

Bylaws of Old Creamery Cooperative, Inc.
as amended February 10 and March 10, 2015

Article 1 - Organization

1.1 Name. The name of this organization is Old Creamery Cooperative, Inc. (“Cooperative”).

1.2 Purpose. The purpose of the Cooperative is to engage in any lawful business, and in particular to conduct its business as an environmentally responsible, community-enhancing, full-service market.

1.3 International Cooperative Principles. The business of the Cooperative shall be operated in accordance with International Cooperative Principles, as follows:

1st Principle: Voluntary and Open Membership. The Cooperative shall be a voluntary organization, open to all persons able to use the services of the Cooperative and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.

2nd Principle: Democratic Member Control. The Cooperative shall be a democratic organization controlled by its members, who actively participate in setting its policies and making decisions. Men and women serving as elected representatives shall be accountable to the membership. Members shall have equal voting rights (one member, one vote).

3rd Principle: Member Economic Participation. Members shall contribute equitably to, and democratically control, the capital of the Cooperative, which shall be the common property of the Cooperative. Members allocate surpluses for any or all of the following purposes: developing the Cooperative; setting up reserves which shall be indivisible; benefiting members in proportion to their transactions with the Cooperative; and supporting other activities approved by the membership.

4th Principle: Autonomy and Independence. The Cooperative shall be an autonomous self-help organization controlled by its members. If the Cooperative enters into agreements with other organizations, including governments, or raises capital from external sources, it shall do so on terms that ensure democratic control by its members and maintain its cooperative autonomy.

5th Principle: Education, Training, and Information. The Cooperative shall provide education and training for its members, board of directors, managers, and employees so they can contribute effectively to the development of the Cooperative. The Cooperative shall inform the general public - particularly young people and opinion leaders - about the nature and benefits of cooperation.

6th Principle: Cooperation Among Cooperatives. The Cooperative shall serve its members most effectively and shall strengthen the cooperative movement by working together through local, national, regional, and international structures.

7th Principle: Concern for Community. While focusing on member needs, the Cooperative shall work for the sustainable development of the community through policies accepted by its members.

1.4 Business Office: The business office of the Cooperative shall be located at the Cooperative's store at 445 Berkshire Trail, Cummington, MA 01026.

1.5 Fiscal Year: The fiscal year of the Cooperative that began on July 1, 2013 shall end on December 31, 2013, and thereafter the fiscal year of the Cooperative shall be January 1 - December 31.

Article 2 - Membership and Member-Owners

2.1 Eligibility. Membership in the Cooperative shall be voluntary and open to all who support its purpose and principles and accept the responsibilities of membership. Applications to become a member-owner ("Member-Owner") of the Cooperative may be made by:

a. An adult individual. An application by an adult individual must include her or his name, address, email address, telephone number(s), and other contact information to the Cooperative. That individual (who shall be the Member-Owner of record) is responsible for promptly informing the Cooperative of any changes in that information. Only purchases made by the Member-Owner of record and the other individuals living at the same location and sharing expenses for food shall be credited to that Member-Owner's account.

b. An organization (including a business). A person applying for membership on behalf of an organization shall serve as its representative unless and until the organization designates another person as its representative and so informs the Cooperative in writing. However, the Member-Owner of record shall be the organization. The organization's representative shall provide the name, address, email address, and telephone number of the organization, the representative, and each person authorized to make purchases on behalf of the organization; such a person shall be known as an organization associate. Only purchases made for the sole use of the organization (and not for resale) by the organization's representative or the organization associates shall be credited to the organization's membership account. The organization's representative shall be responsible for informing the Cooperative of all changes in such information. The organization's representative shall be the sole person entitled to exercise the organization's rights as a Member-Owner set forth in section 2.3 of these bylaws. Communications between the Cooperative and the organization relating to its membership shall be made solely to and from its representative, and the organization shall be bound by all such communications. All sums payable by the Cooperative to the organization as Member-Owner, including but not limited to patronage dividends and refunds of equity, shall be paid by check payable

to the organization and mailed to the organization at its address shown on the records of the Cooperative.

A minor authorized to make purchases for a Member-Owner may not purchase any product the sale of which to minors is prohibited by law.

