

**AMENDED AND RESTATED**  
**BYLAWS**  
**OF**  
**THE CYCLE EFFECT**  
**A COLORADO NONPROFIT CORPORATION**

**Effective as of August 20, 2015**

## ARTICLE I

### Offices

Section 1.1 **Principal Office.** The principal office of The Cycle Effect (the “Corporation”) shall be located at 0116 East 3<sup>rd</sup> Street, Eagle, Colorado 81631 , or such other place as the Board of Directors (the “Board”) may determine.

Section 1.2 **Other Offices.** The Corporation may have such other offices, either within or without the State of Colorado, as the Board may determine or as the affairs of the Corporation may require from time to time.

Section 1.3 **Registered Office.** The Corporation shall have and continuously maintain in the State of Colorado a registered office and a registered agent whose office is identical with such registered office, as required by the Colorado Revised Nonprofit Corporation Act, as amended from time to time (the “CRNCA”). The registered office may be, but need not be, identical with the principal office if the principal office is in the State of Colorado. The address of the registered office may be changed from time to time by the Corporation as long as the proper filings are made with the Secretary of the State of Colorado.

## ARTICLE II

### Corporate Seal

The seal of the Corporation shall have inscribed thereon the name of the Corporation, and the words, “Colorado” and “Seal”, and shall be in such form as shall be approved by the Board. The Board shall have the power to alter the seal of the Corporation at its pleasure. This seal shall be used by causing it or a facsimile of it to be impressed, affixed, reproduced, or otherwise.

## ARTICLE III

### Board of Directors

Section 3.1 **General Powers.** The affairs of the Corporation shall be managed by the Board.

Section 3.2 **Qualifications, Number, and Tenure.**

a. *Qualifications.* Directors need not be residents of the State of Colorado, but they shall be natural persons who are at least 18 years of age.

b. *Directors.* From and after the effective date of these Amended and Restated Bylaws (as amended, modified or restated from time to time, these “Bylaws”), the number of directors comprising the Board (the “Directors”) shall be no less than seven, and no more than fifteen. At no time shall more than two members of the Board be “disqualified persons” as that term is defined in Section 509(a)(3)(C) of the Internal Revenue Code of 1986, as amended (the “Code”). The Directors shall hold office for renewable three-year terms in the

manner described in Section 4.6, or until their successors have been elected or appointed and qualified. Each renewal term shall constitute a new appointment and shall require the approval of the Board pursuant to Section 4.6. Directors may serve an unlimited number of terms. Each meeting of the Board shall be chaired by a Director elected from the current Directors by the Directors attending such meeting.

**Section 3.3 Resignation.** Any Director may resign at any time by giving written notice to the Chairman of the Board (the “Chairman”), or the Secretary. Such resignation shall be effective at the time specified therein, and if no time be specified, then at the time of receipt by the Chairman, or Secretary. A Director shall be deemed to have resigned in the event of such Director’s incapacity as determined by a court of competent jurisdiction.

**Section 3.4 Removal.** Any Director may be removed at any time, with or without cause, by the affirmative vote of a majority of Directors then in office. The decision of the Board shall be final.

**Section 3.5 Appointment and Vacancies.** Any vacancy occurring in the Board, excluding any vacancy resulting from an increase in the number of Directors shall be filled in the manner and according to the requirements set forth for election of Directors in Section 4.2(b) of these Bylaws. A Director who fills a vacancy shall do so for the unexpired term of his or her predecessor in office and shall hold such office until his or her successor is duly appointed and qualified. Any vacancy resulting from an increase in the number of Directors shall be filled by the Board. A Director chosen to fill a position resulting from an increase in the number of Directors shall hold office until the next election of the Board. A Director whose term has expired may be appointed to a renewal term in accordance with the requirements set forth for election of Directors in Section 4.2(b).

**Section 3.6 Annual and Regular Meetings.** Annual meetings for the election of Directors and officers and for other such business as may properly come before the meeting, shall be held at such time, date, and place, either within or without the State of Colorado, as the Board, by resolution, shall determine, as set forth in the notice of the meeting. In the event that the Board fails to set the time, date, and place of the annual meeting, the annual meeting shall be held on the third Monday of October of each year, or as soon thereafter as reasonably practical, at the Corporation’s principal office. Regular meetings of the Board shall be held on a periodic basis as decided by the Board. The time, date, place, and purpose of additional regular meetings shall be determined by resolution of the Board without other notice.

