

# Midwest Independent Booksellers Association Articles of Incorporation and By-Laws

## Restated Articles of Incorporation of Upper Midwest Booksellers Association

### Article I. - Name

This corporation shall be called Upper Midwest Booksellers Association, DBA Midwest Independent Booksellers Association.

### Article II. - Purposes and Activities

This corporation is organized under Chapter 317A of Minnesota Statutes and is organized and shall be operated exclusively for the purpose of acting as a business league within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended ("the Code"). Within the limitations established by the preceding sentence, this corporation is organized and shall be operated exclusively to promote the distribution of books through retail bookstores.

### Article III. - Powers

This corporation shall have only those powers which are required by, and are consistent with, the purposes enumerated in Article II above. Within those limitations, this corporation may act on its own behalf or as the agent, trustee or representative of others; acquire or receive property of every kind by any legal means; hold, manage, use and dispose of any property and the income generated by it to further any of the purposes of this corporation; lease, mortgage or encumber any such property; and exercise any other powers conferred on this corporation by the Minnesota nonprofit corporation act under Chapter 317A of Minnesota Statutes.

### Article IV. - Restrictions

Notwithstanding any other provisions of these Articles, the restrictions enumerated in this Article IV shall govern the activities of this corporation.

This corporation shall not engage in any activity which may not be carried on by an organization which is exempt from federal income taxation under Section 501(a) of the Code by virtue of being described in Section 501(c)(6) of the Code.

This corporation shall not afford pecuniary gain, incidentally or otherwise, to its members, and no part of the net earnings of this corporation shall inure to the benefit of any private individual.

This corporation shall, neither directly nor indirectly, attempt to influence the selection, nomination, election or appointment of any person to any Federal, state or local public office or to an office in a political organization.

This corporation shall not lend any of its assets to any officer or director of this corporation or guarantee to any other person the payment of a loan by any officer or director of this corporation.

### Article V. - Duration

This corporation shall exist perpetually.

### Article VI. - Registered Office

This corporation's registered office in the state shall be located at 1375 Saint Anthony Ave, St Paul MN 55104.

### Article VII. - Board of Directors

The management and direction of the business of this corporation shall be vested in a Board of Directors. The Board of Directors shall consist of ~~not less than seven (7) members a maximum of nine (9) members~~, two of

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which shall be non-booksellers, no less than two of which shall be part of underrepresented communities/demographics of membership (including but not limited to BIPOC, LGBTQ+, differently abled communities/demographics), and the by-laws of the corporation shall specify the term of office, method of selection, powers and duties of the directors of the corporation, the time and place of their meetings, and such other regulations with respect to them as are consistent with the provisions of these Articles. Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting when authorized by a written instrument signed by the number required to take the same action at a meeting of the Board at which all directors were present.

#### **Article VIII. - Membership**

Qualifications for membership, which may be of more than one class and may be either voting or nonvoting, shall be established in the by-laws of the corporation.

#### **Article IX. - No Personal Liability**

The members of this corporation shall not be personally liable for the payment of any debts or obligations of the corporation, nor shall any property of any member be subject to the payment of the debts or obligations of the corporation.

#### **Article X. - No Capital Stock**

This corporation shall have no capital stock.

#### **Article XI. - Amendments**

These Articles of Incorporation may be amended from time to time in the manner provided by law.

#### **Article XII. - Dissolution**

This corporation may be dissolved in accordance with the laws of the State of Minnesota. Upon dissolution of this corporation, any property remaining after the payment of its debts shall be transferred, in such proportions as the Board of Directors of the corporation shall determine, to one or more organizations which are exempt from federal income taxation under Section 501(a) of the Code by virtue of being described in either Section 501(c)(6) or Section 501(c)(3) of the Code. No provision of these Articles shall be construed to affect the disposition of property shall be transferred in accordance with the trust or condition imposed with respect to it.

**Date revised:** September 22, 2011

## **Amended and Restated By-Laws of Upper Midwest Booksellers Association**

### **Article I. - Location**

The principal office of the corporation, sometimes in these by-laws also called "UMBA" or "Association" shall be at 1375 St Anthony Ave Suite 202-3 St Paul MN 55104, or at such other place as the Board of Directors shall designate. The business of the corporation shall be transacted from the principal office, and the records of the corporation shall be kept there.

