Board or any committee designated thereby may participate in a meeting of the Board or such committee by means of a conference telephone, electronic video screen communication or other similar communications equipment whereby all persons participating in the meeting can hear each other and each Director can participate in all matters before the Board, including, without limitation, the ability to propose, object to, and vote upon specific action to be taken by the Board of committee. Participation by such means shall constitute presence in person at such meeting. When such a meeting is conducted by means of a conference telephone or similar communications equipment, a written record shall be made of the action taken at such meeting.

Section 12. Action Without a Meeting. An action required or permitted to be taken by the Board may be taken without a meeting if all of the Directors, individually or collectively, consent to that action. Such consent may be written or electronic. If written, the consent must be executed by the Director by signing such consent or causing his or her signature to be affixed to such consent by any reasonable means, including, but not limited to, facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Director. Such action by consent shall have the same force and effect as a

unanimous vote of the Board. A written record of such written consent or consents shall be maintained.

Section 13. Attendance at Meetings. Directors are expected to attend all of the regular and special meetings of the Board and those of its committees to which they have been appointed. Excused absences shall count toward attendance requirements. Failure to satisfy attendance requirements may be grounds for removal from the Board or a committee.

Section 14. Annual Report. The Board of Directors shall present a report certified by a firm of independent public accountants selected by the Board, showing in appropriate detail the following:

(a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the twelve (12)-month fiscal period terminating not more than six (6) months prior to said meeting.

(b) The principal changes in assets and liabilities, including trust funds, during said fiscal period.

(c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period.

(d) The expense or disbursements of the Corporation for both general and restricted purposes, during said fiscal period.

This report shall be presented annually at the first meeting immediately following the completion of the audit and shall be filed with the records of this Corporation. A copy thereof shall be entered in the minutes of the proceedings of the meeting at which the report is presented.

ARTICLE IV **COMMITTEES**

Section 1. Committees of the Board. The Board may from time to time establish Committees of the Board. All Committees of the Board shall be composed of not less than three (3) persons, all of whom are members of the Board. The members of each Committee of the Board shall be appointed by the Board and the Chair shall designate a member of the Board to serve as Chairperson of each such committee. The President/CEO shall be a member of all Committees of the Board. The Board may remove a member of each such committee at any time, with or without cause. The committees shall have such authority as the Board shall by resolution designate, except as otherwise provided by law or these bylaws.

Section 2. Committees of the Corporation. The Board of Directors may designate Committees of the Corporation, each of which shall consist of such persons and shall have such authority, subject to Section 3 of this Article below, as is provided in the resolution designating the committee, provided that no such committee shall have the authority to bind the Board. Committees of the Corporation may be elected or appointed in the same manner as officers of the Corporation.

Section 3. Limitation of Authority. Notwithstanding anything in these By-Laws to the contrary, no committee shall have authority as to the following matters:

- (a) The filling of vacancies in the Board or in any committee.
- (b) The fixing of compensation of the Directors for serving on the Board or on any committee.
- (c) The amendment or repeal of the By-Laws, or the adoption of new By-Laws.
- (d) The amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.

Any reference in these By-Laws to the Board of Directors shall include the Executive Committee of the Corporation (if any) unless the context or express provision otherwise indicates.

Section 4. Meetings. Meetings of the committees, of which no notice shall be necessary, shall be held at such time and place as shall be fixed by the Chair of the Corporation or the chair of the committee or by vote of a majority of all of the members of the committee.

Section 5. Quorum and Manner of Acting. Unless otherwise provided by resolution of the Board of Directors, a majority of all of the members of a committee shall constitute a quorum for the transaction of business and the vote of a majority of the members present shall be the act of the committee.

The procedures and manner of acting of the Executive Committee and other committees of the Board shall be subject at all times to the Directors of the Board.

Section 7. Tenure of Members of the Committees of the Board. Each committee of the Board and every member thereof shall serve at the pleasure of the Board.

Section 8. Alternate Members. The Board of Directors may designate one (1) or more Directors as alternate members of any Committee of the Board, who may replace any absent members or members at any meeting of such committee.

ARTICLE V **OFFICERS**

Section 1. Officers. The Officers of the Corporation shall consist of a Chair, Vice Chair, a Secretary, a Treasurer, a President/CEO, and such other officers that the Board may elect or appoint. No employee of the Corporation shall serve as Chair of the Board or hold any other title with similar responsibilities.

