

BYLAWS
OF
MOONFLOWER COMMUNITY COOPERATIVE

Article I
Organization

Section 1.1 - **Status.** Moonflower Community Cooperative (referred to in these bylaws as "the Co-op") is a cooperative association incorporated under the laws of the State of Utah.

Section 1.2 - **Purpose and mission.** As more fully stated in its articles of restatement, the Co-op is organized and shall be operated for the primary and mutual benefit of its owners as patrons of its services. The Co-op shall be operated exclusively on a cooperative and nonprofit basis. Moonflower Community Cooperative provides socially responsible foods, goods and education to promote a healthy, sustainable community.

Section 1.3 - **Cooperative principles.** The Co-op shall be operated in accordance with the cooperative principles adopted by the 1995 General Assembly of the International Co-operative Alliance, including: (i) voluntary and open membership; (ii) democratic member control; (iii) member economic participation; (iv) autonomy and independence of the Co-op; (v) providing education, training and information; (vi) cooperation with other cooperatives; and (vii) concern for community.

Section 1.4 - **Nondiscrimination.** The Co-op shall not arbitrarily discriminate on the basis of race, nationality, religion, age, gender, sexual orientation, or political affiliation.

Article II
Ownership

Section 2.1 - **Eligibility.** Ownership in the Co-op shall be voluntary and open to any individual or organization whose purpose is to make purchases from the Co-op for its own use and who is willing to accept the responsibilities of ownership. In the event that any doubts arise concerning eligibility within nine months after the date of application, including doubts as to the apparent intent of the applicant, the application for ownership shall be subject to

approval by the Board.

Section 2.2 - **Admission.** Applicants will be admitted to ownership upon submitting required information, including designation of an authorized agent of an organization, and complying with the share purchase requirement. On or before admission to ownership, each owner shall be provided a copy of these bylaws, including the appended explanation of the patronage dividend consent provision.

Section 2.3 - **Share purchase requirement.** Owners shall be required to purchase one common share and such number of preferred shares as is determined by the Board of Directors. Preferred shares may be paid in installments by owners who express a financial need to do so.

Section 2.4 - **Responsibilities.** Each owner shall keep reasonably current in payment of the share purchase requirement, shall make purchases from the Co-op on at least an occasional basis, and shall notify the Co-op of any change to the name or address of the owner.

Section 2.5 - **Rights.** Each owner shall be entitled to make purchases from the Co-op on terms generally available to owners. Each member of an owner's household shall be entitled to make purchases recorded as the patronage of the owner. Each owner shall be entitled to participate in the governance of the Co-op as set forth in these bylaws. Owners shall be provided reasonably adequate and timely information as to the operational and financial affairs of the Co-op. Except as otherwise required by these bylaws, persons who have subscribed for but not fully paid the share purchase requirement shall for all purposes be considered owners.

Section 2.6 - **Inactive status.** An owner who becomes delinquent by one month in meeting installment obligations as to the share purchase requirement, or who fails to patronize the Co-op for one year, shall be placed into inactive status. The owners participation rights shall then be suspended. An owner in inactive status may attain good standing by recommencing current payment of financial obligations and/or reestablishing a patronage relationship with the Co-op. References in these bylaws to the rights and entitlements of owners shall be understood to refer only to owners in good standing.

Section 2.7 - **Access to information.** An owner shall, upon request that is made in good faith and for a proper purpose, be provided information concerning the operational and financial affairs of the Co-op. Such request shall describe with reasonable particularity the purpose and information sought, and such information must be directly connected with the described

purpose. To protect the privacy of owners any proper request necessitating information from the Co-op's records of owners shall whenever possible be accommodated by means other than direct access to such records.

Section 2.8 - **Settlement of disputes.** In any dispute between the Co-op and any of its owners or former owners which cannot be resolved through informal negotiation, it shall be the policy of the Co-op to prefer the use of mediation whereby an impartial mediator may facilitate negotiations between the parties and assist them in developing a mutually acceptable settlement. Neither 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.

