

AMENDED & RESTATED

BYLAWS

OF

SOUTH CAROLINA ASPHALT PAVEMENT ASSOCIATION

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ARTICLE I – NAME & LOCATION

Section 1. Name: The name of this organization shall be the South Carolina Asphalt Pavement Association (the “**Association**”), a nonprofit, educational, charitable, and eleemosynary corporation incorporated in and by the State of South Carolina.

Section 2. Location: The office of the Association shall be located in Columbia, South Carolina and/or in such other South Carolina municipalities as may be determined by the Board of Directors.

ARTICLE II – PURPOSE & MISSION

The Association is a non-profit trade association dedicated:

- (1) To protect, promote and advance the progress, interest and welfare of the producers of plant mixed asphalt paving materials;
- (2) To encourage the highest standards of business ethics and workmanship;
- (3) To encourage the discussion, coordination and pursuit of solutions to problems of common interest and concern to the producers of plant mixed asphalt paving materials; and
- (4) To foster a cooperative spirit and understanding in between the producers of plant mixed asphalt paving mixtures and industry partners.

No action shall be taken by the Association on matters that clearly fall within the purview of an individual member firm.

ARTICLE III – MEMBERSHIP

Section 1. Member Classifications: There shall be two classifications of membership: contractor and associate (respectively, “**Contractor Member**” or “**Contractor Membership**” and “**Associate Member**” or “**Associate Membership**,” and together, the “**Members**” or “**Membership**”), as described below:

- A. Contractor Membership: Any firm that operates one or more plants in South

Carolina, which manufacture asphalt-paving materials, are eligible to be a Contractor Member. Each Contractor Member shall designate one individual to serve as a Director on the Board of Directors (the “***Contractor Member Director***”).

B. Associate Membership: Any firm that materially manufactures, produces, engages in, and/or provides any of the following categories, as further defined by duly authorized policy and resolutions of the Board, as amended from time to time, are eligible to be an Associate Member:

- (1) Material Suppliers;
- (2) Other Suppliers;
- (3) Subcontractors;
- (4) Support Industries

Section 2. Application for Membership: Any firm applying for Membership must complete and sign the form of application provided by the Association, and submit the application to the principal office of the Association.

Section 3. Admission: Admission of all applicants for Membership shall be by a majority vote of the Board of Directors.

Section 4. Resignation: Any Member may resign by filing a written resignation with the President, but such resignation shall not relieve the Member so resigning of the obligation to pay dues or other charges accrued and payable through the period ending on the date of resignation.

Section 5. Reinstatement: A former Member may be reinstated by a majority vote of the Board of Directors upon showing proof of qualification and paying all dues or other charges in arrears, if any, to the satisfaction of the Board.

Section 6. Removal: The Board of Directors may, at its discretion, by affirmative vote of three-fourths (3/4ths) of all of the Directors then in office, remove any Contractor Member or Associate Member with or without cause, at any duly called meeting of the Board of Directors where a quorum is. Any such Contractor Member or Associate Member proposed to be removed shall be entitled to at least ten (10) days notice in writing by mail of the meeting at which such removal is to be voted upon and shall be entitled to appear before the Board of Directors and be heard at such meeting. In the event of such removal of a Member, the Member shall likewise be removed and relieved of all rights as a Member of the Association.

ARTICLE IV – MEETINGS OF MEMBERS

Section 1. Member Annual Meeting: The Association shall hold an annual meeting of the Members (the “***Member Annual Meeting***”) during the fiscal year at such

time and place as determined by the President or the Board of Directors. At the Member Annual Meeting, the President and the Treasurer shall report on the activities and financial condition of the Association. Additional regular and special meetings of the Members shall take place at such times and places as shall be determined by the Board and as specified in the respective notices of such meetings.

Section 2. Special Meetings: Special meetings of the Members may be called at any time by resolution of the Board of Directors or upon written request of half of the Contractor Members.

Section 3. Notice of Meetings: Written, fax, or email notice of each meeting of the membership shall be sent to each Member at the Member's last address as it appears on the records of the Association not less than ten (10) nor more than sixty (60) days prior to such meeting. Attendance at any meeting, except for the sole purpose of objecting to the holding of such meeting, shall constitute waiver of notice of such meeting.

