

## **Affiliation Agreement**

THIS AFFILIATION AGREEMENT is made this 12<sup>th</sup> day of October, 2011, by and between the American Concrete Pavement Association, an Illinois non-profit corporation (hereinafter referred to as "ACPA") and the American Concrete Pavement Association, Pennsylvania Chapter, a Pennsylvania corporation (hereinafter referred to as the Pennsylvania Chapter);

WHEREAS, ACPA and the Pennsylvania Chapter wish to set forth herein certain of their understandings and agreements pertaining to their relationship and the mutual rights and responsibilities created thereunder;

NOW, THEREFORE, in consideration of the foregoing and of other mutual promises and agreements hereinafter set forth, ACPA and the Pennsylvania Chapter hereby agree as follows:

### **1. Participation in the Federation**

The Pennsylvania Chapter affirms that this agreement defines its relationship as part of a union of concrete pavement promotion and technical organizations united by a central organization (ACPA). The purpose of all within the ACPA federation of affiliated organizations is the will to advance ideas of mutual benefit, solve mutual problems, and provide for mutual defense against threats to the concrete pavement industry.

ACPA affirms that the Pennsylvania Chapter is an independent organization, in so far as certain rights are reserved to the Pennsylvania Chapter that may not be exercised or altered by ACPA. ACPA also affirms that the Pennsylvania Chapter and other affiliates of ACPA maintain their self-governing status (bylaws, policies, etc.), which may not be altered by any unilateral decision by ACPA. The Pennsylvania Chapter acknowledges, for the good of all within the federation, that certain rights are reserved to ACPA. Both parties agree that the rights and covenants of each organization are defined through this agreement and acknowledge the responsibility to uphold these provisions.

### **2. Condition Grant of Exclusive Charter for Territory**

The Pennsylvania Chapter shall have the exclusive right to represent the concrete pavement industry and ACPA in Pennsylvania. Such right shall not extend to any area outside of the state of Pennsylvania.

### **3. Use of Name, Logo and Marks**

The Pennsylvania Chapter shall have the right to use the name American Concrete Pavement Association, the abbreviation "ACPA" and the logos, marks and symbols of

the ACPA. The Pennsylvania Chapter may incorporate the ACPA logo into a logo for the Pennsylvania Chapter, for use on letterhead, envelopes, membership applications, publications, web site, etc. The ACPA logo may not be used by the Pennsylvania Chapter without including the chapter name on any official letters, publications and policy documents of the Pennsylvania Chapter, in order to distinguish these official communiqués as being from the Pennsylvania Chapter. It shall be clear to anyone receiving Pennsylvania Chapter correspondence that the material is from the Pennsylvania Chapter and not from ACPA.

The Pennsylvania Chapter is encouraged to include the line “An affiliate of ACPA” on its letterhead, membership applications, publications, and its web site if it decides not to use ACPA or American Concrete Pavement Association in its name, logo or marks.

**4. Provision of Representation in National ACPA**

ACPA shall provide the opportunity for member(s) or employee(s) from the Pennsylvania Chapter to participate on its Board of Directors or any Committee or Task Force of its Board of Directors. The Pennsylvania Chapter agrees to encourage its members to participate in ACPA committees and to communicate information about the Pennsylvania Chapter to ACPA, as well as information about ACPA to members of the Pennsylvania Chapter.

**5. Provision of Participation on Chapter Committee**

ACPA shall provide a means of linking the Pennsylvania Chapter with other affiliated chapter and state associations through a Committee of its Board of Directors (Chapter/State Committee). The Chapter/State Committee shall be designated exclusively for executives and staff of the Pennsylvania Chapter and other affiliated chapter and state associations for the purpose of exchanging ideas and information, as well as identifying and working toward collective goals. ACPA shall grant seats for two members of the Chapter/State Committee to represent the collective interests of the Chapter/State Committee on the ACPA Board of Directors.

