

BYLAWS
OF
COMMUNITY CO+OP MARKET
A COOPERATIVE ORGANIZED UNDER
MINNESOTA STATUTES CHAPTER 308B
ADOPTED DECEMBER 6, 2019

ARTICLE I.
PURPOSE

Community Co+op Market (the "Cooperative") is organized to: (1) operate retail food stores and promote healthy lifestyles through education and by offering a range of products; (2) engage in any activity connected with or related to any such purposes; (3) encourage the cooperative grocery market across the United States generally; and (4) engage in any other lawful purpose for which a cooperative may be organized under Minnesota Cooperative Associations Act, Minnesota Statutes Chapter 308B (the "Act"). The Cooperative is committed to supporting strong local communities, being a good employer and a good steward of our natural environment. To this end, the business and activities of the Cooperative shall be conducted on a cooperative basis, as more particularly provided in the Articles of Organization (the "Articles") and these Bylaws (the "Bylaws").

ARTICLE II.
MEMBERSHIP

Section 2.1. **Classes of Members.** There shall initially be two classes of Members:

a. Patron Members. Patron Members will be those natural persons, cooperatives, corporations or other business entities (each a "Person") who join the Cooperative and purchase the minimum number of Class A Units, as established by the Board of Directors (the "Board"), with the intent of consuming any product sold by the Cooperative or otherwise doing business with the Cooperative in any way.

b. Nonpatron Members. Nonpatron Members will be those Persons who join the Cooperative and purchase the minimum number of Class B Units, as established by the Board and a majority of the existing Nonpatron Members, which do not require the holder to conduct patronage business for or with the Cooperative to receive financial rights or distributions, and have been approved by the existing Nonpatron Members and the Board pursuant to Section 2.4.a. Nonpatron Members may also be, but do not need to be, Patron Members.

Section 2.2. **Membership Interests.**

a. Membership Interests. The Cooperative is organized on a Membership Interest basis. The Cooperative is authorized to issue Patron Membership Interests and Nonpatron Membership Interests. Membership Interests in the Cooperative shall be represented

and quantified by Units. “Unit” means the unit of measurement into which a Membership Interest is divided for purposes of those provisions of these Bylaws that require quantification of the rights, preferences, and obligations represented by a Membership Interest. “Membership Interests” means a Member’s interest in the Cooperative consisting of a Member’s financial rights, a Member’s right to assign financial rights, a Member’s governance rights, and a Member’s right to assign governance rights. “Membership Interests” includes Patron Membership Interests and Nonpatron Membership Interests. “Patron Membership Interests” shall be represented and quantified by Class A Units. “Nonpatron Membership Interests” shall be represented and quantified by Class B Units.

b. Authorized Units. The initial authorized Units of the Cooperative shall consist of: an unlimited number of Class A Units and an unlimited number of Class B Units. Units shall be issued in accordance with these Bylaws. Except as limited by applicable law, the Articles or these Bylaws, the Board has the authority and power to issue each class of authorized Units, to establish and issue one or more series of Units within a class, to set forth the designation of series of Units, and to fix the relative rights, preferences, privileges and limitations of each series of Units as further provided for in or established pursuant to the Articles and these Bylaws. The rights and preferences of each series of Units within a class shall be set forth in an exhibit designating such rights and preferences and shall be attached hereto and made a part of these Bylaws; such exhibit shall have the effect of amending the applicable provisions of these Bylaws and such rights and preferences set forth in such exhibit may thereafter only be amended pursuant to the applicable provisions of these Bylaws or, if specifically provided for, of such exhibit.

(1) Class A Units. Holders of Class A Units shall be restricted to Patron Members. The Class A Units are voting, provided that each Patron Member shall have one vote in the affairs of the Cooperative regardless of the number of Class A Units held. No dividends on capital shall be paid on the Class A Units, provided that the foregoing restriction shall not limit the financial rights of the Patron Members to receive allocations of profit or loss or distributions in accordance with these Bylaws. Class A Units shall be transferable only with the approval of the Board or its designee, and then only to Persons eligible to hold Class A Units. No purported assignment or transfer of any Class A Units to any Person not eligible to hold Class A Units shall pass any rights or privileges on account of such Class A Units. Class A Units may be redeemed or exchanged only at the option of the Board in accordance with the provisions of the Articles and these Bylaws. No Patron Member shall have any right whatsoever to require the redemption or exchange of its Class A Units. The Board shall have the authority to establish a redemption or exchange policy with respect to Class A Units on terms and conditions it deems advisable in its sole discretion. The Board shall have the authority to establish additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of holding Class A Units as it may from time to time deem advisable.

(2) Class B Units. Holders of Class B Units shall be restricted to Nonpatron Members. The Class B Units are voting, provided that each Nonpatron Member shall have one vote in the affairs of the Cooperative regardless of the number of Class B Units held. No dividends on capital shall be paid on the Class B Units, provided that the foregoing restriction shall not limit the financial rights of the Nonpatron Members to receive allocations of profit or loss or distributions in accordance with these Bylaws. Class B Units shall be transferable only with the approval of the Board or its designee, and then only to Persons eligible to hold Class B Units. No purported assignment or transfer of any Class B Units to any Person not eligible to hold such Units shall pass any rights or privileges on account of such Class B Units. Class B Units may be redeemed or exchanged only at the option of the Board in

accordance with the provisions of the Articles and these Bylaws. No Nonpatron Member shall have any right whatsoever to require the redemption or exchange of its Class B Units. The Board shall have the authority to establish a redemption or exchange policy with respect to Class B Units on terms and conditions it deems advisable in its sole discretion. The Board shall have the authority to establish additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of holding Class B Units as it may from time to time deem advisable.

