

**AMENDED & RESTATED BYLAWS**

**OF**

**WIRELESS PHILADELPHIA™**

A Pennsylvania Nonprofit Corporation

*Adopted by the Board of Directors as of May 17, 2006*

**ARTICLE I -- TITLE, PURPOSE AND OFFICES**

The name of the Corporation shall be WIRELESS PHILADELPHIA. The purpose of the Corporation shall be as set forth in its Articles of Incorporation (the “*Articles*”). The registered principal office of the Corporation is currently located and the Corporation shall maintain such an office and a registered agent at such office in the City of Philadelphia (the “*City*”), Commonwealth of Pennsylvania (the “*Commonwealth*”) and may have other offices within or without the Commonwealth. The registered agent shall be as initially designated in the Articles or as subsequently designated from time to time by the Board of Directors (the “*Board*”). Any change of office or registered agent shall not require, and shall not be deemed as, an amendment to these Bylaws.

**ARTICLE II -- NON PROFIT PURPOSE**

The purpose of the Corporation shall be as initially designated in the Articles, and as subsequently designated from time to time by an Amendment to these Bylaws by the Board; *provided* that in no event shall the purpose of the Corporation fail to satisfy one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code.

**ARTICLE III -- MEMBERS**

There shall be no members of the Corporation.

**ARTICLE IV -- BOARD OF DIRECTORS**

SECTION 1. GENERAL POWERS. The affairs of the Corporation shall be managed by its Board, which shall have all powers designated under 15 Pa.C.S. §5502, as from time to time amended.

SECTION 2. NUMBER, TENURE AND QUALIFICATIONS. The number of Directors of the Corporation may vary from time to time but shall be no more than twelve (12). The Directors shall consist of the Appointed Directors, the Elected Directors and the chief information officer of the City (“*CIO*”), as provided in Article IV, Section 5. No Appointed Director shall be an elected or appointed public official.

Seven (7) Appointed Directors shall serve for four-year terms; *provided* that the initial four (4) Appointed Directors appointed by the Mayor of the City (the “*Mayor*”) shall serve for

staggered terms as follows: (i) one with a term ending on December 31, 2006; (ii) one with a term ending on December 31, 2007; (iii) one with a term ending on December 31, 2008; and (iv) one with a term ending on December 31, 2009, and the initial three (3) Appointed Directors appointed by the President of the City Council of Philadelphia (the “*City Council President*”) shall serve for staggered terms as follows: (i) one with a term ending on December 31, 2007; (ii) one with a term ending on December 31, 2008; and (iii) one with a term ending on December 31, 2009.

Four (4) Elected Directors shall serve for four-year terms; *provided* that the initial Elected Directors shall serve for staggered terms as follows: (i) one with a term ending on December 31, 2006; (ii) one with a term ending on December 31, 2007; (iii) one with a term ending on December 31, 2008; and (iv) one with a term ending on December 31, 2009.

Unless otherwise designated by the appointing authority, the Board shall determine which Appointed Directors and initial Elected Directors will serve in each staggered term where such designation is not clear from the nature of the appointment.

An Elected Director in good standing at the end of his or her term of office may be retained for an additional consecutive term upon a vote by the majority of the Board, however, at the end of two consecutive terms such Elected Director must leave office for at least one (1) year. Thereafter, an Elected Director may be re-appointed or re-elected, as the case may be, to serve another term of office.

The CIO shall serve *ex officio* as a Director of the Corporation for a term determined by the Mayor and shall have all rights and responsibilities of a member of the Board, except as set forth herein to the contrary.

Persons selected to serve on the Board shall meet such qualifications for membership, as the Board shall from time to time establish; *provided* that the CIO and the Appointed Directors shall be Directors notwithstanding such qualifications. Directors need not be residents of the City.

SECTION 3. POWERS. Subject to the provisions of the laws of the Commonwealth and any limitations in the Articles and these Bylaws, the activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board.

SECTION 4. DUTIES. It shall be the duty of the Board to:

a. Perform any and all duties imposed on them collectively or individually by law, the Articles or these Bylaws;

b. Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of the Chief Executive Officer of the Corporation, and approve or deny the compensation for any officer or employee who enters into an employment agreement with a term of more than one (1) year or whose annual compensation exceeds \$175,000;

- c. Supervise all officers, agents and employees of the Corporation to assure that their duties are performed properly;
- d. Meet at such times and places, and in such manner, as required by these Bylaws; and
- e. Register their addresses with the Secretary of the Corporation, it being understood that notices of meetings mailed or otherwise transmitted or delivered to them at such addresses shall be valid notices thereof.

