



## AMENDED AND RESTATED BYLAWS FOR APPROVED BY THE MEMBERSHIP SEPTEMBER 2015

*Sections of the NTDA Bylaws are highlighted in red that represent content additions/clarifications. Outlined changes went into effect Sept. 18, 2015. Changes were approved by the NTDA Board of Directors at their May 2015 meeting and were then reviewed by legal counsel and then approved by the membership as a whole in August 2015.*

### ARTICLE I. NAME

**Section 1. NAME.** The name of this organization shall be the "National Trailer Dealers Association."

**Section 2.** The location of the principal office of the Association shall be determined by the Board of Directors.

The registered office and agent of the Corporation shall be maintained in North Dakota, unless otherwise determined by the Board. The Board of Directors may change the address of the registered and principal office, and the person named as registered agent, from time to time. The Association will be registered as a foreign entity doing business in the State of Michigan for the purposes of leasing an office, providing payroll to Michigan-based employees, and other business-related purposes requiring a Michigan-based tax ID number. This change will take effect in June 2015.

### ARTICLE II. PURPOSES

The purposes of this organization shall be to:

- Promote the common business interests of dealers and manufacturers of semi-trailers, trailers, and related equipment and services (together, the "trailer industry");
- Promote the general goodwill and public relations of the trailer industry;
- Advocate and promote high standards of service, quality and conduct in the trailer industry;
- Promote safety on the public highways and in the vehicles and equipment thereon;
- Educate members, and those who deal with members, on any matter affecting the trailer industry;
- Represent the trailer industry with regard to pertinent legislative and regulatory issues; and
- Develop programs that assist companies in the trailer industry to compete more effectively and run their businesses more efficiently.

### ARTICLE III: MEMBERSHIP

#### Section 1. MEMBERSHIP CLASSES.

Membership shall be divided into two (2) classes:

**DEALER** shall mean an entity principally engaged in the business of purchasing new or used semi-trailers, semi-trailer equipment, or component parts of such semi-trailers or equipment from manufacturers for resale to users and other dealers, but shall not mean any entity owned or controlled by a manufacturer of such trailers, equipment and/or parts.

**A DEALER BRANCH** is a branch office/location of an NTDA DEALER Member.

**ALLIED** shall mean an entity, and any affiliates, principally engaged in the manufacture of semi-trailers, trailers, trailer equipment and/or component parts, distributors of component parts, trailer accessories, and suppliers of raw materials and/or services to any such entities. An ALLIED member may be an affiliated industry service provider.

**Section 2. VOTING.** Members shall be entitled to vote. Members generally are companies, and therefore act through designated representatives (e.g., primary member contact). Each voting member shall appoint and certify to the President of the Association (or such officer of the Association as the Board from time to time may direct) one (1) person to act as its representative in Association matters. The representative shall represent, vote, and act for the member in all affairs of the Association. Each member is limited to one (1) vote in matters subject to a vote of the members. Proxy voting is not permitted. Any vote by the membership, unless otherwise specifically required

by applicable law, the charter or these bylaws, may be conducted in person, by regular mail (providing the Association sends the ballot to each member, prepaid), by a national overnight delivery service (prepaid), by facsimile (provided the Association retains a copy of the facsimile ballot); or a ballot that has been scanned and e-mailed (provided the Association retains a copy of the e-mailed ballot). Actions not taken by a vote in person shall be reported at the Association's next meeting or in a subsequent mailing to the membership.

**Section 3. ADMISSION OF MEMBERS.** Any firm or corporation eligible for membership under these bylaws may be admitted to membership on written application. If the President (or such officer of the Association as the Board from time to time may direct) and/or an officer designated by the Chairman of the Board as responsible for membership matters finds the applicant meets the applicable eligibility criteria, the applicant shall become a member of the Association and thereafter may exercise the rights and privileges of the membership class for which the application is accepted.

The Board of Directors in its sole discretion shall determine the appropriate class of membership and division of such class, if any, for each member.

