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**memo:**

**To: All ABMA AC 2016 Attendees**

**From: David Parr, Exec. Dir.**

**Date:** 2/11/2016

**Subject: Proposed By Laws Changes**

Please review the proposed by laws changes that follow, as you will be asked to vote on these proposed changes at the Closing Business Session. There will be a presentation on the proposed changes and a question and answer period will be provided.

Feel free to discuss these proposed changes with any Director or Officer or myself in advance of the meeting as well.

Attendees representing Active and Affiliate Member Companies may vote on the matter.

Thanks and regards

A handwritten signature in black ink, appearing to read "David Parr", with a stylized flourish at the end.

David C. Parr, Executive Director

**AMENDED and RESTATED BY-LAWS**  
**OF**  
**THE AMERICAN BRUSH MANUFACTURERS ASSOCIATION**

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## **ARTICLE I**

### **Name and Offices**

Section 1. The name of the organization shall be The American Brush Manufacturers Association.

Section 2. The registered office shall be located in the City of Philadelphia, Commonwealth of Pennsylvania, or such other location in or outside the Commonwealth as the Board of Directors may determine.

## **ARTICLE II**

### **Definitions**

Section 1. The term "Industry" includes the manufacture of, the supplying of materials, services and/or machinery for, or the sale of brooms, brushes, mops and or like products in Mexico, Canada, and the United States and its territories ("North America").

## **ARTICLE III**

### **Purpose**

Section 1. The purposes of the Association, to the extent permitted by law, are:

(a) To create widespread public awareness and understanding of the usefulness, desirability, and health giving benefits of high quality North American made brooms, brushes, mops and/or like products.

(b) To provide to the Divisions and their affiliated members coordination of effort and other services to achieve objectives which an individual member could not independently achieve as efficiently, if at all.

(c) To support its members, by maintaining contacts with appropriate branches of the United States Government, to keep abreast of legislation and current developments affecting tariffs,

imports, specifications, taxes, etc. and to vigorously oppose any legislation or regulation which adversely affects membership companies, as may be directed by the Board.

(d) To facilitate, on a friendly, personal basis, the exchange of management and technical experiences at Association meetings.

(e) To encourage cooperation as well as mutual respect and understanding between Active, Affiliate and International members.

(f) To represent its Members in the world community of the Industry.

(g) To encourage the fair trade of North American Member-made brooms, brushes, mops and like products.

(h) To oppose illegal imports of foreign-made brooms, brushes, mops and like products.

## ARTICLE IV

### Membership

Section 1. The members of the Association shall consist of five (5) categories of members: Active (manufacturer), Affiliate (supplier), Branch (of Active or Affiliate), International (non-North American) and Honorary members, each of which may be affiliated with a particular Division(s) of the Association.

Section 2. Active Members: Any individual, firm, or corporation that manufactures brooms, brushes, mops, or like products with a manufacturing or distribution facility located in North America ("Brush Manufacturers"), and meeting such additional membership eligibility requirements, if any, as are adopted from time to time by the Board of Directors shall be eligible for Active membership. As used in these Amended and Restated By-laws, a manufacturer is any individual, firm or corporation which makes broom, brush, mop, or like products by converting raw materials into a completed product by a mechanical, electrical, or chemical (i.e., not manual)

process and excluding packaging or composite assembly of finished goods. The manufacturer's distribution facility is a location that inventories and ships brooms, brushes, mops, or like products on a continuous and systematic basis.

Section 3. Affiliate Members: Any individual, firm or corporation engaging in the supply of raw material, machinery and/or related services to Brush Manufacturers and meeting such additional membership eligibility requirements, if any, as are adopted from time to time by the Board of Directors shall be eligible for Affiliate membership.

Section 4. Branch Members: An Active or Affiliate member of the association, meeting the requirements as stated in Section 2 and 3 above, and meeting such additional membership eligibility requirements, if any, as are adopted from time to time by the Board of Directors, may add a division or wholly owned subsidiary as a Branch Member. A Branch Member must be eligible for the same membership category as the Active or Affiliate ~~member company~~Member Company.

Section 5. International Members: Any individual, firm or corporation that manufactures brooms, brushes, mops or like products, with an interest in the Industry, but without a manufacturing or distribution facility in North America ("International Manufacturers"), and meeting such additional membership eligibility requirements, if any, as are adopted from time to time by the Board of Directors, shall be eligible for International Membership. International Members shall only be allowed access or use of the ABMA-International Member logo.

Section 6. Honorary Members: Any individual who has performed outstanding service to the Association or to the Industry, as determined by the Board of Directors; is no longer connected with the Industry; and meeting such additional membership eligibility requirements, if any, as are

adopted from time to time by the Board of Directors, shall be eligible for Honorary membership. Honorary Members shall not be allowed access or use of the ABMA logo.

