



ARTICLES OF ORGANIZATION AND BYLAWS

Amended and Restated as of January 25, 2023

**AMENDED AND RESTATED
ARTICLES OF ORGANIZATION
OF
CRYSTAL VALLEY COOPERATIVE**

**ARTICLE I
NAME**

The name of this cooperative shall be Crystal Valley Cooperative.

**ARTICLE II
PURPOSE, POWERS**

Section 1. Purpose: This cooperative may engage in any business or activity within the purposes for which cooperatives may be organized pursuant to the laws of the State of Minnesota and all such activities shall be deemed within its purposes.

Section 2. Powers: This cooperative shall have and may exercise all of the rights, powers, and privileges for itself and its members and patrons, to do and perform every act and thing necessary and proper to the conduct of its business or the accomplishment of the purposes set forth herein or permitted by the Minnesota Cooperative Associations Act (Minnesota Statutes, Chapter 308B) (the "Act").

**ARTICLE III
PLACE OF BUSINESS AND REGISTERED OFFICE**

The principal place of business and registered office of the cooperative shall be 1911 Excel Drive, Mankato MN, 56001.

**ARTICLE IV
PERIOD OF DURATION**

The period of duration of this cooperative shall be perpetual.

**ARTICLE V
MEMBERSHIP**

This cooperative is organized on a membership basis and shall be operated on a cooperative basis for the mutual benefit of its members. Membership in this cooperative may not be transferred without the prior express consent of the Board.

**ARTICLE VI
CAPITAL STRUCTURE**

The Board may determine and establish any groupings, districts, classes or series of members and membership units. Subject to the Act, this cooperative shall have at least one class of members, who shall be those persons who: (i) patronize the cooperative in an annual amount determined by the Board, and (ii) are approved by the Board. The voting rights of the members of the cooperative shall be equal, and no member shall have more than one vote upon each matter submitted to a vote at a meeting of the members.

The Board shall have authority to establish more than one class or series of membership units, including non-patron membership units, of the Company, and the different classes and series shall have such relative rights and preferences, with such designations, as the Company's Board may by resolution provide. The Bylaws of this cooperative may: (i) restrict membership in this cooperative; and (ii) provide for additional classes of members, including non-patron members, with or without voting rights and having such other rights and preferences as are described therein.

**ARTICLE VII
PATRONAGE**

All net proceeds of this cooperative in excess of: (i) dividends, if any, and (ii) additions to reserves, shall be distributed to patrons annually or more often on the basis of patronage as more particularly provided for in the Bylaws. Patronage refunds may be distributed in cash or credits as more particularly provided for in the Bylaws. Any such credits shall be redeemable only at the option of the Board.

**ARTICLE VIII
FIRST LIEN**

This cooperative shall have: (i) a first lien on all patronage capital, and other interests standing on its books for all indebtedness of the respective holders or owners thereof to the cooperative; and (ii) the right, exercisable at the option of the Board, to set off such indebtedness against the amount of such patronage capital or other interests standing on its books; provided however, that nothing contained herein shall give the owners of patronage capital or other interests any right to have such set off made.

The cooperative may discount the value of the equity credits. The method of discounting the value of the equity credits shall be to calculate the present value of the credits based on the number of years to the expected redemption of the equity credits had the offset against the indebtedness not occurred. The discount rate shall be equal to the cooperative's rate that it pays on term debt. If the discounted equity credits are more than the indebtedness to be offset, any excess credits shall be returned, in the Board's discretion, either at the time of the offset, or in the normal redemption cycle along with every other patron's equities. If the discounted equity credits are less than the indebtedness to be offset, the cooperative's lien shall continue against future equity credits allocated to the patron, which shall be discounted and offset against the remaining indebtedness.

**ARTICLE IX
LIQUIDATION**

In the event of the liquidation, dissolution or winding up of this cooperative, whether voluntary or involuntary, all debts, liabilities, capital and assets remaining shall be paid and distributed according to the Bylaws and Minnesota law.

**ARTICLE X
BOARD OF DIRECTORS**

The business and affairs of this cooperative shall be managed by a board of directors as set by the Bylaws, which directors shall be members or representatives of members who are other than natural persons. Directors shall be elected by the members of the cooperative for such terms as the Bylaws may prescribe, at the annual meetings of members.

**ARTICLE XI
ELECTION TO BE GOVERNED BY THE ACT**

The cooperative elects to be governed by Chapter 308B of the Minnesota Statutes.

