

American Railway Development Association Constitution

(As amended effective July 26, 2016)

ARTICLE I – CONSTITUTION; MAILING ADDRESS

Section 1 - Constitution

This is the Constitution of the American Railway Development Association (the “Association”), a nonprofit, mutual benefit corporation under the laws of Kansas.

Section 2 – Mailing Address

The Association’s mailing address is 500 New Jersey Avenue, Suite 400, Washington, DC 20001. Any change to the mailing address shall be communicated to all of the Association’s members by written or email notice from the Secretary-Treasurer.

ARTICLE II - OBJECTIVES

The Association is organized to foster economic development, real estate, law, technology, and environmental activities of North American railroads through the advancement of ideas and education of its members to promote the effectiveness of railway development and related work.

ARTICLE III – MEMBERSHIP

Section 1 – Membership

(a) There shall be two types of members in the Association: active members, who shall have voting rights, and honorary members, who shall not have voting rights. In order to be considered an active member, a person must have been approved for active membership (see Section 1 (b) of this Article) and must have paid his or her membership dues for the then-current membership year.

(b) Active Members: Any person whose responsibilities, interests, or activities relate to the objectives of the Association may apply for active membership in the Association. Upon approval by the Board and payment of the applicable membership dues, the applicant shall become an active member for that membership year. Applications for active membership shall be submitted on a form acceptable to the Board, and the applicant shall provide such further information as may be requested by the Board. In determining whether or not to approve an application for active membership, the Board shall consider whether the applicant’s participation in the Association would be consistent with the objectives of the Association and frank and open discussion of railway development matters. Once a person becomes an active member, he or she may continue to be an active member by timely paying his or her membership dues for subsequent membership years, without the need to re-apply for membership. A person who was an active member but

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has failed to timely pay his or her membership dues for a given membership year shall not be considered an active member for any purpose until such time as he or she shall have paid such dues.

(c) Honorary Members:

- (1) All past Presidents of the Association shall automatically be honorary members.
- (2) All recipients of the Association's distinguished service award shall automatically be honorary members.
- (3) The Board may award honorary memberships in recognition of meritorious service to the Association.
- (4) After an active member retires from full-time employment, he or she may make written application to the Board to become an honorary member. In determining whether or not to approve an application for honorary membership, the Board shall consider whether the applicant's participation in the Association would be consistent with the objectives of the Association and frank and open discussion of railway development matters.
- (5) Honorary members shall not be required to pay membership dues to the Association.
- (6) Honorary members shall be entitled to all privileges of active membership except that of voting.

(d) Membership in the Association shall be vested solely in the person, without right of transfer.

(e) If at any time the Board determines that any member's membership is inconsistent with the objectives of the Association or would inhibit frank and open discussion of railway development matters, the Board may terminate such membership. In the event of such termination, the President shall give the terminated member written or email notification of the Board's decision and the Association shall refund to the former member a pro rata portion of any membership dues previously paid by him or her for the then-current membership year. A person whose active membership has been terminated may re-apply for active membership in accordance with Section 1 (b) of this Article. A person whose honorary membership has been terminated may apply to the Committee for reinstatement. If the application for reinstatement is approved by the Board, the person shall be reinstated as an honorary member. In determining whether or not to approve an application for reinstatement, the Board shall consider whether the applicant's participation in the Association would be consistent with the objectives of the Association and frank and open discussion of railway development matters.

Section 2 – Sections

The Association currently consists of five Sections: Economic Development, Real Estate, Technology,

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Environmental, and Law. Each active member shall select one Section with which to affiliate and shall advise the Secretary-Treasurer of that selection. Active members may change their Section affiliation from time to time by advising the Secretary-Treasurer of the change. Voting rights with respect to the business of a Section shall be limited to active members affiliated with that Section. Honorary members may affiliate with a Section but shall not have voting rights with respect to Section business. Notwithstanding their affiliation with a particular Section, all members are encouraged to participate in the activities of other Sections in which they have an interest. Each Section shall be represented by a Section Chair and Vice-Chair bearing the Section name. Active members affiliated with a Section shall have the right to participate as voting members of that Section. Dependent upon changing participation and needs of the Association, additional Sections may be added or removed from time to time, upon approval of the Executive Committee.

Section 3 – Membership Year

The Association's membership year is the same as its fiscal year.

