

COLORADO ASSOCIATION OF REALTORS®

BYLAWS

Approved by CAR Board of Directors February, 2010

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**BYLAWS
OF
COLORADO ASSOCIATION OF REALTORS®**

ARTICLE I.

NAME

Section 1. Name - The name of the organization shall be "Colorado Association of REALTORS®," hereinafter referred to as "CAR".

ARTICLE II.

OBJECTIVES

Section 1. The objectives of CAR shall include but not be limited to the following:

- A. To unite those engaged in the recognized branches of the real estate profession for the purpose of exerting a beneficial influence upon the profession and related interests;
- B. To promote and maintain high standards of conduct in the real estate profession as expressed in the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®, hereinafter referred to as "NAR";
- C. To provide a unified medium for real estate owners and those engaged in the real estate profession whereby their interests may be safeguarded and advanced;
- D. To further the interests of home and other real property ownership;
- E. To unite those engaged in the real estate profession in Colorado with the NATIONAL ASSOCIATION OF REALTORS®, thereby furthering their own objectives throughout the state and the nation, and obtaining the benefits and privileges of membership therein;
- F. To designate, for the benefit of the public, those individuals authorized to use the terms "REALTOR®" and "REALTORS®" as licensed, prescribed, and controlled by the NATIONAL ASSOCIATION OF REALTORS®; and
- G. To provide those engaged in the real estate profession in Colorado with continuing education in matters affecting real estate and real estate ownership.
- H. Gender – in the wording the use of either gender shall include both genders.

ARTICLE III.

MEMBERSHIP

Section 1. Classes of Membership - The membership of CAR shall consist of six classes: (1) Member Boards (BOARDS), (2) Board Members, (3) REALTOR® Members, (4) Institute Affiliate Members, (5) Affiliate Members, and (6) Honorary Members. Board Members and REALTOR® Members shall be active Members in good standing of CAR.

Section 2. Member Boards - Member Boards shall consist of local real estate boards/ associations (hereinafter referred to as local BOARDS) within the state of Colorado, which shall include city, county, or intercounty BOARDS and all of the REALTOR® Members of which shall hold membership in the National Association through such local BOARD and CAR. Favorable consideration will normally be given to any applicant group large enough and cohesive enough to be viable as a BOARD, to grant and regulate the proper use of the terms REALTOR® and REALTORS®, to enforce the

Code of Ethics of NAR, and to properly serve its Members and the public. Local Boards shall have the authority to accept as a REALTOR® Member, any person engaged in any branch of the real estate business, including brokerage, management, mortgage financing, appraising, land development and building, and other related aspects of the real estate business who maintains an office within the state or any state contiguous to the state of Colorado and who complies with any licensure or regulatory requirements applicable to business activities within the state of Colorado.

Section 3. Board Members - A board Member shall be a REALTOR® Member in good standing. Each Board Member shall be engaged in the real estate profession, and maintain a current, valid real estate license, or be licensed or certified by an appropriate Colorado state regulatory agency to engage in the appraisal of real property, and have a place of business within the state or any state contiguous to the state of Colorado.

Section 4. REALTOR® Members – A REALTOR® Member shall be any individual engaged in the real estate business as a principal, partner or officer of a corporation whose place of business is located in an area outside the jurisdiction of any board/association within Colorado and who, on approval of a majority vote of the CAR Board of Directors, hereinafter referred to as "DIRECTORS", at a duly constituted meeting, shall hold Active Membership in CAR. Licensees affiliated with a REALTOR® Member may also obtain REALTOR® Membership status on a majority vote of the DIRECTORS present at a duly constituted meeting. Secondary membership shall also be available to individuals who hold primary membership in a board/association in another state and who desire to obtain direct membership in the state association without holding membership in a board/association in the state. The rights, privileges and obligations of such REALTOR® Members shall be the same as those of REALTOR® Members. Each REALTOR® Member shall be engaged in the real estate profession, and maintain a current, valid real estate license, or be licensed or certified by an appropriate Colorado state regulatory agency to engage in the appraisal of real property, and have a place of business located in an area outside the jurisdiction of any Board ("assigned territory") within Colorado. If an unassigned territory becomes a Local Board, or is assigned to another Local Board, then the REALTOR® members in that area are eligible for REALTOR® membership only through a member board.

Section 5. Institute Affiliate Members - Institute Affiliate members shall be individuals who hold a professional designation awarded by an Institute, Society or Council affiliated with the NATIONAL ASSOCIATION OF REALTORS® that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society or Council that confers the right to hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR® membership, subject to payment of applicable dues for such membership. Local boards will establish the rights and privileges to be conferred on Institute Affiliate Members except that no Institute Affiliate Member may be granted the right to use the term REALTOR®, or the REALTOR® logo; to serve as President or highest elected officer of a local board; or to be a Participant in the local board's multiple listing service.

Section 6. Affiliate Members - Affiliate Members shall be individuals and/or firms engaged in business in a field pertaining to, or companion to, the real estate business, but not engaged in real estate brokerage or sales, not associated with an established real estate office, and not eligible for membership. Such individuals or firms are eligible for Affiliate Membership in CAR.

- A. Affiliate Members are entitled to the usual services of CAR and may attend meetings, serve on committees of CAR, and participate in conventions, conferences and educational activities. They shall not have the right to use the term REALTOR® or the marks of NAR. They shall not have the right to vote or hold elective office in CAR.
- B. The DIRECTORS shall determine the standards and requirements for eligibility of membership, and shall have the authority to determine what activities shall be considered to fall within the purview of this Section, and shall determine the duties and obligations, if any, of Affiliate Membership.

C. If an office or firm holds Affiliate Membership, individual officers and/or associates of such firm shall also be eligible for Affiliate Membership on an individual basis.

- Section 7. Honorary Member - Honorary Members shall be individuals other than those engaged in the real estate business who have contributed notably to this Association.
- Section 8. Good Standing - A member in good standing is one who is not in default in payment of dues or other BOARD obligations and who is not under suspension or expulsion.
- Section 9. Suspension of Individual Members - The DIRECTORS shall have the power to expel, suspend or reprimand any Individual Member after due notice and hearing, who fails to comply with the Bylaws, the duties of membership and/or the Code of Ethics. Any such member expelled shall thereupon lose all rights and privileges in CAR. A suspended member remains a member with obligation for continued payment of dues and adherence to the Code of Ethics.
- Section 10. Harassment - Members of CAR are expected to abide by the CAR policy against harassment. After notification of a complaint, an investigation will be initiated to gather all facts about the complaint. To the extent possible, the investigation will be kept confidential. After the investigation has been completed, a determination will be made regarding the resolution of the case. It is also contrary to the policy of the board for a member to retaliate against any employee who files a charge of harassment.

ARTICLE IV.

USE OF THE TERM REALTOR®

- Section 1. The use of the term REALTOR® and REALTORS® by Members shall at all times be subject to provisions of the Constitution and Bylaws of NAR and to the Rules and Regulations prescribed by its Board of Directors. CAR otherwise shall have the authority to control jointly and in full cooperation with NAR, use of the terms within those areas of Colorado not within the jurisdiction of a BOARD.
- Section 2. Board Members and REALTOR® Members of CAR shall have the privilege of using the term REALTOR® in connection with their business so long as they remain Members in good standing.
- Section 3. A REALTOR® Member of a firm, partnership, corporation or trust may use the term REALTOR®, or REALTORS® only if all of the principals of such firm, partnership, corporation or trust who are actively engaged in the real estate business within a state or a state contiguous thereto are REALTOR® Members or Institute Affiliate Members.
- Section 4. An Institute Affiliate Member shall not use the terms REALTOR® or REALTORS® and shall not use the marks of NAR except those of the Institute, Society or Council affiliated with NAR of which they are a member.
- Section 5. Affiliate Members shall not use the term REALTOR® or REALTORS® and shall not use the marks of NAR.

