

**BYLAWS**  
**OF**  
**SEALANT ENGINEERING AND ASSOCIATED LINES**

A Missouri Nonprofit Mutual Benefit Association

Adopted \_\_\_\_\_, 2018

**ARTICLE I**  
**NAME, ORGANIZATION, LOCATION AND DEFINITIONS**

1. **Name.** The name of the Association is “Sealant Engineering & Associated Lines”.
2. **Organization.** The Association is organized as a mutual benefit corporation under the Missouri Nonprofit Corporation Act.
3. **Location.** The Association may have one (1) or more offices within or without the State of Missouri as the Board of Directors may from time to time determine.
4. **Definitions.** As used in these Bylaws, the following terms shall have the respective meanings set forth below:
  - (a) **“Act”** means the Missouri Nonprofit Corporation Act.
  - (b) **“Affiliate”** of a Person means any Person directly, or indirectly through one or more intermediaries, controlling, controlled by or under common control with such Person (with “control” for such purpose meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of voting securities or voting interests, by contract or otherwise).
  - (c) **“Electronic Transmission”** means any form of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient, including, without limitation, by facsimile or email.
  - (d) **“Person”** means any natural person, corporation, general or limited partnership, limited liability company, joint venture, trust, association or unincorporated entity of any kind.
  - (e) **“Voting Member”** means a Distributor Member or a Manufacturer Member.

**ARTICLE II**  
**PURPOSE AND LIMITATIONS**

1. **Purpose.** The purpose for which the Association is organized is exclusively as a business league within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended, including, without limitation, to:

- (a) promote the proper product, for specific applications in the sealant and waterproofing industry;
- (b) provide a forum for manufacturers and distributors to better understand each other's needs in order to accomplish mutually beneficial goals;
- (c) disseminate and exchange trade information, technical data and other appropriate information to members;
- (d) survey the market for other appropriate products which may serve as companion lines, based on quality, manufacturers marketing policies, and industry demand;
- (e) strive for improved marketing practices;
- (f) promote to the appropriate manufacturers, the distributor concept, the function of distributors and the benefits realized by using quality distributors to market their products;
- (g) promote ethical business practices among distributors, manufacturers, and customers; and
- (h) engage in any lawful act or activity ancillary thereto that may be undertaken by a mutual benefit corporation formed under the Act.

2. **Powers and Limitations.** The Association shall have all of the powers conferred by the Act, except that, any other provision of these Bylaws to the contrary notwithstanding, the Association shall neither have nor exercise any power, nor carry on any other activities not permitted by a corporation exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986, as amended

### **ARTICLE III MEMBERSHIP**

1. **Classifications.** There shall be four classes of membership in the Association: Distributor, Manufacturer, Associate and Honorary.

2. **Distributor Member.** A Person qualifies to be a Distributor Member if the Person is actively engaged in the sealant, waterproofing and restoration industry as stocking distributor (i.e., the Person (a) buys and carries as inventory large quantities of sealant, waterproofing and restoration products for resale, (b) provides sales and field technical service, (c) provides specification influence and promotion services, and (d) provides regional product availability and services) and neither the Person nor an Affiliate is engaged as a manufacturer or applicator of sealant, waterproofing, restoration materials. A Person shall not be disqualified to be a Distributor Member merely because an Affiliate of such Person is a Distributor Member.

3. **Manufacturer Member.** A Person qualifies to be a Manufacturer Member if the Person or any Affiliate (a) manufactures (i.e., formulates and mixes raw materials) coatings, sealant, waterproofing or other closely allied construction products, (b) sells those products through a distributor network, (c) provides a system of technical service and field support, and (d) is not primarily engaged in selling converted or re-packaged products (rather than manufactured products). A Person shall not be disqualified to be a Manufacturer Member merely because an Affiliate of such Person is a Manufacturer Member.

4. **Associate Member.** A Person qualifies to be an Associate Member if it does business as an architect, engineer, consultant, specifier, trade publication or organization directly involved with the sealant, waterproofing and restoration industry and its related services or if it is a manufacturer that does not meet the requirements to be a Manufacturer Member.

