

BYLAWS
OF
KEWEENAW COOPERATIVE, INC.

ARTICLE 1
DEFINITIONS

As used or referred to in these Bylaws, and in the Articles of Incorporation, the following terms have the meanings provided next to them:

1.1 “**Absentee Vote**” means the vote of a Member or an Affected Stockholder that is cast without the Member’s or Affected Stockholder’s physical presence at the meeting in which the vote is tallied.

1.2 “**Affected Stockholder**” means any equityholder of the Association who is not a Member and becomes an affected stockholder as described in the Ohio Cooperative Law.

1.3 “**Articles**” means the Association’s Articles of Incorporation as amended from time to time.

1.4 “**Association**” means Keweenaw Cooperative, Inc.

1.5 “**Board**” means the Board of Directors of the Association.

1.6 “**Capital Credits**” means equity interests in the Association, other than capital stock, that are allocated and issued to individual equityholders. Capital Credits are further defined and described in the Articles.

1.7 “**Capital Reserve**” means the capital reserve of the Association authorized in Bylaw 7.6. The Capital Reserve may be undifferentiated or it may include designated reserves. The Capital Reserve includes the portion of the Association’s shareholder equity that is not allocated to any equityholder of the Association. The Capital Reserve may be subject to claims of current and former Member Patrons upon dissolution of the Association or as otherwise provided in the Articles or these Bylaws.

1.8 “**Code**” means the Internal Revenue Code of 1986, as amended.

1.9 “**Member**” or “**Members**” means the Members of the Association who are eligible and admitted to Membership by the Board in accordance with the Articles and these Bylaws.

1.10 “**Net Margins**” means the annual net proceeds or savings from the Association’s business as defined in Bylaw 7.3. Net Margins are subject to allocation and distribution as provided in Bylaw Article 7.

1.11 “**Ohio Cooperative Law**” means Chapter 1729 of the Ohio Revised Code.

1.12 “**Patron**” means a person to whom the Association is obligated, by Membership under these Bylaws or by separate written agreement or both, to allocate and distribute a Patronage Refund. Patron is further defined and described in Bylaw 7.1.

1.13 “**Patronage Refund**” means the portion of Net Margins attributable to a Patron’s Patronage Transactions that is allocated and distributed to the Patron in accordance with Bylaw Article 7. Patronage Refund has the same meaning as given to “patronage dividend” in Section 1388 of the Code and may be distributed by qualified written notice of allocation or nonqualified written notice of allocation.

1.14 “**Patronage Stock**” has the same meaning as provided in the Ohio Cooperative Law and consists of any of the Association’s capital stock or Capital Credits that are originally issued as the non-cash portion of a Patronage Refund or Per Unit Retain.

1.15 “**Patronage Transaction**” means business that the Association does on a cooperative basis with or for a Patron. Board policy will determine what business of the Association is done on a cooperative basis, but a Patron’s Patronage Transactions will generally include substantially all of the business that the Association does with or for the Patron. Patronage Transaction is further defined and described in Bylaw 7.1.

1.16 “**Per Unit Retain**” means an amount surcharged to or withheld from the transaction price of a Patronage Transaction for the purpose of equity investment in the Association by a Patron. Per Unit Retain and the authority to assess Per Unit Retains is further described in Bylaw 7.2. Per Unit Retain has the same meaning as given in § 1388 of the Code, and may be either a qualified Per Unit Retain or a non-qualified Per Unit Retain as determined by the Board.

ARTICLE 2 **MEMBERSHIP**

2.1 **Admission to Membership.** Only an eligible person (as described in the Articles) accepted to Membership by the Board may become a Member of the Association upon agreement to comply with uniform conditions of Membership prescribed by the Board. The Board may admit two or more persons to a single Membership jointly held.

2.2 **Termination of Membership.** The Board may terminate the Membership of a Member who becomes ineligible or who has intentionally or repeatedly violated any Bylaw or condition of Membership in the Association, breached any contract with the Association, or obstructed or engaged in a material conflict with any lawful purpose or activity of the Association. A Member so terminated will have no voting rights in the Association. Termination of Membership will not impair the obligations of either party under any contract between the Association and the person whose Membership is terminated.

ARTICLE 3
MEMBERS' MEETINGS

3.1 **Annual Meeting.** An Annual Meeting of the Members must be held within four (4) months following the close of each fiscal year, at a time and place fixed by the Board.