Section 7. Applications for Active membership and/or Affiliate membership or International membership, shall be made to the Board of Directors in writing and signed by the applicant. Applicants meeting the eligibility requirements adopted by the Board of Directors from time to time shall be approved by the Board of Directors. The Board of Directors may refer an application for membership to a Division or its Chairman for information concerning the factual accuracy of the application.

Section 8. Nomination forms for Honorary membership, presented by an Active, Affiliate or International member, shall be made to the Board of Directors, in writing, and signed by the nominating member. Nominees meeting the eligibility requirements adopted by the Board of Directors from time to time shall be approved by the Board of Directors. The Board of Directors may refer a nomination for membership to a Division or its Chairman for information concerning the factual accuracy of the nomination.

Section 9. Any rejection for membership shall be communicated to the applicant in writing along with the reasons therefore, and the applicant shall be given an opportunity to produce additional information in writing to the Board of Directors not later than sixty (60) days after receipt by the applicant of such initial decision. Decisions of the Board of Directors made after receipt of such additional information shall be conclusive.

Section 10. Upon (i) written application or nomination and approval for membership pursuant to the procedures contained herein, (ii) subscription to these Amended and Restated By-Laws, and (iii) payment of any membership fee or due provided herein, an applicant for membership, shall

become a member of the Association entitled to all the rights, privileges and obligations pertaining to the respective class(es) of membership granted.

Section 11. All Active members must notify the Executive Director or Managing Liaison in writing of their primary Division affiliation. All Affiliate members are assigned to the Affiliate Division. All members may attend any Division and committee meetings. International and Honorary members are privileged to attend one or more Division and committee meetings of the Association.

Section 12. Resignation of members shall be made in writing to the Board of Directors and forwarded to the Management Office. All members resigning by March 1st shall be deemed to have resigned in good standing.

Section 13. Membership may be terminated as specified below, provided, however written notice is delivered ten (10) days prior to board action, and the member is granted an opportunity to be heard by the Board of Directors before any action is taken.

(a) Upon a vote of a majority of all directors then in office, membership shall be terminated for failure to fulfill or continue to fulfill, for whatever reason, the eligibility requirements as adopted by the Board of Directors from time to time.

(b) Termination may be effected at the discretion of the Board of Directors for one or more of the following reasons upon a two-thirds (2/3) vote of all directors then in office:

(i) Commencement of bankruptcy, receivership, reorganization, arrangement or liquidation proceedings, State or Federal, by or against a member.

(ii) A transfer of control of the business of a member whether by sale, merger, consolidation or however else effected.

Section 14. Any member whose dues and/or assessments (Divisional) remain unpaid ninety (90) days after the date payable shall be reported to the Board of Directors, and the Board of Directors may declare such member delinquent; thereupon there shall be mailed to such member a bill covering the unpaid dues and assessments and a copy of their action. If the dues or assessments remain unpaid for thirty (30) days thereafter, the member shall automatically be suspended and shall forfeit the benefits of the Association until reinstated. If the delinquent member shall fail to pay all indebtedness to the Association after 15 (fifteen) days suspension, such membership shall be terminated automatically. Any member so terminated shall not be eligible to rejoin the Association for a period of one year.

Section 15. Any member that has resigned or been terminated shall be eligible to rejoin the Association only after all prior indebtedness has been paid.

## ARTICLE V

### Membership Dues

Section 1. The amount of Annual Dues of each Active, Affiliate or International Member for the following year shall be established as follows:

(a) Each such member shall be assigned the following number of Dues Units each year based on its Annual Gross Sales Volume in North America of brooms, brushes, mops or like products for its last completed fiscal year, calculated in accordance with generally accepted accounting principles ("GAAP"), consistently applied for Affiliate Members, Annual Gross Sales Volume is limited to Industry sales in North America:



ANNUAL SALES VOLUME DUES UNITS

Under \$500,000	4
\$500,000 to \$1,000,000	5
\$1,000,001 to \$2,000,000	6
\$2,000,001 to \$5,000,000	7
\$5,000,001 to \$10,000,000	8

For each additional \$5,000,000 sales or fraction thereof, one additional dues unit will be applied; provided, however, that there shall be a maximum of 16 dues units applied for companies with a sales volume greater than \$50,000,000. A member shall have the option of calculating its Annual Sales Volume on a consolidated basis with its branches and/or subsidiaries in which event such member may add such branches or subsidiaries to all additional listings maintained by the Association upon the payment of an additional \$250 for each such branch or subsidiary.

