

**AMENDED AND RESTATED BYLAWS  
OF  
DULUTH BUSINESS ASSOCIATION, INC.**

Adopted October, 2018

**I. PURPOSES**

**1.1 General.** Duluth Business Association, Inc. (DBA) is organized and will be operated exclusively for purposes under Section 501(c)(6) of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, as they now exist or as they may hereafter be amended (or to any corresponding provision of any future U.S. internal revenue law), and specifically for the purposes of being a business networking organization that also engages in support of community organizations, projects, and other community supporting entities.

The DBA will have all the powers enumerated in and granted by the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-302 *et. seq.* as amended from time to time, or successor provisions (the "Act"); *provided, however*, the DBA will exercise its powers in furtherance of its tax-exempt purposes as set forth in the Articles of Incorporation of the DBA, as such may be amended from time to time (the "Articles of Incorporation"), and which are within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986 or successor provisions.

**II. EFFECTIVE DATE**

**2.1 Effective Date.** These Amended and Restated Bylaws are adopted as of the date first stated above and will be effective as of the date of adoption.

**V. BOARD OF DIRECTORS**

**5.1 Number of Directors.** The Board will consist of the four officers, the immediate past president and at least one (1) director, but may be increased or decreased from time to time by Board Vote; provided, however, that no decrease in the number of directors will have the effect of shortening the term of an incumbent director and no increase in the number of directors will result in the Board having more than [11] directors.

**5.2 Term of Directors.** The directors of the Board will be chosen by Board Vote. As of the Initial Election Date, all prior terms served by any then-serving director will be disregarded, and each director will be elected to serve a term as determined in accordance with this Section 5.2. On the Initial Election Date, directors will be classified with respect to the time for which they hold office into two classes, as nearly equal in number as possible, with one-half (1/2) of the directors elected to a one (1) year term, and the remaining directors elected to a two (2) year term.

At each annual election of directors after the Initial Election Date, each director will be elected to a two (2) year term. No director will serve for more than a total of three (3) successive terms, except that the Board may extend the term of service for any director in one-year increments by a vote of two-thirds (2/3) of the total number of directors that the DBA would have if there were no vacancies on the Board (the "Whole Board"). A director who has served three successive terms

will be eligible for re-nomination after a leave of one (1) year. Each director will continue in office until his or her resignation, removal, retirement, death, disqualification, or until a successor has been duly elected and qualified. A director elected to fill a vacancy will be elected for the unexpired term.

**5.3 Vacancies.** Any vacancy in the Board, including a vacancy arising from an increase in the number of directors, may be filled by the Board.

**5.4 Resignation and Removal.** Any director may resign at any time by giving written notice of such resignation to the Board. Such resignation will be effective when received by such director or the Board or, if later, as of the date therein specified. Directors may be removed, with or without cause, by a vote of two-thirds (2/3) of the Whole Board.

**5.5 Regular Meetings.** The Board will hold an annual meeting at which the officers will report on the activities and financial condition of the DBA and the directors will consider and act upon such matters as may be raised. The Board may hold additional, regular meetings at such times and places as the Board may from time to time determine. Regular meetings may be held without notice.

**5.6 Special Meetings.** Unless otherwise prescribed by law, special meetings of the Board will be called by (i) the Chair, or (ii) the Secretary acting at the request of the Chair, or one-third (1/3) of the Whole Board, in each case to transact only such business as is specified in the notice of the meeting or authorized by a majority of the Whole Board to be brought before the meeting. Written notice of each special meeting of the Board will be given to each director not less than two (2) nor more than sixty (60) days before the date of the meeting. Notice of a special meeting must be given to a director through (1) personal delivery of written notice, (2) first class mail or (3) electronic mail (e-mail) or other means of electronic transmission. All such notices will be sent to the director's address, phone number or email address as shown on the records of the DBA. Such notice must state the purpose for which the meeting is called and any matter or matters that must be approved by the Board.

**5.7 Waiver of Notice.** A director may waive any notice required by these Bylaws or the Act, before or after the date and time stated in the notice, by providing the DBA a written waiver signed by the director, to be filed with the minutes or corporate records. A director's attendance at or participation in a meeting will waive any required notice to the director of the meeting, unless the director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting at the meeting and does not thereafter vote for or assent to action taken at the meeting.

**5.8 Chair.** A chair of the Board (the "Chair") will be the elected president.

**5.9 Invited Observers.** The Board may, by Board Vote, permit certain persons who are not directors of the DBA (the "Invited Observers") to observe such meetings of the Board as the Board may determine. The Invited Observers will serve in an advisory capacity only and may not participate in any Board Vote or exercise any of the powers and authority of the Board in the management of the business and affairs of the DBA.

**5.10 Quorum.** A majority of the total number of directors in office immediately before the meeting begins will constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, a majority of those in attendance may adjourn the meeting from time to time until a quorum is obtained.

**5.11 Voting.** The action of the majority of the directors present at a meeting at which a quorum is present will be the action of the Board ("Board Vote").

**5.12 Action Without a Meeting.** Any action required or permitted to be taken at a meeting of directors may be taken without a meeting, without prior notice and without a vote, if a majority of those entitled to vote consent in writing, setting forth the action so taken, and such consent is signed by such majority of the directors, and is delivered to the DBA in accordance with the Act.

**5.13 Meetings Held Through Communications Equipment.** Meetings may be held by means of conference telephone or similar communications equipment so that all persons participating in the meeting can hear one another and participation in a meeting pursuant to this paragraph will constitute presence in person at a meeting.