The Pennsylvania Chapter shall work with its peers on the Chapter/State Committee to coordinate and prioritize its needs, as well as those of the other affiliates, for the purpose of providing input on ACPA strategies, programs and services. The Pennsylvania Chapter shall have the same rights to equal representation as granted other affiliates participating on the Chapter/State Committee; the Chapter/State Committee shall maintain operating guidelines to ensure that it operates in a fair, equitable and effective manner.

**6. Affiliation Standards**

The Pennsylvania Chapter expressly acknowledges the purposes and objectives of ACPA as set forth in the ACPA charter and bylaws, and agrees to act as appropriate in its own discretion to implement such objectives and to enhance the reputation and good will of ACPA.

The Pennsylvania Chapter hereby acknowledges receipt of all policy documents, licensing arrangements and governing documents, as noted under Section 17 of this Agreement. ACPA shall send the Pennsylvania Chapter a copy of all new or amended

policy documents, noted under Section 17, within thirty (30) days after the same have been approved by the Board of Directors and members of ACPA. ACPA shall make all governing documents available to the members of the Pennsylvania Chapter and ACPA through ACPA's secured website.

In keeping with Section 1, ACPA acknowledges that certain requirements of its governing documents affecting significant changes to the scope of services provided, fees, dues or other monetary stipulations, may require approval by the Board of Directors of the Pennsylvania Chapter, and shall provide appropriate time for communication, discussion or ratification of these requirements before they would go into effect.

## **7. Association Services in Support of Chapter**

ACPA shall offer services to support the Pennsylvania Chapter and other affiliates within the federation. Such activities are governed by the ACPA Board of Directors and may include but are not limited to the following:

- a) **Payroll Processing, Retirement and Insurance Benefits** – ACPA shall offer payroll processing, retirement and insurance benefits to employees of the Pennsylvania Chapter under its controlled group. If the Pennsylvania Chapter declines to participate in the payroll service then insurance and retirement benefits are not available to any employees of the Pennsylvania Chapter. If the Pennsylvania Chapter declines participation, the remainder of section 7a does not apply.

ACPA agrees to pay expenses related to administering the payroll, retirement and insurance benefit programs, with the exception of specific processing fees for payroll checks, and any fees charged by investment fund managers for funds within the retirement benefit program. The Pennsylvania Chapter agrees to reimburse ACPA for processing fees associated with payroll and any additional pay-related checks for all Pennsylvania Chapter employees.

ACPA agrees to process and pay all state payroll withholding taxes on behalf of the Pennsylvania Chapter as part of the payroll service. The Pennsylvania Chapter agrees to reimburse ACPA for federal unemployment taxes (FUTA) on an annual basis, and state unemployment taxes (SUTA) on a quarterly basis.

The Pennsylvania Chapter agrees to forward a reimbursement check monthly prior to the pay date (15th of the month) or set up an automated account withdrawal to reimburse ACPA for all associated payroll expenses, including but not limited to salary, car allowances, social security taxes, Medicare taxes, 401-k employer contributions, medical, dental, vision, life, accidental death and dismemberment, long-term disability and dependent life insurance charges.

ACPA agrees to provide periodic opportunities for employees of the Pennsylvania Chapter to review retirement benefit programs and eligibility rules with experts of the investment company or consultant.

- b) **Promotion Support** – ACPA shall make available direct support to the Pennsylvania Chapter for local promotion, which may include supporting the Pennsylvania Chapter

in agency meetings or with specific project promotion to deliver a national perspective, provided this support is within the resources and policies of ACPA.