### **Article II. - Members, Meetings of Members**

#### **Section 1. – Eligibility**

Membership shall be open to all retail bookstores owned and operated in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin. Retail bookstores owned and operated outside the nine-state area may become full members at the discretion of the board after review of the application for membership. Membership shall also be open to other businesses involved in bookselling including, but not limited to, wholesalers, publishers, and publisher representative firms. Membership may also be open to individuals who have a significant interest in bookselling but are not employed by member organizations.

#### **Section 2. - Classes of Membership.**

- A. The membership of UMBA shall include two categories:
  - i. Professional or Affiliate Member (Voting)
  - ii. Associate Member (Non-Voting)
- B. Any retail bookstore deemed eligible, upon payment of annual dues, shall be entitled to Professional membership. Only one vote shall be allowed to a group of retail bookstores under common ownership or control. All wholesalers, publishers, and publisher representative firms, upon payment of annual dues, shall be entitled to Affiliate membership or control. Only one vote shall be allowed to a group of wholesalers or to a group of publishers under common ownership or control.
- C. Individuals not employed by an entity eligible to hold Professional or Affiliate membership may be accepted for Associate membership at the discretion of the Board of Directors and upon payment of annual dues.

#### **Section 3. - Rights of Members.**

- A. Professional and Affiliate members shall have the following rights:
  - i. To cast a single vote
  - ii. To be eligible for election to the Board of Directors
  - iii. To receive the Association newsletter
  - iv. To receive material pertinent to the maintenance, operations and activities of the Association.
  - v. To attend the annual business meeting of the Association and to gain a hearing.
  - vi. To petition the Board of Directors
  - vii. To be eligible for appointment to committees
- B. Associate members shall have the same rights as Professional and Affiliate members with the exception of (i) the right to cast a vote and (ii) the right to be eligible for election to the Board of Directors.

#### **Section 4. - Annual Meeting of the Membership.**

The Annual Meeting of the Association shall customarily be held during the fall trade show. If no fall trade show is held, then the Annual Meeting shall be held at such time and place as the Board of Directors shall determine. Notice of the date, time, and place of the Annual Meeting shall be sent electronically to each member at least thirty days prior to the Annual Meeting. At the Annual Meeting, twenty (20) voting members shall constitute a quorum for transaction of business.

**Section 5. - Special Meetings.**

Special meetings of the membership may be called at any time by the President of the Association with the approval of the Board of Directors. A special meeting may be called upon written application confirmed by ten (10) voting members and presented to the Executive Director. Upon receipt of such an application the Executive Director shall inform the President and the President shall call a meeting within thirty (30) days. At a special meeting, fifteen (15) voting members shall constitute a quorum for the transaction of business.

**Article III. - Board of Directors**

**Section 1. - Authority.**

The Board of Directors of the corporation shall direct the general management of the corporation's affairs and shall elect all officers of the corporation. In addition to the powers conferred upon the Board of Directors by these By-Laws, the Board may exercise all powers of the corporation and perform all lawful acts which are not prohibited to it by statute, by the Articles of the corporation or by these By-Laws.

**Section 2. - Composition.**

The Board of Directors shall be composed of up to seven (7) members. All directors shall have equal voting rights. No more than one member of the Board of Directors may be from a group of retail bookstores under common ownership or control. No more than one member of the Board of Directors may be from a group of wholesalers under common ownership or control; and no more than one member of the Board may be from a group of publishers under common ownership or control. All members nominated must hold voting status.

**Section 3. - Election.**

Members shall be elected to the Board of Directors by vote of the membership through secret ballot electronically or by proxy. Ballots will be sent to the membership at least 45 days prior to the Annual Meeting. Members shall hold office for a term of three years beginning at the Annual Meeting. The three-year terms described above shall, as nearly as is possible, be evenly staggered so that one-third (1/3) of the members of the Board shall be elected each year.

**Section 4. - Vacancy.**

If the office of any director becomes vacant for any reason, the Board of Directors may choose a successor, who shall hold office until the next election of members of the class of directors which contains the vacancy.

