



Bylaws of the Davis Food Cooperative, Inc.

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Article I: Name	1
Article II: Ownership and Purpose:	1
2.1. Business.	1
2.2. Other Objectives.	1
Article III: Membership	1
3.1 Eligibility.	1
3.2 Admission.	2
3.3 Rights.	2
3.4 Responsibilities.	2
3.5 Termination of Membership:	2
3.6 Return of Equity:	3
3.7 Unclaimed Propriety Interests-Escheat alternative procedure:	3
3.8 Non transferability.	4
3.9 Proprietary Interest.	4
3.10 Dispute Resolution.	4
3.11 Copies of Bylaws.	4
3.12 Debts of the Cooperative.	4
3.13 Financial reports.	5
Article IV: Member Meetings & Elections	5
4.1 Annual Meeting.	5
4.2 Special Meetings.	5
4.3 Notice of meetings.	5
4.4 Notice and Consent to Electronic Transmissions.	5
4.5 Contents of Notice:	6
4.6 Quorum.	6
4.7 Voting and Two Classes of Shares.	7
Article V: Board of Directors	7
5.1 Number and Composition.	7
5.2 Powers and Duties.	7

5.3 Vacancies.	7
5.4 Terms and Elections.	8
5.5 Removal.	8
5.6 Meetings.	8
5.7 Action without a Meeting.	8
5.8 Quorum.	8
5.9 Conflicts of Interest	8
5.10 Officers.	9
5.11 Indemnification.	9
Article VI: Shares	10
6. 1 Issuance and terms.	10
6.2 Redemption.	11
6.3 Conflict of Interest.	11
Article VII: FINANCIAL	11
7.1 Fiscal year.	11
7.2 Net Surplus Savings and Earnings.	11
7.3 Consent.	12
7.4 Annual Audit.	12
7.5 Covered Transactions.	13
7.6 Communication by electronic means.	13
Article VIII: INITIATIVE	13
Article IX: PATRONAGE DIVIDENDS	13
9.1 Allocations to Members.	13
9.2 Payment of Dividends.	13
Article X: DISSOLUTION	13
10.1 Asset Distribution.	13
Article XI: AMENDMENTS	14
11.1 Amendments.	14
Explanation of Bylaws Consent Provision with respect to Patronage Refunds	15

Article I: Name

The name of the organization shall be Davis Food Cooperative, Inc. (henceforth “the Cooperative”).

Article II: Ownership and Purpose:

The Cooperative shall be owned by its Members and shall operate for the mutual benefit of its Members.

2.1. Business.

The primary purpose of the Cooperative is to engage in the business of selling food and other household products and services to Members, who shall be the ultimate consumers of these products.

2.2. Other Objectives.

Other objectives of the Cooperative shall be:

- (A) Cooperative service for the benefit of Members as consumers and the consuming public;
- (B) Promotion of the cooperative ideal, and affiliation or cooperation with cooperative organizations in the local community, the state, the nation, and other countries;
- (C) Conducting such other activities as will serve the economic, educational, recreational, and cultural welfare of its Members and the public.

Article III: Membership

3.1 Eligibility.

Any resident of the State of California who is a natural person or corporation may become and remain a Member of this Cooperative by:

- (A) Complying with these Bylaws and such uniform conditions as may be prescribed by the Board of Directors, (henceforth the Board), including any required purchases of Membership or Investment shares; and
- (B) Making full payment of any non-refundable Membership fee as set by the Board;

Each Membership shall consist of one natural person, or in the case of a corporate Member, a natural person shall be named to vote in the affairs of the Cooperative as described in the Articles of Incorporation and these Bylaws.

Each and any Membership may be designated a “Joint Membership,” where it includes Members of the same household. Each Membership shall have one “Member of Record,” and up to one additional co-owner, entitled to Membership Rights, where such Membership is in good standing. While either co-owner may run for a seat on the Board, provided they have been a Member for ninety (90) days prior to the record date, only the Member of Record shall be entitled to vote in elections, or to endorse petitions and

referendums, and to receive patronage distributions, or payment in any liquidation event, if any such distributions or payments are made. An additional co-owner may become the Member of Record by filing written notice of such a change with the Secretary of the Board. Only one such change may be made in any fiscal year.

