# AMENDED & RESTATED BYLAWS OF AMERICAN COUNCIL OF ENGINEERING COMPANIES OF PENNSYLVANIA

## ARTICLE I Name

Section 1.1 Name. The name of the corporation shall be the American Council of Engineering Companies of Pennsylvania, a non-profit corporation incorporated in the Commonwealth of Pennsylvania (the "**ACEC/PA**").

## ARTICLE II Purposes and Operation

Section 2.1 Offices. The registered office of the ACEC/PA shall be 800 North Third Street, Suite 301, Harrisburg, Pennsylvania 17102. The ACEC/PA may also have offices at such other places as the Board of Directors may from time to time determine.

Section 2.2 Purposes. The purposes of the ACEC/PA shall be:

(a) to promote the public welfare and enhance the reputation of the consulting engineer by encouraging the maintenance of the highest standards of professional ethics and practice;

(b) to encourage the intellectual and scientific advancement and development of the members in order to enhance their professional and economic welfare;

(c) to foster harmony, cooperation, and mutual understanding throughout the engineering and allied professions; and

(d) to act on behalf of the members in connection with proposals of government or other bodies concerning them.

Section 2.3 ACEC Membership. The ACEC/PA is a member organization of the American Council of Engineering Companies, (the "**ACEC**"). Member Firms are automatically members of ACEC and Affiliate Members may become members of ACEC if so desired, provided that all rights or obligations of such derivative members with respect to ACEC shall be exercised only through ACEC/PA as provided by the Bylaws of ACEC.

Section 2.4 Governing Law. The ACEC/PA is subject to the Pennsylvania Nonprofit Corporation Law of 1988, as amended (the "**PaNPCL**").

## ARTICLE III Members

Section 3.1 Qualifications. The membership of ACEC/PA is set forth below and collectively referred to as the "**Members**". Each Member Firm and Affiliate Member shall maintain compliance with the membership requirements of the bylaws of the Association.

Section 3.2 Member Firm. A Member Firm shall:

(a) be limited to those individual firms, parent firms, branch offices, divisions or subsidiaries that furnish independent engineering and maintain an office in the Commonwealth of Pennsylvania;

(b) maintain and have an established office for the private practice of engineering as a sole proprietorship, partnership or corporation, provided the engineering activities are controlled by Resident Principal(s) who are licensed professional engineers under the laws of the Commonwealth of Pennsylvania;

(c) practice under an organizational arrangement that does not subordinate independent professional judgment to or represent a conflict of interest with the purpose of ACEC/PA;

(d) have high professional repute and ethical standards; and

(e) authorize its Resident Principals to act on its behalf in activities of ACEC/PA.

Section 3.3 Affiliate Member. An Affiliate Member shall:

(a) not be eligible for membership in ACEC/PA as a Member described in Section 3.2; and

(b) not be eligible to vote on ACEC/PA business, serve on the Board of Directors, hold office in ACEC/PA, or serve as a chairperson of a committee, but may be a member of a committee.

Section 3.4 Resident Principal. A Resident Principal is an individual designated by a Member Firm who is a sole proprietor, partner, officer, or manager:

(a) having an ownership interest, or

(b) exercising management responsibilities for technical or business decisions.

Section 3.5 Classes of Members. There shall be one class of voting members, the Member Firms, as defined in this Article III. Each Member Firm shall have the number of votes as determined by the following schedule:

| Firm Index Number | Number of Votes |
|---|---|
| 1 & 2 | 1 |
| 3, 4, 5 | 2 |
| 6, 7, 8 | 3 |
| 9, 10, 11 | 4 |
| 12, 13, 14 | 5 |
| 15 & 16 | 6 |
| 17 or over | 7 |

The Firm Index Number is the index number initially calculated as set forth in the ACEC/PA membership application. Such Firm Index Number shall be re-affirmed or re-calculated annually based upon the Member Firm's response to the member survey. The total vote of a Member Firm

may be cast by Resident Principal at the Annual Meeting or as required by mail or electronic ballot. The Affiliate Members as defined in this Article III shall be non-voting members.

Section 3.6 Dues and Assessments. Dues for Member Firms shall be the total dues as established annually by the Board of Directors ("**State Dues**"). Dues for Affiliate Members shall be flat fees as established by the Board of Directors. ACEC membership dues shall be established annually by the ACEC board of directors ("**National Dues**") for Member Firms.