2.2 Admission. The Board of Directors ("Board") may from time to time determine the amount of the Member-Owner equity requirement ("Member-Owner equity requirement") for Member-Owners and may authorize an installment plan for eligible applicants. The Board may also authorize a payroll deduction plan for employees of the Cooperative. Applicants who are accepted as Member-Owners shall become Member-Owners upon paying the Member-Owner equity requirement or, if eligible for such an installment plan or payroll deduction plan, by paying the minimum Member-Owner equity requirement set forth in that plan. Member-Ownerships are not transferable except with the consent of the Cooperative. The Board has discretion to determine whether an application complies with the requirements of these bylaws.

2.3 Rights of Member-Owners. Each Member-Owner in good standing, as defined in Section 8.5 of these bylaws, shall have the right to receive a copy of these bylaws, to participate in the governance of the Cooperative by attending and speaking at meetings of Member-Owners, and to cast one vote in all matters submitted at meetings of Member-Owners. A vote may be cast in person or by proxy, using a proxy form approved by the Board. The proxy must be signed and dated by the Member-Owner or its representative. Unless otherwise specified in the proxy form, no proxy dated more than six months before the meeting named in the proxy shall be valid. The proxy form must be furnished to the Cooperative at least two days before the meeting. A Member-Owner may revoke any proxy provided that the Member-Owner has informed the general manager of the Cooperative of the revocation before the vote is taken. A proxy shall not be valid after the final adjournment of the meeting named in the proxy. Each Member-Owner in good standing shall be entitled to discounts on purchases made on Member-Owner appreciation days and, if and to the extent authorized by the Board, to patronage rebates (as defined in Section 12.1) on its purchases from the Cooperative.

2.4 Responsibilities of Member-Owners. Member-Owners shall abide by these bylaws and by decisions made in accordance with these bylaws, both those made by the Board and those made by Member-Owners at meetings properly held under these bylaws. The representative of a Member-Owner shall ensure that the responsibilities of the Member-Owner are carried out by the Member-Owner and by persons authorized to make purchases for the account of the Member-Owner. The Board has the right to evaluate any Member-Owner's compliance with this section and to take appropriate action in case of noncompliance.

2.5 Access to Information. The Cooperative shall provide or make available to all Member-Owners, during regular business hours, reasonably adequate and timely information as to the organizational and financial affairs of the Cooperative. Such information shall include, at a minimum, the articles of organization of the Cooperative, these bylaws, the names of and contact information for the members of the Board, its most recent profit and loss statement and balance sheet, the minutes of meetings of the Board and of the Executive Committee, and the minutes, if

any, of other committees appointed by the Board, except in each case for minutes of meetings held in executive session.

Any Member-Owner may make a written, signed request, stating a proper purpose, for copies of or access to other records of the Cooperative, including a list of its Member-Owners. A proper purpose shall mean a purpose reasonably related to such person's interest as a Member-Owner. The Member-Owner shall reimburse the Cooperative for the costs of copying or allowing access if the Cooperative deems them significant. No such request shall be granted if to do so would constitute a breach of agreement between the Cooperative and an individual or organization not affiliated with the Cooperative. The Board may require the written request to be signed under oath by the Member-Owner submitting it. Subject to approval by the Board and upon receipt of such reimbursement, the Cooperative shall furnish copies of such books and records to such Member-Owner, or provide access to them, within a reasonable time and during the Cooperative's regular business hours.

2.6 Termination. Membership in the Cooperative may be terminated voluntarily or involuntarily, as follows:

- a. A Member-Owner may voluntarily terminate her, his, or its Member-Ownership by so informing the general manager in writing.
- b. If a Member-Owner is delinquent in paying when due her, his, or its Member-Owner equity requirement or any other amount owed to the Cooperative and fails to cure the delinquency within 10 days after the general manager has given the Member-Owner written notice of the delinquency, that Member-Ownership may be terminated by the Board. If the delinquency is cured after such Member-Ownership has terminated, the Board may reinstate such Member-Owner.
- c. The Board may terminate any Member-Ownership for cause, after a fair hearing at which the Member-Owner is given the opportunity to speak and present evidence. The Member-Owner may appeal the termination at the next meeting of Member-Owners. A Member-Owner who has been terminated shall cease to enjoy all rights and benefits of the Cooperative.
- d. A Member-Ownership will be terminated, in the case of an individual, upon her or his death and, in the case of an organization, upon its cessation of existence..

