

**BYLAWS  
OF THE BADGER STATE WINERY COOPERATIVE**

**A Cooperative Formed Under Chapter 185 of the Wisconsin Statutes**

**ARTICLE I**

**ORGANIZATION**

Section I.1 The name of this cooperative is the Badger State Winery Cooperative referred to herein as “Co-op.”

Section I.2 The principal office of the Co-op is located at W8896 County Rd A, Delavan, WI 53115.

**ARTICLE II**

**PURPOSE**

Section II.1 The purpose of the Co-op is to serve the needs of its Members. Its primary focus is to sell wine and other alcoholic and non-alcoholic products, as allowed by applicable law, by its Members in accordance with Wisconsin law.

Section II.2 Cooperative philosophy and values are an essential part of our enterprise; therefore in achieving its purpose, the Co-op will adhere to the cooperative principles as listed:

- (i) Operate on a sound financial basis so as to provide for a long-term benefit of the Members and the community.
- (ii) Pursue growth and expansion of the business in order to better meet the needs of the Members.
- (iii) Manage the business in an open, democratic manner that respects the Members’ rights to sell their products in compliance with Wisconsin law.
- (iv) Cooperate with other Cooperatives by sharing experience and information.

**ARTICLE III**

**MEMBERSHIP**

Section III.1 The Co-op shall have one class of Members. “Members” in these bylaws is equivalent to and used in place of the term “member” as used in Chapter 185.

Section III.2 Membership in the Co-op shall be voluntary and open to 1) any winery certified by the Department of Revenue as a small winery and has a Wine Direct Shipper permit; or 2) any small manufacturer, as set forth in Section 125.545(1)(cm) of the Wisconsin Statutes, as amended, who has a corresponding Direct Shipper permit; and wishes to support the Co-op's activities, intends to use its services, and will accept the responsibilities of Membership. If any Member of the Co-op at any time does not meet the requirements hereunder, such Member shall be obligated to immediately provide written notice to the Secretary of such noncompliance and such Member's membership shall be automatically terminated.

Section III.3 The Co-op shall not discriminate on the basis of sex, race, religion, color, national origin or ancestry, physical appearance, sexual orientation, handicap/disability, marital status, family status, occupation, source of income, arrest record or conviction record, less than honorable discharge, or political beliefs.

Section III.4 The Board of Directors may adopt conditions that apply retrospectively or prospectively for standards of membership in the Co-op (the "Uniform Conditions").

Section III.5 Submitting a completed membership application and "Fair Share" payment is required in order to become a Member. An application of membership shall be subject to approval by the Board of Directors, in its sole discretion.

Section III.6 The initial "Fair Share" is the dollar amount that constitutes the initial membership fee. The Board of Directors may make provisions allowing payment in installments over time and may allocate a portion of each payment as a non-refundable administration fee. Any change to the amount of the Fair Share shall be approved by the Board of Directors.

Section III.7 A Member is considered to be current and in good standing if the Member has paid its initial Fair Share, all additional payments due and owing by such Member, is not in breach of these Bylaws, and is otherwise compliant with the Uniform Conditions.

Section III.8 Membership may be terminated voluntarily by a Member at any time upon written notice to the Co-op. Members will be considered voluntarily terminated if not current on payments.

Section III.9 Membership may be terminated involuntarily only for cause by the Board of Directors, provided the accused Member be first accorded an adequate opportunity to respond to the charges in person or in writing. "For cause" termination may be based upon serious, improper conduct, which may include at least one of the following circumstances:

(a) A willful failure to deal fairly with the Co-op in connection with a matter in which the Member has a material conflict of interest.

(b) A Member or any one of its principal's violation or alleged violation of criminal law at or in connection with, activities of the Co-op, or violation or alleged violation of a crime punishable by more than one year in prison, or of any crime involving misrepresentation, moral turpitude, or fraud, unless the Member had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful.

