

# AMENDED AND RESTATED BYLAWS OF THE SURPLUS LINE ASSOCIATION OF ARIZONA

(Effective November 5, 2013)

## I. NAME

The name of this corporation shall be THE SURPLUS LINE ASSOCIATION OF ARIZONA  
(Hereinafter called the "Association").

## II. MEMBERSHIP

1. Membership Eligibility. Any person, as defined in A.R.S. § 1-215, licensed as a surplus lines broker under the laws of the State of Arizona is eligible to become a Member of the Association.
2. Member. A Member is any Person, or the designated officer, director, general partner or managing partner of a corporation, partnership, or limited liability company, currently licensed as a Surplus Lines Broker under the laws of the State of Arizona and who has subscribed to the Bylaws of the Association.
3. Termination, Revocation or Suspension of Membership.
  - (A) Membership in the Association will automatically terminate upon a Member ceasing to be a licensed surplus lines broker under the laws of the State of Arizona.
  - (B) Membership in the Association is subject to suspension or revocation by the Board of Directors of the Association for failure to comply with the Bylaws or Rules and Regulations of the Association, failure to make a timely remittance of fees due and payable to the Association, failure to comply with Arizona statutory or regulatory requirements, or for any other conduct or activity that is considered inconsistent with the standards of the Association.
    - (i) Prior to suspension or revocation of membership, the Association will provide the Member with five (5) days' prior written notice, by facsimile, electronic mail or first class mail, of the Association's intent to suspend or revoke the Member's membership and the reasons for such suspension, or revocation.
    - (ii) The Member may take corrective action with respect to the conditions that are grounds for suspension or revocation of membership after receipt of the notice of suspension, and if the

corrective action taken within five (5) days of receipt of notice by the Member has, in the opinion of the Board of Directors, cured all deficiencies, the Board of Directors may determine not to proceed with the suspension or revocation.

- (iii) After suspension or revocation of membership, a Member can request a hearing before the Arbitration Committee as provided in Article X, Paragraph 3 of these Bylaws. The decision of the Arbitration Committee shall be final.

4. Withdrawal. A Member may withdraw from the Association by giving to the Association ninety (90) days' advanced written notice of his or her intention to withdraw.

5. Indebtedness. In no event shall the suspension, revocation or termination of membership or the withdrawal of any Member have the effect of canceling indebtedness due to the Association from such Member, and such Member shall be required to make payment in full of any such indebtedness. Any Member who has withdrawn from membership or who has had his or her membership suspended, revoked or terminated shall be responsible for reimbursing the Association for any attorneys' fees and costs incurred in collecting any indebtedness due to the Association from such Member.

### **III. BOARD OF DIRECTORS**

1. Control and Composition. The control and management of the affairs of the Association and the distribution of its funds shall be vested in a Board of Directors (hereinafter called the "Board") of not less than three (3) nor more than twenty-five (25) Members.

2. Election. The President, Vice President, Secretary-Treasurer elected at the annual meeting of the Members of the Association, and the immediate past President of the Association, shall be ex-officio members of the Board. All other directors shall be elected by vote of a majority of the Members present and voting at a properly convened meeting or, in the case of vote by e-mail, facsimile or mail, elected by a majority of the Members voting.

3. Term. The term for each director who is also an officer of the Association shall be for one (1) year or until a successor is elected or appointed. At the first annual meeting of the Members of the Association, half of the directors who are not officers shall be elected for a term of one (1) year or until their successors are elected or appointed and the other half of the directors shall be elected for a term of two (2) years or until their successors are elected or appointed. Thereafter, directors who are not officers of the Association shall be elected in alternate years for terms of two years or until their successors are elected or appointed.

4. Number. The Members of the Association shall have the right to increase and decrease within the limits set forth, the number of directors by a vote of a majority of the Members present and voting at a properly convened meeting or, in the case of vote by mail, e-mail or facsimile, a majority of the Members voting. Such additional directors shall serve until the next annual meeting or until their successors are elected or appointed.