#### SECTION 5. NOMINATIONS; ELECTIONS.

a. Appointed Directors. Four (4) of the Directors of the Corporation shall be appointed to the Board by the Mayor and three (3) of the Directors of the Corporation shall be appointed to the Board by the City Council President (each, an “**Appointed Director**” and collectively, the “**Appointed Directors**”). Except where such designation is made by the appointing authority, the Board shall notify the relevant appointing authority of the terms of service of each Appointed Director, as determined pursuant to Article IV, Section 2. At the end of an Appointed Director’s term of service, the appointing authority shall either extend such Appointed Director’s term or appoint a new Director, in the appointing authority’s sole discretion; *provided* that such Appointed Director shall remain on the Board as an “Acting Director” (with all of the voting and other rights of a Director) until such time as the appointing authority reappoints or replaces such Director. At all times, each Appointed Director shall have a duty (to the extent not inconsistent with such Director’s fiduciary duty) to report regularly on the activities of the Board to such Director’s appointing authority, including, at a minimum, a quarterly written report addressing the activities of WP with respect to bridging the digital divide.

b. Elected Directors. Four (4) of the Directors of the Corporation shall be elected by the existing Board (each, an “**Elected Director**” and collectively, the “**Elected Directors**”). Candidates to fill vacancies among the Elected Directors may be nominated by any Director or, if the Board has designated a committee to identify, consider and nominate persons to fill vacancies of the Board, by such committee. Each Director may cast one vote with respect to each position or vacancy.

c. Ex Officio Director. The CIO shall serve *Ex Officio* as a Director of the Corporation. In the event no such officer exists, the Mayor shall designate such other official of the City to serve as a Director of the Corporation. The *Ex Officio* Director shall have all powers and privileges of an Appointed or Elected Director except that (i) the term and removability of the *Ex Officio* Director is determined by the Mayor, and (ii) notwithstanding the conflicts of interest policy of the Corporation or Article IV, Section 13, the *Ex Officio* Director need not recuse himself or herself from voting solely because the City has an interest in the outcome of such vote.

SECTION 6. EXECUTIVE COMMITTEE. The Board shall elect an Executive Committee consisting of a Chair, Vice-Chair, Secretary, and Treasurer from the Directors then serving (other than the *Ex Officio* Director).

a. Actions of the Executive Committee shall have the same force and effect as actions of the Board; except that (1) the Executive Committee shall not override and shall otherwise abide by decisions made by the Board, and (2) any action of the Executive Committee shall be subject to override by a majority vote of the Board.

b. A majority of the entire Executive Committee shall constitute a quorum, and the act of a majority of such quorum of the Executive Committee shall be the act of the Committee.

c. In the absence of the Chief Executive Officer, or in the event of the inability or refusal of the Chief Executive Officer to act, the Chair shall perform the duties of the Chief Executive Officer and, when so acting, shall have all the powers of and be subject to all of the restrictions upon the Chief Executive Officer that are provided in these Bylaws and at law. In the absence of the Chair, or in the event of the inability or refusal of the Chairman to act, the Vice-Chair shall perform the duties of the Chair. Upon the approval of the Board, two (2) Directors may serve as co-Chairs of the Executive Committee.

d. If at any time during the existence of the Corporation, an Executive Committee position has not been filled, the Board shall select a Director to serve in a temporary "Acting" capacity for the applicable position for a specified tenure or until the position can be filled permanently, as determined by the Board and as agreed to by the selected Director.

**SECTION 7. REGULAR MEETINGS.** Unless otherwise resolved by the Board, a regular annual meeting of the Board shall be held without other notice than these Bylaws, on the first Monday in June, at the offices of the Corporation or such place as the Board shall select. The Board may provide by resolution the time and place for the holding of additional regular meetings of the board without notice other than such resolution. The Board shall meet at least four times annually.

