

**BYLAWS OF CULTIVATE COMMUNITY FOOD COOPERATIVE, INC.**

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## **ARTICLE I. NAME AND HEADQUARTERS**

### **Section 1.1. Name and Location.**

The name of the cooperative shall be Cultivate Community Food Cooperative, Inc. and the headquarters of the cooperative shall be located in Solano County, California.

### **Section 1.2. Function and Objectives.**

a) The business to be carried on by the Cooperative shall be production, purchase, sale, rental, storage, and distribution of merchandise and services for the mutual benefit of the Owners.

b) Other objectives of the Cooperative shall be:

- 1) cooperative service for the benefit of the Owners as consumers and of the consuming public.
- 2) promotion of the cooperative ideal and the use of natural food, and
- 3) conducting such other activities as will serve the economic, educational, recreational and cultural welfare of the Owners

c) Cultivate Community Food Cooperative shall not discriminate in its employment, purchasing, or any other practices on the basis of race, sex, ethnicity, sexual orientation, age, disability, political opinion, or national origin

## **ARTICLE II. DEFINITIONS**

### **Section 2.1. Owner.**

An Owner is a person who meets all the requirements of ownership set forth at Article II of these bylaws, who may or may not also own Preferred Non-voting shares. The term "Owner" shall have the same meaning as "Member" under California Corporations Code Section 12238(a).

### **Section 2.2. Fully-vested Owners .**

An Owner who is fully paid up on an Owner's Fair Share as defined in Section 3.6a.

### **Section 2.3. Owner Fee.**

A one-time nonrefundable Owner Fee, in an amount set, from time to time, by the Board of Directors, may be charged and collected from each prospective Owner upon joining the Cooperative.

### **Section 2.4. Owner Share.**

A share which confers the right to vote on an Owner and is initially purchased by a prospective Owner as a prerequisite for Ownership in the cooperative and any subsequent shares required by the board to be purchased for Ownership.

**Section 2.5**     **Preferred Non-voting share.**

Those shares authorized and issued by the board of directors for purchase by Owners.

**Section 2.6.**     **Board.**

The Board of Directors. Refers to the entire group, while "Director" and "Directors" refer to Members of the Board of Directors.

**Section 2.7.**     **Household.**

Household shall be defined as more than one person residing at the same address where food purchases are shared. Pursuant to procedures established by the Board, any Owner of the Cooperative may designate one (1) other person in the same household as a "household shopper," eligible for the same discount privileges as the Owner who designated the household shopper. "Household shopper" status shall confer no Owner voting rights, nor shall it require any additional fair share payments.

**Section 2.8.**     **Writing and Written Notice.**

Writing means any form of recorded message capable of comprehension by ordinary visual means; and when used to describe communications, including mailed ballots, between the cooperative, its board of directors, and its members, "writing" and "written notice" shall include electronic transmissions by and to a corporation as set forth in Corporations Code Sections 20 and 21.

**Section 2.9.**     **Uncontested Election.**

An uncontested election means an election for a seat on the board of directors where the number of qualified candidate(s) for the vacant board seat (s) is the same as or fewer than the number of available seats as of the deadline for submitting declaration of candidacy forms.

**Section 2.10**    **Supplier-Owner.**

An Owner who supplies goods or services to the Cooperative on a commercial basis.

**ARTICLE III. OWNERSHIP**

**Section 3.1.**     **Ownership Qualifications.**

Any person, including any organizations (except a subsidiary of the Corporation) may become and remain an Owner of this Corporation by:

- 3.1.1    Complying with such uniform conditions as may be prescribed by the Board of Directors;
- 3.1.2    Making full payment of any nonrefundable ownership fee as set forth in Section 2.3 of these Bylaws;
- 3.1.3    Making full payment for one (1) Owner Share upon joining and additional shares as required by the Board of Directors; and



3.1.4 If a natural person, being a resident of California.

**Section 3.2. Ownership Application.**

An applicant eligible for and desiring admission to ownership in the Corporation shall file a written application for admission in whatever form and containing whatever information the Board of Directors shall prescribe.

**Section 3.3. Acceptance of Owners.**

Applications for ownership shall be reviewed by the Board of Directors or by an ownership Committee duly authorized by resolution to admit Owners. The application shall be accepted unless rejected in writing within thirty (30) days for reasons satisfactory to the Board. If accepted, the applicant shall be admitted to ownership and shall be allowed to vote and hold office. If rejected, the applicant shall be entitled to a refund of any amounts paid for ownership fees and shares.

**Section 3.4. Rights.**

Fully-vested Owners have the right to elect the Cooperative's Board, to attend meetings of the Board, to receive notice of and attend Ownership meetings, to petition as described in these Bylaws, and to approve amendments to these Bylaws. Each Owner shall have one vote and no more on all matters submitted to Owners. **The rights of Owners who are not fully vested shall be determined by the Board. All rights and responsibilities of Owners are subject to these Bylaws as they may be amended from time to time, and to policies and decisions of the Cooperative or the Board.**

**Section 3.5. Transfers Prohibited.**

No Owner may transfer his or her Ownership or any right arising therefrom.