2.7 Return of Member-Owner's Equity Requirement. If a Member-Ownership is terminated for any reason, the Board shall, subject to the conditions and limitations in Article 8, refund to the Member-Owner the paid-in amount of her, his, or its Member-Owner equity requirement. No amount credited to a Member-Owner's account as additional paid-in capital reflecting gifts, unpaid patronage dividends or other transactions shall be refunded upon the termination of that Member-Ownership.

2.8 Evidence of Membership. The Board shall establish an administrative system to handle Member-Ownership applications, issue evidence of status to Member-Owners, and issue evidence that a Member-Owner has authorized an individual to make purchases on behalf of the Member-

Owner. Each Member-Owner shall be allocated a single share of the Cooperative's \$1 par value common stock on its books. No certificates shall be issued to evidence share ownership.

2.9 Membership Program. The Board may from time to time establish programs so that persons or households unable to afford membership may become Member-Owners. The Board may establish rules relating to any such program.

Article 3 - Meetings of Member-Owners

3.1 Annual Meeting. An annual meeting of Member-Owners shall be held within four months of the close of the Cooperative's fiscal year at a time and place determined by the Board and announced to Member-Owners in writing no less than 10 days and no more than 30 days in advance of the meeting. The announcement shall include the proposed agenda of the meeting and a complete description of any issues that will be voted upon by Member-Owners. The purposes of the annual meeting shall be to hear reports on operations and finances, to review any important policy issues or other matters that materially affect the Cooperative, to elect directors, and to conduct such other business as may properly come before the meeting.

A written notice of each meeting of Member-Owners, stating the place, day and hour thereof and the purposes for which the meeting is called, shall be given by the clerk to each Member-Owner entitled to such notice and listed on the records of the Cooperative as of the date of such notice, by leaving such notice with him or her or at his or her residence or usual place of business, or by mailing it, postage prepaid and addressed to such Member-Owner at his or her address as it appears upon the records of the Cooperative. In case of the death, absence, incapacity or refusal of the clerk, such notice may be given by any other officer or by a person designated either by the clerk or by the person or persons calling the meeting or by the Board.

Any decisions made by Member-Owners on issues not included in the notice of meeting shall be of an advisory nature only. No notice to a Member-Owner of the time, place or purpose of any regular or special meeting of the Member-Owners shall be required if such Member-Owner signs a waiver of notice and the waiver is filed with the records of the meeting.

3.2 Special Meetings. Special meetings of Member-Owners may be called by the Board and shall be called by the Board upon receipt of a petition signed by at least 5% of Member-Owners, subject to the same notice requirements as apply to the annual meeting of Member-Owners, except that the notice shall be given no less than seven days in advance of the meeting. Any decisions made by Member-Owners on issues not included in the notice of meeting shall be of an advisory nature only.

3.3 Quorum and Votes. The president of the Board shall preside over all meetings of Member-Owners. The presence in person or by proxy at the opening of the meeting of at least 3% of all Member-Owners for annual meetings and 5% of all Member-Owners for special meetings of Member-Owners shall constitute a quorum for the transaction of business at any meeting of Member-Owners. Unless otherwise required by law, decisions by the Member-Owners shall be made by majority vote of the Member-Owners present and voting in person or by proxy at a duly called annual or special meeting of Member-Owners.

3.4 Voting on Certain Matters. With respect to any matter for which not less than a majority of any class of stock outstanding and entitled to vote thereon is required by law for approval, if a quorum of Member-Owners, as described in Section 3.3 of these bylaws, is present in person or by proxy at a meeting for which proper notice was given to the Member-Owners, including that one of the purposes of such meeting was to consider such matter, then only those Member-Owners present in person or by proxy at the meeting shall be deemed to be entitled to vote on such matter for purposes of determining if the requisite percentage of votes has been obtained.

Article 4 - Board of Directors

4.1 Powers and Duties. Except as to matters reserved to Member-Owners by law or by these bylaws, the business and affairs of the Cooperative shall be directed and controlled by the Board in a manner consistent with the Cooperative's articles of organization and with these bylaws. The powers and duties of the Board shall include, but not be limited to: engaging a general manager, monitoring and evaluating her or his performance and taking disciplinary action up to and including termination, overseeing the financial condition of the Cooperative, developing and enforcing policies, ensuring good conditions of employment, implementing decisions of Member-Owners at meetings held in accordance with these bylaws, and assuring that the purpose and principles of the Cooperative are properly carried out.

