

AMENDED AND RESTATED BYLAWS

of the

ROSE FITZGERALD KENNEDY GREENWAY CONSERVANCY, INC.

a Massachusetts corporation

Date Adopted: December 3, 2012

ARTICLE I

NAME, PURPOSES, LOCATION, CORPORATE SEAL, FISCAL YEAR AND MEMBERS

1.1 Name and Purposes. The name and purposes of the corporation shall be as set forth in the Articles of Organization. In accordance with chapter 306 of the Acts of 2008, as amended by Sections 11-13 of chapter 242 of the Acts of 2012 (the “Act”), the corporation shall advance the public’s interest in the Rose Fitzgerald Kennedy Greenway (the “Greenway”) and other open space parcels (as defined in Chapter 306) and create an important resource of national regional and state-wide significance for residents and visitors to the City of Boston and the neighborhoods and districts in which it is situated. Without limiting the foregoing, the corporation shall have the following responsibilities:

- (a) to operate, manage, improve and maintain the Greenway and other open space parcels as set forth in the Act, beginning December 1, 2008 (the “Effective Date”);
- (b) to enter into a lease with the Massachusetts Department of Transportation (“MassDOT”), the successor to the Massachusetts Turnpike Authority, to operate, preserve, maintain, program and manage the Greenway and the other open space parcels as a first class public space in accordance with the terms of any such lease, provided that the corporation shall not have the power to sublease, mortgage, alienate, pledge as security or encumber the Greenway or the other open space parcels without the enactment of further legislation, and provided further that the Greenway shall be treated as a public park and a traditional open public forum without limiting free speech, and entitled in all respects to protections afforded to public parkland under Article XCVII of the Amendments to the Massachusetts Constitution;
- (c) to accept, by transfer of deed, lease or otherwise, public or private property that relates to or enhances the corporation’s mission as set forth herein and in the Act;
- (d) to adopt rules and regulations governing conduct and activity within the Greenway and the other open space parcels, after consultation with the Commissioner of the Department of Conservation and Recreation, and subject to the approval of MassDOT;

- (e) to take action, consistent with its powers enumerated herein and in the Act, to ensure that the Greenway and the other open space parcels are maintained at a high standard;
- (f) to receive and accept contributions or grants for aid in the operation, management and maintenance of the Greenway, the other open space parcels and the public realm, from the Commonwealth, or any public instrumentality or any political subdivision thereof, or any federal agency or private entity or individual;
- (g) to create and make available to the public an annual statement of goals, and annual review of goals pursuant to Section 7 of the Act.

1.2 Specified Powers. The corporation shall have the following powers:

- (a) to adopt, amend and re-state its by-laws for the regulation of its affairs and the conduct of its business;
- (b) to enter into one (1) or more agreements or special agreements with the City of Boston to maintain the public realm and, as necessary, to fulfill other provisions of the Act;
- (c) to accept, by transfer of deed, lease or otherwise, public or private property that relates to or enhances the corporation's mission as set forth herein and in the Act;
- (d) to develop and implement a protocol regarding the development or construction of any design-features, memorials, buildings or structures of any kind located within the Greenway or the other open space parcels following a duly noticed public hearing; provided, however, that (i) MassDOT shall have the right to review and approve all such design-features, memorials, buildings or structures, and (ii) all such buildings and structures shall be subject to compliance with the City of Boston zoning code to the full extent such code is applicable;
- (e) to review in a manner consistent with the City of Boston ordinances and to advise the City's parks and recreation commission, with respect to the construction or alteration of any building or structure within 100 feet of the Greenway or the other open space parcels, provided that nothing herein shall be construed to alter or diminish the City's authority over the development of any building or structure on the development parcels (as set forth in the Act) or within 100 feet of the Greenway or the other open space parcels;
- (f) to enter into contracts and agreements with the Commonwealth, MassDOT, the City of Boston, any leaseholder of a development parcel, any owner or leaseholder of property adjacent to the Greenway and the

other open space parcels, and any other entity or individual in furtherance of its rights and powers under the Act; and

- (g) to do all other acts and things that are consistent with its powers as set forth herein and in the Act and with its status as a charitable corporation under applicable Internal Revenue Service rules.