Section 2.9 - **Nontransferability.** Ownership rights and interests may not be sold, assigned, or otherwise transferred. Any attempted transfer contrary to this section shall be wholly void and shall confer no rights on the intended transferee.

Section 2.10 - **Withdrawal and expulsion.** An owner may withdraw at any time upon notice to the Co-op. An owner may be expelled by the Board for cause after being provided fifteen days prior written notice of the proposed expulsion, the reason therefor, and an opportunity to be heard in person or in writing not less than five days before such expulsion. Upon termination of ownership all rights and interests in the Co-op shall cease except for rights to redemption of capital pursuant to Articles VII and VIII of these bylaws.

Article III Meetings of owners

Section 3.1 - **Annual meeting.** An annual meeting of owners shall be held between sixty and one hundred and twenty days after the end of the fiscal year as determined by the Board. The purpose of the meeting shall be to hear reports on operations and finances, to elect directors, and to conduct such other business as may properly come before the meeting.

Section 3.2 - **Special meetings.** Special meetings of owners may be called by the Board and shall be called by the President within thirty days after the receipt of petitions signed by not less than ten percent of all owners, such petitions stating any proper issue to be brought before the meeting.

Section 3.3 - **Time and place.** The date, time and place of all meetings of owners shall be determined by the Board or, in the event that the Board fails to so act, by the Secretary. Meetings shall be held at a place convenient

to owners.

Section 3.4 - **Notice.** Written notice of the time, place, and purpose or purposes of the meeting shall be provided to each owner not less than fifteen days before the date of the meeting if provided by first class mail, or thirty days if provided by other than first class mail, nor more than sixty days before the date of the meeting. Any business conducted at a meeting other than that specified in the notice of the meeting shall be of an advisory nature only.

Section 3.5 - **Record dates.** Unless otherwise determined by the Board, only persons who are owners at the close of business on the day immediately preceding the date of distribution of notices shall be entitled to notice of a meeting and to vote at such meeting.

Section 3.6 - **Quorum.** The presence in person or, when authorized, by ballot at the opening of the meeting of thirty-five owners or ten percent of all owners, whichever is lesser, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of owners.

Section 3.7 - **Voting.** Each owner shall have one and only one vote on each matter submitted to a vote of owners irrespective of the number of shares owned or subscribed for. An individual owner who is also an authorized agent of an organizational owner shall have only one vote. Voting by proxy shall not be permitted. Unless otherwise required by law or by these bylaws, issues shall be decided by a simple majority of votes cast except where one or more choices are to be made from several alternatives, in which case the alternative(s) receiving the most votes shall be considered approved. Meetings of owners shall be conducted generally in accordance with reasonable and accepted rules of parliamentary procedure. The Co-op shall not be required to prepare a list of owners in connection with any meeting of owners.

Section 3.8 - **Voting by written ballot.** Owners may, as authorized by the Board, vote by written ballot delivered to the Co-op, but only in connection with a meeting of owners. Such ballots, which shall set forth each proposed action and provide an opportunity to vote for or against each proposed action, shall be included in the notice of the meeting to which they relate. Casting of a written ballot shall be equivalent to presence in person at a meeting with respect to the subject of the written ballot, and ballots shall be counted together with votes cast at the meeting.

Section 3.9 - **Issues submitted by owners.** Notices of a meeting of owners shall include any proper issue submitted by petition of not less than five percent of all owners. Petitions must be received by the Co-op not less

than seventy-five days before the date of the meeting at which they are to be presented to a vote of owners.

Article IV Board of Directors

Section 4.1 - **Powers and duties.** Except as to matters reserved to owners by law or by these bylaws, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Co-op shall be managed under the direction of, the Board of Directors (sometimes referred to in these bylaws as "the Board"). Such powers shall reside exclusively in the Board as a deliberative body; they may reside in individual directors only to the extent explicitly so delegated by the Board. The duties of the Board shall include, but not be limited to, overseeing the operations and finances of the Co-op, establishing policies to govern operational decisions, engaging one or more managers and monitoring their performance, securing good conditions of employment and reasonable employee benefits, and assuring that the purpose and mission of the Co-op are properly carried out.