Additional co-owners must belong to the same “household.” The term “household” shall refer to a Member of Record and any individuals who live, buy, and eat jointly in one dwelling with that Member of Record. A single dwelling may contain more than one such household. A household may not consist of individuals from more than one dwelling. A Member of Record may designate as many individuals as are in their household as “Additional Cardholders,” whose purchases from the Cooperative shall be included as patronage of the Member of Record.

3.2 Admission.

Any eligible person may be admitted to Membership upon submitting an application, entering into a Cooperative Membership Agreement, and investing equity in an amount and on such terms as determined by the Board.

3.3 Rights.

Members have the right to elect the Cooperative’s Board, to attend meetings of the Board, to receive notice of and attend Membership meetings, to petition as described in these Bylaws, and to approve amendments to these Bylaws. Each Member shall have one vote and no more on all matters submitted to Members. The rights of Members shall be understood to apply only to active Members in good standing. All rights and responsibilities of Members 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.

3.4 Responsibilities.

Members shall keep current in equity investments due to the Cooperative, shall keep the Cooperative informed of any changes in name or current address, and shall abide by these Bylaws and the policies and decisions of the Cooperative or the Board. A Member who upholds these responsibilities is considered an active Member in good standing.

3.5 Termination of Membership:

(A) Voluntary Termination: A Member may terminate his or her Membership voluntarily at any time by written notice to the Cooperative.

(B) Death or Dissolution: On death a Membership terminates. Where a Member of Record in a Joint Membership no longer meets all requirements for Membership in good standing or terminates, an additional co-owner shall become the Member of Record provided they meet all requirements for Membership in good standing.

(C) Involuntary Termination: A Member may be expelled from the Cooperative by resolution adopted by a two-thirds (2/3) vote of all Directors for:

1. Failure to comply with the Bylaws, rules or policies of the Cooperative;
2. Failure to pay the required Membership fees;
3. Failure to timely purchase the required Membership or Investment shares;

Involuntary termination shall become effective immediately unless the Board shall, in the resolution, fix another time. On expulsion, the name of the Member expelled shall be stricken from the Membership register and all of his or her rights shall cease except as provided in Section 3.6 of these Bylaws.

Prior to Involuntary Termination of a Member, the Board shall give such Member at least fifteen (15) days notice, including a statement of the reason(s). Such Member 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 of Directors. The notice required, pursuant to this section, may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by certified mail sent to the last known address of the Member shown on the Cooperative's records.

3.6 Return of Equity:

On termination of Membership, including on the death of a Member or where a Membership is terminated for cause, all Memberships and classes of shares shall be redeemable at the option of the Member; provided, however, that the Cooperative shall only redeem shares if it has the financial ability to make the redemption, and the Cooperative shall have up to one year from the date of notice of the redemption to complete the transaction. The Cooperative may offset any outstanding liabilities of the terminating Membership against the amount it redeems. Where a Membership is a Joint Membership, shares associated with the Joint Membership shall only be redeemed with the consent of the additional co-owner(s), unless the additional co-owner(s) becomes the Member of Record. Notice of the death of a Member may include a copy of the Member's death certificate, executor's letters testamentary, letters of administration or similar document.

3.7 Unclaimed Propriety Interests-Escheat alternative procedure:

(A) Where a Membership has terminated under these Bylaws, resulting in an unclaimed propriety interest, any proprietary interest that would otherwise escheat to the state pursuant to California law, shall instead become the property of the Cooperative, provided that:

1. At least 60 days prior notice of the proposed transfer of the proprietary interest to the Cooperative is given to the affected Member by first-class

mail, or by electronic transmission where such Member has agreed to receive electronic transmission from the Cooperative, to the last address of the Member shown on the Cooperative's records, and by publication in a newspaper of general circulation in the county in which the Cooperative has its principal office. Notice given in the foregoing manner shall be deemed actual notice.