1.3 Location. The principal office of the corporation in the Commonwealth of Massachusetts shall initially be located at the place set forth in the Articles of Organization of the corporation. The Directors may, from time to time, change the location of the principal office in the Commonwealth of Massachusetts to another location in the City of Boston.

1.4 Corporate Seal. The Directors may adopt and alter the seal of the corporation. The seal of the corporation, if any, shall, subject to alteration by the Directors, bear its name, the word “Massachusetts” and the year of its incorporation.

1.5 Fiscal Year. The fiscal year of the corporation shall, unless otherwise decided by the Directors, end on June 30 of each year.

1.6 Members. The corporation shall have no members. No person now or hereafter designated by the corporation as a “member” for any purpose shall be or be deemed to be a member for purposes of the corporation’s Articles of Organization, these Bylaws, or for the purposes of chapter 180 of the Massachusetts General Laws or its successor (“Chapter 180”), or any other law, rule, or regulation. Any action or vote required or permitted to be taken by members under Chapter 180 or any other law, rule, or regulation shall be taken by action or vote of the same percentage of the Directors, except as may otherwise be provided in the corporation’s Articles of Organization or these Bylaws. This Section 1.6 shall not prohibit the corporation from establishing membership programs designed to raise revenue for the corporation or otherwise advance the purposes of the corporation.

ARTICLE II

BOARD OF DIRECTORS

2.1 Powers. The affairs of the corporation shall be managed by the Board of Directors (the “Board”) which shall have and may exercise all the powers of the corporation, including all powers, rights, and obligations conferred by law upon a Board of Directors of a corporation organized under Chapter 180. The Board shall be dedicated to ensuring that the Greenway is operated, maintained, managed and actively programmed, financed and improved to the highest standards and in accordance with the Act, its Articles of Organization and these Bylaws. Unless otherwise provided, references in these Bylaws to authority or powers of Directors shall be construed to mean authority or powers of the Board, and meetings of Directors shall be construed to mean meetings of the Board.

2.2 Number and Election. The Board shall consist of twenty-one (21) Directors appointed by the Board at its annual meeting or pursuant to Section 2.8 below from nominations as set forth below, for terms of office as set forth below:

- a. State Representative Appointment: One (1) Director shall be selected from a list of names provided by the State Representative representing the Third Suffolk District, for a term of five (5) years, and such Director shall be subject to a limit of one (1) consecutive term.
- b. State Senator Appointment: One (1) Director shall be selected from a list of names provided by the State Senator representing the First Suffolk and First Middlesex District, for a term of five (5) years, and such Director shall be subject to a limit of one (1) consecutive term.
- c. Governor's Appointments: Two (2) Directors shall be selected from a list of names provided by the Governor of the Commonwealth, for a term of three (3) years, and such Directors shall be subject to a limit of two (2) consecutive terms
- d. Mayor's Appointments: Two (2) Directors shall be selected from a list of names provided by the Mayor of the City of Boston, for a term of three (3) years, and such Directors shall be subject to a limit of two (2) consecutive terms.
- e. Secretary of Transportation Appointment: One (1) Director shall be selected from a list of names provided by the Secretary of Transportation, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- f. Secretary of Energy and Environmental Affairs Appointment: One (1) Director shall be selected from a list of names provided by the Secretary of Energy and Environmental Affairs, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- g. North End/Waterfront Neighborhood Council Appointment: One (1) Director shall be selected from a list of names provided by the North End/Waterfront Neighborhood Council, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- h. North End/Waterfront Residents Association Appointment: One (1) Director shall be selected from a list of names provided by the North End/Waterfront Residents Association, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- i. Wharf District Council Appointment: One (1) Director shall be selected from a list of names provided by the Wharf District Council, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- j. Chinatown Neighborhood Council Appointment: One (1) Director shall be selected from a list of names provided by the Chinatown Neighborhood

Council, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.