5. Termination. The office of any director may be terminated for any reason deemed sufficient by the Members of the Association by a vote of a majority of the Members present and voting at a properly convened meeting or, in the case of a vote by mail, e-mail or facsimile, by a majority of the Members voting.

6. Vacancies. Any vacancy occurring on the Board shall be filled by the Board by a vote of the majority of the directors present at a properly called meeting of the Board, and the director elected to fill such vacancy shall serve until the next annual meeting of the Members of the Association or until a successor is elected.

7. Annual Meeting. A regular annual meeting of the Board shall be held immediately following the adjournment of each annual meeting of the Members of the Association.

8. Special Meetings. Special meeting of the Board shall be held at the time and place in Phoenix, Arizona, or at such other places in or outside the State of Arizona, whenever called by the President or Vice President, or by a majority of the Board. Notice of special meetings of the Board shall be given to each director, either orally or in writing, at least twenty-four (24) hours before the meeting. Such notice shall advise each director as to the time, place and general purpose of the meeting, and shall be delivered personally, or by telephone, mail, e-mail or facsimile to each director.

9. Quorum. A quorum for the transaction of business at any meeting of the Board shall consist of a majority of the directors then in office.

#### **IV. OFFICERS**

1. Election and Appointment. At the annual meeting of the Members of the Association, the Members shall elect a President, Vice President, and a Secretary-Treasurer. The Board shall appoint an Executive Director subject to the approval of a majority of the Members voting at the annual meeting of the Members following said appointment. The Board may propose to the Members of the Association the election of such additional officers and directors as the Board may deem necessary or advisable for the objects and purposes of the Association.

The election of the President, Vice President and Secretary-Treasurer shall be by the vote of the majority of the Members present and voting at a properly convened meeting or, in the case of mail, e-mail or facsimile, by a majority of the Members voting. Any Individual who votes on behalf of a firm or corporate license shall not be entitled to an additional vote as an individual.

2. Vacancies. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board.

3. Removal. All officers, agents and employees of the Association shall be subject to removal at any time by the affirmative vote of a majority of the Members of the Board.

4. President. The President shall be the chief officer of the Association. He shall preside at all meetings of the Members of the Association and of the Board; be ex-officio a member of all standing or special committees; have general charge of the activities of the Association and see that all resolutions of the Board are effected.

5. Vice President. The Vice President shall in the absence or disability of the President perform such duties and exercise the powers of the President and shall perform such other duties as the Board or the President may prescribe.

6. Executive Director. The Executive Director shall be a person wholly independent of any connection with any Member of the Association. The Executive Director shall have the authority to sign or execute on behalf of the Association any and all contracts, forms, day-to-day operational documents or other instruments of any significant importance to the Association, except where the authority to sign a specific document has been expressly delegated by the Board to some other officer or agent of the Association or shall be required by law. In addition, the Executive Director shall be responsible for administration of Member claims, in accordance with Article X of these Bylaws and shall perform such other duties as the Board or the President may prescribe.

7. Secretary-Treasurer. The Secretary-Treasurer shall attend all meetings of the Board and all meetings of the Members; record the minutes of all proceedings in a book to be kept for that purpose; give or cause to be given notice of all meetings of the Members of the Board; take care of all correspondence under the supervision of the President; have custody of the Association's funds, keep full and accurate accounts of receipts and disbursements; 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; disburse the funds of the Association as may be ordered by the Board; demand proper vouchers for such disbursements; render to the President and directors at the regular meetings of the Board, or whenever they may require, an account of all transactions as Secretary-Treasurer and of the financial condition of the Association; and perform such other duties as the Board or the President may prescribe. The duties and functions of the Secretary-Treasurer may, as deemed appropriate by the Board, be delegated to an assistant Secretary-Treasurer, if appointed, or to the Executive Director.

8. Other Employees. The Board may engage the services of such other employees as may from time to time be deemed necessary or advisable for the objects and purposes of the Association.

