

***Cortland County Community  
Action Program, Inc.***

***Amended and Restated Bylaws  
Amended December 10, 2020***

**ARTICLE I - NAME OF ORGANIZATION**

The name of the Corporation shall be Cortland County Community Action Program, Inc., as indicated in the Certificate of Incorporation.

**ARTICLE II - MEMBERSHIP**

This Corporation shall have no Members.

**ARTICLE III - PURPOSE**

The objectives and purposes of the Corporation are as stated in the Certificate of Incorporation and all amendments thereto. The Board of Directors shall also provide programs and resources:

1. to develop, propose, and conduct community programs designed to eliminate poverty, and to encourage others in like endeavors.
2. to develop research and evaluation procedures in connection with all programs which relate to services in health, education, and economic welfare.
3. to make decent housing available to people of low income and moderate-income levels by improving, rehabilitating, and restoring properties, thereby, improving the living conditions of people of the community who are now living in dilapidated and unsafe dwellings.
4. to contract with existing or new community agencies for the conduct and administration of community programs.
5. to receive and disburse funds necessary to the foregoing.

## **ARTICLE IV -BOARD OF DIRECTORS**

### ***Section 1. General Management.***

- 1.1. The general management of the affairs of this Corporation shall be vested in a Board of Directors. The Board of Directors shall have control of the property of the Corporation and shall determine its policies with the advice of its various committees. It shall have power to employ and to remove an Executive Director, to authorize expenditures and take all necessary and proper steps to carry out the purposes of this Corporation and to promote its best interest. The Board of Directors shall be the governing body of this Corporation.

### ***Section 2. Number.***

- 2.1. The Board of Directors shall consist of 15 Directors. The Board may increase or decrease in size to meet the needs of the tripartite Board requirements, but shall not be less than nine (9) nor more than eighteen (18) Directors. The number of Directors shall be determined from time to time by resolution of the entire Board of Directors provided that no decrease in the number of Directors shall shorten the term of any incumbent Director. To meet the requirements of the tri-partite Board, the number of Directors must be divisible by three.

### ***Section 3. Qualifications.***

- 3.1. Each Director of the Board must be at least eighteen (18) years of age.

### ***Section 4. Terms of Office, Vacancies, Resignation, and Removal.***

- 4.1. Terms of Office: Each Director shall serve a five (5) year term and shall hold office until the expiration of his/her term or until he or she sooner dies, resigns, is removed, or becomes disqualified. The term of office for all Directors shall begin on the day of their election and shall conclude upon the expiration of their term or upon receipt of a written notice of resignation. No person selected to serve on the Board shall serve for more than two (2) consecutive terms without at least a one-year absence from the Board.
- 4.2. Vacancies. A vacancy in office shall arise upon the death, resignation, removal, or disqualification of a Director. The Board shall take steps to ensure that vacant seats are filled in a timely manner. The Board shall fill vacancies for Private Sector Board Seats. When a vacancy occurs in a Public Sector Board Seat held by a public official, the Board of Directors shall select another public official to serve as a

replacement Director or to appoint a representative to so serve. When a vacancy occurs in a Public Sector Board Seat held by the representative of a public official, the Board shall request that the public official either take the seat him- or herself or name another representative to serve as a replacement Director. If the public official fails to take the seat him- or herself or to name another representative within the period specified by the Board, the Board shall select another public official to serve as a replacement Director him- or herself or to appoint a representative to so serve. Vacancies Consumer Sector Board Seats shall be filled using the same democratic process originally used to fill the seat. Each successor shall hold office for the unexpired term of the Director whose place is vacant or until he sooner dies, resigns, is removed, or becomes disqualified.

- 4.3. Resignation. A Director may resign at any time by giving written and/or electronic (e-mail, fax) notice to the Board of Directors, the President or the Secretary of the Corporation. This notice must include the intended date the resignation is effective. A notice of 30 days is strongly encouraged. Unless otherwise specified in notice, the resignation shall take effect upon receipt thereof by the Board of Directors, the President or the Secretary, and the acceptance of the resignation shall not be necessary to make it effective. The resignation will be officially recognized by notation in the minutes of the next regularly scheduled Board Meeting. In addition, a Director who has ceased to meet the qualifications for service as a Director, as specified in the Bylaws and by the Board from time to time and/or for the seat to which s/he was elected, is deemed to have resigned as of the date s/he ceased to meet those qualifications.

## ***Section 5. Board Composition and Selection.***

- 5.1. Public Sector Representation. One-third of the Directors of the Board shall be elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the Board is less than 1/3 of the Board, membership on the Board of appointive public officials or their representatives may be counted in meeting such 1/3 requirement. Public officials must serve one or more geo-political jurisdiction(s) within the Corporation's service area. Each Board seat held by a public official is a "Public Sector Board Seat" and each such Board member is a "Public Sector Director".

The Board shall select public officials to serve on the Board. The direct participation of public officials on the Corporation's Board of Directors is sought and preferred, however, if necessary representatives of public officials may serve. Representatives chosen by public officials must present a letter of appointment to the Board. After receipt of the letter of

appointment, the Board shall vote on whether to seat the representative as a Board member.

A public official or his/her representative shall be deemed to have resigned from the Board when the public official ceases to hold public office.

- 5.2. Consumer Sector Representation. At least one-third (1/3) of the Directors of the Board shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representatives of low-income individuals and families in the community served by the Corporation. Representatives of low-income individuals and families do not need to be low-income themselves but be chosen in accordance with democratic selection procedures adequate to assure that they are representative of low-income individuals and families in the area served. The Board shall adopt and implement written democratic selection procedures for Consumer Sector Directors, which it may revise from time to time. Each Board seat held by a representative of low-income individuals and families in the community is a “Consumer Sector Board Seat” and each such Board member is a “Consumer Sector Director”.

One seat on the Board of Directors shall be filled by the Corporation’s Head Start Policy Council. This representative must be a current or former Head Start parent.

- 5.3. Private Sector Representation. The remainder of the Board shall be officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served. The Board shall select these Directors in such a manner as to assure that the Board will benefit from broad community involvement. Each Board seat held by an individual described in this Section 5.3 is a “Private Sector Board Seat” and each such Board member is a “Private Sector Director”.
- 5.3.a If the Board invites an organization to nominate an individual to serve on the Board, the organization shall provide a written letter of support of a member or Officer of the organization for consideration and approval by the Corporation’s Board of Directors.

- 5.4. Board composition requirements per the Head Start Act (*see* 42 U.S.C. § 9837(c)(1)(B)):

- At least one Director shall have a background and expertise in fiscal management or accounting.
- At least one Director shall have a background and expertise in early childhood education and development.
- At least one Director shall be a licensed attorney familiar with issues that come before the governing body.

However, if a person described in any one of the three preceding sentences is not available to serve as a Director, the Board shall use a consultant, or another individual with relevant expertise, with the required qualifications, who shall work directly with the Board but is not seated on the Board.

Other Directors shall:

- Reflect the community to be served and include parents of children who are currently, or were formerly, enrolled in Head Start programs; and
- Be selected for their expertise in education, business administration, or community affairs.