- k. Chinatown Residents Association: One (1) Director shall be selected from a list of names provided by the Chinatown Residents Association, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- l. Leather District Neighborhood Association Appointment: One (1) Director shall be selected from a list of names provided by the Leather District Neighborhood Association, for a term of three (3) years, and such Director shall be subject to a limit of two (2) consecutive terms.
- m. At Large Appointments: Seven (7) Directors shall be elected by the Board for a term of three (3) years, and such Directors shall be subject to a limit of two (2) consecutive terms.

2.3 Chair of the Board of Directors. The chair of the Board (the “Chair”) shall be chosen by the Board at its annual meeting, for an initial term of two (2) years, which term may be extended by the Board for additional terms of one (1) year. The Chair shall also serve as president of the corporation. The Chair shall preside at all meetings of the Directors, and shall have such other powers and duties as may be consistent with these Bylaws.

2.4 Vice Chair. The vice chair of the Board (the “Vice Chair”) shall be chosen by the Board at its annual meeting, for an initial term of two (2) years, which term may be extended by the Board for additional terms of one (1) year, and shall have such duties and powers as the Directors shall determine. If no Chair of the Board is present, the Vice Chair shall preside at meetings of the Directors. The Vice Chair shall have and may exercise all the powers and duties of the Chair during the absence of the Chair or in the event of the Chair’s inability to act.

2.5 Tenure. Except as otherwise provided by law, by the Articles of Organization, or by these Bylaws, and subject to a Director’s earlier death, resignation, removal, or disqualification, a Director shall hold office for the term to which he or she was elected. For those Directors elected at meetings other than the annual meeting, the period of time between the date of election and the next annual meeting shall not count toward the Director’s term specified in Section 2.2. For example, the term of the Director who was nominated by the Governor pursuant to Section 2.2(c) above shall commence as of the time of his or her election, shall continue until the next annual meeting and thereafter shall continue for three (3) years.

2.6 Removal. Except as otherwise provided by law, by the Articles of Organization, or these Bylaws, a Director may be removed with cause by vote of at least two thirds (2/3) of the Directors then in office.

2.7 Resignation. A Director may resign by delivering his or her written resignation to the president, treasurer, or clerk of the corporation, to a meeting of the Directors, or to the corporation at its principal office. Such resignation shall be effective upon receipt (unless

specified to be effective at some other time) and acceptance thereof shall not be necessary to make it effective unless it so states.

2.8 Vacancies. If the office of any Director becomes vacant (through the expiration of a term or otherwise), the Directors shall elect a successor at any meeting of the Directors, in the same manner in which the Director who last held the vacant position was originally nominated and elected as set forth in Section 2.2 herein, such successor to hold office for the term specified in Section 2.2, provided that for Directors elected at meetings other than the annual meeting, the period of time between the date of election and the next annual meeting shall not count toward the Director's term specified in Section 2.2. For example, if the Director who last held the vacant position was nominated by the Governor pursuant to Section 2.2(c) above, the vacancy shall be filled by the Board by selecting from a list of names provided by the Governor and the term of said Director shall commence as of the time of his or her election, shall continue until the next annual meeting and thereafter shall continue for three (3) years.. Except as otherwise provided by law, by the Articles of Organization, or by these Bylaws, the Directors shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number.

2.9 Compensation. The Directors of the corporation shall not be entitled to compensation other than reimbursement for travel and incidental expenses directly attributable to the work of the corporation.

2.10 Annual Meeting. The annual meeting of the Directors shall be held at such date, time, and place within the City of Boston as the Directors shall determine. If an annual meeting is not held as herein provided, a special meeting of the Directors may be held in place thereof with the same force and effect as the annual meeting, and in such case all references in these Bylaws to the annual meeting, except in this Section 2.10, shall be deemed to refer to such special meeting.

2.11 Regular Meetings. Regular meetings of the Board shall be held at least every quarter, or with such other additional regularity as the Directors shall determine, and shall be held at such places in the City of Boston and at such times as the Directors may determine.

