

AMENDED AND RESTATED BY-LAWS
OF
NEW MEXICO MILITARY INSTITUTE FOUNDATION, INC.
(A Non-profit Corporation)

ARTICLE I

Section 1. Board of Trustees: The affairs of this corporation shall be under the supervision of a Board of Trustees consisting of thirteen (13) voting members, the same being the President and Chief Executive Officer of the corporation, three continuing members and nine rotating members. In addition to the thirteen Trustees, the Superintendent of New Mexico Military Institute shall be an ex-officio, nonvoting member of the Board of Trustees.

(a) *President and Chief Executive Officer*: One (1) voting member of the Board of Trustees shall be the President and Chief Executive Officer of the corporation and shall be appointed by the other members of the Board of Trustees.

(b) *Continuing Members*: Three (3) voting members of the Board of Trustees shall be designated as *continuing members*. These three (3) members shall consist of three (3) persons appointed by the Board of Regents of New Mexico Military Institute. No more than two (2) of the persons appointed by the Board of Regents may be serving as Regents at the time of such appointment.

(c) *Rotating Members*: Nine (9) voting members of the Board of Trustees shall be designated as *rotating members*. Each *rotating member* shall be elected at-large by the members of the corporation present at the Annual Meeting of the Members. The *rotating members* shall serve staggered terms of three years, with three of such *rotating members* elected each year, and as the term of each *rotating member* expires, his or her successor shall be elected for a term of three years. Nominations to fill the expiring term of each *rotating member* shall be made prior to the Annual Meeting of the Members in accordance with Section 3 of Article III of these By-Laws. A *rotating member* may serve a maximum of four (4) elected consecutive terms. A *rotating member* who has served four (4) consecutive terms may not seek re-election as a *rotating member*, nor be appointed to fill a vacancy of a *rotating member* until three (3) years have elapsed since the termination of his or her last term in office. If a

rotating member of the Board of Trustees is absent from three (3) consecutive meetings, his or her status as a member of the Board of Trustees will automatically terminate unless the Board of Trustees makes an affirmative finding of substantial extenuating circumstances.

(d) *Ex-Officio Member*: The Superintendent of New Mexico Military Institute shall be an ex-officio, non-voting member of the Board of Trustees.

All Trustees shall hold office until their successors are duly appointed or elected. In case any Trustee should resign or there should be a vacancy on the Board of Trustees through death, disability, failure or refusal of any Trustee to act, or from any other cause, the other members of the Board of Trustees shall fill such vacancy for the unexpired term of such Trustee, except where the vacancy to be filled is one of the three (3) *continuing members*, in which event the vacancy shall be filled by the person appointed by the Board of Regents of New Mexico Military Institute.

Section 2. Qualifications of Members of Board of Trustees: The members of the Board of Trustees, as such, shall serve without compensation. The corporation shall not acquire from or transfer to the Trustees or any of them any of the assets of the corporation, except the corporation may receive money or other property from the Trustees or any of them by way of gift, bequest, devise, or in payment of membership fees, and may compensate its officers in accordance with Section 9 of Article II of these By-Laws.

Section 3. Authority of Board of Trustees: Except as otherwise provided in the corporation's Articles of Incorporation or in these By-Laws, all of the capacity of the corporation shall be vested in and all its authority shall be exercised by the Board of Trustees, which shall manage and conduct the business of the corporation.

Section 4. Persons Dealing with the Corporation: No persons dealing with the corporation who shall receive a resolution certified by its Secretary or Assistant Secretary as having been adopted by the Board of Trustees, or a majority of them, shall be bound to inquire further concerning the validity of any act or transaction authorized or approved by such resolution, and no persons shall be liable for the application of any money or other property paid or delivered to the corporation if he or she shall obtain a receipt therefor from any one of the officers of the corporation.

ARTICLE II

Section 1. Officers of the Corporation: The officers of the corporation shall be as follows: President and Chief Executive Officer, Chairman, Vice-Chairman, Immediate Past Chairman, Secretary, and Treasurer. The office of Secretary and Treasurer may be combined. In addition, any one or more Assistant Secretaries or Assistant Treasurers may be elected by the Board of Trustees. The officers of the corporation shall be elected by the Board of Trustees at the first meeting of the Board of Trustees following the Annual Meeting of the Members of the corporation. Each officer, with the exception of the President and Chief Executive Officer, shall serve for a term of two (2) years and may hold the office to which he or she is elected for a maximum of two (2) consecutive terms. The President and Chief Executive Officer is an employee of the corporation and serves at the pleasure of the Board of Trustees, and the term of the President and Chief Executive Officer shall be consistent with his or her appointment as President and Chief Executive Officer. If a vacancy in any office occurs prior to the expiration of the term of such office, the Board of Trustees may, by appointment, fill such office for the unexpired term.

