

BYLAWS
OF
SOCIETY OF ECONOMIC GEOLOGISTS FOUNDATION, INC.
(a Colorado Nonprofit Corporation)

ARTICLE I. CERTAIN DEFINED TERMS

Unless the context indicates otherwise, the following terms as used in these Bylaws shall have the meanings provided below:

- 1.1 **“Act”** shall mean the Colorado Revised Nonprofit Corporation Act, as it may be amended from time to time, as presently set forth at C.R.S. Section 7-121-101, *et. seq.*
- 1.2 **“Articles of Incorporation”** shall mean the Articles of Incorporation of the Foundation as filed with the Colorado Secretary of State, as the same may be amended from time to time.
- 1.3 **“Board of Trustees”** and **“Board”** are defined in Section 5.1.
- 1.4 **“Bylaws”** shall mean these Bylaws of the Foundation as the same may be amended from time to time as provided herein.
- 1.5 **“Code”** shall mean the Internal Revenue Code of 1986, as amended from time to time.
- 1.6 **“Foundation”** shall mean SOCIETY OF ECONOMIC GEOLOGISTS FOUNDATION, INC., a Colorado nonprofit corporation.
- 1.7 **“Foundation Year”** shall mean a year commencing on January 1 and ending the following December 31.
- 1.8 **“Member”** as a capitalized term is defined in Section 3.1; and the term **“Membership”** shall refer either to all Members or the status as a Member of the Foundation.
- 1.9 **“Society”** shall mean SOCIETY OF ECONOMIC GEOLOGISTS, INC., a Colorado nonprofit corporation.
- 1.10 **“Trustee”** is defined in Section 5.2.

ARTICLE II. OFFICES

2.1 Offices. The principal office of the Foundation in the State of Colorado is 7811 Shaffer Parkway, Littleton, Colorado 80127. The Board may from time to time change the principal office of the Foundation. The Foundation may also have other offices at such place or places within or without the State of Colorado, as the Board may from time to time determine or as the business of the Foundation may require.

2.2 Registered Office and Agent. The Foundation shall have and continuously maintain within the State of Colorado a registered office and registered agent whose office is identical with such registered office. The initial registered office and registered agent are specified in the Articles of Incorporation. The Foundation may change its registered agent or its registered office, or both, upon filing with the Colorado Secretary of State as specified by the Act.

ARTICLE III. MEMBERSHIP

3.1 Members. The Members of the Foundation shall consist of the elected Councilors, then holding office, serving on the Council of the Society.

3.2 Rights and Obligations of Members. Unless otherwise provided by the Act, all Members shall have the right to vote: (a) to elect the elected Trustees; (b) except as provided in Section 13.2, to amend these Bylaws; (c) to sell, transfer, lease, mortgage, pledge or hypothecate all, or substantially all, of the assets of the Foundation; (d) to merge or consolidate the Foundation; (e) to discontinue the business operations of the Foundation; and (f) to dissolve the Foundation. No other matters shall require the vote of the Members and all Members shall have the same rights and obligations with respect to voting and all other matters.

3.3 Membership Not Transferable. Membership in the Foundation is not transferable or assignable.

3.4 Purchase of Membership. The Foundation shall not purchase the Membership of a Member who resigns or whose Membership is terminated.

3.5 Member Resignation. A Member who has not resigned as a Councilor of the Society may not resign as a Member. Any resignation as a Councilor of the Society shall automatically operate as resignation as a Member, but shall not relieve the resigning Member of any outstanding obligation to the Foundation.

ARTICLE IV. MEETINGS OF MEMBERS

4.1 Annual Meeting. The annual meeting of the Members shall be held each year at a time and place designated (a) by the President, or (b) by the Board, for the election of elected Trustees and for the transaction of such other business as may properly be brought before the meeting.

4.2 Special Meetings. Special meetings of the Members may be called (a) by a resolution of the Board, (b) by the President, or (c) by written demand of the Members stating

the purpose or purposes for calling the meeting signed and dated by Members holding at least one-half of all votes entitled to be cast on any issue proposed to be considered at the meeting.

4.3 Place of Meeting. The Board may designate any place either within or without the State of Colorado, as the place of meeting for any special meeting called by the Board or the President. If no place is designated, or if a special meeting is otherwise called, the meeting shall be held at the principal office of the Foundation.

4.4 Record Date. The record date to be used by the Foundation to determine which Members are entitled to notice and to vote may be set by the Board, but may not be more than seventy days before the meeting or action requiring a vote of the Members.

4.5 Notice of Meetings. Written notice stating the place, date and time of any meeting of the Members shall be delivered, either personally or by mail (including electronic mail), to each Member entitled to vote at such meeting. The notice shall be given not less than ten or more than sixty days before the date of the meeting. The notice shall be given either (a) by or at the direction of the President, or (b) by the Members calling the meeting in accordance with Section 4.2. All notices of special meetings shall include the purpose or purposes for which the meeting is called. When giving notice of a special meeting, notice shall be given of a matter that a Member intends to raise at the meeting if (a) the President is requested in writing to do so by the number of Members entitled to call a special meeting in accordance with Section 4.2, and (b) the request is received by the President at least ten days prior to the date notice of the meeting is given. Written notice to the Members is effective upon the earliest of (a) the date received, (b) five days after deposit in the United States mail, first class postage prepaid, addressed to the last address for the Member as shown in the records of the Foundation, or (c) if mailed to such address by certified or registered mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee.