**Section 3.7 Special Meetings.** Special meetings of the Board may be called from time to time by the Chair or any one Director. The person or persons authorized to call special meetings of the Board may fix the time and place, either within or without Colorado, for holding any special meeting of the Board called by them.

**Section 3.8 Notice of Meetings.** Notice of each annual or regular meeting of Directors shall be given to each Director by the Secretary at least ten days prior to the date and time fixed for the meeting. Notice of any special meeting shall be given to each Director by the Secretary at least seven days prior to the date or time fixed for the meeting. Notice may be given by depositing a written notice in the United States first-class or registered mail, postage

prepaid, by personally telephoning such Director, or by transmitting an electronic mail message or facsimile, in all cases directed to such Director at his residence or place of business, as it appears on the records of the Corporation. Each notice shall state the time, date, and place of the meeting. However, unless specifically required by Colorado law, the Articles or these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting.

Section 3.9 **Waiver of Notice.** A Director may waive notice of any meeting before or after the time and date of the meeting stated in the notice. Except as otherwise provided in this Section, the waiver shall be in writing and signed by the Director entitled to the notice. Such waiver shall be delivered to the Corporation for filing with the corporate records, but such delivery and filing shall not be conditions of the effectiveness of the waiver. A Director's attendance at or participation in a meeting or signature on a written consent of the Board waives any required notice to that Director of the meeting unless: (i) at the beginning of the meeting or promptly upon the Director's later arrival, the Director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting; or (ii) if special notice was required of a particular purpose pursuant to the CRNCA or these Bylaws, the Director objects to transacting business with respect to the purpose for which such special notice was required and does not thereafter vote for or assent to action taken at the meeting with respect to such purpose.

Section 3.10 **Place of Meetings.** Meetings may be held within or without the State of Colorado at such time and place as the notice or waiver thereof may specify.

Section 3.11 **Quorum and Voting.** A majority of the Directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than four of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice until a quorum is secured.

Section 3.12 **Manner of Acting.** The act of a majority of Directors present at a meeting at which a quorum is present shall be the act of the Corporation, unless the act of a greater number is required by Colorado law, by the Restated Articles, or by these Bylaws.

Section 3.13 **Presumption of Assent.** A Director who is present at a meeting of the Board or committee of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (a) the Director objects at the beginning of the meeting, or promptly upon his arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting; (b) the Director contemporaneously requests that his dissent or abstention as to any specific action to be taken be entered in the minutes of the meeting; or (c) the Director causes written notice of his dissent or abstention as to any specific action to be received by the presiding officer of the meeting before its adjournment or by the Corporation promptly after the adjournment of the meeting. A Director may dissent to a specific action at a meeting, while assenting to others. The right to dissent to a specific action taken at a meeting of the Board or a committee of the Board shall not be available to a Director who voted in favor of such action.

Section 3.14 **Compensation and Expense Reimbursement.** The Directors of the Corporation shall not receive any salary or other compensation for services rendered as a Director of the Corporation. A Director may be reimbursed for actual expenses incurred to carry out his or her duties as a Director. Nothing contained herein shall be construed to preclude any Director from serving the Corporation in some other capacity and receiving compensation therefore.

Section 3.15 **Action by Written Consent.**

a. *Requirements for Written Consent.* Any action which may be taken at a Board meeting may be taken without a meeting if each and every member of the Board in writing either:

(i) Votes for such action; or

(ii)(A) Votes against such action or abstains from voting;

and

(ii)(B) Waives the right to demand that action not be taken without a meeting.

b. *Affirmative Vote.* Action is taken under this section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors then in office were present and voted.

c. *Requirements of Written Action to Be Taken.* No action taken pursuant to this section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of subsection (a) of this Section, signed by all Directors and not revoked pursuant to subsection (d) of this Section, are received by the Corporation. Any such writing may be received by the Corporation by electronically transmitted facsimile or other form of wire or wireless communication providing the Corporation with a complete copy of the document, including a copy of the signature on the document. A Director's right to demand that action not be taken without a meeting shall be deemed to have been waived if the Corporation receives a writing satisfying the requirements of subsection (a) of this Section that has been signed by the Director and not revoked pursuant to subsection (d) of this Section. Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Corporation unless the writings describing the action taken set forth a different effective date.

d. *Revocation of Vote.* Any Director who has signed a writing pursuant to this Section may revoke such writing by a writing signed and dated by the Director describing the action and stating that the Director's prior vote with respect thereto is revoked, if such writing is received by the Corporation before the last writing necessary to effect the action is received by the Corporation.

e. *Effect of Written Consent.* Action taken pursuant to this Section has the same effect as action taken at a meeting of Directors and may be described as such in any document.

f. *Inclusion of Minutes of the Meetings.* All signed written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Board.

