



## **BY-LAWS**

### **OF**

## **THE FOODSERVICE PACKAGING INSTITUTE, INC.**

As Amended: November 6, 2007

### **ARTICLE I – NAME**

1.1 The name of this Association shall be the Foodservice Packaging Institute, Inc. It shall be a non-profit trade association, organized and incorporated under the laws of the State of New York.

1.2 The offices of the Institute shall be in the Washington, DC area.

### **ARTICLE II – PURPOSES AND ACTIVITIES**

2.1 The purposes of the Institute shall be to promote the business interests and general welfare of the foodservice and packaging products industry.

2.2 In furtherance of the purposes of the Institute, but not in limitation thereof, it may conduct activities such as:

- a. To provide a lawful forum for the discussion of matters relating to the business of the industry.
- b. To advocate, promote and represent the interests of the industry, in every lawful way, with governmental agencies and to oppose legislation having the effect of discriminating against members, products or materials of the foodservice and packaging industry.
- c. To gather, compile and disseminate lawful statistical and other information concerning the industry.
- d. To conduct market research and product promotion in various market sectors.
- e. To engage in industry and general programs related to the environmental and ecological problems that bear on the manufacture, use and disposition of single service foodservice and packaging products.

- f. To cooperate with other related associations and societies in matters of common interest.
- g. To engage in such other lawful trade association activities as will promote the industry and be consistent with the public interest.

### **ARTICLE III – DEFINITION**

3.1 The term “foodservice and packaging products” includes: nestable cups, plates, dishes, platters, trays and bowls for service of food and/or beverages; nestable containers used primarily for packaging or carry-out of products; place mats, doilies and tray covers; trays used in packaging meats, produce, and other food products; egg packaging; ovenable containers; and other related products, as defined from time to time by the Board of Directors.

3.2 A “foodservice and packaging” product is defined as an item that is intended to be used only once and is then available for recycling or other disposition.

### **ARTICLE IV – MEMBERSHIP**

4.1 Membership Categories: There shall be three categories of Membership designated as Regular, Associate and Affiliate.

- a. Regular Membership: Any person, firm or corporation which is engaged in the manufacture and sale of foodservice and packaging products as defined in Article III shall be eligible for Regular Membership. On written application, an eligible candidate may be elected to Regular Membership by a majority vote of the Board of Directors.
- b. Associate Membership: Any person, firm or corporation which is a supplier to manufacturers of single service products shall be eligible for Associate Membership. The term “supplier” shall be defined from time to time by the Board of Directors. On written application, an eligible candidate may be elected to Associate Membership by a majority vote of the Board of Directors. Associate members shall not hold office except as authorized herein. Associate members may attend the meetings of the Institute and such Committee, Group and Division meetings as deemed appropriate by the Chairman of such divisions.
- c. Affiliate Membership: Other firms, corporations or individuals engaged in businesses which are deemed, from time to time by the Board of Directors to be significantly related to the businesses of the regular members, may be elected to Affiliate Membership. Affiliate members shall not vote nor hold office except as authorized herein. They may participate in the affairs of the Institute to the extent determined by the Board of Directors.

4.2 Representation: Each member shall notify the Secretary of the Institute, in writing, of the name of the individual who shall represent such member at meetings and in its relations in the Institute. Each representative is to serve on the Board of Directors.

4.3 Groups and Divisions: The membership of the Institute may be organized into groups and divisions as determined from time to time by the Board of Directors. Each group and division may hold separate meetings, may establish committees and may pursue such courses of action as it may deem desirable, provided that such action is not determined by the Board of Directors to be in conflict with these By-Laws or prejudicial to the interests of the Institute.

4.4 Suspension for Non-Payment of Dues or Assessments: Any member failing to pay dues or assessments within a period of ninety days after such dues or assessments shall have become due or payable, shall be suspended from all rights and privileges of membership, and if such arrearages are not paid within ninety days after such suspension, shall, unless an arrangement for payment of such arrearages be approved by the Board of Directors, be deprived of membership. The Board of Directors shall refuse to recognize any further application from such member unless and until all such arrearages are paid in full.

4.5 Suspension for Other Reasons: Any member failing to abide by the terms of the Certificate of Incorporation, these By-Laws, and any amendments thereto, may, after reasonable notice and opportunity to be heard, at the discretion of the Board of Directors, be suspended from all rights and privileges of membership. If such suspension shall continue for a period of one hundred twenty (120) days and during that time the member shall not satisfy the Board of its willingness to abide by the said terms, the member shall be deprived of membership. A member which knowingly persists in business conduct at variance with the laws of the United States, so as to jeopardize the legality of the activities of the Institute, shall be determined to have failed to abide by the Certificate of Incorporation and By-Laws of the Institute.