Section 4 – Membership Dues

Annual membership dues shall be determined and assessed annually by the Executive Committee and are due no later than the first day of the membership year. There shall be no proration of the membership dues for persons admitted to active membership during the course of a membership year.

Section 5 - Rights of Members

All active members shall be eligible to vote and hold office in the Association.

ARTICLE IV – OFFICERS; BOARD OF DIRECTORS; IMMEDIATE PAST PRESIDENT

Section 1 – Officers

The Officers (“Officers”) of the Association shall be a President, a First Vice President, a Second Vice President, a Treasurer, a Secretary, and a Past President. Not less than three such Officers shall be employees of common carrier railroad companies. If, due to a change in an Officer’s employment status, the requirement of the preceding sentence is no longer satisfied, the Officer position in question shall be deemed vacant.

Section 2 – Board of Directors

The Board of Directors of the Association (the “Board”) shall consist of the President, First Vice President,

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Second Vice President, Treasurer, Secretary and Past President. A majority of the members of the Board shall constitute a quorum of the Board. All references in this Constitution to actions of the Board refer to actions of a majority of a quorum of the Board.

Section 3 - Past President

The Past President is the President who presided at the most recent annual meeting of the Association. If that person is unable or unwilling to serve as Past President, the other members of the Board may designate a prior President of the Association to serve as Past President.

ARTICLE V - DUTIES OF OFFICERS; EXECUTIVE DIRECTOR; MANAGER: INDEMNITY BOND; VACANCIES

Section 1 - President

The President shall be in charge of the affairs of the Association; shall preside at all Association meetings; shall act as Chair of the Board, the Executive Committee, and the Nominating Committee; and (with the exception of the Auditing Committee) shall be a member of all of the Association's other committees.

Section 2 - First Vice President

The First Vice President shall perform the duties of the President in the President's absence or incapacity and shall perform the duties of the Secretary-Treasurer in the Secretary-Treasurer's absence or incapacity

Section 3 - Second Vice President

The Second Vice President shall perform the duties of the First Vice President in the First Vice President's absence or incapacity. The Second Vice President shall head and participate in the Auditing Committee.

Section 4 - Treasurer

The Treasurer shall approve all Association expenses above \$200; and shall prepare and submit a written financial report at the annual meeting.

Section 5 - Secretary

The Secretary shall keep all records and minutes of meetings of the Association, the Board, and the Executive Committee.

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Section 6 - Vacancies

Should a vacancy occur in any elected office from any cause, other than expiration of a term, it shall be filled by the next-ranking Officer for the remainder of that term. Should such a vacancy occur in any elected office for which there is no next-ranking Officer, the President may appoint an active member to the vacant officer position to serve the remainder of the unexpired term. The appointment must be consistent with the requirement that no less than three Officers shall be employees of common carrier railroad companies and shall not take effect until confirmed by the Board. The Officer ranking (from highest rank to lowest) is as follows: President, First Vice President, Second Vice President, Treasurer, Secretary, and Past President.

Section 7 – Executive Director

The Board may select a person or organization to serve as Executive Director of the Association. The duties and obligations of the Executive Director shall be set forth in a written agreement, which agreement shall allocate liabilities between the parties, establish the terms of compensation (if any) payable to the Executive Director, and provide for reimbursement of expenses incurred by the Executive Director on behalf of the Association. The agreement shall expire at the end of the Association's fiscal year unless renewed with the consent of the Board. If the written agreement gives the Executive Director responsibility for carrying out duties and obligations of one or more of the Association's officers, such officer or officers shall be relieved of those duties and obligations during such time as the written agreement remains in effect.

Section 8 – Association Manager

The Board may select a person or organization to serve as Manager of the Association. The duties and obligations of the Manager shall be set forth in a written agreement, which agreement shall allocate liabilities between the parties, establish the terms of compensation (if any) payable to the Manager, and provide for reimbursement of expenses incurred by the Manager on behalf of the Association. The agreement shall expire at the end of the Association's fiscal year unless renewed with the consent of the Board. If the written agreement gives the Manager responsibility for carrying out duties and obligations of one or more of the Association's officers, such officer or officers shall be relieved of those duties and obligations during such time as the written agreement remains in effect.

