

**BYLAWS OF THE  
AMERICAN COAL ASH ASSOCIATION  
EDUCATIONAL FOUNDATION, INC.**

**ARTICLE I - OFFICES**

**Section 1.1 Principal Office.** The principal office of the American Coal Ash Association Educational Foundation, Incorporated (hereinafter called the "Foundation") shall be located at the same location as the American Coal Ash Association or at a location to be established by the Foundation Board of Directors.

**Section 1.2 Registered Office and Registered Agent.** The registered office of the Foundation is 15200 E. Girard Ave., Suite 3050, Aurora, CO. 80014. The registered agent is Commonwealth Legal Services Corporation.

**ARTICLE II - BOARD OF DIRECTORS**

**Section 2.1 Number, Term and Election.**

(a) The Board of Directors shall consist of not less than four (4) or more than eleven (11) members. The Chairperson of the American Coal Ash Association, Inc. (ACAA) and the Executive Director of ACAA shall serve by virtue of their office as members of the Board of Directors with full powers of participation and voting rights. The number of directors may be increased or decreased from time to time by action of the Board of Directors.

(b) The Foundation directors, individuals deemed qualified to accomplish the educational and scientific purposes of the Foundation, shall be elected by the Board of Directors of ACAA. A Foundation director need not be or represent a member of the American Coal Ash Association.

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Each director shall hold office for a term of one year (1). The term of each director shall end coincident with the presentation of his/her successor at the annual meeting of the Board of Directors of the Foundation. Directors may succeed themselves and shall continue to hold office until the requisite action to select a successor is taken.

**Section 2.2 Meetings.**

(a) The annual meeting of the Board of Directors of the Foundation shall be held during the Fall ACAA meeting at the time and place designated by the Board of Directors. Written notice of the time and place of the annual meeting shall be served upon each director either personally or by mail, facsimile or email. Each director must receive at least thirty (30) days written notice of the meeting.

(b) Regular meetings of the Board of Directors may be called at any time by resolution of the Board of Directors. Those directors not present when such a resolution is made must be served oral or written notice of the meeting, either personally or through the mail, facsimile or email. Each director must receive ten (10) days notice of the regular meeting.

(c) Special meetings of the Board of Directors may be called at any time by the Chairperson or by a petition signed by at least one-third of the total number of Directors. Notice of a special meeting of the Board of Directors shall be delivered personally to each director, orally or in writing, by telephone, letter, facsimile, or electronic correspondence. Such notice shall specify the purpose of the meeting. Each director must receive forty-eight (48) hours prior notice of the meeting.

**Section 2.3 Waiver in Writing.** Any director may waive notice of any meeting by execution of a written waiver submitted prior to or after a called meeting.

**Section 2.4 Waiver by Attendance.** Any director who attends a meeting shall be deemed to have had timely and proper notice of the meeting, unless he or she attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

**Section 2.5 Quorum.** No business shall be conducted at any meeting of directors unless a quorum shall be present. The presence of a majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, unless a greater number is required by any specific provision of these Bylaws.

**Section 2.6 Adjournment.** The directors present at the time and place of any regular or special meeting which has been properly called on due notice, although less than a quorum, may adjourn the meeting from time to time without further notice until a quorum shall attend, and thereupon any business may be transacted which might have been transacted at the meeting as originally called.

**Section 2.7 Voting.** Each director shall have one (1) vote.

**Section 2.8 Vacancies in the Board.** Any vacancy occurring in the Board of Directors may be filled by the Chairperson for the unexpired term and subsequently approved by the Board of Directors of the American Coal Ash Association.

**Section 2.9 Compensation of Directors.** The directors shall not receive any stated salary for their services as directors. Nothing herein contained shall be construed to preclude any director from serving the Foundation in any other capacity as an officer, employee, agent, or otherwise and receiving compensation therefore.

**Section 2.10 Manner of Acting.**

(a) **Meetings.** The act of the majority of the Board of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless

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specified otherwise by these Bylaws. Any or all directors may participate in a meeting of the Board of Directors or a committee of the Board by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.

**(b) Action Without a Meeting.** Any subsequent required or permitted action authorized by the Board of Directors at a meeting may be taken without a meeting if consent in writing, setting forth the action to be taken is signed by the required authorizing directors. Actions so taken or accomplished shall be documented in the next formally called Board of Directors meeting

**Section 2.11 Presumption of Assent.** A director of the Foundation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file a written dissent to such action with the person acting as the secretary of the meeting before the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

**Section 2.12 Financial Loans to Directors and Officers Prohibited.** No financial loans shall be made by the Foundation to its directors or officers.

**ARTICLE III - OFFICERS**

**Section 3.1 Officers.** The officers of the Foundation shall be the Chairperson, President, Treasurer and Secretary. The Board of Directors may elect such other officers as they shall deem necessary, whom shall have such authority and perform such duties as shall from time to time be prescribed by the Board of Directors.

**Section 3.2 Qualifications.** The Board of Directors may, from time to time, specify qualifications for officers of the Foundation. One person may hold two offices, except that

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the same person may not be President and Secretary.

**Section 3.3 Election.** Officers shall be elected by the Board of Directors at the annual meeting of the Board of Directors. If an election of officers is not held at an annual meeting, such election shall be held as soon thereafter as convenient.

**Section 3.4 Term.** Each officer shall hold office for a term of one (1) year or until his or her successor shall have been duly elected or until his or her death, resignation or removal.

**Section 3.5 Removal.** Any officer elected by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in the Board's judgment the best interests of the Foundation would be served thereby.

