

# BEVERAGE CONTAINER MANAGEMENT BOARD

## BYLAWS

### ARTICLE 1 – DEFINITIONS AND INTERPRETATION

#### Definitions

1.1 In these Bylaws, unless the context otherwise requires:

- (a) “Act” means the *Societies Act*, being Chapter S-18, R.S.A. 1980, as amended;
- (b) “Board of Directors” or “Board” means the Board of Directors from time to time of the Society;
- (b.1) “Communications Facility” means teleconference, internet audio streaming, video conferencing, internet web casting or any other form of communication that permits all Members to see and/or hear and to communicate with each other attending;
- (c) “Director” means a member of the Board of Directors from time to time of the Society;
- (d) “Member” means member of the Society as provided in Article 2;
- (e) “Minister” means the Minister charged with the administration of the *Environmental Protection and Enhancement Act*;
- (f) “Regulation” means the Beverage Container Recycling Regulation, Alta Reg. 101/97, as amended;
- (g) “Society” means the society incorporated as the Beverage Container Management Board;
- (h) “Special Resolution” means a Special Resolution as defined in the Act.

#### Interpretation

1.2 In these Bylaws, unless the context otherwise requires, the *Interpretation Act*, the *Environmental Protection and Enhancement Act* and the Act, as amended, apply to these Bylaws.

1.3 Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.

- 1.4 The headings used throughout these Bylaws are inserted for reference purposes only, and are not to be considered or taken into account in construing the terms of provisions of any article nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

## **ARTICLE 2 – MEMBERSHIP**

### **Membership**

- 2.1 The Members of the Society are the applicants for incorporation, and those individuals or corporate or unincorporated organizations who subsequently become Members in accordance with these Bylaws, as amended from time to time.
- 2.2 Subject to Articles 2.3 and 2.4, an individual, corporation or unincorporated organization society or government body may apply to the Board for membership in the Society and, on acceptance by the Board by a resolution supported by not less than three quarters of the Directors, become a Member.

### **Number of Members**

- 2.3 There shall be thirteen (13) Members of the Society.

### **Composition of the Membership**

- 2.4 The membership of the Society shall be composed of four (4) members from each of the Beverage Manufacturing Industry Membership Sector, the Beverage Container Depot Industry Membership Sector and the General Membership Sector. The thirteen (13) Members of the Society shall be approved by the Board and determined from the three (3) Membership Sectors as follows:
- (a) four (4) Members from the Beverage Manufacturing Industry Membership Sector determined as follows:
    - (i) one (1) Member representing the manufacturers of soft drinks Association;
    - (ii) one (1) Member representing manufacturers of liquor, namely, the Alberta Gaming and Liquor Commission;
    - (iii) one (1) Member representing manufacturers of juice, water and miscellaneous beverages, namely, Alberta Juice & Water Beverage Council Ltd.; and
    - (iv) one (1) Member representing manufacturers of beer.

- (b) four (4) Members from the Beverage Container Depot Industry Membership Sector:
  - (i) three (3) of whom are selected by a process facilitated by the Alberta Bottle Depot Association; and
  - (ii) one (1) representing class “D” liquor license holders and to be selected by the Alberta Hotel and Lodging Association and the Alberta Liquor Store Association jointly.
  
- (c) five (5) Members from the General Membership Sector determined as follows:
  - (i) one (1) Member representing Municipalities, namely the Alberta Association of Municipal Districts and Counties and the Alberta Urban Municipalities Association jointly;
  - (ii) one (1) non-voting Member representing the Government of the Province of Alberta, namely, Alberta Environment;
  - (iii) one (1) Member representing Non Government Environmental Organizations, namely, Toxics/Waste Avoidance Caucus of Alberta Environmental Network; and
  - (iv) two (2) Members from the public at large selected by the Society.
  
- (d) Membership shall be effective on the date that the Board approves Membership in the Society.

### **Withdrawal and Termination of Membership**

#### 2.5 Membership in the Society is terminated:

- (a) if the Member sends written notice of resignation to the Society; or
- (b) in the case of an individual, on death or, in the case of a corporation, unincorporated organization, society, or governmental body, on dissolution;
- (c) Membership in the Society is terminated effective the date that the Society receives written notice of a Member’s resignation, death or dissolution, as the case may be.

