

AMENDED AND RESTATED BYLAWS
of the
NATIONAL FENESTRATION RATING COUNCIL,
INCORPORATED
(a Maryland Non-Stock, Not-for-Profit Corporation)

ARTICLE 1 NAME AND LOCATION

1.1 **Name.** The name of the Corporation shall be National Fenestration Rating Council, Incorporated (the “Corporation”), a nonprofit, nonstock corporation incorporated in the State of Maryland.

1.2 **Location.** The registered office of the Corporation shall be located in the State of Maryland. The Corporation also may have offices in such other localities, either within or without the State of Maryland, as may be determined by the Board of Directors.

ARTICLE 2 PURPOSES AND POLICIES

2.1 **Purposes.** The purpose of the Corporation is to establish and administer a fair and credible system to rate energy performance and other performance attributes of fenestration products and to coordinate the uniform application of a certification and labeling process consistent with that rating system.

The Corporation shall have and exercise all powers necessary and convenient to effect the purposes for which the Corporation is organized, and to take such other activities as may be carried out by a corporation exempt from federal income tax under Sections 501(a) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future U.S. internal revenue laws.

Notwithstanding any other provision of these Bylaws or of the Articles of Incorporation, the purposes for which the Corporation is organized shall be limited so as to qualify the Corporation as exempt from taxation under Sections 501(a) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future U.S. internal revenue laws.

2.2 **Policies.** The Corporation shall be noncommercial, nonsectarian and nonpartisan. The Corporation shall not be used in connection with any commercial concern or with any partisan interest or for any purpose not appropriately related to the promotion of the purposes of the Corporation. No substantial part of the activities of the Corporation shall include the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements concerning) any political campaign on behalf of any candidate for public office.

Adopted by the Board October 8, 2018

The Corporation has the power and authority to accept gifts and/or contributions by will or otherwise in any form of property or money, provided that the purpose of such gift or contribution, as specified by the donor, is within the purposes of the Corporation.

ARTICLE 3 MEMBERSHIP AND DUES

3.1 Membership Eligibility. Membership in the Corporation shall be open to organizations and individuals interested in supporting the Corporation's purposes and objectives, including those with a significant interest in the production, regulation and promotion of fenestration products, the development of technology related to fenestration products thereto, the promotion of energy efficiency in buildings and building products and others who meet such requirements for membership as may be established by the Board from time to time. Members may include corporations, partnerships, limited liability companies, sole proprietorships, associations, other business entities, not-for-profit and public interest organizations and U.S. federal, state and local government agencies and individuals.

The Board may establish voting and non-voting membership categories under such criteria as the Board may determine from time to time.

3.2 Member Voting Rights. Each Member shall be entitled to one vote on all matters brought before the membership for vote provided, however, if two or more Members are affiliated through direct or indirect common ownership or control, only one Member of that affiliated group shall be entitled to vote on matters brought before the membership for vote. Each Member shall designate in writing one representative who shall participate in membership meetings and exercise the Member's vote. Each Member may also designate in writing one or more alternates to serve as its representative in the absence of its primary designee. Such designations may be changed by the Member in a writing delivered to the Chief Executive Officer of the Corporation.

3.3 Membership Selection and Termination.

3.3.1 A Member shall remain a Member until terminated as provided in this Section 3.

3.3.2 Members shall be admitted as Members in the applicable membership category by the corporation. The general membership categories shall be Fenestration Industry, General Interest and Lab. The membership categories shall be established by the Board of Directors.

3.3.3 Any Member or Associate may be removed from membership with or without cause by the majority vote of the entire Board of Directors. Such proposed action shall be set forth in a notice of meeting in accordance with Section 6.9 of these Bylaws. The Board may also terminate the membership of a Member or Associate (as defined in Section 3.5 below) in the event the Member or Associate shall cease to remain eligible for membership in accordance with the provisions of Section 3.1 or 3.5 hereof or in the event a Member or Associate shall be in default in payment of its membership dues to the Corporation for a period of ninety (90) days.

3.4 Resignation. A Member may resign at any time by delivering a written resignation to the Chief Executive Officer of the Corporation. Such resignation shall be effective upon receipt.

Adopted by the Board October 8, 2018

No Member so resigning or terminated shall be entitled to any refund of dues or other amounts it has paid to the Corporation.

3.5 **Associates.** The Corporation may also admit Associates of the Corporation. Associates shall not be entitled to vote and shall meet such requirements and shall have such rights as the Board of Directors may establish from time to time.

3.6 **Dues.** The Board of Directors shall have the authority to establish the assessment and amount of dues for Members and Associates.