5.5. Directors' Qualifications.

- Directors of the Corporation may not: have a financial conflict of interest with the Corporation or its delegate agencies (if any); be employees of the Corporation; be immediate family members of any employees of the Corporation or its delegate agencies (if any).
- Directors may not receive compensation for serving on the Corporation's Board of Directors or for providing services to the Corporation. (This is a new Head Start requirement.) However, they may receive reimbursement (or advances, in the case of low-income sector Directors) from the Corporation for reasonable and documented expenses incurred in the course of performing services as Directors or Officers. To the extent the Corporation makes any such reimbursements or advances, it shall do so only in accordance with financial policies established from time to time by the Board.
- Former employees of the Corporation being considered by election to the Board of Directors must have left employment with the Corporation for a minimum of two (2) years before joining the Board. Former employees who have been involuntarily terminated will not be allowed to serve on the Board.
- Directors who are federal employees are prohibited from serving in any capacity that would require them to act as an agent of or attorney for the Corporation in its dealings with any federal government departments or agencies.

5.6. Petition Procedure.

A low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the Board may submit a petition for representation to the Board. The petition must be signed by at least 20 individuals, unless the president determines that it is appropriate to waive

this requirement in a particular case. A written statement of the Board's action on the petition shall be provided to the petitioning individual or group and a copy of the statement shall be sent to the appropriate government funding sources as required by law or procedure in effect from time to time. Should it decide to provide representation to the petitioning organization or interest, the Board shall take any actions necessary to provide that representation while ensuring that the Board's composition meets the requirements of the federal Community Services Block Grant Act, the federal Head Start Act, and any other applicable laws or regulations.

## **ARTICLE V CONFLICT OF INTEREST POLICIES AND PROCEDURES**

### 1.1. – Purpose

The purpose of the conflicts of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might: (a) result in a Conflict of Interest; (b) result in a Related Party Transaction; (c) result in a possible Excess Benefit Transaction; or (d) otherwise benefit the private interest of a Director, Officer Director or Key Person of the Corporation.. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit organizations.

### 1.2 – Definitions

The following capitalized terms shall have the meanings provided below for purposes of this Article V:

#### 1. Affiliate

Any entity controlled by, or in control of, the Corporation.

#### 2. Conflict of Interest

As determined by the Board: (A) possessing any Financial Interest or personal interest, direct or indirect; (B) participating in any business, transaction or professional activity which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation; or (C) incurring any obligation of any nature which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation. Circumstances which may suggest that a Conflict of Interest exists include, without limitation, the following:

- (i) a Director, Officer or Key Person participates in a decision in which such person may be unable to remain impartial in choosing between the interests of the Corporation and such person's Financial Interests or personal interests or those of a Related Party;

(ii) a Director, Officer or Key Person has access to confidential information of the Corporation which could be used for personal benefit or gain or for the personal benefit or gain of a Related Party; or

(iii) a Director, Officer or Key Person receives a financial or other benefit from an Excess Benefit Transaction.

### 3. Excess Benefit Transaction

Any transaction in which an economic benefit is provided by the Corporation, directly or indirectly, to or for the use of an entity or individual, and the value of the economic benefit provided by the Corporation exceeds the value of the consideration (including the performance of services) received by the Corporation.

### 4. Independent Director

A Director who:

(a) is not, and has not been within the last three (3) years, an employee or a Key Person (as hereinafter defined) of the Corporation or an affiliate of the Corporation, and does not have a relative who is, or has been within the last three (3) years, a Key Person of the Corporation or an affiliate of the Corporation;

(b) has not received, and does not have a relative who has received, in any of the last three (3) fiscal years, more than Ten Thousand Dollars (\$10,000) in direct compensation from the Corporation or an affiliate of the Corporation;

(c) 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 property or services, in any of the last three (3) fiscal years, exceeded the lesser of (i) 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), (ii) 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) or (iii) One Hundred Thousand Dollars (\$100,000) if the entity's consolidated gross revenue was Ten Million Dollars (\$10,000,000) or more; or

(d) 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 during the past three (3) years.

For purposes of this definition, the term “compensation” does not include reimbursement for expenses reasonably incurred as a Director or reasonable compensation for service as a Director as permitted by law and the term “payment” does not include charitable 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.

#### 5. Interested Person

Any Director, Officer, Key Person or member of a committee with Board-delegated powers who has a direct or indirect Financial Interest.

#### 6. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, a Related Party, investment, or family, a direct or indirect:

- (a) ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or
- (b) a compensation arrangement with the Corporation other than as an employee or with any entity or individual with which the Corporation has a transaction or arrangement, or
- (c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate committee or Board of Directors decides that a conflict of interest exists.

#### 7. Key Person

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.

## 8. Related Party

Any (i) Director, Officer or Key Person of the Corporation or any Affiliate of the Corporation; (ii) Relative of any individual described in clause (i) of this subsection (7); or (iii) entity in which any individual described in clauses (i) and (ii) of this subsection (7) 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%).

## 9. Related Party Transaction

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, 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.

## 10. Relative

With respect to any individual: (i) his or her spouse or domestic partner as defined in Section 2994-A of the New York Public Health Law; (ii) his or her ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren and great-grandchildren; or (iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren and great-grandchildren.

## 1.3. . – Procedures

### 1. Duty to Disclose

In connection with any actual or possible Conflicts of Interest, an Interested Person must immediately disclose the existence of his or her Financial Interest and must be given the opportunity to disclose all material facts to the Board and members of committees with Board delegated powers considering the proposed transaction or arrangement. An annual statement of disclosure must be submitted prior to the initial election of a Director and by all interested persons each fiscal year and annually thereafter or whenever an actual or possible conflict arises. Board members and members of committees with Board delegated powers must also update such disclosures whenever a change of circumstances would require an update.

## 2. Determining Whether a Conflict of Interest Exists

After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he/she shall leave, and shall not participate in, the Board or committee meeting while the determination of a conflict of interest is discussed, deliberated, and voted upon. The remaining Directors or committee members shall decide if a conflict of interest exists. Any Director who is present at such meeting but not present at the time of a vote due to a Conflict of Interest shall be determined to be present at the time of the vote.

## 3. Procedures for Addressing the Conflict of Interest

- a. An Interested Person may make a presentation at the Board or committee meeting, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that may result in the Conflict of Interest. The Interested Person is prohibited from attempting to improperly influence the deliberation or voting on the matter giving rise to such conflict.
- b. The chair of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interest.
- d. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a Conflict of Interest, the Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.
- e. Upon making its final determination, the Board or committee shall document the existence and resolution of the Conflict of Interest in the Corporation's records and in accordance with Section 1.4 below.

### 1.4. . – Records of Proceedings

The minutes of the Board and all committees with Board-delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest was present, the Board's or committee's decision as to whether a Conflict of Interest in fact existed, and any resolution of the Conflict of Interest by the Board or committee.
2. The names of the persons who were present for discussions, deliberations, and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.
3. If they Board or committee votes to approve a Conflict of Interest, the basis on which the Board or committee made that decision, to include a statement as to why considered alternatives were rejected.