2. No proprietary interest shall become the property of the Cooperative under this section if written notice objecting thereto is received by the Cooperative from the affected Member prior to the date of the proposed transfer.

(B) A “proprietary interest” shall mean and include any Membership, Membership certificate, Membership share, or share certificate of any class or series representing a proprietary interest in, and issued by, the Cooperative together with all accrued and unpaid dividends and patronage distributions relating thereto.

3.8 Non transferability.

Membership rights and Member equity or other shares as described in these Bylaws may not be transferred in any manner.

3.9 Proprietary Interest.

An owner's proprietary interest in the Cooperative includes holdings of Membership and Investment shares and any retained patronage distributions held by the Cooperative in the name of the owner. The amount of the proprietary interest is measured by its carrying value on the books of the Cooperative.

3.10 Dispute Resolution.

In any dispute between the Cooperative and any of its Members or former Members which cannot be resolved through informal negotiation, it shall be the policy of the Cooperative to use mediation whereby an impartial mediator may facilitate negotiations between the parties and assist them in developing a mutually acceptable settlement. No party with a grievance against the other shall have recourse to litigation until the matter is submitted to mediation and attempted to be resolved in good faith.

3.11 Copies of Bylaws.

A current copy of these Bylaws, together with the Explanation of the Bylaw Consent Provision with Respect to Patronage Refunds, shall be available at all times to each owner, through the Cooperative's website. A copy of the Bylaws and Articles of Incorporation, as amended to date, shall be provided to any owner upon request.

3.12 Debts of the Cooperative.

No Member of the Cooperative may be held liable for the debts of the Cooperative.

3.13 Financial reports.

Each Member shall, upon request, be entitled to receive a financial report containing the information required under § 12591 of the Consumer Cooperative Corporation Law.

Article IV: Member Meetings & Elections

4.1 Annual Meeting.

An annual Membership meeting shall be held at a time and place to be determined by the Board. The purpose of such meetings shall be to hear reports on operations and finances, to review issues that vitally affect the Cooperative, and to transact such other business as may properly come before the Membership.

4.2 Special Meetings.

Special meetings of the Membership may be called by the Board, either by decision of the Board, or in response to a written petition of 5 percent of the active Members. Notice of special meetings shall be issued to Members. In the case of a petition, notice of the special meeting will be issued within ten (10) days after presentation of the petition to the Board. No business shall be conducted at that special meeting except that specified in the notice of meeting.

4.3 Notice of meetings.

Notice of the date, time, place and purpose of each meeting of the Membership shall be posted in a conspicuous place at the Cooperative and communicated to Members not less than three (3) weeks prior to the date of the meeting.

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

4.4 Notice and Consent to Electronic Transmissions.

Whenever Members are required or permitted to take any action at a meeting, including special meetings, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each Member who, on the record date for notice of the meeting, is entitled to vote thereat; such notice shall be given by the Cooperative by electronic transmission, by U.S. mail, or other means of written communication. As a condition of Membership, all Members agree to the receipt of electronic transmissions including notices of meetings from the Cooperative, provided such notice complies with Section 20 of the California Corporations Code. Notice shall be addressed to each Member at the Member's address appearing on the books of the Cooperative for the purpose of notice. Notwithstanding the foregoing, notice shall not be given by electronic transmission by the Cooperative after either of the following:

1. The Cooperative is unable to deliver two consecutive notices to the Member by that means.
2. The inability to so deliver the notices to the Member becomes known to the secretary, or other person responsible for the giving of the notice.

If any notice addressed to a Member, at the Member's address appearing on the books of the Cooperative for the purpose of notice, is returned to the Cooperative as undeliverable by the United States Postal Service, all future notices shall be deemed to have been duly given without further mailing if the notice is available for the Member, upon written demand, at the principal office of the Cooperative for a period of one year from the date of the giving of the notice to all other Members.

