

Digital Public Library of America, Inc.**(a Delaware Nonstock Corporation)**Certificate of IncorporationARTICLE INAME

The name of the corporation is Digital Public Library of America, Inc. (the "Corporation").

ARTICLE IIDURATION

The period of duration of the Corporation is perpetual.

ARTICLE IIIPURPOSES

The Corporation shall be a nonprofit corporation.

The purposes for which the Corporation is organized and operated are to engage exclusively in such charitable, educational, and scientific activities as may qualify it for exemption from federal income tax under Section 501(c)(3) of the Code (defined below). To the extent not inconsistent with the immediately preceding sentence, the Corporation shall be empowered to exercise all power and authority granted to it under the Delaware General Corporation Law, or otherwise, including, but not limited to, the power to (i) accept donations of money or property, whether real or personal, or any interest therein, wherever situated, (ii) maintain control and discretion over the use of funds received by the Corporation, and (iii) monitor the use of funds made available by the Corporation to assure that the funds are used in conformity with the intended purposes.

In furtherance thereof, the Corporation may receive property by gift, devise or bequest, invest or reinvest the same, and apply the income and principal thereof, as the Board of Directors may from time to time determine, either directly or through contributions to any charitable organization or organizations, exclusively for charitable or educational purposes, and engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

In furtherance of its corporate purposes, the Corporation shall have all the general powers

enumerated in §§ 121 and 122 of the Delaware General Corporation Law as now in effect or as may hereafter be amended, together with the power to solicit grants and contributions for such purposes.

ARTICLE IV
MEMBERSHIP

The Corporation shall have no members.

ARTICLE V
STOCK

The Corporation shall have no capital stock and shall have no authority to issue capital stock.

ARTICLE VI
DIRECTORS

The affairs of the Corporation shall be managed by its Board of Directors. The Board of Directors shall have all powers necessary or appropriate for the administration of the affairs of the Corporation and may perform all acts in furtherance thereof as are not forbidden to the Directors by law, this Certificate of Incorporation, or the Bylaws.

The manner of election or appointment of Directors shall be provided in the Bylaws. The number of members of the Board of Directors shall be set in the manner provided in the Bylaws, but in no event shall there be fewer than one (1) Director.

ARTICLE VII
BYLAWS

The internal affairs of the Corporation shall be regulated by the Bylaws, and the Board of Directors shall supervise the management of the business and affairs of the Corporation in accordance with the Bylaws. The power to amend or repeal the Bylaws shall be vested in the Board of Directors except to the extent otherwise provided in the Bylaws.

ARTICLE VIII
LIMITATIONS ON ACTIVITY

At all times, notwithstanding merger, consolidation, reorganization, termination, dissolution,

or winding up of the Corporation, whether voluntary or involuntary or by operation of law, or any other provision of this Certificate of Incorporation:

- A. the Corporation shall not possess or exercise any power or authority, or engage directly or indirectly in any activity, that will or might prevent it at any time from qualifying and continuing to qualify as a corporation described in Code Sections 501(c)(3) and 170(c)(2), contributions to which are deductible for federal income tax purposes under Code Section 170(a)(1);
- B. no part of the assets or net earnings of the Corporation shall ever be used, nor shall the Corporation ever be organized or operated, for purposes that are not exclusively charitable, educational, scientific, environmental, religious, or literary within the meaning of Code Section 501(c)(3);
- C. no substantial part of the activities of the Corporation shall consist of carrying on of propaganda or otherwise attempting to influence legislation, nor shall the Corporation in any manner or to any extent (including by publication or distribution of statements) participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office. To the extent that Code Section 501 is at any time amended to permit participation or intervention in a political campaign or to permit to a greater extent the carrying on of propaganda or otherwise attempting to influence legislation by an organization subject to its provisions, the Corporation shall be authorized to carry on such activities to the extent permitted by Section 501 as amended;
- D. pursuant to the prohibition contained in Code Section 501(c)(3), no part of the net earnings of the Corporation shall ever inure to the benefit of or be distributable to its Directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III above; and
- E. notwithstanding any other provision of this Certificate of Incorporation, if at any time or times the Corporation is a private foundation within the meaning of Code Section 509, then during such time or times:
- (1) the Corporation shall not engage in any act of self-dealing as defined in Code Section 4941;
 - (2) the Corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the Corporation to the tax on undistributed income

imposed by Code Section 4942;

(3) the Corporation shall not retain any excess business holdings as defined in Code Section 4943;

(4) the Corporation shall not make any investments in such a manner as to subject the Corporation to tax under Code Section 4944; and

(5) the Corporation shall not make any taxable expenditures as defined in Code Section 4945.