Amended and approved \_\_\_\_\_

(c) A transaction with the Co-op from which the Member derived an improper personal benefit.

(d) Willful misconduct or disruptive behavior on a second occasion after clear written warning that such behavior could result in a loss of Member status.

(e) Failure to meet any of the conditions of Section 3.2, hereunder, which failure shall constitute automatic termination of Member status.

(f) Violation of any Wisconsin liquor law.

(g) Violate any Uniform Condition, if any, adopted or amended by the Board from time to time, breach of any contract to which the Member is a party with the Co-op, or filing or maintaining a lawsuit or similar legal action under circumstances that the Board of Directors reasonably determines to be frivolous or in bad faith, and, in any event, the termination is undertaken pursuant to one or more Involuntary Termination Policies adopted or amended by the Board of Directors from time to time.

## **ARTICLE IV**

### **MEMBER MEETINGS**

Section IV.1 The specific time and location of Member meetings shall be set by the Board of Directors. Notice of the meetings will be sent to all Members at least 7 days, but no more than 30 days, prior to the meeting and sent to the e-mail address or mailing address on record with the Co-op.

Section IV.2 The Annual Member's meeting will be held within 100 days of the end of the fiscal year, as determined by the Board of Directors.

Section IV.3 A special meeting of the Members maybe called by the Board of Directors or by the President, or upon demand of the Members as represented by a petition signed by one-fifth of the current Members, such petition stating the business to be brought before the meeting. Any business conducted at a special meeting other than that specified in the notice of the meeting will be of advisory nature only.

Section IV.4 The President or someone appointed by the Board of Directors shall chair all Member meetings. Minutes shall be taken by the Secretary or as otherwise directed by the President.

Section IV.5 Quorum at the meeting of Members shall the sum of 10% of the first 100 Members, plus 5% of any additional Members exceeding such first 100; However in no case shall the minimum quorum be less than 5, nor the maximum quorum be greater than 50, or as set by law. For purposes of any particular motion before the Members, those Members voting by ballot shall be included for purposes of quorum.

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Section IV.6 All current Members, whether fully paid or not, may vote in meetings of the Members. Households, co-ops or non-profits that are Members shall each have only one vote and shall designate one person to cast that vote.

Section IV.7 Any Member may participate in a member meeting by means of remote communication. Participating members are deemed to be present in person and to vote at the member meeting held by means of remote communication.

Section IV.8 Unless otherwise required by state law or these bylaws, voting at the Members, meeting shall be by majority vote of the Members present.

## ARTICLE V

### BOARD OF DIRECTORS

Section V.1 The Board of Directors shall manage the business and affairs of the Co-op.

Section V.2 The Board of Directors shall consist of five individuals. All Directors shall be representatives of Members in good standing of the Co-op and shall be at least 21 years of age. No employee of the Co-op may serve as a Director.

Section V.3 Directors shall be elected for staggered terms of three years, except that for the first such election, two of the Directors shall have a term of two years and one Director shall have a term of one year, so that in subsequent elections, no more than two Director positions will be filled each year.

Section V.4 Directors shall be elected by the Members at each annual Member's meeting. Each director is elected by a plurality of the votes cast by the Members entitled to vote in the election at a meeting at which a quorum is present.

Section V.5 Directors shall disclose their actual or potential conflicts of interest in any matter under consideration by the Board, and unless requested otherwise by majority vote of the other Board members, shall abstain from deliberation or decision on the matter. A Director of the Co-op may serve as an officer of the Board.

Section V.6 Any Director may resign at any time by written notice to the Board of Directors. The resignation shall take effect at the time the notice is received or at such a later time as is specified in the notice of resignation.

Section V.7 The term of the Director may terminate prior to its expiration in any of the following ways:

(a) Automatic upon termination of the Director's or his/her affiliated organization's termination as Member of the Co-op.