ARTICLE V.

MEMBERSHIP DUES

Section 1.

The annual dues of BOARDS and REALTOR® members shall be such amounts as approved by the DIRECTORS not inconsistent with NAR's Policies, Constitution and Bylaws.

- A. The annual dues of each BOARD shall be an amount times the number of designated broker REALTORS® and REALTOR® Members of such BOARD plus an amount times the number of real estate licensees and licensed or certified appraisers employed by or affiliated as independent contractors with a designated broker REALTOR® who are not themselves REALTORS® or Institute Affiliate Members.
- B. The annual dues of all designated broker REALTOR® Members actively engaged in the real estate business from areas not within the jurisdiction of a BOARD shall be an amount as approved by the DIRECTORS and shall be an amount times the number of real estate licensees and licensed or certified appraisers employed by or affiliated as independent contractors with the designated broker REALTOR® who are not REALTORS® or Institute Affiliate Members.
- C. The annual dues of real estate licensees and licensed or certified appraisers employed by or affiliated as independent contractor with a designated broker REALTOR® Member who themselves hold REALTOR® membership shall be an amount as approved by the DIRECTORS.
- D. The annual dues of each REALTOR® member holding secondary membership directly in the state association shall be an amount as established in Article V., Section 1 of the Bylaws.

Section 2.

The annual dues and/or application fees of Institute Affiliate Members shall be an amount as from time to time approved by the DIRECTORS not inconsistent with NAR's Policies, Constitution and Bylaws. "The annual dues of each Institute Affiliate Member shall be as established in Article II of the Bylaws of the NATIONAL ASSOCIATION OF REALTORS®."

Note: The Institutes, Societies and Councils of the National Association shall be responsible for collecting and remitting dues to the National Association for Institute Affiliate Members (\$75.00). The National Association shall credit \$25.00 to the account of a local association for each Institute Affiliate Member whose office address is within the assigned territorial jurisdiction of that association, provided, however, if the office location is also within the territorial jurisdiction of a Commercial Overlay Board (COB), the \$25.00 amount will be credited to the COB, unless the Institute Affiliate Member directs that the dues be distributed to the other board. The National Association shall also credit \$25.00 to the account of state associations for each Institute Affiliate Member whose office address is located within the territorial jurisdiction of the state association. Local and state associations may not establish any additional entrance, initiation fees or dues for Institute Affiliate Members, but may provide service packages to which Institute Affiliate Members may voluntarily subscribe.

Section 3.

The annual dues for the REALTOR® membership or firm membership and other members of such firm or office of an Affiliate Member shall be an amount as from time to time approved by the DIRECTORS not inconsistent with NAR's Policies, Constitution and Bylaws.

- Section 4. In calculating the dues payable to CAR by a local Board, no member belonging to another Member Board shall be considered, provided such member has notified the state association, and each local board to which they belong of the identity of the local Board where primary membership is held.
- Section 5. On or before January 1 of each year CAR will notify each BOARD in writing that dues are due. Each BOARD shall then submit to CAR a list of their current REALTOR® members (as defined in the NAR Constitution and Bylaws) along with the required dues and any assessments.
- Section 6. All CAR dues shall be payable in advance as collected by the BOARD from its Members. Dues pro-rated for new Members will be submitted to CAR within one month after installation in the BOARD. Affiliate Members shall be individually responsible for payment of Membership dues directly to CAR.
- Section 7. The dues of each local Board and REALTOR® member shall be paid annually in advance and shall be due January 1 of each year. Any local Board, Institute Affiliate Member or REALTOR® member delinquent in payment of dues by more than sixty (60) days may be required to show cause as to why the Board of DIRECTORS, at its discretion, should not revoke the charter of such local Board or drop such Institute Affiliate Member or REALTOR® Member from membership.
- Section 8. Any dues changes must be approved in advance by at least a two-thirds majority vote of the DIRECTORS present and voting at any duly constituted meeting, provided that notice of such proposed change is given to the DIRECTORS and BOARDS at least thirty (30) days prior to such meeting.
- Section 9. In the event that a local Board and the NATIONAL ASSOCIATION OF REALTORS® waive the annual dues for a member, based on service or recognition, CAR dues will also be waived for the same time period.
- Section 10. REALTOR® membership will not be granted to any applicant who has an unfulfilled sanction pending which was imposed by another Board or Association of REALTORS® for violation of the Code of Ethics.
- Section 11. Applicants for REALTOR® membership shall complete an orientation program on the Code of Ethics of not less than two hours and thirty minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership who have completed orientation in another association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year or less. Failure to satisfy this requirement within 180 days of the date of application will result in denial of the membership application.
- Section 12. Effective January 1, 2001 through December 31, 2004, and for successive four year periods thereafter, each REALTOR® member of the association shall be required to complete quadrennial ethics training of not less than two hours and thirty minutes of instructional time. This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by CAR or another association or any other recognized educational institution or provider which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any four year cycle shall not be required to complete additional ethics training until a new four year cycle commences.

Failure to satisfy this requirement shall be considered a violation of a membership duty for which REALTOR® membership shall be suspended until such time as the training is completed.

Members suspended for failing to meet the requirement for the first four (4) year cycle (2001 through 2004) will have until December 31, 2005 to meet the requirement. Failure to meet the requirement by that time will result in automatic termination of membership.

Failure to meet the requirement for the second (2005 through 2008) cycle and subsequent four (4) year cycles will result in suspension of membership for the first two months (January and February) of the year following the end of any four (4) year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated. (Adopted 1/01, revised 5/05)

Section 13.

Any dues payment that is in addition to the dues that are calculated and defined in this Article V and specifically in Sections 1-7 and 9 herein, shall be deemed to be voluntary dues.

- A. Any voluntary dues payments which are made by an individual member shall be submitted and handled according to the same requirements and limitations as set forth in this Article V.
- B. Voluntary dues payments from individual members shall be solely made for the purpose of making political contributions and the dues billing statement shall contain any necessary disclaimers for Federal and Colorado State income tax purposes.
- C. Any dues which are paid pursuant to this Section 13, shall not be subject to the limitations and requirements as set forth under Section 8 herein. It shall be strictly at the discretion of the individual member making a voluntary dues payment to determine the amount of that payment, albeit an amount that is permissible under the limitations provided for under both Federal and Colorado state law.

ARTICLE VI.

OFFICERS, ELECTIVE & APPOINTIVE DUTIES

Section 1.

The elective year shall begin at the installation during the annual state convention.

Section 2.

Elective Officers - The Elective Officers of CAR shall be the President, President-Elect, one Vice President from each district (as set forth by resolution of the DIRECTORS pursuant to ARTICLE X, GEOGRAPHICAL DISTRICTS) and a Treasurer, all whom shall be REALTOR® Members of CAR. The President shall not be eligible for re-election. All elected officers shall be elected to serve for one year or until their successors are elected and qualified and must meet the criteria as specified for each office as approved by the DIRECTORS.

