

# ***BY-LAWS***

## ***OF***



### **Membership**

1. In consideration of the acceptance for membership, the benefits and advantages to be entered into by and on behalf of the Association, members agree to abide by the Articles of Incorporation and the By-Laws of the Association as the same now are, and with all lawful amendments thereto hereafter made, and to pay, during the period of such membership all dues duly and properly levied against the undersigned by the Board of Directors of the Association pursuant to its By-Laws.

2. Any business entity actively engaged in business as a maltster, brewer, malting brewer, distiller, or food manufacturer using barley malt shall be eligible to membership.

3. Upon application for such membership and upon payment of then established dues prorated to the end of the fiscal year of the corporation, that entity shall be admitted to regular membership. Membership shall be deemed automatically terminated in the event that a member fails to pay dues established for membership when due or in the event that a member ceases to be actively engaged in the business of malting, brewing, distilling, or food manufacturing using barley malt. Regular members may serve as directors, hold office and vote. Other terms of regular membership shall be specified by the Board of Directors.

4. Any business entity actively engaged in the business as a maltster, brewer, malting brewer, distiller, or food manufacturer using malt shall be eligible to associate membership provided the amount of dues otherwise payable by the entity as a regular member is less than the minimum dues set forth in Paragraph 9.C.

Upon application for such associate membership, the entity shall be admitted to membership. Membership shall be deemed automatically terminated in the event that a member ceases to be actively engaged in the business of malting, brewing, distilling, or food manufacturing using barley malt. Associate members shall have no vote nor are they eligible to serve as directors or hold office. Other terms of associate membership shall be specified by the Board of Directors.

5. The corporation shall keep a membership directory containing the name, address and classification of each member.

6. Memberships may be evidenced by non-transferable membership certificates in such form as the Board of Directors may determine from time to time.
7. Any member may resign at any time upon six months' notice in writing to the corporation.
8. In the event of the resignation, suspension or expulsion of a member, dues shall be prorated on a daily basis from the dues paying date to the effective date of the resignation, suspension or expulsion.
9. Dues.
  - A. Dues shall be established annually by the Board of Directors subject to approval by the members. Each member shall, on or before the dues paying date specified by the Board of Directors, pay such dues which shall be based on the budgeted expenses and expenditures of the Association.
  - B. Dues for commercial maltsters shall be paid on the basis of bushels steeped, those for brewers on the basis of barrels shipped, and those for distillers or food manufacturer on the basis of bushels of malt consumed, the previous calendar year or any other appropriate period for all categories. Companies with wholly owned or substantially wholly owned subsidiaries or companies whose principal activities are largely directed or controlled by the same management, shall be limited to a single membership with dues to be established on the basis of:
    1. Combined barley steeped in US plants in the case of malting firms.
    2. Combined barrels shipped from US plants in the case of brewing firms.
    3. The greater monetary amount created by either 1. or 2. above in the case of malting brewers.
    4. Combined malt purchased by US plants in the case of distillers or food manufacturers.
  - C. Minimum annual dues for each member shall be designated by the Board of Directors.

### Meetings of Members

10. Each meeting of members shall be held at such place within or without the State of Wisconsin as the Board of Directors may determine.
11. The annual meeting of the members shall be held in the month of November or December of each year on such date, at such time and at such place as the Board of Directors shall fix and determine at its regular meeting in the month next preceding such annual meeting of members. At such meeting, members shall elect the Board of Directors.

12. Special meetings of members may be called by the Chair of the Board or by resolution adopted by the Board of Directors, and shall be called upon written demand of three members and shall be held at the time and place fixed by the Chair of the Board or by the Board of Directors, or upon their failure to fix such time and place, then at such as may be specified in the demand.

13. Notice of each meeting of members shall be given each member entitled to attend such meeting in writing, setting forth the time, place and purpose or purposes thereof, by postpaid mail or by email, addressed to such member at the address of such member shown on the records of the corporation, mailed or sent by email not less than 10 no more than sixty days before the date fixed for such meeting.

14. Any member may waive any notice of any meeting of members, in writing, either before or after the meeting.

15. A majority of the members in good standing of the corporation entitled to attend such meeting, present in person or by proxy, shall be necessary to constitute a quorum, but a lesser number may adjourn from time to time, without further notice until a quorum is secured.

16. Each member in good standing entitled to attend such meeting shall be entitled to one vote on each matter considered at any meeting of members, but there shall be no cumulative voting at any election.