#### 1.5. . – Compensation

1. A voting member of the Board of Directors who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
2. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from being present at, participating, and voting on matters pertaining to that member's compensation.
3. Notwithstanding the foregoing, the Board or authorized committee is permitted to request 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 relating thereto. Nothing herein shall be construed to prohibit a Director from deliberating or voting concerning compensation for service on the Board that is to be made available or provided to all Directors of the Corporation on the same or substantially similar terms.

#### 1.6 – Annual Statements

Each Officer, member of senior management, other Board designated member of management, Director and member of a committee with Board delegated powers, and, in the discretion of the Board, any Key Person, shall annually sign a statement which affirms that such person (i) has received a copy of the conflicts of interest policy; (ii) has read and understands the policy; (iii) has agreed to comply with the policy; and (iv) understands that the Corporation is a non-profit organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes; (iv) has agreed to comply with this policy; and (v) identifying, to the best of such person's knowledge, any entity of which

such person 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 such person might have a conflicting interest. A Conflict of Interest Disclosure Form is provided in Appendix A. The Corporation's secretary or other designated compliance Officer shall provide a copy of all completed statements to the Board.

### 2.1 Whistleblower Protection Policy.

This Corporation shall adopt, and at all times honor the terms of a written Whistleblower Protection Policy in an effort to assure that any "Director, Officer, employee, or volunteer" who provides substantial services to the Corporation shall be free of fear of intimidation, harassment, discrimination, or other forms of retaliation on the part of the Corporation, or any of its Directors, Officers, employees, or volunteers, as a consequence of the good-faith filing of a report relative to possible violations of any statute, regulation, applicable ethical standard, or policy or procedure of the Corporation. The Whistleblower Protection Policy is provided in Appendix B. A copy of the Whistleblower Protection Policy shall be distributed to all Directors, Officers, employees, and to volunteers who provide substantial services to the Corporation.

The Whistleblower Protection Policy shall include, at a minimum, 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 Protection Policy and to report to the Audit Committee or other committee of Independent Directors or, if there are no such committees, to the Board of Directors, except that Directors who are employees may not participate in any Board or committee deliberations or voting relating to administration of the Whistleblower Protection Policy; (c) a requirement that the person who is the subject of a whistleblower complaint not be present at or participate in Board or committee deliberations or vote on the matter relating to such complaint, provided that nothing in this subsection (c) shall prohibit the Board or committee from requesting that the person who is subject to the complaint present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating thereto; and (d) 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. For purposes of subsection (d), posting the Whistleblower Protection Policy on the Corporation's website or at the Corporation's offices in a conspicuous location accessible to employees and volunteers are among the methods the Corporation may use to satisfy the distribution requirement.

### 3.1. Related Party Transaction Policy

The Corporation shall not enter into a Related Party Transaction unless the Board determines that the transaction is fair, reasonable, and in the Corporation's best

interest at the time of determination.

Any Director, Officer, or Key Person who has an interest in a Related Party Transaction must disclose, in good faith, the material facts concerning any such interest to the Board or an authorized Board committee.

No Related Party with an interest in a Related Party Transaction shall participate in deliberations or vote on any such Related Party Transaction, except that the Board, or an authorized committee, may request that such Related Party present information concerning the transaction at a meeting of the Board or such committee prior to commencement of deliberations or voting thereon. Any Director who is present at a meeting of the Governing Body but not present at the time of a vote due to a Related Party Transaction shall be determined to be present at the time of the vote.

If a Related Party has a substantial Financial Interest in a Related Party Transaction, the Board or authorized Board committee must: (i) prior to entering into the transaction, consider alternative transactions to the extent available; (ii) approve the transaction by not less than a majority vote of Directors or committee members present at the meeting; and (iii) contemporaneously document, in writing, the basis for its approval of the transaction, including consideration of any alternative transactions.

#### 4.1. Violations of these Policies

- a. If the Board or committee has reasonable cause to believe that a Director, Officer, Key Person, or member of a committee has failed to disclose actual or possible Conflicts of Interest or a Related Party Transaction, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the response of such person's response and making further investigation as may be warranted in the circumstances, the Board or committee determines that the such person has in fact failed to disclose an actual or possible Conflict of Interest or a Related Party Transaction, it shall take appropriate disciplinary and corrective action.

#### 5.1. Periodic Reviews

To assist the Corporation to operate in a manner consistent with its charitable purposes and not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining; and
- b. Whether partnerships, joint ventures and arrangements concerning the

management of the Corporation conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an Excess Benefit Transaction.

## **ARTICLE VI - OFFICERS**

### ***Section 1. Officers, Election, Term.***

- 1.1 The Board of Directors shall elect by majority vote at the Annual Meeting a President, Vice-President, Secretary, and Treasurer, and such other Officers as it may determine, who shall be given such duties, powers, and functions as hereinafter provided. Officers shall be elected to hold office for one (1) year from the date of election. Each Officer shall hold office for the term for which he or she is elected and until his or her successor has been elected, subject to Section 2 below.

### ***Section 2. Removal, Resignation.***

- 2.1. Officers serve at the discretion of the Board of Directors. Any Officer may be removed by the Board with or without cause. An Officer may resign at any time upon notice given to the Corporation in writing or by electronic transmission. Resignation is effective upon receipt unless specified to be effective at some other time. In the event of the death, resignation, or removal of an Officer, the Board shall appoint an acting successor to fill the un-expired term. This appointment shall be confirmed or disapproved by the full Board within the next two regular Board meetings.

### ***Section 3. Duties.***

- 3.1. **President** The President shall be the principal executive Officer of the Corporation and shall, subject to the direction and control of the Board, supervise and control all of the business and affairs of the Corporation. He/she shall preside at all meetings of the Board of Directors. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.
- 3.2. **Vice President** In the absence of the President, or in the event of his/her inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of, and be subject to, all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him/her by the

President and/or the Board of Directors.

- 3.3. **Secretary** The Secretary shall be responsible for keeping the minutes of the meetings of the Board of Directors in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law, and be custodian of the corporate records of the Corporation. The Secretary shall keep a register of all contact information of each Director and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President and/or the Board of Directors. In addition, the Secretary shall notify Directors of their election to office or their appointment to committees and keep a record of the transactions of the Board and its committees.
- 3.4. **Treasurer** The Treasurer shall be responsible for the supervision of an account of all monies received or expended by the Corporation. In general, the treasurer shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors. He/she shall report to the Board at all meetings, according to a format prescribed by the Board of Directors.

The Treasurer, subject to the direction and control of the Board, shall oversee all funds and assets of the Corporation, as well as insure the keeping of full and accurate accounts and records of the Corporation's financial affairs. The Treasurer shall have charge of all financial papers and records of the Corporation, which shall be kept at the Corporation's principal place of business. The Treasurer shall serve as a member of the Audit & Finance Committee and shall insure the presentation of audited statements showing the financial condition of the Corporation once during every twelve-month period, shall report to the Board periodically throughout the year on the financial condition of the Corporation, and shall ensure that financial statements for each month are available for each meeting of the Board of Directors and are kept on file at the Corporation's principal office. In addition, the Treasurer shall perform such other duties and have such other powers as the Board shall determine from time to time.