- A. In the event that there are no candidates for one of the elective offices, the CAR Credentials Committee and the Past Presidents Advisory Council may serve as a selection committee to recruit candidates for the vacant offices. In the event that there are no candidates for President-Elect, the Treasurer shall serve in this position until a qualified candidate is elected and inducted.

Section 3. Duties of Elective Officers - The duties of the officers shall be such as their titles, by general usage, would indicate and such as may be assigned to them respectively by the DIRECTORS from time to time, and as such as are required by law.

- A. The President shall be the highest elected officer of CAR, serve as corporate President, and shall preside at its meetings and those of the Board of DIRECTORS and Leadership Council. The President-Elect may, at the direction of the President, preside at the meetings. The President shall appoint all committees, subject to the approval of the DIRECTORS; shall be ex-officio member of all committees, and shall perform all other duties usual to such office. The President shall also appoint the chair of all standing and operating committees and the President-elect shall appoint the vice-chair of all committees. Succession from the vice-chair to the chair shall not be automatically assumed.
- B. The President-Elect shall perform the duties of the President in the event of absence or disability and shall have such other powers and duties as may be prescribed by the Board of DIRECTORS, the Leadership Council or the President. The President-Elect shall succeed to the office of President. If the office of the President should become vacant between elections, the President-Elect shall fill the vacancy and complete the unexpired term. The President-Elect who fills a vacancy in the office of President shall automatically become President for a full term after completion of the unexpired term; shall head CAR delegations to NAR meetings and be responsible for the coordination of meetings of delegations.
- C. The Treasurer shall be the custodian of CAR funds and securities and the disbursing officer of CAR; shall deposit in such depositories and in such manner as the DIRECTORS may designate and direct and shall be relieved of responsibility therefore while they are in the custody of such depository; shall keep a correct account of all monies received and paid out and, at each meeting of the DIRECTORS, shall submit a report of the financial status of CAR for the preceding period. If the President-Elect is unable or unwilling to act, the Treasurer shall perform the duties of the President-Elect during the President-Elect's absence from office until the next DIRECTORS meeting, at which time a new acting President-Elect will be appointed by the DIRECTORS.
- D. The District Vice Presidents shall coordinate the work of CAR in their respective districts and act as the representative of the President in such matters as may be assigned to them. In case of a vacancy in the office of any District Vice President, it shall be filled by appointment by the President and confirmation by the Board of Directors for the unexpired term. Such appointee shall be from the District in which the vacancy occurs.

Section 4. Additional Appointive Officers and Duties

- A. Division Vice Presidents – From the slate submitted by the Credentials Committee, the President shall appoint Division Vice Presidents from the REALTOR® Members of CAR in good standing. Such appointments are subject to approval of the DIRECTORS.
 - 1. The function and duty of the Division Vice Presidents shall be to assist the President in the administration of CAR business. They shall be responsible for coordinating the activities of the following divisions:
 - a. Government Affairs
 - b. Law and Policy

2. The Division Vice Presidents shall serve at the pleasure of the President and their term of office shall terminate with the end of the term of office of the President who appointed them. If a Division Vice President should leave office prior to term expiration, for whatever reason, the President may appoint a replacement, again, subject to the approval of the DIRECTORS.
 3. A Division Vice President may serve as a DIRECTOR elected by a BOARD with no effect on existing voting rights.
- B. There shall be a Chief Executive Officer who shall be appointed by the DIRECTORS, who shall have the authority to employ and discharge all staff members and shall be responsible for the supervision of all staff members. The Chief Executive Officer shall serve as Corporate Secretary of CAR and shall perform such other duties as may be delegated by the DIRECTORS or President, and all other duties usual to such office. The Chief Executive Officer shall be bonded in such amount as the DIRECTORS may determine, the cost to be paid by CAR.
 - C. The DIRECTORS may retain a General Counsel who shall perform the duties usual to such office.
 - D. The DIRECTORS may retain a Legislative Counsel who shall perform the duties usual to such office.

Section 5. Vacancies not otherwise provided for among the officers or in the Board of DIRECTORS shall be filled by the Board of DIRECTORS until the next annual election.

Section 6. In the event of the death or disability of an elected or appointed officer or incapacity of the said individual, the office shall be filled until the next CAR DIRECTORS meeting by a person appointed by the Leadership Council.

ARTICLE VII.

DIRECTORS AND LEADERSHIP COUNCIL

Section 1. Board of Directors - The government of CAR shall be vested in a Board of DIRECTORS of from one to 200 members, as determined by the Board of Directors from time to time, and shall be composed of the President, the Immediate Past President, the President-Elect, the District Vice President of each district (as determined pursuant to ARTICLE X, GEOGRAPHICAL DISTRICTS) the Treasurer, the Representative of each Affiliate Institute, Council or Society of NAR, the President or Vice President of the CAR Education Foundation, the President or Vice President of CARHOF, each NAR Director, each current BOARD President or highest elected officer, the Division Vice Presidents (as set forth in Section 4, ARTICLE VI), and the DIRECTORS elected (as set forth in ARTICLE VIII, ELECTION OF OFFICERS AND DIRECTORS) and CAR Past Presidents (as set forth in ARTICLE VII Section 3.) The Chief Executive Officer shall serve as a non-voting ex-officio member of the DIRECTORS. No proxy, absentee or alternate vote will be counted at any duly constituted meeting. Each DIRECTOR is responsible for casting its own vote. No DIRECTOR may sell, assign, give, or otherwise transfer his or her vote on any matter. Any DIRECTOR that does so will be subject to discipline which may include the removal from their respective elected and/or appointed capacity.

- A. The term of office of the DIRECTORS shall start immediately following their installation at the annual state convention. Each Director shall serve until a replacement has been duly elected and installed.
- B. Those Officers and DIRECTORS whose terms have expired do not have the right to make motions or vote.

- C. The DIRECTORS shall have sole authority to appropriate money but should not unreasonably obligate CAR beyond their tenure of office.
- D. The DIRECTORS shall meet upon call of the President or upon written petition of one third of the DIRECTOR Members. It shall be the policy of the DIRECTORS to hold two regular meetings and one Special Election Meeting (defined in Article VIII, Section 2) each year.
- E. One third of the DIRECTORS shall constitute a quorum for the transaction of CAR business.
- F. If a CAR DIRECTOR is appointed or elected to a second CAR office or position within CAR which also carries designation as a DIRECTOR, the following applies: voting power remains unchanged at one vote; and no vacancy shall be created because of a dual role unless one position is resigned.

Section 2. Leadership Council - There shall be a Leadership Council from the REALTOR® membership in good standing and the President shall serve as Chairman thereof. The President-Elect may, at the direction of the President, preside at the Leadership Council meetings. The Leadership Council shall, in the interim between regular meetings of the DIRECTORS, conduct the affairs of CAR according to the policies and instructions of the DIRECTORS and shall meet on call of the President.

- A. The Leadership Council shall be composed of the President, the Immediate Past President, the President-elect, the Treasurer, the District Vice Presidents, the Division Vice Presidents and the local Board AE representative. The Chief Executive Officer shall serve as a non-voting ex-officio member of the Leadership Council.
- B. The President may appoint an additional Past President to serve as a voting member of the Leadership Council.