4.6 Resignation and Discontinuance of Business: A member may resign, subject to the obligations of Article 4.7, by giving written notice to and received by the President of the Institute on or before the date of the annual meeting of any year. The discontinuance of a member from such business as qualifies it for membership shall be promptly communicated to the President and shall automatically operate as a resignation.

4.7 Dues Payments Upon Suspension, Termination, Resignation, or Discontinuance: A member whose membership is suspended or terminated or which resigns or discontinues qualifying business shall remain liable for the payment of all dues and financial obligations to the Institute which have accrued and will accrue through the end of the fiscal year in which suspension, termination, resignation, or discontinuance becomes effective.

4.8 Release of Interest: Termination of membership in the Institute in any manner whatsoever, shall operate as a release of all right, title or interest on the part of such member in or to the Institute, its property and assets and the right to vote shall cease.

4.9 Obligation of Members: Membership in the Institute shall constitute an agreement among the members: to abide by the terms of Certificate of Incorporation, and these By-Laws; to participate in

applicable, lawful Institute activities, and to pay promptly such dues as may be levied under Article V herein.

## **ARTICLE V – FINANCES**

5.1 **Budget:** The annual budget, setting forth an estimate of expenses for the succeeding fiscal year and providing for such reserves as may seem desirable, shall be prepared by the Executive Committee, and submitted to the Board of Directors at the annual meeting. It shall become effective if approved by a three-fourths majority vote of those directors present and constituting a quorum.

5.2 **Dues:** The annual membership dues, to meet the expenses of the budget, shall be established on an equitable basis by the Board of Directors. The Board of Directors shall establish the annual dues for Associate and Affiliate members. The Board of Directors may prescribe minimum and maximum annual dues irrespective of any rate or basis otherwise established.

5.3 **Fiscal Year:** The Institute's fiscal year shall be the twelve months from January 1 to December 31, inclusive.

5.4 **Dues Payments Upon Acquisition or Merger of Member Companies:** In the event that two Institute member companies merge, or one member company acquires another, Institute dues will be assessed using the following formula:

- In the first year following the merger or acquisition, the highest dues-paying member company will be assessed its full dues, plus 50% of the dues amount which would be otherwise payable by the lower dues-paying member company;
- In the second year following the merger or acquisition, the highest dues-paying member company will be assessed its full dues, plus 25% of the dues amount which would be otherwise payable by the lower-dues paying member company; and
- In the third year following the merger or acquisition, the highest dues-paying member company will pay dues at the company's normal rate, based upon its foodservice packaging sales in the United States and Canada.

## **ARTICLE VI – MANAGEMENT**

6.1 **Board of Directors:** The management of the affairs, funds and property of the Institute shall be vested in the Board of Directors which shall consist of one representative designated by each Regular and Associate member of the Institute.

6.2 **Meetings:** The Board of Directors shall meet at least twice a year at a time and place designated by the Chairman to approve the budget, establish dues, elect officers and conduct other necessary business. Regular and special meetings of the Board shall be held at the call of the Chairman or upon the request of any five members thereof. Ten days notice of the time and place of all such

meetings shall be given to all Board members by mail. The Secretary shall issue the call of all such meetings. Except as otherwise specifically provided herein, a majority of the Directors shall constitute a quorum for the transaction of all business. A majority vote of the Board, a quorum being present, shall be required to carry any resolution except as otherwise provided herein. At any meeting of the Board at which a quorum is not present, the members present by a majority vote may adjourn the meeting to such time and place as they may designate.

## **ARTICLE VII – OFFICERS**

7.1 Officers: The elected officers of the Institute shall be a Chairman, a first Vice Chairman and a second Vice Chairman. The appointed officers shall be a President, a Secretary and a Treasurer. More than one office may be held by a single individual. The elected officers shall not receive compensation for their services. The appointed officers shall receive such compensation as shall be determined by the Board of Directors. The Board shall have the power, from time to time, to create other offices and appoint officers thereto; to prescribe the powers and duties of such officers and fix their compensation, if any.