ARTICLE 4 POWERS AND RIGHTS

The Members shall have such powers and rights as are accorded to members of non-stock corporations under the Maryland General Corporation Law and such other powers and rights as the Board of Directors may designate from time to time.

ARTICLE 5 MEETINGS AND REPORTS

5.1 **Meetings.** A meeting of the Members shall be held no less often than once a year at such time and place as the Board of Directors may designate. Special meetings of Members may be called by the Chairperson or the Board of Directors or the Secretary, or by the Secretary at the request of one-third of the Members. The time and place for holding a special meeting shall be fixed by the Chairperson.

5.2 **Place and Time of Meetings.** All meetings of Members may be held at such place, either in or out of the state of Maryland, and at such hour as may be fixed in the notice of the meeting.

5.3 **Notice of Meetings.** Notice of each meeting of the Members shall be given by the Corporation, and shall state the date, time and place of the meeting and, unless it is an annual meeting, shall indicate the purpose or purposes for which the meeting is being called.

Such notice of any meeting shall be given to each Member entitled to vote at such meeting. The notice shall be given either personally or by mail, not less than ten (10) nor more than ninety (90) days before the date of the meeting, except that notice of a Members' meeting to act on an amendment to the Articles of Incorporation, a plan of merger of the Corporation, a proposed sale of a substantial portion of the Corporation's assets pursuant to the Act, or the dissolution of the Corporation shall be given not less than twenty five (25) nor more than ninety (90) days before the meeting.

When a meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is established, however, the notice of the adjourned meeting shall be given to persons who are Members as of the new record date.

5.4 **Waiver of Notice.** A Member may waive any notice required by law or these Bylaws before or after the date and time of the meeting that is the subject of such notice. The waiver

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shall be in writing, shall be signed by the Member entitled to such notice, and shall be delivered to the Chief Executive Officer of the Corporation for inclusion in the minutes of the meeting or filing with the corporate records. A Member who attends a meeting: (1) waives objection to lack of notice or defective notice of the meeting unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and (2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented at that meeting.

5.5 Members' List of Record. At least ten days before each membership meeting, the Chief Executive Officer of the Corporation shall make a complete list of Members with the address of each. Such list shall be subject to inspection by any Member at any time during usual business hours and shall be produced and kept open at the time and place of the meeting, subject to inspection during the whole time of the meeting for the purposes thereof.

5.6 Quorum. For all purposes other than the election of directors, a majority of all of the Members, present in person or by proxy, shall constitute a quorum at a meeting of Members for the transaction of any business. For purposes of the election of directors, thirty four percent of all of the Members, present in person or by proxy, shall constitute a quorum at a meeting of Members for the election of directors or for election of directors by regular mail or electronic mail. Once a Member is present at a meeting, such Member is deemed present for quorum purposes for the remainder of the meeting and for adjournment of that meeting unless a new record date is or shall be set for that adjourned meeting. Less than a quorum of Members may adjourn a meeting.

5.7 Vote. Whenever any corporate action is to be taken by vote of the Members, it shall, except as otherwise required by law or these Bylaws, be authorized by a majority of the votes cast at a meeting of Members at which a quorum is present. For purpose of the election of directors, a director shall be elected by a plurality of votes cast for that director position at a meeting of the Members or by mail vote for which a quorum is present.

5.8 Method of Voting. A Member may vote in person or may vote by proxy executed in writing by the Member. To the extent authorized by the Board, voting by Members on designated matters, including for the election of directors, may also be conducted by regular mail or electronic mail.

5.9 Qualification of Voters; Record Date. Subject to Section 3.2, any Member in good standing is entitled to vote at any meeting of Members, except that the Board of Directors may fix, in advance, a date as the record date for the purpose of determining the Members entitled to vote at any meeting of Members or any adjournment thereof and to receive notice of such meeting. Such record date shall not be more than ninety (90) days before the date of the meeting or action without a meeting.

When a determination of Members of record entitled to notice of or to vote at any meeting of Members has been made as provided in this Section 5.9, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date for the

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adjourned meeting, which it shall do if the meeting is adjourned to a date more than sixty (60) days after the date fixed for the original meeting.

5.10 **Presiding Officer.** At any meeting of the Members, if neither the Chief Executive Officer, the Chairperson of the Board, nor a person designated by the Board to preside at the meeting shall be present, the Members present shall appoint a presiding officer for the meeting.

5.11 **Informal Action by Members; Meetings by Conference Telephone.** In addition to voting as authorized under Section 5.8 above, any action required or permitted to be taken at a meeting of the Members may also be taken without a meeting if all Members entitled to vote on the action consent in writing to the action.