## **V. COMMITTEES**

1. Nominating Committee. Not less than thirty (30) days prior to each annual meeting of the Members of the Association, the President shall appoint a Nominating Committee consisting of at least three (3) Members of the Association. The Nominating Committee shall submit to the annual meeting names of candidates for the offices of the Board, President, Vice President and Secretary-Treasurer. Additional nominations may be made by the Members at the annual meeting.

2. Other Committees. The Board may, as it deems necessary or advisable for the objects and purposes of the Association, appoint additional standing or special committees with such duties as the Board may direct.

3. Attendance. Any Member of the Association shall be permitted to attend meetings of a committee of the Association to discuss before such committee matters in which that Member is interested.

## **VI. MEETINGS OF MEMBERS**

1. Annual Meetings. The annual meeting of the Members of the Association shall be held in the month of November each year on a date to be fixed by the Board. In the event the Annual meeting for any year shall not be duly held in November, the Board shall cause a special meeting to be held as soon as may be practical thereafter in lieu of and for the purpose of such an Annual Meeting. All proceedings of such a special meeting shall have the same force and effect as if taken at the regular Annual meeting.
2. Special Meetings. Special meetings of the Members of the Association may be called at any time by the President and shall be called at the written request of at least five (5) percent of the Members.
3. Notices and Agenda. Notices of annual meetings of the Association, with an agenda of matters to be considered, shall be sent to the Members, at least ten (10) business days in advance of the meeting. Notices of Special meetings shall be sent to the Members at least five (5) business days in advance with an agenda and, in the case of vote by mail, e-mail or facsimile, the agenda shall be accompanied by a brief description of matters to be considered at the meeting. Any matters not included in the agenda shall not be considered at the annual or special meetings, except by the unanimous vote of all the Members present; provided, that all irregularities in notices, agenda, or method of ascertaining those present at any meeting shall be waived by a Member present in person, or given proper notice where vote is to be by mail, e-mail or facsimile, unless such Member objects prior to the adjournment of such meeting.

## **VII. VOTING**

1. Representatives. No Member shall be represented at any meeting of the Association or its committees by proxy.
2. Resolutions. All resolutions must be approved by a majority of the Members voting before becoming operative.
3. Voting by Mail. The Board of Directors shall have the right in its discretion to take the votes of Members by mail, e-mail or facsimile.

## **VIII. FACT FINDINGS**

The Board may from time to time make, or cause to be made, investigations to ascertain the facts pertaining to the insurance market including, but not limited to, such subjects as market conditions, particular classes of insurance, types of policies and other pertinent items. The Board may make, or cause to be made, written "Fact Findings" with respect to such investigations. The Board may modify, repeal and make or cause to be made additions to such "Fact Findings" as from time to time it deems necessary or advisable to ensure the current accuracy thereof.

## **IX. STAMPING FEES**

1. Assessments. The Board shall levy and collect from the Members such assessments as the Board may determine to be necessary to cover the expenses of the Association. The insured, on all surplus line insurance placed by a Member of the Association in the State of Arizona, shall be charged, in addition to the specified premium for such insurance, an amount to reimburse such Member for the Arizona state taxes on premiums, and for a surcharge (in such amounts as may be fixed from time to time by the Board) to reimburse such Member for assessments paid or to be paid to the Association. If the insurance is placed directly with a Member, such Member shall charge the insured for such amounts and such surcharge; if the insurance is placed with a Member by a broker or agent who is not a Member, such Member shall require such broker or agent to charge the insured for such amounts and such surcharges and to remit same to such Member without any deduction for any commission thereon.
2. Fidelity Bond. The Officers, members of the Board and employees of the Association shall be bonded in such sums as the Board may specify. The premium(s) for such bonds are to be paid by the Association.
3. Indemnification. The Board may authorize the Association to pay expenses incurred by, or to satisfy a judgment or fine rendered or levied against, a present or former Member of the Association in an action brought against such person (whether or not the Association is joined as a defendant) to impose a liability or penalty on such person for an act alleged to have been committed by such person or by the Association, or by both; provided the Board determines in good faith that such Member was acting in good faith within what he or she reasonably believed to be the scope of their employment or authority and for a purpose which he or she reasonably believed to be in the best interest of the Association or its Members. Payments authorized hereunder include amounts paid and expenses incurred in settling such actions or threatened action.