Section 3.16 **Advisory Boards.** The Board may from time to time form one or more advisory boards composed of such members, having such rules of procedure, and having such chair, as the Board shall designate. The members of an advisory board are not required to be Directors; however each advisory board created by the Board must include at least one Director as a member. The name, objectives, membership, and responsibilities of each such advisory board, and the rules and procedures for the conduct of its activities, shall be determined by the Board. Members of any advisory board shall be authorized to attend all meetings of the Board. An advisory board may provide such advice, service, and assistance to the Corporation, and carry out such duties and responsibilities for the Corporation, as may be specified by the Board; except that, if any such advisory board has one or more members thereof who are entitled to vote on advisory board matters and who are not then also Directors, such advisory board may not exercise any power or authority reserved to the Board by the CRNCA, the Articles, or these Bylaws. No advisory board shall have authority to incur any corporate expense or make any decision, take any action or make any commitment or representation on behalf of the Corporation without the express approval of the Board or the Chair of the Corporation. Further, any activities conducted by an advisory board shall be conducted in a manner that is consistent with the mission and priorities of the Corporation, as established by the Board or Chair of the Corporation.

Section 3.17 **Meetings by Telephone.** Members of the Board or any committee designated thereby may hold or participate in a meeting of the Board or such committee by means of conference telephone or similar communications equipment provided that all such persons so participating in such meeting can hear each other at the same time. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

## ARTICLE IV

### Committees

Section 4.1 **Committees of Directors.** The Board may create, by resolution adopted by a majority of the Directors, one or more committees of the Board, including an executive committee, and appoint, by majority vote of the Directors, one or more Directors to serve on any such committee that is created. The members of a committee are not required to be Directors; however each committee created by the Board must include at least one Director as members.

Section 4.2 **Authority.** Any committee created by the Board shall have and exercise the authority of the Board in the management of the Corporation to the extent provided in the resolution creating such committee, except that no such committee shall have the authority of the Board in reference to (a) electing, appointing, or removing any Director, (b) amending articles of incorporation, (c) adopting, amending, or repealing the Bylaws, (d) approving a plan of merger, (e) approving a sale, lease, exchange, or other disposition of all, or substantially all of the Corporation's assets, or (f) as otherwise provided by Colorado law.

**Section 4.3 Other Committees.** At the discretion of the Board, the Corporation may have other committees which shall not have the authority of the Board in the management of the Corporation.

**Section 4.4 Term of Office.** Each member of a committee shall continue as such until the next annual meeting of the Board and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

**Section 4.5 Chairman.** One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

**Section 4.6 Vacancies.** Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

**Section 4.7 Quorum.** Unless otherwise provided in the resolution of the Board designating a 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.

**Section 4.8 Rules.** The same rules described herein regarding meetings, action by written consent, notice, waiver of notice, quorum, and voting requirements of the Board similarly apply to the committees of the Board and its members.

## ARTICLE V

### Officers

**Section 5.1 Election and Term of Office.** The officers of the Corporation shall be a Chair (the “President”), a Vice-Chair (the “Vice-President”), a Secretary (the “Secretary”), and a Treasurer (the “Treasurer”). The Board, or an officer or officers authorized by the Board, may appoint such other officers and assistant officers as they may consider necessary. The same person may hold no more than two of said offices, and the offices of Chair and Treasurer must not be held by the same person. All officers must also serve on the Board, provided, however, that a recording secretary may be elected who need not be a member of the Board. The Chair, Vice-Chair, and Treasurer must be elected from among the then-current Directors. The Board shall elect the officers at its first meeting and at the annual meeting of the Board thereafter. Each officer shall hold office until at the next annual meeting of the Board and until their respective successors are elected and are qualified or, if earlier, the officer’s death, resignation, or removal, in accordance with the procedures established by law and these Bylaws.