Section 2. President and Chief Executive Officer: The President and Chief Executive Officer, subject to the supervision of the Board of Trustees, shall have general supervision of the affairs of the corporation; may sign or countersign all contracts and other instruments of whatsoever character of the corporation as may be authorized by the Board of Trustees; shall make reports to the Board of Trustees and to the members of the corporation and shall perform all other duties as are incident to that office or as may be properly required by the Board of Trustees.

Section 3. Chairman: The Chairman shall preside at all meetings of the members of the corporation and of the Board of Trustees; and shall consult with the President and Chief Executive Officer to establish the agenda for each meeting. The Chairman shall have direct oversight over the performance of the President and Chief Executive Officer.

Section 4. Vice-Chairman: In the event of the Chairman's absence, disability, or refusal to act, the Vice-Chairman shall possess all of the powers and perform all of the duties of the office of Chairman.

Section 5. Immediate Past Chairman: In order to enhance continuity of the affairs of the corporation, the Immediate Past Chairman shall serve as an officer of the corporation. He or she shall perform such duties which may be delegated to him or her by the Board of Trustees.

Section 6. Secretary: The Secretary shall be the official custodian of the books and records of the corporation, and shall cause an accurate record to be kept of all meetings of the members of the corporation and the Board of Trustees.

Section 7. Treasurer: The Treasurer shall be the official custodian of the funds of the corporation. All funds of the corporation shall be kept in a corporate account in a bank designated by the Board of Trustees and shall be paid out only by checks countersigned by any two (2) members of the Board of Trustees with signatory authority; provided, however, the Board of Trustees may adopt a policy whereby all checks for less than a designated amount shall require only the signature of the President and Chief Executive Officer. The Treasurer shall give such bond as the Board of Trustees may require.

Section 8. Assistant Secretary and Assistant Treasurer: In the event an Assistant Secretary or an Assistant Treasurer is elected by the Board of Trustees, such person shall perform such duties as may be delegated to such person by the Board of Trustees.

Section 9. Compensation of Officers: The compensation of the officers of the corporation, if any, shall be fixed by the Board of Trustees and shall be commensurate with the duties performed and the time devoted to the affairs of the corporation by said officers; provided; however, that compensation shall not be paid at the same time to more than two officers of the corporation.

ARTICLE III

Section 1. Members of the Corporation: Any alumnus, honorary alumnus, patron or friend of New Mexico Military Institute may become a member of the corporation by making application for such membership to the Board of Trustees and by payment of such dues as may be designated by the Board of Trustees. Any person making a gift to the corporation of \$5,000.00 or more shall be considered a life member of the corporation without further payment of dues. Either the Chairman or the President and Chief Executive Officer may, at his or her discretion, invite individuals to become members of the corporation without payment of any dues.

Section 2. Voting: At all meetings of the members of the corporation, each member shall be entitled to one vote. Only members in good standing shall be entitled to vote and may vote in person or by proxy in writing given to his or her duly authorized agent or representative. Such number of members as may be present at any annual or special meeting of the members of the corporation which shall have been duly called, even though such number shall be less than a

majority thereof, shall constitute a quorum for the transaction of all business which legally may come before such meeting; provided, however, that there shall be in attendance at such meeting a majority of the Board of Trustees. At all meetings of members of the corporation, a majority vote of members of the corporation present in person or by proxy shall control.

Section 3. Annual Meetings of Members of Corporation and Committee for Nominating Members of Board of Trustees: The Annual Meeting of the Members of the corporation shall be held during the first six (6) months of the corporation's fiscal year, on a day and at a time and place named by the Chairman of the corporation. Notice of such meeting shall be mailed to each member of the corporation at least fifteen (15) days prior to the time for holding said meeting, said notice to be given to members as shown by the records of the corporation to be in good standing at the time of mailing such notice.

Prior to each annual meeting, the Chairman of the corporation shall designate a nominating committee to consist of members of the Board of Trustees or members of the Board of Trustees and members of the corporation for the purpose of making nominations to fill the expiring or vacated terms of any members of the Board of Trustees. The report of the nominating committee shall be made to the Chairman of the corporation at least twenty-four (24) hours prior to the time designated for the annual meeting, and the names and addresses of those nominated to be members of the Board of Trustees shall be made available to any member of the corporation who inquires. At such annual meeting, any member of the corporation may nominate any other member to any vacancy on the Board.

Section 4. Special Meetings of Members of the Corporation: Special meetings of the members of the corporation may be called by the Chief Executive Officer or the Chairman, or any two Trustees, or twenty (20) percent of the members of the corporation in good standing, by mailing notice thereof giving the time of holding such meeting to each member of the corporation at least fifteen (15) days prior to the time for holding said meeting, said notice to be given to the members as shown by the records of the corporation to be in good standing at the time of mailing such notice.