4.2 Requirements and Qualifications. The Board shall consist of not less than six or more than nine directors, no more than two of whom may be employees of the Cooperative. To be qualified to be nominated or to serve as a director, a person shall be a Member-Owner or the representative of an organization that is a Member-Owner, and shall not be the general manager of the Cooperative. No person may serve as a director if he or she is an immediate family member of a person already serving as a director.

4.3 Nomination. The Board may establish a nominating committee to solicit and review applications for nomination to the Board and to present a slate of nominees to the Member-Owners for consideration. Persons who are not eligible to be nominated under section 4.2 shall not be placed on the ballot. A person who is qualified to serve as a director under section 4.2 but is not selected by the nominating committee shall be placed on the ballot upon submission to the Board (or to the nominating committee) of a petition signed by at least 10 other Member-Owners. The petition must be received no later than the March 1st immediately preceding the annual meeting for that year. The Cooperative shall equitably provide information on all candidates to the Member-Owners. In the event that more than two employees of the Cooperative should run for the Board, only the two employees who receive the most votes shall be deemed to be elected to the Board.

4.4 Election and Term. Directors shall be elected to fill vacancies on the Board at the annual meeting of Member-Owners or at a special meeting of Member-Owners, except as otherwise provided in Section 4.5. The term of each director shall be up to three years, provided that for directors elected on October 20, 2013, the first year of their terms shall end at the annual meeting following the end of the short fiscal year July 1 - December 31, 2013. Terms shall be staggered to the extent practicable so that one-third of the directors are elected to full terms each year. Direc-

tors may not be elected to more than three consecutive three-year terms, except that the time served by a director who was in office during the period before the first annual meeting of Member-Owners shall not be counted for the purpose of determining her or his term. A former director who has been elected for three consecutive terms is eligible to serve on the Board after having been off the Board for a period of one year. Any director may be removed from office as provided in Section 4.8. The candidates receiving the highest number of votes shall be elected to the longest terms, provided that an employee who is a candidate may not be elected if her/his election would result in three or more employees on the Board. Ties will be determined by drawing straws.

4.5 Vacancies. If a vacancy occurs on the Board between annual meetings of Member-Owners, the remaining directors may appoint a replacement to fill the term of the departing director. The Board shall request ratification of the appointment at the next annual meeting of Member-Owners. The Board may continue to act notwithstanding the existence of one or more vacancies.

4.6 Compensation. Directors shall not receive any compensation for service on the Board. The Cooperative shall reimburse directors for reasonable and necessary expenses incurred in carrying out their duties and responsibilities, consistent with Board policies. Board members shall be eligible for any benefits that the Cooperative may provide to volunteers in general.

4.7 Conflicts of Interest. Directors shall be under an affirmative obligation to disclose their actual or potential conflicts of interest in any matter under consideration by the Board. Directors having such an interest shall absent themselves from discussion and decision of the matter unless otherwise determined by the Board.

4.8 Termination. The term of office of a director may be terminated prior to its expiration in the following ways:

- a. voluntarily by a director upon written notice to the Board;
- b. involuntarily, with or without cause, by action of the Member-Owners at a meeting of Member-Owners;
- c. involuntarily upon termination of her or his Member-Ownership or by vote of the Board following absence by a director from three consecutive regularly scheduled Board meetings or from four Board meetings in any 12-month period; and
- d. involuntarily for cause, by a two-thirds vote of the Board after a fair hearing at which the director is given the opportunity to speak and present evidence, provided that such person is accorded a right of appeal at a meeting of Member-Owners.

Article 5 - Meetings of the Board

5.1 Convening. The Board shall meet at regular times and places, to be determined by the Board and posted at the Cooperative. No notice to directors shall be required for any regular meeting. A special meeting of the Board may be called by the president or by any two directors, in which case notice of the time and place of such meeting shall be given no less than five days prior (if

notice is emailed or written), or two days prior if oral. Notice of all Board meetings shall also be posted conspicuously at the Cooperative store as soon as practicable after a meeting is set.