**Section 5.2 Officers.** The officers of the Corporation shall exercise and perform the respective powers, duties, and functions as are stated below, and as may be assigned by the Board.

a. *Chair.* The Chair shall be the chief executive officer of the Corporation and shall, subject to the control of the Board, have general supervision, direction, and control of the affairs, officers, and employees of the Corporation. He or she shall preside at all meetings of

the Board. Unless the Board specifically authorizes some other person, the Chair shall sign all bonds, deeds, mortgages, leases, and contracts of the Corporation. The Chair shall perform all duties commonly incident to this office and such other duties as the Board shall designate.

b. *Vice-Chair.* In the absence or disability of the Chair, the Vice-Chair shall perform all duties of the Chair, and when so acting shall have all the powers of, and be subject to all the restrictions on the Chair; provided, however, that if the Vice-Chair cannot so act, then the Treasurer shall perform the duties of the Chair. The Vice-Chair shall have such other powers and perform such other duties as may from time to time be assigned to him or her by the Chair.

c. *Secretary.* The Secretary shall keep accurate minutes of all meetings of the Board. He or she shall be responsible for the giving of notice of meetings of the Board. The Secretary shall be the custodian of the records required to be maintained by the CRNCA and of the seal of the Corporation when so authorized and shall be responsible for authenticating records of the Corporation when so authorized. The Secretary shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the Chair. Assistant Secretaries, if any, shall have the same duties and powers, subject to supervision by the Secretary.

d. *Treasurer.* The Treasurer, subject to the order of the Board, shall have the care and custody of the money, funds, valuable papers, and documents of the Corporation. He or she shall keep correct and complete books and records of accounts of the Corporation's transactions, which shall be the property of the Corporation, and shall render financial reports and statements of condition of the Corporation when so requested by the Board or the Chair. The Treasurer shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the Chair.

Section 5.3 **Disability.** In the event of the absence or inability to act of any officer, the Board may delegate the powers or duties of such officer to any other officer or Director whom it may select.

Section 5.4 **Resignation.** Any officer may resign at any time by giving written notice of resignation to the Board, the Chair, or the Secretary. The resignation is effective upon the Board's, the Chair's, or the Secretary's receipt of the notice unless the notice states a later effective date.

Section 5.5 **Removal.** Any officer or agent may be removed by the Board at a special meeting called for such purpose. Such removal may be at any time with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. The election or appointment of an officer or agent shall not, of itself, create contract rights

Section 5.6 **Vacancies.** Any vacancy occurring in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the affirmative vote of a majority of the Directors then in office. An officer who fills a vacancy shall do so for the unexpired portion of the then-current term of his or her predecessor in office and shall hold such office until his or her successor is duly appointed and qualified.

Section 5.7 **Compensation and Expense Reimbursement.** Officers of the Corporation may receive a reasonable salary or other reasonable compensation for services rendered as an officer of the Corporation, provided that compensation shall only be paid for personal services which are reasonable and necessary to carry out the exempt purposes of the Corporation. An officer may be reimbursed for actual expenses incurred to carry out his or her duties as an officer

## ARTICLE VI

### Standards of Conduct for Directors and Officers

Section 6.1 **Standard of Conduct.** Each Director or officer with discretionary authority shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director or officer reasonably believes to be in the best interests of the Corporation. In discharging duties, a Director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (a) one or more officers or employees of the Corporation whom the Director or officer reasonably believes to be reliable and competent in the matters presented; (b) legal counsel, a public accountant, or another person as to matters the Director or officer reasonably believes are within such person's professional or expert competence; or (c) in the case of a Director, a committee of the Board of which the Director is not a member if the Director reasonably believes the committee merits confidence.

A Director or officer is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by the above unwarranted. A Director or officer is not liable as such to the Corporation, and the Corporation shall indemnify any party to a proceeding against liability incurred in or as a result of the proceeding, for any action taken or omitted to be taken as a Director or officer, as the case may be, if, in connection with such action or omission, the Director or officer performed the duties of the position in compliance with this Article.

For purpose of determining the applicable standard of conduct under this Section 7.1, any party acting in his or her official capacity who is also a Director shall be held to the standard of conduct set forth above, even if such party is sued solely in a capacity other than as a Director.