3.2 **Regular Meetings.** The Board may schedule and call Regular Meetings of the Members at any time.

3.3 **Special Meeting.** A Special Meeting of the Members may be called at any time by the Board or upon the written petition of at least five percent (5%) of the Members. **No final action may be taken at any Special Meeting on any matter not specified in the notice.**

3.3 **Notice of Meeting.** A written notice of each Member meeting must be sent to each Member at the Member's last known address not less than ten (10) days before the date of the meeting. If circumstances make sending individual notices impracticable, the notice of meeting may be given by publishing the notice at least two (2) weeks prior to the date of the meeting in a publication or publications of general circulation throughout the Association's trade area. Notice may be sent by mail, telephone facsimile, or by a means of electronic transmission that reasonably assures actual delivery of the notice.

3.4 **Voting.**

(A) **Voting Control.** The Members are entitled to all voting control of the Association.

(B) **One Member – One Vote.** Each Member has one vote on each matter submitted to a vote of the Members.

(C) **Joint Membership.** If two or more persons hold a Membership in partnership, joint tenancy, or otherwise, they will be collectively entitled to only one vote on each matter submitted to a vote of the Members. The vote may be cast by any one of these persons.

(D) **Member Entity.** The vote of any Member that is a corporation or other legal entity (a **Member Entity**) must be cast by an individual designated by the Member Entity.

(E) **No More Than One Vote.** An individual who votes as a Member may not vote in more than one Member capacity.

(F) **Absentee Vote.** A Member may cast an Absentee Vote on any matter to be acted on by the Members, if an Absentee Vote has been authorized and prescribed by the Board. A Member may cast an Absentee Vote by personal delivery to the Secretary or the Secretary's designated representative, or by mail, telephone facsimile, or other electronic transmission that accomplishes

delivery of a complete and legible Absentee Vote to the Association on the terms prescribed for the Absentee Vote.

3.5 **Member Quorum.** A quorum necessary for any vote or other action by the Members are five percent (5%) of the Members participating in person or by Absentee Vote. If there are more than five hundred (500) Members, twenty five (25) Members will constitute a quorum. The quorum will be established by a registration of the Members present or otherwise participating in the meeting.

3.6 **Affected Stockholders.** Affected Stockholders are entitled to notice and participation in matters to be decided by the Members as provided in the Ohio Cooperative Law. If Affected Stockholders are provided the right to vote on a matter to be decided by the Members, the Board may authorize an Absentee Vote for Affected Stockholders.

ARTICLE 4 **BOARD OF DIRECTORS**

4.1 **Elected Directors.**

- (A) **Number of Elected Directors.** The Board includes nine (9) Elected Directors.
- (B) **Election of Directors.** Elections must be held at each Annual Meeting of the Members, or a Special Meeting called for that purpose, to elect a successor for each Elected Director whose term expires.
- (C) **Eligibility.** To be eligible for election as an Elected Director, a person must be and remain a Member of the Association. Any Director who ceases to be a Member is disqualified and that Director position is vacant. An employee of the Association may not be an Elected Director.
- (D) **Term.** Each Elected Director will be elected for a term of three (3) years and until a successor is elected and qualified. The terms of Elected Directors must be staggered so that three (3) Director terms expire at each Annual Meeting or Special Meeting called for election of Directors.
- (E) **Nomination of Elected Directors.** The Board must adopt policies and guidelines with respect to the nomination and election of Elected Directors that permit and encourage fair representation of the Members. These policies and guidelines must take into consideration both democratic representation of the Members from throughout the Association's trade area and representation of the diversity of the Members.
- (F) **Vacancy.** Each vacancy in an Elected Director position, other than by removal from office by the Members or expiration of term, may be filled for the unexpired term by appointment by a majority of the Directors then in

office. An Elected Director may be removed from office at any time by a majority vote of the Members, in which case the Members must fill the vacancy for the remainder of the term.

4.2 **Appointed Director.** The Elected Directors may appoint an additional Director (**Appointed Director**) to the Board, in which case the Board consists of the Elected Directors and the Appointed Director. An Appointed Director must be a Member of the Association. The Board may remove an Appointed Director from the Board by a majority vote of the Elected Directors. An Appointed Director has the same status on the Board as the Elected Directors, including the right to vote as a Director.