4.5 Contents of Notice:

Notice, whether written or electronic shall provide the following:

1. the place, date and time of the meeting,
2. the means of electronic transmission by and to the Cooperative, or electronic video screen communication, if any, by which Members may participate in that meeting and,
3. in the case of a special meeting, the nature of the business to be transacted, and that no other business may be transacted; or
4. in the case of the annual Membership meeting, those matters which the Board, at the time the notice is given, intends to present for action by the Members.
5. the notice of any meeting at which Directors are to be elected shall include the names and candidacy statement of all those who are nominees.

4.6 Quorum.

- (A)** The lesser of 250 members or members representing 5 percent of the voting power, shall constitute a quorum at a meeting of Members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the Members unless the vote of a greater number or voting by classes is required by these Bylaws or the Articles of Incorporation.
- (B)** Where a Cooperative is authorized to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended by less than one-third of the voting power are matters, the general nature of which was provided in the notice of the meeting to the Members.
- (C)** Subject to subdivision (b), the Members 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 Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum or, if required by this division or the Articles of Incorporation or the Bylaws, the vote of the greater number or voting by classes.

4.7 Voting and Two Classes of Shares.

All Members in good standing are entitled to one and only one vote on matters submitted to Membership for vote. As determined by the Board, and at their option, Members may purchase non-voting shares, designated "Investment Shares."

Article V: Board of Directors

5.1 Number and Composition.

The Board shall be composed of nine (9) Directors. Directors shall be elected from among the Members of the Cooperative, having been nominated by the Nominating Committee of the Board, or nominated by Member petition signed by at least 1 % of the Membership. The 1% of members will be determined by the number of active members at the time of the prior year's Annual Meeting. All Directors must remain Members of the Cooperative during their term of office. A maximum of two eligible owners who are paid employees of the Cooperative may serve as Members of the Board at any one time, if they are not disqualified by any other provision of these Bylaws.

5.2 Powers and Duties.

The Board shall have full power to govern the Cooperative, including, but not limited to: assuring that the Cooperative's mission is carried out; fiscal oversight of the Cooperative; setting the level of required Member equity investment and making assessments for such investment; hiring and compensation of management, the evaluation of management's performance and establishing compensation of Board Members, if any.

All Directors shall perform the duties of a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of the Cooperative and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. The vote of a Board member, who is also a paid employee of the Cooperative shall not be counted in matters relating to the employment of the General Manager.

The following matters require vote of a majority of the Membership, as defined at Cal Corp § 12223:

- (A) Voluntary Dissolution or Sale of more than 50 percent of the Cooperative's assets.
- (B) Merger with another entity.
- (C) An amendment to the Articles of Incorporation or Bylaws that would effect a change in the rights, preferences and privileges of any Members holding any shares of any outstanding class of Investment shares, requires the approval of a majority of the holders of shares of that class.

5.3 Vacancies.

Any vacancies on the Board may be filled by approval of a quorum of the Board; or, if the number of Directors then in office is less than a quorum, by (1) the unanimous written

consent of the Directors then in office, or (2) the affirmative vote of a majority of the Directors then in office at a meeting held pursuant to notice or waivers of notice, or (3) a sole remaining Director.

5.4 Terms and Elections.

Elections shall occur annually, in a manner prescribed by the Board and set forth in the Cooperative's Policy Manual. Directors shall serve three (3) year terms; and those terms shall be staggered such that approximately one-third of the Board is elected each year. A Director may be re-elected any number of times following the expiration of their term.

5.5 Removal.

A Director who has been declared of unsound mind by an order of court or convicted of a felony may be removed by a decision of two-thirds of the remaining Directors. A Director may also be removed for failure to attend three (3) consecutive regularly noticed meetings of the Board. A Director may be removed without cause by a vote of the Membership pursuant to Cooperative policy.

5.6 Meetings.

Meetings of the Board may be called by the Chair of the Board or the President or any Vice President or the Secretary or any two Directors. Regular meetings of the Board may be held without notice if the time and place of the meetings are fixed by these Bylaws or the Board. Special meetings of the Board shall be held on four days notice by first-class mail or 48 hours notice delivered personally or by telephone, including a voice messaging system or by electronic transmission by the Cooperative. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the Board. Notice of a meeting need not be given to any Director who provides a waiver of notice or consent to holding the meeting.