Section 2. Election and Term of Office. Each officer shall be elected at the annual meeting of the Board for a term of one year and shall serve until his/her successor is elected and

qualified, unless such officer resigns or is removed from office. The officers of the Corporation must be selected from among the individuals serving on the Board of Directors of the Corporation.

Section 3. Removal. Any officer may be removed by the Board of Directors with or without cause at any time.

Section 4. Resignation. Any Officer may resign at any time by notifying the Board, the Chair or the Secretary of the Corporation in writing. Such resignation shall take effect at the time specified therein and unless otherwise specified in such resignation, the acceptance thereof shall not be necessary to make it effective.

Section 5. Vacancies. Any vacancy occurring in any office shall be filled by the Board to complete the unexpired term of office.

Section 6. Duties. The duties and responsibilities of the Officers shall be as lawfully delegated or prescribed from time to time, and as set forth in these By-Laws. The specific duties of each Officer of the Corporation are as follows:

(a) **Chair.** The Chair shall call and preside at all meetings of the Board, be an *ex officio* member of all committees and shall have such powers and duties as the Board may prescribe. In the absence of the President/CEO, the Chair shall have all the rights and responsibilities of the President/CEO.

(b) **Vice Chair.** The Vice Chair of the Board shall act as Chair in the absence of the Chair, and when so acting shall have all the rights and responsibilities of the Chair.

(c) **Secretary.** The Secretary shall keep or cause to be kept, at the principal office of the Corporation, a book of minutes of all meetings and actions of the Directors, and all committees of Directors. Such record shall contain: the time and place of the meeting, whether the meeting was regular or special, (and if special, how authorized), the notice given, the names of those present, and the proceedings of such meeting. It shall further be the responsibility of the Secretary to ensure:

- (1) that notice to the Directors, as required by law or by these By-Laws, is properly given;
- (2) that the corporate seal is maintained and available for proper use;
- (3) that official signatures appear on legal documents and that proper application of the corporate seal is made as required; and
- (4) that corporate resolutions are certified as required.

The Secretary shall also have such other powers and perform such other duties as may be prescribed by the Board or these By-Laws. The Secretary may delegate any of his or her duties to any elected or appointed recording secretary; however the Secretary maintains full responsibility for the proper execution of the duties of the office.

(d) Treasurer. The Treasurer shall keep or cause to be kept correct and accurate accounts of the properties and financial transactions of the Corporation. The Treasurer shall receive and deposit in a bank or banks, or in other accounts to be approved by the Board, all monies of the Corporation, and maintain an accurate account thereof. The Treasurer shall make disbursements subject to such resolutions as may be promulgated by the Board and shall make reports of the financial conditions of the Corporation whenever requested by the Board. The Treasurer shall ensure:

- (1) that the Corporation maintains complete and accurate financial records;
- (2) that proper controls are effectively used over all the Corporation's funds and other assets;
- (3) that the financial records of the Corporation are audited at least annually,
- (4) that an annual budget is prepared by the President/CEO and is submitted to the Board at least thirty (30) days prior to the beginning of the budget year; and
- (5) that an account of the financial condition of the Corporation is made at all regular and annual meetings of the Board.

The Treasurer may also perform all duties incident to the office and such other duties as may be assigned by the Board or the Chair. The Treasurer may delegate any of his or her duties to any elected or appointed assistant financial officer; however, the Treasurer maintains full responsibility for the proper execution of the duties of the office.

Section 7. Other Officers. Additional officers may be elected for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the Board of Directors may from time to time determine. The Board of Directors may delegate to any officer or committee the power to appoint and to remove any subordinate officer, agent or employee.

Section 8. Execution of Instruments. The Board shall determine by resolution the Officer(s) and/or employee(s) authorized to sign documents on behalf of the Corporation.

Section 9. Officers Holding Two or More Offices. Any two or more offices, except those of the Chair and Secretary, may be held by the same person, but no Officer shall execute or verify any instrument in more than one capacity if such instrument is required by law or otherwise to be executed or verified by two or more Officers.

ARTICLE VI **PRESIDENT/CEO**

Section 1. Appointment. The Board shall select and appoint a qualified person to serve as the President/CEO of the Corporation and to act as the Board's direct representative in the management of the Corporation and to supervise all of its activities, subject only to the policies enacted by the Board or any committee of persons to which the Board has specifically delegated power or such action.