## **Suspension and Cancellation of Membership**

- 2.6 The Board may, by resolution supported by at least three-quarters of the Directors, suspend, expel, discipline or fine a Member for cause, if:
- (a) the Member to be expelled, suspended, disciplined or fined has been given notice of the Board meeting at which the suspension, expulsion, or imposition of discipline or a fine is to be considered; and
  - (b) the Member named in such notice is given an opportunity to make representations to the Board at such meeting.

## **Compliance with Bylaws**

- 2.7 Every Member shall comply with and is bound by these Bylaws.

## **Memberships Not Transferable**

- 2.8 The interest of a Member in the Society is not transferable and lapses and ceases to exist upon death or dissolution or when his period of membership expires (if any) or when he otherwise ceases to be a Member in accordance with these Bylaws of the Society.

## **ARTICLE 3 - MEMBERS' MEETINGS**

### **Annual General Meeting**

- 3.1 The annual general meeting of Members shall be held once each fiscal year at such time, date and place as the Board specifies. At the annual general meeting, the Members shall appoint Directors in accordance with Article 4, appoint an auditor and transact such other business as may be properly brought before the meeting.
- 3.2 At each annual general meeting, a report from the Chairperson and Treasurer shall be presented to the Members present.

### **Special Meetings**

- 3.3 Every meeting of the Members that is not an annual general meeting is a special meeting.
- 3.4 A special meeting of the Members may be called:
- (a) by the Board, at any time, by giving notice in accordance with Article 3.6; or
  - (b) by the Members by at least one third of the Members notifying the Secretary in writing of their desire to have a special meeting and the purpose of it.

- 3.5 On receipt of a notice from sufficient Members as outlined in subarticle 3.4(b) herein, requesting a special meeting the Secretary shall arrange for a special meeting and give notice of it in accordance with Article 3.6.

### **Notice of Meetings**

- 3.6 Notice of an annual general meeting or a special meeting shall be given to the Members in writing or by electronic or other means of communication approved by the Board, at least twenty-one (21) days before the date of the meeting. The notice shall specify the date, time and place of the meeting and the general nature of the business to be conducted.
- 3.7 The accidental omission to give notice of a meeting to a Member or the fact that Member does not receive notice of the meeting does not invalidate the proceedings at the meeting.

### **Quorum and Voting**

- 3.8 The lesser of a majority of Members or four (4) Members in good standing constitute a quorum at any meeting of the Members provided however that one Member from each of the three (3) Membership Sectors must be present for a quorum to be properly constituted.
- 3.9 A Member present at a meeting is entitled to one vote on each motion or matter to be voted upon.
- 3.10 Votes may not be made by proxy.
- 3.11 If a vote is tied, the motion is lost.

### **Method of Voting**

- 3.12 The Board may make rules about procedures for decision making and the method of voting at Members meetings and proceedings at them.

### **Auditor**

- 3.13 The financial records of the Society shall be audited at least once each financial year by an independent duly qualified certified general accountant, certified management accountant or chartered accountant appointed by the Members at the annual general meeting.
- 3.14 The auditor's report shall be presented at the annual general meeting or, if it is not available, made available to the Directors and Members as soon as it is available. The audited financial statement shall become part of the annual report.

### **Meetings by Telephonic or other Communications Facility**

3.15 Any meeting of the Members may be held with all Members participating by Communications Facility, or by a combination of in person meeting and Communications Facility meeting, as determined and made available for that purpose by the Board. Any Member participating in a meeting of Members, and entitled to vote at the meeting, may vote by means of such Communications Facility on any resolution brought before the meeting, and for election of directors.

## **ARTICLE 4 –BOARD OF DIRECTORS**

### **Number of Directors**

4.1 The Board of Directors shall consist of thirteen (13) members.

### **Management of the Society by the Board of Directors**

4.2 The Board is to manage and direct the affairs of the Society in the name of and on behalf of the Society.

4.3 Except when the Act or these Bylaws otherwise require, the duties and powers of the Board under the Act and these Bylaws are to be exercised by resolution of the Board.

4.4 The Board may enact and enforce policies and other bylaws regarding the direction and management and operation of the Society, and such policies or other bylaws shall be consistent with these Bylaws.

4.5 The Board may make rules:

- (a) respecting the carrying out of its duties and powers;
- (b) respecting the calling of meetings pertaining to carrying out its duties and powers and the conduct of business at those meetings;
- (c) respecting the appointment, removal, functions, powers, duties, remuneration and benefits of employees and agents of the Society and members of a committee;
- (d) delegating to the Society Directors, officers, employees or agents or a committee of the Society, the carrying out of its duties and powers, except the power to make rules under this Article; and
- (e) respecting the establishment, membership, duties and functions of special, standing and other committees with respect to its duties and powers.