Section 4.2 - **Number and qualifications.** The Board shall normally consist of seven individuals. The number of directors may be decreased to not less than five or increased to not more than nine individuals by action of the Board or of owners. To be qualified as a director a person shall be an individual owner, a member of the household of an owner, or a *bona fide* associate of an organizational owner, and, as to any but the first election of directors, shall have had that status for at least six months prior to the commencement of the election of directors. **Current Co-op employees are not eligible to serve on the Board.** To be qualified as a director a person shall also be eighteen years of age or older, shall not have any overriding conflict of interest with the Co-op, and shall not have any demonstrated hostility towards the Co-op or any personal agenda contrary to the best interests of the Co-op. **Not more than one employee and no employee who reports directly to the Board shall be eligible to serve as a director.**

Section 4.3 - **Nominations, election and terms.** Directors may be nominated by the Board, by a nominating committee, or by petitions signed by at least twenty-five owners and submitted to the Co-op at least seventy-five days before the date of the annual meeting. Directors shall be elected by owners. Periodically as may be necessary, directors shall be elected for specific one-, two- or three-year terms in order to assure that approximately one-third of the terms expire in each year. At other times directors shall be elected for terms of three years. Unless otherwise specified in the notice of the meeting candidates receiving the highest number of votes shall be given the longest available terms. Directors shall hold office until their successors

are elected or until their offices are sooner terminated in accordance with these bylaws.

Section 4.4 - **Compensation.** Directors shall be compensated by a discount equivalent to the discount provided to staff. Directors shall not otherwise be compensated except by prior authorization at a meeting of owners. Directors shall be reimbursed for reasonable expenses incurred in connection with the performance of business of the Co-op.

Section 4.5 - **Standards of conduct.** Directors shall be responsible at all times for discharging their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they reasonably believe to be in the best interests of the Co-op.

Section 4.6 - **Conflicts of interest.** Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest, either direct or indirect, in any matter under consideration by the Board or by a committee exercising any authority of the Board, and such interest shall be made a matter of record in the minutes of the meeting. A director or member of a committee having such an interest shall be permitted to make a statement with regard to the matter but shall not be permitted to participate in the discussion or decision of the matter.

Section 4.7 - **Indemnification.** The Co-op shall indemnify its directors and officers who have been successful on the merits in defense of any proceeding. The Co-op may indemnify its directors and officers as permitted by state law. Indemnification payments shall be made on a priority basis but only in such increments and at such times as will not jeopardize the ability of the Co-op to pay its other obligations as they become due. Any indemnification payments or advances shall be reported to owners not later than the next-scheduled meeting of owners.

Section 4.8 - **Committees.** The Board may appoint special or standing committees to advise the Board or to exercise such authority as the Board shall designate. A committee exercising any authority of the Board shall include one or more directors. The appointment of any committee shall not relieve the Board of its responsibilities in the oversight of the Co-op.

Section 4.9 - **Termination.** The term of office of a director may be terminated prior to its expiration in any of the following ways: (i) voluntarily by a director upon notice to the Secretary ; (ii) automatically upon termination of ownership in the Co-op; (iii) for not meeting bylaw-prescribed qualifications for a director by vote of the majority of the directors then in office; and (iv)

with or without cause by action of owners, provided that if removed for cause the accused director is accorded fair notice of the charges and an opportunity to respond in person or in writing. A director who is absent from two successive Board meetings or three Board meetings in a year without adequate explanation or who is manifestly unengaged in the business of the Board shall be presumed to have resigned.

Section 4.10 - **Vacancies.** Any vacancy among directors occurring between annual meetings, including one resulting from an increase in the number of directors, may be filled by the Board until the next annual or special meeting of owners, at which time owners shall elect a director to fill the unexpired term.

Article V Meetings of the Board

Section 5.1 - **Convening.** Meetings of the Board shall be held no less frequently than once in each two-month period. Meetings not called by the Board (special meetings) may be called by the President and shall be called by the Secretary upon request of any three directors.