**Section 5. - Removal of Directors.**

A member of the Board of Directors may be removed by an affirmative vote of a majority of the remaining members of the Board of Directors if the remaining members voting in favor of such removal consider it to be in the best interests of the corporation.

**Section 6. - Expense Reimbursement.**

Members of the Board of Directors shall be reimbursed for expenses incurred on behalf of the Association, but shall not be compensated by the Association for services rendered.

**Article IV. - Meetings of the Board of Directors**

**Section 1. - Place of Meetings.**

The Board of Directors may hold its annual and special meetings at such places, within or outside of this state, as a majority of the members of the Board of Directors may authorize from time to time.

**Section 2. - Annual Meetings.**

The Board of Directors shall hold an annual meeting at such time and place as the Board of Directors shall determine. At each annual meeting, the Board of Directors shall announce new officers, and shall conduct such other business as may properly come before it.

### **Section 3. - Special Meetings.**

Special meetings of the Board of Directors may be called by: (a) the Executive Director, (b) the President, or (c) two or more members of the Board of Directors. A person entitled to call a special meeting of the Board of Directors may make a written request to the Executive Director to call the meeting. The Executive Director shall give notice of the meeting in the manner provided below, but the meeting must be held between five (5) and sixty (60) days after receipt of the request. If the Executive Director fails to give notice of the meeting within three (3) days from the day on which the request was made, the person who requested the meeting may fix the time and place of meeting, and give notice thereof.

### **Section 4. - Notice.**

Notice of each regular and special meeting of the Board of Directors shall state the time, place and purpose of the meeting. Such notice shall be delivered electronically not fewer than three (3) nor more than thirty (30) days before the meeting, excluding the day of the meeting. Any director may waive notice in writing before, at, or after a meeting. The waiver shall be filed with the person who has been designated to act as secretary of the meeting, who shall enter it upon the records of the meeting. Appearance at a meeting is deemed a waiver of notice unless the appearance is solely for the purpose of asserting the illegality of the meeting.

### **Section 5. - Voting.**

At any meeting of the Board of Directors, each director present at the meeting shall be entitled to cast one vote on any question coming before the meeting. The presence of a majority of the members of the Board of Directors shall constitute a quorum at any such meeting, but the directors present at any meeting, although fewer than a quorum, may adjourn the meeting from time to time. Except as otherwise provided in these By-Laws, a majority vote of the directors present at any meeting, if there be a quorum, shall be sufficient to transact any business.

### **Section 6. - Action in Writing.**

Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting when authorized by a quorum achieved electronically by the number of directors that would be required to take the same action at a meeting of the Board at which all directors were present.

### **Section 7. - Meeting by Means of Conference Telephone.**

Members of the Board of Directors of the corporation, or any committee designated by the Board of Directors, may participate in a meeting of such Board or committee by means of conference telephone or other communications equipment. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

## **Article V. - Officers**

### **Section 1. - Elections.**

The following officers of this corporation shall be elected annually at a meeting of the Board of Directors of the corporation, for a term of two years: (a) a President, (b) one or more Vice Presidents, (c) a Secretary, and (d) a Treasurer. The Board of Directors may elect such other officers as it shall determine from time to time. Officers shall be members of the Board of Directors. Officers must be voting members of the Association. Any two or more offices may be held by the same person at the same time except that the same person shall not hold at the same time the offices of President and Vice-President. All officers are eligible to be considered for a second term.

### **Section 2. - President.**

The President shall preside at all meetings of the Board of Directors. The President shall direct the general management of the business of the corporation under the supervision and direction of the Board of Directors and

shall see that all orders and resolutions of the Board are carried out. The President shall execute all contracts or instruments requiring an officer's signature, unless the Board directs otherwise. The President shall from time to time make such reports to the Board of Directors as it may request. The President shall have the general powers and duties usually vested in the office of a President of a corporation and shall have such other powers and perform such other duties as the Board of Directors may prescribe from time to time.