(b) At the time the Association adopts a budget for the following year, the Aggregate Dues Units for all such members shall be determined based on the most current information then available to the Association.

c) That portion of the budget to be raised by Dues shall be divided by the aggregate of Dues Units to obtain the current Dues Units value in dollars. Each such member's dues for the following year shall be its number of Dues Units times the current Dues Unit value, and shall be payable thirty (30) days after notice of payment due is sent to such members; provided, however, that a member paying its dues by January 31 in any year shall be entitled to an "Early Bird Discount" equal to one dues unit. In addition, a new member (joining after November 1, 2003) will receive an additional one dues unit credit in the first year of membership as a "New Member Bonus". Dues for the current fiscal year will be waived for any new members joining in the 4th quarter. Such members shall be billed within sixty (60) days for the following fiscal year's dues.

(d) All applications for membership must be accompanied by a payment, in full, of all dues.

(e) All fees, assessments, dues, and any other payments to the Association, must be payable in U.S. funds drawn against a U.S. Bank.

Section 2. Honorary members shall not be assigned Dues Units and shall not be required to pay membership dues or application fees.

Section 3. Upon prior approval of the Board of Directors, assessments may be levied on the members affiliated with a Division provided such assessments are also approved by a two-thirds (2/3) vote of the members.

## ARTICLE VI

### Meetings of Members

Section 1. All meetings of the members shall be held at such place, within or without the Commonwealth, as the Board of Directors may from time to time determine.

Section 2. An annual meeting of the members shall be held upon thirty (30) days' prior written notice to all members of the Association at such time and place as the Board of Directors may determine. At the Annual Meeting the members shall elect by a plurality vote certain officers and certain directors, as provided in these Amended and Restated By-Laws, and transact such other businesses as may properly be brought before the meeting.

Section 3. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called at any time by the President, by the Executive Director ~~or Managing Liaison~~, by a majority of the Board of Directors

or by at least 20 percent (20%) of the Active Members, upon written request delivered to the Executive Director ~~or Managing Liaison~~ of the Association. Such request shall state the purpose or purposes of the proposed meeting. Upon receipt of any such request, the Executive Director ~~or Managing Liaison~~ shall fix the time of the meeting which shall be held not more than sixty (60) days thereafter. If the Executive Director ~~or Managing Liaison~~ shall neglect or refuse to issue such call, the person or persons making the request may issue the call.

Section 4. Written notice of every meeting of the members, specifying the place, date, and hour and the general nature of the business of the meeting, shall be served upon, faxed, electronic mailed or mailed, postage prepaid, at least thirty days prior to the meeting unless a greater period of notice is required by these Amended and Restated By-Laws or statute.

Section 5. Members eligible to vote may vote by proxy at meetings of the Association and of the Divisions provided such proxy shall be executed in writing by the member, or his duly authorized attorney-in-fact and is delivered to the Executive Director ~~or Managing Liaison~~ of the Association. No proxy shall be valid after eleven months from this date of its execution unless a longer time is expressly provided therein, but in no event shall a proxy be voted on after three years from its date of execution.

Section 6. One-third (1/3) of the members entitled to vote, present in person or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute or by the Articles of Incorporation or by these Amended and Restated By-Laws. The members present in person or by proxy at a duly convened meeting can continue to do business until adjournment, notwithstanding withdrawal of enough members to leave less than a quorum.

Section 7. When a quorum is present or represented at any meeting, the vote of a majority of those present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which, by express provision of the statutes or of the Articles of Incorporation or of these Amended and Restated By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question.

Section 8. One or more 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 and speak to each other.

Section 9. Each Active and Affiliate member shall at every meeting of the members be entitled to one (1) vote in person or by proxy. International and Honorary Members shall be privileged to attend all meetings of the members but shall not be entitled to vote and will not be counted for purposes of determining a quorum or transacting business.

Section 10. Any matter upon which Members are required or entitled to vote, including changes in the Articles of Incorporation, the Amended and Restated By-laws or election of directors or officers, may be by ballot, by fax, by electronic mail, or by mail. Any provision of these Amended and Restated By-Laws which requires that such vote be taken at a meeting or otherwise is hereby modified by this Section.

## ARTICLE VII

### Directors

Section 1. There shall be ~~seventeen~~ (17) members on the Board of Directors, ~~sixteen-fifteen~~ (165) voting members and ~~one three~~ (31) non-voting members. Each director shall be elected as

specified herein. The Board of Directors may, by a vote of not less than a majority of the authorized number of voting directors, increase or decrease the number of directors from time to time, without a vote of the members, provided, however, that any such decrease shall not eliminate any director then in office.

Section 2. Only active employee(s) of an Active or Affiliate Member shall be eligible to hold office as director of the Association. International and Honorary Members shall not be eligible to hold any office.

Section 3. The voting directors shall consist of the following:

~~(a)~~ (a) The three (3) officers of the Association: President, Vice President, and Treasurer.

