

AMENDED AND RESTATED

BY-LAWS

OF

DUNKIRK LOCAL DEVELOPMENT CORPORATION

AS OF **March 30, 2010**

ARTICLE I

OFFICES

The principal office of the Dunkirk Local Development Corporation (the "Corporation") shall be in the City of Dunkirk, County of Chautauqua and State of New York. The Corporation may also have offices at such other places within or without this State as the Board of Directors (the "Board") may from time to time determine or the business of the Corporation may require.

ARTICLE II

PURPOSES AND POWERS

1. The Corporation is incorporated and shall be operated for the exclusive charitable or public purposes of promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry in the community or area, and lessening the burdens of government and acting in the public interest.

2. In furtherance of its purposes set forth in paragraph (1), but not for any other purpose, the Corporation shall have, in addition to all other powers (including all powers in furtherance of its corporate purposes mentioned in Section 202 of the Not-for-Profit Corporation Law) the following powers: to construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants in the territory in which its operations are principally to be conducted; to assist financially in such construction, acquisition, rehabilitation and improvement; to maintain such plants for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto; to acquire by purchase, lease, gift, bequest, devise or otherwise, real or personal property or interests therein; to borrow money and to issue negotiable bonds, notes and other obligations therefor; and notwithstanding Section 510 of the Not-for-Profit Corporation Law (Disposition of all or substantially all assets), without leave of the Court, to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine; and, in connection with loans from the New York Job Development Authority, to enter into covenants and agreements and to comply with all terms, conditions and provisions thereof and otherwise to carry out its corporate purposes; and to

foster and encourage the location or expansion of industrial or manufacturing plants in the territory in which the operations of the Corporation are principally to be conducted; provided, however, that the Corporation shall not attempt to influence legislation, by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

ARTICLE III

MEMBERSHIP

1. Membership. The membership of the Corporation shall consist of not less than five (5) or more than thirty (30) persons as may become members ("Members") in accordance with these By-Laws. The following shall serve as ex officio Members by virtue of their public office (collectively, the "Ex Officio Members"): The Mayor of the City of Dunkirk ("Mayor"), the Council Member-at-Large of the City of Dunkirk ("the Council Member-at-Large"), the Fiscal Affairs Officer of the City of Dunkirk, the Director of Planning and Development of the City of Dunkirk. The remaining four (4) members of the Dunkirk Common Council at the first regular meeting of each team shall choose one (1) Council member to be a Member of the Corporation (the "Elected Council Member"). In the event the remaining four (4) members of the Common Council fail to choose an Elected Council Member at the first annual meeting, the Mayor shall appoint a Council Member to occupy said seat. The remaining Members shall be persons selected by the Mayor (collectively, the "Mayor-Appointed Members"). The Mayor-Appointed Members shall be comprised of representatives of the local business community, including representation from the minority business community, and such other representatives of the Dunkirk community as may be deemed appropriate by the Mayor. A majority of the Members must be residents of the City of Dunkirk. Each member shall serve as a Member of the Corporation for a term of two (2) years; provided, however, the terms of office of Ex Officio Members shall expire pending the appointment of a successor. There shall be no limitation on the number of successive terms which a Member may serve. Membership in the Corporation shall not be transferable or assignable.

2. Resignation. Any Member may terminate his or her membership by notice in writing to the CEO and the Board. Unless otherwise specified in the notice, the resignation shall take effect upon delivery to the CEO and Board, and acceptance of the resignation shall not be necessary to make it effective. Should an ex-officio Member refuse to serve as a Member or choose to terminate his or her membership prior to leaving the office through which he or she is afforded membership, the Mayor shall appoint a replacement of the Mayor's choosing to serve at the pleasure of the Mayor until such time as an eligible ex-officio Member chooses to retain such membership.

3. Removal. Members may be removed for cause only upon a majority vote of the other Members then serving.

4. Annual Report and Policy Statement. At each annual membership meeting the Chair (as defined herein) shall present:

- (a) An Annual Report, adopted by the Board which shall describe in detail the operations of the Corporation during its prior fiscal year; and
- (b) A Proposed Annual Policy Statement for the new year.

The Annual Report and Proposed Annual Policy Statement shall be transmitted to the Members in advance of the annual meeting. After discussion of the Annual Report, the membership shall adopt an Annual Policy Statement setting forth general objectives and guidelines for the Corporation for its new fiscal year.