**Section 3.6. Ownership Investment.**

- a) From time to time, the Board shall set a monetary amount of investment in Owner Shares which each Owner must purchase. Such minimum investment shall be called the Owner's "fair share." The Board shall also, from time to time, set the minimum amount in dollars that each Owner must invest toward his or her fair share in each fiscal year of the Cooperative.
- b) Owner Shares shall be subject to assessment for the reasonable capital needs of the Cooperative, provided that the original purchase price plus all assessments does not exceed the fair share amount required of new Owners. The Board shall, from time to time, specify the mechanisms by which the annual investments are to be made.
- c) Once an Owner reaches his or her fair share amount, he or she may make further purchases of, or receive distributions in, Owner Shares at his or her option, provided the Board and statute allows this action. Under no circumstances, however, may the Board require a Member to invest in Owner Shares above the current "fair share" requirement.

**Section 3.7. Bylaws and Articles to Prospective Owners.**

Each prospective Owner, upon application for ownership, shall receive a copy of the Articles of Incorporation, Bylaws, and disclosure document of the Corporation.

**Section 3.8. Shareholders and Owners.**

“Shareholder” and “owner” and their plurals shall be synonymous terms throughout these Bylaws.

**ARTICLE IV. SHARES**

**Section 4.1. Share Issuance.**

Shares may be issued for money paid in an amount as is determined from time to time by the Board of Directors and as share dividends, patronage refunds, or other changes affecting outstanding shares.

**Section 4.2. Ownership Shares.**

Share ownership entitles an Owner to only one (1) vote in the affairs of the Corporation, irrespective of the total number of Ownership shares an Owner owns, and to all the rights of ownership as described by statute, the Articles of Incorporation, and these Bylaws. Pursuant to Subsection (b) of Section 11.3 of these Bylaws, the Directors may declare noncumulative dividends on shares not to exceed any maximum rate established by statute.

**Section 4.3 Preferred Non-voting Shares.**

At their option, Fully-Vested Owners may purchase Class B Investment Shares, which are non-voting shares. Investment shares are entitled to a dividend should a dividend be declared by the Board. Shares may be issued only to persons eligible for, and admitted as Owners of the Cooperative. Shares shall be considered issued upon full payment of no less than their issuing price and need not be evidenced by certificates.

**Section 4.4. Share Receipt and Disclosure Document.**

- (a) Nothing in this section shall restrict the Corporation from issuing identity cards or similar devices to Owners which serve to identify Owners qualifying to use facilities or services of the Corporation.
- (b) Except as provided in Subsection (c) of this Bylaw section, prior to issuing a share, the Corporation shall provide the purchaser of a share with a “disclosure document.” The disclosure document may be a prospectus, offering, circular, brochure, or similar document, a specimen copy of the share certificate, or a receipt that the Corporation proposes to issue. The disclosure document shall contain the information required by Section 12401 of the California Corporations Code.
- (c) The Corporation shall issue a receipt or written advice of purchase to anyone purchasing a share upon the Owner’s first purchase of a share. No disclosure document need be provided to an existing Owner prior to the purchase of additional shares if that

Owner has previously been provided with a disclosure document which is accurate and correct as of the date of the purchase of additional shares.

**Section 4.5. Prohibition on Transfer of Shares.**

No shares of this Corporation may be assigned or transferred, except for a transfer to the cooperative. Any attempted assignment or transfer shall be wholly void and shall confer no rights on the intended assignee or transferee.

**Section 4.6. Partial Withdrawal.**

An Owner having a monetary amount in his or her share account in excess of a monetary amount to be determined from time to time by the Board of Directors may cause the Corporation to purchase his or her excess share amount upon written request to the Board. Subject to Section 4.6 of these Bylaws, the Board must, within one (1) year of such request, pay the amount the Owner requests in cash or other property or both. The exact form of payment is within the discretion of the Board.

**Section 4.7. Insolvency Delay.**

The Corporation shall delay the purchase of shares as described in Sections 4.5 and 5.4 of these Bylaws if the Corporation, in making such purchase is, or as a result thereof would be, likely to be unable to meet its liabilities (except those whose payment is otherwise adequately provided for) as they mature.

**Section 4.8. Unclaimed Equity Interests.**

Any share of an Owner, together with any accrued and unpaid dividends and patronage distributions related to that Owner, that would otherwise escheat to the State of California as unclaimed personal property shall instead become the property of the Corporation if the Corporation gives at least sixty (60) days' prior notice of the proposed transfer to the affected Owner by (1) first-class or second-class mail to the last address of the Owner shown on the Corporation's records, and (2) by publication in a newspaper of general circulation in the county in which the Corporation has its principal office. No shares or amounts shall become the property of the Corporation under this section of the Bylaws if written notice objecting to the transfer is received by the Corporation from the affected Owner prior to the date of the proposed transfer.