**5.14 Powers and Duties.** The Board will have general power to direct the management of the business and affairs of the DBA. Without limiting any other provision hereof, except as specified in a resolution or otherwise approved by Board Vote, a Board Vote will be required for any expenditure of money or assumption of any liability by the DBA over certain thresholds as determined by the Board from time to time.

**5.15 Compensation.** The Board will not receive compensation for services rendered in its capacity as the Board to or on behalf of the DBA.

**5.16 Creation of Committees.** The Board may, by Board Vote, designate one or more committees of the Board, each such committee to consist of one or more of the directors of the DBA. Such committees, to the extent provided in a resolution of the Board or in these Bylaws, will have and may exercise all the powers and authority of the Board in the management of the business and affairs of the DBA except the power to adopt, amend or repeal these Bylaws or other powers prohibited from being delegated to such a committee by the Act.

## VI. OFFICERS

**6.1 Generally.** The officers of the DBA will be elected annually by the Board and will consist of a President, a Vice-President, a Secretary and a Treasurer, all of whom will be elected at the annual meeting of the Board. Any number of offices may be held by the same person. Any of the offices may be left vacant from time to time as the Board may determine. In the case of the absence or disability of any officer of the DBA or for any other reason deemed sufficient by a majority of the Board, the Board may delegate the absent or disabled officer's powers or duties to any other officer or to any director.

**6.2 Powers and Duties.** All officers of the DBA will have such authority and perform such duties in the management of the property and affairs of the DBA as generally pertain to their respective offices, as well as such authority and duties as may be determined by the Board.

**6.3 Compensation.** The Officers will not receive compensation for services rendered in his or her capacity as officer to or on behalf of the DBA.

**6.4 Succession.** The officers of the Company will hold office until their successors are elected and qualified or until such officer's earlier death, resignation or removal. Any officer may be removed at any time by the affirmative vote of a majority of the Whole Board. Any vacancy occurring in any office of the Company may be filled by a Board Vote.

## VII. INDEMNIFICATION AND INSURANCE

**7.1 General.** Without limiting the generality or effect of any contractual right to indemnification, the DBA will to the fullest extent permitted by the Act as then in effect, or by other applicable law, indemnify any person (an "Indemnitee") who is or was involved in any manner (including without limitation as a party or a witness) or is threatened to be made so involved in any threatened, pending or completed investigation, claim, action, suit or proceeding, whether civil, criminal, administrative or investigative (including without limitation any action, suit or proceeding by or in the right of the DBA to procure a judgment in its favor) (a "Proceeding") by reason of the fact that such person is or was or had agreed to be a director, officer, employee, or agent of the DBA, or is or was serving at the request of the Board as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other entity, whether or not for profit (including the heirs, executors, administrators or estate of such person), or anything done or not done by such person in any such capacity, against all out-of-pocket expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding. Such indemnification may include the right to receive payment of expenses as they are incurred by an Indemnitee in connection with such Proceeding, consistent with the provisions of the Act as then in effect.

If at any time the DBA is deemed to be a private foundation (within the meaning of Section 509 of the Code), then, during such time, no payment will be made under this Section 7.1 if such payment would constitute an act of self-dealing or a taxable expenditure, as defined in Sections 4941(d) and 4945(d), respectively, of the Code.

**7.2 Indemnification Not Exclusive.** The indemnification provided by these Bylaws will not be exclusive of any other rights which such director, officer, employee or agent may have under any other instrument or by reason of any action or otherwise and will be applicable to Proceedings commenced or continuing after the adoption of these Bylaws, whether arising from acts or omissions occurring on or after such adoption.

**7.3 Insurance.** The DBA may purchase and maintain insurance to protect itself and any Indemnitee against any expenses, judgments, fines and amounts paid in settlement or incurred by any Indemnitee in connection with any Proceeding referred to in these Bylaws or otherwise, to the fullest extent permitted by applicable law as then in effect. The DBA may enter into contracts with any person entitled to indemnification under these Bylaws or otherwise, and may create a trust fund, grant a security interest or use other means (including without limitation a letter of

credit or other instrument) to ensure the payment of such amounts as may be necessary to effect indemnification as provided in these Bylaws.

## VIII. GENERAL

**8.1 Fiscal Year.** The fiscal year of the DBA will be the calendar year, or such other period as may be fixed by the Board.

**8.2 Checks, Notes and Contracts.** The Board will determine who will be authorized from time to time on the DBA's behalf to sign checks, drafts, or other orders for payment of money; to sign acceptances, notes, or other evidences of indebtedness; to enter into contracts; or to execute and deliver other documents and instruments.

**8.3 Books and Records.** The DBA treasurer will maintain correct and complete books and the DBA secretary will maintain records of account minutes of the proceedings of the Board, and a current list of the directors and officers of the DBA having any of the authority of the Board.

**8.4 Severability.** Every provision of these Bylaws is intended to be severable, and if any term or provision is invalid for any reason whatsoever, such invalidity will not affect the validity of the remainder of these Bylaws.

## IX. AMENDMENTS

**9.1 General.** These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board as permitted by law (except as hereinafter provided in Section 9.2), by Board Vote.

**9.2 Restrictions.** The Bylaws may not be amended in such manner as would conflict with the Articles of Incorporation, and no amendment may authorize the DBA to conduct its affairs in any manner or for any purposes contrary to the provisions of Section 501(c)(6) of the Code. At all times the Bylaws must remain in compliance with the provisions of Section 501(c)(6) of the Code.

## X. DISSOLUTION

**10.1 Dissolution.** Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(6) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not disposed of shall be disposed of by the Superior Court of Gwinnett County, or the Superior Court for the county in which the principal office of the organization is located if other than Gwinnet County, GA, exclusively for such purposes or to such organization or organizations as the Court shall determine, which are organized and operated exclusively for such purposes.