IN WITNESS WHEREOF, this document is dated to be effective as of the 25th day of January, 2023.

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AMENDED AND RESTATED BYLAWS OF CRYSTAL VALLEY COOPERATIVE

**A COOPERATIVE ORGANIZED UNDER
MINNESOTA STATUTES, CHAPTER 308B**

Effective December 21, 2022

**ARTICLE I
MEMBERSHIP AND AUTHORIZED CAPITAL INSTRUMENTS**

Section 1.01. Member Qualifications. To become a member of this association (a “member”), an individual, partnership, corporation, association, or other legal entity must (i) be a producer of agricultural products and (ii) be accepted by the association in the manner established by the Board of Directors from time to time. Membership is deemed to impose on a member all of the conditions and requirements provided in the Articles of Organization, these Bylaws, and the conditions of membership, if any, all as amended or restated from time to time, together with any contract that may be required from time to time.

Section 1.02. Voting Member Qualifications. To become a voting member of this association (“voting member”), a member must (i) meet all of the member qualifications under Section 1.01 and (ii) patronize this association in an amount that is not less than \$10,000 in the preceding fiscal year (or a higher or lower minimum amount as established by the Board of Directors before the beginning of the fiscal year). Voting members shall have the voting rights set forth in Section 2.04. A voting member who fails to meet the minimum patronage requirement for a year will have its voting rights suspended for the subsequent year, even if the membership is not terminated pursuant to Section 1.04.

Section 1.03. Patrons. The Board of Directors may establish policies by which legal entities or persons that are not members, but who are aligned with the association’s purpose, may contract with the association to deal on a patronage basis without voting rights (such legal entities or persons, “patrons”).

Section 1.04. Termination of Membership. Membership in this association may be terminated by the Board of Directors if any of the following events occur:

- (a) a member has become ineligible for membership pursuant to Section 1.01;
- (b) a member has failed to patronize this association for a period of one year or more;
- (c) a member dies;
- (d) a member ceases to be an agricultural producer; or
- (e) the Board of Directors by resolution finds that a member has:
 - (1) intentionally or repeatedly violated any bylaw of this association; or
 - (2) breached any contract with this association including the obligation to make timely payments on the member’s account with this association; or

- (3) willfully obstructed any lawful purpose or activity of this association; or
- (4) revoked consent to take patronage distributions into income; or
- (5) refused to abide by the Articles of Organization, Bylaws or uniform conditions of membership established by the Board of Directors.

A terminated member's retained patronage (allocated patron equity) shall be redeemed in the same manner as the retained patronage of active members.

Section 1.05. Conditions of Membership. The Board of Directors may adopt conditions that apply retrospectively or prospectively for governing the issuance, maintenance, or termination of any membership.

Section 1.06. Preferred Equity. The Board of Directors by resolution may establish and issue to any person (whether member, patron, or other person) one or more than one class or series of debt and/or equity instruments, may set forth the designation of classes or series of such debt and/or equity instruments, and may fix the relative rights, preferences, privileges and limitations of each class or series of debt and/or equity instruments, including, without limitation, one or more than one class or series of preferred equity instruments.

Dividends may be paid on the equity capital of this association which is evidenced by an equity instrument established pursuant to this Section 1.06; provided that dividends on such equity capital may not exceed eight percent (8%) per annum. Dividends may be cumulative. Debt or equity instruments established pursuant to this Section 1.06 shall not entitle the holder to voting rights. Unless otherwise expressly authorized by the Board of Directors, debt or equity instruments established and issued pursuant to this Section 1.06 may only be sold or transferred with the approval of the Board of Directors of this association.

Section 1.07. Waiver of Dissenter's Rights for Non-Patron Members. All non-patron Members hereby waive any and all rights to dissent from and obtain payment for the fair value of such Member's equity (however described) as provided by Minnesota Statutes Chapter 308B.

Section 1.08. Right of Redemption. Except as provided by Minnesota Statutes Chapter 308B, no Member shall have any right whatsoever to require the redemption of the Member's interest or equity (however described), any such redemption or retirement of a membership interest or member's equity (however described) shall be only as authorized by the Board from time to time in the Board's sole discretion.

ARTICLE II MEETINGS OF MEMBERS

Section 2.01. Annual Meeting. The annual meeting of the members of this association shall be held on a date and at a time fixed by the Board of Directors. The place of the meeting shall be conveniently located within an area served by this association.