Section 4. Voting: The Board of Directors may, but is not required, to present any matter for consideration and vote before the Contractor Members. Under such circumstance, each Contractor Member shall have one vote. Voting at any meeting of the Members shall be in person or by proxy, if received in writing (via mail, delivery, or by other electronic means) to the President or Executive Director prior to the meeting.

Section 5. Quorum: The greater of ten percent (10%) of the Contractor Members or three (3) Members shall constitute a quorum for the transaction of business at any meeting of the Members. When a quorum is present at any meeting, a majority of the votes of the Contractor Members shall decide any question that may arise properly the meeting. In the absence of a quorum, those present shall adjourn the meeting to a future date, but until a quorum is secured, may transact no other business.

Section 6. Presiding Officer: The presiding officer of a meeting of the Members shall be the President. In his absence, the next officer in due order who may be present shall preside. The due order for this section shall be: Vice-President, Treasurer and Secretary.

ARTICLE V – MEMBERSHIP DUES

Section 1. Membership Dues: Membership dues shall be set by the Board of Directors. Contractor Member dues shall be paid by the last calendar day of each month following the month in which manufacturing of asphalt paving mixtures was completed. Associate Member dues shall be due and paid annually on or before January 2 or by the end of the month following the month in which Membership was approved by the Board of Directors.

Section 2. Dues Delinquency and Cancellation of Membership: Any Member becoming delinquent in dues for a period of sixty days from the date dues become due and payable shall be notified of such delinquency and suspended from Membership. If payment

of dues is not made within the next succeeding thirty days, the delinquent Member shall be terminated from the roll of Membership unless such termination, at the request of the Member, is waived by a majority vote of the Board of Directors.

Section 3. Refunds: No dues shall be refunded to any Member, except when proof of overpayment is submitted by such firm to the Association, provided that such proof is deemed adequate by the Executive Director or the Board of Directors within sixty days of such overpayment.

ARTICLE VI – BOARD OF DIRECTORS

Section 1. Board of Directors: The Board of Directors shall consist of no fewer than three (3) individuals; each Contractor Member Director shall serve as a director (each a “**Director**” and, collectively, the “**Directors**”). The Board of Directors shall be comprised solely of the Contractor Member Directors. No Contractor Member shall be represented by more than one Director.

Section 2. Authority and Responsibility: The governing body of the Association shall be the Board of Directors. The Board of Directors shall have supervision, control and responsibility of the direction and affairs of the Association, its policies or changes therein; actively pursue its objectives; and supervise the disbursements of its funds. The Board of Directors may adopt such rules and regulations for the conduct of its business as shall be deemed advisable, and may, in the execution of the powers granted, delegate certain of its authority and responsibility to the Executive Committee and/or a standing or a special committee.

Section 3. Appointment; Term: Except as otherwise specifically stated herein, each Contractor Member shall appoint its Contractor Member Director to serve a term of two (2) years as a Director or until his or her death, resignation, retirement, removal or disqualification. A Director may be appointed for successive terms.

Section 4. Resignation: Any Director may resign from such directorship at any time by serving written notice to the President of the Association and the Contractor Member that appointed such individual as a Contractor Member Director. Such resignation shall take effect at the time specified therein or, if no time is specified, upon receipt of the notice by the President.

Section 5. Removal: A Contractor Member may, in its sole discretion, remove its Contractor Member Director at any time by notice to the President of the Association.

Additionally, any Director may be removed from office with or without cause by the affirmative vote of three-fourths (3/4ths) of all of the Directors then in office at any regular or special meeting of the Board of Directors called for that purpose. Any such Director proposed to be removed shall be entitled to at least ten (10) days notice in writing by mail of the meeting at which such removal is to be voted upon and shall be entitled to

appear before the Board of Directors and be heard at such meeting. Any such removal shall disqualify that individual as a Contractor Member Director and such individual shall be replaced by his or her respective Contractor Member in accordance with the requirements of this Article.

Section 6. Vacancies: If there is a vacancy in a Contractor Member Director position, the respective Contractor Member shall appoint a new Contractor Member Director to serve the unexpired term of his or her predecessor in office.