Section 3. Past Presidents of CAR who are REALTOR® Members of CAR, shall act as voting Members of the DIRECTORS. Past Presidents shall not be required to attend meetings of the DIRECTORS.

Section 4. Except as provided in Section 3 of this Article, any Director who shall be absent from two consecutive regular meetings of the DIRECTORS shall automatically forfeit office unless the Leadership Council waives this provision after receiving a satisfactory written explanation for said absences. Such limitation of absences and the subsequent forfeiture of CAR DIRECTORSHIP shall not apply to BOARD Presidents or the highest elected officer and others who are DIRECTORS by virtue of an office held in another body as defined in Section 1 of this ARTICLE; however, CAR encourages BOARDS to nominate and elect Presidents or highest elected officers and DIRECTORS who are ready, willing and able to represent them at CAR DIRECTORS' Meetings.

Section 5. NAR DIRECTORS - NAR DIRECTOR Nominees who shall represent Colorado are recommended to NAR by the DIRECTORS and subsequently elected by the NAR DIRECTORS according to their Constitution and Bylaws. Such Nominees shall acknowledge their understanding of the importance, if elected, of attending NAR DIRECTORS' meetings and participating to the fullest on NAR committees as representatives from Colorado; they shall pledge their willingness and ability to do so.

ARTICLE VIII.

ELECTION OF OFFICERS AND DIRECTORS

Section 1. Election of CAR DIRECTORS - DIRECTORS shall be elected or appointed annually, by and from each BOARD, for one, two or three year terms.

- A. On or before April 30th of each year, CAR, through its Chief Executive Officer, will notify each BOARD of its total certified membership as of March 31st and the number of DIRECTORS eligible for election or appointment by the BOARD. The number of such elected or appointed DIRECTORS serving from each BOARD shall be based upon each BOARD'S REALTOR® Membership as certified on the records of CAR on March 31st of each year as follows:

<u>March 31st Membership</u>	<u>Number of Directors</u>
1 – 200 members	1
201 – 400 members	2
401 – 800 members	3
801 – 1,000 members	3
1,001 – 1,500 members	4
1,501 or more members	5

- B. On or before September 1st, each BOARD shall elect or appoint its designated number of DIRECTORS; procedures for election or appointment shall be as provided by the Bylaws or Rules and Regulations of the BOARD.
- C. Each BOARD will certify to CAR, on or before September 1 of each year, the names of the DIRECTORS so elected or appointed in order for such new DIRECTORS to be installed at the State Convention. In the event a BOARD fails to certify the names of the new DIRECTORS on or before September 1, such new DIRECTORS will be installed by the Presiding officer at the next regular DIRECTOR meeting. In such event, a vacancy or vacancies shall exist on the Board of DIRECTORS until the new DIRECTOR(S) are installed.
- D. BOARDS will elect or appoint only REALTOR® Members in good standing as DIRECTORS.
- E. In addition to each elected DIRECTOR from each BOARD as above, each duly elected BOARD President or highest elected officer shall act as an official member of the DIRECTORS during the term of office, and as such, shall have a vote as a DIRECTOR.
- F. The retiring CAR President as Immediate Past President, shall, without election, remain a voting DIRECTOR for one year.
- G. Vacancies - A DIRECTOR who resigns will do so for the full term of office. In such case, the vacancy can be filled for the unexpired term by a recommended, qualified, REALTOR® Member from the BOARD concerned, or as otherwise provided in these Bylaws.
- H. Votes – Each DIRECTOR shall have one vote at the Board of DIRECTORS, except:
1. Each DIRECTOR elected and certified pursuant to paragraph A of this Section 1 for BOARDS with the following certified membership as of March 31st shall have two votes at the Board of DIRECTORS but not in District elections or in committees.

<u>March 31st Membership</u>
801 – 1,000 members
1,001 – 1,500 members
1,501 or more members

2. On or before September 1 of each year, Boards choosing to have one less Director than provided in Article VIII, Section 1, paragraph A, shall name which one of the Directors (Local Board President or CAR Director) that will have two votes at the BOARD OF DIRECTORS meetings, but not in District Elections or Committees.

- I. DESIGNATED DIRECTORS – Each BOARD will certify to CAR’s DIRECTORS, on or before September 1 of each year, the names of the DIRECTORS identified in paragraph H (1) or in paragraph H (2) of this Section 1, who shall have two votes (DESIGNATED DIRECTOR). No such DESIGNATED DIRECTOR shall have more than two votes, even if such DESIGNATED DIRECTOR is appointed or elected to a second office or position which also carries designation as a DIRECTOR. DESIGNATED DIRECTORS shall count as one DIRECTOR for purpose of determining a quorum at the Board of DIRECTORS and at the Annual General Membership meeting.
- J. All DIRECTORS from BOARDS not identified in paragraph H (1) or paragraph H (2) of Section 2 shall have one vote. A DIRECTOR from a BOARD identified in paragraph H (1) or paragraph H (2) of this Section 1 who is not elected and certified pursuant to paragraph A of this Section 1 shall have one vote. All DIRECTORS from a BOARD identified in paragraph H (2) of this Section 1, other than the DESIGNATED DIRECTOR, shall have one vote.

Section 2.

Special Election Meeting - A special election meeting (“Special Election Meeting”) will be held in June of each year at the time and place to be determined by the President. The sole purpose of the Special Election Meeting will be to hold the elections described in Sections 2.5, 3, and 4 of this Article VIII. No other business may be conducted at this Special Election Meeting. All voting at the Special Election Meeting will be done electronically using software specifically designed for electronic voting and which allows votes to be cast via the internet, email or other electronic means. A DIRECTOR voting by this means will be deemed to be present-in person during the meeting and if one-third or more of the DIRECTORS vote a quorum will be established. The Leadership Council will be responsible for selecting a software provider and overseeing the Special Election Meeting. The Special Election Meeting will be governed by the following election procedures (collectively, “Special Election Meeting Procedures”):

- A. Credentials Committee - The President, prior to January 31st following election, shall appoint a Credentials Committee comprised of the following: the Immediate Past President, who shall serve as chairman; one Past President; two District Vice Presidents, and two members at large. The two members at large serving on the Credentials Committee shall not be from the same districts as the two District Vice Presidents who are serving. If any committee member shall be unqualified, unable or unwilling to serve, the President shall appoint another CAR member in good standing, fulfilling as nearly as possible the intent of the foregoing provisions of this subsection.
- B. Slate - The Credentials Committee shall submit the names of all qualified candidates for each office to be filled by election, and for each Division Vice President to be appointed and each NAR Director to be recommended, said names to be selected from the current list of active REALTOR® Members of CAR. The qualified candidates will be presented to the DIRECTORS at the Special Election Meeting. No nominations may be made from the floor. .
- C. Election/Confirmation of President - The President-Elect shall be confirmed as President by the DIRECTORS; however, in the event the President-Elect is unqualified, unable or unwilling to serve and therefore is not confirmed as President by the DIRECTORS, the election of the President shall be held according to the procedures described below for the election of President-Elect.
- D. Balloting and Voting - The Chief Executive Officer shall use reasonable efforts to cause an electronic ballot listing the nominees for CAR President, President-Elect, Treasurer, District Vice Presidents, District Vice Presidents-Elect, and NAR Directors to be delivered electronically to each DIRECTOR eligible to vote on such matter.
 1. All votes shall be by electronic ballot and immediately tabulated. An impartial committee selected by the President will oversee the tabulation of the results for the offices of President, President-Elect, Treasurer, District

Vice Presidents, District Vice Presidents-Elect, and NAR Directorship recommendations.