The action shall be evidenced by one or more written consents describing the action taken, signed by all of the Members entitled to vote on the action, and delivered to the Chief Executive Officer for inclusion in the minutes or filing with the corporate records. Any action taken by written unanimous consent shall be effective according to its terms when all consents are in possession of the Corporation. Action taken by written consent is effective as of the date specified therein, provided that the consent states the date of execution by each Member.

Except as otherwise required by law, the Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and such participation shall constitute presence in person at the meeting.

ARTICLE 6 BOARD OF DIRECTORS

6.1 **Powers.** The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. All powers of the Corporation may be exercised by or under the authority of the Board of Directors, except such as are required by law or the Articles of Incorporation or these Bylaws to be otherwise exercised by the Members. The Directors shall have the general direction, control and management of the activities of the Corporation, including determining the duties, in addition to those prescribed by these Bylaws, of all officers, agents and employees of the Corporation.

6.2 **Number, Term and Qualification.** The Board of Directors shall consist of not less than twelve (12) Directors or more than fifteen (15) voting Directors and such non-voting ex-officio members as may be appointed pursuant to these Bylaws. Except for the directors in the At-Large Category, the Board shall designate one or more individuals as nominees for seats on the Board of Directors and, in its discretion, may request the Members to designate in writing potential Board nominees for the Board's consideration. The Board shall assure all nominees meet the qualifications established by the Corporation for service on the Board and are placed in the correct Board category referenced below. The Members shall then elect directors from the slate of nominees presented by the Board. The Board of Directors shall nominate and select the individuals to serve in the At-Large Category. The Board of Directors shall be comprised of representatives in the following categories:

6.2.1 Fenestration Industry Category. There will be five (5) Board members elected in the Fenestration Industry Category. All of the individuals serving in the Fenestration Industry Category shall be employed by or have a significant affiliation with current NFRC Members in good standing who are in the Fenestration Industry membership category. Of those five positions, at least three shall be filled by one individual employed by or affiliated with an NFRC Member from each of the following categories: (i) a primary glass manufacturer; (ii) a manufacturer that sells the majority of its fenestration products or systems for use in commercial construction; and (iii) a manufacturer that sells the majority of its fenestration products or systems for use in residential construction.

6.2.2 General Interest Category. There will be six Board members elected in the General Interest Category. All of the individuals serving in the General Interest Category shall be employed by or have a significant affiliation with current NFRC Members in good standing who are in the General Interest membership category. Of those six positions, at least three shall be filled by one individual employed or affiliated with an NFRC Member from each of the following categories: (i) a federal, state or local government energy or building code office; (ii) a not-for-profit institution of research or higher education; and (iii) a not-for-profit consumer, environmental or energy efficiency organization.

6.2.3 Laboratory Category. There will be one Board member elected in the Laboratory Category. The individual serving in the Laboratory Category shall be employed by or have a significant affiliation with a current NFRC Member in good standing who is in the Labs membership category.

6.2.4 At-Large Category. At the discretion of the Board from time to time, up to an additional three Board members may be appointed by the Board in the At-Large Category. The individuals serving in the At-Large Category shall not be required to be employed by or have a significant affiliation with an NFRC Member. The At-Large Category positions shall be filled by individuals who in the Board's judgment bring expertise and experience that may be useful in promoting the purposes, mission and capabilities of the Corporation and shall not include individuals who would meet the criteria established for the Fenestration Industry and Labs membership categories.

6.2.5 Directors shall serve for a term of three years except that, for purposes solely of establishing the origination class years, the Board may designate that the initial term of office for one or more of those board positions may be for one, two or four years. After such initial non three-year terms, all terms for all Board positions shall be three years. No Director may serve more than two consecutive terms. A director who has served two consecutive terms will be eligible to serve again on the Board after a one-year hiatus. Any Director who fills a vacancy on the Board for 18 months or more will be deemed to have served a full term for purposes of the two consecutive term limits.

6.2.6 As used in these Bylaws, the term "entire Board" means the total number of Directors entitled to vote which the Corporation would have if there were no vacancies on the Board. Each Director shall hold office until the earlier of (i) the expiration of the term specified for the class of which he or she is a member or until his or her successor has been elected and has qualified; (ii) until his or her earlier death, resignation or removal; or (iii) until the Director is no longer

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employed or affiliated with a Member in good standing in the same membership category as that Director's board category, which event shall be deemed to constitute the resignation of such Director.

6.3 Resignation and Removal for Cause. Any Director may resign at any time by delivering written notice of such resignation to the Secretary of the Corporation, and such resignation shall become effective upon receipt by the Secretary or on the date specified therein, whichever is later, and acceptance of the resignation by the Board of Directors shall not be necessary to make the resignation effective. Failure to attend three consecutive Board meetings without the approval of the Chairperson or Vice Chairperson may be deemed by the Board to be a resignation of that director.