4.3 **Meetings.** The Board must meet regularly at the times and places it determines. Special meetings of the Board may be called by the President or any three (3) Directors. All meetings will be held on notice prescribed by the Board. Any business may be transacted at any meeting without specification of the business in the notice of the meeting.

4.4 **Organizational Meeting.** An organizational meeting of the Board must be held at or before the next regular Board meeting following each Members Annual Meeting to elect officers and transact other business that properly comes before the meeting. The Directors and officers in office before the Members Annual Meeting will continue to hold office until the organizational meeting.

4.5 **Board Quorum and Voting.** A quorum of the Board consists of a majority of the Elected Directors. A majority vote of the Directors present at the Board meeting will decide all questions except when a greater majority vote is required by law.

4.6 **Director Fees, Reimbursement.** Directors will be reimbursed for their reasonable expenses incurred when engaged in the business of the Association, and will be paid a reasonable Director fee for their time, attention, and service as a Director. Director fees may be determined by resolution of the Board.

4.7 **Faithful Performance.** The Board must require that each officer, agent, and employee having control or custody of material amounts of the Association's funds or property is insured for faithful performance. The cost of this will be borne by the Association.

4.8 **Audits.** The Board must have the financial statements of the Association audited by an independent certified public accountant at least once each fiscal year, and a report of this audit must be made at the next Annual Meeting of the Members.

4.9 **Borrowings.** The Board may authorize borrowing of money on behalf of the Association and encumbrance of assets of the Association as security for repayment of the amounts borrowed. The Association may provide a financial guaranty or surety for an obligation of another person if the Board determines that the guaranty or surety will serve the Association's business interests.

4.10 **Committees.** The Board may appoint committees as necessary and delegate authority and responsibility to these committees as the Board determines. The decision or act of any committee is subject to review and ratification by the Board, and may be amended or repealed by the Board in accordance with any condition imposed by the Board in its delegation or charge to the committee. Each committee must make timely reports of their activities and recommendations to the Board.

ARTICLE 5 **OFFICERS**

5.1 **Election of Officers.** The Board must elect officers of the Association at each organizational meeting. These officers must include a President, Vice President, Secretary, and Treasurer, and may include other officers who the Board considers necessary or desirable. The President and Vice President must be Directors of the Association. Officers serve at the pleasure of the Board and the Board may remove and replace any officer whenever the Board determines that the best interests of the Association are served by removal and replacement. If a vacancy occurs among the officers of the Association, it must be filled by the Board.

5.2 **Responsibilities of Officers.**

(A) **President.** The President must:

- (1) Preside at all meetings of the Members and of the Directors; and
- (2) Perform other duties and have authority as the Board requires or delegates.

(B) **Vice President.** The Vice President must:

- (1) In the absence or disability of the President, perform the duties of the President; and
- (2) Perform other duties and have authority as the Board requires or delegates.

(C) **Secretary.** The Secretary is responsible for:

- (1) The record of each meeting of the Members, the Board, and each Board appointed committee;
- (2) Notices to Members and others as required by law; and
- (3) Other duties and authority as the Board requires or delegates.

(D) **Treasurer.** The Treasurer must:

- (1) Supervise the safekeeping of funds and property of the Association;
- (2) Supervise the records of financial transactions of the Association;
and
- (3) Perform other duties and have authority as the Board requires or delegates.

5.3 **General Manager.** The Board must appoint and employ a **General Manager**. The Board may terminate this employment at its discretion. The General Manager must actively supervise the business of the Association; control the employment, compensation, supervision, discipline and discharge of the Association's employees; and perform other duties and have authority as the Board requires or delegates. The General Manager may appoint and delegate authority to Assistant Managers as the General Manager considers necessary for efficient and effective management of the Association's business.

ARTICLE 6

INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES

6.1 **Indemnification.** Each person who is or was a Director or officer or employee of the Association or of any other entity that she or he served at the request of the Association is an **Indemnitee**. The Association must indemnify an Indemnitee against liability and related expense incurred in connection with any Claim. For the purpose of these Bylaws, a **Claim** includes any claim, suit or proceeding, whether criminal, civil, administrative, or investigative, and any related appeal, in which the Indemnitee is involved or accused by reason of the Indemnitee's position with the Association. Indemnification will be available whether or not the Indemnitee occupies the position when liability or expense is incurred, but only if the Indemnitee has met the standard of conduct in Bylaw 6.2. The amount of indemnification must be reduced by the amount of any other indemnification or reimbursement of the Indemnitee for the Claim. Liability and related expense of a Claim includes, without limitation: Indemnitee's personal expenses; attorney fees and disbursements; fees and expenses of witnesses, experts and other consultants necessary to defend Indemnitee against a Claim; judgments, fines, or penalties; and amounts paid in settlement by or on behalf of an Indemnitee. The disposition of any Claim by judgment, order, settlement (whether with or without court approval), or conviction or upon a plea of guilty or of nolo contendere, or its equivalent, does not create a presumption that the Indemnitee did not meet the standard of conduct in Bylaw 6.2.