Section 5.2 - **Notice.** Meetings called by the Board shall require no notice, it being the responsibility of absent directors to inquire as to the time of further scheduled meetings. Special meetings shall require written or oral notice to all directors. Written notice shall be delivered at least five days before the date of the meeting and oral notices shall be given in person or by a telecommunications device at least forty-eight hours before the time of the meeting. Notices of meetings of the Board shall also be posted in a timely manner and in a conspicuous place in the Co-op's store, but the inadvertent failure to do so shall not affect the validity of the meeting.

Section 5.3 - **Waiver of notice.** Any notice of a meeting required under these bylaws may be waived in writing at any time before or after the meeting for which notice is required. A person who attends a meeting other than for the sole purpose of objecting to the adequacy of the notice shall be deemed to have waived any objection to the notice.

Section 5.4 - **Quorum and voting.** The presence in person of a majority of directors shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board. Decisions at meetings of the Board shall be made by the affirmative vote of a majority of all directors unless a higher percentage is required by law or by these bylaws. Meetings of the Board shall be conducted generally in accordance with reasonable and accepted rules of parliamentary procedure.

Section 5.5 - **Referendum.** Any action of potentially significant consequence taken by the Board shall be referred to a meeting of owners for approval or disapproval if demanded within ten days of such action by any three directors. Such meeting shall be called by the Secretary as soon as practicable.

Section 5.6 - **Action without a meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting only if a written consent to the action is signed by all directors except for those directors, who must be less than a majority of all directors, who abstain in writing from voting and thereby waive their rights to object to the procedure. All consents and abstentions shall be filed with the minutes of meetings.

Section 5.7 - **Open meetings.** Meetings of the Board and all committees shall be open to owners, except that sessions of a meeting may be closed as to matters of a confidential or sensitive nature.

Article VI Officers

Section 6.1 - **Designation and qualifications.** The principal officers of the Co-op shall consist of President, Vice President, Secretary and Treasurer. Principal officers shall be directors. The Board may designate other officers or assistant officers.

Section 6.2 - **Election, terms and removal.** Officers shall be elected by the Board at its first meeting following the annual meeting of owners. Officers shall serve for terms of one year or until election of their successors. Officers may be removed and replaced by the Board at any time whenever the best interests of the Co-op would thereby be served.

Section 6.3 - **Duties.** In addition to signing or attesting to formal documents on behalf of the Co-op as authorized by the Board, officers shall have the following duties and such additional duties as are determined by the Board:

(a) The President shall be responsible for coordinating the activities of the Board, assuring the orderly conduct of all meetings, maintaining effective communication with the general manager, and shall present a report of operations at the annual meeting of owners.

(b) The Vice President shall be responsible for performing the duties of the President in his or her absence or disability and assisting the President in the performance of his or her duties.

(c) The Secretary shall be responsible for preparation and maintenance of minutes of all meetings of the Board and of owners, overseeing the issuance of notices required under these bylaws, and authenticating records of the Co-op.

(d) The Treasurer shall be responsible for overseeing accounting records, financial reports, and other required reports and returns, and shall present a financial report at the annual meeting of owners.

Article VII Shares

Section 7.1 - **Issuance and terms.** The Co-op shall issue common and series A preferred shares to evidence capital funds provided by owners. Such shares shall be issued only to persons eligible for and admitted to ownership in the Co-op. Common shares shall accord voting rights, and no owner may hold more than one common share. Preferred shares shall be non-voting and shall have preference over common shares in distributions upon liquidation. All shares shall be issued only at their par value of ten dollars per share. Shares shall be considered issued upon full payment of their par value and need not be evidenced by certificates. Common and series A preferred shares shall be entitled to no dividend or other monetary return on contributed capital and may not be pledged as collateral on a loan. The share purchase requirement shall be subject to increase for the reasonable capital needs of the Co-op.

Section 7.2 - **Redemption.** Upon request following termination of ownership common and series A preferred shares shall be redeemed when replacement capital is provided by other owners. Shares shall be redeemable at the lesser of their par value 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 Co-op by the owner. No redemption shall be made when such payment would impair the ability of the Co-op to meet its other obligations as they become due. Reapplications for ownership after full or partial redemption shall be subject to full repayment of redemption proceeds.