2.12 Special Meetings. Special meetings of the Board may be called by the Chair or by at least seven (7) Directors. The time and place of special meetings shall be consistent with the provisions of these Bylaws that govern regular meetings of the Board.

2.13 Open Meetings. To the extent required by the Act, except when meeting (i) in executive session as permitted by applicable law including subsection (a) of section 21 of chapter 30A of the General Laws, or (ii) to discuss fundraising and non-governmental revenue issues and opportunities, including but not limited to fund raising prospects, fundraising or grant agreements, or fundraising strategy, the Board shall comply with the open meeting law requirements of sections 18 to 25 inclusive of said chapter 30A.

2.14 Notice of Meetings. Except as hereinabove provided, notice of all meetings of the Directors shall be given to each Director by the clerk or an assistant clerk or, in the case of the death, absence, incapacity, or refusal of such person(s), by the officer or one of the Directors

calling the meeting. Notice shall be given to each Director in person, by telephone, by facsimile, by electronic mail, or by special delivery sent to (or in the case of special delivery, received at) such Director's last known business or home address, as appearing in the corporation's records, at least forty-eight (48) hours in advance of the meeting, or by written notice mailed to such Director's last known business or home address, as appearing in the corporation's records, at least seven (7) calendar days in advance of the meeting. Notice of a meeting need not be given to any Director if a written waiver of notice executed by the Director before or after the meeting is filed with the records of the meeting, or to any Director who attends the meeting without protesting prior thereto or at its commencement the lack of notice to said Director. Any notice given hereunder shall state the place, date, and time of the meeting, and specify the purposes of the meeting; provided, however, that except in the case of an amendment to these Bylaws, no action of the Board shall be deemed invalid for failure to provide notice of said action.

2.15 Quorum, Participation by Telephone. Except as otherwise required by law, by the Articles of Organization, or by these Bylaws, at any meeting of the Directors, a majority of the Directors then in office shall constitute a quorum if such number of Directors are present at the meeting. Directors may participate in a meeting 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, and participation by such means shall constitute presence in person at a meeting, so long as such remote participation is otherwise consistent with the open meeting law requirements of the Act. Any meeting may be adjourned by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

2.16 Action by Vote. Except as otherwise required by law, by the Articles of Organization, or by these Bylaws, when a quorum is present at any meeting, a majority of the Directors present and voting shall decide any question, including election of officers. Voting by proxy shall not be permitted.

2.17 Action Without Meeting Permitted. The Board may act by unanimous written consent, so long as such action is not prohibited by the open meeting law requirements of the Act.

2.18 Adjournments. Any meeting of Directors may be adjourned to any other time and place as a majority of those Voting Directors present at such meeting and voting shall determine. No notice of any adjourned meeting shall be required if (a) the time and place thereof are announced at the meeting at which the adjournment is taken, and (b) the adjournment is for fewer than thirty (30) days.

ARTICLE III

COMMITTEES

3.1 Committees. There shall be the following standing committees: an Audit, Risk Management and Finance Committee, a Development Committee, and an Investment Committee. The Board may from time to time establish such additional standing or *ad hoc* committees as it deems necessary or desirable. The Chair of the Board may appoint a chair of

any committee. The Board may from time to time also combine or separate any committees as it deems necessary or desirable. Each committee shall have a charter that has been approved by the Board, and shall have the missions, duties and obligations as are set forth in their respective charters. Each committee shall appoint a clerk to keep minutes of the committee's meetings and provide copies of such minutes and any other records, as requested, to the Board of Directors. Meetings of committees shall comply with the open meeting law requirements of the Act, as applicable.

- (a) Audit, Risk Management and Finance Committee. The Audit, Risk Management and Finance Committee shall consist of nine (9) members elected to annual terms, each of whom shall be a Director, and none of whom shall be employees of the corporation.
- (b) Development Committee. The Development Committee shall be comprised of at least five (5) Board members, plus the Executive Director who shall serve as a non-voting member of the committee. The committee shall also seek advice from such other persons as the committee shall, from time to time, determine, and such other persons shall serve in non-voting advisory capacities.
- (c) Investment Committee. The Investment Committee shall be comprised of at least three (3) Board members, plus the Executive Director who shall serve as a non-voting member of the Committee. The Committee shall also seek advice from such other persons as the Committee shall, from time to time, determine, and such other persons shall serve in non-voting advisory capacities.

