

# **AGREE REALTY CORPORATION CORPORATE GOVERNANCE GUIDELINES**

## **1. Purpose**

These corporate governance guidelines, which are guidelines rather than rules, describe the core principles for the governance of Agree Realty Corporation (the “Company”). Detailed statements governing the legal relationship of the Board of Directors (the “Board”) to our stockholders and management and the functions of the Board and its committees are set forth in the Company’s articles of incorporation and bylaws, charters of the committees established by the Board, and more detailed guidelines, policies or procedures adopted by the Board from time to time.

## **2. Core Principles**

These guidelines are based on the following core principles:

- The Company is owned by its stockholders.
- The purpose of the Board is to oversee the business and affairs of the Company as the ultimate decision-making body, except for matters reserved for stockholders by (1) law, (2) the rules of the New York Stock Exchange (the “NYSE”), or (3) the Company’s articles of incorporation or bylaws.
- The Board is responsible for:
  - overseeing management’s handling of the Company’s business and affairs, with a view to enhancing stockholder value over the long term;
  - approving appropriate incentives to align management’s interests with those of stockholders;
  - holding management accountable for its management of the business and affairs of the Company;
  - maintaining the independence of the Board through the director nomination process;
  - adopting and overseeing compliance with the Company’s Code of Business Conduct and Ethics (the “Code”), and promptly disclosing any waivers of the Code for directors or executive officers;
  - maintaining a current, orderly succession plan for the Chief Executive Officer of the Company (the “CEO”) and other management positions; and
  - in general, exercising business judgment in a manner it reasonably believes to be in the best interest of the Company.

The Board believes that good governance depends, above all, on the Board and management setting the right tone from the top rather than adopting bright-line rules such as director term limits or mandatory rotation of Board committee members. The Board encourages directors and management to at all times observe the highest standards of integrity and personal conduct as an example for the entire organization.

### **3. Board Composition**

#### **a. Qualification of Directors**

The Nominating & Governance Committee (the “Committee”) makes recommendations to the Board for director nominees and the criteria by which they should be selected. The Committee does not have set minimum criteria for directors. Rather, the Committee looks for skills and experience that will complement the Board’s existing makeup. The Committee considers the following criteria in evaluating candidates, including any candidates suggested by stockholders:

- independence;
- business and professional background;
- historical contribution to the Board;
- personal integrity;
- leadership skills;
- strategic thinking;
- ability and willingness to make a time commitment; and
- breadth of knowledge about matters affecting the Company and its industry.

The Committee periodically assesses the skills, characteristics, diversity and composition of the Board, along with the need for expertise and other relevant factors as it deems appropriate. In light of these assessments, and in light of the standards set forth in these corporate governance guidelines, the Committee may seek candidates with specific qualifications and candidates who satisfy other requirements set by the Board. We view diversity in a broad sense, taking into consideration not only racial, ethnic and gender diversity, but also the mix of qualifications of director candidates. We believe our Board should be comprised of directors who have had high-level executive experience, have been directors on other Boards and have been tested through economic downturns and crises. When considering board candidates, the Committee considers whether an individual would bring a diverse viewpoint to the Board, including with respect to the candidate’s gender, race, age and ethnicity.

#### **b. Retirement Age**

There is no mandatory age for director retirement. The Committee believes that there is no one-to-one correlation between age and ability and that the committee can better assure a quality Board through the nominating process generally.

### **c. Board Leadership**

The Board recognizes that one of its key responsibilities is to evaluate and determine its optimal leadership structure so as to provide independent oversight of management. The Board understands that there is no single, generally accepted approach to providing board leadership and the right board leadership structure may vary as circumstances warrant. Thus, the Board has the ability to change its structure, should that be deemed appropriate and in the best interest of the Company and its stockholders, and it may select its own Chairperson. The Board does not have a policy on whether the Chairperson should be a non-employee director.