(b) The Immediate Past President

~~(b)~~ (c) Six (6) representatives from the Active Membership ~~including the Chairman and board representative from each current active manufacturing division including:~~

- ~~\_\_\_\_\_ (i) Broom & Mop~~
- ~~\_\_\_\_\_ (ii) Industrial & Maintenance~~
- ~~\_\_\_\_\_ (iii) Paint Applicator~~

~~(d)~~ (e) Six (6) representatives from the Affiliate Membership ~~as follows: the Chairman and five (5) board representatives from the Supplier Division.~~

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-Each director so elected or qualified shall serve a term of ~~fourtwo~~ (42) years and until their successor shall be elected and/or have qualified or until their earlier death, resignation or removal.

A director may not serve more than two (2) consecutive terms in the same position.

The non-voting directors shall be the ~~Immediate Past President~~, Executive Director, ~~and Managing Liaison~~. However, ~~the Executive Director~~ each shall be entitled to all other rights and privileges of board members. The ~~Executive Director, Managing Liaison and immediate past President~~ shall not be counted for purposes of determining a quorum or transacting business. The Executive Director ~~and Managing Liaison~~ shall serve unless and until he/she is terminated as Executive Director ~~or Managing Liaison~~, as the case may be, by a majority vote of the Board of Directors.

~~(d) Starting with the 2002 Annual Convention, the new Board will have 16 voting Directors with three officers, six representatives from the Suppliers' Division, and seven representatives from the product divisions (from the Broom & Mop Division and the Paint Applicator Division there are 2 representatives each, from the Industrial & Maintenance Division there are 3 representatives.) With the 2003 Annual Convention, the new Board will have 15 voting Directors with three officers, six representatives from the Suppliers' Division, and six representatives from the product divisions. With the Personal Brush Division still inactive, this means that each product division will have two representatives; hence, the Industrial & Maintenance Division will not hold another election until the 2005 Annual Convention. During the 2002 Annual Convention, the Suppliers' Division will elect one at-large representative for a one-year term and one for a three-year term. In 2003 and after, one at-large representative would be elected to a four-year term.~~

(d) Starting with the 2016 Annual Convention the current Divisional chairpersons will serve a term of one year and the current Divisional Vice-Chairs will serve a term of three years. During the 2017 Annual Convention the membership will elect three representatives from each of the Active and Affiliate Members to a four (4) year term. During the 2019 Annual Convention the membership will elect three representatives from each of the Active and Affiliate Members to a four (4) year term.

Section 4. Vacancies and newly created directorships shall be filled by a majority vote of the remaining directors, though less than a quorum, provided, however, that if such vacancy or addition relates to a director's position associated with any Division, then the appropriate Division shall recommend a replacement who may be approved by the remaining directors. Each person so elected shall be a director until his term is completed and his successor shall be elected and have qualified, or until his earlier death, resignation or removal.

Section 5. The business of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things as are not by statute or by the Articles of Incorporation or by these Amended and Restated By-Laws directed or required to be exercised and done by the members.

#### Meetings of the Board of Directors

Section 6. A regular meeting of the Board of Directors shall be held at the same place as the Annual Meeting of the Association, unless the Board of Directors shall otherwise determine. No notice of such meeting shall be necessary in order to constitute legally such meeting, provided a majority of the whole Board shall be present.

Section 7. Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by resolution of at least a majority of the board at a duly convened meeting, or by unanimous written consent.

Section 8. Special meetings of the board may be called by the President, ~~or~~ Executive Director ~~or~~ **Managing Liaison** or upon written request of a majority of voting directors then in office on five days' notice to each director, either personally, by mail, by telephone, by fax, or by electronic mail.

Section 9. At all meetings of the board a majority of the voting directors in office shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the voting directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors, except as may be otherwise specifically provided by statute, its Articles of Incorporation or these Amended and Restated By-Laws.

Section 10. One or more directors may participate in a meeting of the board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and speak to each other. The voting directors present at a duly convened meeting can continue to do business until adjournment, notwithstanding withdrawal of enough directors to leave less than a quorum. If a quorum shall not be present at any meeting of directors, the voting directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 11. If all the voting directors shall unanimously consent in writing to any action to be taken by the Association, such action shall be as valid a corporate action as though it had been authorized at a meeting of the Board of Directors.

## **ARTICLE VIII**

### **Removal**

Section 1. The members may remove any member of the Board of Directors from such office without assigning any cause at any meeting of the members by the vote of two-thirds (2/3) of the members of the Association entitled to vote, provided, however, written notice is delivered ten (10) days prior to Board action and the member is granted an opportunity to be heard by the Board of



Directors before any action is taken. Any director missing any two consecutive meetings within a two-year term shall be considered to have resigned, subject to the acceptance of the Board of Directors. Any person so removed shall be replaced at the same meeting by the group that originally elected such board member.