5.7 Action without a Meeting.

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

5.8 Quorum.

A majority of the current Directors shall constitute a quorum and no decisions will be made without a quorum.

5.9 Conflicts of Interest

Directors shall be under an obligation to disclose their actual or potential conflicts of interest in any matter under consideration by the Board. Directors having such a conflict shall absent themselves from discussion and decision of the matter unless:

- (A) The material facts as to the transaction and as to such Director's interest are fully disclosed or known to the Members and such contract or transaction is approved

by the Members in good faith, with any Membership owned by any interested Director not being entitled to vote thereon, or:

- (B) The material facts as to the transaction and as to such Director's interest are fully disclosed and known to the Board or committee of the Board, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested Director or Directors, and the contract or transaction is just and reasonable as to the Cooperative at the time it is authorized, approved or ratified.
- (C) A Director is not "interested" within the meaning of this section, in a resolution fixing the compensation of Directors, officers or employees of the Cooperative, notwithstanding the fact that the Director receives compensation from the Cooperative, except as provided in section 5.2.
- (D) Ownership of investment shares shall not be considered an actual conflict of interest except with regard to the setting of any of the rights, preferences or privileges of the specific series of preferred shares owned by a Director. However, in the event that ownership of preferred shares reduces the number of eligible Directors below the number required for a quorum, otherwise disqualified Directors may vote.

5.10 Officers.

The Cooperative's Board of Directors shall elect a Chair of the Board or a President or a single individual elected to serve with both titles, a Secretary, a Treasurer or a Chief Financial Officer or a single individual elected to serve with both titles, and such other officers as shall be stated in the Bylaws or determined by the Board as necessary.

5.11 Indemnification.

It is the intent of the Cooperative to indemnify its agents to the fullest extent provided by law.

- (A) For the purposes of this section, "agent" means any person who is or was a Director, officer, employee or other agent of the Cooperative; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).
- (B) The Cooperative shall have power to indemnify and shall indemnify any person who was, or is a party, or is threatened to be made a party, to any proceeding by reason of the fact that the person is, or was, an agent of the Cooperative, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding if the person acted in good faith and in a manner the person reasonably believed to be in the best interests of the Cooperative and, in the case of a criminal proceeding, had no reasonable cause to believe their conduct was unlawful.
- (C) Except, no indemnification shall be made under this subdivision, in respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the Cooperative in the performance of the person's duty to the Cooperative,

unless and only to the extent that the court shall determine that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for the expenses which the court shall determine;

- (D) Except in cases where the court has determined the amount of indemnification due, any other indemnification under this section shall be made by the Cooperative only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b), by:
 1. A majority vote of a quorum consisting of Directors who are not parties to the proceeding; or
 2. Approval of the Members, with the persons to be indemnified not being entitled to vote thereon; or
 3. The court in which the proceeding is or was pending, upon application made by the Cooperative or the agent, whether or not the application by the agent is opposed by the Cooperative.
- (E) Expenses incurred in defending any proceeding may be advanced by the Cooperative prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the agent to repay the amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section.
- (F) A Cooperative shall have power to purchase and maintain insurance on behalf of any agent of the Cooperative against any liability asserted against or incurred by the agent in that capacity or arising out of the agent's status as such whether or not the Cooperative would have the power to indemnify the agent against that liability under the provisions of this section.
- (G) This section does not apply to any proceeding against any trustee, investment manager, or other fiduciary of a pension, deferred compensation, saving, thrift, or other retirement, incentive, or benefit plan, trust, or provision for any or all of the Cooperative's Directors, officers, employees, and persons providing services to the Cooperative or any of its subsidiary or related or affiliated Cooperatives, in the person's capacity as such, even though the person may also be an agent as defined in subdivision (a) of the employer Cooperative.

Article VI: Shares

6. 1 Issuance and terms.