### **Composition of Board of Directors**

4.6 (a) The Board of Directors shall be determined by each Member, other than the Members described in Article 2.4(c)(iv), appointing one individual as a Director.

(b) The Members described in Article 2.4(c)(iv) shall be Directors as of the date appointed as Members. The appointment of all other Directors will become effective on the date that the Board receives written notice from the respective Members of the appointment.

(c) The Member described in Article 2.4(c)(ii) shall be an individual who is an *ex officio*, non-voting member of the Board of Directors.

### **Appointment of Directors**

4.7 The appointment of individuals as Directors as set out in Sub-article 4.6(a) shall be received in writing at least ten (10) days prior to the annual general meeting and if appointments of a Director are not received as set out in Sub-article 4.6(a), that directorship position shall be filled by the Board. The Board of Directors shall appoint an individual of their choosing as Director such that the composition of the Board contemplated under Article 4.6 is maintained. The appointment of the Board of Directors shall be completed at the annual general meeting.

### **Term**

4.8 The normal term for Directors to serve on the Board of Directors is three (3) years. Directors may be re-appointed to the Board of Directors after their term expires. A vacancy occurring among the Directors during the course of the year shall be filled by the Member appointing the Director failing which by a person selected by the remaining Directors such that the composition of the Board contemplated in these Bylaws is retained. Of the Directors initially appointed by each Membership Sector, at least one Director shall serve for a term of either one (1) year, two (2) years or three (3) years, with each Membership Sector deciding which Directors shall serve such terms.

### **Resignation of Directors and Removal from the Board**

4.9 A Director may resign by giving written notice to either the Secretary or the Chairperson. The Board may:

- (a) except for the Director appointed by the Minister, for cause deem appropriate by the Board, remove a Director from office;
- (b) request the Minister to remove or to replace the Director appointed by the Minister;

- (c) A Director may be removed by the Member appointing that Director.

### **Vacancies on the Board**

- 4.10 When a vacancy occurs on the Board the remaining Directors may exercise all the powers of the Board, if a quorum remains in office.

## **ARTICLE 5 – BOARD MEETINGS**

### **Meetings of Directors**

- 5.1 Meetings of the Board are to be called by the Chairperson and held as often as the affairs of the Society require.

### **Notice of Meetings**

- 5.2 Meetings of the Board shall be called by giving to each Director at least seven (7) days' notice unless the Board unanimously agrees to waive notice of the meeting.

### **Quorum**

- 5.3 A majority of Directors holding office at the time is a quorum at a meeting of the Board, or such greater number as the Board determines, provided however that one (1) Director appointed by a Member from each of the three Membership Sectors must be present at a meeting of the Board for a quorum to be properly constituted.

### **Special Meetings**

- 5.4 A meeting of the Board may be called at the written request of any two (2) Directors sent to the Chairperson stating the business to be discussed at the meeting.
- 5.5 On receipt of the request, the Chairperson shall call a meeting of the Board.

### **Place of Meetings**

- 5.6 Meetings of the Board may be held anywhere authorized by the Board.

### **Meetings by Telephonic, Electronic or other Communications Facility**

- 5.7 One (1) or more Directors may participate in a meeting of the Directors by means of a Communications Facility that the Board may make available for that purpose. Any Director participating in a meeting by such Communications Facility, and entitled to vote at the meeting, may vote by means of such Communications Facility on any resolution brought before the meeting.

## **ARTICLE 6 – DECISION MAKING**

### **Votes to Govern**

- 6.1 Each Director, including the Chairperson, has one (1) vote on matters considered by the Board.
- 6.2 If there is a tied vote, the motion is lost.
- 6.3 Each director present at a meeting shall, subject to requirements of law, the objects and Bylaws, vote on all motions.

### **Resolution in Writing**

- 6.4 Notwithstanding anything to the contrary in these Bylaws, a resolution in writing signed by all of the Directors shall be valid and effectual as if it had been passed at a meeting duly called and constituted.

## **ARTICLE 7 – COMMITTEES**

### **Committees**

- 7.1 Standing or special committees may be appointed by the Board for any purpose considered necessary or desirable.

### **Delegation to Committee**

- 7.2 The Board may delegate such of its powers or duties, except the powers to make Bylaws or Rules in accordance with subarticle 4.5(d) of these Bylaws, to a committee appointed by the Board.