**SECTION 8. SPECIAL MEETINGS.** Special meetings of the Board may be called by or at the request of the Chair of the Board, the Chief Executive Officer, or any three Directors. The person or persons authorized to call special meetings of the Board may fix any place in the City as the place for holding any special meeting of the Board called by them. Meetings may be held outside the City only upon the vote or written agreement of two-thirds of all Directors.

**SECTION 9. NOTICE.** Notice of any special meeting of the Board and notice of regular meetings other than the regular annual meeting shall be given at least two days prior thereto by written notice delivered to each Director at his or her address as shown by the records of the Corporation. Notice may be delivered by mail, electronic mail, or facsimile. If mailed, such notice shall be given seven days prior to such meeting and shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Notice of any special meeting of the Board may be waived in writing signed by the person or persons entitled to the notice either before or after the time of the meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to

be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

SECTION 10. QUORUM. A majority of the Board, present in person or by conference call, shall constitute a quorum for the transaction of business at any meeting of the Board; *provided* that if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting to another time without further notice.

SECTION 11. MANNER OF ACTING.

a. General. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by statute, these Bylaws, or the Articles.

b. Special Voting Provisions. The following actions shall require the approval of not less than two-thirds of the Directors: (i) the incurrence of debt over \$100,000 in principal amount; (ii) the sale of any property of the Corporation with a fair market value over \$100,000; (iii) the entry into any contract under which the Corporation will be obligated to make payments over \$250,000 in any year; (iv) the amendment of the Articles or the Bylaws; and (v) the removal of any Director pursuant to Article IV, Section 12.

c. Actions in Lieu of a Meeting. Any action required or permitted to be taken by the Board or by any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consent thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee. Execution of such consent in writing may be by electronic means to the extent permitted by the law.

d. Participation in Meetings. One or more Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment so long as all persons participating in the meeting can hear and communicate with each other and take part in real-time communications. Participation in a meeting pursuant to this section shall constitute presence in person at the meeting.

SECTION 12. REMOVAL. Any Director other than the *Ex Officio* Director may be removed at any time for cause by a vote of two-thirds of the Directors.

SECTION 13. RESIGNATION. Any Director may resign from office at any time. Such resignation shall be made in writing, and shall take effect at the time specified therein, and if no time is specified, at the time of its receipt by the Corporation or its Chief Executive Officer. The acceptance of a resignation by the Board shall not be necessary to make it effective, but no resignations shall discharge any accrued obligation or duty of a Director.

SECTION 14. VACANCIES. Any vacancy occurring in the Elected Directors shall be filled by the Board unless the Articles, a statute, or these Bylaws provide that a vacancy or a directorship so created shall be filled in some other manner, in which case such provision

shall control. Any vacancy occurring in the Appointed Directors shall be filled by appointment by the applicable appointing authority. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his or her predecessor.

SECTION 15. COMPENSATION. Directors shall not receive any stated salaries for their services. By resolution of the Board, expenses of attendance, if any, may be allowed for each regular or special meeting of the Board or other business of the Corporation; *provided* that nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving reasonable compensation therefor.

SECTION 16. TRANSACTIONS WITH DIRECTORS. In any instance where the Corporation proposes to enter into a contract or other transaction with one or more of the Directors or with a corporation, firm, association or other entity in which one or more of the Directors have a substantial financial interest or are officers or directors (an “*interested party transaction*”), the Director or Directors interested in the transaction shall: (a) make true and complete disclosure of the material facts relating to his or her interest to the Board prior to any vote on the transaction; (b) other than as compliance with (a) above requires, absent himself/herself from discussions, deliberations, or votes concerning the transaction; (c) not be counted in determining the existence of a quorum.

In considering any interested party transaction, the Board shall satisfy itself that the transaction is fair and reasonable to the Corporation and does not constitute an “excess benefit” to the Director interested in the transaction. Whenever feasible, the Board shall approve an interested party transaction only after obtaining appropriate data as to the cost of comparable goods or services. In any instance where the Corporation approves an interested party transaction, the minutes of the meeting where such transaction is approved shall note: (a) the terms of the transaction; (b) the date it was approved and those who voted on it; (c) the comparability data obtained and relied upon and how such data was obtained; and (d) the basis for the Corporation’s decision to approve the transaction.