3.2 Board Delegation to Committees. The Board may delegate to any committees that consist solely of Board members any or all of the powers of the Board, except those that the Board is prohibited from delegating by law, by the Articles of Organization or by these Bylaws.

3.3 Appointment and Removal of Committee Members. The Board shall be responsible for appointing persons to each committee of the corporation. The Board by majority vote, with or without cause, may remove, from time to time and at any time, any person appointed to any of the committees listed above or others subsequently created. Any vacancies created by any such removal shall be filled in the same manner as was used to appoint the removed member, and in accordance with Sections 3.1 above.

3.4 Review of Committee Activities and Work. Each committee shall report regularly to the Board in such manner as may be determined from time to time by the Board. The Board shall have the power to reject, modify, amend or veto any action of any committee.

3.5 Quorum and Action by Vote. Except as may otherwise be provided in a particular committee's charter or in these Bylaws, the quorum required for each committee meeting where a vote of the committee is taken shall be a majority of the number of committee members in office at the date of the meeting. Committee members may participate in a meeting 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, and participation by such means shall constitute presence in person at a meeting, so long as such remote participation is otherwise consistent with the open meeting law requirements of the Act. When a quorum is present, a majority of those committee members present and voting shall be requisite and sufficient to effect any action or to decide any question or measure presented to the committee, unless a larger vote shall be required by law, by the Articles of Organization, by these Bylaws, or by resolution of the Board.

3.6 Notice of Meetings. Notice of committee meetings shall be provided to each committee member in accordance with Section 2.14 as if such committee meeting were a meeting of the Board.

ARTICLE IV

HONORARY POSITIONS

The Board may designate any person or persons as sponsors, benefactors, contributors, advisors or friends of the corporation or such other title as the Board deems appropriate. Such persons shall serve in an honorary capacity for such period of time as the Directors may specify (or until such person dies, resigns, is removed by the Directors, or becomes disqualified) and, except as the Directors shall otherwise designate, shall in such capacity have no right to notice of or to attend any meeting, shall not be considered for purposes of establishing a quorum, and shall have no other rights or responsibilities.

ARTICLE V

OFFICERS AND AGENTS

5.1 Number and Qualification. The officers of the corporation shall be an Executive Director, a president, a treasurer, a clerk (collectively, the “Officers”), and such other officers, if any, as the Directors may determine, who shall have such duties, powers, and functions as hereinafter provided or as the Directors shall determine. The clerk shall be a resident of Massachusetts unless the corporation has a resident agent duly appointed for the purpose of service of process. A person may hold more than one office at the same time. If required by the Directors, any officer shall give the corporation a bond for the faithful performance of his or her duties in such amount and with such surety or sureties as shall be satisfactory to the Directors.

5.2 Election. Except as provided in Section 5.11 of this Article, the Officers other than the Executive Director shall be elected annually by the Directors at their annual meeting. Other officers, if any, may be elected by the Directors at any time.

5.3 Tenure. Except as the Board may determine with respect to the Executive Director, and except as otherwise provided by law, by the Articles of Organization, or by these Bylaws, officers shall hold office until the next annual meeting or until such officer’s successor is chosen and qualified, unless a shorter period shall have been specified by the terms of such officer’s election or appointment, or in each case until such officer sooner dies, resigns, is removed, or becomes disqualified.

5.4 Executive Director. The executive director (the “Executive Director”) shall serve as the chief executive officer of the corporation, and shall serve at the pleasure of the Board, shall report to the Chair, and, subject to the direction of the Directors and these Bylaws, shall have general charge and supervision of the affairs of the corporation and shall see that orders and resolutions of the Directors are carried into effect.