**Section 4. SUSPENSION AND EXPULSION.** For good cause, any member may be expelled or suspended upon an affirmative vote of at least two-thirds (2/3) of the Board of Directors; provided that prior to such action the member has received a statement of the reasons for proposed suspension or expulsion and an opportunity for hearing. The hearing shall be held at least fifteen (15) days after written notice of proposed suspension or expulsion has been sent to the member.

During the thirty- (30-) day period after a member has been expelled or suspended, the Board's decision may be appealed by sending a request to the Chairman of the Board that the Board establish an ad-hoc committee for such purposes. The Board shall consist of the President (or such officer of the Association as the Board from time to time may direct), legal counsel and a member not on the Board of Directors.

#### **ARTICLE IV. DUES**

The annual dues for each membership class and division thereof, if any, shall be set by the Board of Directors. Members who fail to pay their dues within sixty (60) days from the time the same becomes due shall be notified by the President (or such officer of the Association as the Board from time to time may direct) of such failure. If payment is not made within the next succeeding thirty (30) days, such member may (without further notice and without hearing) be dropped from membership, thereby forfeiting all rights and privileges.

#### **ARTICLE V. MEETINGS OF THE MEMBERSHIP**

**Section 1. ANNUAL MEETING.** There shall be an annual meeting of the Association at a time and place designated by the Board of Directors. Notice of such meeting shall be sent to each member at least fifteen (15) days prior to the meeting. At the annual meeting, there shall be the installation of the successor Directors elected pursuant to Article VI hereof, a report on the activities and financial condition of the Association, and the members shall consider and act upon other matters as may be raised consistent with the notice provisions hereof and applicable law.

**SPECIAL MEETINGS.** Special meetings of the Association may be called by the Chairman of the Board of Directors. A special meeting shall be called by the Chairman of the Board upon written consent of the lesser of fifty (50) members or ten (10) percent of the total number of members of the Association.

Notice of any special meeting shall be mailed to each member at least fifteen (15), but not more than fifty (50) days prior to the meeting, with a statement of the time and place and information as to the subjects to be considered.

If a special meeting is requested by the members, the meeting must be held in the county where the principal executive office of the Association is located.

**Section 3. QUORUM.** Fifteen percent (15%) of the total members eligible to vote shall constitute a quorum for annual and special meetings of the Association, and for the election of Directors. The order of business of meetings shall be determined by the Chairman of the Board.

**Section 4. RULES OF ORDER.** At all meetings, including meetings of the Board of Directors, the most current edition of *Robert's Rules of Order* shall govern when not in conflict with the charter, these bylaws and applicable law.

#### **ARTICLE VI. ELECTION OF DIRECTORS**

**Section 1. TERM.** In each annual election of Directors, a sufficient number of Directors shall be elected for a term of three (3) years each to bring the number of Directors to twelve (12), pursuant to Article VI, Section 2. Notwithstanding the foregoing, beginning with the organizational meeting

(described in Article VII, Section 2), held immediately after the annual meeting of the membership in 2004, the Board of Directors shall have discretion from year-to-year, upon an affirmative vote of not less than seventy-five percent (75%) of the members of the Board, to change the number of Directors from a minimum of nine (9) to a maximum of twelve (12); provided that in no event shall the Board reduce the number of Directors to a number that would result in one (1) or more Directors serving less than his or her full three- (3-) year term. Directors may be reelected, provided that, except as set forth in Section 3 hereof, Directors may not serve consecutive terms. All Directors shall enter into the performance of their duties upon the convening of the annual meeting held in conjunction with their installation under Article V, Section 1 hereof.

**Section 2. MEMBERSHIP CLASS.** The twelve (12) Directors of the Association shall consist of nine (9) elected from the Dealer class and three (3) elected from the Allied class. If after 2002 the Board determines, pursuant to Article VI, Section 1 hereof, to establish a number of Directors that is less than twelve (12) and greater than or equal to nine (9), then the number of Directors from the Dealer class shall comprise not less than seventy percent (70%) nor more than eighty-two percent (82%) of the total number of Directors (rounding to the nearest hundredth). Each voting member may vote for all Director positions, regardless of the candidate's or the voter's membership class.