(b) By a 2/3 vote of the Directors present at a Board meeting if a Director has failed to attend 3 meetings of the Board in any 12 month period.

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(c) By a majority vote of the Members of the Co-op, using the process described in section 4.7. The quorum for a vote to recall a Director shall be a majority of the current Members.

(d) If the Director or his/her affiliated organization does not meet the Uniform Conditions or requirements of Section 3.2, hereunder.

(e) If that person fails to abide by a director policy established by the Board of Directors at the discretion of the remaining Board members, without the necessity of Member approval.

Section V.8 In the event that a vacancy occurs on the Board of Directors, the Board may elect to temporarily fill the vacancy by majority vote of the Directors in office or to leave the position vacant. An election by the Members at the next Annual Members Meeting shall fill the position for the remainder of the term of the vacant Director position.

Section V.9 The Board of Directors shall meet at a time and place determined by the President of the Board of Directors and posted in the principal office. A quorum shall consist of a majority of the Directors in the office. Special meetings of the Board can be called by the President, and all Directors shall be notified at least 24 hours prior to such meeting.

Section V.10 The Board of Directors shall establish a procedure for decision-making at their meetings, which shall allow for action by majority vote of those present at such meetings. This procedure may be amended from time to time by the Board according to the decision-making process that is in effect.

Section V.11 The principal officers of the Co-op shall be President, a Vice-President, a Secretary, and a Treasurer. They shall be elected by the Board for a term of one year. The President and Vice President must also serve as a Director, as duly-elected by the Members. The Secretary and Treasurer may be the same person and need not be a Director.

Section V.12 The Board of Directors may remove any officer whenever in its judgment the best interests of the Co-op will be served thereby.

Section V.13 The President shall preside over all meetings of the Co-op and the Board, and perform duties prescribed by the Board. In the absence of the President, the Vice-President shall serve as President. If the office of the Vice-President becomes vacant, the Board of Directors shall appoint a Vice-President to serve until the next officer elections.

Section V.14 The Secretary shall keep minutes of all meetings, have supervision of all books, sign papers pertaining to the Co-op, and keep records as directed by the Board.

Section V.15 The Treasurer shall prepare financial reports and perform other finance-related duties, as directed by the Board.

Section V.16 Upon original election, and whenever any changes are made to the Directors or officers of the Co-op, these changes will be reported to the Department of Financial Institutions within 20 days or as required by Wisconsin law.

Amended and approved \_\_\_\_\_

Section V.17 The Board or President may appoint special committees to advise the Board or to exercise such authority as the Board shall designate. Members of all committees shall be approved by the Board and may be removed or replaced at the discretion of the Board. Committees shall elect their own chairs. Non-director membership is encouraged for all committees, and they have all the same duties, responsibilities and voting powers as members who are Directors. The members of a committee may not include a majority of the current Directors.

## ARTICLE VI

### FINANCES

Section VI.1 The fiscal year of the Co-op shall be the calendar year.

Section VI.2 The Board of Directors shall provide oversight related to the preparation and monitoring of an annual budget. A consolidated version of the budget as approved by the Board shall be published and distributed annually to the Members.

Section VI.3 The Board of Directors shall install and maintain an adequate system of accounts and records.

Section VI.4 The Board of Directors shall designate authority for signing checks. Signatory authority will be conveyed in minutes or resolutions by the Board.

Section VI.5 The Board shall ensure that a financial review is conducted at least annually and a report shall be given to the Members at the annual meeting.

Section VI.6 Promotional expenses of the Co-op shall be less than or equal to five percent (5%) of all Fair Share collections or other membership fees, unless allowed by Wisconsin law.

Section VI.7 Unbudgeted capital expenditures over one percent of the Co-op's equity shall be approved by the Board of Directors. Any decision to buy or sell the Co-op's building(s) or to spend over ten percent of the total Co-op's equity on an expansion project must be approved by a 2/3 vote of the Board of Directors. Total equity for these purposes is defined as (Total Assets - Total Liabilities = Total Equity).