## **ARTICLE 8 – CHAIRPERSON AND OFFICERS**

### **Chairperson of the Board**

- 8.1 The Directors shall elect one Director as Chairperson, for such period as the Directors determine, but not for longer than that Director's appointment lasts.

### **Officers**

- 8.2 The Board shall elect the following Officers of the Society:
  - (a) the Secretary; and

(b) the Treasurer.

8.3 The Board may establish other offices, or change the titles of offices, and prescribe the powers, duties and functions of each office.

### **Chairperson**

8.4 The Chairperson of the Board:

- (a) shall preside at all meetings of the Board and the Membership;
- (b) is a non-voting member of all committees of the Board and the Society;
- (c) shall present a report of the activities of the Board to Members of the Society at the annual general meeting;
- (d) may, with approval of the Board, delegate powers and duties as necessary; and
- (e) is responsible for such other matters as the Board determines.

### **Secretary**

8.5 The Secretary is responsible:

- (a) for ensuring proceedings of all meetings of the Board and the membership are recorded, and for the preparation and custody of the minutes of those meetings;
- (b) for ensuring that a record of all the Members of the Society and their addresses is maintained;
- (c) for the custody of the seal of the Society and the books and records of the Society, except financial records;
- (d) for giving notice of all meetings of the Board and the membership; and
- (e) for such other matters as the Board determines.

8.6 The Secretary may, with approval of the Board, delegate the responsibilities of the office as required.

### **Treasurer**

8.7 The Treasurer is responsible:

- (a) for the receipt of all money paid to the Society;

- (b) for opening and operating accounts and for the deposit of funds in any bank, treasury branch, trust company or credit union of which the Board approves;
- (c) for accounting for the real and personal property of the Society and the preparation and custody of such financial records as are necessary;
- (d) for presenting a financial statement to the Board as required;
- (e) for presenting a financial statement at the annual general meeting; and
- (f) for such other matters as the Board determines.

8.8 The Treasurer may, with approval of the Board, delegate the responsibilities of the office as required.

## **ARTICLE 9 – DUTIES OF DIRECTORS AND OFFICERS**

### **Duty of Good Faith**

9.1 Every Director and officer in exercising powers and discharging duties shall:

- (a) act honestly and in good faith in accordance with the best interests of the Society; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in carrying out a public trust.

9.2 A Director or officer is not liable under Article 9.1 if the Director or officer relies in good faith on:

- (a) financial statements of the Board presented to the Director or officer by a qualified person or in a written report of the auditor of the Board fairly to reflect the financial condition of the Society; or
- (b) an opinion or report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by such person.

### **Limitation of Liability**

9.3 Directors and officers of the Society shall not be liable for any debts or liabilities of the Society except as set out in these Bylaws.

9.4 No Director, officer or member of a committee of the Society shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or member of a committee or employee of the Society, or for joining in any receipt or other act of conformity, or for

any loss, damage or expense happening to the Society through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Society, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Society shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, securities or effects of the Society shall be deposited, or for any loss occasioned by any error of judgment or oversight on their part, or for any other loss, damage or misfortune whatsoever which shall happen in the execution of the duties of their office or in relation thereto unless the same shall happen through their own willful neglect or default, dishonesty or bad faith.

### **Indemnity**

9.5 The Society may indemnify Directors and officers, and former Directors and officers, and purchase and maintain insurance for the benefit of such Directors and officers in the same way as is permitted in respect of a Director or officer of a corporation under the *Alberta Business Corporations Act*.

### **Disclosure**

9.6 A Director or officer who:

- (a) is or becomes a party to a material contract or proposed material contract with the Board; or
- (b) is or becomes a director or an officer of, or has a material interest in, any person who is a party to a material contract or proposed material contract with the Board,

shall, forthwith after becoming aware of the facts that bring him within this clause, disclose in writing to the Board or request to have entered in the minutes of the meetings of the Board the nature and extent of the interest.

9.7 A Director referred to in Article 9.6 shall not vote on any resolution to approve the contract.

## **ARTICLE 10 – FINANCIAL ARRANGEMENTS**

### **Financial Year**

10.1 The financial year of the Society is from January 1 to the following December 31.

### **Bank Accounts**

10.2 All funds received by the Society from fees, charges, assessments or otherwise shall:

- (a) be deposited into an account maintained in the name of the Society, to be used or invested as required; and
- (b) be properly recorded and accounted for, and for which receipts are to be provided on request.