(3) Other Membership Interests. Pursuant to the Articles, the Board by resolution may establish and issue to any Person (whether Patron Member, Nonpatron Member, or other Person) one or more class or series of equity interests, may set forth the designation of classes or series of such equity interests, and may fix the relative rights, preferences, privileges and limitations of each class or series of equity interests, including, without limitation, one or more class or series of Preferred Stock. The Board shall also have the authority and power to establish, authorize the issuance of, and grant rights, warrants, and options entitling the holders to purchase Units from the Cooperative, or bonds, notes, debentures, or other obligations convertible into Units, subject to all qualifications, requirements or conditions of holding such class or series established by or pursuant to these Bylaws. Any such equity interests established by the Board shall be set forth in an exhibit designating such rights and preferences and shall be attached hereto and made a part of these Bylaws; such exhibit shall have the effect of amending the applicable provisions of these Bylaws and such rights and preferences set forth in such exhibit may thereafter only be amended pursuant to the applicable provisions of these Bylaws or, if specifically provided for, of such exhibit

Section 2.3. **Patron Membership.**

a. Eligibility Requirements. Any Person is eligible to become a Patron Member by completing an application in the form prescribed by the Board, paying an application and/or membership fee in the amount(s) prescribed by the Board at the time of the application and meeting other membership criteria or requirements established from time to time by the Board. Patron Membership applications are presumed approved unless specifically disapproved in accordance with criteria developed by the Board.

b. Membership Agreement and Purchase Requirement. A Person meeting eligibility requirements set forth in Section 2.3.a who is approved to become a Patron Member must sign a patron membership agreement in the form prescribed by the Board and purchase the minimum number of Class A Units. The Board shall have complete discretion to establish policies establishing the amounts and terms of payment required for the Class A Units and other requirements for Patron Membership.

c. Voting Rights. The Patron Members shall, collectively, have two-thirds of the total Member voting rights in the affairs of the Cooperative for which both Patron Member and Nonpatron Members are entitled to vote and, for all issues in which Patron Members are entitled to vote, each Patron Member shall have one vote regardless of how many Class A Units are owned by such Patron Member.

d. Termination; Suspension.

(1) Voluntary Termination by Patron Member. A Patron Member may terminate its Patron Membership by providing notice to the Cooperative through either an electronic method provided by the Cooperative for the express purpose of termination or by

certified mail. Patron Membership shall also terminate automatically upon the death or dissolution of a Patron Member. A Patron Member who has not provided its current address for a period of two consecutive years shall be determined to have abandoned its Patron Membership Interest and Class A Units and gifted them to either the Cooperative or a charity of the Cooperative's choosing.

(2) Termination by Board. Patron Membership in the Cooperative may be terminated by the Board in its discretion if the Board determines that a Patron Member has (i) become ineligible for Patron Membership for any reason, (ii) failed to patronize the Cooperative for a period of one year or more, (iii) violated any provision of the Articles, Bylaws or Board approved policies of the Cooperative, (iv) breached any contract with the Cooperative, (v) remained indebted to the Cooperative for 90 days after such indebtedness becomes payable, or (vi) committed any other act that harms the interests of the Cooperative or its Members. Patron Members subject to termination by the Board shall be given at least 30 days' notice and an opportunity to be heard by the Board prior to the effective date of termination.

(3) Effect of Termination. Upon termination, a former Patron Member's Membership Interest on the books of the Cooperative shall cease and there shall be no rights, privileges or benefits in the Cooperative as a Patron Member, except as required by law. The Patron Member shall thereafter have no voting rights in the Cooperative with respect to Class A Units held by such Patron Member. The Cooperative shall purchase the Patron Member's Class A Units at par or book value, whichever is lower, together with any cash or other distribution due or unpaid, less any indebtedness due to the Cooperative. Notwithstanding the foregoing, the Cooperative shall repurchase a terminating Patron Member's Membership Interest only when it has received replacement capital from new or continuing Members or the Board otherwise determines that repurchase of the Membership Interest will not impair the capital or financial condition of the Cooperative. Except for the patron membership agreement, which shall terminate automatically upon termination of Patron Membership, no action taken hereunder shall impair the obligations or liabilities of either party under any contract with the Cooperative, which may be terminated only as provided therein.

(4) Suspension. If a Patron Member has not patronized the Cooperative for a period of one year or more, the Board may adopt policies to suspend the Patron Member's voting rights with respect to Class A Units held by such Patron Member in lieu of termination of Patron Membership until such time as the Patron Member patronizes the Cooperative at minimum levels established by the Board.

e. Transfer; Redemption. Patron Membership is non-transferable and cannot be pledged. No Patron Member shall have any right whatsoever to require the redemption of its Membership. Patron Membership may be redeemed only at the option of the Board in accordance with the provisions of the Articles and these Bylaws. The Board shall have the authority to establish a redemption policy on terms and conditions it deems advisable in its sole discretion; provided, however, that a Patron Membership may never be redeemed for more than the value of the consideration for which the Patron Membership was issued.

f. Distribution of Profits or Losses. Each Patron Member is entitled to patronage refunds in accordance with Article VIII.