5. Membership Meetings. The annual membership meeting of the Corporation shall be held within six (6) months after the end of each fiscal year at a convenient place and time designated by the Members. The Secretary shall cause to be mailed, via U.S. or electronic mail, not less than ten (10) days nor more than fifty (50) days before the annual meeting, to every Member in good standing, at his or her address as it appears on the membership roll book of the Corporation or to his or her e-mail address, a notice stating the time and place of the meeting. Written notice stating the time and place of each regular meeting of the Members shall be given by the Secretary, personally or by mail or by electronic mail, not less than ten (10) days nor more than fifty (50) days before the date of the meeting, to each Member.

6. Quorum. The presence at any membership meeting, of a majority of the individuals then serving as Members shall constitute a quorum and shall be necessary to conduct the business of the Corporation; however, a lesser number may adjourn the meeting for a period of not more than four (4) weeks from the date scheduled by the By-Laws, and the Secretary shall cause a notice to be sent to those Members who were not present at the meeting originally called. A quorum as hereinbefore set forth shall be required at any adjourned meeting.

7. Special Meetings. Special meetings of the membership of the Corporation may be called by the Chief Executive Officer (CEO) or the Chair and shall be called by the CEO upon written request of at least three (3) Members. The Secretary shall cause a notice of such meeting to be given personally to Members or mailed or sent via electronic mail to Members at their addresses as they appear in the membership roll book or to their e-mail addresses not less than ten (10) days, nor more than fifty (50) days before the scheduled date of such meeting. Such notice shall state the date, time, place and purpose of the meeting and by whom called. No other business but that specified in the notice may be transacted at such special meeting without the unanimous consent of all present at such meeting.

8. Presiding Officer. The CEO of the Corporation shall preside at all meetings of the Members or, in the absence of the CEO, a person shall be chosen by the Members present. The Secretary of the Corporation shall act as the secretary at all meetings of the Members. In the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

9. Order of Business. The order of business at all meetings of Members shall be as follows:

- (a) Roll call
- (b) Reading of the minutes of the preceding meeting
- (c) Reports of committees

- (d) Reports of officers
- (e) Old and unfinished business
- (f) New business
- (g) Adjournments

Notwithstanding the foregoing, the Chair shall have the authority to vary the order of business as the need arises.

10. Waivers of Notice. Notice of meetings, annual, regular or special, need not be given to any Member who submits a signed waiver of notice in person, whether before or after the meeting. The attendance of any Member at a meeting, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

11. Voting. At any meeting of the Members, each Member present in person or by proxy shall be entitled to one (1) vote. At all meetings of the Members at which a quorum is present, except as otherwise provided herein or by the New York Not-for-Profit Corporation Law, all matters shall be decided by the vote of a majority of the Members present in person or by proxy.

12. Voting Of Securities Held By The Corporation. Stocks or other securities owned by the Corporation may be voted in person or by proxy as the Board of Directors or the Executive Committee shall specify. In the absence of any direction by the Board of Directors or Executive Committee, such stocks or securities shall be voted by the CEO, or the Treasurer in the absence of the CEO, as he or she shall determine.

13. Proxies. At all meetings of Members, any Member entitle to vote thereat may vote by proxy. Every proxy must be an instrument in writing executed and dated by such Member or by his/her duly authorized attorney and delivered to the Secretary of the Corporation. Any proxy shall be revocable at the will of the Member executing such proxy and shall become invalid after the expiration of three (3) months from the date of it is execution unless such Member shall have otherwise specified its duration therein.

ARTICLE IV

DIRECTORS

1. Management of the Corporation. Subject to the Annual Policy Statement adopted by the members, the Corporation shall be managed by the Board. Each director shall be at least eighteen (18) years of age.

2. Number and Term of Directors. The number of directors shall be no fewer than seven (7) and no more than fifteen (15) unless changed by an amendment to these By-Laws approved by a majority vote of the members. The directors serving ex-officio shall serve terms concomitant with their office. The directors who do not serve in an ex-officio capacity shall serve for two-year terms at the pleasure of the Mayor. There shall be no limitation on the number of successive terms which a director may serve.