Section 2. Each Division may remove their officers or representatives by the two-thirds (2/3) vote of the members of such Division, provided, however, written notice is delivered ten (10) days prior to such action and the officer or representative is granted an opportunity to be heard by the Division before any action is taken.

## **ARTICLE IX**

### **Notices and Other Writings**

Section 1. Notices and other writings to or from directors and members shall be in writing and delivered either personally or by sending a copy thereof by first class or express mail, postage prepaid, or by courier service, charges prepaid, or by facsimile or electronic mail to his address (or to his facsimile or telephone number[s]) or electronic mail appearing on the books of the Association or, in the case of directors, supplied by him to the Association for the purpose of notice. If the notice is sent by mail or courier service, it shall be deemed to have been given and delivered to the person entitled thereto when deposited in the United States mail or courier service for delivery to that person or, in the case of facsimile or electronic mail, when dispatched. Notices relating to meetings shall state the purpose or purposes of the meeting, and business transacted at any special meeting of the members shall be limited to the purposes set forth in the notice therefor. In the case of proposed amendments to these Amended and Restated By-Laws or the Articles of Incorporation, the notice shall also give the full text of such proposed amendment.

Section 2. Whenever any notice or other writing is required to be given to any member under the provisions of the statutes, the Articles of Incorporation or these Amended and Restated By-Laws, the giving of notice or writing to a member shall not be required if the Association has been unable to communicate for more than 24 consecutive months because communications to such member are returned unclaimed or the member has otherwise failed to provide the Association with a current address. Whenever such member provides the Association with a current address, this Section 2 shall cease to be applicable to such member.

Section 3. Whenever any notice is required to be given under the provisions of the statutes or of the Articles of Incorporation or of these Amended and Restated By-Laws, a waiver thereof in writing signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. Whenever a notice, request, waiver, communication, consent to an action, vote, proxy or other document is required by these Amended and Restated By-Laws to be in writing, with or without signature, that requirement may be fulfilled by the delivery, pursuant to Section 1 above, via facsimile or electronic mail, of a copy of that document, which copy shall include signature where required.

## **ARTICLE X**

### **Divisional Organization**

Section 1. The following Divisions of the Association are created in order that members who are interested in particular types of brooms, brushes, mops or like products may undertake, in all lawful ways, to the extent permitted by law, such Association activities and objectives as related to that Division:

- (a) Personal Brush Division
- (b) Paint Applicator Division
- (c) Industrial and Maintenance Division
- (d) Suppliers Division
- (e) Broom and Mop Division

The separate Divisions shall deal with matters relating exclusively to the products which the Division and represents. Each Active and Affiliate member of the Association who is primarily affiliated with a Division shall have one (1) vote with respect to that Division's matters, which are exclusive of Association matters.

A majority of the members of each Division, present in person or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of each Division for the transaction of business. International and Honorary Members will not be counted for purposes of determining a quorum or transacting business. When a quorum is present or represented at any such meeting, the vote of a majority of those present shall decide any question brought before such meeting, unless otherwise provided by these Amended and Restated By-Laws.

Section 2. Additional Divisions may, from time to time, be formed or dissolved with the approval of the Board of Directors.

~~Section 3. There shall be a Chairman, Vice Chairman, and Secretary of each Division, all of whom shall be an active employee or officer of an Active or Affiliate member whose primary affiliation is that Division. The officers of each Division shall have the authority to act for their Division by unanimous written vote between meetings of the Division. The officers for each Division shall be elected by majority vote of that Division at the meetings of the Division and held in connection with the Association's Annual Meeting. They shall hold office for a period of two (2) years, and until their successors shall have been elected and qualified or until their earlier death, resignation or~~

~~removal. Those Divisions entitled to have a representative serve on the Board of Directors shall also elect such representatives at the same time and in the same manner as the officers are elected for each Division.~~ The permanent files of each Division shall be kept by the Executive Director ~~or Managing Liaison~~ of the Association at the Association Offices.

Section 4. In the event of any conflict in the activities of the Divisions, the Board of Directors shall rule with respect to jurisdiction and their ruling shall be final.

Section 5. Any Division may elect, upon vote of the majority of its members, to convene in Executive Session at which time attendance shall be limited to members of such Division and to the Executive Director, ~~Managing Liaison~~ and/or Association Officer~~the members of the Management Office.~~

~~Section 6. A Division may create a Task Force of members interested in a particular issue. Such a Task Force, or Task Forces shall function under the aegis of the Division, without Officers or a formal structure other than a Task Force Chair. Task Forces shall not meet unless their agendas have been previously approved and a staff member is present. The Task Force will automatically sunset once the agenda has been completed, or at the end of two years, whichever occurs first.~~

## ARTICLE XI

### Officers

Section 1. The officers of the Association shall consist of a President, a Vice President, a Treasurer, an Executive Director, ~~a Managing Liaison~~, and such other officers as the Board of Directors shall from time to time create. All officers, except the Executive Director ~~and the~~

~~Managing Liaison~~, and all Directors shall serve without compensation. All officers, except the Executive Director ~~and the Managing Liaison~~, shall have completed a minimum of two years term on the Board of Directors. The Board of Directors may, in their discretion, authorize the reimbursement of reasonable expenses incurred by the officers and directors in fulfilling their duties.