**ARTICLE V. TERMINATION OF OWNERSHIP**

**Section 5.1. Voluntary Withdrawal.**

An Owner shall have the right to resign from the Corporation and terminate his or her ownership by filing with the Secretary of the Corporation a written notice of resignation. The resignation shall become effective immediately without any action on the part of the Corporation.

**Section 5.2. Death or Dissolution.**

An ownership shall immediately terminate upon the death of an Owner or the dissolution of an Owner that is an organization.

**Section 5.3. Expulsion.**

- (a) An Owner may for failure to comply with these Bylaws, rules, or regulations of the Corporation, for failure to patronize the Corporation during the immediately preceding fiscal year of the Corporation in the amount of at least one hundred dollars (\$100 .00), or for any other justifiable reason, be expelled from the Corporation by resolution adopted by a two-thirds (2/3) vote of all members of the Board of Directors. Expulsion shall become effective immediately unless the Board shall, in the resolution, fix another time. On expulsion, the name of the Owner expelled shall be stricken from the ownership register and all of his or her rights shall cease except as provided in Section 5.4 of these Bylaws.
- (b) Prior to expulsion of an Owner, the Board of Directors shall give such Owner at least fifteen (15) days notice prior thereto and the reasons thereof. Such Owner shall have the opportunity to be heard, orally or in writing, not less than five (5) days before the effective date of expulsion by the Board.
- (c) The notice required pursuant to Subsection (b) of this section of these Bylaws may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last known address of the Owner shown on the Corporation's records.

**Section 5.4. Settlement of Share Interest.**

If an ownership is terminated for any reason set forth in this Article of the Bylaws, the share interest held by the Owner shall be purchased by the Corporation, subject to Section 4.6 of these Bylaws, within one (1) year of the date of termination to the extent of the paid-up value of the Owner's shares on such date. The Board of Directors, in so settling the Owner's share interest, shall have the right to set off any and all indebtedness of the Owner to the Corporation. The paid-up value of the Owner's share interest is the monetary amount of such interest (including fractional shares) that the Owner has been issued in accordance with Section 4.1 of these Bylaws.

**ARTICLE VI. OWNERSHIP MEETINGS AND OWNERS**

**Section 6.1. Location.**

Meetings of Owners shall be held at the principal office of the Corporation.

**Section 6.2. Regular Annual Meetings.**

A regular meeting of Owners shall be held annually in February for the purpose of transacting any proper business, including the election of Directors that may come before the meeting. If the day fixed for the

regular meeting falls on a legal holiday, the meeting shall be held at the same time and place on the next day.

**Section 6.3. Special Meetings.**

Special meetings of Owners for any lawful purpose may be called by the Board of Directors, the President, or by five percent (5%) or more of the Owners.

**Section 6.4. Time for Notice of Meetings.**

Whenever Owners are required or permitted to take action at a meeting, a written notice of the meeting shall be given not less than ten (10) nor more than ninety (90) days before the date of the meeting to each Owner who is entitled to vote on the record date for notice of the meeting. In the case of a specially called meeting of Owners, within twenty (20) days after receipt of a written request, the Secretary shall cause notice to be given to the Owners entitled to vote that a meeting will be held at a time fixed by the Board of Directors not less than thirty-five (35) nor more than ninety (90) days after receipt of the request.

**Section 6.5. Method of Giving Notice.**

Notice shall be given either personally or by mail, e-mail or other written communication to the address of an Owner appearing on the records of the Corporation or provided by the Owner. If no address appears or is given, notice shall be given at the principal office of the Corporation.

**Section 6.6. Record Date for Notice.**

The record date for determining the Owners entitled to notice of any meeting of Owners is thirty (30) days before the date of the meeting.

**Section 6.7. Contents of Notice.**

The notice shall state the place, date, and time of the meeting. The notice of a regular meeting shall state any matters that the Board of Directors, at the time of giving notice, intends to present for action by the Owners. The notice of a special meeting shall state the general nature of the business to be transacted. The notice of any meeting at which Directors are to be elected shall include the names of all nominees at the time of giving notice.

**Section 6.8. Waivers, Consents, and Approvals.**

The transactions of a meeting, whether or not validly called and noticed, are valid if a quorum is present and each of the absent Owners who is entitled to vote, either before or after the meeting, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. All waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

An Owner's attendance at a meeting shall constitute a waiver of notice of and presence at the meeting, unless the Owner objects at the beginning of the meeting. However, attendance at a meeting is not a

waiver of any right to object to the consideration of matters required to be included in the notice but not included, if an objection is made at the meeting.