2. With the exception of the NAR Directorship recommendation election, each nominee for the offices of President, President-Elect, Treasurer, District Vice President, and District Vice President-Elect must be elected by a majority vote of the DIRECTORS eligible to vote on the first ballot ("First Ballot"). In the event there are more than two nominees for a particular office and no single nominee receives a majority vote of the DIRECTORS present on the First Ballot, a run-off vote shall be taken between the two nominees receiving the most votes. If there are only two nominees for a particular office and the nominees tie on the First Ballot a run-off will be held between the two nominees. In any case, the run-off vote will be deemed to be a continuation of the meeting at which the vote on the First Ballot was taken and a quorum will be deemed to exist. Each nominee will be elected by a majority vote of the DIRECTORS voting in the run-off election. The run-off election will be held no later than ten (10) days from the date of the First Ballot. If a tie occurs in a run-off election, the winner will be determined by each nominee drawing one card from a standard playing card deck of fifty-two (52) cards. The nominee drawing the higher card, with Ace being the highest card, will be declared the winner. If both players draw cards of the same number (or rank in the case of face cards) the nominees will redraw until a winner is determined. The suit of the card is disregarded for all purposes.
3. In the case of the NAR Directorship recommendation election, the positions to which CAR is entitled to, as determined by NAR's Bylaws, will be filled in the order of the results of the voting. The nominee with the most number of votes will receive CAR's recommendation for a NAR Directorship with the longest available term. The nominee with the second most vote total will receive CAR's recommendation for NAR Directorship with the second longest available term. This process will be repeated until there are no more recommendations to be filled. In the case of a tie, the order of priority will be determined by each nominee drawing one card from a standard playing card deck of fifty-two (52) cards (no jokers). The nominee drawing the higher card, with Ace being the highest card, will receive the NAR Directorship with the longest term. If both players draw cards of the same number (or rank in the case of face cards) the nominees will redraw until a winner is determined. The suit of the card is disregarded for all purposes.
4. No proxy, absentee or alternate vote will be counted. Each DIRECTOR is responsible for casting his or her own vote. No DIRECTOR may sell, assign, give, or otherwise transfer his or her vote on any matter. Any DIRECTOR that does so will be subject to discipline by the CAR Board of Directors which may include removal from elected and/or appointed positions.
5. Names of the newly elected officers and elected NAR Directors to be recommended to NAR shall be printed in the official CAR publication as determined by the CAR Board of Directors as stated in ARTICLE XV, SECTION 2.

Section 2.5 Election of the President, President-Elect and Treasurer - These Officers shall be elected by the DIRECTORS at the Special Election Meeting using the applicable Special Election Meeting Procedures described in Section 2 of this Article VIII.

Section 3. Election of District Vice Presidents and District Vice President-Elects - Each district shall submit all candidates for District Vice President and District Vice President-Elect to the Credentials Committee prior to the Special Election Meeting. Each District Vice President and District Vice President-Elect shall be elected by the district DIRECTORS from within their respective district as described in the applicable Special Election

Meeting Procedures in Section 2 of the ARTICLE VIII and this Section 3.

- A. Quorum Requirement. One half (1/2) of the DIRECTORS from each district shall constitute a quorum for the election of District Vice Presidents and District Vice President-Elects. In the event a district does not have a quorum present, the election of that District Vice President and District Vice President-Elect shall be by vote of the entire CAR DIRECTORSHIP present in accordance with Section 2.5 of this ARTICLE. If it is determined that the quorum requirements of this subparagraph did not exist on the First Ballot, then a second vote will be taken using the rules and procedures of a run-off ballot described above. As provided herein, the second vote will be taken using the entire CAR DIRECTORSHIP.
- B. Vacancies - A District Vice President and District Vice President-Elect who resigns will do so for the remainder of term of office. In the event a District Vice President resigns or is otherwise unable or unwilling to serve, upon affirmation, the District Vice President-Elect shall automatically become District Vice President for the unexpired term thereafter.

Section 4.

Elections and Recommendations for NAR Directors - NAR Directors representing CAR are elected by the NAR Directors according to the NAR Constitution and Bylaws. Nominees are submitted to NAR in the form of a recommendation by the CAR DIRECTORS The recommendations are determined by a vote of the DIRECTORS as described in Section 2 of this Article VIII and this Section 4:

- A. The NAR Directors and Immediate Past NAR Directors shall be a committee charged with the responsibility of advising the DIRECTORS with respect to recommendations for NAR Officers. The President will select a chairman from the current NAR Directors or immediate past NAR Directors to serve as chairman of this committee.

Section 5.

Conflict of Interest – CAR DIRECTORS and elected and appointed Officers when acting in their elected or appointed capacity shall act and vote in the best interests of CAR without influence of any conflict of interest.

- A. Definition – A conflict of interest shall exist on an issue or matter being considered by CAR if the DIRECTOR or Officer, or a member of the immediate family of the DIRECTOR or Officer, is:
 - 1. Financially affected by the issue or matter being considered; or
 - 2. A director, officer, employee, owner, potential financial beneficiary, or holder of a financial interest, in any corporation, partnership, association, or other organization that is a competitor of CAR or may be affected by the issue or matter being considered.

A DIRECTOR or Officer’s involvement as a member, director or officer of any local BOARD, CAR or NAR is not a conflict of interest within this definition. The fact that a DIRECTOR or Officer pays fees or annual dues to a local BOARD, CAR or NAR does not create a conflict of interest within this definition. The fact that a particular issue may affect CAR does not create a conflict of interest within this definition for a CAR DIRECTOR or Officer.

- B. Quorum – The presence of a CAR DIRECTOR or Officer who has a conflict of interest may be counted in determining whether a quorum is present.
- C. Disclosure – Each CAR DIRECTOR and Officer must disclose any potential conflict of interest to the attendees in advance of any discussion or deliberation on any issue or matter in which such conflict of interest may arise.
- D. Abstention – Each DIRECTOR and Officer with a potential conflict of interest must not participate in the discussion or deliberation on the issue or matter in which

the conflict of interest arises, and shall not attempt to influence the vote on that particular issue or matter. The DIRECTOR and Officer shall abstain from the vote on that issue or matter. CAR shall provide the opportunity and procedure for any DIRECTOR and Officer to officially record an abstention in the minutes of the meeting.

Section 6.