## ARTICLE VII

### Directors' Conflicting Interest Transactions

Section 7.1 **Conflicting Interest Transactions.** As used in this Article, "conflicting interest transaction" means: a contract, transaction, or other financial relationship between the Corporation and a Director of the Corporation, or between the Corporation and a party related to a Director, or between the Corporation and an entity in which a Director of the Corporation is a Director or officer or has a financial interest.

Section 7.2 **Party Related to Director.** For purposes of this Article, a “party related to a Director” shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a Director, officer, or has a financial interest.

Section 7.3 **Prohibition Against Loans to Directors or Officers.** No loans shall be made by the Corporation to its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until the repayment thereof.

Section 7.4 **Void Ability of Conflicting Interest Transactions.** No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by or in the right of the Corporation, solely because the conflicting interest transaction involves a Director of the Corporation or a party related to a Director or an entity in which a Director of the Corporation is a Director or officer or has a financial interest or solely because the Director is present at or participates in the meeting of the Corporation’s Board or of the committee of the Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the Director’s vote is counted for such purpose if: (a) The material facts as to the Director’s relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested Directors are less than a quorum; or (b) The conflicting interest transaction is fair as to the Corporation.

Section 7.5 **Approval of Conflicting Interest Transactions.** Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.

## ARTICLE VIII

### Indemnification

Section 8.1 **Definitions.** As used in this Article, the following terms have the following meanings:

a. *Act.* The term “Act” means the CRNCA as it exists on the date this Article is adopted, and as the CRNCA may be thereafter amended from time to time. In the case of any amendment of the CRNCA after the date of adoption of this Article, when used with reference to an act or omission occurring prior to effectiveness of such amendment, the term “Act” shall include such amendment only to the extent that the amendment permits a corporation to provide broader indemnification rights than the CRNCA permitted prior to the amendment.

b. *Corporation.* The term “Corporation” means the Corporation and the resulting or surviving corporation if the Corporation is a party to a merger.

c. *Director or Officer.* The term “Director or Officer” means (i) a Director or officer of the Corporation and (ii) while an individual is a Director or officer of the Corporation, the individual’s serving at the Corporation’s request as a Director, officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign corporation, nonprofit corporation, or other person, or of an employee benefit plan, and (iii) any other position (not with the Corporation itself) in which a Director or officer of the Corporation is serving at the request of the Corporation and for which indemnification by the Corporation is permitted by the Act.

d. *Expenses.* The term “expenses” means the actual and reasonable expenses, including counsel’s fees, incurred by a party in connection with a proceeding.

e. *Liability.* The term “liability” means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to a private foundation or an employee benefit plan, or reasonable expenses.

f. *Official Capacity.* The term “official capacity”, when used with respect to a Director, means the office of director in the Corporation and, when sued 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 of the employment, fiduciary, or agency relationship undertaken by the employee, fiduciary, or agent on behalf of the Corporation in the performance of his or her duties in his or her capacity as such officer, employee, fiduciary, or agent. “Official capacity” does not include service for any other foreign or domestic corporation or for any other entity or employee benefit plan as a director, officer, employee, fiduciary, or agent thereof.

g. *Party.* The term “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, employee, or fiduciary of the Corporation, and any person who, while a Director, officer, employee, or fiduciary of the Corporation, is or was serving at the request of the Corporation as director, officer, partner, trustee, employee, fiduciary, or agent of any other foreign or domestic corporation or of any other entity 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. “Party” includes, unless the context otherwise requires, the estate or personal representative of such party.

h. *Proceeding.* The term “Proceeding” means any threatened, pending, or completed action, suit, or proceeding, or any appeal therein, whether civil, criminal, administrative, arbitrate, or investigative, and whether formal or informal.

## Section 8.2 **Right to Indemnification.**

a. *Indemnification.* To the extent permitted or required by the Act and any other applicable law, if any Director or officer of the Corporation is made a party to or is involved in, for example, as a witness, any Proceeding because such person is or was a Director or officer of the Corporation, the Corporation (i) shall indemnify such person from and against any judgments, penalties, fines, including, but not limited to, ERISA excise taxes, amounts paid

in settlement and reasonable expenses, including, but not limited to, expenses of investigation and preparation, and fees and disbursements of counsel, accountants, or other experts, incurred by such person in such Proceeding, and (ii) shall advance to such person expenses incurred in such Proceeding.