- c) **Presenters for Local Events** – ACPA shall make available to the Pennsylvania Chapter expert staff speakers for local workshops and training programs, provided this support is within the resources and policies of ACPA.
- d) **DARWin-ME Pavement Design Software** – ACPA shall make available to the Pennsylvania Chapter access to American Association of State Highway Officials' (AASHTO's) DARWin-ME pavement design software from a central server maintained by ACPA. This provision is subject to AASHTO's continuing offer and approval of an ACPA site license arrangement for the DARWin-ME software.
- e) **Technical and Promotional Publications and Tools** – ACPA shall coordinate and develop literature, software and web-resources that project an appropriate national image for the industry, define industry standards, and can be useful to the Pennsylvania Chapter and its members in local their efforts, as well as the other affiliates in the federation. ACPA shall provide one library copy of all generally available ACPA publications and products to the Pennsylvania Chapter.
- f) **Product Discounts** – ACPA shall provide special discounted pricing to the Pennsylvania Chapter for all generally available ACPA publications, software and other products prior to the release of the publications to the membership or public. The Pennsylvania Chapter may freely distribute printed products it purchases from ACPA.
- g) **Information Clearinghouse** – ACPA shall provide the Pennsylvania Chapter an online clearinghouse for electronic versions of all of its copyrighted documents, as well as copyrighted documents of the Innovative Pavement Research Foundation and National Concrete Pavement Technology Center and other organizations that consent to be included in such a program.
- h) **Electronic Product Distribution Rights for Chapter Territory** – ACPA shall provide the rights to the Pennsylvania Chapter to provide unlimited access to an online clearinghouse (see Section 7g) to its members and any customers within the geographic territory of the Pennsylvania Chapter defined under this Agreement. The Pennsylvania Chapter shall use the online clearinghouse for distributing documents and not distribute copyrighted documents or software by posting them as free downloads from the Pennsylvania Chapter website.
- i) **Loan of Exhibition Equipment** – ACPA shall provide a program to loan to the Pennsylvania Chapter displays or signs for use at tradeshow, workshops, or other events. The Pennsylvania Chapter acknowledges that ACPA shall make the loan of any such materials available to all affiliates in the federation on a first come first served basis. The Pennsylvania Chapter shall give equipment and materials left in its custody the same care provided similar property of its own, and agrees and accepts full responsibility for its replacement or repair should ACPA equipment become lost or damaged while in its possession.
- j) **Membership Development** –The Pennsylvania Chapter shall take all appropriate action to grow its membership, including but not limited to using ACPA membership

development programs. The Pennsylvania Chapter shall cooperate with other ACPA affiliates in order to develop membership without conflict. ACPA shall assist the Pennsylvania Chapter with membership development and retention activities within the geographic territory of the Pennsylvania Chapter defined under this Agreement, provided this support is manageable within the resources and policies of ACPA.

## **8. National Association Programs and Services in Support of Members**

ACPA shall engage in activities of a national scope that further its mission and strategic objectives of the membership, as stated in the ACPA bylaws, and as are specifically listed in active strategic and/or operating plans. Such activities are prioritized on a national scale and are approved annually by the ACPA Board of Directors. The activities may include but are not limited to the following:

- a) **Federal/National Agency Relationships** – ACPA shall develop and maintain strategic national relationships with important organizations, which may include, but not be limited to: Federal Highway Administration (FHWA), Federal Aviation Administration (FAA), Military Tri-Services, AASHTO, American Public Works Association and National Association of County Engineers.
- b) **Federal Advocacy** – ACPA shall represent the industry's interests on Federal policy and legislative issues, which may include, but not be limited to:
  - Advocating for fair treatment of the concrete pavement industry in pavement selection policies.
  - Advocating for highway and airport transportation funding and related matters.
  - Advocating for concrete pavement research funding.
  - Supporting Washington DC-based transportation organizations for lobbying efforts on transportation funding and other transportation industry issues.
  - Operating a Political Action Committee (PAC) useful to support key legislators.
- c) **Industry Liaison** – ACPA shall represent the concrete pavement industry's views and positions on national research panels, expert groups or committees, such as those managed by AASHTO, FHWA, FAA, National Cooperative Highway Research Board, and other organizations.
- d) **Research Support** – ACPA shall support research on strategic concrete pavement issues through partners, such as the Innovative Pavement Research Foundation and the National Concrete Pavement Technology Center.
- e) **Airport Segment Promotion** – ACPA shall provide direct promotion to airport consultants and owners on projects/issues.
- f) **National Communications** – ACPA shall develop and execute a public relations and communication program of a national scale to position the industry's views on strategic issues.
- g) **National Training and Education** – ACPA shall coordinate, develop and deliver best practice education and training programs to augment the training provided locally by the Pennsylvania Chapter and other affiliates and partners.
- h) **Member Services and Support** – ACPA shall provide assistance in developing procedures for membership services, if requested by the Pennsylvania Chapter.