5.5 President. The president shall serve at the pleasure of the Board and shall have such powers as may be delegated to him or her by the Board.

5.6 Treasurer. The treasurer shall be the chief financial officer and the chief accounting officer of the corporation. The treasurer, subject to the direction of the Directors, shall be in charge of general financial affairs, funds, securities, and valuable papers of the corporation and shall keep full and accurate records thereof, shall be in charge of the corporation’s books of account and accounting records, and of the corporation’s accounting procedures. The treasurer shall present an annual report of the financial condition of the corporation to the Audit, Risk Management and Finance Committee. The treasurer shall also have such other duties and powers as designated by the Directors. The Board shall elect such assistant treasurer or treasurers as it deems appropriate.

5.7 Clerk. The clerk shall record and maintain records of all proceedings of the Directors in a book or series of books kept for that purpose, which book or books shall be available at all reasonable times to the inspection of any Director for any proper purposes. . Such books or books shall also contain (i) records of all meetings of the Board, (ii) copies of the Articles of Organization and Bylaws, and (iii) the names and addresses of all Directors. The records of the corporation shall be subject to the provisions of Article VI regarding public records.

The Board shall elect such assistant clerk or assistant clerks as it deems appropriate, which assistant clerk or assistant clerks shall be considered officers for purposes of these Bylaws, but need not be Directors.

If the clerk is absent from any meeting of Directors, an assistant clerk, or a temporary clerk chosen at the meeting, shall exercise the duties of the clerk at the meeting.

5.8 Additional Powers and Duties. Each officer shall have such duties and powers as are customarily incident to such officer’s office and such additional duties and powers as the Directors may from time to time designate, subject to these Bylaws, and to any applicable provisions of law and the Articles of Organization, in addition to the duties specifically set forth in these Bylaws. The Corporation shall adopt such rules, regulations and procedures regarding the conduct of its affairs as the corporation may deem necessary and appropriate; provided that no such rule, regulation or procedure shall be inconsistent with the Act, the Articles of Organization or these Bylaws. Notwithstanding anything in these Bylaws to the contrary, the Authority shall continue to direct and supervise the design and construction of the Greenway consistent with the Act.

5.9 Removal. An officer may be removed with or without cause by vote of a majority of Directors then in office at any special meeting called for such purpose or at any regular

meeting. An officer may be removed with cause only after reasonable notice and opportunity to be heard.

5.10 Resignation. An officer may resign by delivering such officer's written resignation to the Chair, the chief executive officer, treasurer, or clerk of the corporation, to a meeting of the Directors, or to the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

5.11 Vacancies. Notwithstanding the provisions of Section 5.2 of this Article, if the office of any officer becomes vacant, the Directors may elect a successor at any meeting of the Directors. Each such successor shall hold office for the unexpired term, and, in the case of the president, treasurer, and clerk, until such officer's successor is elected and qualified, or in each case until such officer sooner dies, resigns, is removed, or becomes disqualified.

5.12 Compensation. Officers of the corporation who are Directors shall not be entitled to compensation other than reimbursement for travel and incidental expenses directly attributable to the work of the corporation.

5.13 Personnel. The Board shall, consistent with Article VI herein, hire an individual or individuals to serve as an Executive Director and a fundraising specialist, and such other personnel as it deems necessary for the furtherance of the corporation's organizational mission.

ARTICLE VI

PUBLIC RECORDS

To the extent required by the Act, as to documents made or received on or after January 1, 2013, the Board shall comply with the requirements of clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66 of the Massachusetts General Laws and any regulations promulgated with respect thereto. Records pertaining to potential contributions and any donations received by the corporation from a private individual, corporation or any other private source shall be exempted from the provisions of this Article.

ARTICLE VII

EXECUTION OF PAPERS/EMPLOYMENT CONTRACTS

Except as provided by law or in the Articles of Organization or as the Directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, releases, checks, drafts, and other documents or instruments to be executed on behalf of the corporation may be signed by the Chair, the chief executive officer, the Vice Chair, or the treasurer.