Section 2.02. Special Meeting. Special meetings of the members of this association shall be held at the place specified in the notice of the meeting. A special meeting may be called by the Board of Directors, or upon the written petition of twenty percent (20%) of the members. The association's Chair shall cause notice of a special meeting to be given after receiving such a written petition from the members, or after being informed of the Board of Director's decision to call a special meeting. The notice of the time, place, and purpose of the special meeting shall be given in accordance with the notice requirements for annual meetings. The notice shall be issued within thirty (30) days after presentation of the petition, in the case of a special meeting called by the members, or within thirty (30) days after the Chair is informed of the Board of Directors' decision to call a special meeting, in the case of a special meeting called by the Board of Directors (unless the petition or Board of Directors' decision sets a later time for the special meeting). Special meetings called by the members shall be held within thirty (30) days from the date of the presentation of the petition. No business shall be considered at any special meeting except the business mentioned in the notice of the meeting.

Section 2.03. Notice of Annual Meeting. Written notice of every annual meeting of the members shall be prepared by the Secretary and mailed to the last known post office address of each member not less than fifteen (15) days prior to the date of the meeting. In lieu of a mailed notice, the notice may be given by publishing it at least two (2) weeks prior to the date of the meeting in a legal newspaper published in the county of the principal place of business of this association. The notice shall state the date, time, and place of the meeting. The Secretary shall execute a certificate which contains a copy of the notice, shows the date of mailing or the date the notice was published, and states the notice was mailed or published within the time prescribed by law. The certificate shall be made a part of the record of the meeting. The failure of any member to receive notice shall not invalidate any action which may be taken by the members at a meeting.

Section 2.04. Voting. Each voting member shall be entitled to one vote upon each matter submitted to a vote at a meeting of the members. Voting by proxy and cumulative voting shall not be permitted. If two or more persons hold one membership in partnership, joint tenancy, or otherwise, the vote of the membership shall be cast by any one person. A voting member absent from a meeting may submit a mail vote or an electronic vote on any motion, director election, resolution, or amendment to be acted upon at a meeting, provided that a mail ballot has been authorized by the Board of Directors. The mail vote or electronic vote must be cast on a ballot containing the exact text of the proposed motion, resolution, or amendment. The ballot shall either be mailed or delivered to this association, and, if received by this association prior to the closing of the polls, shall be counted as the vote of the voting member. The Board may require members to sign or otherwise identify themselves to ensure accuracy in voting, and ensuring one member, one vote.

Section 2.05. Action Without Meeting. Any action which may be taken at a meeting of the members may be taken without a meeting if set forth and approved by a writing signed by voting members constituting the percentage required to take the same action at a meeting of the members at which all members were present. The action shall be effective on the date specified, or if no date is specified, on the date on which the last signature is placed on the writing.

Section 2.06. Quorum. A quorum shall be ten percent (10%) of the total number of voting members or fifty (50) voting members, whichever is less. In determining a quorum on a question submitted for a vote by mail or electronic means, voting members present in person and voting members represented by mail or electronic vote shall be counted.

Section 2.07. Order of Business. The order of business at the annual meeting and at all other meetings of the members shall be determined by the Board of Directors.

ARTICLE III DIRECTORS

Section 3.01. General Powers. The Board of Directors shall manage the business and affairs of this association and shall exercise all of the powers of this association except as are by law, the Articles of Organization, or these Bylaws conferred upon or reserved to the members. The Board of Directors shall adopt such policies, rules, regulations, and actions not inconsistent with law, the Articles of Organization, or these Bylaws, as it may deem advisable.

Section 3.02. Number and Qualifications. This association shall have a Board of Directors consisting of at least five (5) directors, but not more than twelve (12), (as determined by the Board of Directors from time to time). Each director shall be a member of this association, or an elected or appointed representative of a member of this association that is other than a natural person. A director who is the representative of a family farm corporation or authorized farm corporation must be residing on or actively operating the farm. A person who engages in activities which significantly compete with the activities of this association shall not be eligible to be a director.

Section 3.03. Election of Directors. Directors shall be elected at the annual meetings of the members for staggered terms of three years and shall serve until their successors are elected and qualified. The Board of Directors shall establish procedures for nomination and election of directors.

Section 3.04. Removal of Directors. A director or directors may be removed from the Board of Directors by an affirmative vote of a majority of the votes cast by the members of this association who are eligible to vote at any annual or special meeting of the members. No director shall be removed from office unless informed in writing of the meeting at which the matter is to be considered at least ten (10) days prior to the meeting.