Section 2.4. **Nonpatron Membership.**

a. Eligibility Requirements. Any Person is eligible to become a Nonpatron Member if, (a) in the case of issuance of additional Class B Units, both a majority of the directors and two-thirds of the Nonpatron Members vote to approve the sale of the Class B Units, or (b) in the case of the transfer of outstanding Class B Units, the transfer of the Class B Units is permitted by Section 2.2.b(1).

b. Membership Agreement and Purchase Requirement. A Person meeting eligibility requirements set forth in Section 2.4.a who is approved to become a Nonpatron Member shall sign a joinder agreement to these Bylaws in the form prescribed by the Board, subject to approval of a majority of the existing Nonpatron Members, and purchase the minimum number of Class B Units. The Board, subject to approval of a majority of the Nonpatron Members, shall have discretion to establish policies establishing the amounts and terms of payment required for the Class B Units and other requirements for Nonpatron Membership.

c. Voting Rights. The Nonpatron Members shall, collectively, have one-third of the total Member voting rights in the affairs of the Cooperative for which both Patron Member and Nonpatron Members are entitled to vote and, for all issues in which Nonpatron Members are entitled to vote, each Nonpatron Member shall have one vote regardless of how many Class B Units are owned by such Nonpatron Member.

d. Termination.

(1) Voluntary Termination by Nonpatron Member. A Nonpatron Member may terminate its Nonpatron Membership by providing notice to the Cooperative through either an electronic method provided by the Cooperative for the express purpose of termination or by certified mail. Nonpatron Membership shall also terminate automatically upon the death or dissolution of a Nonpatron Member.

(2) Termination by Board. Nonpatron Membership in the Cooperative may be terminated by the Board in its discretion if the Board determines that a Nonpatron Member has (i) become ineligible for Patron Membership for any reason, (ii) materially breached any provision of the Articles or Bylaws, or (iii) committed any other act of gross negligence that materially harms the interests of the Cooperative or its Members. Nonpatron Members subject to termination by the Board shall be given at least 30 days' notice and an opportunity to be heard by the Board prior to the effective date of termination.

(3) Effect of Termination. Upon termination, a former Nonpatron Member's Membership Interest on the books of the Cooperative shall cease and there shall be no rights, privileges or benefits in the Cooperative as a Nonpatron Member, except as required by law. The Nonpatron Member shall thereafter have no voting rights in the Cooperative with respect to Class B Units held by such Nonpatron Member. The Cooperative shall purchase the Patron Member's Class B Units at par or book value, whichever is lower, together with any cash or other distribution due or unpaid, less any indebtedness due to the Cooperative. Notwithstanding the foregoing, the Cooperative shall repurchase a terminating Nonpatron Member's Membership Interest only when it has received replacement capital from new or continuing Members or the Board otherwise determines that repurchase of the Membership Interest will not impair the capital or financial condition of the Cooperative. No action taken hereunder shall impair the obligations or liabilities of either party under any contract with the Cooperative, which may be terminated only as provided therein.

e. Distribution of Profits or Losses. Each Nonpatron Member is entitled to nonpatronage distributions in accordance with Article VIII.

f. Matters That Require Approval of the Nonpatron Members. The following matters shall require approval by both a majority of the Board and two-thirds of the Nonpatron Members:

(1) entry into or amendment of any non-employment agreements or other arrangements with any of the Members;

(2) purchase or disposal of any equity interest in any other entity;

(3) expenditure of more than \$100,000.00 individually or \$300,000.00 in the aggregate for capital items in any fiscal year;

(4) merger with or into any other entity, exchange of equity interests with any other entity, or lease or sale of more than 75% of its property and assets to any other entity in any one transaction or series of related transactions;

(5) substantial change of the present or now-intended nature of the Cooperative's business operations;

(6) alteration, amendment or restatement of the Articles or the Bylaws;

(7) prepayment of any indebtedness prior to the time for payment thereof as provided in the promissory note or contract evidencing or creating such indebtedness, except for revolving credit or liquidity facilities and trade debt;

(8) obtainment of any credit or loan procuring the advance of money, whether for the benefit of the Cooperative or any other person, other than in the ordinary course of business, for an aggregate amount in excess of \$300,000.00 for any consecutive twelve-month period;

(9) grant of a security interest in, pledge, hypothecation or other encumbrance of any assets of the Cooperative in an aggregate amount in excess of \$300,000.00 for any consecutive twelve-month period;

(10) election for the Cooperative to be taxed under Subchapter T of the Internal Revenue Code;

(11) loan of money or other assets to or guarantee the obligations of any person or entity;

(12) entry into any other contract, agreement or similar arrangement that could have a material effect upon the Cooperative or its business or assets, including, but not limited to, any contract with a term of more than two years which is not terminable by the Cooperative without penalty upon not more than 30 days' notice;

(13) entry into any transaction outside of the ordinary course of the business of the Cooperative; or

(14) cessation of the operation of the business of the Cooperative.

Section 2.5. **Waiver of Dissenters' Rights.** Except for those transactions or events for which waiver of dissenters rights is expressly prohibited by the Act, each Member hereby waives and agrees not to assert any dissenters' rights under the Act.

ARTICLE III. MEETINGS AND VOTING

Section 3.1. **Annual Meetings.** The Cooperative shall hold an annual meeting of Members at a time and place fixed by the Board.