### **d. Voting Standard for the Election of Directors**

Any nominee for director in an uncontested election who receives a greater number of votes “withheld” from his or her election than votes “for” such election shall tender his or her resignation for consideration by the Committee. The Committee shall recommend to the Board the action to be taken with respect to the resignation. The Board will publicly disclose its decision within 90 days of the certification of the election results.

### **e. Consideration of Stockholder Nominated Directors**

The Committee will review and consider any director candidates who have been recommended by stockholders in compliance with the following procedures. All stockholder recommendations for director candidates must be submitted in writing to the Company’s Secretary at 32301 Woodward Avenue, Royal Oak, MI 48073, who will forward all recommendations to the Nominating and Governance Committee. All stockholder recommendations for director candidates must be submitted to the Company’s Secretary no earlier than the 150th day and no later than 5:00 p.m., Eastern Time, on the 120th day prior to the anniversary of the date of mailing of the notice for the preceding year’s annual meeting of stockholders.

### **f. Independence of Directors**

A majority of directors must be independent. In evaluating independence, the Committee and the Board consider the NYSE definition of independence and also evaluate the director’s or nominee’s ability to exercise independent judgment.

In determining independence the following commercial relationships will not be considered to be material relationships that would impair a director’s independence:

- If a director or his or her immediate family member is an executive officer of another company that does business with the Company and the annual payments by the Company to the other company are less than 1% of the annual consolidated revenues of the other company; or

- If a director or his or her immediate family member is an executive officer of another company which is indebted to the Company, or to which the Company is indebted, and the total amount of either company's indebtedness to the other is less than 1% of the total consolidated assets of the other company.

In addition to satisfying all of the independence criteria set forth above in, all members of the Audit Committee must also satisfy the following requirements:

- Director's fees are the only compensation that members of the Audit Committee may receive from the Company. Audit Committee members may not receive consulting, advisory or other compensatory fees from the Company (other than in his or her capacity as a member of the Audit Committee, the Board, or any other committee of the Board), and
- No member of the Audit Committee may be an "affiliated person" of the Company or any subsidiary of the Company, as such term is defined by the Securities and Exchange Commission.

In addition to satisfying all of the independence criteria applicable to the members of the Board set forth above, all members of the Compensation Committee must also satisfy the following requirement:

- They may not have a relationship with the Company (directly or indirectly as a partner, shareholder or officer of an organization that has a relationship with the Company) which is material to that director's ability to be independent from management in connection with the duties of a Compensation Committee member.

The Board must consider all factors, including but not limited to:

- The source of the director's compensation, including any consulting, advisory or other compensatory fees paid by the Company to the director; and
- Whether the director is affiliated with the Company, a subsidiary of the Company or an affiliate of a subsidiary of the Company.

The Committee and the Board will annually review all relationships between the Company and its independent directors and publicly disclose its independence determinations.

#### **4. Director Responsibilities and Authority**

Primary director responsibilities are outlined above under "Core Principles." The following are guidelines rather than rules regarding director responsibilities and authority.

##### **a. Meetings**

##### **(i) Frequency**

Regular meetings of the Board are held at least four times each year. Special meetings may be held (and action by written consent may be taken) on an as-needed basis.

**(ii) Agenda**

The Chairperson of the Board will set the agenda of Board meetings and the Chair of each committee will set the agenda of meetings of the applicable committee.

**(iii) Materials**

Management will seek to provide all background materials to directors in advance of each regularly scheduled meeting, and each director is responsible for reviewing these materials before the meeting. Background materials for special meetings are provided in advance to the extent feasible under the circumstances.

Directors are encouraged to attend all meetings, in person, by telephone, or by video conference of the Board and each Board committee of which they are members, absent unavoidable scheduling conflicts.

Directors are encouraged to attend annual meetings of stockholders, especially when the annual meeting is scheduled on the same day as a Board meeting.

The non-management directors meet separately as a group regularly as part of Board meetings, and in any event at least two times a year. The non-management directors select a director to chair the meetings and such chair acts as a liaison between the Board and management.