Any Director may be removed for cause or without cause by the affirmative vote of two-thirds of the entire Board, provided that any Director who is subject to removal for alleged cause may request that written charges specifying the alleged basis for removal be filed with the Secretary of the Corporation with a copy served on the Director charged, and the Director shall be given the opportunity, at a meeting of the Board, to be heard on the subject of the charges.

6.4 Vacancies. Vacancies on the Board of Directors resulting from any removal or resignation or other cause of any voting Board member shall be filled by the vote of the Members of the Corporation in accordance with procedures governing the nomination and election of Directors set forth in these Bylaws. Alternatively, at the election of the Board, any vacancy may be filled by vote of the Board until the next scheduled election of directors by the Members, at which election the Members shall fill that vacancy for the remaining term thereof. The new Director elected to fill the vacancy shall be selected from the same category that his or her predecessor represented, as required under Section 6.2 of these Bylaws.

6.5 Ex-officio Directors. The Chairs of the Technical Committee, Ratings Committee and Regulatory Affairs Committee shall be selected by the Board, shall be ex-officio, non-voting members of the Board of Directors and each shall serve for a term of three (3) years, which term(s) may be extended or renewed by the Board, provided the initial terms may be staggered. The Board of Directors may appoint the Ombudsman as an ex-officio, non-voting member of the Board of Directors for such term as designated by the Board. In addition to the ex-officio directors referenced in this Section 6.5, the Board of Directors may elect other ex-officio members of the Board of Directors to serve for a term of one year or for such other term as the Board may designate. Ex-officio Directors shall have no voting rights.

6.6 Annual Meetings. An annual meeting of Directors shall be held at such time and place as shall be fixed by the Board of Directors, for the election of officers and the transaction of such other business as may properly come before the meeting. Notice shall be given in accordance with Section 6.9 of these Bylaws.

6.7 Regular Meetings. Additional regular meetings of the Board of Directors may be held at such time and place as may be determined by the Board of Directors. A notice of each regular meeting of the Board of Directors shall be sent or delivered to each Director not less than fourteen (14) nor more than thirty (30) days before such meeting.

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6.8 **Special Meetings.** Special meetings of the Board of Directors may be called at any time by the Chairperson or by any two Directors. Notice of a special meeting shall be given to each Director not less than seven (7) days before such meeting, and otherwise shall be in accordance with Section 6.9 of these Bylaws. The time and place for holding special meetings of the Board of Directors shall be fixed by the Chairperson.

6.9 **Notice of Meeting.** Notice of a meeting of the Board of Directors may be personal delivery, by telephone, facsimile, telegraph, e-mail or mail and shall be sent to each Director at his or her address, telephone, facsimile number or e-mail address appearing on the books of the Corporation for the purpose of notice. Every such notice shall specify the date of the meeting, place, day and hour of the meeting and, in the case of a special meeting, shall state the general nature of the business to be transacted. A waiver of notice of any meeting in writing signed by the Director entitled to such notice, whether before or after the time stated therein, and filed with the records of the meeting, shall be deemed equivalent to the giving of such notice. Participation of a Director in any Board meeting shall constitute a waiver by him or her of notice of such meeting, except where such Director participates for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened. If a meeting of the Board of Directors shall be adjourned, it shall not be necessary to give notice of the adjourned meeting or of the business to be transacted at that meeting, otherwise than by announcement at the adjourned meeting.

6.10 **Location of Meetings.** Meetings of the Directors may be held at any place within or outside of the State of Maryland.

6.11 **Conduct of Directors' Meetings.** At all meetings of the Board of Directors, the Chairperson, or in his or her absence the Vice Chairperson, or in the absence of the Chairperson and the Vice Chairperson, a temporary Chairperson, chosen by a majority of the Directors present at the meeting, shall act as Chairperson of such meeting and preside thereat. The Secretary or other person designated by the Chairperson shall act as recording secretary at all meetings of the Board of Directors. A copy of the minutes of each meeting shall be supplied to each member of the Board.

6.12 **Meetings by Telephone Conference Calls.** Directors or members of any committee designated by the Directors may participate in a meeting of the Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

6.13 **Quorum.** At all meetings of the Board of Directors, a quorum shall be a majority of all of the voting members of the Board. A lesser number than a quorum may adjourn any meeting from time to time.

6.14 **Requisite Vote.** At any meeting of the Board of Directors at which a quorum is present, a majority of all of the voting members of the Board may take action on behalf of the Board of Directors, unless a higher vote is required by law or by these Bylaws.