5. **Honorary Member.** The Board may designate any Person as an Honorary Member for outstanding achievement in the service of the Association and its goals.

6. **Withdrawal.** Any member may withdraw from the Association by providing written notice to the Secretary no less than sixty (60) days prior to the date of withdrawal. The withdrawing member shall continue to be liable for all dues or other obligations which have accrued. All rights, privileges, and interests of a member in the Association shall cease on termination of membership. Dues shall not be subject to refund upon withdrawal.

7. **Discipline; Reclassification.**

(a) The Board of Directors, in its discretion, has the right and power to discipline any member (which may include censure, suspension of membership or expulsion from the Association) for conduct prejudicial to the welfare, interest or good name of the Association; provided, however, that written notice, together with a statement of the charges and specifications, shall have been sent to the member no less than twenty (20) days prior to the meeting of the membership in which such action is to be considered. This statement shall be accompanied by a notice of the time and place of the meeting of the Board of Directors at which the charges shall be considered. The member shall have the opportunity to appear in person or by his representative and present any defense to such charges and specifications before disciplinary action is taken. The member shall be entitled to have legal representation, at the member's own expense, at the meeting of the Board of Directors.

(b) The Board of Directors, in its discretion, has the right and power to terminate a member where the member no longer qualifies under these Bylaws or for failure to pay dues.

(c) The Board of Directors, in its discretion, has the right and power to reclassify a member as a different class of member where the member no longer qualifies for its then class of membership under these Bylaws but qualifies for another class of membership.

#### **ARTICLE IV MEETINGS OF MEMBERS**

1. **Annual Meeting.** An annual meeting of the members shall be held at such place, within or without the State of Missouri, and on such date as may be determined by the Board of Directors. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Association.

2. **Special Meetings.** Special Meetings of the members shall be held at such place, within or without the State of Missouri, as may be determined by the Board of Directors and may be called by the President, by the Board, or by forty percent (40%) of the Voting Members.

3. **Voting and Quorum.** All Voting Members shall have voting rights and, except as set forth in Section 3(b) of Article V, each Voting Member shall be entitled to one (1) vote on each matter submitted to a vote of the members. At any annual or special meeting of the members, a quorum shall consist of forty percent (40%) of the Voting Members. Every decision of a majority of such quorum shall be valid

as an act of the members, unless a larger vote is required by these Bylaws or the laws of the United States or the State of Missouri.

4. **Notice of Meetings.**

(a) Except as required by Section 355.251 of the Act, written notice of each meeting of the members stating the place, if any, day and hour of the meeting, the means of remote communications, if any, by which Voting Members and proxyholders may be deemed to be present in person and vote at such meetings, and in case of a special meeting, the purpose or purposes of such meeting, shall be delivered or given not less than ten (10) or more than sixty (60) days before the date of the meeting, either personally or by mail, or at the direction of the President, or the Secretary, or the officer or other persons calling the meeting, to each Voting Member. Written notice shall include, but not be limited to, notice by electronic transmission. Any notice of a meeting sent by mail shall be deemed to be delivered when deposited in the United States mail with postage thereon prepaid addressed to the member at his or her address as it appears on the records of the Association.

(b) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which Voting Members and proxyholders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. If the adjournment is for more than ninety (90) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the date and place of the adjourned meeting shall be given to each Voting Member.

5. **Waiver of Notice.** Any notice of a meeting required by these Bylaws to be given to a member may be waived if the member signs a waiver of notice, or waives notice by electronic transmission, before or after the time of such meeting; and upon signing such waiver, the member shall be deemed to have received notice of the meeting. Attendance of a member at any meeting shall constitute a waiver of notice of such meeting except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

6. **Action by Mail Ballot.** In all matters to be brought before the membership for a vote, the vote may be taken by mail ballot in lieu of a formal meeting, provided that the ballots and a description of the matter(s) to be voted on are furnished to the Voting Members at least thirty (30) days prior to the return deadline for the mail ballots. The ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of directors; and (c) specify the time by which a ballot must be received by the Association in order to be counted. A written ballot may not be revoked. The Secretary shall file a tabulation of the results of the mail ballots with the minutes of the meetings of the membership.