SECTION 17. CONFLICT OF INTEREST. Each Director and officer of the Corporation shall, upon his or her election, appointment or hire, as the case may be, complete and submit to the Board a Conflict of Interest Disclosure Statement, the form of which is appended to these Bylaws as Exhibit A. Nothing herein shall prohibit the Board from adopting additional disclosure, restriction, or other ethics policies, which the Board may resolve to amend from time to time.

## **ARTICLE V -- OFFICERS AND EMPLOYEES**

SECTION 1. OFFICERS. The officers of the Corporation shall be a Chief Executive Officer, a Chief Financial Officer, and such other officers as may be elected by the Board. Officers whose authority and duties are not prescribed in these Bylaws shall have the authority and perform the duties prescribed, from time to time, by the Board. Any two or more offices may be held by the same person, except the offices of Chief Executive Officer and Secretary. Any member of the Board may also hold any office of the Corporation.

SECTION 2. ELECTION AND TERM OF OFFICE. The officers of the Corporation shall be elected annually by the Board at its regular annual meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon as practicable thereafter. Vacancies may be filled or new offices created and filled at any meeting of the Board. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided. Election of an officer shall not of itself create contract rights.

SECTION 3. REMOVAL. Any officer elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

SECTION 4. CHIEF EXECUTIVE OFFICER. Subject to the direction and control of the Board, the Chief Executive Officer shall be in charge of the business and affairs of the Corporation; shall see that the resolutions and directives of the Board are carried into effect except in those instances in which that responsibility is assigned to some other person by the Board or the Board itself; and, in general, shall discharge all duties incident to the office of Chief Executive Officer and such other duties as may be prescribed by the Board. Except in those instances in which the authority to execute is expressly delegated to another officer or agent of the Corporation or a different mode of execution is expressly prescribed by the Board or these Bylaws, the Chief Executive Officer may execute for the Corporation any contracts, deeds, mortgages, bonds, or other instruments which the Board has authorized to be executed, and he or she may accomplish such execution either under or without the seal of the Corporation and either individually or with the Secretary or any other officer thereunto authorized by the Board, according to the requirements of the form of the instrument. The Chief Executive Officer may vote all securities which the Corporation is entitled to vote except as and to the extent such authority shall be vested in a different officer or agent of the Corporation by the Board.

SECTION 5. CHIEF FINANCIAL OFFICER. The Chief Financial Officer shall: work with the Executive Committee Treasurer and shall (a) have charge of and be responsible for the maintenance of adequate books of account for the Corporation; (b) have charge and custody of all funds and securities of the Corporation, and be responsible therefor, and for the receipt and disbursement thereof; and (c) perform all the duties incident to the office of Chief Financial Officer and such other duties as from time to time may be assigned to him or her by Treasurer, upon the review and approval of the Board.

SECTION 6. SECRETARY. The Secretary shall attend all meetings of the Board and of the Executive Committee and record all votes and the minutes of all meetings in a book to be kept for that purpose. The Secretary shall keep in safe custody the seal of the Corporation, and, when authorized by the Board, affix the seal to any instrument requiring it, and, when so affixed, it shall be attested by his or her signature or the signature of the Treasurer. In the absence of the Secretary his or her duties shall be performed by an Assistant Secretary.

SECTION 7. OTHER OFFICERS. Other officers shall be elected by the Board as it may determine and shall perform such duties as shall be assigned to them by the Chief Executive Officer or the Board, or by other officers so designated by the same.

SECTION 8. EMPLOYEES OF THE CORPORATION.

The Corporation may also employ, either as regular employees or independent contractors, consultants, accountants, attorneys, financial experts and such other personnel as may be necessary in the judgment of the Chief Executive Officer, subject to review and confirmation by the Board, to carry out the purposes of the Corporation. The compensation for such employees and contractors will be established by the Chief Executive Officer, subject to review and confirmation by the Board.

**ARTICLE VI -- COMMITTEES**

SECTION 1. COMMITTEES OF DIRECTORS. In addition to the Executive Committee described in Article III, Section 5, the Board may designate one or more committees, each of which shall consist of at least one (1) Director and such other persons as designated by the Board, which committees, to the extent provided in said resolution and not restricted by law, shall have and exercise the authority of the Board in the management of the Corporation. The designation of such committees and the delegation thereto of authority shall not operate to relieve the Board, or any individual Director, of any responsibility imposed thereupon by law. No committee so appointed shall have any authority as to the following matters: (i) the filling of vacancies on the Board or on any committee; (ii) the amendment or repeal of the Bylaws or the adoption of new Bylaws; (iii) the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable; (iv) the fixing of compensation of the Directors for serving on the Board or any committee; (v) the approval of the Corporation's annual budget; or (vi) removal of any Director.