4.6 Waiver of Notice. A Member may waive any notice required to be given under these Bylaws or by the Act by either (a) a written waiver signed by the Member entitled to notice (whether before, at or after a meeting or when the action will occur) delivered to the Foundation for inclusion in the minutes or filing with the corporate records (but such delivery and filing shall not be conditions to the effectiveness of the waiver), or (b) a Member's attendance at the meeting, by which such member (i) waives objection to lack of notice or defective notice (unless the Member at the beginning of the meeting objects to the holding or transacting of business at the meeting because of lack of notice or defective notice), and (ii) waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice (unless the Member objects to considering the matter when it is presented).

4.7 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if a consent in writing setting forth the action taken shall be signed by all of the Members entitled to vote on such action; provided however, that all such consents must be received within sixty days of the earliest dated consent received by the Foundation and such consents must not have been revoked. All consents must be filed with the minutes of the meetings of Members.

4.8 Quorum. The presence in person or by proxy of Members holding at least a majority of the votes which may be cast at any meeting shall constitute a quorum at such meeting. If a quorum is not present at any meeting of the Members, the majority of the Members present may adjourn the meeting from time to time without further notice.

4.9 Proxies. At any meeting of the Members, a Member entitled to vote may vote by proxy executed in writing and signed by the Member or by his duly authorized attorney-in-fact. Only Members shall have the right to hold and vote proxies of other Members. Unless expressly stated otherwise in the proxy, no proxy shall be valid for more than eleven months following the date of its execution by a Member. Any complete copy, including an electronically transmitted facsimile, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.

4.10 Voting Entitlement. Every Member shall have the right at every meeting to one vote. Every Member shall be entitled to vote in person or by proxy given to another Member in accordance with Section 4.9.

4.11 Manner of Acting. A majority of the votes entitled to be cast on a matter to be voted upon by the Members present in person or by proxy at a meeting at which a quorum is present shall be necessary for the approval of the matter, unless a greater majority is expressly required by these Bylaws or the Act.

4.12 Action by Ballot. All votes for the annual election of the elected Trustees of the Foundation shall be taken by written and/or electronic ballot. A vote on any other action that may be taken at any special meeting of the members may also be taken without a meeting if the Foundation delivers a written and/or electronic ballot to every Member entitled to vote on the matter which sets forth each proposed action. All solicitations for votes by written and/or electronic ballot shall (a) indicate the number of responses required to meet quorum requirements, (b) state the percentage of approvals necessary to approve each matter, (c) specify the time by which the ballot must be received by the Foundation to be counted, and (d) be accompanied by written and/or electronic information regarding the matter to be voted upon. Approval by written and/or electronic ballot shall be valid when the number of votes cast by ballot equals or exceeds the quorum required at a meeting authorizing the action and the number of approvals equals or exceeds the number that would be required to approve the matter at a meeting.

4.13 Attendance by Telephone. Any or all of the Members may participate in meetings by any means of communication by which all Members participating in the meeting can hear each other at the same time. A Member participating in a meeting in this manner is deemed to be present in person for the establishment of a quorum under Section 4.8.

4.14 Adjournment. When a meeting is adjourned to another date, time or place, notice need not be given of the new date, time or place if the new date, time or place of such meeting is announced before adjournment of the meeting at which the adjournment is taken. At the adjourned meeting the Foundation may transact any business which may have been transacted at the original meeting. If a new record date is fixed for the adjourned meeting, notice

of the adjourned meeting shall be given to each Member of record entitled to vote at the meeting as of the new record date.

ARTICLE V. BOARD OF TRUSTEES

5.1 Board of Trustees. The business and affairs of the Foundation shall be managed and directed by the “Board of Trustees” or “Board,” which subject to the provisions of these Bylaws, shall serve and act in the same manner as a board of directors under the Act.

5.2 Trustees. Each member of the Board of Trustees or “Trustee,” subject to the provisions of these Bylaws, shall serve and act in the same manner and capacity as a director under the Act. The Board of Trustees shall consist of the following:

- (a) fifteen Trustees elected by the Members, each as a voting Trustee;
- (b) the President, Past President, Vice President, Secretary and Treasurer of the Foundation, each as a voting *ex officio* Trustee;
- (c) the President and President-Elect of the Society, each as a voting *ex officio* Trustee; and
- (d) the Executive Director of the Society, as a non-voting *ex officio* Trustee.

The Trustees described in subsection (a) above shall sometimes be referred to as the “elected Trustees,” and the Trustees described collectively in subsections (b), (c) and (d) above shall sometimes be referred to as the “*ex officio* Trustees.” Any Trustee who is both an elected and *ex officio* Trustee shall only have one vote.

5.3 Qualifications. Elected Trustees shall be natural persons of at least eighteen years of age, need not be residents of the State of Colorado, but must be Fellows of the Society. No elected Trustee who shall have served for five consecutive years shall be eligible for re-election as an elected Trustee until the lapse of one year after the end of his term of office.

5.4 Term of Office. The term of office for each of the elected Trustees shall be five years. The terms of office shall be staggered, with three of the fifteen elected Trustees to be elected by the Members each year, in creation of five classes of elected Trustees. The term of office for each *ex officio* Trustee shall continue for so long as he holds the qualifying office. Except as otherwise provided in these Bylaws, each Trustee shall hold office until his successor shall have been elected and qualified.