ARTICLE VII – MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Meetings of the Board: The Board of Directors shall hold regular meetings according to such schedule and at such times and places as it may fix by resolution or otherwise, but such regular meetings shall occur no less frequently than three (3) times during each fiscal year. The last regular meeting before the end of the fiscal year shall serve as the annual meeting of the Board of Directors (the “**Board Annual Meeting**”). Business to be conducted at that Annual Meeting shall include approval of an annual budget for the Association, reports of the financial condition and operations of the Association and such other business as may properly come before the meeting. Special meetings of the Board of Directors may be called by or at the request of any officer or 10% of the Directors.

Section 2. Notice: Notice of every regular or special meeting of the Board of Directors shall be mailed or sent by any means of electronic communication to the last known mailing/ electronic address of each Director not less than ten (10) days before any such meeting, and if for a special meeting not less than twenty-four (24) hours, such notice shall state the purpose thereof.

Section 3. Quorum: A quorum at any Board of Directors meeting shall consist of a simple majority of all of the Directors that serve on the Board. A majority of those in attendance, where a quorum exists, shall decide any question that may come before the meeting.

Section 4. Manner of Acting: Except as otherwise provided in this section or as required by South Carolina law, the act of the majority of the Directors present in person at a meeting, at which a quorum exists, shall be the act of the Board. No Director voting by proxy shall be permitted.

Section 5. Meeting by Telephone: Any one or more Directors may participate in a meeting of the Board of Directors by means of telephone or similar communications device, which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall be deemed present in person at such meeting.

Section 6. Informal Action by All Directors: Any action required by law to be taken at a meeting of the Board, or any action that may be taken at the meeting of the Board or of any committee of the Board may be taken without a meeting, if a consent in writing,

setting forth the action so taken, shall be signed by all of the Directors entitled to vote on the subject thereof. Such consent shall have the same force and effect as a unanimous vote of the Board and shall be recorded with the minutes of the Association.

ARTICLE VIII – OFFICERS

Section 1. Officers/ Term: The officers of the Association shall be a President, a Vice- President, and a Treasurer. The Board of Directors may also appoint a Secretary to serve as an officer. All Officers, except the Secretary, shall be elected from and by the Board of Directors at the Board Annual Meeting and shall hold office for a two year period or until their successors have been duly elected and assumed office or until removed. An individual may serve simultaneously in the role of Treasurer and Secretary.

Section 2. Nominations and Election of Officers: In accordance with Article XI, Section 1, the Nominating Committee shall prepare and submit to the Board of Directors at the Board Annual Meeting a nomination for each of the elective officers of the Association. Any person so nominated shall give his or her prior consent to nomination and election as an officer. Additional nomination may be made from the floor.

Section 3. Vacancies: In the case of a resignation of an officer, the removal of an officer, or for any other reason, with the exception of the President, the Board will appoint a replacement Director to complete the then-current officer term. In the case of the resignation or the removal of the President, the Vice-President will serve as the replacement President until such time as the Board appoints another individual to serve as President of the Association.

Section 4. Resignations: Any officer may resign at any time by serving written notice to the President or Vice-President of the Board. Such resignation shall take effect at the time specified therein or, if no time is specified, upon receipt of the notice by the President or Vice-President.

Section 5. Removal: Any officer may be removed from their position with or without cause or reason at any time by a vote of seventy-five percent (75%) of all of the Directors then in office at a duly called meeting of the Board of the Directors where a quorum exists.

ARTICLE IX – DUTIES OF OFFICERS

Section 1. President: The President shall serve as chairman of the Board of Directors and Executive Committee. The President shall serve as a member, ex-officio, with the right to vote, on all committees except the Nominating Committee. The President shall make all required appointments of standing and special committees with the approval of the Board of Directors. The President may sign such contracts and other document of

the Association as directed by the Board of Directors. The President shall perform such other duties as are incidental to the Office of President or as may be prescribed by the Board of Directors.

Section 2. Vice President: The Vice President shall perform such other duties as are incidental to the Office of Vice President or as may be prescribed by the Board of Directors. In the absence of the President, all authority and duties of the President shall be vested in and performed by the Vice President.

