

# DIVERGENT LABS, INC.

## BY-LAWS

### ARTICLE 1- PREFACE AND DEFINITIONS

1.1 (paragraph deleted)

1.2 The words xe, xem, and xyr are gender-neutral pronouns.

1.3 The terms: "Divergent Labs", "the corporation", and "the organization" all refer to the same organization: Divergent Labs, Inc., formerly known as Ian Ford Software Coporation.

### ARTICLE 2 - PURPOSE

2.1 The **purpose** for which the corporation is organized is charitable and educational purposes within the meaning of US IRS code 501(c)(3), specifically advancing the economic status, educational status, spiritual growth, human rights, and representation in the public sphere of disabled and disenfranchised people. The corporation may also engage in any and all lawful activities incidental to the foregoing purpose, except as otherwise stated herein.

2.2 Divergent Labs is a **non-profit** corporation and shall have all the powers, duties, authorizations and responsibilities as provided by the Non-Profit Corporation Act; provided however that Divergent Labs shall neither have nor exercise directly or indirectly in any activity that would invalidate its status as a corporation that is exempt from federal income taxation as an organization described in Section 501(c)(3) of the US IRS code.

### ARTICLE 3 - OFFICES

3.1 The registered office of the corporation shall be at 1607 S Gonzales, Las Vegas NM 87701. The registered agent in charge shall be Star Ford.

3.2 The corporation may also have offices at such other places as the board of directors may from time to time appoint, or the business of the corporation may require.

### ARTICLE 4 - SEAL

4.1 The corporation shall have no corporate seal.

### ARTICLE 5 - DIRECTORS

5.1 The **business and affairs** of this corporation shall be overseen by its board of directors (hereinafter "Board", "Directors", or "Board of directors"). The directors shall establish policies governing programs of Divergent Labs, subject to the provisions of these by-laws, and shall have authority and responsibility to see that the policies and directives are appropriately followed.

5.2 The **number** of directors shall range between five and nine directors. The directors need not be residents of this state. At least sixty percent of board members must be autistic, as defined by either an official diagnosis on the autism spectrum, or regularly and publicly identifying as such.

5.3 A majority of the total number of directors shall constitute a **quorum** for the transaction of business.

5.4 The manner of transacting **board business** is in Article 13.

5.5 The directors shall receive no **compensation** other than reasonable expenses. However a director may serve the organization in some other capacity, except as limited by these by-laws, and receive compensation for services rendered.

5.6 The board may appoint **new directors** at any time.

5.7 The **term** of a director is three years. Directors may be appointed for any number of successive terms.

5.8 Any director may **resign** by writing a letter to the board chair, and the resignation is effective immediately, not requiring approval.

5.9 The board may **remove a director** with or without cause at any time.

5.10 The board of directors may hold meetings, and have an office or offices, outside of this state.

5.11 **Minutes** of each board action must be taken, and kept at the offices.

5.12 **Proxy** voting is prohibited.

5.13 (paragraph deleted)

5.14 The board of directors may authorize any board officer or any program manager to enter into **contracts, leases, and agreements** with and accept grants and loans from the United States; its departments and agencies; any State of the United States or their agencies, counties, municipalities and political subdivisions; and public or private foundations, corporations and persons.

5.15 Directors may not vote on matters with which they have a **conflict of interest**.

## **ARTICLE 6 - BOARD OFFICERS**

6.1 The officers of the board shall be chosen by the directors from among the directors and shall include a **Chair, Secretary and Treasurer**. The board of directors may also choose such other officers as it shall deem necessary. Any number of offices may be held by the same person.

6.2 The officers shall hold office for a **term** of one year and until their successors are chosen. Any officer elected or appointed by the board may be removed by the board of directors whenever in its judgment the best interest of the corporation will be served thereby. Officers may serve any number of consecutive terms.

6.3 The **Chair** shall preside at board meetings. The chair may sign contracts on behalf of the organization when acting in accordance with a board vote.

6.4 The **Secretary** shall attend all sessions of the board and act as clerk thereof, and record all the votes of the corporation and the minutes of all its transactions in a book to be kept for that purpose, and shall perform like duties for all committees of the board of directors when required. He shall give, or cause to be given, notice of all meetings of the board of directors.

6.5 The **Treasurer** shall have custody of the organization's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall keep the moneys of the corporation in separate account to the credit of the corporation.

He shall disburse the funds of the corporation as may be ordered by the board, taking proper vouchers for such disbursements, and shall render to the directors, at the regular meetings of the board, or whenever any director requires it, an account of all his transactions and of the financial condition of the corporation. The treasurer may delegate details of these duties to one or more managers.

## **ARTICLE 7 - COMMITTEES OF THE BOARD**

7.1 No committees are required.

## **ARTICLE 8 - MANAGEMENT AND PROGRAMS**

8.1 The activities of the organization shall be organized into distinct **Programs**. Each activity must belong to one program area. The organization may not undertake activities other than meetings and correspondence that are not assigned to a program.

8.2 The board shall initiate a program by approving a program document specifying its purpose and scope, naming the manager, stating the financial policy of the program, and listing the responsibilities and powers delegated to the manager.

8.3 The powers delegated to a manager may include but are not limited to fund-raising, spending, sales, marketing, representing the organization, hiring additional employees, and entering into contracts, leases, and agreements.

8.4 Management responsibility is a two-tier structure, shared between the board and program manager in the following manner: The role of the board shall be to state the general purpose and direction of the program and set policy for the whole organization, while the role of the program manager is the day to day responsibilities for his program area including such powers listed in the program document. The board shall not directly manage programs.