5.5 Resignation and Removal. An elected Trustee may resign at any time by giving written notice of resignation to the President, and the acceptance of such resignation shall not be necessary to make it effective unless the notice so provides. An *ex officio* Trustee may not resign while still holding the qualifying office, but any resignation from the qualifying office shall automatically operate as resignation as *ex officio* Trustee. A Trustee may only be removed by the Members for cause.

5.6 Vacancies. Any vacancy occurring on the Board of Trustees of an office held by an elected Trustee may be filled by an affirmative vote of the majority of the remaining Trustees for the unexpired term of office created by the vacancy. Any vacancy occurring in the office held by an *ex officio* Trustee as the result of a vacancy in the qualifying office shall remain vacant until such office is filled by the Foundation or Society, as the case may be.

5.7 Meetings. An annual meeting of the Board of Trustees shall be held following the annual meeting of the Members in each Foundation Year, or on such other date and at such time and at such place as the President may determine. The annual meeting of the Board shall be for the purpose of electing officers and for the transaction of such other business as may come before the meeting. The Board may by resolution establish the time and place for regular meetings without the need for further notice. Special meetings of the Board may be called by or at the request of the President or by a majority of the Board. Such meetings may be held within or without the State of Colorado as the President or a majority of the Board may designate, otherwise such meeting shall be held at the registered office of the Foundation.

5.8 Notice. Notice of each annual and special meeting of the Board shall be given to each of the Trustees. The notice shall state the place, date and hour of the meeting, and, in the case of a special meeting, shall also state the general nature of the business to be transacted at the meeting. A notice of meeting shall be effective if provided either (a) at least two days prior to the meeting, if given in person, by telephone call, by hand or courier delivery of a written notice, or by any other means of communication, including electronic mail or similar method (to be effective either upon the personal communication or delivery to the Trustee, or by delivery to the last address designated by the Trustee for this purpose), or (b) at least five days prior to the meeting, if given by depositing a written notice in the United States mail, first class postage prepaid, to the last address designated by the Trustee for this purpose.

5.9 Waiver of Notice. A Trustee may waive any notice required to be given under these Bylaws or the Act by either (a) a written waiver signed by the Trustee (whether before, at or after a meeting) delivered to the Foundation for filing with the corporate records (but such delivery and filing shall not be conditions to the effectiveness of the waiver), or (b) a Trustee's attendance at or participation in a meeting, by which such Trustee (i) waives objection to lack of notice or defective notice (unless the Trustee at the beginning of the meeting or promptly upon the Trustee's later arrival objects to the holding or transacting of business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to the action taken), and (ii) waives objection to transacting business with respect to a particular purpose for which special notice was required (unless the Trustee objects to transacting business for the particular purpose and does not thereafter vote for or assent to action at the meeting with respect to such purpose).

5.10 Quorum. The presence in person of any eight Trustees at any meeting of the Board, including both elected and *ex officio* voting Trustees, shall constitute a quorum for the transaction of business, except as may otherwise be specifically provided by the Articles of Incorporation, these Bylaws, or the Act.

5.11 Manner of Acting. At any meeting at which a quorum is present, the vote of a majority of the Trustees present at the meeting shall be the act of the Board. Trustees may not vote by proxy.

5.12 Attendance by Telephone. The Board may hold and the Trustees may participate in meetings by telephone conference call or similar communications equipment or technology by which all Trustees participating in the meeting can hear each other at the same time. Participation in a meeting in this manner shall constitute presence in person for the establishment of a quorum under Section 5.10.

5.13 Action Without a Meeting. Any action which is either required or may be taken at a meeting of the Board may be taken without a meeting if each and every Trustee in writing either (a) votes for such action, or (b) (i) votes against or abstains from voting on the action, and (ii) waives the right to demand that the action not be taken without a meeting. Action will be taken under this Section only if the affirmative vote equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Trustees were present and voted.

5.14 Compensation. No Trustee shall receive any compensation for serving in such office, provided that the Foundation may reimburse any Trustee for reasonable expenses incurred in connection with service on the Board.

ARTICLE VI. OFFICERS

6.1 General. The executive officers of the Foundation shall be a President, Vice President, Secretary and Treasurer. Additional officers may also be elected as the Board may authorize from time to time. Any two offices, except those of President and Vice President or President and Secretary, may be filled by the same person.

6.2 Powers and Duties. The officers of the Foundation shall exercise and perform the respective powers, duties, and functions as stated below and as may be assigned by the Board of Trustees.

(a) **President.** The President shall be the chief executive officer of the Foundation, shall have general charge and supervision of the affairs of the Foundation, and shall exercise or perform all the powers and duties usually incident to the office of the President and such additional powers and duties as may be assigned by the Board. The President shall preside at all meetings of the Board and Members, shall serve as chairperson of the Executive Committee, and make such reports of the affairs of the Foundation as the Board may require. The President shall appoint such new or ad hoc committees as may be required and authorized by the Board.

(b) **Vice President.** The Vice President shall perform the duties and exercise the powers of the President in the absence of the President or if the President is unable to serve because of a physical or mental disability; and also shall have such powers and perform such duties as may be assigned by the Board.

(c) **Secretary.** The Secretary shall keep records of the proceedings of the Board and the meetings of the Members; shall have custody of the corporate seal of the Foundation and shall affix and attest it as directed by the Board; and shall perform or exercise the duties and powers usually incident to the office of Secretary.

(d) **Treasurer.** The Treasurer, under the direction of the Board, shall manage the financial affairs of the Foundation, and shall receive and disburse all funds and perform other financial-related services as required. The Treasurer shall annually submit appropriate reports covering the fiscal year and such other interim reports as required by the Board.