If any directors are removed, successor directors shall be elected at the same meeting. If a director shall have unexcused absences from three (3) successive meetings, his or her term shall automatically terminate without further notice and his or her successor director shall be selected by the members of the Board of Directors to fill the vacancy created until the next annual meeting of the members.

Section 3.05. Vacancies. Whenever a vacancy occurs in the Board of Directors, other than from expiration of a term or removal, a majority of the remaining directors may appoint a member to fill the vacancy until the next annual meeting of the members (still within the requirements of Section 3.02.). At the annual meeting, the voting members shall elect a director to fill the remainder of the term of the vacating director.

Section 3.06. Annual Meeting. A meeting of the Board of Directors shall be held within thirty (30) days after each annual meeting of the members to elect officers and to transact any other business which may properly come before the meeting.

Section 3.07. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as the Board of Directors may determine.

Section 3.08. Special Meetings. Special meetings of the Board of Directors shall be held whenever called by one or more directors, or by the chief executive officer of the association. The purpose of a special meeting need not be specified in the notice of the meeting. Notice of any special meeting may be waived by attendance at a meeting (except when a director attends a meeting and objects to the transaction of business), or by a waiver of notice signed before, during, or after the meeting. A notice of special meeting called by three or more directors shall be given two days prior to the date of the special meeting.

Section 3.09. Quorum; Voting. A quorum shall be a majority of the Board of Directors. All questions shall be decided by a vote of the majority of the directors present at the meeting.

Section 3.10. Action Without Meeting. Any action which may be taken at a meeting of the Board of Directors, or at a meeting of a lawfully constituted committee, may be taken without a meeting if set forth and approved by a writing signed by all directors, or by any acceptable electronic means or via a telephonic conference call as the case may be. The action shall be effective on the date specified, or if no date is specified, on the date on which the last signature is placed on the writing or as acknowledged electronically.

Section 3.11. Compensation. The compensation of the Board of Directors shall be determined by the Board of Directors. Directors shall be entitled to reimbursement for expenses incurred in directing the business of the association when such expenses are authorized by a vote of the Board of Directors.

Section 3.12. Employment of Chief Executive Officer and/or President. The Board of Directors shall select, employ, and fix the compensation of a chief executive officer and/or president. The Board of Directors may terminate the employment of the chief executive officer and/or president with or without cause at any time.

Section 3.13. Accounting System. The Board of Directors shall install and maintain an adequate system of accounts and records. At least once each year, the financial records of this association shall be audited, and a report of the audit shall be made at the annual meeting of the members.

Section 3.14. Depository. The Board of Directors shall have the power to select one or more banks or other financial institutions to act as depositories of the funds of this association, and to determine the person or persons who shall have authority to sign checks and other instruments.

Section 3.15. Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. If a member of a committee shall be absent from any meeting, or disqualified from voting there at, the remaining member or members present and not disqualified from voting, whether or not such member or members constitute a quorum, may, by unanimous vote, appoint another member of the Board of Directors to act at the meeting in the place of such absent or disqualified member.

Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the association; but no such committee shall have the power or authority in reference to approving or adopting, or recommending to the members, any action or matter (other than the election or removal of directors) expressly required by the Minnesota Cooperative Associations Act to be submitted to members for approval or adopting, amending or repealing any Bylaw of the association; and unless the resolution designating the committee, these Bylaws or the Articles of Organization expressly so provide, no such committee shall have the power to authorize the issuance of stock or to adopt a certificate of ownership and merger.

Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors, when required.

Unless otherwise specified in the resolution of the Board of Directors appointing the committee, all provisions of the Minnesota Cooperative Associations Act and these Bylaws relating to meetings, action without meetings, notice (and waiver thereof), and quorum and voting requirements of the Board of Directors apply, as well, to such committees and their members.

Unless otherwise provided in the Articles of Organization, these Bylaws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

Section 3.16. Limitation of Liability. No director of this association shall be personally liable to the association or its members for monetary damages for breach of fiduciary duty as a director, except for liability:

- (a) for breach of the director's duty of loyalty to this association or its members;
- (b) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;

- (c) for a transaction from which the director derived an improper personal benefit; or
- (d) for an act of omission occurring prior to the date when the provisions of this Section become effective.