8.5 deleted

8.6 Managers should **attend regular board meetings** except when the chair calls for a meeting of the directors only.

8.7 The board may **terminate** a program at any time.

8.8 The board may **modify** a program by negotiating changes with the program manager; failing a satisfactory change, it may terminate the program.

8.9 **Class accounting** shall be used to separate income and expenses from each program. Overhead expenses must be apportioned to programs.

8.10 The **financial policy** of each program shall include, at a minimum, the manner of budgeting if any, the power to accumulate and invest funds, the manager compensation if any, and spending authority.

8.11 Unless the program document states otherwise, each program shall be financially isolated from the others, such that savings are separate, and spending commitments from one program do not impact other programs.

8.12 Each program manager will produce a written progress report quarterly.

## **ARTICLE 9 - MISCELLANEOUS PROVISIONS**

9.1 The **fiscal year** shall begin on the first day of January.

9.2 Directors and managers must disclose any potential **conflicts of interest**, which will be recorded with board meeting minutes.

9.3 The board of directors may accept **gifts** on behalf of the organization of cash or non-cash. Gifts must be apportioned to programs.

9.4 The organization shall have the right to retain all or any part of any **property** - real, personal, tangible, or intangible - acquired in whatever manner, and to invest any funds held by it without being restricted to the class of investments available to trustees by law, or any similar restriction.

9.5 If any provision of these by-laws is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of these by-laws shall remain operative and binding.

## **ARTICLE 10 - INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS**

10.1 The corporation shall **indemnify** the directors, officers, agents and employees of the corporation in the manner and to the full extent provided in the New Mexico Business Corporation act and other laws of the State of New Mexico. Such indemnification may be in addition to any other rights to which any person seeking indemnification may be entitled under any agreement, vote of stockholders or directors, any provision of these By-Laws or otherwise. The directors, officers, employees and agents of the corporation shall be fully protected individually in making or refusing to make any payment or in taking or refusing to take any other action under this Article in reliance upon the advice of counsel.

10.2 In the event of the **death** of any person having a right of indemnification under the foregoing provisions, such right shall inure to the benefit of xyr heirs, executors, administrators and personal representatives.

## **ARTICLE 11 - DISSOLUTION**

11.1 The board of directors may **dissolve** the organization at its discretion. It shall oversee such process and ensure compliance with all relevant provisions of State and federal statutes.

11.2 Upon dissolution, any remaining assets after paying any debts must be distributed to another US corporation which is itself **tax-exempt** under US IRS code 501(c)(3). Any person including any director does not have a right to any of the assets of the organization upon dissolution.

## **ARTICLE 12 - AMENDMENTS**

12.1 These by-laws may be **amended** by the board.

12.2 The following provisions of the by-laws must be **reviewed within two years** of adopting this revision, and result in either a revision or a statement that no revision is necessary:

12.2.1 definition of a quorum [comment: addressed by article 13]

12.2.2 rules of order, including the manner of conducting board business, with particular

attention to making board meetings accessible to autistic people [comment: addressed by article 13]

12.2.3 the use of majority vote [comment: addressed by article 13]

12.2.4 number of successive terms a director may serve, and number of successive terms a director may hold an officer position

12.2.5 proxy voting

12.2.6 the roles of chair, secretary and treasurer

12.2.7 liability insurance coverage for directors

12.2.8 conflict of interest [comment: addressed by article 13]

### **ARTICLE 13 - DECISION MAKING PROCESS** [adopted 2013-Nov-19]

13.1 Article 13 pertains to board decisions only, and sets a process that is intended to be **autistic-accessible**.

13.2 The act of making motions and recording votes shall be done by **e-mail**.

13.3 A **motion** will be stated by one director. Only that person can withdraw or modify it. A modification is treated as if the original version is withdrawn and a new motion made, so the time period for voting starts anew.

13.4 Motions should contain the **responsible persons** to do the stated actions.

13.5 A **vote** should contain the words "I vote yes", or "I vote no", or "I abstain" and should include the full text of the motion that xyr vote applies to. A director may change xyr vote at any time during a voting period.

13.6 A **real-time conversation** may be held, with voice and text options (neither being preferred). This can be used to finalize the wording or discuss it. No votes are taken during the conversation. The chair shall schedule real time conversations.

13.7 There shall be two **voting periods** for each motion. The chair may delay either voting period if needed to sequence actions that may conflict with each other; otherwise the voting periods are: (1) When a motion is made, the voting period starts at that time and goes for 7 days; (2) Following the real-time conversation, the second voting period goes for 7 days.

13.8 If at the end of the first voting period, a majority of all directors has voted in favor of a motion, the motion passes. If it does not pass, the director who made the motion may, within 3 days of the notice of failure, request a real-time meeting to discuss the motion, upon which the Chair shall schedule a real-time meeting on that motion within 30 days (or longer if acceptable to the director making the motion). The director who made the motion may alternatively end its consideration at this point. If the motion-making director does not, within 3 days of notice of failure, either request the meeting or end consideration of the motion, the Chair may at xyr discretion schedule the meeting or end consideration of the motion. If the real-time meeting takes place and a majority of directors attended, at the end of the second voting period, if a majority of those directors who attended the meeting has voted in favor of the motion, the motion passes.

13.9 The chair may hold **additional meetings** and conversations outside of this process but they may not include any motions or voting.

13.10 The secretary shall **e-mail and file** all motions, whether passed or not, with each voting director's name and vote.

13.11 **Notice** must be given for real time conversations of seven days, to all directors. Conversations must be held at times when the greatest number of directors can attend.