### 3.5 Duties and Powers of other Officers

An Officer may delegate some or all of his or her duties to another individual or receive assistance from another individual in performing such duties, so long as the Officer retains oversight over the duties performed and reviews any records and documents prepared and distributed by the other individual.

### 3.6 Employees and Agents

### 3.6a Board-Executive Director Relationship

The Board of Directors shall appoint and employ an Executive Director who, subject to the Board's direction and control, shall manage the day-to-day affairs of the Corporation, implement goals and policies established by the Board, and advise the Board and its committees concerning the affairs and activities of the Corporation. The Executive Director shall be empowered to hire, supervise, and terminate the Corporation's other employees in accordance with personnel policies established by the Board. In addition, the Executive Director shall perform such other duties and have such other authority as the Board may designate from time to time. The Board shall evaluate the Executive Director and set his/her compensation on an annual basis. The Board may remove the Executive Director at any time with or without cause. Removal without cause shall be without prejudice to the Executive Director's contract rights, if any, and the appointment of the Executive Director shall not itself create contract rights.

## **ARTICLE VII - MEETINGS**

### ***Section 1. Meetings.***

- 1.1 Annual Meetings. The Board of Directors shall convene an Annual Meeting in each year for the purpose of electing Officers and the transacting of such other and further business of the Corporation as may be required.
- 1.2. Regular Meetings. The Board of Directors shall endeavor to convene Regular Meetings at least eight (8) times per year. Notice of all regular meetings shall be provided either by mail/e-mail, or by facsimile to the Board of Directors not more than thirty (30), nor less than six (6) days, in advance of the meetings.
- 1.3 Special Meetings. Special Meetings of the Board of Directors shall be held whenever called by the President, the Secretary, or any three (3) Directors. Notice of Special Meetings shall be given personally or by telephone, electronic mail, facsimile or first class mail and shall state the purpose, time and place of the meeting. If notice is given personally or by telephone it shall be given not less than three (3) days before the meeting; if it is given by electronic mail, facsimile or first class mail, it shall be given not less than five (5) days before the meeting.
- 1.4 The Board of Directors business and its business meetings will be conducted by the Chair following general parliamentary procedures as approved by the Board.
- 1.5 Board and committee meetings will generally be made open to the public but that the Board may, at its discretion, go into executive session from



which all persons are excluded other than currently serving Board members and other relevant individuals specifically invited by the Board. An executive session shall be called by majority vote of Board members at a meeting at which a quorum is present for the purpose of discussing any matters of business which the Board considers confidential or sensitive.

## ***Section 2. Waivers of Notice.***

- 2.1 Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting or who attends the meeting without protesting prior thereto or at its commencement the lack of notice.

## ***Section 3. Place of Meetings.***

- 3.1 The Board of Directors may hold its meetings at the principal office of the Corporation, or such other places as deemed appropriate and agreed upon by the Board of Directors.

## ***Section 4. Quorum.***

- A. A majority (over 50%) of the current seated Board membership shall constitute a quorum and no business may be legally transacted unless a quorum is present. Board members may participate in meetings by phone or video conference.
- B. The quorum for meetings of the Executive Committee and other committees shall not be less than fifty (50) percent of the non-vacant seats on the committee. Committee members may participate in meetings by phone or video conference.
- C. No proxies shall be allowed.

## ***Section 5. Adjournment.***

- 5.1. A majority of Directors present at a meeting of the Board of Directors, whether or not a quorum is present, may adjourn any meeting to another time and place. Reasonable notice, given personally or by telephone, electronic mail, facsimile or first class mail, of the adjournment shall be given to all Directors who were absent at the time of the adjournment, and unless the purposes, time and place of the meeting are announced at the adjourned meeting, to the other Directors.

## ***Section 6. Organization.***

- 6.1. President. At all meetings of the Board of Directors, the President, or, in his/her absence, the Vice-President, or, in his/her absence, another Director chosen by the Board, shall preside.
- 6.2. Secretary. At all meetings of the Board of Directors, the Secretary, or, in his/her absence, another Director chosen by the Board, shall act as secretary of the meeting.

***Section 7. Action by the Board of Directors.***

- 7.1 The following acts of the Board require the affirmative vote of at least two thirds (2/3) of the seated Board:
  1. A purchase, sale mortgage, lease, exchange, or other disposition of real property of the Corporation if the property constitutes all or substantially all of the assets of the Corporation;
  2. A sale, lease, exchange or other disposition of all or substantially all of the assets of the Corporation; or
  3. An alteration to these Bylaws or Certificate of Incorporation of the Corporation that would increase the quorum requirement or vote requirement to greater than a majority of the Board present at the time of the vote.

The following acts of the Board require the affirmative vote of a majority of the seated Board:

1. A purchase, sale, mortgage, lease, exchange, or other disposition of real property of the Corporation (unless such property constitutes all or substantially all of the assets of the Corporation, which shall be subject to Section 7.1 sub-section 1. above).

### ***Section 8. Participation Electronically (Video, Audio, Telephone).***

- 8.1. Any one or more Directors of the Board, or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

### ***Section 9. Voting.***

- 9.1. Each Director of the Board of Directors shall have one vote on matters on which s/he is entitled to vote. Proxy voting by Directors is prohibited.
- 9.2. Written Consent. Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all Directors 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. If the consent is written, it must be signed by the Director. If electronic, it must be able to be reasonably determined to be sent by the Director. The resolution and the written consents by the Directors of the Board or committee shall be filed with the minutes of the Board or Committee. The resolution and the written consents thereto by the Directors of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.

### ***Section 10. Minutes.***

- 10.1 The Board shall keep for each meeting written minutes which include a record of votes on all motions. Minutes of the previous meeting shall be distributed to all Directors before the next meeting, and shall be made available to the public upon request.

## **ARTICLE VIII – COMMITTEES**

The Board of Directors has the authority to appoint committees, both standing and ad hoc. Unless the Directors otherwise designate, committees shall conduct their affairs in the same manner as is provided in the Bylaws for the conduct of the affairs of the Board of Directors.

### ***Section 1. Appointments.***

- 1.1. Board Committees vs. Committees of the Corporation.

## Board Committees.

- a. Designation; Composition. The Board of Directors may designate from among its members an Executive Committee and other committees, each consisting of three (3) or more Directors (each, a "Board Committee"). The Board shall, by a majority vote thereof at a meeting in which a quorum is present, appoint the members of such Board Committees, except that in the case of an executive committee or similar committee however denominated, the appointment shall be made by a majority vote of the entire Board.
  