Section 3.2. **Special Meetings.** A special meeting of Members may be called by either: (a) a majority vote of the Board or (b) written petition of: (i) at least 20% of the Patron Members, (ii) at least 20% of the Nonpatron Members, (iii) at least 20% of all Members collectively, or (iv) Members representing at least 20% of the Membership Interests collectively, which written petition shall state the purpose of the special meeting and shall be submitted to the Chair. The special meeting shall then be held at a time and place specified either by the Board or by the written petition not less than seven days and not more than 30 days after the vote by the Board or submission of the written petition. Notice of the meeting shall be provided to all Members in accordance with Section 3.3 and shall state the purpose of the special meeting. No business shall be considered at a special meeting other than as mentioned in the notice thereof.

Section 3.3. **Notice of Meetings.** Notice of any meeting of Members will be given in writing, by electronic transmission or by such other method approved by the Board to all active Members as of the record date at least 15 days before the date of the meeting (or such longer period as the Act may require). The Board may specify any record date that is not more than ninety days prior to the date of first mailing or electronic transmission of the notice of meeting. If no record date is specified by the Board, the record of active Members will be determined as of the thirtieth day prior to the date of first mailing or electronic transmission of the notice of meeting. Meeting notices will be accompanied by a written or electronic ballot relating to all matters to be voted on at the meeting, if any.

Section 3.4. **Quorum; Member Action.** At any annual or special meeting, the quorum to transact business shall be: (a) (i) 10% of the total number of Members if there are 500 or fewer Members or (ii) 50 Members if there are more than 500 Members (or, if districts are established by the Board, delegates representing such number of Members) and (b) 10% of the total number of Nonpatron Members. If a quorum is present, the affirmative vote of a majority of the Members present at the meeting and entitled to vote shall be sufficient unless the vote of a greater number is required by law or these Bylaws. The Members present and entitled to vote at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. The attendance of a sufficient number of Members to constitute a quorum shall be established by a registration of the Members present in person or by mail or electronic ballot. The registration shall be verified by the Chair or Records Officer and shall be reported in the minutes of the meeting.

Section 3.5. **Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Members may be taken by written action signed, or consented to by authenticated electronic communication, by the Members who own voting power equal to the voting power that would be required to take the same action at a meeting of the Members at

which all Members were present. All Members must be notified immediately of its text and effective date, provided, however, that failure to provide such notice does not invalidate the written action.

Section 3.6. **Mail or Electronic Vote.** Members may vote by mail or by electronic means, as permitted by law, on any motion, resolution or amendment that the Board submits for vote to the Members.

Section 3.7. **Remote Communications.** If determined by the Board, any meeting of the Members may be held solely by any combination of means of remote communication through which the Members may participate in the meeting, if notice of the meeting is given to every owner of Membership Interests entitled to vote as would be required for a non-remote meeting, and if the Membership Interests held by the Members participating in the remote meeting would be sufficient to constitute a quorum at a non-remote meeting. Participation by a Member by such means constitutes presence at the meeting in person. The Cooperative shall implement reasonable measures to verify that each Member deemed present by means of remote communication and entitled to vote at the Member meeting is a Member and to provide each Member participating by means of remote communication with a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members.

Section 3.8. **Items of Business.** No item of business will be in order or may be acted upon at an annual meeting unless the Board has included it on the agenda and, if applicable, the ballot for the meeting. A Member may submit an item of business for consideration or voting at an annual meeting in accordance with procedures established by the Board from time to time. Submission of any matter to consideration or voting by the Members will not diminish or override the ultimate authority of the Board to manage the Cooperative's affairs, except to the extent otherwise required by law.

ARTICLE IV. DIRECTORS

Section 4.1. **Number.** The business and affairs of the Cooperative shall be governed by the Board, except that certain matters specified in Section 2.4.f shall require approval of two-thirds of the Nonpatron Members. The number of directors shall be nine directors. Notwithstanding the foregoing, until the Cooperative has 50 Members, the number of directors shall be not less than three directors.

Section 4.2. **Terms of Office.** Except as otherwise provided herein, all directors shall serve three-year terms and shall serve until their successors are duly elected and qualified. In order to preserve continuity of governance and the harmonious transition of the initial Board to the elected Board, the terms of the directors of the initial Board shall be staggered such that one-third of the directors (or as nearly as possible) shall be elected at the annual Members' meeting of the Cooperative following the date on which the Board determines that the initial membership in the Cooperative has been established and at each annual meeting thereafter. The Board shall adopt a procedure to achieve the desired staggered effect prescribed by these Bylaws.

Section 4.3. **Nomination and Election of Directors.** The Nominating and Governance Committee will establish procedures and criteria for selection and nomination of candidates for election to the Board, with a view toward maintaining depth of experience and diversity on the Board as a whole, and enabling reasonable participation by non-Director