Removal – Any DIRECTOR or Officer who has a conflict of interest on any issue or matter and who violates the requirements or procedure of Section 5, may be removed from their elected or appointed capacity in the following matter:

- A. Upon motion made at any regular or special meeting of the DIRECTORS, by a DIRECTOR with two seconds, a DIRECTOR or Officer with a conflict of interest who violates the requirements or procedures of Section 5 may be removed from elected or appointed office by a majority vote by secret written ballot of the DIRECTORS present. The DIRECTOR or Officer who is the subject of the motion shall be given adequate opportunity during the discussion on the motion at the meeting of the DIRECTORS to respond to the motion, either individually or through an attorney, or both.
- B. A vote by the majority of DIRECTORS in favor of removal of a President, President-Elect, Treasurer, or Division Vice President shall be effective upon conclusion of the vote.
- C. A vote by the majority of DIRECTORS in favor of removal of a DIRECTOR or District Vice President shall be certified in writing to the Local BOARD who elected the DIRECTOR or to the District that elected the District Vice President. Thereafter, within 30 days, the Local BOARD or District shall consider and vote on the removal certified by CAR. The removal of a DIRECTOR shall be effective upon the vote by the Local BOARD which elected the DIRECTOR. The removal of a District Vice President shall be effective upon the vote by the District which elected that officer, but nothing herein shall preclude a District from voting on removal prior to the vote of the DIRECTORS and in the event both votes favor removal, the effective date of removal shall be the vote by the DIRECTORS.
- D. Each Local BOARD shall adopt a conflict of interest policy identical to Section 5 in their respective bylaws or rules and regulations and shall adopt a procedure for removal of CAR DIRECTORS consistent with this Section 6. Each Local BOARD shall give deference to any certification of removal from CAR.

Section 7.

Filling Vacancies Created by Removal for Conflict of Interest – Any vacancy created by removal of a DIRECTOR or Officer under Section 6 shall be filled in accordance with the provisions of these Bylaws which are applicable to vacancies of DIRECTORS or that Officer.

ARTICLE IX.

INSTITUTES, SOCIETIES & COUNCILS

Section 1.

The DIRECTORS may sanction Institutes, Societies & Councils for various branches of real estate business in order to give Members who specialize in such branches an opportunity for conference and cooperation.

Section 2.

Each affiliated Colorado Institutes, Societies & Councils of NAR may designate one delegate to serve as a voting Member of the DIRECTORS. If such Institute, Society or Council of NAR has more than one Colorado Affiliated Chapter, it shall designate only one delegate to serve as a voting member of the DIRECTORS.

ARTICLE X.

GEOGRAPHICAL DISTRICTS

Section 1. For purposes of administration, communication and service, the State of Colorado shall be divided into geographical districts determined by the jurisdiction boundaries of BOARDS. A BOARD may change districts 180 days following notification to CAR and all BOARDS within its current district and its desired district, subject to the approval of the desired district by majority vote of the DIRECTORS from that district.

ARTICLE XI.

COMMITTEES

Section 1. The President shall appoint all committees and the chairman of all standing and operating committees and the President-elect shall appoint the vice chairman of these committees subject to the approval of the DIRECTORS. The President and President-Elect shall be ex-officio members, without vote, of all such committees and they shall be notified of all meetings. These bodies will meet by call of the chairman or request of the President.

Section 2. Finance Committee - There shall be a Finance Committee consisting of the Treasurer, who shall be the Chairman, and no more than thirteen (13) other members, and one AE Representative. Members, other than the Treasurer, shall be appointed to staggered terms of two (2) years. Vacancies shall be filled by appointment of the President for the remaining term of any member who cannot complete a term of office. Criteria for selection to the Committee shall include familiarity with the organization, financial management knowledge and geographic representation. It is recommended that committee members, other than the Treasurer, have no current direct Leadership Council responsibility.

Section 3. Professional Development Committee - There shall be a CAR Professional Development Committee comprised of 19 members; a Chair plus, the immediate past Chair plus, nine REALTORS® serving three-year terms, two REALTORS® serving 1 year terms, three members who are local association staff (either AE or Education Director) and three active CAR faculty members who will all serve two-year terms. The committee members shall be appointed by the President to serve staggered terms and shall reflect different geographic areas, demographic characteristics and association sizes. The faculty members shall be voting members and will strictly adhere to the CAR Conflict of Interest Policy. Trustees shall annually elect the Chair and Vice-Chair of the Professional Development Committee and the Chair shall serve as the Education Division Vice President. Local association staff and faculty members are not eligible to serve as Chair or Vice Chair. The CAR President, President-elect, Chief Executive Officer and staff Education Director shall all be non-voting, ex-officio members.

CAR will establish a Restricted Education Development Fund which shall be funded by a student fee for each student enrolled in a CAR sponsored class. The minimum fee shall be \$2.00. Once funds are deposited into the dedicated Fund, they will be administered by the Professional Development Committee and may not be returned to the CAR general fund. The Professional Development Committee shall disburse the funds within the guidelines of the committee purpose.

Section 4. REALTOR® of the Year Committee - There shall be a standing "REALTOR® of the Year" Committee comprised of the Association's last five "REALTORS® of the Year," including the current "REALTOR® of the Year". The most senior member shall be its chairman. If any of the last five "REALTORS® of the Year" is unable to serve, withdraws from the committee, or is no longer an active REALTOR® Member of the Colorado Association of REALTORS® actively engaged in the real estate business, the next most current eligible "REALTOR® of the Year" will serve as a member of the committee. Candidates for "REALTOR® of the Year" must be an active REALTOR® Member of the Colorado Association of REALTORS® actively engaged in the real estate business at the time of the award. The committee shall establish and promulgate rules for selection for candidates for consideration for the award. From the candidates submitted, the

committee shall make the final determination for "REALTOR® of the Year" if there is a deserving candidate.

Section 5. The President shall appoint such standing and special committees as shall be designated from time to time by the Board of Directors and such other special committees as deemed necessary or appropriate.

Section 6. Unless stated otherwise in these Bylaws, all actions of the Committees shall be subject to approval of the DIRECTORS.

Section 7. Each committee shall determine the requirement for a quorum based upon the makeup of that committee.

ARTICLE XII

GENERAL MEMBERSHIP MEETINGS

Section 1. The Annual General Membership Meeting of CAR shall be held during the Annual Convention or at such time and place as may be designated by the DIRECTORS. The representation from at least 50 percent of the BOARDS will constitute a quorum for the transaction of CAR business.

Section 2. Additional General Membership Meetings may be called by the DIRECTORS or representation of at least 50 percent of the BOARDS. Any call for such meeting shall state the purpose, time and place of the meeting and shall be issued at least fifteen (15) days in advance of the date of such meeting.

Section 3. All active REALTOR® Members have the full privilege of all General Membership Meetings of CAR and shall be entitled to speak and vote upon all questions properly brought before the meeting.

Section 4. On any important propositions arising in the interim of General Membership Meetings of CAR, the President has the power to conduct business and take a vote of the REALTOR® Members.

ARTICLE XIII

FISCAL YEAR

Section 1. The fiscal year shall begin the first day of November each year.

ARTICLE XIV.

PROFESSIONAL STANDARDS

Section 1. A local board, prior to referring an ethics complaint or arbitration request for review to the State Association, should exhaust all efforts to impanel an impartial tribunal to conduct either the original hearing or the appeal or procedural review. These efforts may include the appointment of knowledgeable members of the Board on an ad hoc basis to serve on either a Hearing Panel or on behalf of the Board of Directors. If, because of notoriety, etc., the Board cannot impanel an impartial tribunal, the Board may refer the matter to the State Association, and the State Association may delegate to another Board or a regional enforcement facility the authority to hear the case on behalf of the State Association. No Board or regional enforcement facility, however, may be required to accept this delegation of authority. If no other entity is amenable to conducting the review, the State Association shall be responsible for conducting the hearing.