Section 9 – Insurance

The Board shall consider the purchase of insurance products and/or surety bonds that will insure the Association against the loss of funds, cover general liability issues, and protect the Officers from individual

liability.

ARTICLE VI - NOMINATION AND ELECTION OF OFFICERS

Section 1 – Slate of Nominees

(a) Prior to the conclusion of the final business session of the Association’s annual meeting, the Nominating Committee shall submit to the President a report setting forth a slate of nominees for the offices of President, First Vice President, Second Vice President, Treasurer, Secretary, and Past President. The slate shall consist of one nominee for each office. In its review of the qualifications of potential nominees, the Nominating Committee shall take into account the Association’s objectives, shall seek to maintain a balance of interests among the Sections, and shall give due consideration to the nominee’s contributions of time and energy to the Association. Unless there are compelling circumstances, no more than two nominees may be from the same Section, and such circumstances must be fully explained in the report of the Nominating Committee. All nominees must be active members at the time of their nomination, and at least three of the nominees must be employees of common carrier railroad companies.

(b) If a vacancy occurs in the slate of nominees before the ballots for the next election are submitted to the members, the Nominating Committee shall select an active member to fill the vacancy. In selecting an active member to fill a vacancy, the Nominating Committee shall be guided by Section 1 (a) of this Article.

Section 2 – Election

Not more than 60 days nor less than 30 days before the annual meeting, the active members shall be notified by the Executive Director or the Association Manager that Officer elections have opened. An electronic ballot shall provide for a vote for each office. The names of the nominees recommended by the Nominating Committee shall be placed on the ballot and a blank line shall be provided for a write-in candidate for each office. A brief biographical sketch may be included for each nominee recommended by the Nominating Committee. The ballot shall instruct the members to mark their votes and return the completed ballot to the Secretary no later than noon (central daylight time) on the Friday immediately preceding the annual meeting (the “Voting Deadline”). Ballots received after the Voting Deadline, and Ballots received from persons who are not active members as of the opening business session of the annual meeting, shall be marked as such by the Secretary and shall not be counted. The Secretary shall count the ballots and report the results of the vote at the opening business session of the annual meeting, and the President shall declare elected the active member receiving the greatest number of votes for each office. The President

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elected at an annual meeting shall be identified as the President-Elect until he or she assumes his or her duties as President. The Secretary shall retain all ballots, irrespective of their validity or invalidity, for at least one year after the adjournment of the annual meeting.

Section 3 - Assumption of Duties

All elected officers shall assume their duties on the final day of the Annual Meeting and shall serve until the final day of the Annual Meeting the following year.

ARTICLE VII – COMMITTEES; REPRESENTATIVES OF THE ASSOCIATION

Section 1 - Executive Committee

The Executive Committee shall consist of the President, First Vice President, Second Vice President, Treasurer, Secretary, and Past President, together with the Chair (or, in his or her absence, the Vice-Chair or Secretary) of each Section. The Executive Committee may allow the Association's Executive Director and/or Manager to be present during Executive Committee meetings, but the Executive Director and Manager shall not be members of the Executive Committee. A majority of the membership of the Executive Committee shall constitute a quorum of that Committee. All references in this Constitution to actions of the Executive Committee refer to actions of a majority of a quorum of the Executive Committee.

Section 2 - Section Committees

The Economic Development, Real Estate, Technology, Environmental, and Law Sections shall each consist of two or more active members affiliated with the corresponding Section. Each Section shall select a Chair and Vice-Chair as its officers and may select a Secretary. The meetings and other proceedings of the Sections need not be conducted in conformity with the rules of order for meetings of the Association.

Section 3 – Nominating Committee

The Nominating Committee shall consist of the Officers of the Association. This Committee shall come into existence at the opening business session of the Association's annual meeting and shall cease to exist upon adjournment of that meeting. This Committee's function shall be to select a slate of nominees for the election of officers to be held prior to the next annual meeting (see Article VI).

Section 4 – Auditing Committee

The Auditing Committee shall consist of the Second Vice-President and three members nominated by the

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President and confirmed by the Executive Committee. This Committee shall audit the financial records of the Association and submit a written report of its findings before the last day of the fiscal year. The audit shall be performed in accordance with procedures approved by the Executive Committee.

Section 5 – Other Committees

Additional committees may be created from time to time by the Executive Committee. Unless specified to the contrary by the Executive Committee, the meetings and other proceedings of such committees need not be conducted in conformity with the rules of order for meetings of the Association.