**Section 6.9. Quorum at Meeting.**

The lesser of two hundred fifty (250) Owners or Owners representing five percent (5%) of the voting power shall constitute a quorum at a meeting of Owners. Any Bylaw amendment to increase the quorum may be adopted only by approval of the Owners. When a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting and entitled to vote shall be the act of the Owners, unless provided otherwise by these Bylaws or the law. The only matters that may be voted upon at any regular meeting actually attended by less than one-third (1/3) of the voting power are matters notice of the general nature of which was given pursuant to the first sentence of Section 6.4 of these Bylaws.

**Section 6.10. Loss of Quorum at Meeting.**

The Owners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum, if the action taken, other than adjournment, is approved by at least a majority of the Owners required to constitute a quorum.

**Section 6.11. Adjournment for Lack of Quorum.**

In the absence of a quorum, any meeting of Owners may be adjourned by the vote of a majority of the votes represented in person, but no other business may be transacted except as provided in Section 6.10 of these Bylaws.

**Section 6.12. Adjourned Meetings.**

The corporation may transact any business at an adjourned meeting that could have been transacted at the original meeting. When a meeting is adjourned to another time or place, no notice is required if the time and place are announced at the original meeting. If the adjournment is for more than forty-five (45) days or if a new record date is fixed, a notice of the adjourned meeting shall be given to each Owner of record entitled to vote at the meeting.

**Section 6.13. Voting of Ownerships.**

- (a) Each Owner of the Corporation is entitled to one (1) vote on each matter submitted to a vote of the Owners.
- (b) If an ownership stands of record in the names of two (2) or more persons whether fiduciaries, owners of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, persons entitled to vote under an agreement, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same ownership, unless the Secretary is given written notice to the contrary and furnished with a copy of the instrument or order appointing them

or creating the relationship, the vote of one (1) joint holder will bind all, when only one (1) votes, and the vote of the majority will bind all, when more than one (1) joint holder votes.

- (c) The record date for determining the Owners entitled to vote at a meeting or cast written ballots is twenty (20) days before the date of the meeting or the day on which the first ballot is mailed or solicited.
- (d) Cumulative voting shall not be permitted for any purpose.
- (e) Voting by proxy shall not be permitted for any purpose.

**Section 6.14. Use of Written Ballots at Meetings.**

A combination of written ballot and personal voting may be used at any regular or special meeting of Owners, and may be used for the election of Directors. Prior to the meeting, the Board of Directors may authorize distribution of a written ballot to every Owner entitled to vote. The ballots shall be distributed in a manner consistent with the provisions of Sections 6.5, 6.17(b), and 6.19 of these Bylaws. When ballots are distributed, the number of Owners voting at the meeting by written ballot shall be deemed present at the meeting for purposes of determining a quorum but only with respect to the proposed actions referred to in the ballots.

**Section 6.15. Contents of Written Ballot Used at Meetings.**

Any written ballot used at a meeting shall set forth the proposed action to be taken, provide an opportunity to specify approval or disapproval of the proposed action, and state that unless revoked by the Owner voting in person, the ballot will be counted if received by the Corporation on or before the time of the meeting.

**Section 6.16. Action by Ballot without Meeting.**

Any action that may be taken at any regular or special meeting, including election of Directors, may be taken without a meeting through distribution of a written ballot to every Owner entitled to vote on the matter. The Secretary shall cause a vote to be taken by written ballot on any action or recommendation proposed in writing by at least twenty percent (20%) of the Owners.

**Section 6.17. Written Ballot Used without Meeting.**

- (a) Any ballot used without a meeting shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Corporation.
- (b) The form of written ballot distributed to ten (10) or more Owners shall afford an opportunity to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time of distribution, to be acted on by the ballot. The form must also provide that whenever the person solicited specifies a

choice with respect to any matter, the vote will be cast in accordance with that choice.

- (c) A written ballot cannot be revoked. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

**Section 6.18. Solicitation of Written Ballots.**

Ballots shall be solicited in a manner consistent with Sections 6.5, 6.17(b), and 6.19 of these Bylaws. The solicitations shall indicate the number of responses needed to meet the quorum requirement and specify the time by which the ballot must be received to be counted. Ballots other than for the election of Directors shall state the percentage of approvals necessary to pass the measure.

**Section 6.19. Withholding Vote.**

In an election of Directors, any form of written ballot, which names the candidates for Director and which the Owner has marked “withhold” (or otherwise indicated that the authority to vote in the election of Directors is withheld) shall not be used for voting in that election.

**Section 6.20. Appointment of Inspectors of Election.**

In advance of any meeting of Owners, the Board of Directors may appoint inspectors of election to act at the meeting and any adjournment. If inspectors are not appointed or if any appointed persons fail to appear or refuse to act, the chairperson of the meeting may and, on the request of any Owner, shall, appoint inspectors at the meeting.