It is the intention of the members of this association to eliminate or limit the personal liability of the directors of the association to the greatest extent permitted under Minnesota law. If amendments to the Minnesota Statutes are passed after this Section 3.16 becomes effective which authorize cooperative associations to act to further eliminate or limit the personal liability of directors, then the liability of the directors of this association shall be eliminated or limited to the greatest extent permitted by the Minnesota Statutes, as so amended. Any repeal or modification of this Section 3.16 by the voting members of this association shall not adversely affect any right of or any protection available to a director of this association which is in existence at the time of such repeal or modifications.

ARTICLE IV OFFICERS

Section 4.01. Election of Officers. At each annual meeting of the Board of Directors, the Board of Directors shall elect the officers of this association, which officers shall be a chair, a vice chair, a secretary and a treasurer or a secretary/treasurer. The Chair and the Vice Chair must be directors of this association. The association may have such other officers as the Board of Director may, from time to time, elect.

Section 4.02. Term of Office. Each officer shall hold office until his or her successor has been elected and qualified, unless a different term is specified at the time such officer is elected, or until his or her earlier death, resignation or removal.

Section 4.03. Removal of Officers. Any officer may be removed from office at any time, with or without cause, by the Board of Directors.

Section 4.04. Resignation. An officer may resign at any time by giving written notice to the association. A resignation will be effective upon its receipt by the association unless the resignation specifies that it is to be effective at some later time or upon the occurrence of some specified later event.

Section 4.05. Vacancies. A vacancy in any office may be filled by the Board of Directors.

Section 4.06. Powers. Unless otherwise specified by the Board of Directors, each officer shall have those powers and shall perform those duties that are (i) specified at the time such officer is elected or (ii) in any subsequent resolution or document with respect to such officer's duties authorized by the Board of Directors or (iii) commonly incident to the office held.

**ARTICLE V
INDEMNIFICATION AND INSURANCE**

Section 5.01. Indemnification. This association shall, to the fullest extent permitted under Minnesota law (or any amendments thereto), indemnify each director, officer or chief executive officer and president of this association, and each person serving at the request of this association as a director, officer, or chief executive officer and president of another corporation, partnership, joint venture, trust, or other enterprise, against expenses actually and reasonable incurred, including attorneys' fees, judgments, fines, and amounts paid in settlement, to the extent to which such officers, directors, or chief executive officer and presidents of a cooperative association may be indemnified under the law of this state.

Section 5.02. Insurance. This association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, chief executive officer and president, employee, or agent of this association, or who is or was serving at the request of this association as a director, officer, chief executive officer and president, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted and incurred in any capacity.

**ARTICLE VI
METHOD OF OPERATION – PATRONAGE**

Section 6.01. Cooperative Operation. This Cooperative shall be operated upon the cooperative basis in carrying out its business within the scope of the powers and purposes defined in the Articles. Accordingly, after distribution of the Non-patron Preferred Return, the net income of this Cooperative in excess of amounts credited by the Board to Capital Reserves and amounts of dividends, if any, paid with respect to equity capital shall be accounted for and distributed annually to Patrons on the basis of Allocation Units as provided in this Article VI. The Cooperative operates as an agricultural cooperative under Subchapter T of the Internal Revenue Code, and as such, makes payments or allocations to Patrons as described in Section 1382(b) of the Code.

- (a) In determining the net income or net loss of this Cooperative or its Allocation Units, there shall be taken into account this Cooperative's share of the net income or net loss of any unincorporated entity in which it owns an equity interest, patronage dividends distributed by other cooperatives of which it is a patron and, to the extent determined by the Board, its share of the undistributed net income or net loss of any corporation in which it owns an equity interest.
- (b) Each transaction between this Cooperative and each Patron shall be subject to and shall include as a part of its terms, each provision of the Articles and Bylaws of this Cooperative, whether or not the same be expressly referred to in said transaction.
- (c) Each Patron for whom this Cooperative markets or procures goods or services shall be entitled to proportional (based on Patronage Business) Allocation Units arising out of said transactions, as provided in this Article VI.

- (d) Non-member Patrons for whom this Cooperative markets or procures goods or services, shall not be entitled to any proportional (based on Patronage Business) Allocation Units arising out of said transactions as provided in this Article VI, unless this Cooperative and such Nonmember Patron agrees to conduct said business on a patronage basis.