Section 2. All officers, except Executive Director, ~~Managing Liaison and other officers affiliated with the Management Office~~, shall be elected at the Annual Meeting of the Association by the members entitled to vote, shall be an active employee or officer of an Active or Affiliate Member and shall hold office for a term of two (2) years and shall not serve more than two (2) consecutive terms. ~~Such other officers affiliated with Management Office shall be appointed by the Board of Directors for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the board.~~

Section 3. In the event an elected officer leaves the member company where they were employed at the time of their election such officer shall submit a letter of resignation to the Board of Directors. The Board of Directors will determine by majority vote whether to accept the resignation or request the individual to serve the remainder of their term. If the resignation is accepted, or an officer dies, the Board of Directors shall elect their replacement from the existing Directors within 30 days.

The President

Section 4. The President shall be the chief executive officer, shall preside at all meetings of the Board of Directors, shall be an ex-officio member of all standing and special committees of the Board of Directors, shall see that all orders and resolutions of the Board of Directors are carried into effect and shall otherwise perform all duties as are usually performed by such officer. The

President, at his discretion, may invite any member in good standing to attend any meeting of the Board of Directors (with voice but without vote).

Section 5. He shall execute bonds, mortgages and other contracts in the name of the Association requiring a seal, under the seal of the Association, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Association.

#### The Vice President

Section 6. The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

#### Executive Director ~~and Managing Liaison~~

Section 7. The Executive Director ~~and Managing Liaison~~ shall be appointed by the Board of Directors, shall manage and direct all functions and activities of the Association, shall be non-voting members of the Board of Directors and shall perform such other duties and have such other powers as shall be specified from time to time by resolution of the Board of Directors which, for the appropriate officer hereunder or such other officer or assistant officer as the Board of Directors may designate, may include, but not be limited to, providing advice to the other officers and Board of Directors on professional matters relating to the Association, attending all meetings of the Board of Directors and all meetings of the members, recording all the proceedings of such meetings in a book to be kept for that purpose, giving, or causing to be given, notice of all meetings of the members and special meetings of the Board of Directors, keeping in safe custody the seal of the Association and, when authorized by the Board of Directors, affixing the same to any instrument requiring it and, when so affixed, it shall be attested by his signature and otherwise performing the statutory duties of a corporate secretary. The employment and termination of employment of

members of the Management Office by the Executive Director ~~and Managing Liaison~~ shall be considered to be acts by these officers in their other professional capacities and not in their capacities as officers of the Association.

Section 8. The Executive Director ~~and/or Managing Liaison~~ shall employ, and may terminate the employment of, members of the Management Office to assist the Executive Director, ~~Managing Liaison~~ and any other officers in carrying out their duties and the work of the Association.

#### The Treasurer

Section 9. The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, such books to be audited at least annually by a certified public auditor selected by the Board of Directors, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors.

#### The Management Office

Section 10. The Management Office, to the extent requested by the President, Vice President, Executive Director, ~~Managing Liaison~~ and/or Treasurer, shall assist the President, Vice President, Executive Director, ~~Managing Liaison~~ and Treasurer in discharging their duties, which shall include without limitation keeping a record of all meetings and all correspondence of the Association and of the Board of Directors, sending out notices of all meetings, collecting all monies due the Association, depositing such funds, paying Association-related bills, assisting in the preparation of financial reports, and maintaining a safe deposit box in the name of the Association as a depository for securities and other valuable documents of the Association.

Section 11. The Management Office and/or Treasurer shall be authorized to pay only for budgeted items from the funds of the Association, unless otherwise authorized by the Board of Directors.

## ARTICLE XII

### Standing Committees and Task Forces

Section 1. The Board of Directors may, from time to time, create standing committees of the Board of Directors, define their duties and the method of electing its members and chairmen.

Task Forces of the Board of Directors may be appointed by the President from time to time to undertake any work of a temporary character within the scope of the purposes of the Association.

Task Forces shall not meet unless their agendas have been previously approved and a staff member is present. The Task Force will automatically sunset once the agenda has been completed, or at the end of two years, whichever occurs first. The President shall be an ex-officio member of all standing committees and task forces of the Board of Directors. All Directors shall be a member of at least one standing committee or a task force.