17. Any member in good standing entitled to attend such meeting may vote at any meeting of members either in person, or by proxy duly authorized in writing and signed by such member, or by email appearing to have been transmitted by such member.

18. A corporation, partnership or association member shall be present in person at any meeting of members when any officer of such corporation or association, or partner of such partnership, or other person authorized by such member is present. The President, Vice-President, Secretary and Treasurer in the order named, of any corporation or association which is a member, present at any meeting of members, shall constitute the presence of such corporation or association which is a member, unless such member has authorized some other person to represent it by proxy.

19. Unless changed by a majority vote of the quorum present, the order of proceedings at each meeting of members shall be:

- (1) Reading of minutes of preceding meeting.
- (2) Reading of reports and statements.
- (3) Unfinished matters.
- (4) New matters.
- (5) Election of Directors (at annual meeting).

## Board of Directors

20. The affairs of the Association shall be managed by a Board of Directors equal in number to the number of Regular members in the association. One director shall be elected from each member company, each of whom shall be authorized to act on behalf of the member company he or she represents.

21. Each director shall hold office until the next annual meeting of the members and until his successor shall have been elected, or until his prior death, resignation or removal.

A Chair of the Board shall be elected by the board from among its members for a two-year term. In the event the office of Chair is vacated during a two-year term, the Board shall fill that office for the unexpired term. No Chair shall succeed himself or herself except that a Chair elected to an unexpired term may be elected to the next succeeding term. It is desirable, but not mandatory, that the Chair position alternate each two-year term between a commercial maltster and a malting brewer, brewer, or distiller. Rotation should yield to securing the best qualified director willing to devote the necessary time.

22. A director may resign at any time by filing his written resignation or by email appearing to have been transmitted by such member, with the President of the corporation.

23. A director may be removed from office with or without cause by the vote of a majority of the directors, either at a regular meeting or at any special meeting called for that purpose.

24. In case of vacancy caused by any reason other than expiration of his term of office, vacancies on the Board shall be filled by the remaining directors by election for the unexpired term of a nominee, if otherwise eligible, of the member of which the former director was an officer or principle, and until a successor is elected and enters upon the duties of his office.

25. The Board of Directors shall employ a reputable attorney or firm of attorneys as General Counsel. The officers shall keep the General Counsel fully informed as to those activities and proposed activities of the Organization, its Board of Directors, committees and officers, which the officers request the General Counsel review and the General Counsel shall advise the Organization, the Board of Directors, committees and officers with respect to the legality of those activities and proposed activities. No activity shall be engaged in by any of them which the General Counsel has advised is illegal. The General Counsel shall have charge of those legal matters which the officers request the General Counsel review. Attendance of the General Counsel at meetings of the Board of Directors shall be mandatory. The General Counsel shall be entitled to receive reasonable compensation for services rendered to the Organization, its Board of Directors, committees and officers.

26. Board meetings shall be open to all members.

## Meetings of Directors

27. Each meeting of the directors shall be held at such place as the Board of Directors may determine.
28. The Board of Directors shall meet after each annual election of directors at such time and place as shall be fixed at the annual meeting of members, for the purpose of Organization and the transaction of any other business which may be placed before the meeting. If a majority of the directors are present at such meeting, no notice need be given the directors.
29. The Board of Directors shall meet on such date and at such place as it shall determine, from time to time, for the consideration of any matters; shall keep full and complete minutes of its proceedings at each meeting; and shall cause a copy of the same to be delivered to each member in good standing.
30. Special meetings of the Board of Directors may be called by the Chair of the Board and on the written request of two directors shall be called by the Chair of the Board.
31. Notice of each regular and special meeting of the Board of Directors, other than the annual meeting, shall be given each director in writing, setting forth the time and place and if a special meeting, the purpose or purposes thereof, by postpaid mail or by email, addressed to such director at the address of such director shown on the records of the Organization, mailed or emailed at least ten (10) days before the date fixed for such meeting.
32. Any director may waive any notice of any meeting of the Board of Directors, in writing or by email, either before or after the meeting.
33. A majority of the directors shall be necessary to constitute a quorum, but a lesser number may adjourn from time to time, without further notice, until a quorum is secured.
34. Unless a change by a majority vote of the quorum present, the order of proceedings at each meeting of the Board of Directors shall be:
  1. Reading of minutes of preceding meeting
  2. Reports of Officers
  3. Reports of committees
  4. Unfinished matters
  5. New matters.