## **X. ADMINISTRATION AND VIOLATIONS**

1. Member Claim Resolution. Upon the filing with the Association of a complaint against a Member of the Association, the Executive Director shall have the power and authority: (a) to construe the Bylaws, "Fact findings" and rules and regulations of the Association; (b) to construe the laws of the State of Arizona and the rules and regulations of the State Director of Insurance applicable to surplus line brokers; (c) to determine violations of the foregoing and the remedies therefor, and whether or not the matter should be submitted to the State Director of Insurance for a ruling; and (d) to prescribe the procedure to be followed in matters coming before the Executive Director under the powers hereby conferred.
2. Arbitration Committee. The Board shall act as an Arbitration Committee. It shall be the duty of such Committee, upon notice from the Executive Director, to review within ten (10) days from the date of such notice any questions, controversies, or complaints which have come before the Executive Director, and to affirm or reverse his findings or prescribed remedies by a majority vote of such Committee. No member of the Arbitration Committee shall vote on any question or controversy in which their office may be a party. The decision of the Arbitration Committee shall be final.

3. Findings. The Executive Director or the Arbitration Committee, as the case may be, shall give notice of their findings and prescribed remedies in matters involving violations to all interested parties. The findings and prescribed remedies of the Executive Director or the Arbitration Committee under the powers conferred hereunder shall be binding upon Members.

4. Inspection. The Board shall have the right to inspect books and records of the Surplus Line Association Stamping Office and other documents as authorized by statute.

## **XI. STAMPING OFFICE**

1. Purpose. The Association shall maintain a Stamping Office (a) for filing of the surplus line risks in the State of Arizona placed by Members inside and outside the State to the Association, and (b) for the examination of such filings and determination as to whether or not they meet the factual requirements of the applicable laws of the State of Arizona, the applicable rules and regulations of the State Director of Insurance and of the Bylaws and rules and regulations of the Association. The Stamping Office shall file with the State Director of Insurance a record on behalf of the Members of the Association, of all surplus line risks filed with the Stamping Office by Members of the Association together with such recommendations and comments as are deemed necessary or advisable.

2. Management. The Board shall have full power to act in all matters relating to the Stamping Office, including power to act for the Association in dealings with the State Director of Insurance relative to the conduct and operation of the Stamping Office, and to adopt rules and regulations respecting filings, filing fees, procedures and all other Stamping Office matters.

3. Inspection. All filings, submissions and other information in the possession of the Stamping Office shall not be open to inspection by any person except the State Director of Insurance or the Director's duly authorized representative except as prescribed by statute.

## **XII. RULINGS**

In order to avoid conflict with insurance coverages actually available through admitted insurance carriers and to enable the Stamping Office to maintain a complete record of all decisions, Members of the Association shall submit through the Stamping Office all questions relating to surplus line insurance on which a ruling or interpretation is deemed necessary from the State Director of Insurance. Where the question submitted also involves the Bylaws or rules and regulations of the Association, it shall be referred to the Board for review before submission to the State Director of Insurance.

## **XIII. GENERAL PROHIBITION**

No insurance shall be placed with approved unauthorized (non-admitted) insurers, except in accordance with the laws of the State of Arizona and the rules and regulations of the Director of Insurance.

#### **XIV. PLEDGES**

Each Member of the Association shall sign and file with the Stamping Office a copy of these Bylaws. If any Member elects not to accept these Bylaws and membership, they must do so within 10 working days by written notice to the Executive Director. Acceptance of these Bylaws commits the Member and all of their employees to strict observance thereof.

SUBSCRIBED TO at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Member \_\_\_\_\_

Signature \_\_\_\_\_  
Member

Please complete the following:

Affiliation \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number \_\_\_\_\_ Facsimile number \_\_\_\_\_

E-mail address \_\_\_\_\_

Arizona Surplus Line Broker License Number \_\_\_\_\_