SECTION 2. AUDIT COMMITTEE.

a. Membership. The Audit Committee shall consist of a maximum of seven (7) and a minimum of three (3) members, as determined by the Board, one of which shall be the Treasurer then serving. At least two (2) members of the Audit Committee must be Directors. No member of the Audit Committee shall: (i) be an *ex officio* member of the Board; or (ii) have any recent material financial dealings with the Corporation; or (iii) during his or her term on the Audit Committee, have any material financial dealings with the Corporation; or (iv) be in a position whereby such member may have a conflict or duality of interest or the appearance of a conflict or duality of interest with the Corporation. Any question relating to the qualifications of an Audit Committee member or proposed Audit Committee member shall be referred to and reviewed by the Board or nominating committee created by the Board, if any.

b. Duties and Responsibilities.

(1) The Audit Committee shall have supervision over all internal and external audit functions; receive, review and approve all corporate audits, management letters and management responses thereto; recommend to the Board the appointment of external and

internal auditors; and supervise and approve recruitment and employment of internal audit staff and internal compliance officers; determine the scope of all audits; and recommend to the Board such other functions as the Audit Committee should undertake. The Audit Committee has the responsibility of assuring that there is in place a system of accounting control sufficient to assure that the assets of the Corporation are suitably safeguarded.

(2) The duties and responsibilities of the Audit Committee shall, additionally, include: (i) discussing the Corporation's annual audited statements with management and its independent auditor, separately and together; (ii) discussing the Corporation's critical accounting policies and mediate disputes between its independent auditor and management; (iii) discussing with management policies regarding risk assessment and risk management; (iv) establishing procedures for the receipt, retention, and treatment of complaints received by the Corporation regarding accounting, internal accounting controls, or auditing matters; (v) establishing procedures for the confidential anonymous submission by employees of concerns regarding questionable accounting or auditing matters; (vi) pre-approving all audit and non-audit services to be provided by an accounting firm; and (vii) regularly reporting its activities to the full Board.

(3) The Audit Committee shall annually review the Disclosure Statements filed by members of the Board to be in compliance with the Conflict of Interest Policy adopted by the Board, and shall advise the Board of their status. The Audit Committee shall also, as needed, serve in an advisory capacity to the Board with respect to potential conflicts, and shall make recommendations to the Board with respect to appropriate action to be taken in the event of conflicts or potential conflicts, including removal of Directors.

**SECTION 3. CONTRACT-RELATED COMMITTEES.** To the extent that any of the Corporation's officers and Directors are serving on committees and other governing bodies required under contracts to which the Corporation is a party, such officers and Directors will, to the extent practicable, (i) keep the Board reasonably informed of the matters being considered by such committees and (ii) give other Directors the opportunity to discuss and have input into the Corporation's positions on such matters.

**SECTION 4. OTHER COMMITTEES.** Other committees not having and exercising the authority of the Board may be designated by a resolution adopted by the Directors. Such resolution shall provide for the method of appointment of the members of such committee and may provide that members of any such committee need not be Directors of the Corporation. Any member of such a committee may be removed by the person or persons authorized to appoint such member by the resolution establishing such committee whenever in their judgment the best interests of the Corporation shall be served by such removal.

**SECTION 5. TERM OF OFFICE.** Each member of a committee shall continue as such until the next annual meeting of the Board of the Corporation and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof. A member in good standing at the end of his or her term of office may be retained for such additional terms as are designated by the Board.

SECTION 6. CHAIR. One member of each committee shall be appointed chair.

SECTION 7. VACANCIES. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

SECTION 8. QUORUM. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

SECTION 9. RULES. Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board.

## **ARTICLE VII -- CONTRACTS, CHECKS, DEPOSITS, INSURANCE AND FUNDS**

SECTION 1. CONTRACTS. The Board may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances; *provided* that the approval of two-thirds or more of the Board is required for those contracts and transactions specified in Article IV, Section 11b.