3. Composition of Board. The Board shall be composed of the following persons:

(a) The City of Dunkirk (the "City") Director of Planning and Economic Development who shall serve ex-officio and shall be the Chair of the Board;

(b) The Chairman of the City's Common Council Economic Development Committee who shall serve ex-officio;

(c) The Director of the Dunkirk Housing Authority, or his or her designee, who shall serve ex-officio;

(d) One (1) individual representing the City's manufacturing community who shall be appointed by and serve at the pleasure of the Mayor of the City (the "Mayor");

(e) One (1) individual representing the City's banking community who shall be appointed by and serve at the pleasure of the Mayor;

(f) One (1) individual representing the City's service or tourism business community who shall be appointed by and serve at the pleasure of the Mayor;

(g) Nine (9) members to be appointed by the Mayor who shall serve at the pleasure of the Mayor.

4. Vacancies. Vacancies for directors who do not serve ex-officio shall be filled by appointment by the Mayor.

5. Resignation of Directors. A director may resign by giving written notice to the CEO and the Chair. Such resignation shall take effect at the time specified therein (not to exceed the director's current term) and the acceptance thereof shall not be necessary to make such resignation effective.

6. Removal of Directors. Any director may be removed from the Board with or without cause by the affirmative vote of all the members of the Corporation then serving.

7. Attendance by Directors. Any director who does not attend at least fifty-percent (50%) of the regular and annual Board meetings for a calendar year shall be removed by the members.

8. Quorum of Directors. The presence at any director's meeting of a majority of the individuals then serving as directors shall constitute a quorum for the transaction of business or of any specified item of business.

9. Action of the Board.

(a) Unless otherwise required by law, the vote of a majority of the directors shall be the act of the Board. Each director present shall have one vote.

(b) Any one or more members of the Board or any committee thereof may participate in a meeting of such Board or committee by means of video conference or conference telephone allowing all persons participating in the meeting to hear each other at the same time. However, participation by conference telephone shall not constitute presence in person at a meeting for purposes of quorum or voting.

10. Place and Time of the Board Meetings. The Board may hold its meetings at the office of the Corporation or at such other places, either within or without the State of New York as it may from time to time determine.

11. Regular and Annual Meeting. Monthly meetings of the Board shall be held at such time and place as directed by the Chair. One such monthly meeting per year shall be designated by the Board as its annual meeting.

12. Notice of Meetings of the Board; Adjournment. Written notice stating the time and place of each regular meeting of the directors shall be given by the Secretary, personally or by mail or by electronic mail, not less than five (5) days before the date of the meeting, to each director. Special meetings of the Board shall be held upon notice to the directors and may be called by the CEO upon two (2) days' notice to each director, either personally or by mail or by wire or by electronic mail; special meetings shall be called by the CEO or by the Secretary in a like manner on written request of five (5) directors. The Secretary shall cause to be mailed, via U.S. or electronic mail, not less than ten (10) days nor more than fifty (50) days before the annual meeting to every director a notice stating the time and place of the annual meeting. Notice of a meeting need not be given to any director who submits a 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 to him or her. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the adjournment shall be given to all directors who were absent at the time of the adjournment and, unless such time and place are announced at the meeting, to the other directors.

13. Chair. The Chair of the Board shall be the Director of Planning and Economic Development for the City, who shall also be a member of the Corporation. The Chair shall preside at all meetings of the Corporation and its Executive Committee. The Chair shall have the authority to sign all agreements, contracts, deeds and any other instruments on behalf of the Corporation. The Chair shall submit his or her recommendation and such information as he or she shall deem pertinent concerning the business, affairs, and policies of the Corporation at each meeting. In the event of a vacancy on a committee of the Corporation, the Chair will designate a successor to fill the unexpired portion of the term if the number of committee members is specified by these By-Laws. In the event of a vacancy on a committee of the Corporation, the Chair may designate a successor to fill the unexpired portion of the term if the number of committee members is not specified by these By-Laws. In the event of a vacancy in the chair of a committee of the Corporation, the Chair will designate a successor to fill the unexpired portion of the term.

ARTICLE V

COMMITTEES OF THE CORPORATION

1. Executive Committee. There shall be an Executive Committee which shall consist of individuals nominated by the Chair and approved by resolution adopted by a majority of the entire Board. Such Executive Committee may, at the discretion of the Board, include individuals who are not directors of the Corporation. A majority of the individuals then serving on such committee shall constitute a quorum of the Executive Committee. The Chair shall preside over the Executive Committee's meetings. Members of the Executive Committee shall serve for a term of one (1) year. There shall be no limitation on the number of successive terms which a member of the Executive Committee may serve.