### **Borrowing Powers**

- 10.3 For the purpose of carrying out the objects of the Society, the Board may borrow or raise or secure the payment of the money in any manner the Board determines.
- 10.4 In accordance with the Act, no debentures may be issued without the sanction of a Special Resolution of the Members.

### **Fees, Charges, Levies and Assessments**

- 10.5 The Board may make fees, charges, levies or assessments to further the objects of the Society, including those permitted under any legislation, regulation, quotes, standards or agreements.
- 10.6 The Board may raise or acquire revenue by any other means it considers appropriate.

### **No Profit for Members**

- 10.7 The Society shall:
- (a) carry out its powers, duties, functions, services and activities efficiently and effectively; and
  - (b) have due regard to the interests of the general public, of the persons affected by or subject to its decisions and actions, and of the industry.
- 10.8 The operation of the Society shall be carried on without the purpose of gain for its Members, and any accretions to the Society shall be used to promote the objects of the Society.

### **Prohibited Financial Assistance**

- 10.9 The Society shall not, directly or indirectly, give financial assistance by means of a loan, guarantee or otherwise to a Director.

### **Agreements, Contracts and Commitments**

- 10.10 An agreement, contract, or other commitment entered into by the Society shall be entered into in accordance with rules established by the Board.

## **ARTICLE 11 – REMUNERATION**

### **Remuneration of Directors, Officers and Members**

- 11.1 Directors are not to receive any honorarium or remuneration in the course of their duties as directors, unless authorized by the Board.
- 11.2 If a Director is an employee of another entity, that corporation may, on approval of the Board, be reimbursed the equivalent honorarium or remuneration of the Director for the time the Director spends on the business of the Society.
- 11.3 Subject to any policies established by the Board from time to time, Directors shall be reimbursed their travelling and living expenses incurred while on the business of the Society, and any other disbursements expended in the course of performing their duties as Directors.

## **ARTICLE 12 – AMENDMENT TO BYLAWS**

- 12.1 These Bylaws may only be rescinded, altered or added to if the rescission, alteration or addition is approved by a Special Resolution of the Members.
- 12.2 Bylaws of the Society which are not made under the authority of the Act and that are made under the authority of section 18 of the Regulation may be adopted, rescinded, altered or added to if the adoption, rescission, alteration or addition is approved by motion of the Board of Directors carried by a special majority of at least 2/3 of the members of the Board of the Society in accordance with the Regulation.

## **ARTICLE 13 – HEAD OFFICE**

- 13.1 The head office of the Society is to be located at such place in Alberta as the Board determines.

## **ARTICLE 14 – CORPORATE SEAL**

- 14.1 The seal of the Society shall be kept in the custody of the Secretary. The seal shall not be affixed to any instrument except by authority of the Board of Directors and in the presence of such officers as the Board may prescribe.

## **ARTICLE 15 – BOOKS, RECORDS AND ANNUAL REPORT**

### **Inspection of Books and Records by Members**

- 15.1 The books, records and accounts of the Society may be inspected by a Member at any reasonable time by giving reasonable notice and arranging a time satisfactory to the officer having charge of them.

## **Annual Report**

- 15.2 The Society shall prepare an annual report for each financial year of the Society, including:
- (a) a list of the Members and Directors of the Society;
  - (b) a report on the objects, purposes and Bylaws of the Society and any amendments made to them;
  - (c) a report on the activities of the Society; and
  - (d) the audited financial statements of the Society.

## **ARTICLE 16 –SURRENDER CERTIFICATE**

### **Special Resolution Required**

- 16.1 The Society shall not be voluntarily wound up unless a Special Resolution is passed by the membership.
- 16.2 The Society shall only surrender its certificate of incorporation in accordance with section 29 of the Act.
- 16.3 Where the Society surrenders its certificate of incorporation pursuant to section 29 of the Act or is otherwise wound-up, the Directors shall, to the extent allowed by law, transfer all property of the Society to a non-profit organization or agency whose objects include either or both of the reduction or recycling of waste or related aspects of environmental protection.

## **ARTICLE 17 –NOTICE**

- 17.1 A Notice required to be given under the Act or these Bylaws:
- (a) to a Member, shall be given in writing or electronic communication at the address shown in the membership records, or by telephone, to the number recorded in the records of the Society; and
  - (b) to the Society, shall be given in writing to the head office of the Society.