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Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President
New York City Council Committee on Consumer Affairs
Regarding Int. No. 1017-A (*Freelance Isn't Free Act*)
February 29, 2016**

My name is Gale A. Brewer and I am the Manhattan Borough President. Thank you to Chair Espinal and to the members of the Committee on Consumer Affairs for the opportunity to testify. Today I am here to provide my support for Int. No. 1017-A, otherwise referred to as the *Freelance Isn't Free Act*. This legislation is a pragmatic approach to addressing the hardships faced by independent contractors burdened with the frequently time-consuming and costly experience of pushing unresponsive clients to fulfill their obligation to pay for services rendered.

The protections being proposed are thoughtful responses to the larger question of how we grapple with a changing economy. It couldn't be timelier given that an increasing percentage of Americans prefer this model of employment and some economists expect the sector to grow by 50% by 2020. An estimated 4.5 million freelancers live and work in the NYC metro area including at least 70,000 Manhattanites.

My own lengthy experience and collaboration with independent contractors and other freelancers, especially those who work within the big data and civic technology community, has taught me how difficult it is for these entrepreneurs to find stability and thrive. As a Council Member and then Chair of the NYC Council Technology Committee, I supported legislation and regulations that made possible a new kind of economy where workers can have more flexibility and creative freedom. But as I envision it, this economy should also have laws to ensure that workers are not exploited and enjoy the same protections as traditional employees, and that

government agencies would create new mechanisms to make sure employers live up to their obligations to the freelancers they hire.

Thanks to the due diligence of the Freelancers Union we now have the numbers to show how significantly this issue undermines small business entrepreneurs. According to data they have compiled, between 2010- 2014, nearly 8 in 10 freelancers have experienced client nonpayment, and on average they are losing \$6,000 annually due to unpaid invoices for completed work.

In November 2015 the Freelancers Union and my office worked together on a day-of-action where we reached out to contractors at co-working spaces throughout Manhattan about the contract payment issue and new plans for how to tackle it due to the introduction of this bill. That same day, during a brown-bag lunch at LMHQ, a co-working spacing in Lower Manhattan, contractors spoke frankly with me about the inadequate tools currently available to them for handling nonpayment cases. Many rely on repeated calls and emails as their only affordable redress, but their experience shows that this approach seldom compels bad actors to honor their contracts. Time spent pressing an unresponsive client creates an additional burden on finances and morale. A 2009 study suggests that freelancers in New York State spent approximately 7,900 hours that year in pursuit of payment. Trying to recoup that cost through late-fees or other penalties can create new conflicts. It also risks losing clients and referrals in a highly competitive environment.

Some freelancers are driven to take legal action when all other options fail, but its high cost and the difficulty of proving claims make just compensation elusive. On this point I've written to the New York State Court of Appeals to explore how we can make jurists more familiar with the special nature of such torts and lessen the burden of proof for freelancers seeking relief through the courts as a last resort.

In the meantime the *Freelance Isn't Free Act* is the right approach to expanding the scope of worker rights protected by local government. It promises to make entrepreneurship less risky and a more predictable avenue for building a company or career. In addition to this bill we need to be working with traditional small and large businesses on this issue: educating them on the benefits of working with the “gig economy” and the need to respect their contractual obligations. Through such collaboration, we can demonstrate that on-time payment is not only vital to retaining great talent, but also to lowering costs, fueling innovation, and building strong local economies.

I want to congratulate Council Member Brad Lander and the other co-sponsors of this legislation for their commitment to best labor standards, and I am ready to work with you and others to realize the benefits of this legislation for the 1.3 million freelancing New Yorkers.

Thank you.