Members in the process for identifying potential candidates. The nomination procedures shall ensure that (a) six directors are elected by a vote of only the Patron Members (the "Patron Member Directors"), (b) three directors are elected by a vote of only the Nonpatron Members (the "Nonpatron Member Directors"), and (c) at least a majority of the directors are Members or an elected or appointed representative of a non-individual Member. The Nominating and Governance Committee will annually recommend a slate of potential candidates that is not greater than two times the number of elected Directors whose terms will expire at the next annual meeting of Members. From this slate, the Board will nominate a number of proposed Directors that is neither fewer than the number of elected Directors that must be elected at the next annual meeting to maintain nine elected Directors in office, nor greater than the largest number of elected Director positions that could be elected at such meeting plus two. No other candidates who have not been so nominated will be eligible for nomination or election to the Board. If the Board nominates a number of proposed Directors that is greater than the number of elected Director seats that it desires be filled, then the Board shall also specify which of the nominees will run for a seat on an uncontested basis, and which nominees will run against one another on a contested basis either for a specified seat or on an at-large basis for any of the remaining available seats. Relative to each annual meeting, the Secretary will furnish to all active Members information as to the identities of the nominees for election to the Board, such biographical information for each of them as the Nominating and Governance Committee may consider appropriate, information as to which nominees are running on an uncontested or contested basis, and a ballot for use in voting for elected Directors. With respect to each nominee for election to a seat that is not shown on the ballot as being subject to an election contest, the ballot shall indicate that Members may either cast their vote "for" or expressly "withhold" their vote as to such nominee. In such an uncontested election, a nominee will be elected if the number of votes cast "for" the nominee exceeds the number of votes expressly "withheld". In such an uncontested election, any nominee who does not receive a greater number of "for" than "withhold" votes will not be elected, and the Board seat for which the nominee was nominated will be considered vacant. A vacancy so created may be filled by action of the remaining Directors, by appointing a director, chosen from a slate of potential candidates nominated by the Nominating and Governance Committee, to a term expiring at the next annual meeting of Members. In an election where the Board has created an election contest by nominating two or more nominees for a particular seat, a nominee will be elected to that seat upon receiving the greatest number of votes in favor of his or her election among all the nominees for that same seat. If the Board proposes that several nominees run on a contested basis for two or more available elected Director seats, then a nominee will be elected upon receiving the greatest number of votes in favor of his or her election from among all such nominees, followed by the nominee who receives the second most votes, and so on until all available contested seats are filled.

Section 4.4. **Annual Meeting.** Within 30 days after each annual Members' meeting, the Board shall meet for the purpose of electing officers of the Cooperative and for the transaction of such other business as shall come before the meeting. The annual meeting of the Board shall be held at such time and place as may be fixed by resolution adopted by the Board.

Section 4.5. **Regular Meetings.** Regular meetings of the Board shall be held from time to time at such time and place as may be fixed by resolution adopted by the Board.

Section 4.6. **Special Meetings.** Special meetings of the Board may be called by the Chair, the Records Officer or by any three of the directors and shall be held at such time and place as designated in the notice of the meeting.

Section 4.7. **Notice of Meetings.** Notice of each annual, regular or special meeting of the Board shall be given by the Chair or Records Officer at least five days prior to the meeting to each director by mail, telephone, telephonic facsimile transmission, electronic mail or in person, unless a shorter time period is otherwise agreed to.

Section 4.8. **Waiver of Notice.** Notice of any meeting of the Board may be waived either before, at or after the meeting, in writing signed by each director. A director, by attendance at any meeting of the Board, shall be deemed to have waived notice of such meeting, except when a director attends the meeting and objects to the transaction of business because the meeting was not lawfully convened.

Section 4.9. **Quorum; Board Action.** A majority of the Patron Member Directors and a majority of the Nonpatron Member Directors shall constitute a quorum for the transaction of business except that, when a vacancy or vacancies exist, a majority of the remaining directors shall constitute a quorum. If a quorum is present, the Board shall take action by the affirmative vote of a majority of the directors present at a duly held meeting.

Section 4.10. **Action Without a Meeting.** Any action, other than an action requiring Member approval, required or permitted to be taken at a meeting of the Board may be taken by written action signed 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. All directors must be notified immediately of its text and effective date, provided, however, that failure to provide such notice does not invalidate the written action.

Section 4.11. **Remote Communications.** Any meeting of the Board may be conducted by telephonic or other electronic means of communication through which the directors may simultaneously hear one another.

Section 4.12. **Vacancies.** If a director's position is vacant, the Board by a majority of the remaining directors shall appoint a Person fill the director's position until the next annual Members' meeting or until the next district meeting, if the director is to represent a district. With respect to any Patron Member Director, the Board shall consult with the remaining Patron Member Directors in such appointment; if no Patron Member Directors are then on the Board at the time of the vacancy, a special Patron Members' meeting shall be called to fill the Patron Member Director vacancy. At the next annual Members' meeting or district meeting, the Members entitled to vote thereon shall elect a director to fill the unexpired term of the vacant director's position.

Section 4.13. **Removal.** Any director of the Cooperative may be removed from office for cause related to the duties of the position of director by, (a) a majority vote of the Members who would have been entitled to vote on the director's seat or (b) a majority vote of all other directors.

Section 4.14. **Compensation.** Directors who are not salaried officers of the Cooperative shall receive such fixed annual sum as may be determined, from time to time, by resolution of the Board. All directors shall be reimbursed for their expenses, if any, for attendance at meetings of the Board or any committee thereof.

Section 4.15. **Appointment of Board Advisors.** The Board may, in its discretion, appoint up to three Board advisors to one-year terms in order to bring necessary skills or expertise to the Board. Board advisors shall not vote or serve as officers of the Board.

**ARTICLE V.
DUTIES OF DIRECTORS**

Section 5.1. **General Powers.** The Board shall govern the business and affairs of the Cooperative and shall exercise all of the powers of the Cooperative, except those powers that are conferred upon or reserved to the Members by law, the Articles or these Bylaws. The Board shall adopt such policies, rules, and regulations and shall take such actions as it may deem advisable, provided that the Board does not act in a manner inconsistent with law, the Articles or these Bylaws.