2. Other Standing Committees. In addition to the Executive Committee and current standing committees, the Board, by resolution adopted by a majority of the entire Board, may designate other standing committees, each of which, to the extent provided herein or in the resolution, and except as otherwise provided by law, shall have all the authority of the Board.

3. Term of Office of Committee Members. Whenever the term of office of any member of a committee shall expire, the Board may designate a successor member. Any member or officer of the committee may be designated or elected to succeed himself or herself.

4. Special Committees. The Board at any time and from time to time, by resolution adopted by a majority of the entire Board, may create such special committees as may be deemed desirable, to serve at the pleasure of the Board, and the members of which shall be appointed by the Chair with the consent of the Board. These committees shall have only the lawful powers specifically delegated to them by the Board, except that no such committee shall have powers which are not authorized for any standing committees of the Board under Section 2 hereof and by law.

5. Policy Committee.

(a) The Policy Committee shall be comprised of the following:

(i) Not less than three (3) directors appointed by the Chair with the consent of the Board at the annual meeting of the Board, who shall serve for terms of one (1) year, and thereafter until their successors are appointed; and

(ii) Such other individuals as the Board may designate from time to time.

(b) The committee chair for the Policy Committee shall be designated by a majority of the Board.

(c) The Policy Committee shall:

(i) have the power to call for such reports and documentation as it deems necessary to properly monitor the Corporation's operation;

(ii) propose to the Executive Committee policy guidelines and policy statements appropriate to the Corporation and its mission; and

(iii) perform such other duties as may be delegated to them by the Board, from time to time.

6. Finance & Audit Committee.

(a) The Finance & Audit Committee shall be comprised of the following each of whom, to the extent practicable, shall be familiar with corporate financial and accounting practices:

(i) Not less than three (3) directors appointed by the Chair with the consent of the Board at the annual meeting of the Board, who shall serve for terms of one (1) year, and thereafter until their successors are appointed; and

(ii) Such other individuals as the Board may designate from time to time.

(b) The committee chair for the Finance & Audit Committee shall be designated by a majority of the Board.

(c) The Finance & Audit Committee shall be responsible:

(i) To provide assistance to the Board in fulfilling its fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices;

(ii) To maintain, by way of regularly scheduled meetings (at least once prior to commencement and once after completion of the annual audit process), a direct line of communication between the Board and the Corporation's independent accountants and auditors to provide for exchanges of views and information;

(iii) To maintain, as appropriate, a direct line of communication between the Board and the governmental authorities having audit authority or fiscal oversight of the Corporation;

(iv) To approve the budget of the Corporation for submission to the Board;

(v) To approve and/or direct the transfers of moneys under the budget;

(vi) To review proposals for the issuance of debt and make recommendations relating thereto; and

(vii) Perform such other functions as are set forth in the Finance & Audit Committee Charter as adopted by the Corporation.

Particularly, and without limiting the generality of the foregoing, the Finance & Audit Committee shall be responsible for recommending to the Board the level of cash reserves and the level of fund

balances. The Finance & Audit Committee shall also recommend to the Board the hiring of a certified independent accounting firm, establish the compensation to be paid to such accounting firm, provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes and receive reports from such accounting firm. The Finance & Audit Committee shall report to the Board on a periodic basis, at least annually, the findings of its independent accountants and auditors. These reports shall include careful consideration of the actions taken by management on the independent accountants' and auditors' suggestions for correcting weaknesses, if any, in the Corporation's internal controls, regulatory compliance, organizational structure and operations. These reports may include the adequacy of the audit effort by the Corporation's independent accountants and auditors, the financial and regulatory compliance reporting decisions of management, the adequacy of disclosure of information essential to a fair presentation of the financial affairs and regulatory compliance efforts of the Corporation, and the organization and quality of the Corporation's system of management and internal accounting controls.

(d) Each member of the Finance & Audit Committee must be an “independent member” within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time.

7. Governance Committee.

(a) The Governance Committee shall be comprised of the following:

(i) Not less than three (3) members of the Corporation appointed by the Chair with the consent of the Board at the annual meeting of the Board, who shall serve for terms of one (1) year, and thereafter until their successors are appointed; and

(ii) Such other individuals as the Board may designate, from time to time.