Section 6 – Representatives of the Association

The President may appoint a member or members to represent the Association in other organizations, subject to confirmation by the Executive Committee.

ARTICLE VIII - MEETINGS

Section 1 - Annual Meeting

There shall be an annual meeting of the Association, to be held no later than the last day of the fiscal year. Annual meetings shall be conducted in general conformity with Section 5 of this Article VIII.

Section 2 - Time and Place of Annual Meeting

The First Vice President shall determine the time and place of the annual meeting that will occur in the fiscal year following his or her term as First Vice President. The time and place of the next annual meeting shall be announced during both the opening and final business sessions of the annual meeting by the President-Elect. After the President-Elect assumes the office of President, he or she may, for good cause, change the time and/or place of the next annual meeting, subject to the consent of the Executive Committee. If the time and/or place is changed pursuant to the preceding sentence, the President shall give the members notice of the change at least 90 days prior to the opening business session of the annual meeting.

Section 3 - Special Meetings

The President may call a special meeting of the Association upon at least 30 days' notice to all active members. The notice shall specify the time and place of the special meeting and the matters to be addressed at the special meeting.

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Section 4 – Quorum; Proxies Not Permitted; Cumulative and Preferential Voting Not Permitted

- (a) Ten percent of the active members shall constitute a quorum at an annual meeting.
- (b) Ten active members shall constitute a quorum at a special meeting.
- (c) Active members must be present at a meeting in order to vote on matters presented there. Proxies are not permitted.
- (d) Cumulative voting and preferential voting are not permitted.

Section 5 - Order of Business

The annual meeting shall be conducted in general conformity with the following order of business:

Opening Business Session

- 1. Roll call.
- 2. Introduction of new members.
- 3. Approval of minutes of the previous annual meeting.
- 4. Secretary's report on balloting for the election of officers and President's declaration of the election of officers
- 5. Report of the Constitution Committee (if one has been appointed) and proposals for amendments to the Constitution.
- 6. Naming of the Auditing Committee.
- 7. Announcement of the time and place for the next annual meeting
- 8. President's report.
- 9. New business.

Educational Program

Final Business Session

- 1. Action on any proposed amendments to the Constitution.
- 2. Reports of the Section Committees.
- 3. Report of the Auditing Committee.
- 4. Reports of any other committees.
- 5. Unfinished business.
- 6. New business.
- 7. Installation of New Officers and "Passing the Gavel" to the new President
- 8. Report of the Nominating Committee.
- 9. Announcement of the time and place for the next annual meeting.
- 10. Adjournment

ARTICLE IX - AMENDMENTS TO THE CONSTITUTION

Section 1 - Amendment at the Association's Annual Meeting

Proposed amendments to the Constitution may be presented for consideration at the opening business session of the annual meeting. The active member who is the proponent of an amendment must make a written copy of same available to each active member who is present at the annual meeting. The proponent must make a motion to adopt the proposed amendment ("Motion to Adopt"). If the Motion to Adopt is seconded, discussion of the proposed amendment will follow. The Motion to Adopt will remain before the members until a vote has been taken. However, the vote on the Motion to Adopt will not be taken until the final business session of the annual meeting. If at least two-thirds of the active members present at the final business session vote in favor of the Motion to Adopt, the President shall declare the motion carried and the amendment adopted; otherwise, the President shall declare the motion defeated. Unless specified to the contrary in the amendment or the Motion to Adopt, the amendment will take effect the day after the adjournment of the annual meeting at which it was adopted.

Section 2 - Amendment of the Constitution by Website, Email or Regular Mail

Proposed amendments to the Constitution that have been approved by the Executive Committee may be presented to the active members for approval via email or regular mail in accordance with this Section 2. The Secretary or his or her designated representative shall email or mail a hyperlink to the proposed amendment or a form of ballot approved by the Board to all persons who are then active members, and they shall have 30 days from the date the ballot is sent in which to deliver their marked ballots to the Secretary. Ballots delivered to the Secretary after the expiration of the 30-day period, and ballots received from persons who are not active members at the expiration of the 30-day period, shall be marked as such by the Secretary and shall not be counted. The Secretary shall retain all ballots, irrespective of their validity or invalidity, for at least one year after the expiration of the 30-day period. The Secretary shall count the valid ballots and report the results to the Executive Committee. An amendment submitted in accordance with this Section 2 is adopted if the following two criteria are met: (i) valid ballots must have been received from at least 20 percent of the persons who are active members on the last day of the 30-day period and (ii) at least two-thirds of the valid ballots must support the amendment. The Secretary shall promptly notify all members of the results of the balloting. Unless specified to the contrary in the amendment or the ballot, an amendment approved pursuant to this Section 2 will take effect the day after the adjournment of the next annual meeting. If the Constitution is amended pursuant to this Section 2, the President shall so advise the