**Section 6.21. Duties of Inspectors of Election.**

The inspectors shall determine the number of ownerships outstanding and the voting power of each, the number represented at the meeting, and the existence of a quorum. They shall receive votes, ballots, and consents, hear and determine all challenges and questions regarding the right to vote, count and tabulate all votes and consents, determine when the polls will close, and determine the result. They may do those acts which are proper to conduct the election or vote with fairness to all Owners. The inspectors shall perform these duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical.

**Section 6.22. Indemnification.**

To the fullest extent permitted by law, this corporation shall indemnify its directors, officers, employees and other persons described in Section 12377 (a) of the California Cooperative Corporation Law, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements, and other amounts actually and reasonable incurred by them in connection with any



"proceeding," as that term is used in said Section 12377 (a), and including any action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. "Expenses" shall have the same meaning as in said Section.

## **ARTICLE VII. DIRECTORS**

### **Section 7.1. Number.**

The corporation shall have seven (7) Directors, collectively known as the Board of Directors. The members of the initial Board will be appointed by the incorporators, with three (3) Directors serving for one (1) year and the remaining four (4) Directors serving full two (2) year terms. All subsequent Directors shall serve full two-year terms and shall be nominated and elected as described in the sections below.

### **Section 7.2. Qualifications.**

The Directors of the Corporation shall be Owners of the Corporation and residents of California and shall be either a full share owner or a partial share owner who is current on payments.

### **Section 7.3. Nomination.**

- (a) The Board of Directors shall prescribe reasonable nomination and election procedures for the election of Directors given the nature, size, and operations of the Corporation. The procedures shall include: (1) a reasonable means of nominating persons for election as Directors, (2) a reasonable opportunity for a nominee to communicate the nominee's qualifications and the reasons for the nominee's candidacy to the Owners, (3) a reasonable opportunity for all nominees to solicit votes, (4) a reasonable opportunity for all the Owners to choose among the nominees.
- (b) When the Corporation distributes any material soliciting a vote for any nominee for Director in any publication owned or controlled by the Corporation, it shall make available to each other nominee, in the same material, an equal amount or space with equal prominence to be used by the nominee for a purpose reasonably related to the election. The Corporation shall mail within ten (10) business days to all Owners any material related to the election which a nominee for Director has furnished, upon written request and payment of mailing costs by the nominee, or allow the nominee to obtain the names, addresses, and voting rights of Owners within five (5) business days after the request.

### **Section 7.4. Election.**

The Directors shall be elected at the annual meetings or by written ballot in accordance with Sections 6.16–6.19 of these Bylaws. The candidates receiving the highest number of votes up to the number of Directors to be elected shall be elected.

**Section 7.5. Terms of Office.**

The terms of office for Directors shall be two (2) years. Each Director shall hold office until the expiration of the term for which elected and until the election and qualification of a successor. Directors shall serve staggered terms, so that at least three Directors shall be up for election each year.

**Section 7.6. Compensation.**

The Directors shall serve without compensation unless decided otherwise by a resolution of the Board. Directors shall be paid in advance or reimbursed by the Corporation for their actual and reasonable expenses incurred in the performance of their duties as Directors of the Corporation. Officers of the Corporation may also be paid in advance or reimbursed for such expenses.

**Section 7.7. Call of Meetings.**

Meetings of the Board of Directors may be called by the President, any Vice-President, the Secretary, or any two Directors.

**Section 7.8. Place of Meetings.**

Meetings of the Board of Directors may be held at any place designated in the notice of the meeting, or, if not stated in a notice, by resolution of the Board.

**Section 7.9. Presence at Meetings.**

Directors may participate at meetings of the Board through the use of conference telephone or other communications equipment, as long as all participating Directors can hear one another. Participation by communications equipment constitutes presence at the meeting.

**Section 7.10. Regular Meetings.**

Regular meetings of the Board of Directors shall be held, without call or notice, at the principal office of the Corporation immediately following the annual meeting of Owners, as set forth in Section 6.2 of these Bylaws.

**Section 7.11. Special Meetings and Notice.**

Special meetings shall be held on four (4) days' notice by first-class mail or forty-eight (48) hours notice delivered personally or by telephone or by e-mail. Notice of regular or special meetings need not be given to any Director who signs a waiver of notice, a written consent to holding the meeting, or an approval of the minutes (either before or after the meeting), or who attends the meeting without protesting prior thereto or at its commencement, the lack of notice to that Director. All waivers,

consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

**Section 7.12. Quorum at Meetings.**

Four (4) Directors constitute a quorum for the transaction of business.

**Section 7.13. Acts of Board at Meetings.**

Unless provided otherwise in the Articles of Incorporation, these Bylaws, or by law, every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present is the act of the Board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for the meeting or a greater number required by the Articles, these Bylaws, or by law.

**Section 7.14. Adjournment of Meetings.**

A majority of the Directors present, whether or not a quorum is present, may adjourn to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the adjournment shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of adjournment.

**Section 7.15. Action without Meeting.**

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all Directors individually or collectively consent in writing to the action. The consents shall be filed with the minutes of the proceedings of the Board. Action by written consent has the same force and effect as a unanimous vote of the Directors.