5.2 Open Meetings. Meetings of the Board shall be open to Member-Owners, except for meetings or portions thereof held in executive session. The Board may meet in or go into executive session to discuss sensitive matters and matters the open discussion of which might cause harm to another person or the Cooperative. The Board may, from time to time, adopt a policy regarding those matters that may be considered in executive session.

5.3 Quorum and Decision-Making. The presence in person at any meeting of a majority of directors then in office shall constitute a quorum for the transaction of business at such meeting. Decisions of the Board shall be made by majority vote of the directors present.

5.4 Exigent Circumstances. When the Board determines that exigent circumstances exist or when otherwise specifically authorized by the Board to finalize matters the substance of which have been discussed and decided at a Board meeting, the Board may conduct meetings by conference calls without the public notice that would otherwise be required under section 5.1, provided that all directors participating in that conference-call meeting can hear each other at the same time.

Article 6 - Committees

6.1 Executive Committee. There may be an executive committee of the Board ("Executive Committee") consisting of the president, vice president, treasurer, and clerk. The Board may appoint additional Board members to the Executive Committee. To the extent permitted by law, the Executive Committee may act on behalf of the whole Board in emergency situations that may arise between meetings of the Board. Any decisions made by the Executive Committee must be reviewed by the Board at its next meeting and may be approved or overturned by the Board. The Executive Committee may make rules consistent with the bylaws regarding the manner in which it will hold and conduct its meetings.

6.2 Committees. The Board may designate committees to perform specific functions. Committees exercising the powers of directors shall be composed of directors.

Article 7 - Officers

7.1 Designation. The principal officers of the Cooperative shall consist of the president, vice president, treasurer, and clerk. The offices of treasurer and clerk may be held by the same person. All such officers shall be directors, except as otherwise provided in Section 7.2. The Board may appoint such other officers as the Board may determine.

7.2 Election and Term. Officers shall be elected annually by the Board, at its first meeting following the annual meeting of Member-Owners, for terms of one year or until election of their successors. Officers who are not directors may serve no more than five consecutive terms. Officers may be removed at any time, with or without cause, by the Board.

7.3 Duties. The following officers shall have the following duties and such additional duties as are determined by the Board:

- a. The president shall preside at all meetings of the Board and of Member-Owners and, as authorized by the Board, shall sign formal documents on behalf of the Cooperative.
- b. The vice president shall perform the duties of the president in her or his absence and shall, as requested, assist the president in the performance of her or his duties.
- c. The treasurer shall monitor the financial affairs of the Cooperative and the filing of all required reports and returns and shall, as authorized by the Board, sign formal documents on behalf of the Cooperative.
- d. The clerk shall oversee the issuance of required notices and the keeping of minutes of all meetings of the Board and of Member-Owners and shall, as authorized by the Board, sign or attest to formal documents of the Cooperative.

The duties of any other officer elected by the Board shall be determined by the Board and shall not include any of the duties listed above.

Article 8 - Member-Owners' Equity

8.1 Member-Owner Equity Requirements. Member-Owner equity requirements shall reflect the current or prospective capital needs of the Cooperative as determined by the Board from time to time and shall be paid within the time specified by the Board. As a result of such a determination, existing Member-Owners may be required to pay additional equity to the Cooperative, and a commensurate increase will occur in the initial Member-Owner equity requirements for new Member-Owners. Any Member-Owner who elects not to pay such additional equity requirement may terminate her, his, or its Member-Owner status, or be terminated for non-payment, in each case in accordance with Section 2.6.

8.2 Accounting. Member-Owner equity requirement payments shall be credited on the books of the Cooperative to capital accounts in the respective names of Member-Owners. To the extent practicable, the Cooperative shall segregate the proceeds for use only in acquiring capital assets or discharging related liabilities. Gifts received directly by the Cooperative from any prospective or actual Member-Owner in excess of the then applicable Member-Owner equity requirement shall initially be treated as additional paid-in capital from such Member-Owner and may at any time thereafter, in the Board's discretion, be reclassified as income.