Allegations of ethical violations and contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® and between REALTORS® and their customers or clients may be submitted to an ethics or

arbitration panel at the State Association level under the following circumstances:

- A. Allegations of unethical conduct made against a REALTOR® who is directly a member of the State Association and not a member of any local Board.
- B. Allegations of unethical conduct made against a REALTOR® in the instance in which the local Board, because of size or other valid reason, determines that it cannot provide a due process hearing of the matter and petitions the State Association to conduct a hearing.
- C. Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® who are not members of the same Board where the matter has been referred to the State Association by both local Boards.
- D. Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® who are directly members of the State Association and are not members of any Board.
- E. Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between a REALTOR® who does not hold membership in any Board, but is directly a member of the State Association and a REALTOR® who is a member of a Board.
- F. Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTOR® Members of the same Board where the Board with good and sufficient reason is unable to arbitrate the controversy.
(Explanation: This provision is not designed to relieve a local Board of its primary responsibility to resolve differences arising between members of the same Board. The section recognizes that in some Boards with limited membership usual arbitration procedures may be impossible.)
- G. Contractual disputes between a customer or a client and a REALTOR® where the Board with good and sufficient reason is unable to arbitrate the dispute or the REALTOR® is a direct member of the State Association.

Section 2.

Professional Standards hearings and the organization and procedures incident thereto shall be governed by the Code of Ethics and Arbitration Manual of the Colorado Association of REALTORS®, as from time to time amended, which by this reference is made a part of these Bylaws.

- A. The provisions of the Colorado Uniform Arbitration Act shall apply and the Manual shall be interpreted in a manner that is consistent with that statute.
- B. The term 'BOARD' as used in the Manual shall be interpreted to read 'State Association' or 'Association' where the context indicates or requires.
- C. The powers, authority and responsibilities of the Board of Directors as spelled out in the Manual shall be exercised by the Leadership Council of CAR and said committee shall have the right and power to delegate this authority to appropriate committees or administrative personnel. An Appeals Committee, appointed by the President and approved by the Leadership Council, shall receive and decide appeals.
- D. CAR shall have jurisdiction over matters relating to ethical violations and controversies between REALTORS® as specified in 'Jurisdiction of State Association' in the Manual.
- E. Editorial content and explanations contained in the Manual may be considered as advisory but not binding in interpreting the Manual and its provisions.
- F. The amounts of fees and deposits relating to proceedings governed by the Manual shall be determined by the Leadership Council from time to time.

G. References to the 'state' or 'state law' shall refer to the State of Colorado or the laws of that State as the context may indicate.

Section 3. The Code of Ethics of NAR is adopted as the Code of Ethics of CAR and shall be considered a part of its Rules and Regulations. The CAR Code of Ethics and Rules and Regulations shall be deemed to be amended and changed at the same time that the NAR Code of Ethics is amended or changed.

Section 4. CAR encourages BOARDS to take positive action to inform their Members that Multiple Listing Services do not fix, control, recommend, suggest or maintain commission rates or fees for services to be rendered by Members or non-members.

Section 5. If a REALTOR® member resigns from the association or otherwise causes membership to terminate with an ethics complaint pending, the Board of Directors may condition the right of the resigning member to reapply for membership upon the applicant's certification that they will submit to the pending ethics proceeding and will abide by the decision of the hearing panel.

Section 6. If a REALTOR® member resigns or otherwise causes membership to terminate, the duty to submit to arbitration continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR®.

ARTICLE XV.

RULES OF ORDER AND NOTIFICATION

Section 1. "Robert's Rules of Order" - Newly Revised, Latest Edition, shall be recognized as the authority governing all meetings and conferences when not in conflict with the Bylaws of CAR.

Section 2. Where notification to Members is required, the official CAR publication as determined by the CAR Board of Directors shall suffice.

ARTICLE XVI.

AMENDMENTS

Section 1. The Bylaws may be amended at any duly constituted meeting of the DIRECTORS by the affirmative vote of two-thirds of the DIRECTORS present, provided that a quorum is present, and provided further that notice of any proposed amendments shall first have been submitted in writing thirty (30) days in advance to all DIRECTORS by the Chief Executive Officer.

Section 2. Amendments to these Bylaws affecting the admission or qualifications of Active REALTOR® Members and Institute Affiliate Members, the use of the term REALTOR® or REALTORS®, or any alteration of the territorial jurisdiction of a BOARD shall become effective upon the approval of the DIRECTORS and NAR

ARTICLE XVII.

DISSOLUTION

Section 1. Upon the dissolution of CAR, all of CAR's assets remaining after payment of or provision for all of its liabilities shall be paid over or transferred to one or more nonprofit organizations exempt from federal income taxes. The organizations to receive such property shall be determined by the DIRECTORS, in its sole discretion.

ARTICLE XVIII.

INDEMNIFICATION

Section 1. Definitions - For purposes of this ARTICLE, the following terms shall have the meanings set forth below:

- A. "Corporation" means CAR and, in addition to the resulting or surviving corporation, any domestic or foreign predecessor entity of CAR in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of the transaction.
- B. "Expenses" means the actual and reasonable expenses, including attorneys' fees, incurred by a party in connection with a proceeding.
- C. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) or expense incurred with respect to a proceeding.
- D. "Official capacity" when used with respect to a director of the corporation means the office of director in the corporation, and when used with respect to a person in a capacity other than as a director (even if such person is also a director) means the office in the corporation held by the officer or the employment relationship undertaken by the employee on behalf of the corporation in the performance of their duties in their capacity as such officer or employee. "Official capacity" does not include service for any other foreign or domestic corporation or for any partnership, joint venture, trust, other enterprise or employee benefit plan when acting directly on behalf of such other corporation, partnership, joint venture, trust, enterprise or plan as a director, officer, employee, fiduciary or agent thereof.
- E. "Party" means any person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding by reason of the fact that such person is or was a director, officer or employee of the corporation, and any person who, while a director, officer or employee of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan. A party shall be considered to be serving an employee benefit plan at the corporation's request if such party's duties to the corporation also impose duties on or otherwise involve services by such party to the plan or to participants in or beneficiaries of the plan.
- F. "Proceeding" means any threatened, pending or completed action, suit or proceeding, or any appeal therein, whether civil, criminal, administrative, arbitral or investigative (including an action by or in the right of the corporation) and whether formal or informal.

Section 2. Right to Indemnification

- A. Standards of Conduct - Except as provided in Section 2(d) below, the corporation shall indemnify any party to a proceeding against liability incurred in or as a result of the proceeding if (i) such party conducted the activity in good faith, (ii) such party reasonably believed (A) in the case of a director acting in an official capacity, that the conduct was in the corporation's best interests, or (B) in all other cases, that such party's conduct was at least not opposed to the corporation's best interests, and (iii) in the case of any criminal proceeding, such party had no reasonable cause to believe the conduct was unlawful. For purposes of determining the applicable standard of conduct under this Section 2, any party acting in an official capacity who is also a director of the corporation shall be held to the standard of conduct set forth in Section 2(a)(ii)(A), even if such party is sued solely in a capacity other than as such director.
- B. Employee Benefit Plans - A party's conduct with respect to an employee benefit plan for a purpose such party reasonably believed to be in the interests of the

participants in or beneficiaries of the plan is conduct that satisfies the requirements of Section 2(a)(ii)(B). A party's conduct with respect to an employee benefit plan for a purpose that such party did not reasonably believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of Section 2(a)(i).