Article VIII Patronage Dividends

[This article is to become effective at the beginning of the first fiscal year in which a point-of-sale system is functioning on the first day of such year.]

Section 8.1 - **Distribution obligation.** The realized net earnings (aka net savings) of the Co-op attributable to the patronage of owners shall be allocated and distributed among owners in proportion to their patronage and

in such a manner and at such a time as to constitute patronage dividends within the meaning of federal income tax law. Unless otherwise required under federal tax law all of the operations of the Co-op shall be netted into a single allocation unit.

Section 8.2 - **Reductions.** Any distributable net earnings of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board, be excluded from distribution. Net earnings may be reduced by such reasonable reserves for necessary business purposes as is determined by the Board. A patronage dividend to which owners are entitled may be waived in whole or in part by vote of owners.

Section 8.3 - **Consent of owners.** By obtaining or retaining ownership in the Co-op, each owner shall thereby consent to take into account, in the manner and to the extent required by Section 1385 of the Internal Revenue Code, the stated dollar amount of any qualified written notice of allocation in the taxable year in which such notice is received.

Section 8.4 - **Deferred credits.** Payment of a portion of patronage dividends not to exceed eighty percent of the allocation may be deferred for the reasonable capital needs of the Co-op, as determined by the Board. Such amounts shall be credited to revolving capital accounts in the names of recipient owners and shall accrue no dividend or other monetary return on capital. Deferred patronage dividends may 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, except that redemptions shall be payable only to owners who are then in good standing or become so at any later time. Deferred patronage dividends may also be redeemed under compelling circumstances as determined by the Board. They shall be subject to being offset by amounts otherwise due and payable to the Co-op and by assessments resulting from tax audit adjustments.

Section 8.5 - **Net losses.** No portion of a net operating loss realized by the Cooperative shall be allocated to owners. The patronage portion of such losses shall be carried forward to offset patronage-sourced income of subsequent years. The nonpatronage portion of such losses shall be carried back and forward to offset nonpatronage-sourced income of prior and subsequent years as required or permitted under federal income tax law.

Article IX
Fiscal and Miscellaneous matters

Section 9.1 - **Fiscal year.** The fiscal year of the Co-op shall coincide

with the calendar year.

Section 9.2 - **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.

Article X Interpretation and Amendment of Bylaws

Section 10.1 - **Interpretation.** The Board of Directors shall have the power to interpret these bylaws, apply them to particular circumstances, and adopt policies in furtherance of them, provided that all such actions are reasonable and consistent with these bylaws.

Section 10.2 - **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.

Section 10.3 - **Amendment.** These bylaws may be amended or repealed at a meeting of owners, provided that the proposed amendments are stated or fully described in the notice of the meeting at which the amendments are to be adopted. These bylaws may also be amended by the unanimous vote of all directors. Except as to changes that are not of a substantive character, amendments by the Board shall be presented for ratification at the next-scheduled meeting of owners.

Appendix:

EXPLANATION OF PATRONAGE DIVIDEND CONSENT PROVISION

Section 8.3 of the Co-op's bylaws relates to when and how patronage dividends are required to be included in the taxable incomes of recipient owners. Section 1385(b) of the Internal Revenue Code provides that a patronage dividend shall not be included in the taxable income of a recipient to the extent that such amount "is attributable to personal, living, or family items." This exclusion from taxable income would apply to owners whose purchases from the Co-op were for such personal use. To such persons section 8.3 is therefore of no effect. To all other owners section 8.3 represents their consent to include the amount of their patronage dividend in

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their taxable incomes for the year in which they receive their patronage dividend notice and check. This consent would apply to owners who are organizations and others whose purchases from the Co-op were for business or income-producing purposes.

Updated November 2016: Highlighted items reflect the changes made

Updated 5-16-17: Highlighted items reflect amendment made by the BOD; to be voted on at the annual meeting in April 2017.