8.3 Return of Member-Owner Equity Requirement on Termination. If a Member-Ownership is terminated pursuant to Section 2.6, the Cooperative shall pay to the Member-Owner an amount equal to the aggregate amount actually paid on that Member-Owner's equity requirement, offset by any amounts due and payable by the Member-Owner to the Cooperative. Such payment shall be made within 60 days in the case of voluntary terminations or 5 days in the case of involuntary terminations, or as promptly thereafter as practicable; provided, however, that the Board may defer payment for good cause. Good cause includes, but is not limited to, a determination by the Board that such payment, alone or with other similar payments, would violate loan agreements or

other contractual obligations of the Cooperative or would jeopardize the solvency of the Cooperative. In such case the Cooperative shall make such payment as soon as practicable after such cause ceases to exist. As provided in Section 2.7, no other amount shall be paid to any Member-Owner upon, or by reason of, termination, other than any unpaid or unredeemed patronage rebates (defined in Section 12.1).

8.4 Donations of Member Equity on Termination. Departing Member-Owners wishing to donate their Member-Owner equity requirement refund to the Cooperative may make this wish known in writing, and the funds will be recorded as income.

8.5 Installments. Eligible Member-Owners who choose to pay their Member-Owner equity requirement in installments or by payroll deduction must make the required payments within the time specified, in order to remain in good standing. In the event that a Member-Owner fails to do so, the Member-Owner shall be deemed not to be a member in good standing until such time as the Member-Owner makes the required payments and may be terminated as a Member-Owner pursuant to Section 2.6

8.6 No Known Address. In case the Board deems it necessary to refund a Member-Owner equity requirement amount, notification of such a refund and a check for the sum of the refund amount shall be sent to the Member-Owner or the representative of the Member-Owner by United States mail delivery to the last known address for the Member-Owner in the Cooperative's records. If any notification is returned to the Cooperative as undeliverable or if there is no response from the Member-Owner or its representative within 6 months of mailing, the refund amount allocated to the Member-Owner in question shall be forfeited by the Member-Owner and allocated as income taxable to the Cooperative.

Article 9 - Notice

9.1 Notice. Except as otherwise provided in these bylaws, any notice required under these bylaws shall be deemed delivered when deposited postage pre-paid in the United States mail with names and addresses of Member-Owners and representatives of Member-Owners as they appear in the records of the Cooperative.

9.2 Waiver of Notice. A Member-Owner may waive any notice of a meeting required under these bylaws in writing at any time before or after the meeting for which notice is required. If a Member-Owner attends a meeting for which the notice required under these bylaws was not given, the Member-Owner shall thereby waive the required notice of the meeting, unless at the first opportunity to do so at the meeting, the Member-Owner objects to the transaction of business because the meeting is not lawfully convened.

Article 10 - Indemnification

10.1 Risk of Loss. No Member-Owner of the Cooperative shall be liable for any indebtedness or obligation of the Cooperative in an amount exceeding the sum of all amounts due and payable by the Member-Owner to the Cooperative, including any additional payment of equity duly authorized under Section 8.1.

10.2 Indemnification. Subject to the limitations in Section 10.3 of these bylaws, the Cooperative

shall indemnify, defend and save harmless any person, his or her heirs, executors and administrators, against any cost, expense (including attorney's fees and amounts paid in settlement), fine, penalty, judgment and liability reasonably incurred by or imposed upon such person in connection with any action, suit or proceeding, civil or criminal to which such person may be made a part or with which such person shall be threatened, by reason of being or having been a director or officer of the Cooperative or serving or having served at the request of the Cooperative in any capacity in any other organization or any employee benefit plan.

10.3 Limitations. Indemnification shall only be provided if the person is determined to have acted in good faith and in the reasonable belief that her or his action was in the best interests of the Cooperative or, in regard to criminal actions, that such person had no reasonable cause to believe that her or his action was unlawful. If such determination is not made in a legal proceeding related to the claim, it may be made by a quorum of disinterested directors or by independent legal counsel selected by such quorum. If not made or able to be made by either, the determination shall be made by independent legal counsel selected at a meeting of Member-Owners. In any action by or in the right of the Cooperative or in which such person is charged with receiving an improper personal benefit, indemnification shall be provided only as to reasonable expenses and only if the person is not adjudged liable to the Cooperative on such basis. No indemnification shall be provided with respect to any matter where indemnification is prohibited by law. Any indemnification may, to the extent authorized by the Board of Directors, include payment by the Cooperative of expenses incurred in defending a civil or criminal action or proceeding, upon receipt of a written undertaking by the person indemnified to repay such payment if he or she shall be not entitled to indemnification under this Section, which undertaking may be accepted without regard to the financial ability of such person to make repayment.