The Cooperative shall issue two classes of shares to evidence capital funds provided by Members. Ownership of Class A Membership Shares entitles the Member of Record to one vote and all other rights of ownership. At their option, Members 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 to Membership in the Cooperative. Shares shall be considered issued upon full payment of no less than their issuing price and need not be evidenced by certificates. Class A Membership Shares shall be entitled to no dividend or other monetary return on contributed capital. The minimum share purchase requirement

shall be subject to increase by the Board of Directors, for the reasonable capital needs of the Cooperative, provided that such increase applies equally to both existing and newly-admitted owners.

6.2 Redemption.

Upon written request, following termination of Membership, shares shall be redeemed, and the Cooperative shall have one year from the notice of redemption to redeem the shares. Shares shall be redeemable pursuant to their terms, or at the lesser of their carrying value on the books of the Co-op, or their net book value less a reasonable processing fee, if any, as determined by the Board. Redemption proceeds shall be subject to offset by amounts due and payable to the Cooperative by the Member. No redemption shall be made if the Cooperative is, or as a result of such payment would be, likely to be unable to meet its liabilities as they mature.

6.3 Conflict of Interest.

Ownership of investment shares shall not be considered a conflict of interest except with regard to the setting of any of the rights, preferences or privileges of any specific series of preferred shares actually owned by a Director, and as further described in Article 5.9.

Article VII: FINANCIAL

7.1 Fiscal year.

The fiscal year shall be determined by the Board.

7.2 Net Surplus Savings and Earnings.

At the end of each fiscal year the net surplus savings and earnings of the Cooperative (hereafter referred to as net earnings) shall be computed and applied as follows:

- (A)** Computation of net earnings. For purposes of this article the net earnings of the Cooperative shall be based on the annual financial report and computed, in accordance with generally accepted accounting practices, as follows:
 - 1. without regard to Patronage Refunds;
 - 2. before provisions for federal and state income taxes; and
 - 3. after allocating to the reserve fund the net amount, after federal and state income taxes, of any gains or losses resulting from the sale or exchange of land, buildings, or equipment.
- (B)** Application of net earnings. The net earnings shall be applied as follows:
 - 1. Capital shall be restored to the extent of any impairment thereof;
 - 2. The Board may set aside reasonable reserves for necessary business purposes;
 - 3. The net earnings of the Cooperative for each fiscal year, to the extent attributable to the patronage of Members in good standing, shall be allocated and distributed among such Members as Patronage Refunds in proportion to their patronage. In determining and allocating net earnings, the Cooperative shall use a single allocation unit except to the extent that it may subsequently engage in any new and distinct line of business. Should

the Board declare a Dividend on investment shares, such Dividend shall be paid first from that portion of net earnings attributed to non-Member business from the current year and then prior years' accumulated earnings.

4. Members shall retain the right to waive in whole or in part, by vote of Members at a meeting, any Patronage Refunds to which they may be entitled;
5. Patronage Dividends shall be paid in the manner and to the extent required by the Internal Revenue Code and Treasury Department regulations to qualify for income tax deductions for the Cooperative. A qualified written notice of allocation shall be mailed to those eligible within eight- and-a-half months of the end of the fiscal year, including payment in cash of 20 percent or more, as determined by the Board. Any amounts not paid in cash will be credited as payment on additional shares until a shareholder owns the maximum dollar amount of Membership shares, after which, all amounts will be paid in cash;
6. Any allocations of such a nominal amount 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 Members;
7. A portion of Patronage Refunds, not to exceed 80 percent of the allocation, may be retained for the reasonable capital needs of the Cooperative. Such retentions shall accrue no monetary return on investment, shall not be transferable, and shall be in whole dollars only. They shall be redeemed when determined by the Board to be no longer needed for capital purposes. At that time they shall be redeemed in the order of the oldest outstanding amounts and on a pro rata basis among such amounts. Retained amounts may also be redeemed under compelling circumstances as determined by the Board. Retained amounts shall be subject at all times to being offset by amounts otherwise due and payable to the Cooperative.

7.3 Consent.

Persons who become or remain shareholders of this Cooperative after the adoption of this Bylaw thereby consent to include in their gross income for federal income tax purposes the stated dollar amount of any qualified written notice of allocation in the taxable year in which such notice is received, except to the extent that such a patronage refund is not income to the shareholder because: (a) it is attributable to the purchase of personal, living, or family items, or (b) it should properly be treated as an adjustment to the tax basis of property previously purchased. All terms used herein shall have the same meaning as under the Internal Revenue Code.