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6.15 **Action by Unanimous Written Consent.** Any action, which properly may be taken, by the Board of Directors or a committee of the Board of Directors may be taken without a meeting if all of the voting members of the Board of Directors or committee then in office consent in a writing signed by each member thereof to the adoption of a resolution authorizing the action. The resolution and written consents shall be filed with the minutes of the proceedings of the Board or committee.

6.16 **Compensation.** A Director shall receive no compensation from the Corporation for performance of his or her duties as a Director of the Corporation but may be reimbursed by the Corporation for expenses incurred in performing his or her Director duties.

ARTICLE 7 COMMITTEES

7.1 **Executive Committee.** An Executive Committee of the Board shall be established. The Executive Committee shall consist of not less than three nor more than seven Directors, and shall include the Chairperson and the other officers of the Corporation who are also Directors (excluding the Chief Executive Officer) and the immediate past Chairperson, provided he or she remains a Director. The Directors may elect from their number other directors to serve on the Executive Committee. Subject to any policies or directives adopted by the Board, the Executive Committee shall have all of the authority of the Board of Directors in the management of the business and affairs of the Corporation to the extent permitted by the laws of the State of Maryland.

7.2 **Ad Hoc Advisory Committees.** The Board may create one or more ad hoc advisory committees comprised of at least two members and appoint the members of those committees. Ad hoc advisory committees may advise the Board or any committee of the Board on designated matters but shall have no authority to bind the Board or the Corporation in any manner. Except as the Board of Directors may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Directors in such rules, its business shall be conducted as nearly as possible in the same manner as is provided by these Bylaws for the Directors. The Board of Directors shall have the power at any time to fill vacancies in any such committee, to change its membership or to discharge the committee. The designation and appointment of any such committee and the delegation of authority thereto shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it or him or her by law.

7.3 **Policy Committees.** The Board of Directors shall establish and elect members to the following committees that shall be deemed Policy Committees: the Technical Interpretations Policy Committee, the Certification Policy Committee, and the Accreditation Policy Committee. Members of each Policy Committee shall be selected from among individuals employed by or with a significant affiliation with current Members of the Corporation in good standing who meet the applicable Policy Committee participation requirements established by the Board from time to time. The Board of Directors may, from time to time, establish a term of service for some or all of a Policy Committee's members. Each Policy Committee shall have a chairperson appointed by the Board of Directors. Each Policy Committee's decisions and recommendations shall be subject to review, approval and modification by the Board.

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7.4 **Technical Interpretations Policy Committee.** Technical Interpretations Policy Committee (TIPC) shall have the authority to develop and recommend to the Board of Directors interpretations of the Corporation's technical standards development program, including, but not limited to, technical interpretations relating to the Corporation's standards and procedures. The committee shall also maintain the Corporation's NFRC 601 *Unit and Measurement Policy* document and Simulation Manual and make recommendations to the Board for revisions to those documents.

7.5 **Accreditation Policy Committee.** The Accreditation Policy Committee (APC) shall have the authority to oversee the Corporation's Laboratory Accreditation Program (LAP), including, but not limited to, issuing policy interpretations relating to laboratory accreditation; ruling on appeals properly brought pursuant to procedures established by the Corporation's Board of Directors or set forth in program documents; and recommending modifications to the Corporation's laboratory accreditation program and the Corporation's calculation entity approval program.

7.6 **Certification Policy Committee.** The Certification Policy Committee shall have the authority to oversee the Corporation's fenestration product certification program, including, but not limited to, issuing policy interpretations relating to fenestration product certification or independent inspection agency licensing; maintaining challenge procedures as well as ruling on appeals properly brought pursuant to procedures established by the Board of Directors or set forth in program documents; and recommending modifications to the Corporation's fenestration product certification program and requirements for participating insulating glass certification program.

7.7 **Technical Committee.** The Board of Directors shall establish a Technical Committee. The committee shall consist of those Members of the Corporation who are eligible to participate in accordance with the committee participation requirements established by the Board from time to time and shall include at least one director. The committee shall have a chairperson. The committee shall have the authority to develop, coordinate and oversee the Corporation's tools, standards and procedures for rating fenestration products and make recommendations to the Board regarding adoption of such tools, standards and procedures. The committee's actions and recommendations shall be subject to review, approval and modification by the Board. The chairperson of the committee shall be an ex-officio, non-voting member of the Board of Directors, unless such chairperson is already a voting member of the Board.

7.8 **Research and Technology Committee.** The Board of Directors shall establish a Research and Technology Committee. The committee shall consist of those Members of the Corporation who are eligible to participate in accordance with the committee participation requirements established by the Board from time to time and shall include at least one director.