6.2 **Standard of Conduct for Indemnification.** In order to receive indemnification for a Claim, an Indemnitee must have:

- (A) Acted in good faith; and
- (B) Reasonably believed:

- (1) in the case of the Indemnitee's conduct in an official capacity with the Association, that the conduct was in the best interest of the Association;
 - (2) in all other cases, that the Indemnitee's conduct was not opposed to the Association's best interest; and
- (C) In the case of any criminal proceeding, had no reasonable cause to believe the conduct was unlawful.

6.3 Determination of Entitlement to Indemnification. Each Indemnitee who is successful on the merits with respect to any Claim is entitled to indemnification. Any other indemnification is available only if the Board, acting by a quorum consisting of Directors who are not parties (or who have been wholly successful with respect) to the Claim, finds that the Indemnitee has met the standard of conduct in Bylaw 6.2, or independent legal counsel gives the Association a written opinion that the Indemnitee has met that standard.

6.4 Advance of Expenses. The Association may advance funds to pay related expenses of a Claim before final disposition. In this case, the Indemnitee must agree to repay this amount if it is ultimately determined that the Indemnitee is not entitled to indemnification.

6.5 Rights not Exclusive. Indemnification provided in these Bylaws is in addition to any right to indemnification otherwise available to the Indemnitee by contract or as a matter of law. Indemnification is available whether or not the Claim is based on matters that antedate adoption of these Bylaws.

6.6 Insurance. The Association may purchase insurance to insure the Association against costs of indemnification.

ARTICLE 7

PATRONS AND PATRONAGE REFUNDS

7.1 Cooperative Operation. The Association is operated on a cooperative basis. The Association's Patrons include and consist of Members doing business with the Association on a cooperative basis and other persons with whom the Association, by written agreement, does business on a cooperative basis. Each transaction conducted on a cooperative basis between the Association and each Patron is a Patronage Transaction and includes as a part of its terms each provision of the Articles and these Bylaws, whether referred to in the Patronage Transaction or not. Each Patron is entitled to a Patronage Refund as provided in these Bylaws.

7.2 Per Unit Retains. The Association may charge a Per Unit Retain consisting of a fixed price or percentage of transaction price per unit for any part of product marketed for, or services or supplies provided to, its Patrons for the purpose of providing capital needs of the Association. A Per Unit Retain may be established for all Patrons or for Patrons of a department or division of the Association. Per Unit Retains must be established with reference to capital requirements or costs reasonably related to the Patronage Transaction. Per Unit Retains remain the

property of the Patrons who are charged and are evidenced by Capital Credits issued for the account of these Patrons.

7.3 **Computation of Net Margins.** Net Margins must be computed as of the end of each fiscal year as follows:

- (A) **Gross Receipts.** The Association's gross receipts consist of proceeds of sales of products marketed, plus amounts received for supplies and services, plus revenues from other sources except Per Unit Retains and other capital contributions.
- (B) **Net Margins – Book Income Method.** Net Margins are determined by deducting from the gross receipts the sum of all costs, expenses, and other charges that are excludable or deductible from the Association's gross income (including any provision for income taxes or other taxes) in accordance with the accounting principles that the Association consistently uses to determine its net income. The Patronage Refunds to be allocated and distributed under these Bylaws are not deducted for this purpose. The gross receipts that remain after the foregoing deductions are the **Net Margins**.