### **Section 3. - Vice Presidents.**

The Vice President, or Vice Presidents in case there be more than one, shall have such powers and perform such duties as the President or the Board of Directors may prescribe from time to time. In the absence of the President or in the event of his or her death, inability, or refusal to act, the Vice President, or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Board of Directors, or, in the absence of any such designation, in the order of their election, shall perform the duties of the President, and, when so acting, shall have all the powers of, and be subject to all of the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as the Board of Directors shall prescribe from time to time.

### **Section 4. - Secretary.**

The Secretary shall electronically transcribe all proceedings of the meetings of the Board of Directors. He or she shall give, or cause to be given, all notices of meetings of the Board of Directors and all other notices required by law or by these By-Laws, and in the case of his or her absence, refusal or neglect to do so, the President may give any such notice. The Secretary shall forward all such electronic documents to the Executive Director for filing in the main office of the corporation. The Secretary shall prepare and present to the Board of Directors such reports as the Board may request at such time as it may designate. The Secretary shall have such other powers and perform such other duties as the Board of Directors shall prescribe from time to time.

### **Section 5. - Treasurer.**

Upon the decision of the board, the Treasurer can be considered the chief financial officer of the corporation, with custody of all funds and securities of the corporation and authority to disburse the funds of the corporation as may be ordered from time to time by the President or the Board of Directors. When necessary and proper, the Treasurer in this role would endorse on behalf of the corporation all checks, drafts, notes and other obligations and evidences of the payment of money payable to this corporation, and shall deposit the same, together with all other funds of the corporation coming into his/her possession, in such banks as may be selected by the Board of Directors. He or she shall keep full and accurate financial records for the corporation, which shall be open at all times to the inspection of the Board of Directors. If any or all of the duties or responsibilities of the Treasurer shall be delegated to an Executive Director as provided in Article VII of these By-Laws, the Treasurer shall nevertheless continue to provide oversight of the activities so delegated. The Treasurer shall have such other powers and perform such other duties as the President or the Board of Directors may from time to time prescribe.

### **Section 6. - Removal from Office.**

Any officer may be removed at any time by the Board of Directors with or without cause. In case of the death, disqualification, absence or inability to act of any officer of the Association or for any other reason that the Board may deem sufficient, the Board may delegate for the time being some or all of the powers and duties of any such officer to any other officer or to any director. The President or the Board of Directors may fill any vacancies in any office in this Association by appointment. Any person so appointed to an unexpired term shall hold office until their successor has been duly elected.

## **Article VI. - Committees**

### **Section 1. - Executive Committee of the Board Directors.**

The Board of Directors may appoint an Executive Committee. An executive committee shall consist of the Executive Director, the Assistant Director, the President, the Vice President, and the Treasurer of the Board. The Executive Director and Assistant Director shall be non-voting members of the executive committee. The Executive committee shall exercise all the powers of the Board of Directors between meetings of the Board, but it shall not fill vacancies in its own membership. Power to fill such vacancies shall be vested in the Board of Directors. An affirmative vote by a majority of the Executive Committee shall be necessary to approve action. The Executive

Committee shall keep regular minutes of its proceedings and shall report to the Board of Directors at the Board's next meeting.

#### **Section 2. - Other Committees.**

The Board of Directors may act through such other committees as may be specified in resolutions adopted by the Board of Directors. Each such committee shall have the duties and responsibilities imposed on it from time to time by the Board of Directors, and shall at all times be subject to the direction of the Board of Directors.

#### **Section 3. - Ex Officio Member.**

The President and the Executive Director of this corporation shall each be an ex officio member, without voting rights of each committee of the corporation.

### **Article VII. - Executive Director**

1. The Board of Directors may engage an Executive Director under such terms as it may deem appropriate. Any of the duties and responsibilities of any officer of this corporation may be delegated to the Executive Director by the Board of Directors. If any or all of the duties or responsibilities of the Treasurer shall be delegated to an Executive Director as provided above, the Treasurer shall nevertheless continue to provide oversight of the activities so delegated. The administrative responsibility of the total organization may be placed in the Executive Director, under the supervisory guidance of the President, the Board of Directors and the Executive Committee within the framework of the By-Laws.