7.2 Term of Officers: The Chairman, the first Vice Chairman and the second Vice Chairman shall be elected annually by the Directors from among the Regular members of the Board. They shall serve until the next Annual Meeting of the Board or until their successors are elected. The President and other appointed officers shall be appointed by and serve at the pleasure of the Board.

7.3 The Chairman: The Chairman shall be the chief executive officer of the Institute. He shall preside at all meetings of the Institute, of the Board of Directors, and the Executive Committee and shall appoint and, ex officio, be a member of all other committees, except as otherwise provided in the By-Laws.

7.4 The Vice Chairman: The first Vice Chairman and in his absence or disability, the second Vice Chairman, shall perform the duties of the Chairman in the event of the Chairman's absence or disability.

7.5 President: Subject to the authority of the Board of Directors or the Executive Committee and the Chairman, the President shall be the chief operating and administrative officer of the Institute, in general charge of its headquarters, its operating staff and of its activities. He shall be a person who is qualified to serve as a trade association manager and may attend, ex officio, without voting power, meetings of all committees, the membership, and the Board. He shall have authority to select and employ such assistants and clerical staff as he requires within the limits of the budgets approved. He shall have custody of all corporate and other records, statistics, and documents of the Institute.

7.6 Secretary and Treasurer: The Secretary shall perform such duties as may be required by the Board of Directors and the President. He shall be responsible for the minutes of the meetings of the Institute. The Treasurer shall cause to be received and kept on deposit the funds of the Institute, in such bank or banks as may be designated by the Board of Directors, and shall cause to be paid therewith obligations of the Institute as authorized from time to time by the Board of Directors. The Treasurer shall cause to be prepared and submitted at each Annual Meeting, and at such other times as the Board

may require, a report showing aggregate receipts and itemized disbursements of all funds of the Institute. There shall be an annual audit of the accounts of the Institute.

7.7 Bonding: The Officers, and any other person entrusted with the handling of the funds or property of the Institute, shall, at the direction of the Board of Directors, furnish, at the expense of the Institute, a fidelity bond approved by the Board, in such sum as the Board shall prescribe.

7.8 Vacancies: Vacancies in any office may be filled for the balance of the term thereof by the Directors.

## **ARTICLE VIII – COMMITTEES**

8.1 Executive Committee: The Executive Committee shall be a standing Committee consisting of the Chairman, the first Vice Chairman, and second Vice Chairman, the two immediate past Chairmen and representatives at-large from two converter companies, one from a chemical or resin supplier, one from a paper supplier, one from a machinery supplier and one from a converter who is headquartered outside of the United States. The Executive Committee shall be subject to the Board but shall have and exercise all the powers of the Board during intervals between meetings of the Board.

8.2 Nominating Committee: Not less than 30 nor more than 60 days before the annual meeting of the Board, the Chairman shall appoint a Nominating Committee of 3 persons. The Nominating Committee shall report to the annual meeting of the Board each year a slate of candidates for Chairman and for the first and second Vice Chairmen.

8.3 Other Committees: The Chairman shall appoint such other committees as may be deemed desirable. The purpose of each such committee shall be fully set forth at the time of its appointment. The Secretary shall record and file the date, place of and attendance at each meeting of any such committee and all minutes of its proceedings. The members appointed to any such committee shall continue as members thereof until the annual meeting of the Board next ensuing after such appointment.

8.4 Vacancies: Vacancies in any committee may be filled for the unexpired term by the Chairman.

## **ARTICLE IX – MEETINGS**

9.1 Annual Meeting: The annual meeting of the Institute shall be held at such time and place, during the last quarter of each year, as shall be determined, in advance, by the Chairman. The members shall be given not less than thirty days written notice of such meeting. The regular business of the annual meeting shall include receiving the reports of officers and committees.

9.2 Special Meetings: Special meetings of the Institute shall be called at the discretion of the Chairman or upon written request to the President by five or more members of the Board of Directors. Ten days notice of all special meetings shall be given.

9.3 Quorum and Voting: At any meeting of the Institute, Group, Division or Committee thereof, a quorum shall consist of a majority of the membership entitled to vote thereat, except as otherwise

provided in these By-Laws. Action at any meeting shall be by affirmative vote of a majority of the members present and entitled to vote, in person or by proxy except as otherwise provided for in these initial By-Laws. Each regular and associate member shall be entitled to one vote and shall have the right to delegate such power by proxy in writing. A proxy may be revoked by a member any time prior to its exercise.

9.4 Mail/E-Mail Vote: Whenever, in the judgment of the Chairman, (Group, Division or Committee Chairman on questions concerning their respective Groups, Divisions or Committees) any question shall arise which it is determined should be put to a vote of the membership, the Board of Directors or any Group, Division or Committee and it is deemed inexpedient to call a meeting for such purpose, the question shall be submitted by mail or e-mail. The question shall be decided by a majority of the voters (from those entitled to vote on the question) except where another number is required by law or these By-Laws, received within two weeks after the date of mailing/e-mailing such question, provided that at least two-thirds of the members entitled to vote on the question have voted.

9.5 Parliamentary Rules: Robert's Rules of Order, as revised, shall be the governing parliamentary law of the Institute in all cases not provided for in its By-Laws, or its own rules.

9.6 Minutes: Written minutes will be kept of all meetings of the membership, the Board of Directors, Groups, Divisions and Committees of the Institute.

## **ARTICLE X – RECORDS**

10.1 Confidential Data: Whenever it shall become necessary for the Institute to obtain from members, statistics or confidential information, such data shall be kept in the custody of the President and Secretary. It shall be the duty of the President, Secretary and the Institute's staff not to disclose this information to anyone except in composite or coded form which safeguards the identity of individual companies or under the compulsion of legal process.

## **ARTICLE XI – MISCELLANEOUS**

11.1 Seal: The Seal of the Institute shall be of such design as approved by the Board of Directors.

11.2 Indemnification: Any person who shall be or has been involved in or who shall be or who has been made party to any claim, action, suit or proceeding by reason of the fact that he, his testator or his intestate is or was a director, officer, or employee of the Institute shall be indemnified by the Institute against all costs and expenses, including attorney's fees, reasonably incurred by or imposed upon him in connection with or arising out of such claim, action, suit or proceeding, or in connection with or arising out of any appeal therein (such expenses to include the cost of reasonable settlements made with a view to curtailment of costs of litigation), except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, director or employee is liable for negligence or misconduct in the performance of his duties. Such right of indemnification shall not be exclusive of any right or rights to which such director, officer or employee may be entitled as a matter of law or otherwise.

Any amount which may be paid by way of indemnity in accordance with the provision of the proceeding paragraph shall be promptly announced by the members, such announcement to specify the person or persons paid, the amount or amounts of the payment or payments and the final disposition of the claim, action, suit or proceedings.

11.3 General Counsel: The Board of Directors shall retain a General Counsel. It shall be the duty of the General Counsel to review the activities of the Institute from time to time and to make reports to the Board of Directors, the Executive Committee and the President relating to the legal status of such activities. General Counsel shall receive advance notice of all meetings of the Institute, the Board of Directors, Groups, Divisions and Committees and may, at his discretion, attend any such meetings. Recommendations of General Counsel concerning modification of the program of the Institute shall be received by the Board of Directors for appropriate action of record. Minutes of all meetings shall be reviewed by Counsel prior to publication.

## **ARTICLE XII – AMENDMENTS**

12.1 Amendments: These By-Laws may be amended or replaced in whole or in part by a two-thirds vote of the entire Board of Directors at any duly noticed meeting of the Board. At least ten days written notice shall be given of the substance of such proposed amendment or repeal. Amendments may also be effected by mail or e-mail vote in accordance with Article 9.4 subject to the requirement of a two-thirds vote stated in the first sentence of Article 12.1.

12.2 Proposer: A proposal to amend or repeal the By-Laws may be made at any time by any member in good standing.

## **ARTICLE XIII – DISSOLUTION**

13.1 Dissolution: The Institute shall continue until such time as it shall be dissolved by a three-fourths (3/4) vote of its regular members in good standing, provided that they represent at least seventy-five percent (75%) or more of the regular members' dues paid during the previous twelve month's period at a meeting called, upon thirty days written notice, for that purpose. In the event of dissolution, all unrestricted funds on hand after payment of all of the indebtedness of the Institute shall be divided among the members then in good standing on the following basis:

- 1.) Dues collected from such members, during the preceding and consecutive ten (10) years shall be totaled for all such members combined. The ratio of the individual member's payments to the total payments of all such members shall determine the individual member's share of the assets to be divided.
- 2.) If a member has withdrawn from the Institute during the ten year period and subsequently again become a member, its distributive share shall be based only on the total of its contribution since it last became a dues-paying member in good standing.

- 3.) Any unpaid dues or indebtedness of a member to the Institute shall be deducted from the member's distributive share.

13.2 Dissolution may not be effected by a mail or e-mail vote.