7.4 Annual Audit.

An annual audit or financial review of accounts shall be made by an auditor approved by the Board. The audit or financial review shall be presented to the Board no later than 120 days after the close of the Cooperative's fiscal year and shall be available to any current Member, on written request. Notice of the availability of the annual audit or annual report

shall be provided to all current Members in conjunction with notice of the annual meeting. Such annual audit or report may be provided to Members electronically.

7.5 Covered Transactions.

The Cooperative shall also furnish to Members a statement of any covered transaction during the previous fiscal year involving more than \$1000.00, or which was one of a series of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than \$1000.00. A covered transaction is one in which the Cooperative was a party and a Director or officer of the Cooperative had a direct or indirect material financial interest.

7.6 Communication by electronic means.

Unless otherwise required by these Bylaws, any notice, consent, ballot, petition, or other document required or permitted by these bylaws may be delivered by electronic means, provided that, in the case where such communication expressly or impliedly requires the signature of the person submitting the communication, means are in place to reasonably assure the authenticity of the signature. By this section Members agree to receive such communications electronically.

Article VIII: INITIATIVE

The Board shall maintain an Initiative Policy in conformity with California Cooperative Corporation Law.

Article IX: PATRONAGE DIVIDENDS

9.1 Allocations to Members.

The Cooperative shall allocate and distribute Patronage Dividends to Members in conformity with state and federal laws. The Board shall determine when and how such allocations and distributions will be made, according to the provisions set forth in Article VII of these Bylaws.

9.2 Payment of Dividends.

All Dividends paid on preferred shares shall be paid exclusively out of net income from non-Member-owner patronage business, current or accumulated; to the extent such net income is sufficient to satisfy any dividend obligation.

Article X: DISSOLUTION

10.1 Asset Distribution.

The Cooperative 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:

1. The Board shall first determine that all known debts and liabilities of the Cooperative have been paid or adequately provided for, including pursuant to section 12653(c).
2. 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.
3. 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 Cooperative shall redeem any outstanding Membership shares on a pro-rata basis if such shares cannot be redeemed in full.
4. The Cooperative, in the process of winding up, may adopt a plan of distribution of the Memberships, obligations or securities of the Cooperative 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 Members upon distribution and liquidation of the assets. A plan of distribution so approved shall be binding upon all Members. 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 Memberships having a liquidation preference.
5. Any remaining assets shall be distributed to Members on a pro-rata basis.
6. If any Members, 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 Cooperative 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.

Article XI: AMENDMENTS

11.1 Amendments.

These Bylaws may be amended or repealed in whole or in part by a majority of the Members who participate in the vote. An amendment may be proposed by decision of the Board or by petition of at least five percent (5 percent) of active Members. The proposed amendment shall be publicized to the Membership not less than four (4) weeks prior to the voting process, which shall be held at a time and in a manner determined by the Board.

Explanation of Bylaws Consent Provision with respect to Patronage Refunds

A provision of the Davis Food Cooperative Bylaws — Article VII, section 7.3 — requires that persons who become or remain shareholders of the Cooperative after the adoption of that provision thereby consent to include in their gross incomes for income tax purposes the amounts of any Patronage Refund paid to them by the Cooperative, except to the extent that certain exceptions apply.

The first exception states that inclusion in taxable income is not required where a shareholder's purchases from the Cooperative are attributable to "personal, living, or family items." This exception would apply to "consumer shareholders" whose purchases were for personal or household consumption. It would not apply to consumer shareholders whose purchases were for use or resale in a trade or business, or for use in other income-producing activities, nor would it apply to business shareholders.

Thus, the Bylaws consent provision is of no significance to most consumer shareholders of the Cooperative, and such shareholders are not required to include the Patronage Refund in their taxable incomes. Inclusion of the Patronage Refund in taxable income is required only of business shareholders and of consumer shareholders whose purchases were for business or income-producing purposes.