**Section 7.16. Executive Committees.**

- (a) The Board of Directors may create one or more committees to serve at its pleasure by resolution adopted by a majority of the number of Directors then in office when a quorum is present. Each committee shall consist of two (2) or more Directors appointed by a majority vote of the Directors then in office.
- (b) Any executive committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except with respect to the following actions:
  - (1) The approval of any action for which the approval of the Owners or a majority of all Owners is required by law;
  - (2) The filling of vacancies on the Board or in any committee that has the authority of the Board;

- (3) The fixing of compensation of the Directors for serving on the Board or on any committee;
- (4) The amendment or repeal of Bylaws or the adoption of new Bylaws;
- (5) The amendment or repeal of any resolution of the Board which by its express terms are not amendable or repeal-able:
- (6) The appointment of committees of the Board or the members of such committees:
- (7) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected

**Section 7.17. Resignation of Directors.**

Any Director may resign effective upon written notice to the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of the resignation. If a resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

**Section 7.18. Removal of Directors.**

Any or all Directors may be removed without cause by the Owners. If the Corporation has fewer than fifty (50) Owners, the removal shall be approved by an affirmative vote or written ballot of a majority of all the votes entitled to be cast. If the Corporation has fifty(50) or more Owners, the removal shall be approved or ratified by the affirmative vote of a majority of all the votes represented and voting at a duly held meeting at which a quorum is present, or by written ballot, or by the affirmative vote or written ballot of any greater proportion of the votes as required in these Bylaws or by law.

**Section 7.19. Cause of Vacancies on Board.**

Vacancies on the Board of Directors shall exist during the process of appointment of the initial Board or on the death, resignation, termination of ownership, or removal of a Director; whenever the authorized number of Directors is increased; whenever the Board declares an office vacant pursuant to Section 7.20 of these Bylaws; and on the failure of the Owners to elect the full number of Directors authorized.

**Section 7.20. Declaration of Vacancies.**

The Board of Directors may declare vacant the office of any Director whose eligibility for election has ceased, who has been declared of unsound mind by a final order of court, who is convicted of a felony, or who has not attended three (3) or more consecutive regular or special meetings of the Board.

**Section 7.21. Filling Vacancies on Board.**

Except for vacancies created by removal of a Director pursuant to Section 7.18 of these Bylaws, vacancies may be filled by a majority of the Directors then in office, whether or not less than a quorum, or by a

sole remaining Director. Vacancies created by the removal of a Director may be filled only by approval (as defined by Section 12224 of the California Corporations Code) of the Owners. The Owners may elect a Director at any time to fill any vacancy not filled by the Directors.

## **ARTICLE VIII. OFFICERS**

### **Section 8.1. Titles.**

The officers of the Corporation shall be a President, Vice-President, Secretary, and Treasurer with such titles and duties as determined by the Board of Directors and as may be necessary to enable it to sign instruments. The President is the Chief Executive Officer of the Corporation. The same person may hold any number of offices. The President shall be chosen from among the Directors elected by the ownership of the Corporation.

### **Section 8.2. Appointment and Resignation.**

The officers shall be chosen by the Board of Directors and serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time on written notice to the Corporation without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

## **ARTICLE IX. CORPORATE RECORDS AND REPORTS**

### **Section 9.1. Required Records.**

The Corporation shall keep records of account and minutes of the proceedings of its Owners, Board of Directors, and committees of the Board. It shall also keep a record of the Owners, including the names, addresses, and number of shares held by each. The minutes and other declared Corporation records must be retained and may be in any form that can be preserved and time-stamped or otherwise validated to verify they have been kept in their original form.

### **Section 9.2. Annual Report.**

- (a) For fiscal years in which the Corporation has, at any time, more than twenty-five (25) Owners, the Corporation shall notify each Owner yearly of the Owner's right to receive an annual financial report. The Board of Directors shall promptly cause the most recent annual report to be sent to an Owner on written request. The annual report shall be prepared no later than one hundred twenty (120) days after the close of the Corporation's fiscal year.
- (b) The annual report shall contain in appropriate detail all of the following: (1) a balance sheet as of the end of the fiscal year, an income statement, and a statement of changes in financial position for the fiscal year; (2) a statement of the place where the names and addresses of the current Owners are located; and (3) the statement required by Section 9.3 of these Bylaws.

- (c) The annual report shall be accompanied by any pertinent report by independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Corporation that the statements were prepared without audit from the records of the Corporation.

**Section 9.3. Annual Statement of Transactions and Indemnifications.**

In addition to the annual report described in Section 9.2 of these Bylaws, the Corporation shall furnish annually (pursuant to Section 12592 of the California Corporations Code) to its Owners and Directors a statement of the transactions and indemnifications to interested persons. If the Corporation does not issue an annual report pursuant to Section 9.2 of these Bylaws, such statement shall be mailed or delivered to Owners within one hundred twenty (120) days after the close of the fiscal year.