7. **Meeting by Remote Communication.** Subject to any guidelines and procedures adopted by the Board of Directors, members and proxyholders not physically present at a meeting of the members may, by means of remote communication, participate in a meeting of the members and be deemed present in person and vote at a meeting of the members if: (i) the Association implements reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote

communication is a Voting Member or proxyholder; (ii) the Association implements reasonable measures to provide such Voting Member and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Voting Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceeding; and (iii) the Association maintains a record of any vote or other action taken by a Voting Member or proxyholder at the meeting by means of remote communication.

**ARTICLE V  
BOARD OF DIRECTORS**

1. **General Powers.** The property, business and affairs of the Association shall be controlled and managed by a Board of Directors.

2. **Number; Term.** The Board of Directors shall consist of the Association's President, Immediate Past President, Vice President, Secretary and Treasurer, all of whom shall be owners or employees of Distributor Members, one (1) Distributor at-large director and three (3) Manufacturer at-large directors. Each officer and the Distributor at-large director shall serve a term of one (1) year, and the Manufacturer at-large directors shall serve staggered three (3) year terms.

3. **Succession; Election; Appointment.**

(a) Except as set forth in Section 2 of Article VII, each year, at the annual meeting of the members, (i) the Distributor at-large director shall succeed to the office of Secretary, (ii) the Secretary shall succeed to the office of Vice President, (iii) the Vice President shall succeed to the office of President and (iv) the President shall succeed to the office of Immediate Past President.

(b) Each year, at the annual meeting of the members, the Distributor Members shall elect the Distributor at-large director and the Manufacturer Members shall elect a Manufacturer at-large director.

(c) The Treasurer shall be appointed by, and serve at the pleasure of, the Board of Directors.

4. **Nominations.** At least three (3) months before the annual meeting of the members, the President shall ask for nominations from the members of the Association for the position of Distributor at-large director and Manufacturer at-large director. Additional nominations may be made from the floor of the annual meeting.

5. **Vacancies.** Any vacancy in the office of President shall be filled by the Vice President, any vacancy in the office of Vice President shall be filled by the Secretary and any vacancy in the office of Secretary shall be filled by the Distributor at-large director. Any vacancy in the office of Distributor at-large director shall be filled by the Board of Directors (but such person appointed shall not automatically succeed to the office of Secretary), until the next annual meeting of the members, at which time the offices of Distributor at-large director and Secretary shall be subject to election by the members. Any vacancy in the office of Immediate Past President shall be filled by the Board of Directors.

6. **Removal.** At any meeting of members called expressly for such purpose, the members may remove one or more directors or the entire Board of Directors, with or without cause, by a vote of the of a majority of the Voting Members that are entitled to vote at an election of that director(s).

7. **Place of Meetings.** The annual meeting of the Board of Directors shall be held at the same place as the annual meeting of the members, except that any adjournment thereof may be held at any place

within or without the State of Missouri as designated by the directors who adjourn the meeting. All regular and special meetings of the Board of Directors shall be held at the principal office of the Association or at such other place within or without the State of Missouri as designated by the Board of Directors.

8. **Time of Meeting.** The annual meeting of the Board of Directors shall be held at such time as determined by the Board of Directors; and special meetings may be called at any time by the President or any two (2) directors.

9. **Notice.** Regular meetings of the Board of Directors may be held without notice. Any notice of a regular meeting, or any waiver of notice, need not state the purpose of the meeting. Special meetings may be held upon not less than two (2) days' written notice of the time, place and purpose of the meeting. Any notice of a meeting of the Board of Directors shall be in writing and shall be deemed to have been duly given or delivered if delivered personally, or mailed, with first class postage prepaid, or if sent by electronic transmission, with receipt thereof acknowledged.

10. **Waiver of Notice.** Whenever a director shall be entitled to notice under any provision of these Bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a director at any meeting shall constitute a waiver of notice except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the directors or members of a committee of directors need be specified in any waiver of notice.

11. **Quorum.** At all meetings of the Board of Directors, a majority of the total number of directors shall constitute a quorum for the transaction of business.