SECTION 2. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an assistant treasurer and countersigned by the Chief Executive Officer; *provided* that, in the absence of a contrary determination by the Board, such instruments in amounts less than \$2,000 may be signed by only the Treasurer or the Chief Executive Officer.

SECTION 3. DEPOSITS. All funds of the Corporation shall be promptly deposited to the credit of the Corporation in such banks, trust companies, or other depositories as the Chief Executive Officer or Board may select.

SECTION 4. GIFTS. The Board may accept on behalf of the Corporation any contribution, gift, bequest or, devise for the general purposes or for any special purpose of the Corporation; *provided* such action would not jeopardize the 501(c)(3) status of the Corporation. Such acceptance may be pursuant to a policy determined by resolution of the Board.

SECTION 5. INSURANCE. The Corporation may purchase insurance in types and amounts and in such manner as shall from time to time be determined by resolution of the Board to be in the best interests of the Corporation, the Board and the officers and employees of the Corporation.

## **ARTICLE VIII -- INDEMNIFICATION OF OFFICERS, DIRECTORS, & EMPLOYEES**

### SECTION 1. SCOPE OF INDEMNIFICATION.

a. The Corporation shall indemnify an Indemnified Representative against any Liability incurred in connection with any Proceeding in which the Indemnified Representative may be involved as a party or otherwise, by reason of the fact that such person is or was serving in an Indemnified Capacity, including, without limitation, Liabilities resulting from any actual or alleged breach or neglect of duty, error, misstatement or misleading statement, negligence, gross negligence or act giving rise to strict or products liability, except:

(1) where such indemnification is expressly prohibited by applicable law;

(2) where the conduct of the Indemnified Representative has been finally determined pursuant to a Proceeding: (i) to constitute willful misconduct or recklessness within the meaning of 15 Pa.C.S. §5713 or any superseding provision of law sufficient in the circumstances to bar indemnification against Liabilities arising from the conduct; or (ii) to be based upon or attributable to the receipt by the Indemnified Representative from the Corporation of a personal benefit to which the Indemnified Representative is not legally entitled; or

(3) to the extent such indemnification has been finally determined in a final adjudication pursuant to a Proceeding to be otherwise unlawful.

b. If an Indemnified Representative is entitled to indemnification in respect of a portion, but not all, of any Liabilities to which such person may be subject, the Corporation shall indemnify such Indemnified Representative to the maximum extent for such portion of the Liabilities.

c. The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the Indemnified Representative is not entitled to indemnification.

d. For purposes of this Article:

(1) “**Indemnified Capacity**” means any and all past, present and future service by an Indemnified Representative in one or more capacities as a director, officer, employee or agent of the Corporation, or, at the request of the Corporation, as a director, officer, employee, agent, fiduciary or director of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, employee benefit plan or other entity or enterprise.

(2) “**Indemnified Representative**” means any and all directors and officers of the Corporation and any other person designated as an Indemnified Representative by the Board (which may, but need not, include any person serving at the request of the Corporation, as a director, officer, employee, agent, fiduciary or director of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, employee benefit plan or other entity or enterprise).

(3) “*Liability*” means any damage, judgment, amount paid in settlement, fine, penalty, punitive damages, excise tax assessed with respect to an employee benefit plan, or cost or expense of any nature (including, without limitation, reasonable attorneys’ fees and disbursements).

(4) “*Proceeding*” means any threatened, pending or completed action, suit, appeal or other proceeding of any nature, whether civil, criminal, administrative or investigative, whether formal or informal, and whether brought by or in the right of the Corporation, a class of its security holders, if any, or otherwise.

**SECTION 2. PROCEEDINGS INITIATED BY INDEMNIFIED REPRESENTATIVES.** Notwithstanding any other provision of this Article, the Corporation shall not indemnify under this Article VIII an Indemnified Representative for any liability incurred in a proceeding initiated (which shall not be deemed to include counterclaims or affirmative defenses) or participated in as an intervenor or *amicus curiae* by the person seeking indemnification unless such initiation of or participation in the proceeding is authorized, either before or after its commencement, by the Board. This section does not apply to reimbursement of expenses incurred in successfully prosecuting or defending a Proceeding related to the right to indemnification, contribution or advancement of expenses.