**Section 3. REELECTION OF OFFICER/DIRECTOR.** A Director's three- (3-) year term shall be extended to enable such Director to serve as Chairman of the Board, First Vice Chairperson or Second Vice Chairperson if: (i) the Director is elected to such office in the third (3rd) year of the Director's term, or (ii) the Director is elected to such office during the fourth (4th) or subsequent year of the Director's term following an extension of said term pursuant to clause (i) above; provided, that a Director's term shall not be extended to permit a Director to serve in a particular office more than once during a term.

**Section 4. QUALIFICATIONS.** In order to qualify as a nominee for Director of the Association, a candidate must either be (i) the Chief Executive Officer or Chief Operating Officer (or for entities organized as partnerships or proprietorships, a partner or owner, as applicable) or (ii) an officer (or for entities organized as partnerships or proprietorships, a partner or owner, as applicable) or other senior management position. The Board may, in its sole discretion, waive the requirement that a nominee hold one (1) of the applicable titles or interests set forth in this Section 4. A candidate shall not qualify as a nominee for Director if at the inception of his or her term there would be another Director from a firm owning or controlling, owned or controlled by, or under common ownership or control with, the candidate's firm. Further, to qualify, a nominee must be an NTDA Dealer or Allied Member in good standing for a minimum of two years (24-months), and have attended at least one Annual Convention of the Association.

**Section 5. ELECTION PROCEDURE.** At least 90-days before each Annual Meeting, the Association shall request its members to submit the names of qualified candidates for nomination as a Director on the Board of Directors for the coming term. From the names submitted by the members and such other candidates as it might develop, the Board of Directors shall nominate a qualified person (or persons) for each vacancy. At least 60 days prior to the Annual Meeting, the President (or such officer of the Association as the Board from time to time may direct) shall prepare appropriate ballots containing the names of all such nominees and mail to the members. Each ballot shall indicate the number of responses needed to meet quorum requirements and specify the date by which a ballot must be received in order to be counted. All completed ballots received by the President (or the designated officer) at least thirty (30) days prior to the annual meeting shall be deemed valid.

## **ARTICLE VII. BOARD OF DIRECTORS**

**Section 1. AUTHORITY.** The Board of Directors shall have the supervision, control, and direction of the affairs of the Association, shall determine its policies or changes therein consistent with the limits of applicable law, the charter of the Association, and these bylaws, shall actively seek to further the objectives of the Association, and shall have discretion in the disbursement of Association funds.

**Section 2. MEETINGS.** The Board shall have an organizational and a reorganization meeting in conjunction with the annual meeting of the Association for the purpose of installing the officers of the Association elected in accordance with Article VIII, Section 2 of these bylaws. Thereafter, the Board shall have two (2) regular meetings prior to the next annual meeting. The first (1st) regular meeting of the Board following each organizational meeting shall take place prior to July of each year.

Special meetings can be called by the Chairman of the Board for good cause, or at the request of at least thirty-three percent (33%) of the Directors who send written notice to the Chairman of the Board. Notice of the time and place of all meetings shall be sent not less than fifteen (15) days prior to the meeting.

**Section 3. QUORUM.** A majority of the Board membership shall constitute a quorum at any meeting of the Board.

**Section 4. ABSENCE.** Any Director who shall have been absent from any two (2) regular meetings of the Board of Directors during any 365-day period shall automatically vacate a seat on the Board of Directors, and the vacancy shall be filled as provided by these bylaws. However, the Board

of Directors shall consider each absence of a Director as a separate circumstance and may expressly waive such absence by affirmative vote of a majority of its members.

**Section 5. VOTING.** The voting rights of a Director shall not be delegated to another or exercised by proxy. Any vote by the Board of Directors, unless otherwise specifically required by applicable law, the charter or these bylaws, may be conducted in person, by mail (providing the Association sends the ballot to each Board member by certified mail, postage prepaid), by a national overnight delivery service (prepaid), or by facsimile (provided the Association retains facsimile confirmation sheets confirming receipt by the Directors of the ballots). Actions not taken by a vote in person shall be reported at the Board's next regular meeting.