2. When an Executive Director is engaged, he or she shall be considered a non-voting member of the Board of Directors, and shall also meet as required with the Executive Committee, while being in the employ of the corporation.

3. Specific functions of the Executive Director shall be clearly stated in a written description of the position between the Association and the Executive Director, which shall be expressly approved by the members of the Executive Committee. Supervision and evaluation of the performance of the Executive Director as well as renegotiation of the duties and compensation arrangements shall rest with the Board of Directors.

4. The Board of Directors may engage other staff members as it may deem appropriate. When an Assistant Director (or whatever title is chosen for the staff member(s) at any given time) is engaged, he or she shall be considered a non-voting member of the Board of Directors, and shall also meet as required with the Executive Committee, while being in the employ of the corporation. Specific functions of the Assistant Director shall be clearly stated in a written description of the position between the Association, the Executive Director, and the Assistant Director. Supervision of the Assistant Director shall rest with the Executive Director, with duties and compensation arrangements resting with both the Executive Director and the Board.

### **Article VIII. - Membership Year and Dues**

#### **Section 1. – Membership Dues**

Membership dues shall be determined by the Board of Directors.

#### **Section 2. – Membership Year**

The membership year shall be the twelve-month period established by a resolution of the Board of Directors.

### **Article IX. - Fiscal Year**

The fiscal year of this corporation shall be the twelve-month period established by a resolution of the Board of Directors.

### **Article X. - Dissolution**

1. Any proposal for the dissolution of the corporation shall be submitted in writing to the Secretary at least sixty (60) days prior to the Annual Meeting or any special meeting called for this purpose. The Secretary shall in turn notify the members of the proposal for dissolution at least thirty (30) days prior to the meeting at which the matter is to be voted upon.

2. The corporation may be dissolved by a three-fourths (3/4) vote of the members present and eligible to vote.

#### **Article XI. - Parliamentary Authority**

Roberts' Rules of Order Revised shall be the parliamentary authority of this Association, except as otherwise provided in these By-Laws or by the Board of Directors.

#### **Article XII. - Miscellaneous**

##### **Section 1. - Amendments.**

The Board of Directors may amend the corporation's Articles of Incorporation and these By-Laws to omit or include any provision which could be lawfully omitted or included at the time of such amendment. Any number of amendments, or an entire revision of the Articles of Incorporation or By-Laws, may be voted upon at the Annual Meeting and shall be adopted at such meeting upon receiving an affirmative vote of two-thirds of the members who are present at the meeting and entitled to vote on the proposed amendment or revision.

1. Amendments: Notice. Proposed amendments, additions, or changes to the By-Laws shall be submitted electronically to the voting members at least forty-five (45) days prior to the Annual Meeting or any special meeting called for that purpose. Voting members of the Association will be notified electronically of the proposed amendments, additions, or changes, at least forty-five (45) days prior to the meeting at which the matter is to be voted upon.

2. Amendments: Voting. The By-Laws may be amended or repealed, in whole or in part, by a two thirds (2/3) vote of the members eligible to vote. No response will be taken as approval.

##### **Section 2. - Indemnification.**

This corporation shall indemnify its officers, directors, members, and employees against judgments, penalties, fines, settlements and reasonable expenses, including attorneys' fees, and disbursements incurred by such persons in connection with a proceeding in which they are or are threatened to be made a party by reason of their action on behalf of the corporation. In order to avail himself or herself of this indemnification provision, however, a person must: (1) not already be indemnified by another organization in connection to the same proceeding and the same acts or omissions; (2) have acted in good faith with respect to the acts or omissions complained of; (3) have received no improper personal benefit; (4) in the case of a criminal proceeding, have had no reasonable cause to believe his or her conduct was unlawful; (5) in the case of a civil proceeding, have reasonably believed that he or she was acting in the best interests of the corporation.

The undersigned, as Secretary of Upper Midwest Booksellers Association, a Minnesota nonprofit corporation, hereby certifies that the foregoing Amended and Restated By-Laws of the Corporation were adopted by resolution of the Board of Directors at a meeting held on September 8, 1990 and by a resolution of the Members of the Corporation on September 8, 1990.

**By-laws revised and amended** September 22, 2011.