6.3 Qualifications of Officers. All officers of the Foundation shall be natural persons who are at least eighteen years of age, need not be residents of the State of Colorado, but must be Fellows of the Society.

6.4 Election of Officers. At the annual meeting of the Board, the Board of Trustees shall elect a President, Vice President, Secretary and Treasurer. The Board may also annually elect additional officers at such meeting, as the Board may deem appropriate. The additional officers shall hold office during the pleasure of the Board, but shall not be elected for terms longer than one year.

6.5 Terms of Office. The terms of office for the officers of the Foundation shall be one year, commencing on the first day of January following their election. Except as otherwise provided in these Bylaws, each officer shall hold office until his successor shall have been elected and qualified.

6.6 Resignation and Removal. An officer may resign at any time by giving written notice of resignation to the President, and the acceptance of such resignation shall not be necessary to make it effective unless the notice so provides. Any elected officer or assistant officer of the Foundation may be removed by resolution of the Board whenever in its judgment the best interests of the Foundation shall be served thereby. Any agent or employee who is not an officer or assistant officer of the Foundation may be removed by the President.

6.7 Vacancies. Any vacancy occurring in any office may be filled by appointment of the Board of Trustees for the unexpired term of the office created by the vacancy. In the event of resignation of an office, the Board may remove the officer at any time prior to the effective date of such resignation and fill the resulting vacancy.

6.8 Compensation. Officers as such shall not receive any compensation for their services in such capacity, but the Foundation shall reimburse any officer for all reasonable expenses incurred on behalf of the Foundation. Nothing in this Section is intended to prevent any officer from serving the Foundation in any other capacity or from receiving compensation therefor.

ARTICLE VII. COMMITTEES

7.1 Committees. The Foundation shall have the standing committees provided for in Section 7.2. The Board may from time to time create and appoint such committees, and designate their functions and responsibilities as it may deem appropriate and desirable. Except as stipulated below, the roster of the committees shall be appointed by the President and ratified by the Board prior to the Foundation Year during which the committees are to serve. All other committees required for Foundation purposes shall be appointed by the President for such duties and terms of office as the Board or Executive Committee may authorize.

7.2 Standing Committees. There shall be, among others if established by the Board, the following standing committees:

(a) **Executive Committee.** The Executive Committee shall have the authority to direct, either separately or in conjunction with the Board, the affairs of the Foundation, subject to the limitations imposed by Section 7.3 and excepting the powers and privileges exclusively reserved for the Board by these Bylaws or the Articles of Incorporation. The committee shall consist of the President, who shall be the chairperson, Vice President, Secretary, Treasurer, and Past President of the Foundation. The Executive Director of the Society shall be an *ex officio* non-voting member of the committee.

(b) **Nominating Committee.** The Nominating Committee shall consist of a representative of each of the five classes of elected Trustees, to be appointed by January 31 each year by the President who shall also designate one of the five as chairperson. The committee shall provide a list of nominees for each of the elective officers for the following Foundation Year. A report, including the slate of nominations, shall be submitted to the President not later than September 30 of the year during which the committee serves.

(c) **Fund Raising Committee.** The Fund Raising Committee shall consist of at least three current Trustees, with the members and chairperson to be appointed annually by the President. The Executive Director of the Society shall be an *ex officio* voting member of the committee.

(d) **McKinstry Fund Committee.** The McKinstry Fund Committee shall administer the Hugh Exton McKinstry Fund in accordance with the agreement dated February 4, 1985, as amended and restated on August 17, 1991 (the "fund agreement"). The committee shall consist of five members, two of whom, the President and Treasurer of the Foundation, are *ex officio* voting members. The remaining three members shall be appointed by the Board, need not be Trustees, but must be Fellows of the Society. These three members shall serve terms of office of seven years, but may be reappointed. In the first class to be appointed, one shall be for a term of three years, one for five years, and one for seven years. The committee shall select a chairperson and secretary from its membership. The chairperson shall be responsible for carrying out the duties of the committee in a timely manner; and the secretary shall keep a permanent record of the committee's deliberations and decisions. The committee, with advice from the Board, shall establish procedures for processing the grant applications that it receives. The

committee is charged with the determination of which of the proposals is judged to be the most deserving in accordance with the wishes of Hugh and Elizabeth McKinstry as stated in the fund agreement. The list of proposals so selected each year shall be transmitted by the committee to the Board for final approval. As needed, expenses of the committee, not to exceed \$3,500.00 per year (adjusted annually for inflation after 1991), may be paid from income from the Hugh Exton McKinstry Fund. Funds in the Hugh Exton McKinstry Fund shall be incorporated as part of the Foundation's endowment, but shall be separately managed and accounted for each year. Investment of the funds shall be the responsibility of the Investment Committee referenced in subsection (h) below.

(e) Special Grants Committee. The Special Grants Committee shall be responsible for coordinating the various grants awarded annually by the Foundation. The committee shall consist of at least three Trustees, and such other representatives as may be required by the respective administered funds of the Foundation. The members of this committee and its chairperson shall be appointed annually by the President.

(f) Budget Committee. The Budget Committee is a joint committee of the Foundation and the Society, and shall provide the Board with annual budgets for both the Foundation and the Society. The committee is responsible for developing a revolving three-year budget that takes into account the three-year plan of activities prepared by the Program Committee of the Society, and specific information provided by the Investment Committee. The committee shall consist of the Treasurer of the Society, who shall be the chairperson; the Executive Director of the Society; one member designated by the Publications Board of the Society; and one member representing the Foundation to be appointed by the Board. The Foundation representative will serve for a three-year term renewable at the discretion of the Board.