- b. Each Board Committee, to the extent provided in the resolution of the Board of Directors or in the Certificate of Incorporation, shall have all the authority of the Board, except that no such committee shall have authority as to the following matters: (i) the submission to the Board of any action requiring Board approval under the N-PCL; (ii) the filling of vacancies in the Board or in any committee; (iii) the fixing of compensation of the Directors for serving on the Board or on any committee; (iv) the amendment or repeal of these Bylaws or the adoption of new Bylaws; (v) the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable; (vi) the election or removal of Officers and Directors; (vii) the approval of a merger or plan of dissolution; (viii) the adoption of a resolution recommending to the Board action on the sale, lease, exchange or other disposition of all or substantially all the assets of the Corporation; and (ix) the approval of amendments to the Certificate of Incorporation. Each Board Committee shall serve at the pleasure of the Board.

**Committees of the Corporation.** The Board of Directors may create one or more committees of the Corporation ("Corporation Committees"). Corporation Committees shall be elected or appointed by the Board. Each Corporation Committee shall have the powers and authority specifically delegated to them by the Board by resolution or otherwise. **Notwithstanding the foregoing, no Corporation Committee shall have any authority to bind the Board or the Corporation.**

- 1.2. Standing Committees. By a majority vote, the Board of Directors shall appoint Directors of the Board to serve on the following standing committees: Audit & Finance; Program Planning and Evaluation; and Board Development. By a majority vote of the entire Board of

Directors, the Board shall appoint Directors to serve on a standing Executive Committee.

- 1.3. Ad Hoc Committees. Additional committees may be created and committee members appointed by a majority vote of the Board of Directors as may be needed for special purposes.

## ***Section 2. Powers and Responsibilities.***

- 2.1. Each committee and every member thereof shall serve at the pleasure of the Board of Directors. Except as otherwise provided by Section 6 of this Article, no committee shall have the power to represent, bind, or otherwise speak for the Corporation without the express consent of the Board of Directors. Each committee shall keep minutes of proceedings and regularly report to the Board of Directors.

## ***Section 3. Qualifications.***

- 3.1. The Board of Directors may establish qualifications for committee membership.

## ***Section 4. Meetings.***

- 4.1. Unless otherwise provided herein, meetings of committees, of which no notice shall be necessary, shall be held at such time and place as shall be fixed by the President of the Corporation or the Chairperson of the Committee or by a majority vote of all of the members of the Committee.

## ***Section 5. Quorum and Manner of Acting.***

- 5.1. 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 all of the members of the committee shall be the act of the committee. The procedures and manner of acting of the committees of the Board shall be subject at all times to the Directions of the Board of Directors.

## ***Section 6. Standing Committees.***

- 6.1. **Executive Committee.** The Executive Committee shall be comprised only of elected Officer Directors of the Corporation. Additional Directors of the Board may be appointed to serve on the Committee at the discretion of the Board. The President shall serve as the Chair of the Executive Committee. The Executive Committee shall maintain surveillance of the business and affairs of the Corporation and shall be empowered to transact

only such business as may be necessary between meetings of the Board of Directors. The Committee shall be responsible for overseeing the personnel affairs of the Corporation, such as developing and reviewing personnel policies. The Committee shall also be responsible for ensuring that the Corporation engages in strategic planning. Meetings of the Committee may be called by the Chair or by any two (2) members of the Committee. The Committee shall submit a report of its actions at all regularly scheduled or special meetings of the Board of Directors.

- 6.2. **Audit & Finance Committee.** The Audit and Finance Committee shall be comprised of only Independent Directors of the Board, excepting that in no circumstance shall the Corporation's independent auditor, or a partner, associate, or employee of the auditor's firm or practice, or an immediate family member or household member of the auditor, or a partner, associate, or employee of his/her firm or practice, serve on, or otherwise volunteer his/her services to, the Committee. The Audit & Finance Committee shall consist of at least three (3) Independent Directors. The Treasurer of the Corporation shall serve as a member of the Committee if the Treasurer is an Independent Director, but shall be precluded from serving as its Chair. The Committee shall develop a budget for approval by the Board of Directors; propose policies governing the finances of the Corporation for adoption by the Board; review any and all audits of the Corporation or any of its programs or contracts performed at its behest; and, respond in writing, subject to the ultimate approval of the Board of Directors, to such audits, including the management letter, stating any and all remedies to deficiencies or improvements in fiscal policies and procedures cited or recommended.

The Audit & Finance Committee shall: (1) oversee the preparation of the annual budget and financial statements; (2) oversee the administration, collection, and disbursement of the financial resources of the organization; (3) advise the Board with respect to significant financial decisions; (4) perform such other duties as the Board may specify from time to time.

The Audit & Finance Committee shall: make recommendations on the selection of the independent auditor and the approval of any non-audit services provided by the auditor; oversee the audit process (however, the auditors should present their report to the full Board); oversee internal controls, conflict of interest and whistleblower policies; and ensure that the auditor's management letter concerns are addressed and resolved.

In addition, if the Corporation had annual revenue in excess of \$1,000,000 in the prior fiscal year or reasonably expects to have annual revenue in excess of \$1,000,000 in the current fiscal year, the Audit &

Finance Committee shall:

- 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: (A) any material risks and weaknesses in internal controls identified by the auditor; (B) any restrictions on the scope of the auditor's activities or access to requested information; (C) any significant disagreements between the auditor and management; and (D) the adequacy of the Corporation's accounting and financial reporting processes;
- iii. annually consider the performance and independence of the independent auditor; and
- iv. if the foregoing duties are performed by the Audit Committee, report on the Audit & Finance Committee's activities to the Board.

**Board Development Committee.** The Board Development Committee shall consist of Directors of the Board. The Committee shall be responsible for ensuring that the composition of the Board of Directors accurately reflects the terms of Board and Committee members; regularly assessing the composition and function of the Board; recruiting and nominating Officers and Directors, provide regular review of the Certificate of Incorporation and Bylaws, including legal review and bringing recommended changes to the full Board; and, coordinating orientation for new Directors and assuring the continued development and training of the Board.

- 6.3. **Program Planning and Evaluation Committee.** The Program Committee shall be comprised of appointed Directors of the Board and may include appointed non-Board members (and shall therefore be a Corporation Committee). The Committee shall be responsible for assessing the quality of the Corporation's actions and operations and reviewing programmatic controls and stated objectives. It shall be responsible for overseeing the implementation of strategic and long range plans sanctioned by the Board of Directors. The Committee shall be responsible for establishing annual goals and strategies for the Corporation's fund development efforts; supporting the leadership and involvement of Directors in fundraising; monitoring fundraising efforts to ensure that ethical practices are in place and fundraising efforts are cost effective; overseeing all fundraising events, campaigns, and special projects; and ensuring accurate and secure giving records and appropriate acknowledgment of donations.