ARTICLE IV

Section 1. Meetings of Board of Trustees: The annual meeting of the Board of Trustees for the purpose of electing and appointing officers of the corporation for the ensuing year shall be held immediately following the Annual Meeting of the Members of the corporation, and other meetings may be called from time to time by the Chief Executive Officer, Chairman or Vice-

Chairman to be held at any time or place whether within or without the State of New Mexico. The presence in person of a majority of the Trustees shall be required to constitute a quorum. Participation of Trustees in meetings of the full Board of Trustees by conference telephone or similar communications equipment shall not be permitted unless authorized in writing by a majority of the Board of Trustees in advance of the meeting. Voting by proxy at meetings of the Board of Trustees, or committees thereof, shall not be permitted.

Section 2. Voting: At all meetings of members of the Board of Trustees, each Trustee shall be entitled to one vote on all matters coming before the Board, and such matters shall be decided by a majority vote of those present.

ARTICLE V

Section 1. Seal: The seal of the corporation shall be a circular disk containing the words upon the inner circumference thereof, as follows:

“NEW MEXICO MILITARY INSTITUTE FOUNDATION, INC.
Roswell, New Mexico”

And across the center of the die the word: “SEAL”.

ARTICLE VI

Section 1. Distribution of Assets Upon Dissolution of the Corporation: Upon the winding up and dissolution of the corporation, after paying or adequately providing for the debts and obligations of the corporation, the remaining assets shall be distributed (i) to a non-profit fund, foundation or corporation which is organized and operated exclusively for charitable, educational, religious and/or scientific purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Code) and/or (ii) to New Mexico Military Institute (provided it is a state educational institution then in existence), another state educational institution, the federal government or a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the District Court of Chaves County, New Mexico, exclusively for one or more exempt purposes within the meaning of

Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Code).

ARTICLE VII

Section 1. Amendments: These By-Laws may be altered or amended only by a two-thirds (2/3rds) vote of the members of the Board of Trustees present at any regular meeting of the Board or special meeting called for that purpose, provided notice of such intention to amend, together with the proposed amendment or amendments, shall have been given to each Trustee at least five (5) days prior to such meeting.

Section 2. Committees: The standing committees of the corporation shall be the Executive Committee, Real Estate Committee, Investment Committee, and Nominating Committee. Each standing committee shall have such authority as designated by the Board of Trustees, subject to such limitations as are set forth in these By-Laws. The Chairman shall appoint the members of each standing committee, except for the Executive Committee, and shall designate a chairman for each such committee. The President and Chief Executive Officer shall be a voting member of each standing committee and shall be responsible for maintaining an accurate record of all meetings of such committees. The Chairman may from time to time establish such other committees for such purposes and with such authority as the Chairman may deem necessary or desirable and in the best interests of the corporation, and shall appoint the members of any such committee. The members of each standing committee and any other committee shall be members of the Board of Trustees; provided, however, the Chairman may designate individuals who are not members of the Board of Trustees to serve as advisory members to a committee, except for the Executive Committee, but such advisory members will be non-voting members. Members of committees may participate in a committee meeting by 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. No standing committee or other committee shall have the authority of the Board of Trustees in reference to amending, altering or repealing the By-Laws; electing, appointing or removing any member of any committee or any trustee or officer of the corporation; amending or restating the Articles of Incorporation; adopting a plan of merger or plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for

the distribution of the assets of the corporation; or amending altering or repealing any resolution of the Board of Trustees.

Section 3. Indemnification: The Board of Trustees, by resolution adopted by majority of the Trustees in office, may indemnify any person against reasonable expenses, costs and attorneys' fees actually and reasonably incurred by such person in connection with the defense of any action, suit or proceeding, civil or criminal, in which such person is made a party by reason of (i) having been a trustee or officer of the corporation, (ii) having served at the request of the corporation as a member of a committee of the Board of Trustees, or (iii) having served at the request of the corporation as a member of any committee, commission, association or other enterprise whose primary function is or was the furtherance of the objects and purposes of the corporation. The indemnification may include any amounts paid to satisfy a judgment or to compromise or settle a claim. No person shall be indemnified if such person shall be adjudged to be liable on the basis that such person breached or failed to perform the duties of his or her office, and the breach or failure to perform constituted willful misconduct or recklessness. Advance indemnification may be allowed for reasonable expenses to be incurred in connection with the defense of the action, suit or proceeding, provided that the person so indemnified must reimburse the corporation if it is subsequently determined by a majority of the Board of Trustees that such person was not entitled to indemnification.

CERTIFICATION OF BY-LAWS

The undersigned, Jimmy Barnes and Richard W. Waggoner, being the Chief Executive Officer and Secretary respectively of New Mexico Military Institute Foundation, Inc., a New Mexico non-profit corporation, do hereby certify that the above and foregoing Amended and Restated By-Laws, consisting of nine (9) pages, are the Amended and Restated By-Laws of New Mexico Military Institute Foundation, Inc., duly adopted by the Board of Trustees on October 10, 2014.


Jimmy Barnes, Chief Executive Officer


Richard W. Waggoner, Secretary