Section VI.8 **Equity Capital Management.** The Board of Directors shall manage the Cooperative's equity capital and "Fair Share" payments in a way to preserve and build upon the Cooperative's financial position while also allowing for redemptions of equity as and when the Cooperative has the financial strength to redeem equity. The Board retains the power to amend, modify or repeal these policies and may do so retroactively, all in the Board's sole discretion. No equity redemption policy shall be interpreted to require any expenditure of capital and the Board of Directors retains all right and power to the final review and approval of each expenditure of capital for any redemption of equity. No person shall have any right whatsoever to require the retirement or redemption of any patrons' equities except in accordance with their term, or of any allocated capital reserve.

## ARTICLE VII

### BYLAWS

Section VII.1 **Amendment by Members.** These Bylaws may be amended, repealed, or altered, whole or in part, as provided by law, by a majority vote of the members present and voting at any Annual Meeting of the members or at any special meeting of the members at which a quorum is registered as being present, provided that such action has been duly announced in the call of the special meeting.

Section VII.2 **Amendment by Board of Directors.** The Board of Directors may make and amend any bylaw, except bylaws under Articles I, II or IV; provided, that any bylaw adopted or amended by said board shall be reported at the next regular member meeting; and provided, further, that any bylaw adopted or amended by said board shall be at any time subject to amendment or repeal by the members under Section 7.1 ) above.

Section VII.3 In the event that any provision of these bylaws is determined to be invalid or unenforceable under any state statute or rule of law, then such provision shall be deemed inoperative to such extent without affecting the validity of enforceability of any other provision of these bylaws.

## ARTICLE VIII

### NONPROFIT OPERATION

Section VIII.1 **Interest or Dividends on Capital Prohibited.** The Co-op shall at all times be operated on a cooperative nonprofit basis for the mutual benefit of its Members. No interest or dividends shall be paid or payable by the Co-op on any capital furnished by its members.

#### Section VIII.2 **Distributions of Margins and Net Income.**

(a) All amounts collected from or on behalf of members above cost shall be returned to the members annually on a patronage basis. Non-patronage net earnings will be set aside as a retained capital reserve which may only be allocated to the members at the discretion of the board. Such allocation may only be made on a historic patronage basis.

(b) Subject to the provisions hereof relating to adjustments between and among classes of business, the Co-op shall be obligated to make payments of all such amounts in excess of operating costs and expenses as patronage dividends in cash or other property or by credits to a capital account for each member. At least twenty percent (20%) of the annual patronage dividend must be paid to each member in cash or other property. Unless the board determines otherwise, non-members shall not be eligible to participate in the distribution of margins or net income. Within eight and one-half (8-1/2) months following the end of the Co-op's fiscal year or by the filing date of the Co-op's federal income tax return, whichever is earlier, members will be notified in writing as to

the amount of their patronage dividend paid in cash and paid in capital credit certificates or other written instruments.

(c) The board may exercise its discretion to allocate revenues, expenses and earnings according to classification of business, which shall take into consideration the Co-op's separate areas of business and the members, respective participation in and contributions to those areas of business. The board shall make all determinations of patronage, classification of business, and all other matters related to distributions of net income. Patronage margins or non-patronage net earnings, or both, may be distributed in cash or other property during the Cooperative's fiscal year based on the Cooperative's estimate of year-to-date patronage margins and non-patronage net earnings during the year in excess of the amount determined to be correct upon a final accounting, that member or other patron is obligated to reimburse the Co-op for any difference. Such final reconciliation must occur no later than the date of notice of the patronage allocation.

**Section 8.3. Loss or Losses.** In the event of a loss in one or more divisions of operation of this association, but not of such magnitude as to cause an overall loss for the fiscal year of the association, the Board of Directors may pro-rate such loss or losses against each of the remaining profitable divisions on the basis of their respective percentage of the total net patronage proceeds during such fiscal year, or may allocate that loss directly to the Members who used the unprofitable divisions.