ACPA and the Pennsylvania Chapter shall cooperate with each other in offering membership services. ACPA shall provide technical or other advice to the staff and members of the Pennsylvania Chapter, as well as customers from within the geographic territory of the Pennsylvania Chapter defined under this Agreement, in accordance with the Technical Service Policy of the ACPA Board of Directors.

- i) **Membership Networking Events** – ACPA shall provide meetings, forums and resources for member interaction, member involvement and strategy development.
- j) **National Recognition Programs** – ACPA shall coordinate and conduct a national awards program to recognize individuals and projects that demonstrate remarkable qualities or make significant contributions to the concrete pavement industry. As an affiliate of ACPA, the Pennsylvania Chapter may nominate individuals or projects in accordance with the program's specific guidelines.

## **9. Local Association Programs and Services in Support of Members**

The Pennsylvania Chapter agrees to provide such local programs and services as they apply on a state or regional scale within the territory defined under this Agreement. State or regional activities and services are the responsibility of the Pennsylvania Chapter and may include but are not limited to, liaison with state department of transportation, direct project promotion, annual workshop(s) development/execution, local news, local educational programs, local industry relations, local/regional trade shows, local and state government relations, and local/state lobbying.

In concert with its local programs, the Pennsylvania Chapter, recognizes and agrees to its obligation to represent, promote, and sponsor ACPA's national activities, programs and services for the betterment of the federation and the industry.

## **10. Limitation on Programs or Services**

There shall be no limitations on ACPA or on the Pennsylvania Chapter which might curtail the creation of programs and services of value to member firms.

## **11. Conduct of Business**

- a) ACPA shall conduct its affairs in support of the Pennsylvania Chapter, as follows:
  - i. ACPA shall communicate or market local programs and/or activities in cooperation with the Pennsylvania Chapter.
  - ii. ACPA shall contact the Pennsylvania Chapter regarding any significant request for information or assistance from a member or customer from within the territory of the Pennsylvania Chapter as defined under this Agreement.
  - iii. ACPA shall encourage national members to join the Pennsylvania Chapter and other local affiliate organizations and to assist in the promotional efforts of other local affiliates within whose geographic area they do business.
  - iv. ACPA shall provide information regarding any national policies, dues renewals, or other special communiqué's to the mutual members of ACPA and the Pennsylvania Chapter.