**ARTICLE X. INSPECTION RIGHTS**

**Section 10.1. Articles and Bylaws.**

The corporation shall keep at its principal office in California the original or a copy of its Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the Owners at all reasonable times during office hours. If the Corporation has no office in California, the Corporation's Secretary shall furnish on the written request of any Owner a copy of the Articles or Bylaws as amended to date.

**Section 10.2. Books and Records.**

The accounting records and records of proceedings by the Owners, the Board of Directors, and committees of the Board shall be open to inspection on the written demand of any Owner at any reasonable time, for a purpose reasonably related to that person's interests as an Owner.

Every Director has the right at any reasonable time to inspect and copy all records of every kind, and to inspect the physical properties of the Corporation.

**Section 10.3. Inspection of Ownership List.**

- (a) Subject to the Corporation's right to set aside an Owner's demand for inspection pursuant to Section 12601 of the California Corporations Code and the power of the court to limit inspection rights pursuant to Section 12602 of the California Corporations Code, and unless the Corporation provides a reasonable alternative pursuant to Section 10.3(c) of these Bylaws, an Owner may do either or both of the following:
  - (1) Inspect and copy the record of all the Owners' names, addresses, and voting rights, at reasonable times, on making a written demand five (5) business days in advance which states the purpose for which the inspection rights are requested;

- (2) Obtain from the Secretary, upon written demand and tender of a reasonable charge, a list of names, addresses, and voting rights of those Owners entitled to vote for the election of Directors, as of the most recent record date for which it has been compiled, or as of a date specified by the Owner subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The ownership list shall be made available on or before the later of ten (10) business days after the demand is received or after the date specified as the date as of which the list is to be compiled.
- (b) The rights set forth in Subsection (a) of this Bylaw section may be exercised by any Owner or Owners possessing five percent (5%) or more of the voting power for a purpose reasonably related to the Owners' interest as Owners. The Corporation may deny access to the ownership list where it reasonably believes that the information therein will be used for another purpose or where the Corporation provides a reasonable alternative pursuant to Section 10.3(c) of these Bylaws.
  - (c) The Corporation may within ten (10) days after receiving a demand, deliver a written offer of an alternative method of achieving the purpose identified in the demand without providing access to or a copy of the ownership list. An alternative method that reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made pursuant to Section 10.3(a) of these Bylaws shall be a reasonable alternative, unless the Corporation fails to do the things that it offered to do within a reasonable time after acceptance of the offer. Any rejection of the offer shall be provided in writing and indicate the reasons the proposed alternative does not meet the proper purpose of the demand.

## **ARTICLE XI. SURPLUS ALLOCATIONS AND DISTRIBUTIONS**

### **Section 11.1. Calendar Year.**

The Corporation shall follow the calendar year.

### **Section 11.2. Surplus and Patronage Defined.**

- (a) "Surplus" shall be defined as the excess of revenues and gains over expenses and losses for a fiscal year. Such surplus shall be determined in accordance with generally accepted accounting principles and shall be computed without regard to any patronage refunds, capital allocations, dividends, or income taxes.
- (b) "Patronage" shall be defined as the value of all business given to the Corporation by an Owner. This is the retail value of all goods and services purchased by the Owner from the Corporation. Patronage also includes any discounts, rebates, or donations of goods or services provided by a Supplier-Owner to the Corporation.

### **Section 11.3. Annual Allocations and Distributions of Surplus.**

- (a) Before any dividends or patronage refunds are distributed for each fiscal year, any surplus should first be allocated to any deficit in the accounting of “retained earnings” of the Corporation.
- (b) After any deficit in retained earnings has been eliminated, the Board of Directors may declare a dividend upon shares at a rate not to exceed any maximum rate established by Section 12451 of the California Corporations Code, and as defined “distributions” in Section 12235 of the California Corporations Code. No such dividends shall be cumulative. All dividends paid on shares shall be paid exclusively out of net income from non-Owner sourced net income, current or accumulated, to the extent such net income is sufficient to satisfy any dividend obligation.
- (c) The Directors shall then uniformly distribute all the remaining surplus attributed to patronage of the Owners of the Corporation to such Owners as described in the following paragraphs of this subsection of these Bylaws. For the purposes of this subsection of the Bylaws, the remaining patronage surplus shall be computed consistent with Subchapter T of the Internal Revenue Code, related Treasury Regulations, and related court and other relevant interpretations.
  - (1) Any remaining patronage surplus attributed to the Owners and to be distributed to them shall be the total remaining patronage surplus attributed to both Owner and non-Owner business, not reduced by dividends on shares but reduced by allocations to eliminate a deficit in retained earnings, and multiplied by the ratio of Owner patronage to total patronage.
  - (2) An Owner is entitled to a patronage refund, if such is distributed, in the amount of the remaining patronage surplus, as determined by Paragraph (1) of this subsection of these Bylaws, multiplied by the ratio of such Owner’s patronage with the Corporation to the patronage of all Owners with the Corporation.
- (d) Any dividends declared or patronage refunds paid or allocated pursuant to this section of the Bylaws may be in the form of shares, in whole or in part, subject to Subsections (e) and (f) of this section of these Bylaws.
- (e) If an Owner owns one thousand dollars (\$1000.00) or more in shares and patronage refunds as of the end of the fiscal year for which dividends are declared or patronage refunds are to be paid or allocated, such Owner shall receive all of her or his dividends and patronage refunds in cash.
- (f) If the cash payment to an Owner for such Owner’s dividends and patronage refunds together would total less than one dollar (\$1.00), the Board of Directors shall retain such dividends and patronage refunds and accumulate with future dividends and refunds until the total exceeds one dollar (\$1.00). After the total exceeds one dollar (\$1.00) the Board of Directors shall distribute the total accumulated to the Owner.