- 6.4. The President shall be an ex-officio non-voting member of all committees except for the committee which they are appointed to serve on.
- 6.5. Committee Composition. Any committee of the Corporation, including the Executive Committee defined above, shall, where possible, be composed of at least one (1) member from the Public Sector, Consumer Sector, and Private Sector.
- 6.6. Provisions Applicable to All Committees.
- (a) Reports. It shall be the duty of each committee to make such reports as from time to time may be requested by the Board of Directors or the Chair of the Board, or as required by these Bylaws.
- (b) Procedures. Subject to the provisions of these Bylaws and to any action of the Board, each committee shall establish its own rules and procedures.
- (c) Waiver of Notice. If duly recorded in the minutes of the meeting, each committee member in attendance may waive notice of such meeting.
- (d) Quorum; Action. A majority of the members of a committee shall constitute a quorum for the transaction of business or of any specified item of business, unless a greater quorum requirement is required by the Certificate of Incorporation. Except as otherwise provided in the Certificate of Incorporation, the vote of a majority of the committee members present at the time of the vote, if a quorum is present at such time, shall be the act of the committee.
- (e) Minutes. All committees shall maintain minutes of the meetings.
- (f) Action By Committee Members Without a Meeting. Any action required or permitted to be taken by any committee may be taken without a meeting if all of the members of such committee consent to the adoption of a resolution authorizing the action. Such consent may be written or electronic. If written, the consent must be executed by the committee member by signing such consent or causing his or her signature to be affixed to such consent by any reasonable means including, without limitation, 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 committee member. The resolution and the written consents thereto by the members of the committee shall be filed with the minutes of the proceedings of such committee.



(g) Participation by Teleconference. Any one or more members of a committee who are not physically present at a meeting of such committee may participate by means of a conference telephone or similar communications equipment or by electronic video screen communication. Participation by such means shall constitute presence in person at a meeting as long as all persons participating in the meeting can hear each other at the same time and each committee member can participate in all matters before such committee, including, without limitation, the ability to propose, object to, and vote upon a specific action to be taken by the committee.

## **ARTICLE IX- REMOVAL OF DIRECTORS**

Removal. Any or all of the Directors of the Board of Directors may be removed at any Regular, Annual, or Special Meeting of the Board called for that purpose, provided there is a quorum for the meeting at which the action is taken. At any meeting where a vote is to be taken to remove a Director of the Board, the Director in question may attend and shall be given a reasonable opportunity to argue in his/her defense.

### ***Section 1. Removal Due to Non-Attendance***

- 1.1. Absences: A Director of the Board who has missed a minimum of three (3) consecutive meetings without reasonable cause and giving a valid written, telephoned, or e-mailed excuse for three (3) regularly scheduled consecutive meetings may be removed. After the second meeting missed without reasonable cause, the Secretary shall mail a letter to the subject Director informing her/him that if s/he does not attend the third meeting, a motion to remove the Director will be made at the next meeting. The letter from the Secretary shall serve as notice to the Director in question; notwithstanding any other provision of these Bylaws, no other notice to the Director shall be required.
- 1.2. Committee Meeting Absences: In the event that any Director of this Board of Directors shall be absent without a valid written, telephoned, or e-mailed reason for three (3) regularly scheduled consecutive committee meetings, it shall be deemed that the Director is no longer interested in the work of the Committee and he/she may be replaced. The Committee Chairperson will report the vacancy to the Board Development Committee at the next regularly scheduled committee meeting, requesting that the Board of Development recommend a replacement.

### ***Section 2. Removal Due to Deliberate Violation of the Bylaws and/or Breach of Fiduciary Duty***

- 2.1 The Board may remove any Director for cause, including but not limited to: false statements on documents completed in connection with service as a Director; unexcused absences from three (3) consecutive Board meetings; failure to comply with the Corporation's Bylaws, code of conduct, conflict of interest policy, or other policies of the Corporation; or conduct the Board deems contrary to the best interests of the Corporation.

Removal of a Board member shall be made at the next Board meeting by the majority of members present at which a quorum is present. The member being removed will receive 14 days notice that the removal is being considered and that the Director being removed shall have an opportunity to be heard.

## **ARTICLE X – EXECUTIVE OF INSTRUMENTS AND BONDING**

### ***Section 1. Executing Documents.***

- 1.1 The President or Secretary may sign any deeds, mortgages, bonds, contracts, or other instruments that the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other Officer or agent of the Corporation.

### ***Section 2. Bonding Requirements.***

- 2.1 The Board of Directors shall require all Officers of the Corporation charged with handling of funds, and may require any other Officer, Director, employee or agent, to be bonded for performance of their duties in such amount and by such bonding company registered in the State of New York as shall be satisfactory to the Board.

## **ARTICLE XI - ANNUAL AUDIT**

The accounts of the Corporation shall be audited each year by an independent Certified Public Accountant who is not an Officer, Director on the Board, or employee of the Corporation.

## **ARTICLE XII – CONSTRUCTION**

If there is any conflict between the provisions of the Certificate of Incorporation and the Bylaws, provisions of the Certificate of Incorporation shall govern.

## **ARTICLE XIII – HARASSMENT**

Harassment of any kind is not productive and will not be tolerated by this Corporation. Any individual bound by these Bylaws who is subject to verbally abusive language relating to race, ethnicity, national origin, gender, religion, veteran status, marital status, age, disability or sexual orientation, or who experiences inappropriate physical touching or suggestive language is encouraged to report it immediately to the Executive Committee. Any individual bound by these Bylaws who is aware of such verbally or physically abusive conditions should report such activity immediately.

**The general policy will be reflected in the personnel procedures and program procedures promulgated by the Corporation to cover its staff as appropriate. However, nothing in this Article will bind the staff of the Corporation, who will instead be covered by the procedures contained in their personnel policies and program procedures. ARTICLE XIV - INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES**

1. Definition of Authorized Indemnification. Unless clearly prohibited by law or these Bylaws, this Corporation shall indemnify any person (an “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 the Corporation, by reason of the fact that s/he (or her/his Testator or Administrator, if then deceased), whether before or after adoption of this Article: (a) is or was a Director or Officer of the Corporation; or, (b) 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.
2. Prohibited Indemnification. The Corporation shall not indemnify any person if a judgment, or other final adjudication, adverse to any Indemnified Person establishes, or the Board of Directors in good faith determines, 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 s/he personally garnered any financial profit or other advantage to which s/he was not legally entitled.
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 reimburse an 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 s/he is not entitled to be indemnified under the law or these Bylaws. 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.
4. Indemnification of Others. Unless clearly prohibited by law or these By-Laws, the Board of Directors may approve indemnification by the Corporation, 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 her/his Testator or Administrator, if then deceased) 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 in 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.
  5. Determination of Indemnification. Indemnification mandated by an order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action against an Indemnified Person, if indemnification has not been ordered by a court, the Board of Directors shall, upon written request by an Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these Bylaws. Before indemnification can occur, the Board of Directors must 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 action 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 Bylaws.
  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 Bylaws with respect to any event, action or omission occurring prior to the date of such amendment.
  7. Insurance. The Corporation is required to purchase Directors and Officers liability insurance. To the extent permitted by law, such insurance shall insure the Corporation for any obligation it incurs as a result of this Article and it may directly insure 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 to be indemnified.

8. **Nonexclusive Rights.** The provisions of this Article shall not 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 to provide them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article, subject in all cases to the limitations of this Article.