The President/CEO shall provide support to the Board and Board committees as necessary or requested. The President/CEO shall act as the duly authorized representative of the Board in all matters except those in which the Board has formally designated another person or group to act. The President/CEO shall report to the Chair.

Section 2. Authority and Duties. The President/CEO shall be the chief executive officer of the Corporation. In the absence of the Chair and the Vice Chairs, the President/CEO shall preside at meetings of the Board. The President/CEO shall have the responsibility for the general and active management of the business of the Corporation and shall see that all orders and resolutions of the Board are carried into effect. The President/CEO may delegate some of his or her duties to other Officers or employees of the Corporation as he or she may see fit; however, the President/CEO shall at all times remain ultimately responsible for the proper performance of any duty which he or she may delegate to others.

ARTICLE VII **INDEMNIFICATION AND INSURANCE**

Section 1. Authorized Indemnification. Unless clearly prohibited by law or Section 2 of this Article, the Corporation shall indemnify any person ("Indemnified Person") made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Corporation, by reason of the fact that he or she (or his or her testator or intestate), whether before or after adoption of this Section, (a) is or was a Director or officer of the Corporation, or (b) in addition is serving or served, in any capacity, at the request of the Corporation, as a director or officer of any other corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys' fees and costs of investigation incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

Section 2. Prohibited Indemnification. The Corporation shall not indemnify any person if a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes, or the Board of Directors in good faith determined, that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or that he

or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

Section 3. Advancement of Expenses. The Corporation shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Corporation, pay or promptly reimburse the Indemnified person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law of Section 2 of this Article. An Indemnified person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

Section 4. Indemnification of Others. Unless clearly prohibited by law or Section 2 of this Article, the Board of Directors may approve Corporation indemnification as set forth in Section 1 of this Article or advancement of expenses as set forth in Section 3 of this Article, to a person (or the testator or intestate of a person) who is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or threatened to be made, a party if any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 5. Determination of Indemnification. Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court, the Board of Directors shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws. Before indemnification can occur, the Board of Directors may explicitly find that such indemnification will not violate the provisions of Section 2 of this Article. No Director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board of Directors shall act only after receiving the opinion in writing of independent legal counsel that indemnification is proper in the circumstances under then-applicable law and these By-Laws.

Section 6. Binding Effect. Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification which cannot be abridged by amendment of these By-Laws with respect to any event, action or omission occurring prior to the date of such amendment.

Section 7. Insurance. It is the Policy of the Corporation to maintain Directors' and Officers' Liability Insurance, and all decisions about the maintenance, cancellation, or changes to such insurance coverage shall be approved by the Board of Directors. To the extent permitted by law, such insurance may insure the Corporation for any obligation it incurs as a result of this

Article or operation of law and it may insure directly the Directors, Officers, employees or volunteers of the Corporation for liabilities against which they are not entitled to indemnification under this Article as well as for liabilities against which they are entitled or permitted to be indemnified by the Corporation.

Section 8. Non-Exclusive Rights. The provisions of this Article shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board of Directors is authorized to enter into agreements on behalf of the Corporation with any Director, officer, employee or volunteer providing them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefor in this Article, subject in all cases to the limitations of Section 2 of this Article.

ARTICLE VIII **RELATED PARTY TRANSACTIONS**

Section 1. Related Party Transactions Qualified. The Corporation shall not enter into any Related Party Transaction (as hereinafter defined) unless the transaction is determined by the Board to be fair, reasonable and in the Corporation's best interest at the time of such determination. Any Director, officer or Key Person (as hereinafter defined) who has an interest in a Related Party Transaction shall disclose in good faith to the Board, or an authorized committee thereof, the material facts concerning such interest.

Section 2. Related Party Transaction Deliberations. With respect to any Related Party Transaction involving the Corporation and in which a Related Party (as hereinafter defined) has a substantial financial interest, the Board, or an authorized committee thereof, shall:

- (a) Prior to entering into the transaction, consider alternative transactions to the extent available;
- (b) Approve the transaction by not less than a majority vote of the Directors or committee members present at the meeting; and
- (c) Contemporaneously document in writing the basis for the Board or authorized committee's approval, including its consideration of any alternative transactions.