12. **Vote Required for Director Action.** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

13. **Action by Consent.** Any action which is required to be or may be taken at a meeting of the Board of Directors, or of the executive committee or any other committee of the Board of Directors, may be taken without a meeting if consents in writing, setting forth the action so taken, are signed by all the members of the Board of Directors or of the committee as the case may be. Such consents shall have the same force and effect as a unanimous vote of the directors at a meeting duly held. The Secretary shall file such consents with the minutes of the meetings of the Board of Directors or of the committee as the case may be. Any consent of the Board of Directors may be executed in counterparts. Each counterpart shall constitute an original, and all of the counterparts together shall constitute a single consent of the Board of Directors.

14. **Meeting by Conference Call.** Members of the Board of Directors or of any committee designated by the Board of Directors may participate in a meeting of the Board of Directors or any committee thereof by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting.

15. **Compensation.** Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed by attendance at each regular or special meeting of the Board; but nothing herein contained shall be

construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefore.

**ARTICLE VI  
COMMITTEES**

1. **Designation of Committees.** A majority of the whole Board of Directors may designate an Executive Committee or any other committee of the Board of Directors. Each such committee shall consist of two or more directors elected by the Board of Directors and serving at the pleasure of the Board of Directors. Any vacancy on any committee shall be filled by the Board of Directors.

2. **Power and Authority of Committees.** Subject to the Act and other applicable laws, each committee of the Board of Directors shall have and may exercise such powers and authorities as shall be designated by a majority of the whole Board of Directors; provided, however, that no such committee shall have any authority with respect to: (a) amending, altering or repealing any of the Bylaws; (b) electing, appointing or removing any member of any such committee or any Director or Officer of the Association; (c) amending the Articles of Incorporation; (d) adopting a plan of merger or a plan of consolidation with another Association; (e) authorizing the sale, lease, exchange or mortgage or all or substantially all of the property and assets of the Association; (f) authorizing the voluntary dissolution of the Association or revoking proceedings thereof; (g) adopting a plan for the distribution of the assets of the Association; or (h) amending, altering or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by any committee. The designation of such committee and the delegation of authority thereto shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon the Board of Directors, or any member thereof, by the Act. Any action taken by a committee of the Board of Directors shall be reported to the Board of Directors at its meeting next succeeding such action and shall be subject to modification by the Board of Directors; provided, however, that the rights of third parties shall not be adversely affected by any such modifications.

3. **Rules and Procedures.** The rules and procedures relating to the operations of committees shall be designated by a majority of the whole Board of Directors, including without limitation, rules and procedures relating to the time and place of meetings, and notice, quorum and voting requirements.

**ARTICLE VII  
OFFICERS**

1. **Officers.** The officers of the Association shall be elected by the Members at their annual meeting and shall consist of a President, Immediate Past President, Vice President, and Secretary and Treasurer, and such other officers as the Board of Directors may determine.

2. **Vacancy.** Any vacancy in an office shall be filled as set forth in Section 5 of Article V.

3. **President.** The President shall be the Chief Executive Officer of the Association and shall preside at meetings of the Association and the Board of Directors, and shall be a member ex-officio of all committees. At the annual meeting of the Association, and all such other times as he shall deem proper, the President shall communicate to the Association or the Board of Directors such matters and suggestions as in his opinion may 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 President of the Association or as may be prescribed by the Board of Directors. The President shall supervise the executive director in conducting correspondences and keeping the accounts of the association.