The committee shall have a chairperson. The committee shall have the responsibility for coordinating research necessary to ensure technical accuracy of current and future rating systems and other responsibilities specified by the Board and shall make recommendations to the Board for approval of such actions. The committee's actions and recommendations shall be subject to review, approval and modification by the Board.

7.9 Ratings Committee. The Board of Directors shall establish a Ratings Committee. The committee shall consist of those Members of the Corporation who are eligible to participate in accordance with the committee participation requirements established by the Board from time to time and shall include at least one director. The committee shall have a chairperson. The committee shall have the authority to develop, coordinate and oversee the Corporation's certification and labeling programs to assure the uniform application of the rating system and shall make recommendations to the Board for approvals relating to such programs. The committee's actions and recommendations shall be subject to review, approval and modification by the Board. The chairperson of the committee shall be an ex-officio, non-voting member of the Board of Directors, unless such chairperson is already a voting member of the Board.

7.10 Regulatory Affairs Committee. The Board of Directors shall establish a Regulatory Affairs Committee. The committee shall consist of those Members of the Corporation who are eligible to participate in accordance with the committee participation requirements established by the Board from time to time and shall include at least one director. The committee shall have a chairperson. The Regulatory Affairs Committee shall have the authority to provide recommendations to the Board regarding the Corporation's relationship with and the use of the Corporation's ratings, certification and verification processes by federal, state and local government, international rating organizations, code development, professional and trade organizations and other voluntary programs. The Committee shall also provide a forum for the dissemination of information to Members related to these areas. The Committee's actions and recommendations shall be subject to review, approval and modification by the Board. The chairperson of the committee shall be an ex-officio, non-voting member of the Board of Directors, unless such chairperson is already a voting member of the Board.

7.11 Steering Committee. The Board of Directors may establish a Steering Committee and may establish a fixed period of time for the Committee to remain in operation, subject to termination or extension of that period by the Board. The Committee shall consist of the Chairperson, four voting Board members selected by the Board and the Chairs of the Accreditation Policy Committee, Certification Policy Committee, Ratings Committee, Technical Interpretation Policy Committee, Technical Committee and Research and Technology Committee and such other Board members as may be selected by the Board. NFRC's Chairperson shall be the Chair of the Committee. Subject to any policies or directives adopted by the Board, the Committee shall have the responsibility to evaluate and make recommendations to the Board of Directors with respect to matters pertaining to the rating and certification programs and technical issues that are presented to the Board for action by the Technical Committee, Ratings Committee, Technical Interpretation Policy Committee, Certification Policy Committee, Accreditation Policy Committee and Research and Technology Committee. The Executive Committee or the Chairperson shall have the right to direct that any specific matter shall or shall not be directed to the Steering Committee for recommended action.

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The Committee's recommendations shall be subject to review, approval, disapproval or modification by the Board.

ARTICLE 8 OFFICERS

8.1 **Officers.** The officers of the Corporation shall be a Chairperson, a Vice Chairperson, a Chief Executive Officer, a Secretary, a Treasurer and such additional officers as the Board of Directors may from time to time deem necessary. The Chief Executive Officer shall be an ex-officio, non-voting member of the Board of Directors.

8.2 **Election and Term of Office.** Officers of the Corporation shall be elected for a term of one year by the Board of Directors at its annual meeting, or at such other time as may be determined by the Directors. No Director (other than the Chief Executive Officer) may be elected as an officer unless he/she has served on the Board of Directors for one year or more. Except for the Chief Executive Officer who shall not be subject to term limitations, no officer may serve more than three consecutive one year terms. Each officer shall serve until the expiration of his or her term or until a successor is duly elected and qualified, except that any officer elected by the Board of Directors may be removed at any time, with or without cause, by the affirmative vote of a majority of the Directors then in office. Except for the Chief Executive Officer, officers of the Corporation shall be selected from among the members of the Board of Directors.

8.3 **Resignation and Vacancies.** Any officer of the Corporation may resign at any time by giving written notice of his or her resignation to the Board of Directors, or to the Chairperson, or to the Secretary. Any such resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance thereof shall not be necessary to make it effective. Except for the Chief Executive Officer, an officer shall be deemed to have resigned from any official position he or she may hold with the Corporation, in the event the officer is no longer employed or affiliated with a Member in good standing in the same membership category as that person's board category. In the event the position of any officer becomes vacant by reason of death, resignation, removal or other cause, the Board of Directors may elect an officer to fill the vacancy at any regular or special meeting thereof. Unless otherwise determined by the Board of Directors, except for the Chief Executive Officer, any officer so elected shall hold office until the next annual meeting of Directors and until a successor has been duly elected and qualified.