Section 6.02. Establishment of Allocation Units. Allocation Units shall be established by the Board on a reasonable and equitable basis and they may be functional, divisional, departmental, geographic, or otherwise. The Board shall adopt such reasonable and equitable accounting procedures as will, in the Board's judgment, equitably allocate among the Allocation Units this Cooperative's income, gains, expenses and losses and, to the extent provided in Section 1 of this Article VI, patronage dividends received by this Cooperative and its share of income, gain, loss and deduction of other entities in which it owns an interest.

Section 6.03. Determination of Patronage Income or Loss of an Allocation Unit.

- (a) Net savings (loss) shall be determined in accordance with the applicable rules and regulations for computing federal income taxes in order to determine the overall net savings (loss) of the Cooperative available for patronage allocations. The net income or net loss of an Allocation Unit from Patronage Business for each Fiscal Year shall be the sum of: (1) the gross revenues directly attributable to goods or services marketed or procured for Patrons of such Allocation Unit, plus (2) an equitably apportioned share of other items of income or gain attributable to this Cooperative's Patronage Business, less (3) all expenses and costs of goods or services directly attributable to goods or services marketed or procured for Patrons of such Allocation Unit, less (4) an equitably apportioned share of all other expenses or losses attributable to this Cooperative's Patronage Business, dividends on equity capital and distributable net income from Patronage Business that is credited to the Capital Reserve pursuant to Section 7(c) of this Article VI.
- (b) The foregoing amounts shall be determined in accordance with the accounting treatment used by the Cooperative in calculating its taxable income for federal income tax purposes; provided however, the Board may prospectively adopt a reasonable alternative method. The Board shall have the authority prior to the beginning of each Fiscal Year to review the adjustments required for computing the net savings (loss) on a federal income tax basis to determine that those adjustments represent a fair and equitable adjustment to the Patrons for that Fiscal Year. Expenses and cost of goods or services shall include without limitation such amounts of depreciation, cost depletion and amortization as may be appropriate, amounts incurred for the promotion and encouragement of cooperative organization, and taxes other than federal income taxes. Such net income or net loss shall be subject to adjustment as provided in Sections 5 and 8(b) of this Article VI relating to losses.

Section 6.04. Allocation of Patronage Income Within Allocation Units. The net income of an Allocation Unit from Patronage Business for each Fiscal Year, less any amounts thereof that are otherwise allocated in dissolution of this Cooperative, shall be allocated among the Patrons of such Allocation Unit in the ratio that the quantity or value of the business done with or for each such Patron bears to the quantity or value of the business done with or for all Patrons of such Allocation Unit. The Board shall reasonably and equitably determine whether allocations within any Allocation Unit shall be made on the basis of quantity or value.

Section 6.05. Treatment of Patronage Losses of an Allocation Unit.

- (a) Methods for Handling Patronage Losses. If an Allocation Unit incurs a net loss in any Fiscal Year from Patronage Business, this Cooperative may take one or more of the following actions:
 - (1) Offset all or part of such net loss against the net income of other Allocation Units for such Fiscal Year to the extent allowed by law;
 - (2) Establish accounts payable by Patrons of the Allocation Unit that incurs the net loss that may be satisfied out of any future amounts that may become payable by this cooperative to each such Patron;
 - (3) Carry all or part of the loss forward to be charged against future net income of the Allocation Unit that incurs the loss;
 - (4) Offset all or part of such net loss against the Capital Reserve;
 - (5) Cancel outstanding Patrons' Equities; or
 - (6) Cancel outstanding Non-qualified Notices of Allocation (per Section 6(d) below).
- (b) Allocation of Net Loss Among Patrons of Loss Units. Any cancellation of equities and/or establishment of accounts payable pursuant to this Section 5 shall be made among the Patrons of an Allocation Unit in a manner consistent with the allocation of net income of such Allocation Unit.
- (c) Restoration of Net Loss out of Future Net Income. The future net income of an Allocation Unit that incurs a net loss may be reduced by part or all of such net loss that was offset against the Capital Reserve, Patrons' Equities of Patrons of another Allocation Unit or against the net income of another Allocation Unit and may be used to restore the Capital Reserve, restore such Patrons' Equities or to increase the future net income of such other Allocation Unit; provided that reasonable notice of the intent to do so is given to the Patrons of the loss unit.
- (d) Board Discretion. The provisions of this Section 5 shall be implemented by the Board, having due consideration for all of the circumstances which caused the net loss, in a manner that it determines is both equitable and in the overall best interest of this Cooperative.
- (e) No Assessments against Members or Patrons. There shall be no right of assessment against Members or Patrons for the purpose of restoring impairments to capital caused by net losses.