**Section 3.6 Vacancies.** A vacancy in any office due to death, resignation, removal or otherwise may be filled by the Chairperson with consent of the Foundation Board of Directors for the unexpired portion of the term.

**Section 3.7 Chairperson** The Chairperson shall, subject to the control of the Board of Directors, supervise and control the affairs and property of the Foundation. The Chairperson, the President, Secretary or Treasurer may sign checks in the name and on behalf of the Foundation. Chairperson and the President only may sign, in the name and on behalf of the Foundation, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in such cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Foundation, or shall be required by law to be otherwise signed or executed. In general, the Chairperson shall perform all duties incident to the office of the Chairperson and such other duties as may be prescribed by the Board of Directors from time to time.

**Section 3.8 President.** The Executive Director of the American Coal Ash Association shall

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serve as the President of the Foundation. The President shall serve as the Chief Administrative Officer of the Foundation and shall exercise responsibility for the day to day operations and management of the Foundation. As noted above, the President may sign checks in the name and on behalf of the Foundation and may sign, in the name and on behalf of the Foundation, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in such cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Foundation, or shall be required by law to be otherwise signed or executed. In general, the President shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time.

**Section 3.9 Secretary.** The Secretary shall: (i) keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) see that the seal of the Foundation is affixed to all documents, the execution of which on behalf of the Foundation under its seal is duly authorized; (iv) keep a register of the post office address of each director, which shall be furnished to the Secretary by such director; and (v) in general perform all duties as from time to time may be assigned to him or her by the Board of Directors.

**Section 3.10 Treasurer.** The Treasurer shall: (i) have charge and custody of and be responsible for all funds of the Foundation; (ii) receive and give receipts for any money due and payable to the Foundation from any source whatsoever and deposit all such money in the name of the Foundation in such banks, trust companies or other depositories as shall be maintained by the Foundation; (iii) disburse money on behalf of the Foundation; (iv) and in

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general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Board of Directors. If approved by the Board of Directors, selected administrative duties of the Treasurer may be performed on that person's behalf by the staff of ACAA, including paid outside accountants. If requested by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such sureties as the Board of Directors shall determine. The Treasurer shall annually render to the Board of Directors, or whenever they may require it, an account of all Foundation transactions and of the financial condition of the Foundation.

**ARTICLE IV - COMMITTEES**

**Section 4.1 Committees.** The Board of Directors, by resolution adopted by a majority of the Board at a meeting where a quorum is present, may appoint one or more committees, which shall consist of at least three (3) members. Any such committee created under this provision of the Bylaws shall not have and exercise the authority of the Board of Directors in the management of the Foundation.

**Section 4.2 Term.** Each member of a committee shall continue as such until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member is removed with or without cause from such committee, or unless such member shall cease to qualify as a member thereof.

**Section 4.3 Chairperson.** Subject to the advice and consent of the Board of Directors, the Foundation Chairperson shall appoint one (1) member of each committee as the committee's Chairperson.

**Section 4.4 Vacancies.** A vacancy in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointment.

**Section 4.5 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 the majority of the members present at a meeting at which a quorum is present shall be the act of a committee.

**Section 4.6 Rules.** Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules promulgated by the Board of Directors.

## **ARTICLE V - CONTRACTS**

**Section 5.1 Contracts.** The Board of Directors may authorize the Chairperson or President to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

**Section 5.2 Evidence of Indebtedness.** All checks, drafts, or other orders for the payment of money, notes and other evidences of indebtedness issued in the name of the Foundation shall be signed by the President, Chairperson, Secretary or Treasurer and/or such other officer or officers or agent or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**Section 5.3 Funds Received.** All funds received by the Foundation and not otherwise employed shall be deposited to the credit of the Foundation in such banks, trust companies or other depositories as the Board of Directors may select, and shall be subject to withdrawal on written order of such person or persons as may be designated by the Board of Directors.

**Section 5.4 Personal.** The Board of Directors may require any officer, agent or employee of the Foundation to give a bond to the Foundation, conditioned upon the faithful discharge of these duties, with one or more sureties and in such amount as may be satisfactory to the Board of Directors.



**Section 5.5 Books and Records.** The Foundation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the Board of Directors and the officers of the Foundation. All books and records of the Foundation may be inspected by any director, his or her agent, or attorney for any proper purpose at any reasonable time.

## **ARTICLE VI - MISCELLANEOUS PROVISIONS**

**Section 6.1 Fiscal Year.** The fiscal year of the Foundation shall begin on the first day of January and end on the thirty-first day of December of each year.

**Section 6.2 Seal.** The seal of the Foundation shall be in such form as the Board of Directors shall designate.

**Section 6.3 Amendment of Bylaws.** A majority of the entire Board of Directors may amend or repeal these Bylaws at any meeting, except that the Board of Directors may not amend provisions of these bylaws related to the manner of selection of directors.

**Section 6.4 Indemnification.** The Foundation 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, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, officer, employee, or agent of the Foundation, or is or was serving at the request of the Foundation, as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement by him or her in connection with such action, suit or proceeding to the full extent permitted by the laws of the Commonwealth of Virginia. Expenses incurred in defending a suit or proceeding, whether

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civil or criminal, shall be paid by the Foundation in advance of the final disposition of such action to the extent, if any, authorized by the Board of Directors, in accordance with the provisions of the laws of the Commonwealth of Virginia.

**ADDENDUM**

The issuance of a Certificate of Incorporation, on November 29, 1996, in the Commonwealth of Virginia, was preceded by adoption of Bylaws for the ACAA Educational Foundation by the Board of Directors on April 15, 1996, with amendments affirmed by a majority vote of the Board of Directors on dates as follows: First Revision dated June 28, 2006