ARTICLE IX LIMITATION ON PERSONAL LIABILITY

The personal liability of the Directors of the Corporation is hereby eliminated to the fullest extent permitted by the General Corporation Law of Delaware, as the same exists or may hereafter be amended. No amendment or repeal of this paragraph shall apply to or have any effect on the liability or alleged liability of any Director of the Corporation for or with respect to any act or omission on the part of such Director occurring prior to such amendment or repeal.

The private property, both real and personal, of the members of the Board of Directors and the officers of the Corporation shall not be subject to the payment of corporate debts to any extent whatsoever.

ARTICLE X INDEMNIFICATION

The following indemnification provisions shall apply to the persons enumerated below.

A. *Right to Indemnification of Directors and Officers.* The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an "Indemnified Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited

liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section C of this Article Tenth, the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board of Directors.

B. *Prepayment of Expenses of Directors and Officers.* The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnified Person in defending any Proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should be ultimately determined that the Indemnified Person is not entitled to be indemnified under this Article Tenth or otherwise.

C. *Claims by Directors and Officers.* If a claim for indemnification or advancement of expenses under this Article Tenth is not paid in full within thirty (30) days after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

D. *Indemnification of Employees and Agents.* The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorney's fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board of Directors in its sole discretion. Notwithstanding the foregoing portion of this paragraph, the Corporation shall not be

required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board of Directors.

E. *Advancement of Expenses of Employees and Agents.* The Corporation may pay the expenses (including attorneys' fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board of Directors.

F. *Non-Exclusivity of Rights.* The rights conferred on any person by this Article Tenth shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the certificate of incorporation or of the bylaws, agreement, vote of disinterested directors or otherwise.

G. *Other Indemnification.* The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise.

H. *Insurance.* The Board of Directors may, to the fullest extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance: (a) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Tenth; and (b) to indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

I. *Amendment or Repeal.* Any repeal or modification of the foregoing provisions of this Article Tenth shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's heirs, executors and administrators.

ARTICLE XI DISSOLUTION

Upon dissolution of the Corporation, the Board of Directors shall:

- A. pay or make provision for the payment of all the Corporation's liabilities;
- B. return, transfer, or convey (or make provision therefor) all assets held by the Corporation upon condition requiring such return, transfer, or conveyance in the event of dissolution of the Corporation; and
- C. dispose of the Corporation's remaining assets exclusively for the purposes of the Corporation or distribute the assets to an organization or organizations organized and operated exclusively for charitable, educational, scientific, religious or literary purposes as shall, at that time, qualify for exemption under Code Section 501(c)(3), as the Directors shall determine; provided that none of such assets shall be distributed to any corporation, fund, or foundation any part of whose net earnings inures to the benefit of or is distributable to any individual or any corporation for profit. Any such assets not so disposed of shall be disposed of by the circuit court of the city or county in which the principal office of the Corporation is then located, to be used exclusively for purposes that are charitable, educational, scientific, religious or literary within the meaning of Code Section 501(c)(3), or to an organization or organizations organized and operated exclusively for such purposes.

ARTICLE XII DEFINED TERMS

As used in this Certificate of Incorporation, the terms "Internal Revenue Code" and "Code" mean the United States Internal Revenue Code of 1986, as now in effect or as may hereafter be amended, and a reference to a provision of that Code shall be deemed to indicate the corresponding provision of any future United States Internal Revenue law.

ARTICLE XIII REGISTERED OFFICE AND REGISTERED AGENT

The address of the Corporation's registered office in the State of Delaware is 901 N. Market Street, Suite 705, in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is Delaware Corporate Services Inc.

ARTICLE XIV INCORPORATOR

The name and address of the Incorporator, whose powers will terminate upon the filing of

this Certificate of Incorporation, is as follows:

Name	Address
John G. Palfrey	c/o Phillips Academy 180 Main Street Andover, Massachusetts 01810

I, the undersigned, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to chapter 1 of title 8 of the Delaware Code, do make this Certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly hereunto set my hand this ____ day of October, 2012.

John G. Palfrey
Incorporator