Section 5.2. **Committees.**

a. Audit Committee. There shall be an Audit Committee comprised of three directors. Members of the Audit Committee shall be appointed at the annual meeting of the Board. The Audit Committee shall then appoint a chairperson to oversee such committee. The Audit Committee is charged with all financial oversight and reporting that the Board may need for any appropriate purpose. The Audit Committee may hire any consultants, accountants, or other outside advisors that it deems necessary to fulfill its duties.

b. Nominating and Governance Committee. There shall be a Nominating and Governance Committee comprised of three directors, including at least one Nonpatron Member Director. The Nominating and Governance Committee shall then appoint a chairperson to oversee such committee. The Nominating and Governance Committee is charged with selection and nomination of candidates for election to the Board. The Nominating and Governance Committee may hire any consultants, accountants, or other outside advisors that it deems necessary to fulfill its duties.

c. Other Committees. By resolution approved by a majority vote of the Board, the Board may establish standing or temporary committees from time to time as it deems advisable, having such authority as designated by the Board. Committees may include a special litigation committee consisting of one or more independent directors or other independent persons to consider legal rights or remedies of the Cooperative and whether those rights and remedies should be pursued. Committees other than special litigation committees are subject at all times to the direction and control of the Board.

d. Committee Members. Committee members must be natural persons and need not be directors. Committee members shall be appointed by affirmative vote of a majority of the directors present.

Section 5.3. **Employment of CEO.** The Board shall select, employ and fix the compensation of the person or legal entity to serve as Chief Executive Officer ("CEO") of the Cooperative. The CEO shall have responsibility for all administrative and operational aspects of the Cooperative and shall perform any other duties that may be assigned by the Board. The Board may terminate the employment of the CEO with or without cause at any time, subject to the terms of any written employment contract, if any, between the Cooperative and the CEO.

Section 5.4. **Conflicts of Interest.**

a. Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest in any matter under consideration by the Board in accordance with

the conflicts of interest policy adopted by the Board. Directors having such an interest may not participate in the discussion or decision of the matter.

b. The Board, on behalf of the Cooperative, may enter into contracts with directors, officers or Members, provided that any such transactions shall be on terms no more favorable to the directors, officers or Members than generally afforded to non-affiliated parties (or in the case of a Member, to other Members) in a similar transaction.

c. A director may advocate interests of Members or Member groups to the Board, but the fiduciary duty of each director is to represent the best interests of the Cooperative and all Members collectively.

ARTICLE VI. OFFICERS

Section 6.1. **Officers.** The officers of the Cooperative shall be a Chair, one or more Vice-Chairs, a Records Officer and a Financial Officer, each with authority and duties prescribed by the Board and these Bylaws. The offices of the Records Officer and Financial Officer may be combined and when so combined shall be termed "Secretary-Treasurer". Except for the Secretary-Treasurer, no offices may be held concurrently by the same person. The Chair and Vice-Chair must be directors and Members of the Cooperative, or an individual designated by a Member of the Cooperative that is a business entity. The Board may elect other officers from time to time as it deems advisable or as required by these Bylaws, and in such event shall establish appropriate duties and responsibilities for such officer positions.

Section 6.2. **Chair.** The Chair shall see that all orders and resolutions of the Board are carried into effect and shall preside at all meetings of the Members and directors. The Chair shall have such other powers and duties as may be assigned by the Board from time to time.

Section 6.3. **Vice-Chair.** The Vice-Chair shall have powers and perform duties as may be specified in these Bylaws or prescribed by the Board or by the Chair. In the event of the absence or disability of the Chair, the Vice-Chair shall perform the duties and exercise the powers of the Chair.

Section 6.4. **Records Officer.** The Records Officer shall: attend all meetings of the Members and Board; record all votes at and keep minutes of all meetings; and record all proceedings of the meetings in the minute book of the Cooperative. The Records Officer shall give proper notice of meetings of the Members and of the Board. The Records Officer shall perform such other duties as may be prescribed by the Board or by the Chair from time to time.

Section 6.5. **Financial Officer.** The Financial Officer shall be the custodian of all funds, securities and properties of the Cooperative and shall perform such other duties with respect to the finances of the Cooperative as may be prescribed by the Board or by the Chair from time to time.

Section 6.6. **Compensation.** The officers of the Cooperative shall receive compensation for their services as may be determined by resolution of the Board from time to time.

Section 6.7. **Election of Officers.** At its annual meeting, the Board shall elect a Chair and one or more Vice-Chairs. Election for persons to fill any other offices may be held at any

meeting of the Board, provided that notice of such election has been given in the notice of such meeting if other than the annual meeting. The officers shall hold their offices until their successors have been elected and have qualified, subject to any removal provisions of these Bylaws. No election or appointment to an office of the Cooperative shall itself create any contract rights.

Section 6.8. **Removal of Officers.** Any officer may be removed by the Board whenever in its judgment the best interests of the Cooperative will be served. Any vacancy among the officers caused by such removal shall be filled by the Board.

ARTICLE VII. INDEMNIFICATION AND INSURANCE

Section 7.1. **Indemnification.** The Cooperative shall indemnify each person who is or was a director or officer of the Cooperative against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred to the extent to which such directors, officers, managers, employees or agents of the Cooperative may be indemnified under the law of Minnesota.

Section 7.2. **Limitation of Liability.** No director of the Cooperative shall be personally liable to the Cooperative or its Members for monetary damages for breach of fiduciary duty as a director, except for liability:

- a. for a breach of the director's duty of loyalty to the Cooperative or its Members;
- b. for acts or omissions that are not in good faith or involve intentional misconduct or a knowing violation of law;
- c. for knowing violations of securities laws or for illegal distributions;
- d. for a transaction from which the director derived an improper personal benefit; or
- e. for an act or omission occurring before the date when the provisions of this Section 7.2 became effective.