Section 3. Treasurer: The Treasurer shall be in charge of the Association's funds and related records and shall report on the financial condition of the Association at all meetings of the Board of Directors and at any other time the President deems necessary. The Treasurer may delegate to the Executive Director such duties and responsibilities, with approval of the Board of Directors, as may be necessary to access and collect Member dues and any other monies, to maintain custody of all monies and assets of the Association, to maintain regular books of account, and to execute such financial transactions as may be approved by the Board of Directors. Unless the Treasurer engages in any actual handling of the Association's monies or other assets, the Treasurer shall not be required to secure a fidelity bond; otherwise, the Treasurer shall secure the aforementioned bond with the premium paid by the Association.

Section 4. Secretary: The Secretary shall be custodian of the corporate seal, shall keep a roll of the members and attend to the giving and serving of meeting notices, shall take and keep minutes of all meetings of the Association, the Board of Directors and for any standing or special committee when required. Should the Secretary engage in the actual handling of the Association's monies or other assets, he or she shall be required to secure a fidelity bond with the premium paid by the Association.

ARTICLE X – EXECUTIVE COMMITTEE

Section 1. Appointment: The Board of Directors shall appoint an Executive Committee consisting of the President, Vice President, Treasurer, and the immediate past President. The Board of Directors may appoint a secretary to serve on the Executive Committee, or the Executive Director may serve as secretary, but the Executive Director will not under any circumstances be a member of the Executive Committee. The President shall serve as Chairman of the Executive Committee.

Section 2. Term: The Executive Committee, with the exception of the immediate past President, shall serve a two-year term. The immediate past President shall serve for a one-year term.

Section 3. Authority and Responsibility: The Executive Committee may act in place and stead of the Board of Directors between Board meetings on all matters except, however, the Executive Committee shall not:

- (a) Authorize distributions to or for the benefit of the Directors or officers;
- (b) Approve dissolution, merger or the sale, pledge, or transfer of all or substantially all of the Association's assets;
- (c) Adopt, amend, or repeal the Articles of InAssociation or Bylaws.

Action of the Executive Committee shall be reported to the Board.

Section 4. Quorum: A majority of the Executive Committee members shall constitute a quorum at any duly called meeting of the Executive Committee in order to conduct any business of the Association.

ARTICLE XI – SPECIAL AND STANDING COMMITTEES

Section 1. Nominating Committee: The President shall appoint a Nominating Committee, which shall consist of three Directors. The Nominating Committee shall submit to the Board of Directors at the Board Annual Meeting the nominees for the offices of President, Vice-President, Treasurer, and Secretary. All nominations permitted under these Bylaws and applicable law shall be voted upon at the Board Annual Meeting of the Board of Directors.

Section 2. Special Committees: Subject to the requirements of these Bylaws and applicable law, either the Board or the President may, from time to time, create special or ad hoc committees or advisory boards with such powers and duties as the Board or the President may prescribe. Except as otherwise expressly provided herein or upon the creation of any such committee, the President shall appoint individuals to serve on each such committee on an annual basis, subject to the approval of the Board of Directors. Individuals, who are not Directors, may also be appointed to any committee of the Association, except the Executive Committee. The authority, duties, and powers of the various committees may be limited or increased from time to time, as the Board of Directors or the President may so decide. Each committee shall have two (2) or more individuals serving thereupon.

ARTICLE XII – EXECUTIVE STAFF

Section 1. Appointment: The Board of Directors may employ a salaried staff head who: (a) Shall have the title of Executive Director and whose term and conditions of employment shall be specified by the Board and (b) Shall not be a representative or employee of a member firm.

Section 2. Authority and Responsibility: The Executive Director shall manage and direct all activities of the Association as prescribed in these Bylaws and by the Board of Directors. He or she shall employ and may terminate the employment of the members

of the staff necessary to carry on the work of the Association and fix their compensation within the approved budget. As Executive Director, he or she shall define the duties of the staff, supervise their performance, establish their titles and delegate those responsibilities of management that shall, in his or her judgment, be in the best interest of the Association.

ARTICLE XIII – FINANCE

Section 1. Fiscal Year: The fiscal year of the Association shall be as prescribed by the Board of Directors.