8.4 **Chairperson.** The Chairperson shall preside at all meetings of Members and of the Board of Directors and shall oversee the proper governance of the Corporation. The Chairperson shall sign such papers as may be required by the office; shall submit an annual report of the operations of the Corporation to the Board of Directors at its annual meeting; shall make such other reports and recommendations to the Members of the Corporation at annual or special meetings concerning the work and affairs of the Corporation which are desirable for their information and guidance; shall require such reports from the Chief Executive Officer, Vice Chairperson, Secretary or Treasurer or any Member of the Corporation engaged in any special project for the Corporation; and shall perform such duties as are normally incident to the office of Chairperson. The Chairperson shall also represent the Board in communications with third parties.

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8.5 **Vice Chairperson.** The Vice Chairperson shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chairperson. The Vice Chairperson shall fulfill the duties of the Chairperson in the absence of the Chairperson.

8.6 **Secretary.** The Secretary shall (a) attend meetings of the Board of Directors; (b) give, or cause to be given, notice of all meetings, when required, in accordance with law and these Bylaws; (c) maintain a list of the Corporation's membership; (d) keep, or cause to be kept, in books provided for the purpose, minutes of the meetings of Members, of the Board of Directors and of each committee of the Board of Directors and distribute such minutes to the Directors; (e) see that the books, reports, statements and all other documents and records required by law are properly kept and filed; (f) sign such instruments as require the signature of the Secretary; and (g) in general, perform all the duties as from time to time may be assigned by the Board of Directors.

8.7 **Treasurer.** The Treasurer shall (a) have charge and custody of and be responsible for all funds of the Corporation and deposit all such funds in such banks, trust companies or other depositories in insured accounts, in accordance with the provisions of these Bylaws; (b) receive and give receipts for monies due and payable to the Corporation from any source whatsoever; (c) sign such documents as shall require the signature of the Treasurer; and (d) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned. The Treasurer shall keep full and accurate records of all financial transactions of the Corporation and provide an annual report to the Board of Directors on all income and expenses of the Corporation, and report to the Board at other times when requested by the Board of Directors.

8.8 **Ombudsman.** The Corporation may, from time to time, appoint an Ombudsman for the Corporation. The Ombudsman shall assist the Board of Directors to address and respond to concerns and issues relating to the Corporation and its operation that are raised from time to time by Members, Directors and employees of the Corporation. At the direction of the Board, the Ombudsman shall also assist the Board in inquiries and investigations on designated matters. The Ombudsman shall serve for a period determined by the Board and may be removed at any time, with or without cause, by a majority of the Directors then in office, and may resign at any time upon written notice to the Board. The Ombudsman may be appointed as an ex-officio, non-voting member of the Board.

8.9 **Chief Executive Officer.** The Chief Executive Officer shall serve as chief executive officer of the Corporation and, subject to the supervision of the Board of Directors, shall supervise, control and direct the day to day business and affairs of the Corporation in accordance with policies and directives approved by the Board. The Chief Executive Officer shall be directly responsible to the Board and shall report semiannually, or more often as requested, to the Board on the activities of the Corporation. The Chief Executive Officer shall be an ex-officio, non-voting member of the Board of Directors.

ARTICLE 9 DEPOSITORIES, INVESTMENTS AND CHECKS

9.1 **Deposit of Funds.** The monies, securities and other valuable assets of the Corporation shall be deposited, except for such cash as the appropriate officers shall reasonably consider necessary for immediate requirements, in such depositories as the Board of Directors may from time to time designate. All deposits shall be made in the name of the Corporation. Checks, notes, drafts, bills of exchange, acceptances, undertakings or other instruments or orders for the payment of money shall be signed by the Chief Executive Officer and, if so directed by the Board of Directors, by one other officer of the Corporation, such authorized officers to be designated by the Board of Directors from time to time.

9.2 **Investment of Funds.** The funds of the Corporation may be retained in whole or in part in cash or be invested and reinvested from time to time in federally insured accounts or as the Board of Directors otherwise in its discretion may deem in the best financial interest of the organization to fulfill its mission and consistent with its status as a tax exempt entity and with applicable laws and regulations, in accordance with written investment policies approved by the Board from time to time.

ARTICLE 10 BOOKS AND RECORDS

Correct and complete financial books and records of the Corporation shall be kept at the office of the Corporation, or at such place as the Board of Directors may designate. The financial books and records of the Corporation may be inspected at the Corporation's offices by any Member for any lawful purpose at such Member's expense upon reasonable written prior notice and at a reasonable time.

ARTICLE 11 FISCAL YEAR

The fiscal year of the Corporation shall end on December 31 of each year, or such other date as the Board of Directors shall select.