It is the intention of the Members of the Cooperative to eliminate or limit the personal liability of the directors of the Cooperative to the greatest extent permitted under Minnesota law. If amendments to the Act are passed after this Section 7.2 becomes effective which authorize cooperatives to act to eliminate or further limit the personal liability of directors, then the liability of the directors of the Cooperative shall be eliminated or limited to the greatest extent permitted by the Act, as so amended. Any repeal or modification of this Section 7.2 by the Members of the Cooperative shall not adversely affect any right of, or any protection available to a director of the Cooperative which is in existence at the time of the repeal or modification.

Section 7.3. **Insurance.** The Cooperative shall purchase and maintain insurance on behalf of any person who is or was a director or officer of the Cooperative against liability asserted against and incurred by the person in the person's capacity as a director or officer of the Cooperative.

**ARTICLE VIII.
ALLOCATIONS AND DISTRIBUTIONS**

Section 8.1. **Fiscal Year.** The fiscal year of the Cooperative shall end on the 31st day of December of each year.

Section 8.2. **Annual Net Savings.**

a. Gross Receipts. Annually, the Cooperative shall determine the gross receipts for the year, which shall be all proceeds from all sales and services provided to both Members and non-Members, along with all other sums received by the Cooperative from all sources (except the proceeds of extraordinary gains as provided in Section 8.3.g below) ("Gross Receipts").

b. Deductions from Gross Receipts. The Cooperative shall deduct all expenses from the Gross Receipts that were incurred in the course of business during the year.

c. Total Net Savings or Loss. The amount remaining after reducing the Gross Receipts in Section 8.2.a by the deductions in Section 8.2.b shall constitute the net earnings or loss of the Cooperative for the year (the "Total Net Savings").

Section 8.3. **Allocation of Total Net Savings.**

a. Timing. The Board shall allocate and distribute the Total Net Savings to the Members annually within eight months and fifteen days following the close of the fiscal year.

b. Form of Distributions. The Board shall determine when and how such allocations and distributions will be made, including the amount (if any) distributed in (i) cash, (ii) rebates, (iii) credits or discounts against future purchases, (iv) patronage equities designated in the name of the Patron Members or nonpatronage equities designated in the name of the Nonpatron Members, or (v) in any combination of the foregoing as determined by the Board. The Board shall also determine whether the allocations will be made in one or more divisions, departments or allocation units, and whether all or part of the excess margins shall be set-aside in capital or other necessary reserves.

c. Rebates. Notwithstanding Section 8.3.a, the percentage of Total Net Savings (if any) that will be allocated and distributed as rebates shall be determined by the Board prior to the beginning of each fiscal year. The predetermined percentage of the Total Net Savings will be allocated and distributed in accordance with the time periods set forth in Section 8.3.a. The Board may adopt and maintain in writing a rebates policy to guide the allocation and distribution of rebates.

d. Patronage and Nonpatronage Equities. Patronage and nonpatronage equities represent the right to receive cash or other property at a stated dollar amount upon redemption by the Cooperative and shall be in the form of book entries. Patronage and nonpatronage equities form part of the capital of the Cooperative, do not bear interest, and are not subject to redemption at the request of any Member. Patronage and nonpatronage equities shall not entitle the holders to any voting or other rights to participate in the affairs of the Cooperative. Patronage and nonpatronage equities may be transferred only with the consent and approval of the Board. The redemption or retirement of patronage and nonpatronage equities is solely within the discretion of and on the terms described by the Board from time to

time. The Board may adopt and maintain in writing a redemption policy to guide the retirement or redemption of patronage and nonpatronage equities.

e. Minimum Distribution. Any allocations of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board, be excluded provided that they are not then or later distributed to other Members.

f. Distribution between Patron and Nonpatron Members. In establishing the allocation and distribution, the Board must ensure that (i) two-thirds of the Total Net Savings shall be distributed to the Patron Members on the basis of patronage with the Cooperative (the "Patronage Refund"); (ii) 10% of the Total Net Savings shall be allocated and distributed to Nonpatron Members on the basis of the number of Class B Units held by the Nonpatron Members (the "Nonpatron Distribution"); and (iii) the remaining Total Net Savings shall be allocated and distributed as determined by the Board. Notwithstanding the foregoing, the percentage of Nonpatron Distribution to which the Nonpatron Members are entitled may be reduced below 10% and the percentage of Patronage Refund to which Patron Members are entitled may be increased above two-thirds if both a majority of directors and two-thirds of the Nonpatron Members vote to approve the increased percentage of Patronage Refund.

g. Extraordinary Gains. Net gain produced by a transaction (such as income from the lease of premises, investment in securities, or from the sale or exchange of capital assets) which is directly related to the Cooperative's business will be deemed to be patronage sourced margins and, after payment of costs and expenses pertaining thereto and setting aside funds for reasonable reserves for necessary purposes, (i) two-thirds of the such extraordinary gains shall be distributed to the Patron Members on the basis of patronage with the Cooperative during any period to which such extraordinary gains are attributable, as determined by the Board (which determinations shall be made by the Board in its sole discretion in a manner that will provide equitable treatment to all Patron Members); (ii) 10% of such extraordinary gains shall be allocated and distributed to Nonpatron Members on the basis of the number of Class B Units held by the Nonpatron Members; and (iii) the remaining Total Net Savings shall be allocated and distributed as determined by the Board. The net gain may be distributed in any form set forth in Section 8.3.b.

h. Allocation of Losses. If the Total Net Savings are negative, then the Cooperative has operated at a loss for the year and there shall be no Patronage Refund nor Nonpatron Distribution distributed. The Board may allocate losses among the Members during the year of such loss so that the loss will, to the extent practicable, be borne by the Members on an equitable basis, including charging the loss against allocated reserves, unallocated surplus or the patronage and nonpatronage equities.