Section 6.06. Distribution of Net Income.

- (a) Patronage Refunds. The net income allocated to a Patron pursuant to Sections 4 and 8 of this Article VI shall be distributed annually or more often to such Patron as a patronage refund; provided however, that no distribution need be made where the amount otherwise to be distributed to a Patron is less than a de minimis amount that may be established from time to time by the Board.
- (b) Form of Patronage Refunds. Patronage refunds shall be distributed in cash, allocated patronage equities, revolving fund certificates, securities of this Cooperative, other securities, or any combination thereof designated by the Board (all such refunds referred to collectively herein as "Patrons' Equities"), including without limitation, the following instruments (which may be uncertificated and designated only by book entry on the Cooperative's books and records):
 - (1) Capital Equity Certificates: in one or more than one class or series, in such designations or denominations, and with such relative rights, preferences, privileges and limitations as may be fixed by the Board, and bearing no interest, dividend or other annual payment.
 - (2) Certificates of Indebtedness: in one or more than one class or series, in such designations or denominations, and with such relative rights, preferences, privileges and limitations as may be fixed by the Board, and bearing such maturity and rate of interest, if any, as may be fixed by the Board. Such certificates shall be callable for payment in cash or other assets at such times as may be determined by the Board.
 - (3) Non-patronage Earnings Certificates: in one or more than one class or series, in such designations or denominations, and with such relative rights, preferences, privileges and limitations as may be fixed by the Board, with no maturity date, and bearing no interest, dividend or other annual payment. Non-patronage Earnings Certificates may be distributed only to Patrons as part of the allocation and distribution of non-patronage income. Such certificates shall be callable for payment in cash or other assets at such times as may be determined by the Board.
- (c) Written Notices of Allocation. The noncash portion of a patronage refund distribution that is attributable to Patronage Business shall constitute a written notice of allocation as defined in 26 U.S.C. Section 1388 which shall be designated by the Board as a qualified written notice of allocation, as a non-qualified written notice of allocation, or any combination thereof as provided in said section.
- (d) Non-qualified Notices of Allocation. The Cooperative is authorized to issue an unlimited amount of patronage refunds in the form of nonqualified written notices of allocation (as defined in 26 U.S.C. 1388 (d)).
- (e) No Voting Rights. Patrons' Equities and Non-qualified Notices of Allocation shall not entitle the holders thereof to any voting or other rights to participate in the affairs of this Cooperative (which rights are reserved solely for the Patron Members).

- (f) Transfer Restriction. Patrons' Equities may only be transferred with the consent and approval of the Board, and by such instrument of transfer as may be required or approved by this Cooperative.
- (g) Board Authority to Allow Conversion. The Board also shall have the authority to allow conversion of Patrons' Equities into Patron Units, preferred equities or such other debt and/or equity instruments of this Cooperative on such terms as shall be established by the Board.
- (h) Qualified Written Notices, Revolvement Discretionary. No Person shall have any right whatsoever to require the retirement or redemption of any Patrons' Equities except in accordance with their term, or of any allocated Capital Reserve. Such redemption or retirement is solely within the discretion and on such terms as determined from time to time by the Board, which may in making any such redemption or retirement, distinguish Patrons who are individuals from Patrons who are not and, in doing so, favor Patrons with respect to estate retirements and revolvments at specified ages.
- (i) Non-qualified Written Notices, Revolvement Upon Liquidation. Nonqualified written notices of allocation will generally be retired only upon the distribution of assets on liquidation or dissolution of the Cooperative and shall be treated as an allocated surplus for all purposes. The Board may in its sole discretion, pay out nonqualified written notices on an equitable basis so long as the Board is first satisfied the Cooperative has:
 - (1) sufficient financial resources for such a payment; and
 - (2) for that year, sufficiently retired qualified written notices of allocation. If and when nonqualified written notices are paid, they will be owned by the persons or organizations to which the notices were issued and by the transferees of such organizations or persons.