- v. ACPA shall not send out questionnaires to its membership, or others, without indicating clearly that such questionnaire is from ACPA and not issued by the Pennsylvania Chapter from the local office.
  - vi. ACPA agrees that information regarding companies that select the Pennsylvania Chapter using the ACPA membership check-off shall be communicated to the Pennsylvania Chapter within 10 days of the acceptance of the company into membership.
  - vii. ACPA agrees that information regarding any company that joins ACPA, either directly or through an affiliate, shall be communicated to the Pennsylvania Chapter and all other affiliated local organizations within 10 days of the receipt of the first dues payment or other trigger initiating the company's membership.
- b) The Pennsylvania Chapter shall conduct its affairs in support of ACPA and the federation, as follows:
- i. The Pennsylvania Chapter shall operate and conduct its business and affairs in accordance with the generally accepted principles of non-profit business organizations, it being the intention that the primary objective of the Pennsylvania Chapter is to serve its members.
  - ii. The Pennsylvania Chapter shall be governed by a Board of Directors elected by its members in accordance with the terms of its bylaws.
  - iii. The Pennsylvania Chapter shall adopt bylaws to provide for the administration and regulation of its internal affairs, including management of staff; these bylaws shall be subject to the applicable laws of the state of Pennsylvania.
  - iv. Regulations of the Pennsylvania Chapter shall be in conformity with requirements described in the ACPA bylaws and this Agreement, including all provisions relating to membership dues or assessments.
  - v. The Pennsylvania Chapter shall work in harmony with ACPA and other affiliates in the federation to promote increased use of concrete pavement. In the event that a dispute between the Pennsylvania Chapter and another local affiliate cannot be settled by mutual agreement, it shall be referred to ACPA for arbitration.
  - vi. The Pennsylvania Chapter shall encourage their members to assist in the promotional efforts of other local affiliates within whose geographic area they may work from time to time.
  - vii. The Pennsylvania Chapter agrees that information regarding companies that are accepted for membership in the Pennsylvania Chapter shall be communicated to ACPA within 10 days of the acceptance of the company into membership.
  - viii. The Pennsylvania Chapter agrees to invoice contractor members for national assessments on behalf of ACPA. As part of this agreement, the Pennsylvania Chapter shall provide to ACPA copies of all invoices, or a record of invoicing, for all contractor volume assessments to allow ACPA to establish an appropriate receivable for accounting and financial reporting. As a minimum, the invoices, or record thereof, shall indicate the contractor name, volume of work assessed and the combined assessment rate of the Pennsylvania Chapter and ACPA. The Pennsylvania Chapter shall provide invoice copies, or a record thereof, within 30 days of issuance to the contractor member,

- ix. By March 31<sup>st</sup> each year, the Pennsylvania Chapter shall provide a statement, signed by their independent certified public accountant (or their treasurer if an independent accountant is not retained by the Pennsylvania Chapter), who shall indicate the total national assessment figure for all assessable work by the Pennsylvania Chapter contractors members and contractors visiting from other affiliates during the prior calendar year. This report shall be used as independent verification for use in ACPA's annual financial audit.

## **12. Insurance, Liability and Indemnification**

ACPA and the Pennsylvania Chapter expressly acknowledge and agree that ACPA and the Pennsylvania Chapter are and intend to maintain, separate corporate entities with separate Employer Identification Numbers (EINs), and as such, shall not incur any liability, obligation or expense on behalf of each other except as expressed under this Agreement.

ACPA and the Pennsylvania Chapter will maintain their own separate insurance policies.

## **13. Membership Classifications**

All members of the Pennsylvania Chapter shall be eligible for ACPA membership. All members of ACPA shall be eligible for membership in the Pennsylvania Chapter.

The local classifications of membership and qualifications offered by the Pennsylvania Chapter shall include, but not be limited to, the classifications and qualifications provided for in the ACPA bylaws and dues structure; provided, however, that any additional or different classifications offered by the Pennsylvania Chapter shall not conflict with classifications of membership offered by ACPA, and shall not entitle holder thereof to a corresponding classification in ACPA; provided, further, that any additional classifications of membership shall not have the effect of circumventing the requirements that the Pennsylvania Chapter report particular membership classifications to ACPA and remit any dues with respect thereto.

Members that are accepted for membership in the Pennsylvania Chapter as "Contractor Members", regardless of size or other qualification, shall become contractor members of ACPA and proper assessments shall be paid to ACPA, as well as other affiliates in the federation.

Members that are accepted for membership in ACPA in the Materials Manufacturer/Supplier or the Equipment Manufacturer/Distributor classifications (as defined by ACPA), and who elect also to belong to the Pennsylvania Chapter through a membership check-off, shall become members of the Pennsylvania Chapter and proper dues shall be paid to the Pennsylvania Chapter through ACPA.

## **14. Dues Collection**

- a) **General** – The Pennsylvania Chapter may levy local dues or volume assessment dues in accordance with its own rules and regulations for operation within the geographic area defined by this Agreement, provided that there is no unjust

discrimination against any member of ACPA or any applicant for membership in ACPA.