Section 2. Bonding: Fidelity bonds shall be furnished by such officers or employees of the Association as required by these Bylaws or as directed by the Board of Directors. The amount of such bonds shall be determined by the Board and the cost paid by the Association.

Section 3. Budget: With the recommendations by the Executive Committee, the Board shall adopt at each Board Annual Meeting an annual operating budget covering all activities of the Association for the forthcoming fiscal year. The Executive Director shall furnish the Board of Directors within one hundred fifty days following the end of each fiscal year a financial report prepared by a certified public accountant and bearing such certification for the fiscal year just completed. Furthermore, the financial records of the Association shall be open for inspection by any Director of the Board of Directors at any time during normal office hours.

Section 4. Bank Deposits: All funds of the Association as received from Membership dues, contributions or other sources shall be deposited in such bank or bank in the name of the Association as the Board of Directors shall designate and shall be drawn out by checks signed in the name of the Association by such bonded officers or employees as the Board may designate and authorize.

Section 5. Compensation: No Director or officer shall receive compensation for service as a director or officer.

ARTICLE XIV - INDEMNIFICATION

Section 1. Expenses and Liabilities: To the maximum extent permitted by the South Carolina Nonprofit Corporation Act of 1994, as amended, Chapter 31, Title 33, S.C. Code (the “*Nonprofit Act*”), the Association shall indemnify each of its Directors, officers and Agents against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that any such person is or was an agent of the Association. For purposes of this Article, an “*Agent*” of the Association includes any person who is or was a director, officer, employee, or other agent of the Association; or is or was serving at the request of the Association as a director, officer, employee, partner, joint venturer, trustee, or similar position.

Section 2. Advance of Expenses: To the extent permitted by law applicable, the Association shall advance expenses incurred or to be incurred by a Director, officer, or Agent in connection with any proceeding arising by reason of the fact that said person was or is a Director, officer, or Agent of the Association, provided such advance is authorized by the Board and permitted by applicable law.

Section 3. Insurance: The Board shall adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any Director, officer, or Agent of the Association against any liability asserted against or incurred by such persons in such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such persons against that liability under the provisions of this Article.

Section 4. Bond: The Board may, by resolution, require any or all officers, Agents, and employees of the Association to give bond to the Association, with sufficient sureties, conditioned on the faithful performance of the duties of their respective offices or positions, and to comply with such other conditions as may from time to time be required by the Board.

ARTICLE XV – CORPORATE SEAL

The corporate seal of the Association shall consist of concentric circles, the outer edge featuring the wording, “South Carolina Asphalt Pavement Association”, and having in the center thereof the wording, “Incorporated 1966”.

ARTICLE XVI – DISSOLUTION

The Association shall use its funds only to accomplish the objectives and purposes specified in these Bylaws. No part of said funds shall inure or be distributed to the member firms of the Association. The Association shall be dissolved according to law, and, if so, any funds remaining shall go to the National Center for Asphalt Technology or any other non-profit organization engaged in asphalt research, subject to the approval of the Board of Directors.

ARTICLE XVII – MISCELLENEOUS

Section 1. General: The regulation of the business and conduct of the affairs of the Association will conform to federal and state income tax laws and any other applicable federal and state law, including, but not limited to, the Nonprofit Act. In the interpretation of these Bylaws, wherever reference is made to the United States Code (U.S.C.), the United States Internal Revenue Code, Internal Revenue Laws or Treasury Regulations thereunder, the Nonprofit Act, the South Carolina Code or any other statute, or to any section thereof, such reference will be construed to mean such Code, Act, Laws, Statutes, or section thereof,

and the regulations thereunder, as the case may be, as heretofore or hereafter amended or supplemented or as superseded by laws or regulations covering equivalent subject matter.

Section 2. Governing Law: These Bylaws are executed and delivered in the State of South Carolina and they will be governed by, construed and administered in accordance with the laws of the State of South Carolina.

Section 3. Amendments. These Bylaws may be amended or repealed by a two-thirds vote of the Board of Directors at any duly called meeting of the Board of Directors, provided however, that notice of such proposed changes are sent in writing to all of the Directors not less than ten (10) days before such meeting.

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