Section 2. At least ninety (90) days prior to the first day of each Annual Meeting, the President shall appoint a Leadership Development Committee consisting of the following: the Immediate Past President of the Association as Chairman; the prior three Immediate Past Presidents, if still active; the Association officers currently serving; the incoming Divisional Chairmen, and the Suppliers Division incoming 1<sup>st</sup> Vice Chair.

Section 3. The duties of the Leadership Development Committee shall be to recommend names for the various elective offices of the Association. In the case of any officer who is eligible to a second term or for election to the next higher office, the Leadership Development Committee shall first consider nominating such officer for such office. If the Leadership Development Committee by



a majority vote of its members approves such nomination, such officer's name shall be placed before the Association for election. If such officer is not nominated as specified above, the Leadership Development Committee shall then proceed to consider other names and shall, as soon as possible, advise such officer of its action and the reasons therefor. The Leadership Development Committee shall endeavor to nominate Directors for the Active membership seats that represent all of the various Active Member Divisions of the Association; however this is not a requirement. The Leadership Development Committee shall endeavor to nominate Directors for the Affiliate / Supplier membership seats that represent a wide spectrum of the various Affiliate member product categories of the Association; without having any one category overbalance the Affiliate / Supplier seats.

Section 4. The Leadership Development Committee shall present its report of nominees to the members at the Annual Meeting. After such presentation and prior to membership vote, any member of the Association may place in nomination the name of any eligible person and all such nominations shall be added to those reported by the Leadership Development Committee.

Section 5. The Finance Committee shall consist of the Treasurer as Chairman, the Vice President, the Immediate Past President and an Active or Affiliate Director, if not represented by the other 3. The Finance Committee shall prepare and present to the Board of Directors an Annual Budget, monitor the Association's investment decisions and perform such other duties as may be directed by the Board of Directors.

Section 6. The Convention Committee, chaired by the Vice President, shall plan, promote, and deliver an Annual Convention tailored to member needs, including a Suppliers' Display and appropriate networking opportunities to give members a chance to meet each other and exchange

ideas and doing so within the Board-approved budget.

Section 7. The Education Committee shall recommend pertinent manuals, texts, films, and seminars for general employee training purposes and recommends educational approaches to best transfer industry-specific training and knowledge. The Committee will also recommend educational programs for the Annual Convention which are designed to meet the needs of the members.

Section 8. The International Trade Show Committee shall determine what, if any, financial opportunities exist for ABMA with International Trade Shows.

Section 9. The Membership Committee shall encourage eligible companies to join ABMA as well as oversee membership retention efforts. The Committee will make suggestions, observations, and recommendations about Membership activities to the Board of Directors. The Committee will also maintain contact with eligible prospective members through correspondence and personal solicitation.

Section 10. The Public Relations Committee shall create for the industry a strong image that will enhance its marketing position. The goals are to achieve favorable public recognition for the members' businesses, the industry, and profession; increase existing markets and create new demand; as well as stimulate interest in the ABMA among the press, customers, plus potential and current members. One tool is the Association's webpage for which the Committee has the creative and maintenance responsibility.

Section 11. The Safety and Standards Committee has a threefold mission: 1) recommend changes to existing standards; 2) review proposed new standards; and 3) develop means to assist members in coping with their product liability problems. The Committee, when necessary, will

refer members to a consultant for assistance in any of these matters and maintains a liaison with other industry organizations pertaining to safety and technical matters.

Section 12. The Statistical Committee shall help the Association Staff determine what surveys, studies, and other activities are helpful to members in the conduct of their businesses. The Committee will also help to encourage membership participation through promotion of management information and techniques. While it reviews existing statistical activities for content and value, the Committee does not have access to members' confidential figures submitted in any Association survey.

## **ARTICLE XIII**

### **Indemnification, Insurance and Limitation of Liability**

#### **Indemnification and Insurance**

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a representative of the Association, he is or was serving at the request of the Association as a representative of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually or reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which he reasonably

believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Notwithstanding any contrary provision of the Articles of Incorporation or these Amended and Restated By-Laws, to the extent that a representative of the Association has been successful on the merits or otherwise in defense of any action suit or proceeding referred to in Section 1 above or in defense of any claim, issue or matter therein, shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 3. Unless ordered by the court, any indemnification under Section 1 above shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because he has met the applicable standard of conduct set forth in such Section. Such determination shall be made:

(1) By the Board of Directors by a majority vote of a quorum consisting of directors who are not parties to such action, suit or proceeding;

(2) By independent legal counsel in a written opinion by a majority vote of a quorum consisting of directors who are not parties to such action, suit or proceeding;

(3) If such quorum is not obtainable, a majority vote of all of the directors so directs, by independent legal counsel in a written opinion; or

(4) By the members.

Section 4. Expenses incurred in defending a civil or criminal action, suit or proceeding, may be paid by the Association in advance of the final disposition of such action, suit or proceeding in the discretion of the Board of Directors in any specific case upon receipt of an undertaking by or on behalf of the representative to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association.

Section 5. The Association shall also indemnify any person against any expenses, including attorneys' fees, actually and reasonably incurred by him in enforcing successfully any right to indemnification under this Article.

Any person who shall serve as a director, officer, employee or agent of the Association or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be deemed to do so with knowledge of and in reliance upon the rights of indemnification provided in this Article.

Section 6. The indemnification provided in this Article shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to the person who has ceased to be a representative and shall inure to the benefit of the heirs and personal representative of such person.

Section 7. Any indemnification under this Article by the Association of a representative of the Association shall not apply to expenses or liability incurred by such individuals which are covered by insurance.

Section 8. Notwithstanding any provision to the contrary under this Article, the obligation of the Association to indemnify its representatives under this Article shall be limited to the assets of the Association and shall not be an obligation of the members.

Section 9. The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

#### Limitation of Personal Liability

Section 10. A director of the Association shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action, unless (a) the director has breached or failed to perform the duties of his office under Section 8363 of Title 42 of the Pennsylvania Consolidation Statutes Annotated (relating to the standard of care and justifiable reliance of directors); and (b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness; provided, however that the provisions of this Section 9 shall not apply to (c) the responsibility or liability of a director pursuant to any criminal statute, or (d) the liability of a director for the payment of taxes pursuant to local, state or federal law.

Section 11. A director of the Association shall stand in a fiduciary relationship to the Association and shall perform his/her duties as a director, including his/her duties as a member of any committee of the board upon which he/she may serve, in good faith, in a manner he/she reasonably believes to be in the best interest of the Association, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar

circumstances. In performing his/her duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

- (a) One or more officers or employees of the Association whom the director reasonably believes to be reliable and competent in the matters presented.
- (b) Counsel, public accountants or other persons as to matters which the director reasonably believes to be within the professional or expert competence of such person.
- (c) A committee of the board upon which he/she does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

A director shall not be considered to be acting in good faith if he/she has knowledge concerning the matter in question that would cause his/her reliance to be unwarranted.

Section 12. In discharging the duties of their respective positions, the board of directors, committees of the board and individual directors may, in considering the best interest of the Association, consider the effects of any action upon employees, upon suppliers and customers of the Association and upon committees in which offices or other establishments of the Association are located and all other pertinent factors. The consideration of those factors shall not constitute a violation of Section 11 above.

Section 13. Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director or any failure to take any actions shall be presumed to be in the best interests of the Association.

Section 14. A director of the Association shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action unless:

(a) The director has breached or failed to perform the duties of his/her office as set forth under Sections 9 through 11 above; and

(b) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

Section 15. The provisions of Section 14 above shall not apply to the responsibility or liability of a director pursuant to any criminal statute or to the liability of a director for the payment of taxes pursuant to local, state or federal law.

## ARTICLE XIV

### General Provisions

#### Fiscal Year

Section 1. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

#### Annual Budget

Section 2. The Board of Directors shall annually approve a budget of the Association, prepared by the Finance Committee.

#### Annual Report of Directors

Section 3. The Board of Directors shall present annually to the members a report, verified by the President and Executive Director, ~~Managing Liaison~~ or by a majority of the directors, showing in appropriate detail the following: (i) The assets and liability of the Association as of the end of, and the principal changes therein during, the immediately preceding fiscal year; (ii) The revenue and expenses of the Association for the immediately preceding year; and (iii) The number of members as of the date of the report, together with a statement of increase or decrease in such number for the immediately preceding year and the location where the names and addresses of current



members may be obtained. The annual report shall be filed with the minutes of the annual meeting of members.

## **ARTICLE XV**

### **Amendments**

Section 1. These Amended and Restated By-Laws may be altered, amended or repealed by a Majority vote of the members entitled to vote thereon at any regular or special meeting duly convened after notice to the members of that purpose.

Section 2. To the extent permitted by statute under the state laws of Pennsylvania, these Amended and Restated By-Laws may also be altered, amended or repealed by a majority vote of the board of directors at any regular or special meeting duly convened after notice to the members of the board of directors of that purpose, subject always to the power of the members to change any such action.

## **ARTICLE XVI**

### **Dissolution**

Section 1. The Association shall use its funds only to accomplish the objectives and purposes specified by these Amended and Restated By-Laws, and no part of said funds shall inure, or be distributed to the members of the Association.

On dissolution of the Association, any funds remaining shall be distributed, as determined by the Board of Directors, to one or more trade associations or business leagues as defined in Section 501(c)(6) of the Internal Revenue Code of 1954, as amended, or to one or more regularly organized and qualified charitable, educational, scientific, or philanthropic organizations to be selected by the Board of Directors.

As proposed 11/02/2015~~last amended 11/09/2007~~ by Board of Directors