- C. Settlement - The termination of any proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not of itself determinative that the party did not meet the applicable standard of conduct set forth in Section 2(a).
- D. Indemnification Prohibited - Except as hereinafter set forth in this Section 2(d), the corporation may not indemnify a party under this Section 2 either (i) in connection with a proceeding by or in the right of the corporation in which the party is or has been adjudged liable for gross negligence or willful misconduct in the performance of the party's duty to the corporation, or (ii) in connection with any proceeding charging improper personal benefit to the party, whether or not involving action in the party's official capacity, in which the party was adjudged liable on the basis that personal benefit was improperly received by the party (even if the corporation was not thereby damaged). Notwithstanding the foregoing, the corporation shall indemnify any such party if and to the extent required by the court conducting the proceeding, or any other court of competent jurisdiction to which the party has applied, if it is determined by such court, upon application by the party, that despite the adjudication of liability in the circumstances in clauses (i) and (ii) of this Section 2(d) or whether or not the party met the applicable standard of conduct set forth in Section 2(a), and in view of all relevant circumstances, the party is fairly and reasonably entitled to indemnification for such expenses as the court deems proper in accordance with the Colorado Nonprofit Corporation Code.
- E. Claims by or in the Right of Corporation - Indemnification permitted under this Section 2 in connection with a proceeding by or in the right of the corporation shall be limited to expenses incurred in connection with the proceeding.
- F. Combined Proceedings - If any claim made by or in the right of the corporation against a party is joined with any other claim against such party in a single proceeding, the claim by or in the right of the corporation (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct proceeding for purposes of this ARTICLE.

Section 3. Prior Authorization Required - Any indemnification under Section 2 (unless ordered by a court) shall be made by the corporation only if authorized in the specific case after a determination has been made that the party is eligible for indemnification in the circumstances because the party has met the applicable standard of conduct set forth in Section 2(a) and after an evaluation has been made as to the reasonableness of the expenses. Any such determination, evaluation and authorization shall be made by the DIRECTORS by a majority vote of a quorum of the DIRECTORS, which quorum shall consist of DIRECTORS not parties to the subject proceeding, or by such other person or body as permitted by law.

Section 4. Success on Merits or Otherwise - Notwithstanding any other provision of this ARTICLE, the corporation shall indemnify a party to the extent such party has been successful, on the merits or otherwise, including without limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding to which the party was a party against expenses incurred by such party in connection therewith.

Section 5. Advancement of Expenses - The corporation shall pay for or reimburse the expenses, or a portion thereof, incurred by a party in advance of the final disposition of the proceeding if: (a) the party furnishes the corporation a written affirmation of such party's good-faith belief that they have met the standard of conduct described in Section 2(a)(i); (b) the party furnishes the corporation a written undertaking, executed personally or on behalf of such party, to repay the advance if it is ultimately

determined that the party did not meet such standard of conduct; and (c) authorization of payment and a determination that the facts then known to those making the determination would not preclude indemnification under this ARTICLE have been made in the manner provided in Section 3. The undertaking required by clause (b) must be an unlimited general obligation of the party, but need not be secured and may be accepted without reference to financial ability to make repayment.

Section 6. Payment Procedures - The corporation shall promptly act upon any request for indemnification, which request must be in writing and accompanied by the order of court or other reasonably satisfactory evidence documenting disposition of the proceeding in the case of indemnification under Section 4 and by the written affirmation and undertaking to repay as required by Section 5 in the case of indemnification under such Section. The right to indemnification and advances granted by this ARTICLE shall be enforceable in any court of competent jurisdiction if the corporation denies the claim, in whole or in part, or if no disposition of such claim is made within ninety days after written request for indemnification is made. A party's expenses incurred in connection with successfully establishing such party's right to indemnification, in whole or in part, in any such proceeding shall also be paid by the corporation.

Section 7. Notification to Members - Any indemnification of or advance of expenses to a director (but not to any other party) in accordance with this ARTICLE, if arising out of a proceeding by or on behalf of the corporation, shall be reported in writing to the members with or before the notice of the next meeting of members.

Section 8. Insurance - By action of the DIRECTORS, notwithstanding any interest of the DIRECTORS in such action, the corporation may purchase and maintain insurance in such amounts as the DIRECTORS deems appropriate to protect itself and any person who is or was a director, officer, employee, fiduciary or agent of the corporation, or who, while a director, officer, employee, fiduciary or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan against any liability asserted against or incurred by such person in any such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under applicable provisions of law or this ARTICLE. Any such insurance may be procured from any insurance company designated by the DIRECTORS, whether such insurance company is formed under the laws of Colorado or any other jurisdiction, including any insurance company in which the corporation has an equity or any other interest, through stock ownership or otherwise. The corporation may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such sums as may become necessary to effect indemnification as provided herein.

Section 9. Right to Impose Conditions to Indemnification - The corporation shall have the right to impose, as conditions to any indemnification provided or permitted in this ARTICLE, such reasonable requirements and conditions as may appear appropriate to the DIRECTORS in each specific case and circumstances, including but not limited to any one or more of the following: (a) that any counsel representing the party to be indemnified in connection with the defense or settlement of any proceeding shall be counsel mutually agreeable to the party and to the corporation; (b) that the corporation shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the party to be indemnified; and (c) that the corporation shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified party's right of recovery, and that the party to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the corporation.

Section 10. Other Rights and Remedies - The indemnification provided by this ARTICLE shall be in addition to any other rights which a party may have or hereafter acquire under any law, provision of the articles of incorporation, any other or further provision of these

bylaws, vote of the members or DIRECTORS, agreement, or otherwise.

Section 11. Applicability: Effect - The indemnification provided in this ARTICLE shall be applicable to acts or omissions that occurred prior to the adoption of this ARTICLE, shall continue as to any party entitled to indemnification under this ARTICLE who has ceased to be a director, officer or employee of the corporation or, at the request of the corporation, was serving as and has since ceased to be a director, officer, partner, trustee, employee, fiduciary or agent of any other domestic or foreign corporation, or of any partnership, joint venture, trust, other enterprise or employee benefit plan, and shall inure to the benefit of the estate and personal representatives of each such person. The repeal or amendment of this ARTICLE or of any section or provision hereof that would have the effect of limiting, qualifying or restricting any of the powers or rights of indemnification provided or permitted in this ARTICLE shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the corporation to indemnify any person, or affect any right of indemnification of such person, with respect to any acts or omissions that occurred prior to such repeal or amendment. All rights to indemnification under this ARTICLE shall be deemed to be provided by a contract between the corporation and each party covered hereby.

Section 12. Indemnification of Agents - The Corporation shall have the right, but shall not be obligated, to indemnify any agent of the corporation not otherwise covered by this ARTICLE to the fullest extent permissible by the laws of Colorado. Unless otherwise provided in any separate indemnification arrangement, any such indemnification shall be made only as authorized in the specific case in the manner provided in Section 3.

Section 13. Savings Clause; Limitation - If this ARTICLE or any section or provision hereof shall be invalidated by any court on any ground, then the corporation shall nevertheless indemnify each party otherwise entitled to indemnification hereunder to the fullest extent permitted by law or any applicable provision of this ARTICLE that shall not have been invalidated. Notwithstanding any other provision of these bylaws, the corporation shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with the qualification of the corporation as an organization described in section 501(c)(6) of the Internal Revenue Code of 1986, as amended.