Section 3. Fixing of Salaries. The Board of Directors shall have authority to fix the compensation of directors for services in any capacity. The fixing of salaries of officers shall require the affirmative vote of a majority of the entire Board of Directors.

Section 4. Related Party Participation Prohibited. No Related Party may participate in either deliberations or voting relating to matters set forth in this Article; provided that nothing in this Article shall prohibit the Board or authorized committee from requesting that a Related Party present factual information concerning a Related Party Transaction at a Board or committee meeting prior to the commencement of deliberations or voting relating thereto.

ARTICLE IX

CONFLICTS OF INTEREST

Section 1. Conflict of Interest Policy. The Corporation shall adopt a conflict of interest policy (“Conflict of Interest Policy”) to ensure that its Directors, officers and Key Persons act in the Corporation’s best interest and comply with applicable legal requirements, including, but not limited to, the requirements set forth in Article VIII of these By-Laws. The adoption, implementation of, and compliance with the Conflict of Interest Policy shall be overseen by the Audit Committee or, in the absence thereof, the Board or other designated committee comprised solely of Independent Directors.

Section 2. Policy Contents. The Conflict of Interest Policy shall include, at a minimum, the following provisions:

- (a) a definition of the circumstances that constitute a conflict of interest;
- (b) procedures for disclosing a conflict of interest to the Audit Committee or, if there is no Audit Committee, to the Board;
- (c) a requirement that the person with the conflict of interest not be present at or participate in Board or committee deliberation or vote on the matter giving rise to such conflict;
- (d) a prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict;
- (e) a requirement that the existence and resolution of the conflict be documented in the Corporation’s records, including in the minutes of any meeting at which the conflict was discussed or voted upon; and
- (f) procedures for disclosing, addressing, and documenting Related Party Transactions in accordance with applicable law.

Section 3. Conflict Disclosure. The Conflict of Interest Policy shall require that prior to the initial election of any Director, and annually thereafter, such Director shall complete, sign and submit to the secretary of the Corporation a written statement identifying, to the best of the Director’s knowledge, any entity of which such Director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship, and any transaction in which the Corporation is a participant and in which the Director might have a conflicting interest. The Conflict of Interest Policy shall require that each Director annually resubmit such written statement. The secretary of the Corporation shall provide a copy of all completed statements to the chair of the Audit Committee or, if there is no Audit Committee, to the chair of the Board.

ARTICLE X

WHISTLEBLOWER POLICY

Section 1. Whistleblower Policy. At any time the Corporation has twenty (20) or more employees and, in the prior fiscal year, had annual revenue in excess of One Million Dollars (\$1,000,000.00), the Corporation shall adopt a whistleblower policy (“Whistleblower Policy”) to protect from retaliation persons who report suspected improper conduct. No Director, officer, employee or volunteer of the Corporation who in good faith reports any action or suspected action taken by or within the Corporation that is illegal, fraudulent or in violation of any adopted policy of the Corporation shall suffer intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse employment consequence. The adoption, implementation of, and compliance with the Whistleblower Policy shall be overseen by the Audit Committee or, in the absence thereof, the Board or other designated committee comprised solely of Independent Directors.

Section 2. Policy Contents. The Whistleblower Policy shall include the following provisions: (a) procedures for the reporting of violations or suspected violations of laws or corporate policies, including procedures for preserving the confidentiality of reported information; (b) a requirement that an employee, officer or Director of the Corporation be designated to administer the Whistleblower Policy and to report to the Audit Committee or other committee of Independent Directors or, if there are no such committees, to the Board; and (c) a requirement that a copy of the policy be distributed to all Directors, officers, employees and to volunteers who provide substantial services to the Corporation.

ARTICLE XI

COMPENSATION

Section 1. Reasonable Compensation. It is the policy of the Corporation to pay no more than reasonable compensation for personal services rendered to the Corporation by Officers and employees. The Directors of the Corporation shall not receive compensation for fulfilling their duties as Directors, although Directors may be reimbursed for actual out-of-pocket expenses which they incur in order to fulfill their duties as Directors. Expenses of spouses will not be reimbursed by the Corporation unless the expenses are necessary to achieve a corporate purpose.

Section 2. Approval of Compensation. The Board of Directors must approve in advance the amount of all compensation for Officers of the Corporation.