b. *Employee Benefit Plan.* 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 requirement that the party's conduct not be opposed to the Corporation's best interests. 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 the Director's standard of conduct. *Obligation to Indemnify.* The Corporation may, in its discretion, but is not obligated in any way to, indemnify and advance expenses to an employee or agent of the Corporation to the same extent as to a Director or officer.

c. *Prohibition of Indemnification.* Except as hereinafter set forth in Section 9.2(f), the Corporation may not indemnify a party under this Section 9.2 either in connection with (i) any Proceeding by or in the right of the Corporation in which the party is or has been adjudged liable to the Corporation, or (ii) any Proceeding charging that the party derived an improper personal benefit, whether or not involving action in the party's official capacity, in which proceeding the party is adjudged liable on the basis that he or she derived an improper personal benefit, even if the Corporation was not thereby damaged.

d. *Settlement.* The termination of any proceeding by judgment, order, settlement, or conviction, or upon 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 Article VII.

e. *Court-Ordered Indemnification.* Notwithstanding the foregoing, the Corporation shall indemnify any 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 described in clauses (i) and (ii) of Section 9.2(d) or whether or not the party met the applicable standard of conduct set forth in Article VII, 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 Act.

f. *Claims by or in the Right of Corporation.* Indemnification permitted under this Article IX in connection with a proceeding by or in the right of the Corporation shall be limited to reasonable expenses incurred in connection with the proceeding. If the Corporation indemnifies or advances expenses to a party under this Article in connection with a Proceeding by or in the right of the Corporation, the Corporation shall give written notice of such indemnification or advance to the Board and the Voting Member, with or before the notice of the next meeting of the Board. If the action of the Corporation is taken without a meeting at the instigation of the Board, such notice shall be given to the Board and the Voting Member at or before the time the first Director signs a written consent to such action.

g. *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 8.3 Prior Authorization Required.** Any indemnification under Section 9.2, 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 Article VII 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 Board by a majority vote of a quorum of such Board, which quorum shall consist of all Directors not parties to the subject proceeding, or by such other person or body as permitted by law.

**Section 8.4 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 wholly successful, on the merits or otherwise, including without limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding, against reasonable expenses incurred by such party in connection therewith.

**Section 8.5 Advancement of Expenses.** The Corporation shall pay for or reimburse the reasonable 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 he or she has met the standard of conduct described in Article VII; (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 a 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 9.3. 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 8.6 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 9.4 and by the written affirmation and undertaking to repay as required by Section 9.5 in the case of indemnification under such section. If no disposition of such claim is made within 90 days after written request for indemnification is made, the claimant may apply by way of civil action in any court of competent jurisdiction for an adjudication as to the validity and extent of the claim. 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 8.7 Insurance.** By action of the Board, notwithstanding any interest of the Directors in such action, the Corporation may purchase and maintain insurance in such amounts as the Board 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 other entity 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 Board, 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 provide herein.

**Section 8.8 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 Board 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 they party to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Corporation.

**Section 8.9 Other Rights and Remedies.** The indemnification provided by this Article shall be in addition to other rights to indemnification which a party may have or hereafter acquire by virtue of applicable statutes.

**Section 8.10 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, employee, fiduciary, or agent 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 other entity 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 8.11 **Indemnification of Agents.** The Corporation shall have the right, but shall not be obligated, to indemnify any agent of the Corporation who is 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 9.3.

Section 8.12 **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)(3) of the Code. Notwithstanding any other provision of these Bylaws, if the Corporation is found to be a private foundation in a final determination, then the Corporation shall neither indemnify any person nor purchase any insurance if such indemnification or purchase of insurance would be considered an act of self-dealing under Section 4941 of the Code.

Section 8.13 **Non-exclusivity.** The foregoing provisions for indemnification and advancement of expenses are not exclusive, and the Corporation may, at its discretion, provide for indemnification or advancement of expenses in a resolution of its Directors, in a contract, or in the Articles.

Section 8.14 **Repeal and Modification.** Any repeal or modification of the foregoing provisions of this Article for indemnification or advancement of expenses shall not affect adversely any right or protection stated in such provisions with respect to any act or omission occurring prior to the time of such repeal or modification. If any provision of this Article or any part thereof shall be held to be prohibited by or invalid under applicable law, such provision or part thereof shall be deemed amended to accomplish the objectives of the provision or part thereof as originally written to the fullest extent permitted by law, and all other provisions or parts shall remain in full force and effect.