Notwithstanding the foregoing, any recordable instrument purporting to affect an interest in real estate, executed in the name of the corporation by two of its officers, of whom one is the president, the chief executive officer or the vice-president and the other of whom is the treasurer or the clerk, shall be binding on the corporation in favor of a purchaser or other person relying in

good faith on such instrument notwithstanding any inconsistent provisions of the Articles of Organization, these Bylaws, or resolutions or votes of the corporation.

ARTICLE VIII

PERSONAL LIABILITY

It is intended that the incorporators, Directors and officers of the corporation shall not be personally liable for any debt, liability, or obligation of the corporation and that all persons, corporations, or other entities extending credit to, contracting with, or having any claim against the corporation may look only to the funds and property of the corporation for the payment of any such contract or claim, or for the payment of any debt, damages, judgment, or decree, or of any money that may otherwise become due or payable to them from the corporation. Nothing contained in these Bylaws shall amend, alter, or impair any provision contained in the Articles of Organization relating to limitations of liability of Directors or officers of the corporation to the corporation.

ARTICLE IX

INDEMNIFICATION AND INSURANCE

To the extent legally permissible and only to the extent that the status of the corporation as an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, is not adversely affected thereby, any person or class of persons (and such person's or class of persons' heirs and legal representatives) (i) who shall be, or shall at any time have been, a Director or officer of the corporation or (ii) who the Directors by their vote shall designate from time to time among (A) those who shall be, or who shall at any time have been, any other officer, employee or agent of the corporation, (B) those who, at the request of the corporation, shall serve, or who shall at any time have served, as an incorporator, Director, officer, employee, agent or member of any other corporation, trust, association, firm or other organization, or (C) those who shall serve, or who shall at any time have served, at the corporation's request in any capacity with respect to any employee benefit plan (each of the persons described in this clause (ii) being referred to individually and without distinction as a "Designated Person"), shall be indemnified by the corporation against all liabilities, costs, and expenses reasonably incurred by, or imposed upon, him or her in connection with, arising out of, or as a result of any claim, action, suit, or other proceeding (whether brought by or in the right of the corporation or such other corporation, trust, association, firm, plan, or otherwise), civil or criminal, or in connection with an appeal relating thereto, in which he or she may be or become involved or with which he or she may be threatened, as a party, witness, or otherwise, by reason of his or her being or having been such a Director, officer or Designated Person, or by reason of any alleged action taken or omission made by him or her in any such capacity, whether or not he or she shall be such Director, officer, or Designated Person at the time any such liability, cost, or expense is incurred by, or imposed upon, him or her, provided that such person shall not be entitled to indemnification to the extent (i) in any criminal action or proceeding, he or she shall have been (Y) found by the Board to have acted without reasonable cause to believe his action was lawful or (Z) convicted of committing a criminal act, or (ii) in any civil or criminal proceeding, he or she shall have been found not to have acted in good faith or not to have acted with the reasonable

belief that his or her conduct was in the best interests of the corporation or shall have been found to have acted with gross negligence or in a willful or malicious manner.

The extent of the rights of indemnification, as hereinabove set forth, shall include, without limitation, all liabilities, costs, and expenses of defending, compromising, or settling any such claim, action, suit, or other proceeding, and the satisfaction of any judgment or decree entered or rendered therein, including the payment of fines or penalties.

Except as hereinabove provided, any such Director, officer, or Designated Person referred to herein who has been wholly successful, on the merits or otherwise, with respect to any claim, action, suit, or other proceeding of the character described herein shall be entitled to such indemnification as is hereinabove provided as of right.

In the event that any such claim, action, suit, or other proceeding, civil or criminal, shall be compromised or settled, by consent, decree or otherwise, such Director, officer, or Designated Person shall also be entitled to such indemnification as of right, provided, however, that such compromise or settlement shall first have been approved by a vote of the board of Directors, acting by a quorum consisting of Directors who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or other proceeding.