- (g) Each person who becomes an Owner of this Corporation consents to include in his or her gross income for federal income tax purposes the amount of any patronage refund paid to him or her by this Corporation in money or by written notice of allocation (as defined in the Internal Revenue Code), except to the extent that such a patronage refund is not income to the Owner because (i) it is attributable to the purchase of personal, living, or family items, or (ii) it should properly be treated as an adjustment to the tax basis of property previously purchased. The term “patronage refund,” as used herein, shall have the same meaning as the term “patronage dividend,” as used in the Internal Revenue Code.
- (h) For the purpose of allocating and distributing any annual surplus, the entire operations of the Corporation shall be considered as a unit; provided that by resolution of the Board of Directors, the Corporation may distribute patronage refunds on the basis of the business transacted by each of the departments or divisions into which the operations of the Corporation shall be divided by the Board for the purpose of such allocation.

## **ARTICLE XII. BYLAW CHANGES**

### **Section 12.1 Bylaw Changes by the Board.**

The Bylaws shall be adopted, amended, or repealed by the Board of Directors unless the action would:

- (a) materially and adversely affect the rights or obligations of Owners as to voting, dissolution, redemption transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital;
- (b) increase or decrease the number of Owners or shares authorized in total or for any class;
- (c) effect an exchange, reclassification, or cancellation of all or part of the ownerships or shares;
- (d) authorize a new class of ownerships or shares;
- (e) change the number of Directors or establish a variable number of Directors;
- (f) extend the term of a Director beyond that for which the Director was elected or increase the terms of the Directors;
- (g) allow all or any portion of the Directors to hold office by virtue of designation or selection rather than by election by the Owners: and
- (h) allow the Board to fill vacancies occurring in the Board by reason of the removal of Directors.

## **Section 12.2. Bylaw Changes by the Owners.**

Where the Board of Directors is denied the right to adopt, amend, or repeal these Bylaws pursuant to Section 12.1 of these Bylaws, these Bylaws shall be adopted, amended, or repealed by approval of the Owners

## **ARTICLE XIII. DISSOLUTION**

The Corporation may be dissolved pursuant to sections 12620-12663 of the California Cooperative Corporations Law. Upon dissolution, the Cooperative's assets shall be distributed as follows:

- (a) The Board shall first determine that all known debts and liabilities of the Corporation have been paid or adequately provided for, including pursuant to section 12653(c).
- (b) The Board shall then provide for distribution of any retained, allocated patronage. If the patronage cannot be paid in full, it shall be paid in the order of paying the oldest outstanding amounts first.
- (c) Following the distribution of outstanding, allocated patronage, the Board may redeem any outstanding Investment Shares in order of paying the oldest outstanding class or series first and if such shares cannot be redeemed in full, then pro-rata among each outstanding series. After redemption of all outstanding Investment Shares, the Corporation shall redeem any outstanding Ownership Shares on a pro-rata basis if such shares cannot be redeemed in full.
- (d) The Corporation, in the process of winding up, may adopt a plan of distribution of the ownership, obligations or securities of the Corporation if approved by the Board and a majority of each class or series outstanding. The plan may provide that such distribution is in complete or partial satisfaction of the rights of any such Owners upon distribution and liquidation of the assets. A plan of distribution so approved shall be binding upon all Owners. The Board shall cause notice of the adoption of the plan to be given by mail within 20 days after its adoption to all holders of ownerships having a liquidation preference.
- (e) Any remaining assets shall be distributed to Owners on a pro-rata basis.
- (f) If any Owners, creditors, or other persons are unknown or fail or refuse to accept their payment or distribution or their whereabouts cannot be ascertained after diligent inquiry; or the existence or amount of the claim is contested or contingent, then the Corporation may deposit any such payment, distribution or the maximum amount of the claim with the State Controller, under Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure, in trust for the benefit of those lawfully entitled to the payment, distribution or amount of the claim.