- b) **Contractor Members** – The Pennsylvania Chapter shall collect national assessments from its contractor members (and any contractor member of another affiliate in the federation or of ACPA directly) that performs assessable work within the geographic area defined by this Agreement, and remit such amount to ACPA as set forth in the ACPA bylaws and national dues structure.

All current and new contractor members shall pay volume assessments to the Pennsylvania Chapter on work performed in the geographic area defined by this Agreement based on the ACPA volume assessment, and the volume assessment structure, timing and assessable work defined by the Pennsylvania Chapter.

Any current or new contractor member that performs work outside of the geographic area defined by this Agreement shall pay all applicable volume assessments to ACPA affiliated organizations (chapters or state associations) based on the ACPA volume assessment, and the volume assessment structure, timing and assessable work defined by the local organization where the work is performed. The other affiliate organization is responsible to collect these assessments from the contractor member.

- c) **Other Members** – ACPA shall collect dues from members of the Materials Manufacturer/Supplier or the Equipment Manufacturer/Distributor classifications (as defined by ACPA) that elect to become members of the Pennsylvania Chapter through a local membership check-off, and remit such amount to the Pennsylvania Chapter in accordance with the procedure set forth in the ACPA bylaws and national dues structure.

The Pennsylvania Chapter shall collect dues from any local member that elects to join ACPA. The Pennsylvania Chapter shall remit such dues to ACPA in accordance with the procedure set forth in the ACPA bylaws and national dues structure.

## 15. **Annual Affiliation Fee**

An annual fee for affiliation shall be paid by the Pennsylvania Chapter to ACPA for the services outlined in this Agreement. Commencing on January 1, 2012, the fee is \$15,000 per year. An adjustment to the annual fee may be made in subsequent years to account for inflation at the discretion of the ACPA Board of Directors. Any annual adjustment shall be by no more than three percent or the Consumer Price Index, whichever is greater.

Within the first 15 days of each calendar year, the Pennsylvania Chapter shall designate a payment schedule of either one annual or four quarterly installments. The Pennsylvania Chapter shall be considered delinquent if at any time it is behind in paying the affiliation fee according to the schedule it has selected by 30 days or more, ACPA shall reserve the right to withhold services listed under Section 7 until the Pennsylvania Chapter is up to date on payment. In the event that the Pennsylvania Chapter remains

behind for two consecutive quarters, ACPA shall communicate this situation to the Chapter/State Committee for resolution.

**16. Duration and Termination**

Until terminated by either party, this Agreement remains in effect. If any portion of this Agreement shall be declared invalid or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect and shall not be affected thereby.


This Agreement may be terminated by either party with 180 days written notice. Termination of this Agreement shall not relieve either party of any obligations due and payable to the other party based on all agreements that are in effect at the time a termination notice is issued.

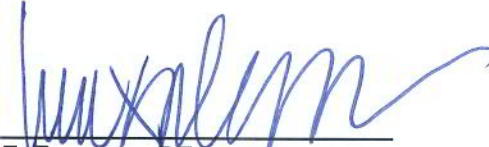
**17. Effectiveness of Other Documents**


ACPA and the Pennsylvania Chapter acknowledge the existence, force and effect of the following additional documents:


- A. ACPA Bylaws
- B. ACPA Approved Policies
- C. ACPA National Dues Structure
- D. ACPA Product Distribution License Agreement
- E. The Pennsylvania Chapter Bylaws
- F. The Pennsylvania Chapter Dues Structure

IN WITNESS WHEREOF, the parties hereto have caused this Affiliation Agreement to be executed by their duly authorized officers, effective as of the day and year first written above.

  
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Michael Shayson  
Chairman – ACPA Board of Directors

  
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John F. Depman, PE  
Chairman, Pennsylvania Chapter

  
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Gerald F. Voigt, PE  
President and CEO, ACPA

  
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John M. Becker, PE  
President, Pennsylvania Chapter

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