**b. Director Education**

New directors will be encouraged to participate in orientation or education programs developed by the Nominating & Governance Committee.

**c. Director Access to Management and Independent Advisors**

Directors have access to management at all times to discuss such matters and obtain such information as may be necessary or desirable to assist them in the performance of their duties as directors. Members of management attend Board meetings, other than executive sessions of the non-management directors, to provide directors with information about the Company's business and performance.

Directors also have access to Company counsel and the Company's independent auditors. Upon Board approval, the directors as a group, or groups of directors, such as the independent directors, may retain their own independent advisors, including counsel or financial advisors, to provide advice to them as necessary or appropriate, at the Company's expense.

**d. Other Director Activities**

Directors should advise the Chair of the Nominating & Governance Committee and the CEO before accepting membership on other boards of directors or any audit committee or other significant committee assignment on any other board of directors, or establishing other significant relationships with businesses, institutions, governmental units or regulatory entities, that may result in a change

in the director's relationship to the Company. Ordinarily, the Company's CEO and Chairman should not serve on more than two other boards of public companies, and other directors should not serve on more than three other boards of public companies, in addition to the Company's Board. Current positions in excess of these limits may be maintained unless the Board determines that doing so would impair the director's service on the Board.

No member of the Company's Audit Committee may simultaneously serve on the audit committee of more than two other public companies, unless the Board determines that such simultaneous service would not impair the ability of the member to effectively serve on the Audit Committee.

A director should not serve on the board of directors or similar governing body or in any other capacity of any competitor or significant vendor of the Company, unless the Board determined that doing so would not impair the director's service on the Board.

#### **e. Evaluating Board and Committee Performance**

The Board, acting through the Nominating & Governance Committee, shall conduct an annual self-evaluation. Each committee shall conduct an annual self-evaluation as provided for in its respective charter.

### **5. Committees of the Board**

The Board establishes committees from time to time to assist in the performance of its duties. The Board has established the following committees: the Audit Committee, Compensation Committee, Nominating & Governance Committee and Executive Committee.

Each of the Audit, Compensation and Nominating & Governance Committees has its own charter describing its membership and functions. The Executive Committee has the authority to exercise all responsibilities of the Board, excluding (1) approval of dividends and (2) matters reserved to the full Board by law or rules of the NYSE.

### **6. Director Compensation**

The Board will determine the form and amount of director compensation. Director compensation is established with a view to:

- attracting highly qualified non-management directors;
- fairly compensating non-management directors for their time and effort on behalf of stockholders; and
- aligning the interests of non-management directors with those of stockholders.

### **7. Management Succession**

The Compensation Committee evaluates the performance of and approves compensation arrangements for the CEO and is responsible for making recommendations to the Board for

succession planning for the CEO position. Succession planning includes plans designed to ensure continuity of policies and leadership in the event of an emergency.

## **8. Other Board Practices and Policies**

### **a. Ethics and Conflicts of Interest**

All directors, as well as officers and employees, are expected to act ethically at all times and adhere to the Company's Code. All directors, and all entities in which a director is an officer or director or has an ownership interest, are expected to deal with the Company on an arm's length basis. The director's position as a director of the Company should not be used to influence management to enter into any transaction or affiliation with an entity in which a director is an officer or director or has a material ownership interest, including, but not limited to, an ownership interest of at least 10% in such entity. All transactions between the Company and any such entities should be approved in advance by the Audit Committee. In such event, the interested director should recuse himself or herself from and should not participate in the vote.

### **b. Board Interaction with Third Parties**

The Board believes that management speaks for the Company. Individual Board members may from time-to-time informally communicate with various constituencies that are involved with the Company such as the press, investors and customers. However, it is expected that any such communication will be made with the advance knowledge and concurrence of management.

## **9. Disclosure of Governance Guidelines**

These corporate governance guidelines will be made available on the Company's website at [www.agreerealty.com/corporate-governance/](http://www.agreerealty.com/corporate-governance/).

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