Section 6.07. Capital Reserve. The Board shall cause to be created a Capital Reserve and, except as otherwise provided in Section 8 of this Article VI, shall annually add to the Capital Reserve the sum of the following amounts:

- (a) The annual net income of this Cooperative attributable to Non-patronage Business;
- (b) Annual net income from Patrons who are unidentified or to whom the amount otherwise to be distributed is less than the minimum amount provided in Section 6(a) of this Article VI; and
- (c) An amount up to 30% of the distributable net income from Patronage Business, provided that a determination as to a specific amount is determined, prior to the last day of December following the end of the Fiscal Year, and further that the amount shall be 0% for any Fiscal Year for which the Board does not make a determination prior to the last day of December following the end of the Fiscal Year. Federal income taxes shall be charged to the Capital Reserve.

Section 6.08. Allocation and Distribution of Non-patronage Income and Loss.

- (a) Non-patronage Income. The Board shall have the discretion to allocate to Allocation Units amounts that are otherwise to be added to the Capital Reserve pursuant to Section 7(a) of this Article VI. Such allocation may be made on the basis of any reasonable and equitable method. Amounts so allocated to Allocation Units shall be further allocated among the Patrons thereof on a patronage basis using such method as the Board determines to be reasonable and equitable. Amounts so allocated shall be distributed to Patrons thereof in the form of cash, equity, Non-patronage Earnings Certificates, or any combination thereof designated by the Board. The Board may determine whether and to what extent Non-member Patrons may share in such distributions.
- (b) Non-patronage Loss. If the Cooperative incurs a net loss on its Non-patronage Business or if a net loss is incurred with respect to the Non-patronage Business of an Allocation Unit, such net loss generally shall be chargeable against Capital Reserve unless and to the extent the Board, having due consideration for the circumstances giving rise to such net loss, determines that it is reasonable and equitable to allocate all or part of such a net loss among Allocation Units generally or to a specific Allocation Unit or units. Any such loss allocated to an Allocation Unit shall reduce such unit's net income from Patronage Business to the extent thereof and the excess, if any, shall be treated generally in accordance with Section 5(a)(ii), (iii) and (v) of this Article VI.

Section 6.09. Tax Consent. Each Patron on the effective date of these Bylaws who continues as a Patron after such date shall, by such act alone, consent that the amount of any distributions with respect to his/her patronage occurring in any Fiscal Year, which are made in written notices of allocation (as defined in 26 U.S.C. 1388 of the Code) and which are received by him/her from the Cooperative, will be taken into account by him/her at their stated dollar amounts in the manner provided in 26 U.S.C. 1385 in the taxable year in which such written notices of allocation are received by him/her, it being the intent of these Bylaws to provide a consent binding on all Patrons for the purpose of making such distributions "qualified written notices of allocation" within the meaning of the Code. Each such Patron shall have consented also to take into account non-qualified written notices of allocation (as defined in 26 U.S.C. 1388 (d)) at their stated dollar amounts.

**ARTICLE VII
FISCAL YEAR**

The fiscal year of this association shall begin on September 1 of each year and shall end on August 31.

ARTICLE VIII LIQUIDATION

In the event of any liquidation, dissolution, or winding up of this association, whether voluntary or involuntary, all debts and liabilities of this association shall be paid first, according to their respective priorities; second, the holders of any preferred equity shall be paid an amount equal to their liquidation preference or stated value, together with any dividends cumulated but unpaid.

All capital furnished through patronage allocations (Patron Equity) shall then be redeemed without priority on a pro rata basis to the members or patrons to whom it is allocated on the books of the association.

Any assets remaining after the foregoing payments have been made shall be allocated among the allocation units in such manner as the Board of Directors, having taken into consideration the origin of such amounts, shall determine to be reasonable and equitable.

Amounts so allocated shall be paid to current and former patrons of each such allocation unit in proportion to their patronage of such unit over such period of time as may be determined to be equitable and practicable by the Board of Directors. Such 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 IX AMENDMENT

Section 9.01. Member Amendment. These Bylaws may be amended or repealed and new Bylaws may be adopted at any annual or special meeting of the members of this association by the vote of a majority of the voting members, whether in person or by mail ballot, provided that the quorum requirements are satisfied, and that the notice of the meeting contained a copy of or a summary statement of the proposed amendment.

Section 9.02. Amendment by Board of Directors. The Board of Directors may make or amend any Bylaw, which shall be effective when adopted by the Board of Directors; provided any bylaw adopted or amended by the Board of Directors shall be reported at the next regular member meeting; and provided further, that any bylaw adopted or amended by the Board of Directors shall be at any time subject to amendment or repeal by the voting members upon prior notice as provided for in Chapter 308B of the Minnesota Statutes.