**SECTION 3. ADVANCING EXPENSES.** The Corporation shall pay the expenses (including reasonable attorneys’ fees and disbursements) incurred in good faith by an Indemnified Representative in advance of the final disposition of a proceeding described in Article VIII, Sections 1 or 2 upon receipt of an undertaking by or on behalf of the Indemnified Representative to repay such amount if it shall ultimately be determined pursuant to a Proceeding related to the right to indemnification, contribution or advancement of expenses that such person is not entitled to be indemnified by the Corporation pursuant to this Article VIII. The financial ability of an Indemnified Representative to repay an advance shall not be a prerequisite to the making of such advance.

**SECTION 4. PAYMENT OF INDEMNIFICATION.** An Indemnified Representative shall be entitled to indemnification within 30 days after a written request for indemnification has been delivered to the Secretary of the Corporation.

**SECTION 5. ARBITRATION.** Any dispute related to the right to indemnification, contribution or advancement of expenses as provided under this Article VIII shall be decided only by binding arbitration in Philadelphia, Pennsylvania, in accordance with the commercial arbitration rules then in effect of the American Arbitration Association, before a panel of three arbitrators, one of whom shall be selected by the Corporation, the second of whom shall be selected by the Indemnified Representative, and the third of whom shall be selected by the other two arbitrators. Each arbitrator so selected is required to be or have been a director or executive officer of a corporation whose shares of common stock were listed during at least one year of such service on the New York Stock Exchange or the American Stock Exchange, or quoted on the National Association of Securities Dealers Automated Quotations System. The party or parties challenging the right of an Indemnified Representative to the benefits of this Article VIII shall have the burden of proof. The Corporation shall reimburse an Indemnified Representative for the expenses (including reasonable attorneys’ fees and disbursements) incurred in

successfully prosecuting or defending such arbitration. This arbitration provision shall be specifically enforceable.

SECTION 6. CONTRIBUTION. If the indemnification provided for in this Article VIII or otherwise is unavailable for any reason in respect of any Liability or portion thereof, the Corporation shall contribute to the Liabilities to which the Indemnified Representative may be subject in such proportion as is appropriate to reflect the intent of this Article VIII or otherwise.

SECTION 7. DISCHARGE OF DUTY. An Indemnified Representative shall be deemed to have discharged such person's duty to the Corporation if he or she has relied in good faith on information, advice or an opinion, report or statement prepared by: (a) one or more officers or employees of the Corporation whom the Indemnified Representative reasonably believes to be reliable and competent with respect to the matter presented; (b) legal counsel, public accountants or other persons as to matters that the Indemnified Representative reasonably believes are within the person's professional or expert competence; or (c) a committee of the Board on which he or she does not serve as to matters within its area of designated authority, which committee he or she reasonably believes to merit confidence.

SECTION 8. MANDATORY INDEMNIFICATION OF DIRECTORS, OFFICERS, ETC. In accordance with 15 Pa. C.S. §5743, to the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in 15 Pa.C.S. §5741 or §5742 or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses actually and reasonably incurred by such person in connection therewith.

SECTION 9. CONTRACT RIGHTS; AMENDMENT OR REPEAL. All rights under this Article VIII shall be deemed a contract between the Corporation and the Indemnified Representative pursuant to which the Corporation and each Indemnified Representative intend to be legally bound. Any repeal, amendment or modification hereof shall be prospective only and shall not affect any rights or obligations then existing.

SECTION 10. SCOPE OF ARTICLE. The rights granted by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification, contribution or advancement of expenses may be entitled under any statute, agreement, vote of disinterested directors or otherwise, both as to action in an official capacity and as to action in any other capacity. The indemnification, contribution and advancement of expenses provided by or granted pursuant to this Article VIII shall continue as to a person who has ceased to be an Indemnified Representative in respect of matters arising prior to such time, and shall inure to the benefit of the heirs, executors, administrators and personal representatives of such a person.

SECTION 11. RELIANCE UPON PROVISIONS. Each person who shall act as an Indemnified Representative of the Corporation shall be deemed to be doing so in reliance upon the rights of indemnification, contribution and advancement of expenses provided by this Article VIII.

SECTION 12. INTERPRETATION. The provisions of this Article are intended to constitute bylaws authorized by 15 Pa.C.S. §5746(a).