Special assessments may be collected from the Member Firms and Affiliate Members for use by ACEC/PA (the "**State Assessment**"), or from Member Firms for use by ACEC, (the "**National Assessment**"). State Assessments shall be approved by a two-thirds (2/3) vote of the Board of Directors. National Assessments shall be levied upon the Member Firms when notice, giving full details with the amount assessed and date payment is due, is received from ACEC.

Each Member Firm and Affiliate Member shall pay applicable State and National Dues and State and National Assessments to ACEC/PA, or verify National Dues were paid to ACEC, except a Member Firm or Affiliate Member that is a member of an ACEC Member Organization in another state may pay National Dues and National Assessments directly to ACEC. A Member Firm or Affiliate Member who fails to pay applicable State or National Dues or State or National Assessments within ninety (90) days following the due date shall, upon the expiration of such ninety (90) day period, be automatically suspended until all amounts owed have been paid to the ACEC/PA or ACEC. A suspended Member Firm or Affiliate Member shall not be afforded the rights and duties of a Member Firm or Affiliate Member until suspension expires.

Section 3.7 Resignation. Any Member Firm or Affiliate Member may terminate its membership in ACEC/PA by giving thirty (30) days written notice to the Executive Director. Such termination shall not relieve a Member Firm or Affiliate Member of its applicable obligations, including for State and National Dues and State and National Assessments, to ACEC/PA or ACEC existing at the date of termination.

Section 3.8 Removal. A Member Firm or Affiliate Member may be expelled from membership in ACEC/PA on the grounds that its conduct or policy is detrimental to the honor or stated purpose of ACEC/PA and its objectives, or because such Member Firm or Affiliate Member has ceased to meet the requirements for membership. Removal on these grounds shall be by two thirds (2/3) vote of the Board of Directors, less the vote of any Director who is a Resident Principal representing the Member Firm whose removal is under consideration, and only after the Member Firm or Affiliate Member has had the opportunity to be heard by the Board of Directors. The action of the Board shall be final, and no appeal from such action may be taken to any court of record, or other hearing body, including the membership of ACEC/PA and ACEC or the Board of Directors against the ACEC/PA, its Member Firms, Affiliate Members, Directors, Officers and Employees for damages or otherwise, arising out of any hearing or removal proceeding under this Section. Member Firms or Affiliate Members waive any claim for libel or slander against the ACEC/PA, its Member Firms, Affiliate Members, Directors, Officers or Employees resulting from any hearing or expulsion under this Section. If a Member Firm or Affiliate Member is expelled from membership in accordance with this section, such removed Member Firm or Affiliate Member may apply for readmission to membership in ACEC/PA upon meeting the requirements for membership for the 12-

month period prior to application to membership and approval by a majority of the Board of Directors.

Section 3.9. Member Firm Employees. Each Member Firm shall report its average number of employees for the portion of the firm located in Pennsylvania to ACEC/PA each year. The average number of employees is to be based upon the total number of regular hours (non-overtime hours) for which all employees are paid by the Member Firm or on the Member Firm's behalf on an annual basis divided by 2,080. In the case of full-time salaried employees not paid on an hourly basis, the same 2,080 shall be used to represent the total number of hours worked by each full-time salaried employee.

## ARTICLE IV Meetings of Members

Section 4.1 Annual Meeting. Prior to the Annual Meeting, the Member Firms shall vote via mail or electronic ballot electing the Officers, At-Large Directors, and Region Directors nominated by the Board of Directors. At the Annual Meeting of the Member Firms and Affiliate Members of ACEC/PA, the installation of Officers, At-Large Directors, and Region Directors shall occur. The Annual Meeting shall be held on such date and at such place as may be determined by the President.

Section 4.2 Special Meetings. Special Meetings may be called by the President, the Board of Directors, or Member Firms entitled to cast at least ten percent (10%) of the votes that all Members are entitled to cast at the particular meeting.

Section 4.3 Notice of Annual and Special Meetings. All Member Firms and Affiliate Members shall be notified in writing or by email by the Secretary or the Secretary's designee at least two (2) weeks prior to each Meeting. Such notice shall contain the place, day and hour of the meeting and, insofar as possible, the business to be transacted.

Section 4.4 Quorum. Except as otherwise provided in the Bylaws, the number of Member Firms represented in person or by proxy that constitutes a quorum at a meeting of Members will be twenty (20). The vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum is present is necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the PaNPCL, the Articles of Incorporation, or any provision of these Bylaws.