In the event this association shall incur a net loss in any fiscal year, such net loss may be charged against any unallocated reserve. If such loss exceeds the total of said unallocated reserves or, in any event, if the Board of Directors so elects, the amount of such loss may be recovered from future years' net earnings, and/or divide the loss between the reserve and Members' allocated equities. Any allocation to Members shall be equitably pro-rated against the allocated equities of members who the Board reasonably determines shall share in the loss. In no event shall the Board of Directors have the authority to make any assessment against Members. This section shall not be construed or administered in such a way as to deprive the association of the right to carry back or carry forward net operating losses to past or future years, in accordance with the applicable provisions of the Internal Revenue Code or State Taxing Statutes.

**Section 8.4. Consent to Recognize Patronage Dividend.** Each person which is accepted to membership in this Co-op, by such act alone, consents that the amount of any distributions with respect to the member's patronage, which are made in written notices of allocation (as defined in 26 U.S.C. 1388) and which are received by the member from the Co-op, will be taken into account by the member at their stated dollar amounts in the manner provided in 26 U.S.C. 1385(a) in the taxable year in which such written notices of allocation are received by the member.

Written notification of the adoption of this Article, a statement of its significance and a copy of the provision shall be given separately to each prospective member before it becomes a member of the Co-op.

**Section 8.5. Dissolution.** Upon liquidation, the Co-op's assets will be paid first according to its indebtedness and other obligations. All capital furnished through patronage shall be distributed on a pro-rata basis to the patrons to whom allocated on the Co-op's books.

## ARTICLE IX

### INDEMNIFICATION AND INSURANCE

This association shall indemnify each director, officer, manager, or employee, and any person serving at the request of this association as a director, officer, manager, or employee of another corporation, partnership, joint venture, trust, or other enterprise, against expenses, including actual, reasonable attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her to the fullest extent to which such officers, directors and employees of a cooperative association may be indemnified under Wisconsin Statutes, or any amendments thereto or substitutions therefore.

This association shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, manager, or employee of this association, or is or was serving at the request of this association as a director, officer, manager, or employee of this association, or is or was serving at the request of this association as a director, officer, manager, or employee of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him/her and incurred by him/her in any such capacity.

## ARTICLE X

### MEETING BY ELECTRONIC MEANS

Section X.1 **Conduct of Meetings.** To the fullest extent allowed under the Wisconsin Statutes, the Members, the Board of Directors, or any committee of the Board, may, in addition to conducting meetings in which each Member, Director, or committee member participates in person, and notwithstanding any place set forth in the notice of the meeting or these Bylaws, conduct any regular or special meeting by the use of any electronic means of communication, provided (1) all participating persons may simultaneously hear each other during the meeting, or (2) all communication during the meeting is immediately transmitted to each participating person, and each participating person is able to immediately send messages to all other participating persons. In all cases, the Secretary must be able to authenticate the person entitled to cast such a vote both for purposes of quorum and voting. Before the commencement of any business at a meeting at which any such persons do not participate in person, all participating persons shall be informed that a meeting is taking place at which official business may be transacted.

Section X.2 **Verification of Identity.** The identity of each person participating in a meeting conducted pursuant to Section 10.1 of these Bylaws (other than a meeting in which each such person participates in person) must be verified by the Secretary before any vote on (1) a plan of merger; (2) a sale, lease, exchange, or other disposition of substantial property or assets of the Co-op; (3) a dissolution or the revocation of voluntary dissolution proceedings; or (4) a filing for bankruptcy. The Secretary shall verify each participating director's identity by requesting such person to give the password that shall have been provided specifically to the director in the meeting notice. For purposes of this section, a disposal of property or assets of the Co-op is "substantial" if it involves a disposition of 10% or more of the fair market value of the Co-op's assets.