### **ARTICLE XV- AMENDMENT OF BYLAWS**

These Bylaws may be amended, altered, or repaired in part by a two-thirds (2/3) vote of the Board of Directors present at the meeting at which a quorum is present, at any meeting called for such purpose upon written notice, which notice shall include the complete text of such proposed amendment(s) and delivered personally or by registered mail or by electronic mail with delivered and/or read receipt to each of the Directors at least 14 days in advance of such meeting.

## Appendix A

### Conflict of Interest Policy for CAPCO Board of Directors

*Please read the policy below. This policy is designed to both safeguard the best interests of Cortland County Community Action Program, Inc. (CAPCO) and comply with various state and federal laws, such as the Internal Revenue Code and the Head Start Act, governing conflicts of interest. Due to differing requirements of these laws, some transactions are outright prohibited and others may be permitted, but only under certain circumstances described below.*

If you have any questions, you may contact the Executive Committee Chairperson. After you have completed reading it, please list any information that is required to be disclosed by the policy, sign it, and return it to the Executive Director.

***Disclosures are required for the period beginning on September 1 of the year preceding the year the Board member signs this policy. The Board member shall complete this policy prior to his/her initial election and annually thereafter, and shall update this policy whenever an actual or possible conflict arises.***

***This policy supplements, and does not amend or alter the provisions in CAPCO's bylaws regarding Conflicts of Interest and Related Party Transactions. In the event of any conflict or ambiguity between this policy and CAPCO's bylaws, CAPCO's bylaws shall control.***

**IMPORTANT NOTE:** This policy does not require the disclosure of assistance or services provided by CAPCO to Board members or their Immediate Family members, such as Head Start, if such individuals are not given preference in obtaining such assistance or services and they are provided on similar terms as for any other applicant for CAPCO programs.

1. **Prohibited Transactions.** No Director Key Person or Related Party of Cortland County Community Action Program, Inc. (CAPCO or the "Corporation") may be a party to or have a Financial Interest in a Prohibited Transaction (each as defined below).
2. **Definitions.**
  - (a) "Affiliate" means, with respect to CAPCO, any entity controlled by, or in control of, CAPCO.
  - (b) "Conflict of Interest" means, as determined by the Governing Body hereunder: (A) possessing any Financial Interest or personal interest, direct or indirect; (B) participating in any business, transaction or professional activity which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation; or (C) incurring any obligation of any nature which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation. Circumstances which may suggest that a Conflict of Interest exists include, without

limitation, the following:

- a Director, Officer or Key Person participates in a decision in which such person may be unable to remain impartial in choosing between the interests of the Corporation and such person's Financial Interests or personal interests or those of a Related Party;
  - a Director, Officer or Key Person has access to confidential information of the Corporation which could be used for personal benefit or gain or for the personal benefit or gain of a Related Party; or
  - a Director, Officer or Key Person receives a financial or other benefit from an Excess Benefit Transaction.
- (c) "Excess Benefit Transaction" means a transaction in which an economic benefit is provided by the Corporation, directly or indirectly, to or for the use of an entity or individual, and the value of the economic benefit provided by the Corporation exceeds the value of the consideration (including the performance of services) received by the Corporation.
- (d) "Financial Interest" means having, whether through a business, an investment or a Related Party, a direct or indirect:
- ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
  - compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
  - potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.
- (e) "Governing Body" means the Audit & Finance Committee of the Corporation or, if there shall be no Audit & Finance Committee at such time, the Board of Directors of the Corporation or another authorized committee thereof.
- (f) "Interested Person" means any Director, Officer, Key Person or member of a committee with Board-delegated powers who has a direct or indirect Financial Interest.
- (g) "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.

- (h) “Prohibited Transaction” means any transaction in which a Key Person or Related Party (i) has a Financial Interest; or (ii) any other transaction, including loans and grants, by or with CAPCO or any of its Head Start delegate agencies.
- (i) “Related Party” means: (i) any Director, Officer or Key Person of the Corporation or any Affiliate of the Corporation; (ii) any Relative of any individual described in clause (i) of this definition; 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%).
- (j) “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, 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.
- (k) “Relative” means, with respect to any individual: (i) his or her spouse or domestic partner as defined in Section 2994-A of the New York Public Health Law; (ii) his or her ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren and great-grandchildren; or (iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren and great-grandchildren.

3. **Employment and compensation.** No CAPCO Board member, nor any Relative of such Board member, as defined above, shall be an employee of CAPCO or any of its Head Start delegate agencies. No CAPCO Board member may be compensated for his or her regular service on the CAPCO Board of Directors or for providing services to CAPCO. However, Board members may be reimbursed for actual reasonable, necessary, and documented expenses incurred, consistent with policies adopted by the Board of Directors.

4. **Gifts to Board members.** CAPCO’s Key Persons are prohibited from soliciting or accepting gifts, money, or gratuities, other than those of nominal value, from:

- Persons receiving benefits or services under any CAPCO program;
- Persons or organizations performing services for or providing goods or space to CAPCO; or
- Persons who are otherwise in a position to benefit from the actions of a CAPCO employee, Officer, or Director.

“Nominal value” is \$50 or less per instance and \$150 or less per calendar year.



5. **Disclosures required by law.** CAPCO is required to disclose to the state and federal governments certain information concerning Related Party Transactions. Key Persons should list these disclosures at the end of this Policy. Information to be disclosed includes, but is not limited to, the following:

- Has CAPCO made a grant award or contribution to any organization with which its Key Persons have a relationship?
- Do any CAPCO Key Persons have a family or business relationship with any other CAPCO Key Person?
- Do any CAPCO Key Persons have a family or business relationship with any CAPCO employee?

- A “business relationship” does not include a relationship between (1) attorney and client, (2) medical professional (including psychologist) and patient, or (3) priest/clergy and penitent/communicant.

- Are any CAPCO Key Persons, either personally, through Relatives, or through entities with which they are associated, involved in, or do they intend to become involved in, any other transactions or relationships with CAPCO, its subsidiaries or delegate agencies (other than as an CAPCO Key Person) that are not mentioned elsewhere in this policy?

- Here are some examples of situations you should disclose (these are in addition to disclosures required elsewhere in this policy):

1. You are a board member of a nonprofit organization that receives funding from CAPCO.
2. You are a board member of a nonprofit organization that provides funding to CAPCO.
3. You or a family member is an employee of a business or organization that receives revenue or funding from CAPCO.
4. Your Relative is a vendor or service provider, or has an ownership interest in, a vendor or service provider with which CAPCO does business.

5. **Continued disclosure obligation and disclosure of other potential Conflicts of Interest.** If, after signing this policy, a CAPCO Key Person becomes involved, or intends to become involved, in a Conflict of Interest or Related Party Transaction, employment, compensation, or gift, as defined above, or becomes aware of such an existing transaction or status, the Key Person must promptly notify the CAPCO Chairperson.

In addition to those Conflicts of Interest or Related Party Transactions, gifts, and employment or compensation described above, Key Persons are required to

promptly disclose to the CAPCO Chairperson any Related Party Transactions in which they are, or intend to become, involved.