10.4 Payments. Indemnification payments and advances of expenses shall be made only in such increments and at such times as will not jeopardize the ability of the Cooperative to pay its other obligations as they become due. All such payments made shall be reported in writing to Member-Owners with or before the notice of the next meeting of Member-Owners.

10.5 Insurance. The Cooperative may purchase and maintain directors' and officers' liability insurance from a reputable company, in an amount determined by the Board to be sufficient to provide the indemnification set forth in Section 10.2 above. The insurance policy may reimburse the Cooperative for any indemnification it makes to directors and officers, and it shall make direct payments to directors and officers when they are not reimbursed by the Cooperative.

Article 11 - Bylaws

11.1 Severability. In the event that any provision of these bylaws is determined to be invalid or unenforceable under any statute or rule of law, then such provision shall be deemed inoperative to such extent and shall be deemed modified to conform with such statute or rule of law without affecting the validity or enforceability of any other provision of these bylaws.

11.2 Amendment. These bylaws may be amended or repealed in whole or in part by vote of two-thirds of the Member-Owners present in person or by proxy at a meeting of Member-Owners, provided that notice stating the substance of the proposed amendment was included in the notice of the meeting. The directors may amend or repeal these bylaws in whole or in part, except with

respect to any provision thereof that by law, the articles of organization, or these bylaws is expressly reserved solely to action by the Member-Owners. As soon as practicable after any such repeal or amendment of the bylaws by the Board, and not later than the time of giving notice of the meeting of Member-Owners next following the amendment or repeal by the directors of any bylaw, the Member-Owners shall be notified of the substance of the change. Any bylaw adopted by the directors may be amended or repealed by the Member-Owners. The term "bylaws" as used in this document means the bylaws of the Cooperative as in effect from time to time.

11.3 Petitions for Amendment by Member-Owners. Any Member-Owner may petition the Board to amend the bylaws, provided that the petition shall have been signed by nine other Member-Owners. The petition shall specify the wording and purpose of the proposed amendment. Upon receipt of the petition, the Board shall consider the proposed amendment and, within a reasonable time, shall determine whether or not to adopt it. If the Board decides not to adopt the proposed amendment, it shall notify the petitioning Member-Owners. At the next meeting of Member-Owners, the Board shall report on the reasons for its decision not to adopt the proposed amendment. Thereafter any Member-Owner present in person or by proxy at the meeting may move that the proposed amendment be adopted. Adoption of any such proposed amendment requires a two-thirds vote of the Member-Owners present in person or by proxy at the meeting.

Article 12 - Patronage Dividends and Patronage Rebates

12.1 Distributable Net Earnings. The Board may, after the close of the fiscal year, determine whether to distribute to Member-Owners the "distributable net earnings" (if any) of the Cooperative in the form of patronage dividends. Such patronage dividends may be distributed partially in cash and/or purchase vouchers ("patronage rebates") and partially in allocated retained patronage credited to the account of each such Member-Owner but in no event shall the patronage rebates portion be less than the percentage required at such time by the Federal tax code. In determining distributable net earnings, the net earnings of the Cooperative derived from the excess or deficit of revenues over costs and expenses shall first be determined in accordance with generally accepted accounting principles. Such distributable net earnings shall then be reduced by (a) amounts not attributable to purchases by Member-Owners, plus (b) amounts attributable to sales of alcoholic beverages under Massachusetts law, plus (c) other amounts which are required to be deducted under Federal or state tax laws, and (d) such other reasonable reserves for necessary business purposes as may be determined by the Board.

12.2 Allocation to Member-Owners. Distributable net earnings, as so determined, shall be allocated among Member-Owners in proportion to their respective dollar amounts of qualified purchases from the Cooperative, determined by the Board pursuant to the provisions of this Article 12. In determining and allocating such distributable net earnings, the Cooperative shall use a single allocation unit except to the extent that it shall, subsequent to the adoption of these bylaws, engage in any new and distinct line of business. Net earnings attributable to business done with customers who are not Member-Owners shall be credited to unallocated owners' equity.