(b) The committee chair for the Governance Committee shall be designated by a majority of the Board.

(c) The Governance Committee shall be responsible to:

(i) Keep the Board informed of current best governance practices;

(ii) Review corporate governance trends;

(iii) Update the Corporation's corporate governance principles;

(iv) Advise those responsible for appointing members to the Board of the skills and experience required of potential Board members; and

(v) Perform such other functions as are set forth in the Governance Committee Charter as adopted by the Corporation.

(d) Each member of the Governance Committee must be an “independent member” within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as amended from time to time.

ARTICLE VI

LOAN PROCEDURE

1. Types of Available Funds. Loans, grants and assistance offered by the Corporation may be of several types, depending upon their origin, the applicable statutes and regulations governing the administration of such funds or assistance.

2. Administration of Funds. Application for loans, grants and assistance, in whole or in part, from federal revolving loan funds shall be solicited, guided, approved or rejected, in strict accordance with applicable statutes and regulations governing the use of such funds, including, but not limited to:

(a) Revolving Loan Fund Administration Plan submitted to and approved by the Economic Development Administration of the Federal Government;

(b) Community Development Block Grant Act and Regulations;

(c) Small Business Investment Act and Section 502 or 7(a) Loan Program Regulations;

(d) Job Development Authority Act and Regulations.

Approval or rejection of loans, grants and assistance shall in all cases be based on applicable standards of credit, need and eligibility.

3. Administration of Other Funds. Application for loans, grants and assistance from nonfederal revolving loan funds or other funding sources administered by the Corporation shall be made in the first instance to the Board or to a special committee of the Board established therefor pursuant to Article V, Section 4 of these By-Laws.

4. Final Decision. Upon approval by any appropriate committee of an application for a loan, grant or assistance for funds, the application shall be transmitted to the Board for final decision.

5. Restrictions on Use of Funds. No expenditure or use of funds shall be made except in strict compliance with all conditions imposed by contract under which the funds in question have been made available to the Corporation.

ARTICLE VII

OFFICERS

1. CEO, CFO and Other Officer. The Corporation shall have a CEO (or President), a CFO (or Treasurer) and a Secretary, along with other officers and assistant officers as the Board may determine. The offices of CEO and Secretary shall not be held by the same person. The officers shall have such duties as prescribed by these By-Laws and the Board.

2. Officers' Appointment, Term. The officers shall be elected by the Board, except for the CEO who shall be appointed by the Mayor. Unless a shorter term is provided in the resolution of the Board electing such officer, the term of office of each officer shall extend for one (1) year after his or her election and until a successor is elected or appointed. Officers shall be eligible to serve an unlimited number of consecutive terms. Notwithstanding the provisions set forth in this Article, the powers to perform and exercise the duties and functions of any of the officers of the Corporation may be limited from time to time via resolution of the Board.

3. Removal, Resignation. Any officer appointed by the Board may be removed by a majority vote of the entire Board then appointed, with or without cause. In the event of the death, resignation or removal of an officer, the Board in its discretion may appoint a successor to fill the unexpired term. The CEO may be removed by a majority vote of the entire Board then appointed. Upon such a removal, the individual so removed may not serve as CEO of the Corporation for a period of twelve (12) months following his or her removal. Any two (2) or more offices may be held by the same person, except the offices of CEO and Secretary.

4. Chief Executive Office (CEO). The CEO shall be the chief executive officer of the Corporation and shall be appointed by the Mayor. He or she shall be responsible for the general management of the affairs of the Corporation. The CEO shall exercise supervision and control of all administrative functions of the Corporation, including personnel, budgeting, program and policy implementation; and shall see that all orders and resolutions of the Board are carried into effect. The CEO shall have the authority to sign all agreements, contracts, deeds and any other instruments on behalf of the Corporation.