## Committees

35. The Board of Directors may, by resolution adopted by a majority of the Directors in office, designate one or more committees to perform functions for and on behalf of the Association. The committee Chair and members of all standing committees shall be appointed by the Chair of the

Board of Directors, subject to the approval of the Board. A committee shall have and may exercise such authorities as may be expressed in the resolution of the Board which creates the committee and may be composed of persons who are or are not directors; provided that to the extent that powers reserved to directors are delegated to a committee, only director members of the committee shall vote thereon and any committee to which powers of the Board of Directors are delegated shall have at least three (3) members who are directors.

An Executive Committee, if created, shall consist only of directors and may exercise all of the powers of the Board of Directors to the extent not prohibited from doing so by law.

### Officers

36. The officers of the Association shall be a Chair of the Board (who shall be a Director), a Vice-Chair (also a Director) President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors for a two-year term. No offices, except those of Secretary and Treasurer, may be held by the same person. The Board may elect or appoint such other officers and assistant officers as it may deem appropriate with such duties and responsibilities as it deems expedient.

37. The Chair of the Board shall be the chief executive officer of the Association. The Chair shall preside at all meetings of the members and the Board of Directors; and shall perform such other duties as may be imposed on him or her by the Board of Directors. The Chair shall be entitled to vote upon all matters considered by the Board of Directors.

38. The Vice-Chair shall perform the duties of the Chair in the event of his absence or disability; and shall perform such other duties as may be imposed on him or her by the Board. The Vice-Chair shall be entitled to vote upon all matters considered by the Board.

39. The President shall be the Chief Operating officer of the Association, and shall report to the Chair and Board. The President shall be responsible for carrying out the objectives of the Association, including the preparation of the annual budget. The President also will direct and supervise the staff, which includes a Technical Director who shall be a Vice-President.

40. The Secretary shall perform such duties as may be imposed by the Board of Directors. It is assumed that the Minutes will be taken and prepared by the staff.

41. Unless otherwise directed by the board and to the extent required, the Treasurer or designated checking account signers, shall countersign all checks, notes or other obligations of the Association or warrants for the payment of money over \$10,000.

42. Any officer may be removed from office at any time by majority vote of the Board of Directors with or without cause. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

### General Limitations

43. All books and records of the corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time, but each member of the corporation by becoming a member thereof agrees that in no event shall the confidential records or reports of any member or any non-member, the amounts of dues or special assessments paid by any of them or the method of the computation thereof, be open to the inspection of or may be disclosed to any other member, or any other corporation, association, partnership or individual.

44. No member, director, officer, employee or agent of the institute, in his respective capacity as such, nor the Board of Directors nor any committee of the corporation, shall ever engage in any activity prohibited by the corporation's Articles of Incorporation or its By-Laws, or directly or indirectly, take any action, or engage in any activity the effect of which shall be unlawfully to prevent or retard competition or unlawfully to discourage the expansion of the industry, or otherwise to violate the antitrust laws of the United States.

45. The Chair and Vice-Chair of the Board, Secretary and Treasurer shall receive no compensation for services rendered the corporation. Reasonable compensation for clerical and other expenses incurred in the execution of their duties may be allowed by the Board of Directors.

### Audit/Review

46. The books of account of the corporation shall be audited or reviewed each year by a firm of certified public accountants selected by the Board of Directors.

### Fiscal Year

47. The fiscal year of the corporation shall begin on the 1st day of January of each year.

### Seal

48. The corporation shall have no seal.

### Amendments

49. These By-Laws may be altered, amended or repealed or new by-laws adopted by the affirmative vote of a majority of directors.

50. The corporation shall have power to indemnify any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent or another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgements, fines and amounts paid in settlement

actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgement, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

51. The Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgement in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

52. To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraphs 50 or 51, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection therewith.

53. Any indemnification under Paragraphs 50 or 51, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in said Paragraphs 50 or 51. Such determination shall be made:

- a. By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding; or
- b. If such a quorum is not obtainable, or, even of obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

54. Expenses, including attorney's fees, incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit

or proceeding as authorized in the manner provided in Paragraph 53 upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in these bylaws.

55. Indemnification pursuant to these bylaws shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

56. The corporation shall have power to purchase and maintain insurance of behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him or her against such liability under this Article.