

BY-LAWS
OF
OPEN HARVEST COOPERATIVE
LINCOLN, Nebraska

ARTICLE I

Standards of Operations

The name of this Cooperative shall be Open Harvest Cooperative.

This Cooperative shall have power to conduct all lawful business as allowed by the Nebraska Business Corporation Act, Neb. Rev. Stat. Section 21-2001 et seq. and Neb. Rev. Stat. Section 21-1301 et. seq.

ARTICLE II

Member Owners

Section 1. Qualifications for Ownership. Each member owner of this Cooperative shall be the holder of one fully paid share. Regular voting membership is limited to individuals. The Board may establish and determine additional classes of membership. Member owners will make an annual equity investment as determined by the Board of Directors. Ownership may be transferred upon written request to the Board President who shall have the power to approve or deny such requests.

Section 2. Application for Membership. Every applicant who applies for membership shall be accepted unless the Board of Directors shall find just and reasonable cause to reject that application.

Section 3. Equity Ownership. Upon accepting an application for membership, Open Harvest Cooperative shall issue a certificate of ownership and an ID card. When issued, such certificate shall be proof that the member owner's interests are valid and binding upon Open Harvest Cooperative. The person signing the application shall have primary interest. Owner equity shall consist of each annual equity investment and patronage refunds declared and retained by the Cooperative.

Section: 4. Requests for Redemption. Member owners may seek to redeem their equity investment in Open Harvest Cooperative. It shall be the policy of the Board of Directors to redeem the owner equity of a member owner (or the legal representative of a member owner) upon request. The time, method, and payment of the redemption of member owner's equity shall be determined by the Board of Directors.

Section 5. Death of a Member Owner. When a member owner dies the Cooperative shall transfer or redeem his/her equity interests according to the instructions of the legal representative of the member owner.

Section 6. Patronage Refunds. Each member owner shall be responsible for any tax liability associated with the receipt of patronage refunds whether the refund is paid in cash or retained by Open Harvest Cooperative in the form of equity.

Section 7. Voting Rights. In all matters of business, each member owner shall be entitled to one vote. Shares held by two or more persons as joint tenants or tenants in common shall be entitled to one vote only.

Section 8. Abandoned Equity Ownership. Equity ownership in Open Harvest shall automatically and without notice revert to the Cooperative if the equity holder or heirs cannot be found after reasonable due diligence or the membership has not been renewed within two years.

ARTICLE III

Meetings of Member Owners

Section 1. Annual Meeting. The annual meeting of the member owners shall be determined by the Board of Directors.

Section 2. Special Meetings. A special meeting of the member owners may be held at any time or place upon the call of the Board of Directors. The Board of Directors shall be required to call a special meeting upon the written request of ten percent of the member owners of this Cooperative within 60 days of the written request.

Section 3. Notice of Meetings. Notice of all meetings of member owners shall be mailed to each at his/her last known mailing address according to the records of the Cooperative, at least ten days, but not more than fifty days, prior to the meeting, unless otherwise required by law.

Section 4. Quorum. A quorum at all meetings of member owners shall consist of five percent of the member owners or fifty member owners whichever is less. If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting without further notice.

Section 5. Voting. All questions shall be decided by a vote of a majority of the member owners voting thereon, except as otherwise specifically provided by law. There shall be no voting by proxy or power of attorney. Mail ballots may be used on specific issues,

provided that the ballots are received by the President or designee and counted at the same time as all other ballots are received.

ARTICLE IV

Directors

Section 1. Election of Directors. The Board of Directors of this Cooperative shall consist of not less than nine (9) nor more than sixteen (16) members. Members of the Board of Directors shall be elected for staggered three (3) year terms, one third (approximately) standing for election each year. Board terms shall begin at the June Board of Directors meeting. Eligibility requirements and procedures for electing Board members are as follows:

- (a) Nominees for election to the Board must be members of Open Harvest. Staff members are not eligible to serve on the Board.
- (b) An Election Committee, consisting of Board members and at least one non-Board member, shall be appointed in January. The Committee shall seek nominations from the membership, via announcements in the January Newsletter, posted announcements and other public means, and shall propose a slate of candidates (having at least as many candidates as the number of vacant or open seats) to the Board at the March Board meeting.
- (c) The approved slate, accompanied by biographical information and a statement of interest for each candidate, will be presented in the April newsletter and posted prominently in Open Harvest.
- (d) The election will begin on or about April 15 and end on April 30. Only active members may vote, with one ballot per membership number. The ballot will contain the name of each nominee (in alphabetic order), a space to enter the voter's membership number, and instructions for voting. Members may vote for up to the number of vacant or contested seats. Write-in candidates are permitted, provided they meet eligibility requirements.
- (e) The ballots shall be counted within 48 hours by two or more members of the election committee and the winners announced publically on the website and in store announcements within 72 hours.
- (f) Winning candidates will be installed on the Board at the June meeting.
- (g) In the event of a vacant Board seat, the Chair may appoint any eligible member to the Board for a term that ends at the June Board meeting.

Section 2. Officers. The Board of Directors shall meet following each annual member owners' meeting to elect a Chairperson and a Vice-Chairperson. Each officer shall hold

office for two years. Nominations for officers may be made by any member of the Board of Directors present. Election shall be by secret, written ballot and it shall require a simple majority of votes cast for election. Such officers shall be deemed the officers of the Board of Directors and not executive officers of the Cooperative.

Section 3. Directors' Meetings. Regular meetings of the Board of Directors shall be held at such place and time as the Directors may determine. Special meetings of the Board of Directors shall be held whenever called by the Chairperson or by a majority of the directors. Any and all business may be transacted at any special meeting. Oral or written notice of each regular or special meeting of the Board of Directors shall be given each director at least twenty-four hours prior to the time of the meeting. Such notice may be waived by the directors, and the appearance of a director at a meeting shall constitute a waiver of notice.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum at any meeting of the Board of Directors.

Section 5. Compensation. At the annual organizational meeting, the Board of Directors may establish reasonable compensation for and provide for the reimbursement of expenses of the members of the Board of Directors.

Section 6. Indemnification. Each person, now or hereafter a director, officer or agent of this Cooperative, shall be indemnified by the Cooperative against all costs and expenses, including counsel fees, reasonably incurred by or imposed upon him/her in connection with or resulting from any action, suit, or proceeding, or the settlement thereof prior to final adjudication, to which he/she is or may be a party by reason of his/her being or having been a director, officer or agent of the Cooperative (whether or not a director, officer or agent at the time such costs or expenses are incurred by or imposed upon him/her), if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the Cooperative, and with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The right of indemnification herein provided shall be in addition to all other rights to which any such person may be entitled as a matter of law.

Section 7. Advisory Members. The Board of Directors may appoint one or more member owners to serve as advisory members of the Board of Directors. Such persons shall have no voting rights. Their terms of office shall be stated at the time of their appointment.

ARTICLE V

Duties of Directors

Section 1. Management of Business. The Board of Directors shall have general supervision and control of the business and the affairs of the Cooperative and shall make all rules and regulations not inconsistent with law or with these By-laws for the management of the business and the guidance of the patrons, officers, employees and agents of the Cooperative. They shall require an accounting system that shall be adequate

for the requirements of the business, and shall require proper records to be kept of all business transactions.

Section 2. Employment of Manager. The Board of Directors shall employ a general manager, define his/her duties, fix his/her compensation, and may dismiss him/her with or without cause at any time. The Board of Directors may authorize the employment of such agents and counsel as it from time to time deems necessary.

Section 3. Reports of Business. The Board of Directors shall be responsible for presenting to the membership present at each annual meeting of the member owners a detailed report of the business of the preceding year. Such report shall show the financial condition of the Cooperative at the end of the fiscal year in such form as shall fully exhibit to the member owners the assets and liabilities of the Cooperative and other facts and figures required to understand the Cooperative's financial results for the period.

Section 4. Bonds and Insurance. The Board of Directors shall require the manager and all other officers, agents and employees charged by the Cooperative with responsibility for the custody of any of its funds or negotiable instruments to give adequate fidelity bonds. Such bonds, unless cash security is given, shall be furnished by a responsible bonding company and approved by the Board of Directors. The cost shall be paid by the Cooperative. The Board of Directors shall provide for the adequate insurance of the property owned by the Cooperative or stored by it, and not otherwise adequately insured, and liability insurance in the form and amounts normal for the activities of the Cooperative.

Section 5. Reports of Cash and Inventory. Prior to the close of every annual fiscal period for which an audit is made of the books and accounts of the Cooperative, the Board of Directors shall cause a complete inventory report to be prepared for use in the audit. Said report shall be certified as true and correct by those responsible for its preparation and made available to the auditor and maintained as a part of the permanent records of the Cooperative.