4. **Vice President.** The Vice President shall perform the duties of the President in the event of the President's temporary disability or absence from meetings. The Vice President shall perform such other duties as are necessarily incident to the office of Vice president of the Association or as may be prescribed by the Board of Directors.
5. **Secretary.** The Secretary shall (a) keep in a minute book minutes of all meetings of the members, the Board of Directors and the committees of the Board of Directors, including a record of all votes taken at such meetings; (b) send (or arrange for sending) proper notices of all meetings of the members, Board of Directors and committees of the Board of Directors; and (c) perform such other duties as may be from time to time prescribed by the Board of Directors or the President. In the absence of the Secretary at any meeting of the Board of Directors or members, the President or other person presiding may appoint any director to act as temporary Secretary of the meeting.
6. **Treasurer.** The Treasurer shall perform such duties as the President or Board of Directors may direct and shall perform such other duties as usually pertain to that office including keep accounting records, safeguard the association's assets, and file required reports including the annual tax return and annual corporate report in the state in which the association is incorporated. The Treasurer shall also render or designate someone to render to the President and the Board of Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his actions as Treasurer, and of the financial condition of the Association.
7. **Fidelity Bond.** Any person entrusted with the handling of funds or property of the Association may be required to obtain, at the expense of the Association, a fidelity bond approved by the Board of Directors in such sum as the Board of Directors shall prescribe.
8. **Removal.** Any elected officer of the Association may be removed from office (a) by the affirmative vote of three-fourths (3/4) of the other members of the Board of Directors or (b) by the Voting Members. Any officer appointed by the Board of Directors may be removed at any time by the Board of Directors.

## **ARTICLE VIII FISCAL ADMINISTRATION**

1. **Fiscal Year.** The fiscal year of the Association shall be a calendar year unless otherwise determined by the Board of Directors.
2. **Dues.** The amount of member dues and other assessments and rules governing the payment of dues and other assessments shall be established by the Board of Directors, and the Board of Directors may from time to time amend the dues and other assessment amounts and payment rules.

## **ARTICLE IX AMENDMENTS**

These Bylaws may be amended at any regular or special meeting of the Voting Members at which a quorum is present or by mail ballot, by the affirmative vote of (a) a majority of the Voting Members or of two-thirds of the votes cast, whichever is less, and (b) a majority of the Distributor Members or of two-thirds of the votes cast by Distributor Members, whichever is less; provided, however, that if the amendment would: (i) affect the rights, privileges, preferences, restrictions or conditions of a class of Voting Members as to voting, dissolution, redemption or transfer of memberships in a manner different than such amendment would affect another class; (ii) change the rights, privileges, preferences,



restrictions or conditions of that class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class; (iii) increase or decrease the number of memberships authorized for that class; (iv) increase the number of memberships authorized for another class; (v) effect an exchange, reclassification or termination of all or part of the memberships of that class; or (vi) authorize a new class of memberships, then the amendment also must be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less. If the proposed amendment is to be approved at a meeting of the Voting Members, the Voting Members shall be given notice of the meeting in accordance with these Bylaws, stating that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and containing a copy or summary of the proposed amendment. If the proposed amendment is to be approved by mail ballot, the material soliciting the approval shall contain a copy or summary of the proposed amendment.

**ARTICLE X  
DISSOLUTION**

Upon dissolution, provision shall be made for payment of all bills and obligations, current or future, and a plan adopted for distribution of any excess funds. All funds remaining after payment of bills and obligations shall be dedicated exclusively to purposes enumerated in Section 501(c)(6) of the Internal Revenue Code of 1954. The Board of Directors shall endeavor to distribute remaining funds to organizations which are exempt from federal income taxation under Section 501(c)(6) and which are engaged in activities related to the field of sealing and waterproofing, or to such other organization(s) organized and operating exclusively for charitable, religious, educational or scientific purposes as shall at that time qualify as an exempt organization under Section 501(c)(6). Any of such assets not so disposed of shall be disposed of by the Circuit Court of the County in which the principal office of the Association is then located exclusively for such purposes or to such organizations as said Court shall determine which are organized and operated exclusively for such purposes.

**ARTICLE XI  
INDEMNIFICATION**

The Association shall indemnify to the full extent authorized or permitted by the laws of the State of Missouri as now in effect or as hereafter amended any person made or threatened to be made a party to any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative, including an action by or in the right of the Association) by reason of the fact that he is or was a director or officer of the Association or serves any other enterprise as a director or officer at the request of the Association. The foregoing right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled apart from this Article. The foregoing right of indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, the executors and administrators of such a person. The Association may purchase and maintain insurance against any liability asserted against him or her and incurred by him or her in such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability.

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Secretary  
Date: