

By-Laws of The American Gem Trade Association

Article I: Name and Location

Section 1 Name and location

The name of this organization shall be The American Gem Trade Association, Inc. a not-for-profit corporation incorporated in the state of New York.

Section 2 Offices

The registered office of AGTA shall be located in the state of New York and AGTA shall maintain an office or offices in such other localities as may be determined by the Board of Directors. Likewise, Laboratory facilities and other services may be located in various states depending on situations and circumstances that may foster different locations as determined by the Board.

Article II: Objectives

Section 1 Objectives

The objectives of AGTA shall be set forth in both the Articles of Incorporation and its Constitution.

Section 2 Amendments

Amendments to these By-Laws can be made by the Board of Directors achieving an absolute 2/3 vote of three-fourths of the entire voting Board, in a meeting called with an agenda posted at least ten days in advance, except for those bylaws that require a more rigorous vote. In all amendment changes, the President of the Board has a vote in the 3/4 present to vote.

Article III: Membership

Section 1 General Membership Provisions

The Board of Directors shall determine the types and classes of membership which may span across the broad array of businesses, professions, scientific communities, educational institutions and entrepreneurs who are engaged in or supportive of the advancement of the gemstone industry. Policies governing eligibility and participation of members shall be determined by the Board of Directors. The Board of Directors may also classify members based upon such reasonable and uniform criteria as it may decide from time to time.

Section 2 Classifications of Membership

There shall be six classifications of membership. This does not preclude the establishment of other groups or subgroups in order to serve a specific purpose. The qualifications for membership for each classification shall be:

A. CHARTER MEMBER – A Firm whose membership was accepted at the organizational meetings held in Tucson, Arizona, during February 1981. Charter members shall have all rights and privileges of Firm Members.

B. FIRM MEMBER – A Firm who has been employed in the natural colored gemstone and/or cultured pearl industry in the United States or Canada for at least five (5) years and, for at least two (2) years immediately preceding application for membership, has maintained a permanent office of their own in the United States or Canada for purposes of conducting commerce, at least fifty (50) percent of which shall have been in unmounted natural colored gemstones and/or cultured pearls at the wholesale level.

As used herein, the term “natural gemstone” connotes natural origin and is defined as follows:

“Natural” means material found in or on the earth formed completely by nature, without human intervention, except cutting, carving, and/or polishing. If it has been enhanced in any other manner by human action including but not limited to color and/or clarity enhancement, such treatment shall not affect its classification of natural origin; provided, however, that such treatment must be fully and properly disclosed.

“Gemstone” means a naturally occurring mineral possessing the qualities of beauty, rarity, durability, and the chemical composition and physical properties of a specific mineral species.

The term “gem” may be applied to gemstones and non-minerals; amber, coral, jet, natural pearl, cultured pearl and naturally occurring glass.

C. RETAIL MEMBER – A Firm primarily engaged in retailing mounted or unmounted natural colored gemstones, natural pearls and/or cultured pearls in the United States or Canada for at least two (2) years immediately preceding application for membership.

D. MEMBER-AT-LARGE – Any person or Firm primarily engaged in the natural colored gemstone, natural pearl and/or cultured pearl industry-related business in the United States or Canada for at least two (2) years immediately preceding application for membership.

E. HONORARY MEMBER – Any person, selected by the Board of Directors who has made a meaningful contribution to the growth and/or improvement of the natural colored gemstone industry. No more than two (2) Honorary Members shall be selected in any given calendar year.

F. STUDENT MEMBER – Any person involved in a formal study in an accredited institution of gemology including natural colored gemstones and natural and cultured pearls.

Section 3 Membership Approval

Any applicant who maintains the characteristics noted above, and any additional qualifications prescribed by the Board, who wishes to seek membership in AGTA must complete the official application form and submit it with accompanying payment for 12 months of dues. The Board of Directors shall review periodically the classification system and the qualifications accordingly and that matrix shall be objectively applied by the staff of AGTA to consider any new members. New members shall be announced to the Board and to the membership in general on a timely basis.

Section 4 Discrimination

Membership shall not be denied on the grounds of race, creed, sex, color or religious belief.

Section 5 Voting Privileges

Except for votes at the Committee level, only Firm and Charter members shall have full voting privileges. No voting member shall cast more than one vote on any given issue.

Section 6

Dues

The Board of Directors shall approve a budget that corresponds to the AGTA Overall Goals and Objectives. As such the Board of Directors shall consider the schedule of dues appropriate to support the level of service commitment desired and needed by the members and within the industry.

Dues shall be invoiced for a period of one year. Those members joining prior to December 1, 2006 shall be billed on an anniversary date of January 1. Invoices shall be sent at least 45 days prior to the due date. In order to remain an "active", member dues must be fully paid by January 15th. After June 1, 2007 new members joining AGTA shall be invoiced annually on their anniversary date under the same provisions of pre-notice invoicing and absolute due date. Beyond that date membership privileges shall be terminated until the account is satisfied.

Section 7

Termination of Membership

RESIGNATION - Any member may resign from the Association by giving thirty (30) days notice of intention to do so. A member shall be considered as having resigned in good standing if all financial obligations to the Association have been paid and there are no pending ethical complaints against the member which have not been resolved in the member's favor. Dues are not refundable.

EXPULSION - The Board of Directors by a 2/3 majority vote of three-quarters of the seated board may, upon the recommendation of a committee or on its own initiative, terminate the membership of any member it deems to be detrimental to the best interest of the Association. Notice of such termination shall be given in writing by certified U.S. mail at least thirty (30) days prior to the effective date with a statement that the action is taken for cause and specifying the cause and effective date of termination.

The termination shall become effective on the date specified unless the potentially expelled member requests a hearing prior to the effective date of expulsion. Such request must be made in writing by certified U.S. mail addressed to the Chief Executive Officer and received on or prior to the effective date of expulsion.

Upon receipt of such request, the President of the Board shall schedule a hearing at the next regularly scheduled Board of Directors meeting and advise the member of the date, time and place of the hearing. Failure of the expelled member to appear at the scheduled hearing shall be considered sufficient grounds to uphold the expulsion.

A member who requests a hearing shall continue to be entitled to exercise membership privileges until the matter is resolved by the Board of Directors. A member who has been expelled shall not be relieved of any existing financial liability to the Association.

Section 8
Membership Assess Ability and Transferability

Membership in the Association shall be non-assessable and non-transferable.

Section 9
Original Rights / Privileges

No amendment to these By-Laws which changes criteria definitions or classes of membership shall affect the membership rights of one who is a member in good standing at the time any such amendment is adopted. A member shall continue to enjoy the privileges of the class of membership to which he/she joined the association, if that is their preference, as long as such member continues to meet the criteria and definitions of that class of membership which are in effect at the time he/she joined the association.

Article IV: Board of Directors

Section 1
Members/Officers

The Board of Directors of the Association shall consist of ten Directors and five Officers, all of whom shall be Firm or Charter members of the Association.

The President may appoint up to three non-Firm or non-Charter members to the Board for one year terms, and he/she may re-appoint these members at his/her discretion.

In addition, the Chief Executive Officer and the Immediate Past President shall serve as non-voting members of the Board of Directors. The President may appoint individuals to serve in three Member positions on the Board for a period of one year with eligibility for re-appointment for additional terms.

The Board of Directors shall be elected by the voting membership from a list of nominees as provided in these By-Laws. Three directors shall be elected each year and shall serve a term of three years with the ability to serve up to three

consecutive terms, or until their successors are duly elected and qualified. It shall be the duty of the Board of Directors to elect the Officers.

The Officers of the Board shall serve for a term of two years with the ability to serve three consecutive terms. Upon a vacancy of an Officer, the Board of Directors will vote to fill the post. Each Officer is eligible to seek re-election to the same office for three consecutive terms.

The Officers of the Association shall be the President, First Vice-President, Second Vice-President, Secretary and Treasurer.

All Officers and Directors shall serve without compensation except for expense reimbursement for officially specified meetings.

Only Charter and Firm members shall be eligible to serve as Officers. (These new terms of office shall apply to any officer elected after February 2009.)

Section 2 Duties of Officers

A. **PRESIDENT OF THE BOARD** - The President shall preside at all meetings of the members of the Association. The President shall call meetings of the Board of Directors and, of the Members, and shall serve as an ex-officio member of all committees of the Association. In the event of a vacancy as to Officers or Board members of the Association, the President may appoint a replacement to complete the term vacated. The President only has voting privileges in case of a board tie vote, changes or amendments to the By-Laws and issues with regards to censure/removal of members of the Board of Directors.

B. **FIRST VICE-PRESIDENT** - The First Vice-President shall serve as Vice-President of the Board of Directors. The First Vice-President shall, in the event of the absence, disability or death of the President, act in his or her stead.

C. **SECOND VICE-PRESIDENT** - The Second Vice-President shall assume the duties of the President when both the President and the First Vice-President are absent, disabled, or deceased. The Second Vice-President should be willing and able to serve special assignments requiring association leadership skills and knowledge as directed by the President or Board of Directors.

D. TREASURER - The Treasurer shall supervise and oversee the financial affairs of the Association and shall cause the same to be summarized and presented to the Board of the Association and to the membership at least once a year. The Treasurer shall at all reasonable times ensure the Association's financial information is available to the Officers and Directors of the Association.

E. SECRETARY – The secretary shall serve as the Secretary of the Board and as such should approve the Minutes prepared by the AGTA Staff prior to their dissemination to the full Board for their information and consideration.

Section 3 Meetings

Regular meetings of the Board of Directors shall be held at least bi-annually. Special meetings may be called any time by the President or any three Directors. Notice of any meeting shall be sent to all Directors by the CEO/Executive Director at least ten days prior to the date set for the meeting. The President or any two Officers may declare an emergency meeting if reasonable circumstances exist to warrant immediate attention to a particular issue(s). Such notification in either case requires notice of the agenda and location.

Section 4 Quorum

At all meetings of the Board of Directors, a majority of voting Directors shall constitute a quorum, and the affirmative vote of a 2/3 majority of those seated and present shall be necessary to take action except as specified otherwise in the Constitution or By-Laws.

Section 5 Removal and Censure of Officers

Removal

Officers and/or members of the Board of Directors may be removed for cause by a three-fourths vote of the entire Board of Directors duly qualified and seated. Cause, as used herein, shall mean a substantial breach of the duties and/or responsibilities defined by the Code of Ethics of the Officers and Directors. Alternatively, any Officer or Director may be removed by a U.S. mail vote by a majority vote of Firm and Charter members who are members in good standing on the day of the submission of the vote. In either case, the Director or Officer in

question shall be given an opportunity in person or in writing to explain and defend any accusations that have called into question his/her fitness to serve in that respective office prior to a decision by the Board of Directors or a vote of the membership. In order for the removal to be finalized the original vote to be removed from Office must be ratified by a second vote taken not less than 10 calendar days, but not more than 30 calendar days after the first vote. An official communiqué shall be authored by the President of the Board to the member who has been removed.

Censure

Any Director may submit a motion to the Board of Directors to consider the censure of any board member. Censure may include a statement of no confidence or it may reflect an adjudicatory action as a result of action or inaction. To censure, a Director must first submit to the Board and the affected member a written and signed complain 10 days before the motion to censure is brought before the Board. A quorum must exist and the presiding officer must announce, immediately after a motion is made, the number of votes necessary for the motion to carry. The motion to censure must be voted on at the meeting at which it is offered and requires a 2/3 majority with $\frac{3}{4}$ of the Board of Directors seated and present for adoption.

The censure may be written and made public or designated as private and confidential. The member censured may be removed from his/her leadership position or penalized, administratively, except that no penalty shall violate anti-trust or other discriminatory laws of the United States Federal Government or applicable local governments.

The Board of Directors may censure members of the Association for grievous actions upon a recommendation from the Ethics and Grievance Committee and a majority vote by $\frac{3}{4}$ of the Board of Directors seated and present. The Board has equally wide latitude in the employment of penalties related to the seriousness and/or damages caused by the member.

Article V: Administration

Section 1 Chief Executive Officer

The Board of Directors shall employ, through a contract, a Chief Executive Officer who is responsible for the overall administration of programs, services, research, financial matters and the administration of governance for the Association with the exception of activities, management, financial and liability issues with respect to the AGTA Gemological Testing Center. Specific details of

responsibilities shall be outlined in the referenced contract. The Chief Executive Officer shall be duly qualified to represent the Association and demonstrate both to the members and the industry leadership, business acumen, knowledge and professionalism.

**Section 2
Staff**

The Chief Executive Officer shall be responsible for employing a professional staff, competent in their respective fields and capable of representing the interest and brand of AGTA except for the professional and technical gemological staff of the AGTA Gemological Testing Center.

**Section 3
AGTA Gemological Testing Center Staff**

The AGTA Gemological Testing Center professional and technical staff reports to the AGTA GTC Director. The AGTA GTC Director reports to the Chief Financial Officer for budgetary concerns, the AGTA GTC Board of Governors for language and science and the Chief Executive Officer for general counseling and advice. For Marketing Activities the AGTA GTC works in conjunction with the AGTA Marketing Administrator.

Article VI: Standing Committees

**Section 1
Standing Committees/Appointments**

There shall be appointments of members to various Standing Committees, ad hoc committees and other special study groups as needed. Each committee shall have a Chairman who sits on the Board, appointed by the President of the Board, with at least two additional members also appointed by the President of the Board. Committee members may be members of the Association, as well as members of the Board of Directors. Committee members may be removed by the President of the Board, at will.

Committees may act in the institution of guidelines or recommendations to the Board of Directors or staff in the performance of their respective duties. The President of the Board shall delineate whether a decision or recommendation is expected on the various issues that are to be considered and deliberated by the Committees or groups.

The Executive Committee is comprised of the five officers of the Board with the President of the Board as Chair. The Executive Committee shall be empowered to act on behalf of the Board of Directors in any emergency situation declared by the President or any two Directors. The Board of Directors shall be notified as soon as practical regarding any actions taken on behalf of the Association by the Executive Committee. The limitations of actions by the Executive Committee are constrained only by action of the Board of Directors who may retain authority in a specific area(s).

The Executive Committee is authorized to conduct meetings in person or by electronic means so long as a quorum is present.

In preparation for the Board of Directors meetings, the Executive Committee shall review and approve the agenda proposed by staff or other Directors.

The Executive Committee shall at least annually perform a comprehensive review of the AGTA Chief Executive Officer and the President of the AGTA Foundation. Recommendations may be accepted from the Foundation's Board of Trustees as to the accomplishments and areas for improvement.

The Executive Committee shall assume the duties of AGTA legal affairs, i.e., charged with overseeing any legal issues arising from the organization including but not limited to contract negotiations, legal personnel issues, and legal proceedings or legal action taken by or against AGTA or AGTA-GTC.

In the event of a vacancy of AGTA's Chief Executive Officer, the Executive Committee shall serve as the recommending body to the Board of Directors for hiring a successor.

In the event of a vacancy of the Foundation President position, the Executive Committee shall serve as the recommending body to the Board of Directors for appointing a successor.

Section 2 ***Standing Committees***

The Standing Committees of the Association are as follows:

- Executive
- Constitution and By-Laws
- Ethics, Grievance and Arbitration
- Budget and Finance
- Laboratory and Industry Rules
- Membership and Security
- Nominations
- Promotions: Marketing and Education
- Promotions: Spectrum Awards

- Trade Shows

Non-Voting Members include:

- President of the Board
- Immediate Past-President of the Board
- Chief Executive Officer

Section 3 Meetings

All Standing Committees shall hold meetings at such times as may be necessary to address the responsibilities and tasks assigned to them. Committees shall meet upon call of the Committee Chairman or of the President of the Board.

Section 4 Nominating Committee/Election Process of the Board of Directors

The Nominating Committee shall consist of a Chairman who is the immediate past-president of the Board of Directors and at least three (3) Firm or Charter members, who shall be selected by the Chair. Other members may be added by as desired for geographical, categorical or other demographic balance.

- 1) **Nominations Committee present the proposed slate at the June Board meeting;**
- 2) **Nominees will be announced in June**
- 3) **Additional nominees accepted if duly qualified (Nomination Committee or Petition)**
- 4) **Ballots will be sent out in August and votes tabulated in early September;**
- 5) **In September the new Directors will be announced;**
- 6) **New Directors will assume their positions in February.**

By a three-fourths vote of the Board members seated and present, any name(s) submitted by the Committee may be vetoed. By a three-fourths vote of the Board members seated and present, the Board may require the Committee to submit an additional nominee in those cases where only one name was submitted.

In either such case, the Committee shall submit new and/or additional names forthwith, but not later than the first day of July so as to allow the Chief Executive Officer to prepare the mail ballot which said ballot shall be mailed to the membership no later than the 10th day of August each year.

In addition to the persons nominated in accordance with the foregoing procedure, the mail ballot shall also include the name of any person nominated by written petition signed by at least ten (10) percent of the total voting membership presented to the Chief Executive Officer not later than the first day of August.

Member signatures shall be invalid if they appear on more than one petition per officer or director position.

Mail ballots shall be returned to the AGTA office so as to be received not later than the 10th day of September. Ballots received later than said deadline shall not be counted. Ballots shall be opened and immediately tabulated by the Chief Executive Officer and at least two (2) members. The results of the vote shall be communicated by the Chief Executive Officer.

Article VII: Meetings of Members

Section 1 Annual Meetings of Members

There shall be a meeting of all members of the Association annually. During this meeting the Chief Executive Officer shall provide information relative to the status of programs and services and any other pertinent information for which the members may demonstrate a particular interest. The Treasurer shall give a status report on the financial affairs of the Association providing an overview of the budget, fiscal stability, trends and other helpful information.

Section 2 Special Meetings of Members

Special meetings of all members of the Association may be called at any time by the President of the Board, a majority of the Board of Directors, or by not less than one-third of all Firm and Charter Members of the Association. Special meetings shall be presided over by the President of the Board or his/her designee.

Section 3 Notice of Meeting of Members

Notice of any meeting of the members shall be given by email and/or U.S. mail to each individual member of the Association at the address shown for such member in the records of the Association, at least twenty days prior to the date of such meeting. Publication of such notice in the official publication of the

Association or any official special publication shall be deemed as sufficient notification.

***Section 4
Quorum***

Attendance of at least five percent of the Firm and Charter members shall constitute a quorum at any meeting of the members. The affirmative vote of a majority of those present and eligible to vote shall be required to take action.

***Section 5
Procedure***

The President of the Board shall preside at all meetings of the members of the Association unless he is absent in which case the First Vice-President will preside.

***Section 6
Proxies***

The AGTA does not recognize proxy voting at any time for any reason.

Article VIII: U.S. Mail Voting and Telephone Meetings

***Section 1
Voting***

Whenever it shall be necessary to conduct a vote on any matter, by the Board of Directors, any AGTA Committee, or the membership of the Association and it is deemed unpractical to call a physical meeting, the vote may be taken by U.S. mail, email, or by telephone and the action taken considered definitive and official.

***Section 2
Mandatory Mail Voting***

Mail voting for the Board of Directors referred to in these By-Laws means any vote cast by U.S. postal mail, electronic format or verbal (conference call).

Mail voting by Firm and Charter members shall be mandatory on all proposals in the following categories:

- Amending the Constitution

- Election of all Members of the Board of Directors
- Removal of any Officers or Directors as may be provided for in these By-Laws

Section 3
Call for Mail Vote

A mail vote shall be conducted within the Board or any Committee at the option of its Chairman or at the requests of a majority of its members. A mail vote to the Firm and Charter members shall be conducted at the direction of the President of the Board, at the request of a majority of the members of the Board of Directors by resolution passed a properly constituted meeting or conference call, by majority vote of the members at any regular or special membership meeting at which a quorum is present, or at the request in writing of one-third of the Firm and Charter members.

Section 4
Procedure

As to U.S. postal mail vote by the Board, any Committee, or Firm or Charter members ballots shall be sent out by and returned to the designated staff member on or before the date specified.

The Chief Executive Officer shall be responsible for compiling and recording the results of the balloting and shall cause a report of the results to be made to the Board or Committee, or in the official publication of the Association in the case of votes by the membership. Each mail ballot shall be signed by the member of record that is voting.

Article IX: Finance

Section 1
Fiscal Year

The fiscal year for AGTA will be prescribed by the Board of Directors.

Section 2
Bonding

The appropriate bonding securities shall be furnished by AGTA for the employees designated by the Board of Directors as official signatories for any financial transactions or fiduciary responsibilities.

Section 3
Budget

The Board of Directors, in advance of the next fiscal year, shall adopt an annual operating budget covering activities and services and identifying the corresponding revenue sources. The Budget shall be accompanied by a Plan of Overall Goals and Objectives which details the allocation of funds and staff resources dedicated to the programs and services offered by AGTA.

Section 4
Audit

The financial accounts and financial management of the funds of AGTA shall be audited not less than annually by a certified public accountant, whom shall be approved by the Board of Directors. The Auditor shall provide to the Board of Directors a report inclusive of a Management Letter not more than 90 days following the completion of each fiscal year or otherwise agreed upon by the Board of Directors.

Article X: Miscellaneous

Section 1
Political Activities

AGTA shall not contribute any of its funds, earnings or property or provide any services for any political candidate, committee, party or organization.

Section 2
Contractual Services

The staff is authorized to enter into various contracts consistent with the applicable budget for the services or products deemed necessary to carry out programs and other activities of the Association. There shall not be any contractual arrangement between the AGTA and any member of the Board of Directors.

Section 3
Indemnification

AGTA shall indemnify and hold harmless, to the extent allowed by law and within AGTA's resources through the purchase of insurance as determined by the Board of Directors, each person who is now or shall hereafter serve as a director, officer, employee or agent of AGTA from and against any and all claims and liabilities; whether the same are settled or proceed to judgment to which such person shall have become subject by reason of his or her having heretofore or hereafter been a director, officer, employee or agent of AGTA.

Section 4
General Counsel

For the purpose of legal representation and counsel the Board of Directors shall appoint licensed attorney(ies) to serve as the Association's General Counsel or Co-Counsel. The scope of work for basic services shall be at the discretion of the Chief Executive Officer. The Counsel will act as primary legal advisor for the Board of Directors but will be engaged in other legal matters of an administrative nature when applicable.