Section 4.5 Proxy. A Member Firm may vote either in person or by proxy executed in writing by the Resident Principal of the Member Firm or by their duly authorized attorney-in-fact. No proxy will be recognized as valid after eleven months from the date of its execution unless expressly provided otherwise in the proxy.

Section 4.6 Majority Vote. The vote of a majority of the votes entitled to be cast by the Member Firms present or represented by proxy at a meeting at which a quorum is present is necessary for the adoption of any matter voted on by the Member Firms, unless a greater proportion is required by the PaNPCL, the Articles of Incorporation or these bylaws.

## ARTICLE V
## Regions

Section 5.1 Regions. The Regions of ACEC/PA shall be Eastern, Central and Western unless otherwise determined by the Board.

Section 5.2 Region Affiliation. The Member Firms and Affiliate Members of ACEC/PA may select the Region or Regions in which affiliation is desired.

## ARTICLE VI Directors

Section 6.1 Number and Qualifications. The business of the ACEC/PA shall be conducted by the Board of Directors in the best interest of the Member Firms and Affiliate Members. The Board shall consist of at least eighteen (18) Directors as follows:

(a) the President;

(b) the President-Elect;

(c) the Vice President;

(d) the Treasurer;

(e) the Secretary;

(f) the Immediate Past President/National Director; and

(g) two At-large Directors and two Region Directors from each of the Regions.

No more than one Resident Principal from any Member Firm shall serve on the Board of Directors (including ex-officio members of the Board) at any time unless approved by vote of the Board of Directors. The Executive Director shall serve on the Board of Directors ex-officio (without voting rights).

Section 6.2 Commencement of Term of Elected Directors. The term of a director shall commence immediately after the Annual Meeting which they were elected. All Directors shall serve a term of one year, except for the At-large Directors who shall serve a term of two years, alternating with three elected each year, until their successors are elected and qualified.

Section 6.3 Vacancies. Director positions shall be declared vacant when the individual involved no longer represents a Member Firm or is for any reason incapable of fulfilling assigned responsibilities. In addition, the Board of Directors may, if it so chooses, declare a position vacant after the individual filling that position misses three successive meetings of the Board of Directors. A Director vacancy shall be filled, for the remainder of the term, by appointment of the President, subject to approval of the Board of Directors.

Section 6.4 Liability of Directors.

(a) No person who is or was a Director of this ACEC/PA shall be personally liable for monetary damages for any action taken, or any failure to take any action, as a Director unless:

(i) the Director has breached or failed to perform the duties of their office as set forth in appropriate sections of the PaNPCL; and

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

(b) This provision of the Bylaws shall not apply to:

(i) the responsibility or liability of a Director pursuant to any criminal statute; or

(ii) the liability of a Director for the payment of taxes pursuant to local, state or federal law.

(c) If the PaNPCL hereafter is amended to authorize the further elimination or limitation of the liability of Directors, then the liability of a Director of the ACEC/PA, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended PaNPCL.

Section 6.5 Annual Meeting. The annual meeting of the Board of Directors, shall be held immediately following the Annual Meeting of the Members or at such other date selected by the Board of Directors, not later than sixty (60) days after the Annual Meeting each year, and at the registered office of ACEC/PA, or at such other location, as may be determined by the President and as shall be designated in the notice of said meeting.

Section 6.6 Regular and Special Meetings. All meetings of the Board of Directors shall be at the call of the President. A special meeting of the Board of Directors may be called upon written request of any two (2) of its members, but they must present written confirmation that a quorum will attend.

Board Meetings are open to all Member Firms and Affiliate Members of ACEC/PA except when the President calls for Executive Session in accordance with Roberts Rules of Order.

Section 6.7 Notice. Notice of all meetings shall be given at least two (2) days before the meeting.

Section 6.8 Quorum. The presence of a majority of the Directors then in office shall constitute a quorum for the transaction of all business, and the acts of a majority of the Directors present at a meeting, at which a quorum is present, shall be the acts of the Board of Directors unless a greater proportion is required by the PaNPCL, the Articles of Incorporation, or any provision of these Bylaws.

Section 6.9 Voting. Each Director shall have one (1) vote.

Section 6.10 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof, may be taken without a meeting if prior to such action a written consent thereto is signed by all members of the Board of Directors or all members of the committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board of Directors or the committee.

Section 6.11 Remote Meetings. Any one or more Directors may participate in a meeting of the Board of Directors or of a committee of the Board of Directors by means of conference telephone or other electronic technology by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting. Notwithstanding the foregoing, however, use of conference telephone and other electronic technology shall be permitted at the discretion of the Board, which shall be deemed to have permitted such use unless and until it shall have taken due action to prohibit such use.

## ARTICLE VII Committees

Section 7.1 Committees of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which may consist of two (2) or more Directors, which committees, to the extent permitted by law and provided in said resolution or any amendment of such resolution, shall have and exercise the authority of the Board of Directors in the management of ACEC/PA. The designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it, they or them by law. The President shall monitor actions of the committees of the ACEC/PA and shall recommend to the Board of Directors the creation, dissolution and consolidation of committees and appoint all Committee Chairpersons not otherwise identified in these Bylaws.

Section 7.2 Nominating Committee. The Nominating Committee shall consist of the President, the President-Elect, and the Immediate Past President/National Director. This Committee shall nominate no less than one candidate for each office to be voted on by the Members and take office at the Annual Meeting and shall provide the proposed slate of candidates to the Board of Directors at a Board of Directors Meeting prior to the Annual Meeting.

Section 7.3 Other Committees. Other committees not having and exercising the authority of the Board of Directors may be designated by a resolution adopted by the Board.

Section 7.4 Term. Each member of a committee shall continue as such until the next annual meeting of the Board of Directors or until their successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee by the Board of Directors (for cause), or unless such member shall cease to qualify as a member thereof.

Section 7.5 Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 7.6 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present and voting at a meeting at which a quorum is present shall be the act of the committee.

Section 7.7 Chairperson. The Board of Directors shall designate one member of each committee as Chairperson.

Section 7.8 Governance. Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules or guidelines adopted by the Board of Directors.

Section 7.9 Authority. Any committee of the Board of Directors, to the extent provided in the resolution of the Board of Directors, may have and exercise all of the powers and authority of the Board of Directors, except that no such committee shall have any power or authority as to the following:

(a) The filling of vacancies in the Board of Directors;

(b) The adoption, amendment or repeal of the Bylaws;

(c) The amendment or repeal of any resolution of the Board of Directors; and

(d) Action on matters committed by the Bylaws or resolution of the Board of Directors, or by law, to another committee of the Board of Directors or to the Board of Directors.

Section 7.10 Compensation. Committee members shall serve without compensation except that certain expenses may be reimbursed within budgetary limits, as approved by the Board of Directors.

## ARTICLE VIII Officers

Section 8.1 Qualification and Election. The Officers shall include a President, a President-Elect, a Vice-President, the Immediate Past President/National Director, Treasurer, and a Secretary. Only Resident Principals of Member Firms shall qualify as officers.

Section 8.2 Term. The Officers shall serve for a term of one (1) year or until their successors have been elected and qualified. An Officer may succeed themself.

Section 8.3 Vacancies. An Officer position shall be declared vacant when the individual involved no longer represents a Member Firm or is for any reason incapable of fulfilling assigned responsibilities for a period of time longer than 90 days. In addition, the Board of Directors may, if it so chooses, declare a position vacant after the individual filling that position misses three successive meetings of the Board of Directors. A vacancy in the office of the President-Elect, the Vice President, the Secretary or the Treasurer shall be filled, for the remainder of the term, by appointment of the President, subject to approval of the Board of Directors. A vacancy in the office of President shall be filled by the majority vote of the Directors then in office.

Section 8.4 President. The President shall be the chief executive officer of ACEC/PA and shall have the responsibility of general management of its affairs. The President shall preside over all meetings of the Board of Directors. The President shall be an ex-officio member of all committees except the Nominating Committee but shall not be counted in determining the presence of a quorum for the transaction of any business by any Committee. The President shall be ACEC/PA's alternate national director to ACEC.

Section 8.5 President-Elect. The President-Elect shall have been an Officer of ACEC/PA. The President-Elect shall prepare and plan for their year as President and may be assigned duties by the President. The President-Elect shall function as the Chair of the Government Affairs Committee. The President-Elect shall assume the office of President at the conclusion of the term as President-Elect. The President-Elect, in the absence of the President, shall assume the duties of the President.

Section 8.6 Vice President. The Vice President may be assigned duties by the President. The Vice President, in the absence of the President and President-Elect shall assume the duties of the President.

Section 8.7 Secretary. The Secretary shall be responsible for the normal duties of an elected Secretary, except those specifically assigned to the Executive Director. Certain duties of the Secretary may be performed by the Executive Director under the direction of the Secretary when approved by the Board of Directors.

Section 8.8 Treasurer. The Treasurer shall have custody of ACEC/PA funds and any other duties as may be prescribed by the Board of Directors.

Section 8.9 Immediate Past President/National Director. The Immediate Past President/National Director shall serve as the National Director to ACEC shall report on all matters discussed and actions taken at meetings of the board of directors of ACEC, including their own expressed views and votes thereon. The Immediate Past President/National Director shall function as the Vice-Chair of the Government Affairs Committee. The Immediate Past President/National Director shall also serve as the chair of the Nominating Committee. The Board of Directors shall instruct the Immediate Past President-National Director with respect to the official position to be taken and expressed at meetings of the board of directors of ACEC on motions, proposals or discussions on the agenda at such meetings.

## ARTICLE IX Services and Employees

Section 9.1 Appointment. The Board of Directors shall within budgetary limits be responsible for the securing of professional, technical and non-technical services and shall employ a salaried Executive Director. The terms and conditions of employment shall be specified by the Board of Directors.

Section 9.2. Authority and Responsibility. The Executive Director shall manage all activities of ACEC/PA subject to policies and procedures approved by the Board of Directors and at the direction of the President. The Executive Director shall employ, manage and terminate the employment of members of the staff necessary to carry on the work of ACEC/PA within the approved budget. The Executive Director shall assist in, support and supplement the activities of the

Officers, Directors and Committees, and perform other day-to-day tasks normal to the position, not in

conflict with the Bylaws. The Executive Director shall serve without vote as an ex-officio member of the Executive Committee and Board of Directors.

Section 9.3. Annual Review. The Immediate Past President/National Director, President and President-Elect shall annually, or as deem necessary by the Board, review the duties, performance and compensation of the Executive Director and secured services and take action as necessary in the best interests of the membership.

## ARTICLE X Finance

Section 10.1 Fiscal Year. The fiscal year of ACEC/PA shall end on June 30 each year, or such other day as the Board of Directors may designate from time to time.

Section 10.2 Accounting Review. The accounts of ACEC/PA shall undergo an accounting review not less than annually by a Certified Public Accountant who shall be recommended by the Executive Director with the approval of the Board of Directors and who shall provide a report to the Board of Directors. Accounting Review should include annual review of taxes, Annual Report, bank accounts, etc.

## ARTICLE XI Rules of Order

Section 11.1 Rules of Order. The rules contained in the current edition of Robert's Rules of Order shall govern the conduct of meetings of ACEC/PA, Board of Directors, and Executive Committee in all cases to which they are applicable and in which they are not inconsistent with the Bylaws and any special rules ACEC/PA may adopt.

## ARTICLE XII Indemnification

Section 12.1 Third-party actions. The ACEC/PA shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the ACEC/PA), by reason of the fact that they are or were a representative of the ACEC/PA, or are or were serving at the request of the ACEC/PA as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with the action or proceeding if they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the ACEC/PA and, with respect to any criminal proceeding, had no reasonable cause to believe their conduct was unlawful. The termination of any action or proceeding by judgment, order, settlement or 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 that they reasonably believed to be in, or not opposed to, the best interests of the ACEC/PA and, with respect to any criminal proceeding, had reasonable cause to believe that their conduct was unlawful.

Section 12.2 Derivative and Corporate Actions. The ACEC/PA shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action by or in the right of the ACEC/PA to procure a judgment in its favor by reason of the fact that they are or were a representative of the ACEC/PA or are or were serving at the request of the

ACEC/PA as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by them in connection with the defense or settlement of the action if they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the ACEC/PA. Indemnification shall not be made under this section in respect of any claim, issue or matter as to which the person has been adjudged to be liable to the ACEC/PA unless and only to the extent that the court of common pleas of the judicial district embracing the county in which the registered office of the ACEC/PA is located or the court in which the action was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses that the court of common pleas or other court shall deem proper.