(g) Audit Committee. The Audit Committee is a joint committee of the Foundation and the Society, and shall provide independent financial oversight on behalf of the Members and Trustees of the Foundation and the members, Publications Board, and Council of the Society. The committee shall consist of three members, including the chairperson, each appointed for a three-year term. One member shall be appointed to serve on this committee by each of the Board, the Council of the Society, and the Publications Board of the Society. The chairperson of the committee, who shall also serve as secretary of the committee, shall be elected annually by the committee members, subject to approval by the Board and the Council of the Society.

(h) Investment Committee. The Investment Committee is a joint committee of the Foundation and the Society, and shall act as investment advisor to both organizations and shall manage their respective investment portfolios. The committee shall consist of five members, including the chairperson, each appointed for a three-year term, renewable at the discretion of the Council of the Society and the Board. At least one member shall be a member of the Council of the Society and one member shall be designated by the Board. Committee members shall be nominated by the chairperson of the committee and approved by the Council of the Society and the Board. The Treasurer of the Foundation and the Executive Director of the Society shall be *ex officio* voting

members. Subject to annual approval by the Board, the Foundation will delegate authority to manage its financial assets to the committee.

7.3 Limitations. Notwithstanding any other provision of this Article, no committee of the Foundation shall be delegated or have the authority of the Board to (a) authorize distributions, (b) approve or propose to Members action requiring Member approval, (c) elect, appoint or remove any Trustee, (d) amend the Articles of Incorporation, (e) amend, alter or repeal these Bylaws, or (f) approve a plan of merger or a sale, lease, exchange or other distribution of all or substantially all of the Foundation's property or assets. Except for the Executive Committee, all of the standing committees shall serve as advisory committees to the Board, and none of these committees are delegated or shall have any power or authority of the Board as provided in these Bylaws, the Articles of Incorporation or the Act.

7.4 Quorum. For each standing committee, and unless provided otherwise by resolution of the Board in creating an ad hoc committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

7.5 Vacancies. Except as otherwise provided in these Bylaws, any vacancy in the membership of any committee may be filled by appointment made by the President subject to the approval of the Board.

7.6 Rules. The rules provided for in Article V as they relate to meeting, notice, waiver of notice, attendance by telephone, voting requirements, and removal and resignation for members of the Board of Trustees shall similarly apply to the committees and their members.

ARTICLE VIII. STANDARD OF CONDUCT FOR TRUSTEES AND OFFICERS

Each Trustee and officer shall perform their duties as a Trustee or officer, including without limitation their duties as a member of any committee of the Board, in good faith, in a manner the Trustee or officer reasonably believes to be in the best interests of the Foundation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In the performance of their duties, a Trustee or officer shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by the persons designated below. However, a Trustee or officer shall not be considered to be acting in good faith if the Trustee or officer has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A Trustee or officer shall not be liable to the Foundation or its Members for any action the Trustee or officer takes or omits to take as a Trustee or officer if, in connection with such action or omission, the Trustee or officer performs their duties in compliance with this Section. A Trustee or officer, regardless of title, shall not be deemed to be a "trustee" with respect to the Foundation or with respect to any property held or administered by the Foundation including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

The designated persons on whom a Trustee or officer are entitled to rely are: (a) one or more officers or employees of the Foundation whom the Trustee or officer reasonably believes to

be reliable and competent in the matters presented; (b) legal counsel, a public accountant, or other person as to matters which the Trustee or officer reasonably believes to be within such person's professional or expert competence; (c) religious authorities or ministers, priests, rabbis or other persons whose position or duties in the Foundation or in a religious organization with which the Foundation is affiliated, the Trustee or officer believes justify reliance and confidence and who the Trustee or officer believes to be reliable and competent in the matters presented, or (d) a committee of the Board on which the Trustee or officer does not serve if the Trustee reasonably believes the committee merits confidence.

ARTICLE IX. LOANS AND CONFLICTING INTEREST TRANSACTIONS

9.1 Prohibition Against Loans. No loans shall be made by the Foundation to any Trustee or officer of the Foundation. Any Trustee or officer who assents to or participates in making of any such loan shall be liable to the Foundation for the amount of the loan until its full repayment to the Foundation.

9.2 Conflicting Interest Transactions. As used in this Article, a “conflicting interest transaction” shall mean a contract, transaction or other financial relationship between the Foundation and (a) a Trustee, (b) a party related to a Trustee, or (c) an entity in which a Trustee is a director, officer or has a financial interest. For the purposes of the foregoing definition and this Article, a “party related to a Trustee” shall mean a spouse, descendant, ancestor, sibling, the spouse or descendant of a sibling, an estate or trust in which the Trustee or any of the foregoing parties has a beneficial interest, or any entity in which the Trustee or any of the foregoing parties is a director, officer or has a financial interest.

9.3 Approval of Transactions. Trustees participating in a conflicting interest transaction may be counted in determining the presence of a quorum at a meeting of the Trustees or of a committee which authorizes, approves or ratifies the conflicting interest transaction.