**VACANCIES AND REMOVAL.** Any vacancy that may occur on the Board, by reason of death, resignation, or otherwise, may be filled for the unexpired term by majority vote of the remaining Directors; provided, that the filling of a vacancy on Board shall be done to keep the Board in compliance with Article VI, Section 2 and Article VI, Section 4 of these bylaws. Candidates for any such vacancy may be nominated by any remaining Directors. The Board of Directors may in its discretion, by an affirmative vote of two-thirds (2/3) of the Directors, remove any Director from the Board for cause.

## **ARTICLE VIII. OFFICERS**

**Section 1. POSITIONS.** The officers of the Association shall be Chairman of the Board, First Vice Chairman, Second Vice Chairman, and Treasurer; provided, however, at the organizational meeting immediately following the annual meeting of the Association each year, the Board shall have discretion to combine the offices of Treasurer in the election to be held at the next following Election Meeting (as defined in Article VIII, Section 2). The officers shall be elected from among the Directors; provided, however, that (i) a Director from the Allied class may serve as Chairman of the Board no more often than once every three (3) years; and (ii) there shall at all times be no fewer than three (3) officers from the Dealer class. The Board, in its sole discretion, may appoint such assistant officers as is deemed appropriate in any given year, which persons shall be appointed from among the members of the board, employees of the Association or employees of the management company hired pursuant to Article IX, Section 1. The President also serves as Secretary.

### **Section 2. ELECTION.**

**A.** At the first (1st) regular meeting of the Board following the annual meeting of the Association each commence as of the immediately succeeding organizational meeting of the Board, the Chairman of the Board, First Vice Chairman, Second Vice Chairman, Treasurer, Secretary or Treasurer/Secretary. Each Director shall be entitled to nominate one (1) Director (including himself or herself) for each office by sending the nomination in writing to the President (or such officer of the Association as the Board from time to time may direct) at least thirty (30) days prior to the date of the Election Meeting. The President (or designated officer) shall disqualify any nomination that is inconsistent with this Article VIII, and a Director who submits a disqualified nomination shall not be entitled to submit a substitute nomination.

**B.** To be placed on the slate of nominees to be voted upon at the Election Meeting, (i) a nominee for the offices of Second Vice Chairman, Treasurer, Secretary or Treasurer/Secretary must be included on the duly submitted nomination form of at least one (1) Director; (ii) a nominee for the office of Chairman of the Board must be included on the duly submitted nomination form of at least one (1) Director if the nominee is the then-sitting First Vice Chairman, or must be included on the duly submitted nomination forms of at least two-thirds (2/3) of the Directors if the nominee is a Director other than the then-sitting First Vice Chairman; and (iii) a nominee for the office of First Vice Chairman must be included on the duly submitted nomination forms of at least one (1) Director if the nominee is the then-sitting Second Vice Chairman, or must be included on the duly submitted nomination forms of at least two-thirds (2/3) of the Directors nominee is a Director other than the then-sitting Second Vice Chairman. Notwithstanding the foregoing, if the then-sitting First Vice Chairman declines to run for the office of Chairman of the Board, or if the then-sitting Second Vice Chairman declines to run for the office of First Vice Chairperson, then, as to each office affected by a declination, all nominees on the nomination forms of at least one (1) Director shall be placed on the slate. At least ten (10) days prior to the Election Meeting, the President (or such officer of the Association as the Board from time to time may direct) shall distribute to all Directors the slate of nominees.

**C.** The election of officers serving as Chairman of the Board, First Vice Chairperson, Second Vice Chairperson, Treasurer shall be by secret ballot. Election shall be by a majority vote of the Directors present at the Election Meeting; provided, that election of a nominee other than the then-sitting First Vice Chairperson for the office of the Chairman of the Board, and election of a nominee other than the then-sitting Second Vice Chairperson for the office of the First Vice Chairperson, shall require an affirmative vote of two-thirds (2/3) of the Directors. In the event that there are more than two (2) nominees for an office and none receives a majority of the votes (or two-thirds (2/3) of the votes, if applicable), there shall be a run-off election between the two (2) nominees receiving the most votes. In the event the vote in the run-off election produces a tie, or in the event that no nominee obtains the necessary margin of victory as set forth in this Article VIII, Section 2, the outgoing Chairman of the Board, if

available and willing, shall cast the deciding vote, and if the outgoing Chairman of the Board is unavailable or unwilling to cast the deciding vote, the election shall be determined by a drawing of lots.