Section 8.15 **Limitation.** Notwithstanding any other provision of this Article IX, during any period that the Corporation is a “private foundation” within the meaning of Section 509 of the Code, or any corresponding provision of any future United States tax law, the Corporation shall not indemnify any person from or against or advance to any person the cost of, such expenses, judgments, fines, or amounts paid or necessarily incurred, nor shall the Corporation purchase or maintain such insurance, to the extent that any such indemnification, purchase, or maintenance would be determined to be an act of self-dealing within the meaning of 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 (a) a court orders such indemnification, or (b) the purchase or maintenance of such insurance can be treated as reasonable compensation to such person.

Section 8.16 **Preservation of Exempt Status.** Notwithstanding any other provision of these Bylaws, the Corporation shall neither indemnify or advance expenses to 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)(3) of the Code.

## ARTICLE IX

### Contracts, Checks, Deposits, Gifts, and Proxies

Section 9.1 **Contracts.** The Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 9.2 **Checks, Drafts, Etc.** All checks, drafts, or orders for the payment of money, notes, commercial paper, or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the Executive Director of the Corporation.

Section 9.3 **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board may select.

Section 9.4 **Gifts.** The Board may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation.

Section 9.5 **Proxies.** Unless otherwise provided by resolution adopted by the Board, the Executive Director may from time to time appoint one or more agents or attorneys in fact of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation, association, or other entity any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation, association, or other entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation, association, or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal, or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

## ARTICLE X

### Finances and Records

Section 10.1 **Books and Records.** The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board, any advisory boards created by the Board, and any committees having any of the authority of the Board, and shall keep at its registered or principal office a record giving the names and

addresses of the Directors. All books and records of the Corporation may be inspected by any Director or his or her agent or attorney for any proper purpose at any reasonable time. The Corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the Director, but in no instance shall the charge exceed the estimated cost of production and reproduction of the records.

Section 10.2 **Fiscal Year.** The fiscal year of the Corporation shall be determined by resolution of the Board.

Section 10.3 **Accountability.** The Corporation shall provide financial statements to the Board of Directors on at least a quarterly basis.

## **ARTICLE XI**

### **Emergency Bylaws**

The Emergency Bylaws contained in this Article XII shall be operative during any emergency in the conduct of the business of the Corporation resulting from an attack on the United States or any nuclear or atomic disaster, notwithstanding any different provision in these Bylaws or in the Articles or in the CRNCA. To the extent not inconsistent with the provisions of this Article XII, the remainder of these Bylaws shall remain in effect during such emergency, and, upon its termination, the Emergency Bylaws shall cease to be operative. During any such emergency, a meeting of the Board may be called by any officer or Director. Notice of the time and place of the meeting shall be given by the person calling the meeting to such of the Directors as it may be feasible to reach by any available means of communication. Such notice shall be given at such time in advance of the meeting as circumstances permit in the judgment of the person calling the meeting. The Directors in attendance at the meeting shall constitute a quorum. The Directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that any or all officers or agents of the Corporation are for any reason rendered incapable of discharging their duties. The Directors either before or during such emergency, may, effective in the emergency, change the principal office, designate several alternative principal offices or regional offices, or authorize the officers to do so. No officer, Director, or employee acting in accordance with any emergency bylaw shall be liable except for willful misconduct. No officer, Director, or employee shall be liable for any action taken by him or her in good faith in any emergency in furtherance of the ordinary affairs of the Corporation even though not authorized by the Bylaws then in effect.

## **ARTICLE XII**

### **Amendments to Bylaws**

These Bylaws may be altered, amended, or repealed in accordance with the provisions of Article V of the Articles.

## **ARTICLE XIII**

### **Non-Discrimination Policy**

This policy defines the Corporation's support of the principles and practices of non-discrimination and equality for all regardless of race, creed, color, religion, age, sex, marital or parental status, national origin, sexual orientation, or physical, mental, or emotional disability in its services, programs, activities, and opportunities available to participants, volunteers, parents or guardians, and personnel.

#### **ARTICLE XIV**

##### **Prohibition of Dividends**

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable, as dividends or in any other manner, to its Directors, officers, or other private persons, except that the Corporation shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purpose set forth in the Articles of Incorporation.