Section 6. Audits. The Board of Directors shall have an audit of the Cooperative made at least every five years, provided that an independent review of the financial records of the Cooperative is conducted annually, and at other times as the Board deems necessary. The audit shall meet these requirements:

(a) The audit shall be performed by a competent, certified and licensed, independent public auditing and accounting firm employed by the Board of Directors of the Cooperative.

(b) The audit shall be made in accordance with generally accepted auditing standards.

(c) The auditor shall express an independent opinion as to the fairness of the financial statements taken as a whole, or clearly state why an opinion cannot be rendered. The audit report shall be in written form and shall be presented to the Board of Directors and reviewed by them at a regular or special meeting.

Section 7. Depository. The Board of Directors shall be responsible for selecting one or more banks as depositories of the funds of the Cooperative and determine the manner of receiving, depositing and disbursing the funds of the Cooperative and the form of checks and the person or persons by whom the same shall be signed.

Section 8. Marketing Agreements. The Cooperative may make marketing agreements with its member owners requiring them to sell specified products through the Cooperative, or buy specified supplies through the Cooperative. Such agreements shall contain the terms and conditions required by Section 21-1304 R.R.S. 1943.

Section 9. Nepotism. No director or the immediate relative of the manager or of any director shall be regularly employed by the Cooperative, except by unanimous approval of the Board of Directors.

Section 10. Credit Policy. The Board of Directors may establish and enforce a credit policy and fully inform the patrons of such credit policy.

Section 11. Committees. The Board of Directors may appoint such committees as may be necessary.

ARTICLE VI

Duties of Officers

Section 1. Duties of Chairperson. The Chairperson shall preside over all meetings of the Cooperative and of the Board of Directors, call meetings of the Board of Directors, perform all acts and duties usually performed by an executive and presiding officer, and sign such documents of the Cooperative as he/she may be authorized or directed to sign by the Board of Directors. The Chairperson shall perform such other duties as may be prescribed by the Board of Directors.

Section 2. Duties of Vice-Chairperson. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson.

ARTICLE VII

Management

Section 1. Duties of Manager in General. The manager shall be the administrator of the Cooperative's business affairs and shall be the President and Chief Executive Officer of the Corporation . Under the direction of the Board of Directors, the manager shall have general charge of the ordinary and usual business operations of the Cooperative, including the purchasing, marketing, and handling of all products, supplies and equipment handled by the Cooperative. He/she shall be authorized to execute in the name of the Cooperative all contracts and documents required to be made in the ordinary course of business. He/she shall conduct the business in such a manner that the patrons will receive just and fair treatment. The manager shall deposit all money belonging to the Cooperative in a bank selected by the Board of Directors and, if authorized to do so by

the Board of Directors, shall make all disbursements by check for the ordinary and necessary expenses of the Cooperative in the manner and form prescribed by the Board of Directors. Upon the appointment of his/her successor, the manager shall deliver to him/her all money and property belonging to the Cooperative which he/she has in his/her possession or over which he/she has control.

Section 2. Duties of Manager to Account. The manager shall maintain the records and accounts of the Cooperative in the form determined by the Board of Directors so that a true and correct condition of the Cooperative may be ascertained at any time. He/she shall render monthly and annual reports and statements in the form and manner prescribed by the Board of Directors. He/she shall carefully preserve all books, documents, correspondence, and records relating to the Cooperative's affairs that come into his/her possession.

Section 3. Duties of Manager Concerning Employees. The manager shall employ, supervise, and fix the compensation of all employees of the Cooperative, subject to the policies adopted by the Board of Directors. The manager may dismiss any employee when he/she deems such dismissal to be in the best interests of the Cooperative.

ARTICLE VIII

Distribution of Patronage Refunds

Section 1. Net Margins. The gross receipts of this Cooperative shall include all proceeds from goods sold to patrons, plus all sums received for supplies, equipment, and services procured for patrons, plus all income from all other sources. From the gross receipts shall be deducted all costs and expenses and other charges which are lawfully excludable or deductible from this Cooperative's gross income for the purpose of determining the amount of the net margins.

Section 2. Dividends. No dividends shall be paid on common stock. The Board of Directors may issue preferred stock, in which case no dividend paid to a holder of preferred stock shall exceed eight percent (8%) per annum.