**ARTICLE IX -- BOOKS AND RECORDS**

The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board, officers, and committees having any of the authority of the Board. All books and records of the Corporation may be inspected by any Director or officers (or his or her agent or attorney) for any proper purpose at any reasonable time.

**ARTICLE X -- FISCAL YEAR**

The fiscal year of the Corporation shall end June 30 of each year, or as otherwise fixed by resolution of the Board.

**ARTICLE XI -- SEAL**

The corporate seal shall have inscribed thereon the name of the Corporation and the words "Corporate Seal, Pennsylvania."

**ARTICLE XII -- WAIVER OF NOTICE**

Whenever any notice is required to be given under the provisions of the Non-Profit Corporation Act of Pennsylvania or under the provisions of the Articles or these Bylaws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE XIII -- AMENDMENTS**

Subject to any right of the City or the Philadelphia City Council to consent to and/or approve amendments to the Bylaws under any contractual arrangement with the Corporation, the power to alter, amend, or repeal the Bylaws or adopt new Bylaws shall be vested in the Board pursuant to the Articles. Such action may be taken at a regular or special meeting for which written notice of the purpose shall be given. The Bylaws may contain any provisions for the regulation and management of the affairs of the Corporation not inconsistent with law or the Articles. Any alteration, amendment or repeal of these Bylaws, and the adoption of new Bylaws, shall require the approval of two-thirds or more of the Board.

**ARTICLE XIV -- REPORTS**

Within 90 days following the end of each fiscal year, the Board shall prepare its annual financial report, and a progress report. A firm of certified public accountants shall certify the financial information contained in the annual report.

## EXHIBIT A

### CONFLICTS OF INTEREST POLICY

It is the policy of Wireless Philadelphia (the “*Corporation*”) that the Directors, officers and other persons engaged in the management of the Corporation occupy positions of fiduciary trust to the Corporation and are bound to discharge their duties in good faith and with undivided loyalty to the interests of the Corporation. Therefore, it is incumbent upon each to:

- 1 – Act in the course of their duties solely in the best interests of the Corporation without consideration to the interests of any other agency, organization or association with which they are associated, or refrain from taking part in any transaction where such persons do not believe in good faith that they can act with undivided loyalty to the Corporation.
- 2 – Disclose any financial interest in any entity engaged in or that may become engaged in the delivery of goods or services to the Corporation, and any relationship with or investment in an organization competing with the Corporation.
- 3 – Disclose any transaction with the Corporation that would result in any benefit to themselves, their immediate families, or any entity in which they hold a financial interest, and refrain from participation in any action on such matters except upon approval of the Board of the Corporation after full and frank disclosure.
- 4 – Disclose any opportunity that is within the scope of the activities of the Corporation and refrain from exploiting such opportunity except upon written approval of the Corporation.
- 5 – Refrain from utilizing any inside information as to the business activities of the Corporation for the benefit of themselves, their families, or any entity with which they may be associated.

“*Financial interest*” for this purpose shall mean any contractual relationship or position as owner, officer, board member, partner, employee or beneficiary. A possible conflict of interest arises when a Director, officer or other person engaged in the management of the Corporation holds a financial interest in or will receive any personal or other benefit from a business firm furnishing services, materials or supplies to the Corporation. “Financial interest” shall not include the ownership of less than five percent (5%) of the outstanding voting securities in a publicly-held company.

All Directors, officers and other persons engaged in the management of the Corporation shall execute an Annual Conflict of Interest Certification and Disclosure Statement in the form attached as Exhibit B.

This policy is intended to supplement, but not replace any applicable laws of the Commonwealth of Pennsylvania governing conflicts of interest applicable to nonprofit and charitable corporations.

**EXHIBIT B**

**Wireless Philadelphia – Annual Conflict of Interest Certification and Disclosure Statement**

I hereby certify that I:

1. have read and understand the Wireless Philadelphia Conflict of Interest Policy (the “*Policy*”), a copy of which was distributed with this certificate;
2. have complied with the Policy; and
3. will continue to comply with the Policy.

I hereby further certify that set forth below are possible conflicts of interest under the Policy of which I am aware as of the date hereof:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Department or Title: \_\_\_\_\_

Date: \_\_\_\_\_