Before approving the compensation of an Officer, the Board shall determine that the total compensation to be provided by the Corporation to the Officer is reasonable in amount in light of the position, responsibility and qualification of the Officer for the position held, including the result of an evaluation of the Officer’s prior performance for the Corporation, if applicable. In making the determination, the Board shall consider total compensation to include the salary and the value of all benefits provided by the Corporation to the individual in payment for services. At the time of the discussion and decision concerning an Officer’s compensation, the Officer should not be present in the meeting. The Board shall obtain and consider appropriate data concerning

comparable compensation paid to similar Officers in like circumstances.

The Board shall set forth the basis for its decisions with respect to compensation in the minutes of the meeting at which the decisions are made, including the conclusions of the evaluation and the basis for determining that the individual's compensation was reasonable in light of the evaluation and the comparability data.

ARTICLE XII **MISCELLANEOUS**

Section 1. **Fiscal Year.** The fiscal year of the Corporation shall end on December 31 of each year.

Section 2. **Corporate Records.** There shall be kept at the office of the Corporation: (1) correct and complete books and records of account; (2) minutes of the proceedings of the Board of Directors and the Executive Committee; (3) a current list of the Directors and Officers of the Corporation and their residence addresses; (4) a copy of these By-Laws; (5) a copy of the Corporation's application for recognition of exemption with the Internal Revenue Service; and (6) copies of the past three (3) years' information returns to the Internal Revenue Service.

Section 3. **Loans to Directors and Officers.** No loans shall be made by the Corporation to Directors and/or Officers.

Section 4. **Voting of Securities Held by the Corporation.** Stocks or other securities owned by the Corporation may be voted in person or by proxy as the Board or the Executive Committee shall specify. In the absence of any direction by the Board or Executive Committee, such stocks or securities shall be voted by the Chairman as he or she shall determine.

Section 5. **Office of the Corporation.** The principal office of the Corporation shall be located in the City of Buffalo, New York.

ARTICLE XIII **AMENDMENTS**

The By-Laws of the Corporation may be amended or repealed by the Board of Directors, provided that notice of such proposed changes are sent to each Director prior to the meeting and subject to the approval of the Sole Member.

ARTICLE XIV **DEFINITIONS**

Section 1. As used herein the following terms shall have the meanings set forth below:

(a) “**Independent Director**” means a director:

i. who is not, and has not been within the last three years, an employee of the Corporation or an affiliate of the Corporation, and does not have a relative who is, or has

been within the last three years, a key person of the Corporation or an affiliate of the Corporation;

ii. who has not received, and does not have a relative who has received, in any of the last three fiscal years, more than ten thousand dollars in direct compensation from the Corporation or an affiliate of the Corporation (other than reimbursement for expenses reasonably incurred as a director or reasonable compensation for service as a director as permitted by applicable law); and

iii. who is not a current employee of or does not have a substantial financial interest in, and does not have a relative who is a current officer of or has a substantial financial interest in, 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 for property or services in any of the last three fiscal years, exceeded the lesser of (A) ten thousand dollars or two percent of such entity's consolidated gross revenues if the entity's consolidated gross revenue was less than five hundred thousand dollars; (B) twenty-five thousand dollars if the entity's consolidated gross revenue was five hundred thousand dollars or more but less than ten million dollars; or (D) one hundred thousand dollars if the entity's consolidated gross revenue was ten million dollars or more. For purposes of this paragraph, "payment" does not include contributions, dues or fees paid to the corporation for services which the corporation performs as part of its nonprofit purposes, or payments made by the corporation at fixed or non-negotiable rates or amounts for services received, provided that such services by and to the corporation are available to individual members of the public on the same terms, and such services received by the corporation are not available from another source; or

iv. who otherwise meets the definition of "Independent Director" in Section 102 of the Not-for-Profit Corporation Law.

"Key Person" means any 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.

"Related Party" means (i) any Director, officer or Key Person of the Corporation or any affiliate of the Corporation; (ii) any relative of any Director, officer or Key Person of the Corporation or any affiliate of the Corporation; or (iii) any entity in which any individual described in clauses (i) and (ii) of this definition 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%).

"Related Party Transaction" means any transaction, agreement or any other arrangement in which a Related Party has a financial interest and in which the Corporation or any affiliate of the Corporation is a participant.

"Relative" of an individual means (i) his or her spouse or domestic partner as defined by applicable 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 .