Section 12.3 Advancing Expenses. Expenses (including attorneys' fees) incurred in defending any action or proceeding referred to in Section 12.1 (relating to third-party actions) or Section 12.2 (relating to derivative and corporate actions) shall be paid by the ACEC/PA in advance of the final disposition of the action or proceeding upon receipt of an undertaking by or on behalf of the representative to repay the amount if it is ultimately determined that they are not entitled to be indemnified by the ACEC/PA as authorized in this Article or otherwise.

Section 12.4 Procedure for Effecting Indemnification and Advancing Expenses. Unless ordered by a court, any indemnification or advancement of expenses under Section 12.1 (relating to third-party actions), Section 12.2 (relating to derivative and corporate actions) or Section 12.3 (relating to advancing expenses) shall be made by the ACEC/PA only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because they have met the applicable standard of conduct set forth in those sections. The determination shall be made:

(a) by a majority vote of the Directors who are not parties to such action, suit or proceeding, even though less than a quorum;

(b) by a committee of such Directors designated by a majority vote of such Directors, even though less than a quorum;

(c) if there are no such Directors, or if such Directors so direct, by independent legal counsel in a written opinion; or

(d) by the Member Firms.

Section 12.5 Supplementary Coverage.

(a) General Rule. The indemnification and advancement of expenses provided by or granted pursuant to Section 12.1 (relating to third-party actions), Section 12.2 (relating to derivative and corporate actions) or Section 12.3 (relating to advancing expenses) shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any agreement, vote of Directors who were not parties to the action or proceeding, or otherwise, both as to action in their official capacity and as to action in another capacity while holding that office. The ACEC/PA may create a fund of any nature, which may, but

need not, be under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this section or otherwise.

(b) When Indemnification is not to be Made. Indemnification pursuant to subsection (a) shall not be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

(c) Grounds. Indemnification pursuant to subsection (a) under any agreement, vote of Directors or otherwise may be granted for any action taken or any failure to take any action and may be made whether or not the ACEC/PA would have the power to indemnify the person under any other provision of law except as provided in this section and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the ACEC/PA.

(d) Trust Property. This Article shall not affect the liability of a representative with respect to the administration of assets held by the ACEC/PA pursuant to its authority to take and hold trust property.

Section 12.6 Power to Purchase Insurance. The ACEC/PA shall have power to purchase and maintain insurance on behalf of any person who is or was a representative of the ACEC/PA or is or was serving at the request of the ACEC/PA as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the ACEC/PA would have the power to indemnify them against that liability under the provisions of this Article.

Section 12.7 Application to Surviving or New Corporations. For the purposes of this Article, references to "the ACEC/PA" include all constituent corporations absorbed in a consolidation, merger or division, as well as the surviving or new corporations surviving or resulting therefrom, so that any person who is or was a representative of the constituent, surviving or new corporation, or is or was serving at the request of the constituent, surviving or new corporation as a representative of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article with respect to the surviving or new corporation as they would if they had served the surviving or new corporation in the same capacity.

Section 12.8 Application to Employee Benefit Plans. For the purposes of this Article:

(a) References to "other enterprises" shall include employee benefit plans;

(b) References to "serving at the request of the ACEC/PA" shall include any service as a representative of the nonprofit corporation that imposes duties on or involves services by the representative with respect to an employee benefit plan, its participants or beneficiaries;

(c) Excise taxes assessed on a person with respect to any employee benefit plan pursuant to applicable law shall be deemed "fines";

(d) Action with respect to an employee benefit plan taken or omitted in good

faith by a representative of the ACEC/PA in a manner they reasonably believed to be in the interest of the participants and beneficiaries of the plan shall be deemed to be action in a manner that is not opposed to the best interests of the ACEC/PA.

Section 12.9 Duration and Extent of Coverage. The indemnification and advancement of expenses provided by or granted pursuant to this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a representative of the ACEC/PA and shall inure to the benefit of the heirs and personal representative of that person.

## ARTICLE XIII Miscellaneous

Section 13.1 Amendment of Articles of Incorporation and Bylaws. Unless otherwise required by law, a majority of the board of directors shall have the authority to adopt, amend and repeal the Bylaws, subject to the power of the Members to change such action. To the extent Member approval is required by law, proposed amendments shall be mailed or emailed by the Secretary or the Secretary's designee, to Member Firms at least thirty (30) days before the date ballots are due. Voting on amendments shall require a quorum of twenty percent (20%) of the Member Firms present in person or by proxy and must be approved by two-thirds (2/3) of the votes cast by Member Firms.

Amended 9/08/2025