12.3 Notice and Distribution; Failure to Claim or Redeem. Patronage dividends shall be evidenced by written notice of allocation delivered to recipient Member-Owners no later than eight months following the close of the fiscal year. Each notice shall state the dollar amount of the pa-

tronage dividend allocated to the recipient Member-Owner's account and the patronage rebate portion thereof. All notices, except those subject to Section 12.6, shall be accompanied by checks or purchase vouchers, except that any allocations of such a nominal amount of patronage rebates as not to justify the expenses of distribution may, as determined by the Board, be excluded from distribution, provided that they are not then or later distributed to other Member-Owners.

Any patronage rebate may be used for the purchase of goods at the Cooperative, redeemed for cash, or donated to the Cooperative. And portion of any patronage rebate that is not claimed, used, redeemed, or donated within 90 days from issuance shall revert to the Cooperative as a donation without further notice to its Member-Owner. Such patronage rebates as are donated or that revert to the Cooperative as provided in this section shall be distributed and allocated as the Board may determine.

12.4 Consent of Member-Owners. By obtaining or retaining membership in the Cooperative, each Member-Owner shall thereby consent to take into account, if and to the extent required by sections 1381 through 1388 of the Federal Internal Revenue Code of 1986, as amended, the stated dollar amount of any qualified written notice of patronage dividends allocation in the taxable year in which such notice is received. (See summary analysis below.) In addition, by obtaining or retaining membership in the Cooperative, each owner is required to accept all patronage dividends received from the Cooperative.

12.5 Deferred Amounts. Patronage dividends not currently distributed under this Article 12 as patronage rebates shall accrue no monetary return on investment and shall not be transferable. They shall be rebated to Member Owners at no more than their carrying value on the books of the Cooperative if and when determined by the Board to be no longer needed for the capital requirements of the Cooperative. At that time they shall be paid in the order of the oldest outstanding amounts and on a pro rata basis among such amounts.

12.6 Allocation of Net Loss. In the event the Cooperative shall incur a net loss in any fiscal year, such loss may be charged against retained earnings or unallocated Member-Owners' equity accounts. If the net loss exceeds such amounts, or in any event if the Board so determines, the amount of such loss may either be carried forward to offset adjusted net earnings of subsequent fiscal years or be allocated to Member-Owners in the same manner as for adjusted net earnings except that such allocation shall not exceed the total of invested capital. Any such allocated net loss shall be charged first against retained patronage dividends of prior fiscal years and then against patronage dividend allocations of subsequent fiscal years. Allocated net losses shall not otherwise be assessed to or collected from Member-Owners.

12.7 No Known Address. Patronage rebates and/or notice of patronage dividends shall be sent to Member-Owners or their representatives by U.S. regular mail delivery to the Member-Owner's address in the Cooperative's records. If any such notice or dividend is returned to the Cooperative as undeliverable, the patronage dividend allocated to the Member-Owner in question shall be forfeited by the Member-Owner and retained by the Cooperative as taxable income.

12.8 Sales of Alcoholic Beverages. Any profits that accrue from the sale of alcoholic beverages must be accounted for separately from profits that accrue from other sales, and those profits cannot be used to distribute to Member-Owners or to reduce costs to Member-Owners. All alcohol sales shall be available to the public without discrimination. Special discounts to members will not apply to the sale of alcoholic beverages; however, any discounts that are available to the general public can apply to Member-Owners.

Explanation of Patronage Dividend Consent Provision

The Federal Internal Revenue Code generally requires each person receiving a patronage dividend to include the amount of such distribution in his or her gross income in the taxable year in which the related notice is received. Under bylaw Section 12.4, mere acceptance or retention of membership in the Cooperative constitutes a consent to such inclusion in taxable income, including the portion of the patronage dividend that is retained by the Cooperative for its capital needs. The Cooperative has been advised, however, that the general rule for inclusion in income of patronage dividends is subject to an exception that is applicable to consumer cooperatives. Under that exception, a patronage dividend is not required to be included in such gross income to the extent attributable to a Member-Owner's purchases for personal, living, or family items. However, to the extent a Member-Owner's patronage dividend is attributable to purchases that constitute supplies, equipment or services used in a trade or business, or otherwise are not attributable to purchases for personal, living, or family items, such amounts must be included in the Member-Owner's gross income.

Disclaimer: The Cooperative cannot give definitive advice on the tax consequences of patronage dividends to any Member-Owner; Member-Owners are encouraged to seek their own tax advice.