9.4 Voidability of Transactions. No conflicting interest transaction shall be void or voidable, nor shall it be enjoined, set aside or give rise to any award of damages or other sanctions in any proceeding by a Member or by the Foundation, solely because the affected Trustee is present at or participates in the meeting of the Board or committee that authorizes, approves or ratifies the conflicting interest transaction or solely because the affected Trustee's vote is counted for such purpose if:

(a) the material facts as to the Trustee's relationship or interest as to the conflicting interest transaction are disclosed or are known to the Board or committee, and the Board or committee in good faith authorizes, approves or ratifies the conflicting interest transaction by the affirmative vote of any majority of the disinterested Trustees or committee members (even though the disinterested Trustees are less than a quorum); or

(b) the material facts as to the Trustee's relationship or interest as to the conflicting interest transaction are disclosed or are known to the Trustees or committee members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved or ratified in good faith by a vote of the Trustees or committee members entitled to vote thereon; or

- (c) the conflicting interest transaction is fair as to the Foundation.

ARTICLE X. INDEMNIFICATION

10.1 Defined Terms. As used in this Article X, unless indicated otherwise by the context, the following terms shall have the meanings provided below:

(a) **act.** The term “act” shall mean the Act, and in the case of any amendment of the Act after the date of adoption of this Article, when used in reference to any act or omission occurring prior to the effective date of such amendment, the term “act” shall include such amendment only to the extent that the amendment permits a nonprofit corporation broader indemnification rights than the Act permitted prior to the amendment.

(b) **Trustee or officer.** A “Trustee or officer” shall mean (i) an individual who is or was a Trustee and/or officer of the Foundation, (ii) an individual who while a Trustee and/or officer of the Foundation serves at the request of the Foundation as a director, officer, partner, member, manager, trustee, employee, fiduciary or agent of any domestic or foreign corporation, nonprofit corporation, partnership, company, joint venture, joint enterprise or employee benefit plan, and (iii) any other office or position outside of the Foundation in which a Trustee and/or officer is serving at the request of the Foundation and for which indemnification by the Foundation is permitted in the Act. A “Trustee or officer” shall be deemed to be serving an employee benefit plan at the request of the Foundation if his duties to the Foundation also impose duties on or otherwise involve services by him to the plan or the participants or beneficiaries of the plan. A “Trustee or officer” shall include, unless the context otherwise requires, the estate or personal representative of a Trustee or officer as defined herein.

(c) **expense.** The term “expense” shall include but not be limited to the costs and expenses of investigation, preparation and defense, and the fees and disbursements of counsel, accountants or other experts, incurred in a proceeding.

(d) **liability.** The term “liability” means the obligation to pay any judgment, settlement, penalty, fine (including any excise tax or other charge assessed with respect to an employee benefit plan) or expense incurred in connection with a proceeding.

(e) **proceeding.** The term “proceeding” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal.

(f) **party.** The term “party” includes any individual who is, was, or is threatened to be made, a named defendant or respondent in a proceeding.

(g) **foundation.** The term “foundation” shall mean the Foundation, and any domestic or foreign predecessor foundation, corporation or other entity in any merger,

consolidation, reorganization or other transaction with the Foundation in which the predecessor” existence ceased upon consummation of the transaction.

10.2 Indemnification. To the extent either required or permitted by the act, if any Trustee or officer of the Foundation is made a party to or is involved in (as a witness or otherwise) any proceeding because such member is or was a Trustee or officer of the Foundation, the Foundation shall (a) indemnify such Trustee from and against any liability incurred in connection with such proceeding, and (b) advance to such Trustee or officer the expenses incurred in such proceeding. The Foundation may in its discretion (but shall not be obligated in any way to) indemnify and advance expenses to an employee or agent of the Foundation to the same extent as to a Trustee or officer. The foregoing provisions are not exclusive, and if otherwise permitted by the act or other applicable law, the Foundation may at its discretion provide for indemnification or advancement of expenses in a resolution of the Board, in a contract or in its Articles of Incorporation. Any repeal or modification of the provisions of this Article X for indemnification or advancement of expenses shall not adversely affect any right or protection afforded hereunder with respect to any act or omission occurring prior to the time of such repeal or modification. If all or any part of any provision of this Article shall be deemed to be amended to accomplish the objectives of the provision as originally written to the fullest extent permitted by law, all of the other provisions hereof shall remain in full force and effect.

10.3 Insurance. The Board may purchase and maintain insurance on behalf of any Trustee or officer against any liability asserted against or incurred by him in any such capacity or arising out of his status as such, whether or not the Foundation would have the power to indemnify him against such liability under this Article X. Such insurance may be obtained from any insurance company designated by the Board, whether such insurance company is formed under the law of Colorado or any jurisdiction of the United States or elsewhere, including any insurance company in which the Foundation has an equity or other interest through stock ownership or otherwise.

10.4 Limitation. Notwithstanding any other provision of this Article X, during any period that the Foundation is a “private foundation” as defined in Section 509 of the Code, the Foundation shall not indemnify or advance expenses to any person, nor shall it purchase or maintain insurance for such person, to the extent that such activities would be determined to be an act of self-dealing in Section 4941 of the Code, to be a taxable expenditure within the meaning of Section 4945 of the Code, or to be otherwise prohibited under the Code, unless and to the extent that (a) a court orders such indemnification, or (b) the purchase or maintenance of such insurance can be treated as reasonable compensation to such person.

ARTICLE XI. OTHER MATTERS

11.1 Seal. The Board may adopt a seal which shall be circular in form and shall bear the name of the Foundation and the words “seal” and “Colorado” which upon adoption shall become the corporate seal of the Foundation. The seal may be used by causing it or a facsimile to be impressed, affixed, rubber stamped or otherwise manually reproduced.