**D.** Each elected officer shall take office at the commencement of the next succeeding organizational meeting and shall serve until the successor is duly elected.

**Section 3. VACANCIES AND REMOVAL.** Vacancies in any office may be filled for the balance of the term by majority vote of the Directors. Candidates for any such vacancy must meet the requirements of Article VIII, Section 1 of these bylaws, and may be nominated by any remaining Director. An officer so elected to fill a vacancy shall serve the unexpired term of his or her predecessor. The Board of Directors, in its discretion, by a two-thirds (2/3) vote of all its members, may remove any officer from office for cause.

**Section 4. CHAIRMAN OF THE BOARD.** The Chairman of the Board shall preside at all meetings of the Executive Committee and the Board of Directors, and shall be a member ex-officio, with the right to vote, of all committees. The Chairman of the Board shall not vote in either the Executive Committee or Board of Directors meetings except in the case of a tie vote. He or she shall also, at the annual meeting of the Association and such other times as deemed proper, communicate to the Association or to the Board of Directors such matters and make such suggestions as may in his or her opinion tend to promote the welfare and increase the usefulness of the Association, and shall perform such other duties as are necessarily incident to the office of the Chairman of the Board or as may be prescribed by the Board of Directors.

**VICE CHAIRMANS/VICE CHAIRPERSONS.** The Vice Chairs may, by order of designation by the Chairman of the Board, be delegated by the Chairman of the Board to perform his or her duties, in the event of the Chairman of the Board's temporary disability or absence from meetings.

**TREASURER.** The Treasurer shall keep an account of all monies received and expended for the use of the Association. All sums received by the Treasurer shall be deposited in the bank or banks, or trust company, approved by the Board of Directors. The Treasurer shall make a report at the annual meeting, or when called upon by the Chairman of the Board, of the financial condition of the Association. The Board of Directors shall establish such other fiscal and financial controls and directions on the receipt, investment, and disbursement of funds as it from time to time deems appropriate.

Upon an affirmative vote of the Board of Directors, the duties of the Treasurer may be delegated in whole or in part to an Assistant Treasurer, who may be a Director, or an employee of either the Association or the management company hired pursuant to Article IX, Section 1. The funds, books, and vouchers held by the Treasurer or the Assistant Treasurer shall, with the exception of confidential reports submitted by members, at all times be subjected to verification and inspection of the Board of Directors. At the expiration of his or her term of office, the Treasurer shall deliver over to the successor all books, money, and other property, or, in the absence of a Treasurer-elect, to the Chairman of the Board.

**SECRETARY.** It shall be the duty of the Secretary to give notice of and attend all meetings of the Association and all of its committees and keep a record of their proceedings.

#### **ARTICLE IX. MANAGEMENT OF THE ASSOCIATION**

**THIRD PARTY MANAGEMENT.** The Board of Directors shall have discretion to hire a third-party company to manage and handle the day-to-day affairs of the Association.

**Section 1. President.** The President shall be either a full-time employee of the Association or an employee of a third-party management company hired under Section 1 of this Article. He or she shall have the overall responsibility for the complete operation of the Association as it involves programs, plans and operations, and, in addition, may serve as an assistant officer as designated by the Board. All employees of the Association shall be responsible to the President of the Association, and the President, in turn, shall be responsible to the Chairman of the Board of the Association and to the Board of Directors.

#### **ARTICLE X. EXECUTIVE COMMITTEE**

**Section 1. AUTHORITY AND RESPONSIBILITY.** The Executive Committee shall perform the staff function for the Board of Directors by reviewing matters to be presented to the Board and preparing recommendations for the Board. In addition, the Executive Committee may act in place and stead of the Board of Directors between Board meetings on all matters that require immediate decision for orderly transaction of Association business and where a call for a vote of the Board or a special meeting of the Board is, in the opinion of the Committee, impractical; provided, however, such actions shall require an affirmative vote of 75 percent (75%) of the members of the Executive Committee. Such actions shall be reported to the Board within seven (7) days by mail, facsimile, **e-mail**, or at the next Board meeting, whichever is sooner.