Section 3. Deductions. The Cooperative shall deduct from said net margins as determined in Section 1 of this article (a) reasonable reserves for depreciation, bad debts, obsolescence, contingent losses, or for any necessary business purposes (b) ten percent (10%) of said net margins, which shall be added to retained savings, and (c) the net margins attributable to business done with, the U.S. Government, or from other non-patron sources, if not distributed to the patrons, which shall be added to retained savings; to the extent that the net margins deducted pursuant to this subsection are sufficient, the retention for retained savings provided under subsections (a) and (b) herein shall be deducted from the non-patronage sources rather than from the net margins from transactions with member owners or participating patrons.

Section 4. Apportionment to Patrons. The balance of said net margins, which remain after the deductions set forth in Section 3, shall be deemed to be the patrons' net margins. All

of the patrons' net margins shall, as received by this Cooperative, belong to and be held for them and shall be apportioned among them on a patronage basis at the close of each fiscal year as determined by the Board of Directors.

Section 5. Allocation and Distribution of patronage net margins. The board shall make all determinations relative to the allocation and distribution of net margins.

Section 6. Computation. This allocation or appropriation shall be made on the basis of or in proportion to the amount or value of the products, supplies, equipment and services marketed for or sold to the member owners and participating patrons. Different rates may be declared upon different classes of patronage. The member owners and participating patrons of this Cooperative have full knowledge of the method of allocating the earnings of the Cooperative.

Section 7. Provision for Equity Capital. The Board of Directors shall have the power to establish equitable procedures for acquiring and maintaining adequate equity capital to finance the business of the Cooperative. The share of each patron in the net margins of the Cooperative shall be payable to him/her at the close of each fiscal year, but the payment may be made by retention of a portion of the patrons' net margins in the equity capital of the Cooperative as determined by the Board of Directors.

Section 8. Special Provisions for Losses and Extraordinary Items. In the event that the Cooperative suffers a loss in any one year, the Board of Directors, in its discretion, may charge such loss against the retained savings contributed by those patrons whose patronage gave rise to such loss. If income or expense is attributable to extraordinary items, including gain or loss from business assets owned or investments held: (a) the amount thereof shall be allocated, insofar as is practicable, to the patrons of the Cooperative during the period to which such gain or loss is attributable, and (b) if such income or expense attributable to business done with or for patrons is includable in gross income for a fiscal year after the fiscal year during which such patronage occurred, the patronage may be deemed to have occurred during the Cooperative's fiscal year during which such income or expense is includable in gross income; provided that the Board of Directors may allocate or treat such extraordinary income or expense in such other manner as it, in its discretion, determines will provide equitable treatment to all patrons of the Cooperative.

ARTICLE IX

Waiver of Notice

Any member owner may waive in writing any notice of a meeting required by these By-laws. The attendance of a member owner at any meeting shall constitute a waiver of notice of such meeting by such, except when the member owner attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

ARTICLE X

Amendments

Section 1. These By-laws may be altered by a majority vote of the member owners present and voting at any regular or special meeting, provided that notice of the intention to propose amendments shall have been given in the notice of a special meeting.

Section 2. The Board of Directors may amend the By-laws at any time, subject to ratification by the member owners at the next regular or special meeting of the member owners. An amendment made by the Board of Directors shall have full force and effect from the time the Board of Directors approves such amendment until acted upon by the member owners, even though such amendment may be later rejected.

ARTICLE XI

Dissolution

Upon the dissolution of this Cooperative, all debts and liabilities shall first be paid according to their respective priorities. Any property remaining after discharging the debts and liabilities shall be distributed to the member owners and participating patrons. If funds are not sufficient to pay the holders of equity capital in full, it shall be distributed on a pro-rata basis without regard to time of investment. The remainder of the property shall be distributed among the patrons on the basis of their respective patronage as shown on the records of the Cooperative insofar as practicable.

ARTICLE XII

By-laws Distribution

These By-laws shall be maintained by the Board and shall be made available to every member owner.

The undersigned Chair of the Board hereby certifies that the foregoing is a true and correct copy of the Revised By-laws of the Cooperative adopted by the requisite vote of the members of the Cooperative present at a meeting held October 25, 2009 in Lincoln, NE.

Dated: October 26, 2009

President, Open Harvest Board, (Keith Dubas)