11.2 Rules of the Trustees. The Trustees may adopt rules of procedure for the conduct of its meetings and affairs which are in conformity with these Bylaws, the Articles of Incorporation and the Act.

11.3 Conflicts. In the event of any irreconcilable conflict between these Bylaws and either the Foundation's Articles of Incorporation, or applicable law, the latter shall prevail.

11.4 Purpose. The purpose for which the Foundation is established is as stated in the Foundation's Articles of Incorporation.

ARTICLE XII. GOVERNANCE POLICIES

12.1 Conflict of Interest Policy. This conflict of interest policy is adopted in addition to the provisions of Article IX above which address conflicting interest transactions. This conflict of interest policy of the Foundation (a) defines conflicts of interest, (b) identifies classes of individuals within the Foundation covered by this policy, (c) facilitates disclosure of information that may help identify conflicts of interest, and (d) specifies procedures to be followed in managing conflicts of interest.

(a) **Definition of Conflict of Interest.** A "conflict of interest" arises when a person in a position of authority over the Foundation may benefit financially from a decision he or she could make in that capacity, including indirect benefits such as to family members or businesses with which the person is closely associated. This policy is focused upon material financial interest of, or benefit to, such persons.

(b) **Individuals Covered.** Persons covered by this policy are the Trustees.

(c) **Facilitation of Disclosure.** Persons covered by this policy will annually disclose or update to the President on a form provided by the Foundation their interests that could give rise to conflicts of interest, such as a list of family members, substantial business or investment holdings, and other transactions or affiliations with businesses and other organizations or those of family members.

(d) **Procedures to Manage Conflicts.** For each interest disclosed to the President, the President will determine whether to: (a) take no action, (b) assure full disclosure to the Council and other individuals covered by this policy, (c) ask the person to recuse from participation in related discussions or decisions within the Foundation, or (d) ask the person to resign from his or her position in the Foundation or, if the person refuses to resign, become subject to possible removal in accordance with the Foundation's removal procedures. The President will monitor proposed or ongoing transactions for conflicts of interest, whether discovered before or after the transaction has occurred.

12.2. Whistleblower Policy. This whistleblower policy of the Foundation: (a) encourages staff and volunteers to come forward with credible information on illegal practices or serious violations of adopted policies of the Foundation, (b) specifies that the Foundation will protect the person from retaliation, and (c) identifies where such information can be reported.

(a) **Encouragement of Reporting.** The Foundation encourages complaints, reports or inquiries about illegal practices or serious violations of the Foundation's policies, including illegal or improper conduct by the Foundation itself, by its leadership, or by others on its behalf. Appropriate subjects to raise under this policy would include financial improprieties, accounting or audit matters, ethical violations, or other similar illegal or improper practices or policies. Other subjects on which the Foundation has existing complaint mechanisms should be addressed under those mechanisms, unless those channels are themselves implicated in the wrongdoing. This policy is not intended to provide a means of appeal from outcomes in those other mechanisms.

(b) **Protection from Retaliation.** The Foundation prohibits retaliation by or on behalf of the Foundation against staff or volunteers for making good faith complaints, reports or inquiries under this policy or for participating in a review or investigation under this policy. This protection extends to those whose allegations are made in good faith but prove to be mistaken. The Foundation reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

(c) **Where to Report.** Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports or inquiries. They should be directed to the President; and if that person is implicated in the complaint, report or inquiry, it should be directed to the Past President. The Foundation will conduct a prompt, discreet, and objective review or investigation. Staff or volunteers must recognize that the Foundation may be unable to fully evaluate a vague or general complaint, report or inquiry that is made anonymously.

12.3 Document Retention and Destruction Policy. This document retention and destruction policy of the Foundation identifies the record retention responsibilities of staff, volunteers, officers, Trustees, and outsiders for maintaining and documenting the storage and destruction of the Foundation's documents and records.

(a) **Rules.** The Foundation's staff, volunteers, officers, Trustees and outsiders (i.e., independent contractors via agreements with them) are required to honor these rules: (a) paper or electronic documents indicated under the terms for retention below will be transferred and maintained by the human resources, legal or administrative staffs/departments or their equivalents, (b) all other paper documents will be destroyed after three years, (c) all other electronic documents will be deleted from all individual computers, data bases, networks, and back-up storage after one year, and (d) **no paper or electronic documents will be destroyed or deleted if pertinent to any ongoing or anticipated government investigation or proceeding or private litigation.**

(b) **Terms for Retention.**

(1) Retain permanently:

(i) *Governance records* – (a) Articles of Incorporation and any amendments thereto, (b) Bylaws and any amendments thereto, (c) minutes of all meetings of the Members or the Board, (d) a record of all actions taken by the Members or the Board without a meeting, (e) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Foundation, (f) a record of all waivers of notices of meetings of Members and of the Board, (g) a record of the Members in a form that permits preparation of a list of the name and address of all Members in alphabetical order, by class, showing the number of votes each Member is entitled to vote, and (h) any other records the Society is required to permanently retain under the Act or other applicable law.

(ii) *Tax records* – Filed state and federal tax returns/reports and supporting records, tax exemption determination letter and related correspondence, files related to tax audits.

(iii) *Intellectual property records* – Copyright and trademark registrations and samples of protected works.

(iv) *Financial records* – Audited financial statements, attorney contingent liability letters.