**Section 2. COMPOSITION.** The Executive Committee shall consist of the elected and appointed officers of the Association. The Chairman of the Board of the Association shall serve as Chairperson of the Committee.

**Section 3. QUORUM.** A majority of the Executive Committee shall constitute a quorum.

#### **ARTICLE XI. COMMITTEES**

The Chairman of the Board, subject to the approval of the Board of Directors, shall annually appoint such standing, special, subcommittees or task forces as may be required by these bylaws or as he or she may find necessary. Such committees shall adopt and act solely in accordance with these bylaws and other instructions or limitations prescribed by the Board of Directors.

#### **ARTICLE XII. FINANCES**

**Section 1. FISCAL YEAR.** The Fiscal Year of the Association shall be determined by the Board of Directors.

**Section 2. FINANCIAL REPORT TO MEMBERS.** The Treasurer shall furnish to the membership a financial report for each fiscal year within 90 days following the end of such year, and at the Annual Meeting in accordance with Article V, section 1 hereof.

**Section 3. BONDING.** The Board of Directors may (in its discretion and at the Association's expense) require the Treasurer, Secretary and/or any other person entrusted with the handling of Association funds or property, such as (without limitation) staff, to furnish a fidelity bond in a manner and for a sum the Board prescribes.

#### **ARTICLE XIII. AFFILIATE GROUPS**

**Section 1. CHARTERING.** For the mutual benefit of all, for the advancement of the industry, and to further the objectives of the National Trailer Dealers Association, the Board of Directors may charter related groups on a local, state, regional or national basis, as affiliates or chapters of the Association, in each case upon such terms and conditions as the Board may consider desirable.

**Section 2. REVOCATION.** The Board of Directors shall have the power to revoke any charter for cause, provided that, the affiliated group receives written notice of such action at least sixty (60) days prior to the revocation action, so as to have sufficient time available to make a presentation before the Board of Directors, if desired.

#### **ARTICLE XIV. DISSOLUTION**

The Association shall use its funds only to accomplish the objects specified in these bylaws, and no part of said funds shall inure, or be distributed, to the members of the Association. On dissolution of the Association, any funds remaining, along with the physical property owned by the Association, shall be distributed to one (1) or more regularly organized and qualified charitable, educational, scientific, or philanthropic organizations or non-profit trade association or business league to be selected by the Board of Directors, as required by law.

#### **ARTICLE XV. INDEMNIFICATION**

To the fullest extent permissible under applicable law, each Director, officer, and employee of the Association (including without limitation any trust created in connection with an insurance program or other program developed or sponsored by the Association), and each third party company engaged by the Association to manage its affairs pursuant to Article IX, Section 1, along with such company's directors, officers and employees (together, all such persons and entities referred to herein as "Indemnified Person"), shall have no personal liability to the Association, and shall be indemnified by the Association against all expenses and liabilities, including without limitation monetary damages and actual and reasonable attorneys' fees, incurred or imposed in connection with any proceeding to which such Indemnified Person may be made a party or become involved by reason of being or having the merits or otherwise in the defense of the proceeding, or (ii) if in the sole opinion of the Board of Directors, the Indemnified Person acted in good faith in a manner the Indemnified Person reasonably believed to be in or not opposed to the best interest of the Association or its members, or in the case of a criminal proceeding had no reasonable cause to believe the conduct was unlawful.

The foregoing rights shall be in addition to and not exclusive of all other rights to which the Indemnified Persons may be entitled.

#### **ARTICLE XVI. REPEAL AND SUPERCESSION OF PRIOR BYLAWS**

Adoption of these bylaws acts to repeal and supersede in their entirety, the bylaws of the Association in effect prior to the date these bylaws were adopted.

**ARTICLE XVII. AMENDMENTS**

Except as required by applicable law, these bylaws may be amended, repealed, or altered, in whole or in part, at any time during the year, by a majority vote of the Association membership voting. These bylaws were adopted October 12, 1990 amended October 1999, March 2001, amended and restated July 14, 2003 and amended and restated July 16, 2007. **Amended September 18, 2015.**