6. **Procedure for addressing transactions.** The following process should be followed for all Conflicts of Interest and Related Party Transactions:

(a) The Audit & Finance Committee shall review, in consultation with the CAPCO Executive Director, all Conflicts of Interest and Related Party Transactions of Key Persons, including those that may be prohibited pursuant to Paragraph 1 of this Policy. Any Key Person that is being reviewed for a potential Conflict of Interest or Related Party Transactions will not participate in the review.

(b) The Audit & Finance Committee, with the advice of legal counsel if they feel it is necessary, shall determine whether a Conflict of Interest or a Related Party Transaction is a Prohibited Transaction, as defined in this policy and any other applicable requirements.

(c) If the Audit & Finance Committee determines that the transaction is prohibited, they shall recommend either (i) not to enter into the transaction or (ii) to require the resignation of the Key Person associated with the Prohibited Transaction.

- In making this determination, the Audit & Finance Committee shall determine whether, all factors considered, the transaction under consideration is fair and reasonable to, and is in the best interests of, CAPCO. The Audit & Finance Committee shall review, where appropriate, information concerning alternatives to the transaction; comparable transactions entered into by other parties and organizations; independent appraisals; and any other relevant factors.
- For this purpose, a “transaction” may include an ongoing business, contractual, or grant relationship.

(d) If the Audit & Finance Committee determines that the Related Party Transaction is not prohibited, then it shall also determine whether, all factors considered, the transaction under consideration is fair and reasonable to, and is in the best interests of, CAPCO.

- In making this determination, the Audit & Finance Committee shall review, where appropriate, information concerning alternatives to the transaction; comparable transactions entered into by other parties and organizations; independent appraisals; and any other relevant factors.
- For this purpose, a “transaction” may include an ongoing business, contractual, or grant relationship.

(e) The Audit & Finance Committee shall report its determinations and

recommendations from paragraphs (c) and (d) to the full Board of Directors.

- (f) At a meeting of the Board of Directors or Audit & Finance Committee, a Key Person who is associated with the transaction at issue shall respond to questions from the Board, as to any Related Party Transaction, including Prohibited Transactions, in which he or she is involved. Such Key Person shall not take any part in the deliberation and voting on such transaction, shall not attempt to otherwise influence the Board's vote or discussions regarding such transaction, and shall not be present in the room or on a phone/videoconference when any vote regarding such transaction is taken.
- (g) The Board of Directors shall vote whether to adopt the Audit & Finance Committee's recommendations regarding the transaction at issue. If the Audit & Finance Committee recommends that the Board member be required to resign from the Board, and the Board of Directors approve such recommendation, then such action shall be treated as removal for cause under the CAPCO Bylaws. The basis for any such vote shall be documented in the minutes of the meeting at which action is taken, and those minutes shall be approved at the next meeting of the Board of Directors.

By signing here, I acknowledge that I have read and agree to abide by this policy and (check one):

am not, to the best of my knowledge, a participant in any Prohibited Transactions, employment, compensation, gifts, Related Party Transactions, or any other transactions or relationships required to be disclosed by this policy; or

have, to the best of my knowledge, disclosed below any Prohibited Transactions, employment, compensation, gifts, Related Party Transactions, and any other information required to be disclosed by this policy.

***Disclosures are required for the period beginning on September 1 of the year preceding the year a Key Person signs this policy. The Key Person shall complete this policy prior to his/her initial election and annually thereafter, and shall update this policy whenever an actual or possible conflict arises.***

Disclosures:

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By signing this statement, I hereby certify that (i) I have received a copy of the Conflict of Interest Policy, (ii) I have read and understand the Policy, (iii) I agree to comply with the Policy, and (iv) I understand that Cortland County Community Action Program, Inc. is a charitable entity, and that in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

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Printed Name

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Signature

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Date

## Appendix B

### **CAPCO's Whistleblower Policy**

Cortland County Community Action Program's (CAPCO) Personnel Policies and Procedures requires Directors, Officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of CAPCO, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. A copy of this policy must be distributed to all Directors, Officers, employees, and in some cases volunteers who provide substantial services to the Agency.

Notwithstanding anything contained in this Whistleblower Policy, this Whistleblower Policy is not an employment contract and does not modify the employment relationship, if any, between CAPCO and any of its Directors, Officers, employees or volunteers, nor does it change the at-will status of any employee of CAPCO. Nothing contained in this Whistleblower Policy provides any Director, Officer, employee or volunteer of CAPCO with any additional rights or causes of action not otherwise available under applicable law.

### **Reporting Responsibility**

This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns internally so that CAPCO can address and correct inappropriate conduct and actions. It is the responsibility of all Directors, Officers and employees to comply with the Personnel Policies and Procedures and to report violations or suspected violations in accordance with this Whistleblower Policy.

### **No Retaliation**

No Director, Officer or employee who in good faith reports a violation of the Personnel Policies and Procedures shall suffer harassment, retaliation or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within CAPCO prior to seeking resolution outside the Agency.

### **Reporting Violations**

The Whistleblower Policy is intended to be used for serious and sensitive issues. These include concerns relating to incorrect or fraudulent financial reporting, unethical or illegal conduct, activities that are violations of federal, state or local laws. Employment-related concerns should continue to be reported through CAPCO's grievance procedures as outlined in the Personnel Policies and Procedures.

The Whistleblower Policy addresses CAPCO's open door policy and suggests that employees share their questions, concerns, suggestions or complaints with someone who can address them properly. In most cases, an employee's supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are

encouraged to speak with the Executive Director or anyone in management whom you are comfortable in approaching. Concerns of possible fraudulent or illegal activities may be reported directly to the Executive Director or President of the Board of Directors. Supervisors and managers are required to report suspected violations of the Personnel Policies and Procedures to the Executive Director, who has specific and exclusive responsibility to investigate all reported violations. For suspected fraud, or when you are not satisfied or uncomfortable with following CAPCO's open door policy, individuals should contact the Board President directly.

CAPCO's Compliance Officer is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Human Resource Director will advise the Executive Director and/or the Board of Directors of all complaints and their resolution and will report at least annually to the Chair of the Finance Committee on compliance activity relating to accounting or alleged financial improprieties. The HR Director is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The HR Director will inform the Executive Director and/or the Board President of all complaints and their resolution. Should the allegations include the Executive Director, the Board President with the Executive Committee of the Board of Directors will investigate and resolve all reported complaints and allegations concerning any fraudulent or illegal/unethical activities.

### **Accounting and Auditing Matters**

The HR Director shall immediately notify the Executive Director and Executive Committee of any concerns or complaints regarding corporate accounting practices internal controls or auditing and work with the committee until the matter is resolved. Executive Committee of the Board of Directors shall address all reported concerns or complaints regarding corporate accounting practices, internal controls or auditing.

### **Acting in Good Faith**

Anyone filing a complaint concerning a violation or suspected violation of the Personnel Policies and Procedures must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Personnel Policies and Procedures. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

### **Confidentiality**

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

### **Handling of Reported Violations**

The HR Director will notify the person making a complaint and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.