Each person who shall at any time serve as such Director, officer, or Designated Person shall be deemed so to serve in reliance upon the provisions hereinabove set forth, which provisions shall be in addition to any other rights of indemnification to which such person may be entitled pursuant to contract or to valid and applicable law, shall be separable and enforced to the extent permitted by valid and applicable law, and shall inure to the benefit of the legal representatives of such person.

In all other instances, such indemnification by the corporation shall be made if the Board, acting by a vote of the majority of those Directors who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or other proceeding, shall find that such Director, officer, or Designated Person has met the standards of conduct required by law or otherwise set forth in this Article IX.

The termination of any claim, action, suit, or other proceeding, civil or criminal, by judgment, settlement (whether with or without court approval) or upon a plea of nolo contendere, or its equivalent, shall not create a presumption that such Director, officer, or Designated Person did not meet the standards of conduct hereinabove set forth as entitling him or her to indemnification.

Subject to the prior approval of the Board, acting by a quorum consisting of Directors who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or other proceeding, reasonable expenses incurred with respect to any such claim, action, suit, or other proceeding shall be advanced by the corporation prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount if it shall ultimately be adjudicated that he or she is not entitled to indemnification hereunder, which undertaking shall be accepted without reference to the financial ability of such person to make repayment.

The corporation shall have power to purchase and maintain insurance on behalf of any person who shall be, or who shall at any time have been, a Director, officer, or Designated Person of the corporation, against any liability incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability.

No indemnification, reimbursement or other payment may be made under this Article with respect to penalties imposed under Section 4958 of the Internal Revenue Code of 1986, as amended from time to time, to the extent such indemnification, reimbursement or other payment would cause the compensation of an officer or director to exceed "reasonable compensation" as defined in the Treasury Regulations to the Internal Revenue Code and as determined by the Board. To the extent that any such payment is made, the amount of such payment may be reduced by any amount determined to exceed reasonable compensation. Any such reduction shall be determined by the Board.

ARTICLE X

AMENDMENTS

These Bylaws may be amended or repealed upon the affirmative vote of two-thirds of the Directors then in office, provided that the substance of any such amendment is stated in the notice of the meeting of Directors, and provided further that no such amendments to these Bylaws shall be inconsistent with the Act and the Articles of Organization.

ARTICLE XI

PROVISIONS OF LAW

These Bylaws shall be subject to such provisions of the statutory and common law of the Commonwealth of Massachusetts as may be applicable to corporations organized under Chapter 180 and the Act. References herein to provisions of law shall be deemed to be references to the aforesaid provisions of law. All references in these Bylaws to such provisions of law shall be construed to refer to such provisions as from time to time amended.

ARTICLE XII

ARTICLES OF ORGANIZATION

These Bylaws shall be subject to the Articles of Organization of the corporation. All references in these Bylaws to the Articles of Organization shall be construed to mean the Articles of Organization of the corporation as from time to time amended or restated.

ARTICLE XIII

MISCELLANEOUS

13.1 Reliance on Records. In performing his or her duties, a Director, officer, or incorporator of the corporation shall be entitled to rely on information, opinions, reports, or

records, including financial statements, books of account, and other financial records, in each case presented by or prepared by or under the supervision of (1) one or more officers or employees of the corporation whom the Director, officer or incorporator reasonably believes to be reliable and competent in the matters presented, (2) counsel, public accountants, or other persons as to matters which the Director, officer, or incorporator reasonably believes to be within such person's professional or expert competence, or (3) in the case of a Director, a duly constituted committee of the Board upon which he or she has not served, as to matters within its delegated authority, which committee the Director reasonably believes to merit confidence, but he or she shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

13.2 Corporate Records. The original or attested copies of the Articles of Organization, these Bylaws and records of all meetings maintained by the Clerk of the corporation, shall be kept in Massachusetts at the principal office of the corporation or at the office of the Clerk or the resident agent of the corporation. Such copies and records need not all be kept in the same office.

13.3 Capitalized Terms. Unless otherwise defined herein, all capitalized terms in these Bylaws shall have the same meaning as set forth in the Act.

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