7.4 **Allocation of Net Margins.**

- (A) **Association Net Margins.** Association Net Margins must be deducted from the Net Margins and applied as follows:
 - (1) Ten percent (10%) of the Net Margins to be added to the Capital Reserve;
 - (2) The amount declared by the Board for dividends on the Association's capital stock;
 - (3) The actual amount of income and related taxes that the Association is required to pay; and
 - (4) The aggregate of the amounts described in clauses (1), (2), and (3) above must first come from Net Margins attributable to sources other than Patronage Transactions. Any non-patronage source Net Margins not so applied must be added to the Capital Reserve.
- (B) **Patronage Refunds.** The balance of Net Margins after deduction of the Association Net Margins are the Patrons' Net Margins. The Patrons' Net Margins belong to the Patrons and must be allocated to the Patrons on the basis of their Patronage Transactions. These allocated amounts are **Patronage Refunds** due and distributable to the Patrons as provided in

these Bylaws. Patronage Refunds may be allocated on the basis of Patronage Transactions and the Net Margins that result from the operations of divisions or departments of the Association (**Allocation Pools**) as the Board considers fair to the Patrons.

7.5 Distribution of Patronage Refunds.

- (A) **Notice of Allocation.** The Association must distribute Patronage Refunds to each Patron either in cash, Capital Credits or trade credit coupons (or any combination of these) within eight and one-half (8½) months after the end of each fiscal year. Patronage Refund distributions must include a written notice of allocation showing the amount of distribution, the manner of distribution, and the amount distributed in cash, Capital Credits, and trade credit coupons.
- (B) **Differential Distribution.** The Board may adopt a base capital plan for distribution of Patronage Refunds in which the cash and non-cash portion of each Patron's Patronage Refund varies in order to fund a Member's or other Patron's required capital contribution through the retention and reinvestment of Patronage Refunds. A base capital plan may use non-qualified and qualified Patronage Refund distributions from the same year's Net Margins.
- (C) **Forfeit of Patronage Refunds.** A Patronage Refund (or the trade credit coupon or Patronage Stock of a Patronage Refund, in the case of clause 3 below) will forfeit and be irrevocably assigned back to the Association and added to the Capital Reserve if the Association allocates the Patronage Refund to a Patron who:
 - (1) does not consent to include the Patronage Refund in income as required under the Consent Bylaw and the Code, or under similar provisions of another written patronage agreement;
 - (2) is unable or unwilling to receive or accept distribution;
 - (3) cannot, after distribution, be located for redemption of the trade credit coupon or the Patronage Stock of the Patronage Refund; or
 - (4) is entitled to a Patronage Refund of less than Five Dollars (\$5).

7.6 Capital Reserve. The Association will maintain a Capital Reserve to provide a reserve against which the Association may charge losses and other purposes for which a reserve is necessary or desirable. The Capital Reserve includes additions to the Capital Reserve under Bylaw 7.4(A) and other amounts that are directed or permitted to be added to the Capital Reserve under the Articles and these Bylaws.

7.7 **Loss or Losses.** If there is a loss in one or more departments or divisions of the Association, but not so much as to cause an overall loss for the fiscal year, the loss may be netted against any Net Margins of the remaining departments or divisions.

If the Association incurs an overall loss in any fiscal year, the loss may be charged against the Capital Reserve. If the loss exceeds the Capital Reserve or, in any event, if the Board so elect, the loss may be recovered by charge against, and reduction of, Patronage Stock or from subsequent years' Net Margins. This Bylaw does not otherwise permit an assessment or capital call against the Patrons for the loss. This Bylaw may not be construed to deprive the Association of the right to carry back or carry forward net operating losses in accordance with the Code or state tax statutes.

7.8 **Consent Bylaw.**

- A. **Patronage Refund to a Consumer Patron.** Section 1385(b)(2) of the Code provides that Patronage Refunds and Per Unit Retains need not be included in the gross income of a Patron (for federal income tax purposes) to the extent they are attributable to purchases of personal, living, or family items.
- B. **Other Patronage Refunds.** Except as provided in Bylaw 7.8(A), each person who becomes a Member and each Member on the effective date of this Bylaw who continues as a Member consents, by this act alone, to include in the Member's gross income for federal income tax purposes the stated dollar amount of any qualified written notice of allocation and qualified notice of Per Unit Retain (as defined in §1388 of the Code) received from the Association with respect to Patronage Transactions, to the extent required in §1385 of the Code.

ARTICLE 8
FISCAL YEAR

The fiscal year of the Association must be designated by the Board.

ARTICLE 9
AMENDMENT OF BYLAWS

These Bylaws may be amended by an affirmative vote of a majority of those Members who vote on the amendment. The notice for a Member vote on amendment must contain the text of the proposed amendment.