(2) Retain for ten years:

(i) *Pension and benefit records* -- Pension (ERISA) plan participant/beneficiary records, actuarial reports, related correspondence with government agencies, and supporting records.

(ii) *Government relations records* – State and federal lobbying and political contribution reports and supporting records.

(3) Retain for three years:

(i) *Employee/employment records* – Employee names, addresses, social security numbers, dates of birth, and other employee records which may include INS Form I-9, resume/application materials, job descriptions, dates of hire and termination/separation, evaluations, compensation information, promotions, transfers, disciplinary matters, time/payroll records, leave/comp time/FMLA, engagement and discharge correspondence, documentation of basis for independent contractor status (retain for all current employees and independent contractors and for three years after departure of each individual).

(ii) *Lease, insurance, and contract/license records* – Software license agreements, vendor, hotel, and service agreements, independent contractor agreements, employment agreements, consultant agreements, and all other

agreements (retain during the term of the agreement and for three years after the termination, expiration, non-renewal of each agreement).

(iii) *Member communications* – All written communications within the past three years to Members generally as Members.

(iv) *Financial records* – Unaudited financial statements.

(4) Retain for one year:

(i) *All other electronic records, documents and files* – Correspondence files, past budgets, bank statements, publications, employee manuals/policies and procedures, survey information.

(c) **Exceptions.** Exceptions to these rules and terms for retention may be granted by (i) the President, (ii) the Executive Director of the Society as they relate to records and documents maintained by the Society as part of the administrative services it provides to the Foundation.

12.4 Policy on the Process for Determining Compensation. This policy on the process of determining compensation of the Foundation applies to any compensated chief executive, director, or other of the Foundation (which, in the case of officers enumerated in Section 6.2, could occur only following an amendment to Section 6.8 to allow such compensation). The process includes all of these elements: (a) review and approval by the Board or compensation committee of the Foundation, (b) use of data as to comparable compensation, and (c) contemporaneous documentation and recordkeeping.

(a) **Review and Approval.** The compensation of the person is reviewed and approved by the Board or compensation committee of the Foundation, provided that persons with conflicts of interest with respect to the compensation arrangement at issue are not involved in this review and approval.

(b) **Use of Data as to Comparable Compensation.** The compensation of the person is reviewed and approved using data as to comparable compensation for similarly qualified persons in functionally comparable positions at similarly situated organizations.

(c) **Contemporaneous Documentation and Recordkeeping.** There is contemporaneous documentation and recordkeeping with respect to the deliberations and decisions regarding the compensation arrangement.

12.5 Joint Venture Policy. This joint venture policy of the Foundation requires that the Foundation evaluate its participation in joint venture arrangements under Federal tax law and take steps to safeguard the Foundation's exempt status with respect to such arrangements. It applies to any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific business enterprise, investment, or exempt-purpose activity as further defined in this policy.

(a) Joint ventures or Similar Arrangements with Taxable Entities. For purposes of this policy, a joint venture or similar arrangement (or a “venture or arrangement”) means any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific business enterprise, investment, or exempt-purpose activity without regard to: (a) whether the Foundation controls the venture or arrangement, (b) the legal structure of the venture or arrangement, or (c) whether the venture or arrangement is taxed as a partnership or as an association or corporation for federal income tax purposes. A venture or arrangement is disregarded if it meets both of the following conditions:

(1) 95% or more of the venture’s or arrangement’s income for its tax year ending within the Foundation’s tax year is excluded from unrelated business income taxation (including but not limited to: (i) dividends, interest, and annuities, (ii) royalties, (iii) rent from real property and incidental related personal property except to the extent of debt-financing, and (iv) gains or losses from the sale of property); and

(2) The primary purpose of the Foundation’s contribution to, or investment or participation in, the venture or arrangement is the production of income or appreciation of property.

(b) Safeguards to Ensure Exempt Status Protection. The Foundation will: (a) negotiate in its transactions and arrangements with other members of the venture or arrangement such terms and safeguards adequate to ensure that the Foundation’s exempt status is protected, and (b) take steps to safeguard the Foundation’s exempt status with respect to the venture or arrangement. Some examples of safeguards include:

(1) Control over the venture or arrangement sufficient to ensure that it furthers the exempt purpose of the Foundation;

(2) Requirements that the venture or arrangement gives priority to exempt purposes over maximizing profits for the other participants;

(3) That the venture or arrangement not engage in activities that would jeopardize the Foundation’s exemption; and

(4) That all contracts entered into with the Foundation be on terms that are arm’s length or more favorable to the Foundation.

ARTICLE XIII. AMENDMENTS TO BYLAWS

13.1 Amendments by Members. These Bylaws, except as provided in section 13.2, may be amended by an affirmative vote of two-thirds of the total number of Members. An action to amend the Bylaws may be taken at any special or regular meeting of Members provided the notice of such special or regular meeting sets forth the proposed amendment.

13.2 Amendments by Trustees. The Members hereby delegate to the Board the authority to amend Articles V, VI, and VII of the Bylaws relating to and required for the administration of the internal affairs of the Foundation, with the affirmative vote of at least three-fourths of all of the Trustees, provided that (a) at least thirty day's prior written notice of the proposed amendment(s) shall have been given to the Trustees, and (b) the amendment does not require the approval of the Members pursuant any express and non-waivable provision of the Act.

These Bylaws replace and supercede all past bylaws of the Foundation in their entirety. These Bylaws were approved and adopted by resolution of the Board dated December 16, 2008, and by resolution of the Members dated December 09, 2008.