5. Chief Financial Officer (CFO). The CFO shall have the care and custody of all the funds and securities of the Corporation and shall deposit said funds in the name of the Corporation in such bank or trust company as the directors may elect; he or she shall, when duly authorized by the Board, sign and execute all contracts in the name of the Corporation, he or she shall also sign all checks, drafts, notes and orders for the payment of money, which shall be duly authorized by the Board and shall be countersigned by the CEO or other officer as designated by the Board; and he or she shall, at all reasonable times, exhibit his or her books and accounts to any director or member of the Corporation upon application at the office of the Corporation during ordinary business hours. At the end of the corporate year, he or she shall have an audit of the accounts of the Corporation made by a committee appointed by the CEO and shall present such audit in writing at the annual meeting of the members, at which time he or she shall also present an annual report setting forth in full the financial conditions of the Corporation.

6. Secretary. The Secretary shall keep the minutes of the Board and also the minutes of the members. He or she shall have the custody of the seal of the Corporation and

shall affix and attest the same to documents when duly authorized by the Board. He or she shall attend to the giving and serving of all notices of the Corporation and shall have charge of such books and papers as the Board may direct. He or she shall attend to such correspondence as may be assigned to him or her and perform all the duties incidental to his or her office. He or she shall keep a membership roll containing the names, alphabetically arranged, of all persons who are members of the Corporation, showing their places of residence and the time when they became members.

7. Sureties and Bonds. In case the Board shall so require, any officer or agent of the Corporation shall execute to the Corporation a bond in such sum and with such surety or sureties as the Board may direct, conditioned upon the faithful performance of his or her duties to the Corporation and including responsibility for negligence and for the accounting for all property, funds or securities of the Corporation which may come into his or her hands.

ARTICLE VIII

SEAL

The seal of the Corporation shall be in the form of a circle and shall bear the name of the Corporation and the year of its organization.

ARTICLE IX

ETHICAL STANDARDS

1. In the event that any Member or director of the Corporation has a business or other interest in any contract or matter involving the Corporation, and in regard to which such Member or director has authority to act on behalf of the Corporation, the Member or director shall disclose such interest and abstain from action.

2. Prior to the making or approval by the Corporation of any loan, grant or assistance to, any contract with, and/or employment of any person or private entity, each Member, director, officer or employee of the Corporation who has received any communication from or in favor of such private entity shall make written disclosure of such communication to the Board and the fact of such communication shall be noted in the minutes of the next Board meeting.

3. In all other respects, the Members and directors of the Corporation shall operate in accordance with ethical standards as enumerated in the Not-for-Profit Corporation Law of the State of New York, as the same may be amended from time to time, and any ethics or conflicts of interest policy statement approved by the Board.

4. In addition to any other ethical standards applicable to any Member or director of the Corporation pursuant to these By-Laws or other applicable law, a majority of the Members and directors of the Corporation, other than those who serve by virtue of holding a civil office of the State of New York, shall, to the extent required by law, be “independent members,”

as defined in Section 2825 of the New York Public Authorities Law, as amended from time to time.

ARTICLE X

CONSTRUCTION

If there be any conflict between the provisions of the Certificate of Incorporation and these By-Laws, the provisions of the Certificate of Incorporation shall govern.

ARTICLE XI

INDEMNIFICATION OF MEMBERS, DIRECTORS AND OFFICERS

Any person made a party to any action, suit or proceeding by reason of the fact that he or she is or was a Member, director, officer or employee of this Corporation, or of any corporation which he or she served as such at the request of this Corporation, shall be indemnified by this Corporation against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him or her in connection with the defense of such action, suit or proceeding or in connection with any appeal therein, except in relation to the matters as to which it shall be adjudged in such action, suit or proceeding that (i) such Member, officer, director or employee acted in bad faith, (ii) liability resulted from the active and deliberate dishonesty of such individual, or (iii) such individual gained in fact a financial profit or other advantage to which he or she was not legally entitled. Such right of indemnification shall not be exclusive of any other rights to which such Member, director, officer or employee may be entitled apart from the provisions of this Article.

ARTICLE XII

AMENDMENTS

The By-Laws may be adopted, amended or repealed only by the affirmative vote of at least a majority of the individuals then serving as directors of the Corporation at a regular or special meeting called for that purpose; except that any amendment or other change to Article III of these By-Laws, or any other portion relating to Membership and the powers of Members, shall be effective only upon the affirmative vote of at least a majority if the individuals then serving as Members of the Corporation.

ARTICLE XIII

MISCELLANEOUS

It shall be the policy of the Corporation to adopt By-Laws, rules, regulations, policies, procedures and conduct its operations in accordance with all applicable State, Federal and local laws.