Section 8.4. **Consent of Members.** Each Member, by such act of membership alone, consents that the amount of any distribution with respect to its patronage which is made in the form of a qualified written notice of allocation will be taken into account as part of the Member's taxable income at its stated dollar amount in the manner provided in 26 U.S.C. Section 1385(a) in the taxable year in which such Member received such qualified written notice of allocation.

Section 8.5. **Deferred Amounts.** The portion of each allocation not currently paid shall be credited to revolving capital accounts in the names of recipient Members and shall constitute a reserve fund for the general conduct of the business of the Cooperative. Such deferred amounts shall accrue no dividend or other monetary return on capital and may be redeemed when determined by the Board to be no longer needed for their intended purpose. At that time

they shall be redeemed in the order of the oldest outstanding amounts and on a pro rata basis among such amounts, except that redemptions shall be payable only to Members who are then in good standing or become so within a six-month period of time. Deferred amounts shall be subject to being offset by amounts otherwise due and payable to the Cooperative.

Section 8.6. **Unclaimed Property.** The Cooperative shall manage and disburse unclaimed property in the possession of the Cooperative in accordance with Section 308B.735 of the Act and Section 345.39 of the Minnesota Statutes, as such provisions are amended or modified from time to time, or any law hereafter duly adopted by the state of Minnesota to the extent any such law supersedes or replaces the foregoing referenced statutes.

ARTICLE IX. MERGER OR CONSOLIDATION; DISSOLUTION

Section 9.1. **Merger or Consolidation.** Any plan of merger or consolidation shall be adopted by the Board and approved by a majority of the Members voting on the plan and two-thirds of the Nonpatron Members voting on such matter, in accordance with Section 308B.801 of the Act. If the terms of a merger or consolidation of which the Cooperative is a party do not provide the Members of the Cooperative with an economic interest in the surviving entity that is substantially similar to the economic interest possessed by such Members in the Cooperative immediately before such merger or consolidation, the value of the consideration received shall be divided among them in the same manner as a comparable amount of net liquidation proceeds would distributed pursuant to Section 9.2. This shall not be construed to prevent issuance of differing forms of consideration to different groups of Members to the extent allowed by law.

Section 9.2. **Liquidation, Dissolution and Winding-Up.** The Cooperative may be dissolved upon a decision of the Board, majority approval of the Members voting on such matter and two-thirds approval of the Nonpatron Members voting on such matter. In the event of any dissolution, liquidation or winding up of the Cooperative, whether voluntary or involuntary, all debts and liabilities of the Cooperative shall be paid first according to their respective priorities. The remaining assets shall be distributed in the following manner and order of preference: (1) first to the holders of shares of Preferred Stock in an amount equal to the value of the consideration for which the shares of Preferred Stock were issued, in such priority of series of such shares as may have been established upon the issuance of the shares and on a pro rata basis within a series if necessary, (2) second to the establishment of such reserves as the liquidator deems necessary or advisable, (3) third to the holders of shares of Class A Units and Class B Units, in an amount equal to the value of the consideration for which such units were issued in such priority of series of such shares as may have been established upon the issuance of the shares and on a pro rata basis within a class if necessary, and (3) fourth to the Patron Members of the Cooperative on the basis of their past patronage, as determined by the Board. The Board shall take into consideration the origin of the amounts and shall determine a reasonable and equitable allocation. The obligation to distribute shall be construed as a preexisting duty to distribute any patronage sourced net gain realized in the winding up process to the maximum extent allowable by law.

ARTICLE X. AMENDMENTS

Section 10.1. **Amendment by Board.** These Bylaws may be amended upon approval by a majority of the directors unless the Act, the Articles or these Bylaws reserve the power

exclusively to the Members in whole or in part or expressly prohibits the Board from doing so. In addition, these Bylaws may be amended upon approval by a majority of the directors in order to fix typographical mistakes or other oversights, fully implement affirmative votes by a majority vote of Members, or clarify existing ambiguous provisions.

Section 10.2. Amendment by Members. The Members may amend these Bylaws even though these Bylaws may also be amended by the Board. These Bylaws may be amended at a regular or special Members' meeting if: (a) notice of the meeting contains a summary statement of the proposed Bylaws or amendment; (b) a quorum is registered as being present or represented by mail or electronic vote if authorized by the Board; and (c) the Bylaws or amendment are approved by a majority of the votes cast.

Section 10.3. Required Class Approval. Notwithstanding Section 10.1 or Section 10.2, any changes to any class of Members' quorum or voting rights may only be amended by a majority vote of the class of Members whose quorum or voting rights are being changed. For clarity, Section 2.4.f may only be amended by a majority vote of the Nonpatron Members.

Section 10.4. Notification to Members. Any amendment of these Bylaws by the Board must be distributed to the Members no later than ten days after adoption and the notice of the annual meeting of the Members must contain a summary of or the actual language of the amendments to these Bylaws adopted by the Board.

Section 10.5. No Waiver. No course of dealing between the parties will modify, amend, waive or terminate any provision of these Bylaws or any rights or obligations of any party under or by reason of these Bylaws.