ARTICLE 12 COMPENSATION AND CONTRACTS

12.1 **Reasonable Compensation.** No Member, Director, officer or employee of the Corporation, or advisor to the Corporation, or other private person shall receive any part of the net earnings of the Corporation, except that the Corporation is authorized and empowered to pay such persons reasonable compensation for services actually rendered to the Corporation, to reimburse such persons for expenses incurred in the performance of such services and to make payments and distributions in furtherance of the purposes set forth in Article 2 hereof. Notwithstanding the foregoing, no Member, Director or officer (other than the Chief Executive Officer) may receive compensation for services he/she provides in that capacity only.

12.2 **Contracts.** No Member, Director or officer of the Corporation shall be interested, directly or indirectly, in any contract relating to the operations conducted by the Corporation, nor in any contract for furnishing services or supplies to the Corporation, unless such contract shall be authorized by the Board of Directors, be fair and reasonable in its terms, and unless the fact of

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such interest shall have been disclosed or known to the Board of Directors at the meeting at which such contract is so authorized.

ARTICLE 13 AMENDMENTS

Any of these Bylaws may be altered, amended, restated or repealed, or a new Bylaw may be adopted, at any meeting of the Board of Directors of the Corporation by the affirmative vote of two-thirds of the entire Board of Directors; provided that the notice of such meeting shall state the substance of the Bylaw to be altered, amended, repealed or adopted.

ARTICLE 14 DISSOLUTION OF THE CORPORATION

The Corporation may be dissolved by the affirmative vote of two-thirds of its Members and as otherwise authorized under applicable law. Upon the dissolution and liquidation of the Corporation, the assets of the Corporation shall be applied and distributed as follows: All liabilities and obligations of the Corporation shall be paid, satisfied and discharged, or provision therefore shall be made; any assets held on the condition that such assets be returned, transferred or conveyed upon dissolution, shall be disposed of in accordance with such requirement; all remaining assets of every nature and description whatsoever shall be distributed to organizations which qualify as exempt from taxation under the provisions of 501(c)(3) of the Internal Revenue Code of 1986, as amended, (or the corresponding provisions of any future federal tax code), or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction exclusively for such purposes or to such organization or organizations as said court shall determine, that are organized and operated for such purposes.

ARTICLE 15 INDEMNIFICATION AND INSURANCE

15.1 **Indemnification.** The Corporation shall indemnify (a) its Directors and officers, whether serving the Corporation or at its request, serving any other entity, to the full extent required or permitted by the General Corporation Law of the State of Maryland now or hereafter in force, including the advance of expenses under the procedures and to the full extent permitted by law and (b) other employees and agents to such extent as shall be authorized by the Board of Directors or the Corporation's Bylaws and be permitted by law. The foregoing rights of indemnification shall not be exclusive of any other rights to which those seeking indemnification may be entitled. The Board of Directors may take such action as is necessary to carry out these indemnification provisions and is expressly empowered to adopt, approve and amend from time to time such bylaws, resolutions or contracts implementing such provisions or such further indemnification arrangements as may be permitted by law. No amendment of the Articles of Incorporation of the Corporation or repeal of any of its provisions shall limit or eliminate the right to indemnification provided hereunder with respect to acts or omissions occurring prior to such amendment or repeal.

In no case, however, shall the Corporation indemnify, reimburse, or insure any person for any taxes imposed on such individual under the Internal Revenue Code. Further, if at any time the Corporation is deemed to be a private foundation within the meaning of § 509 of the Internal Revenue Code then, during such time, no payment shall be made under this Section if such

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payment would constitute an act of self-dealing or a taxable expenditure, as defined in §§ 4941(d) or 4945(d), respectively, of the Internal Revenue Code, or the corresponding provisions of any future U.S. Internal Revenue laws.

15.2 Insurance. The Board of Directors may authorize the purchase of and maintain insurance on behalf of any Director, officer, employee or agent of the Corporation against any liability asserted against or incurred by him or her which arises out of such person's status in such capacity or who is or was serving at the request of the Corporation as a director, officer, employee or agent of another foreign or domestic corporation, association, partnership, joint venture, trust, employee benefit plan or otherwise, or out of acts taken in such capacity, whether or not the Corporation would have the power to indemnify the person against that liability under law.

15.3 Compliance with Antitrust Laws. It is the policy of the Corporation to comply scrupulously with all federal and state antitrust and restraint of trade laws. The Board of Directors shall consult with legal counsel as appropriate to ensure compliance with this policy and all applicable laws.

ARTICLE 16 SEVERABILITY

Any determination that any provision of these Bylaws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these Bylaws.

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