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membership during the opening business session of the next annual meeting. The Secretary shall make copies of the amended Constitution available to the members promptly after the amendment takes effect.

ARTICLE X – FISCAL YEAR

The Association’s fiscal year is September 1 through August 31.

ARTICLE XI CORPORATE MATTERS

Section 1 - Records and annual filings

(a) Following the end of each fiscal year, the Association’s President and Treasurer shall sign and submit tax returns, corporate reports, and any other required state and federal filings on behalf of the Association.

(b) Records pertaining to the taxes or corporate status of the Association shall be preserved for a period of at least seven (7) years or such longer period as may be required by law. The Treasurer may destroy outdated materials after first advising the Executive Committee of the materials to be destroyed and giving the Executive Committee the opportunity to evaluate and decide whether some or all of those materials should be retained.

Section 2 – Conflicts between the Articles of Incorporation and this Constitution

If there is any conflict between the Association’s Articles of Incorporation (the “Articles of Incorporation”) and this Constitution, the Articles of Incorporation shall govern.

Section 3 – Tax-Exempt Status

If any provision in this Constitution would limit, negate, or invalidate the Association’s status as a tax-exempt nonprofit corporation, such provision shall be deemed amended in such manner as would not limit, negate, or invalidate that status.

ARTICLE XII – DISSOLUTION OR OTHER TERMINATION

Section 1 – Dissolution

(a) The Association may be dissolved by a vote of the active members at any business session of an annual meeting of the Association, provided at least 30 days’ advance notice of the proposed motion to

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dissolve shall have been given to the active members. In order for a motion to dissolve to carry, the vote on the motion must satisfy the following two criteria: (i) at least 20 percent of the active members must be present at the time the vote is taken and (ii) at least two-thirds of active members present at the time of the vote must vote in favor of the motion.

(b) The Association may be dissolved by a vote of the active members at any special meeting of the Association, provided at least 30 days' advance notice of the proposed motion to dissolve shall have been given to the active members. In order for a motion to dissolve to carry, the vote on the motion must satisfy the following two criteria: (i) at least 20 percent of the active members must be present at the time the vote is taken and (ii) at least two-thirds of active members present at the time of the vote must vote in favor of the motion.

(c) The Association may be dissolved by a vote of the active members conducted by website, email or regular mail at the direction of the Executive Committee and under its supervision. The Secretary shall send a ballot, in a form approved by the Executive Committee, to all persons who are then active members. Those members shall have 30 days in which to deliver their marked ballots to the Secretary. Ballots delivered to the Secretary after the expiration of the 30-day period, and ballots received from persons who are not active members at the expiration of the 30-day period, shall be marked as such by the Secretary and shall not be counted. The Secretary shall retain all ballots, irrespective of their validity or invalidity, for at least one year after the expiration of the 30-day period. The Secretary shall count the valid ballots and report the results to the Executive Committee. The Association shall be dissolved if the following two criteria are met: (i) valid ballots are received from at least 20 percent of the persons who are active members on the last day of the 30-day period and (ii) at least two-thirds of the valid ballots vote in favor of dissolution.

Section 2 – Responsibilities of the Corporate Board

In the event of dissolution, liquidation, or termination of the Association (whether voluntary, involuntary, or by operation of law), the Corporate Board shall proceed in the manner contemplated by Article X of the Association's Articles of Incorporation.

ARTICLE XIII - RULES OF ORDER FOR MEETINGS OF THE ASSOCIATION

Except to the extent of any conflict with this Constitution or the Articles of Incorporation, *Robert's Rules of Order Newly Revised* (11th ed. 2011, published by Da Capo Press) ("*Robert's Rules*") shall govern the

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procedure at the Association's annual and special meetings.