

For Locally Grown, Shop Locally Owned

BYLAWS – Rising Tide, Inc.

Rising Tide Co-op

323 Main Street

Damariscotta, ME 04543

207-563-5556

AMENDED AND RESTATED BYLAWS - RISING TIDE, INC.

Revised _____ 2023

TABLE OF CONTENTS

I. Article One: ORGANIZATION

Section 1. Name

Section 2. Ownership and Purpose

II. Article Two: MEMBERSHIP

Section 1. Eligibility

Section 2. Nondiscrimination

Section 3. Admission

Section 4. Rights

Section 5. Responsibilities

Section 6. Non-Transferability

Section 7. Termination of Membership

Section 8. Return or Repurchase of Equity

Section 9. Unclaimed Equity

III. Article Three: MEMBER MEETINGS AND DECISION MAKING

Section 1. Annual Meeting

Section 2. Special Meetings

Section 3. Notice of Meetings

Section 4. Voting

Section 5. Member Quorum

IV. Article Four: BOARD OF DIRECTORS

Section 1. Powers and Duties

Section 2. Eligibility

Section 3. Terms and Elections

Section 4. Vacancies

Section 5. Removal

Section 6. Meetings

- Section 7. *Officers*
- Section 8. *Committees*
- Section 9. *Directors Quorum*
- Section 10. *Action Without a Meeting*

V. Article Five: CONTRACTS, CHECKS, DEPOSITS AND GIFTS

- Section 1. *Contracts*
- Section 2. *Gifts*

VI. Article Six: SHARES AND SHAREHOLDERS

- Section 1. *Transfer or Repurchase of Share*
- Section 2. *Debts*
- Section 3. *Stock*
- Section 4. *Limit on Share Capital Return*

VII. Article Seven: PATRONAGE DIVIDENDS

- Section 1. *Allocations to member-owners*
- Section 2. *Consent of member-owners*
- Section 3. *Reserve Fund*
- Section 4. *Education Fund*

VIII. Article Eight: BOOKS AND RECORDS

- Section 1. *Records*
- Section 2. *Right to inspection*
- Section 3. *Fiscal Year*

IX. Article Nine: INDEMNIFICATION

- Section 1. *Indemnification*

X. Article Ten: AMENDMENT OF BYLAWS

- Section 1. *Amendments*

XI. Article Eleven: DISSOLUTION

- Section 1. *Vote*
- Section 2. *Notice*

AMENDED AND RESTATED BYLAWS OF RISING TIDE, INC.

ADOPTED AS OF _____, 2023

ARTICLE I: ORGANIZATION

- 1.1 **Name.** The name of the organization is Rising Tide, Inc. (henceforth the "Cooperative").
- 1.2 **Ownership and Purpose.** The Cooperative shall be owned by its members (henceforth the "member-owners") and shall operate in accord with the International Cooperative Alliance's Statement on the Cooperative Identity for the mutual benefit of its member-owners.

ARTICLE II: MEMBERSHIP

- 2.1 **Eligibility.** Membership in the Cooperative shall be open to any individual or legal entity who is in accord with its purposes and is willing to accept the responsibilities of membership.
- 2.2 **Nondiscrimination.** Membership shall be open without regard to any characteristic that does not directly pertain to a person's eligibility.
- 2.3 **Admission.** Any eligible person may be admitted to membership upon submitting an application and investing equity in an amount and on such terms as determined by the Board of Directors (henceforth the "Board"). A legal entity applying for membership must name a single individual as an authorized representative.
- 2.4 **Rights.** Member-owners 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-owner shall have one vote and no more on all matters submitted to member-owners. The rights of member-owners shall apply only to active member-owners in good standing. All rights and responsibilities of member-owners are subject to applicable state law, the bylaws (as they may be amended from time to time), and to policies and decisions of the Cooperative or the Board consistent with these bylaws.
- 2.5 **Responsibilities.** Member-owners 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. Member-owners shall also patronize the Cooperative. A member-owner who upholds these responsibilities is considered an active member in good standing.

- 2.6 **Non-Transferability.** Membership rights and member-owner equity are not transferrable or assignable in any matter, except upon termination or cancellation by the Board as provided in Article 8.
- 2.7 **Termination of Membership.** A member-owner may terminate their membership voluntarily at any time by written notice to the Board. Membership may be terminated involuntarily by the Board for cause after the member-owner is provided fair notice of the reasons for proposed termination and has an opportunity to respond in person or in writing. Cause may include, without limitation, intentional or repeated violation of any provision of the Cooperative's bylaws or policies, actions that will impede the Cooperative from accomplishing its purposes, actions or threats that adversely affect the interests of the Cooperative or its member-owners, willful obstruction of any lawful purpose or activity of the Cooperative, breach of any contract with the Cooperative, or failure to patronize the Cooperative for more than 3 years.
- 2.8 **Return or Repurchase of Equity.** Upon termination of membership in the Cooperative, equity may be returned to the Cooperative upon terms determined by the Board, provided that the Board has determined that the equity is no longer needed by the Cooperative.
- 2.9 **Unclaimed Equity.** If a member-owner voluntary or involuntarily terminates membership in the Cooperative, then the equity and patronage dividend amount allocated to that member-owner will be retained by the Cooperative and reallocated or transferred as determined by the Board, subject to applicable state law.

ARTICLE III: MEMBER MEETINGS AND DECISION MAKING

- 3.1. **Annual Meeting.** The Cooperative shall hold a membership meeting each year at a time and place to be determined by the Board. The purpose of such meetings shall be to hear reports on governance, operations and finances, to review issues that vitally affect the Cooperative, and to transact such other business as may properly come before the meeting.
- 3.2. **Special Meetings.** The Board may call special meetings of the membership at any time. The Board shall call a special meeting if presented with a written petition signed by at least 15% of active member-owners in good standing. Notice of special meetings shall be issued to member-owners within ten (10) days after presentation of a qualified petition to the Board, with the meeting to occur within thirty (30) days of the petition. No business shall be conducted at that special meeting except that specified in the notice of meeting.

- 3.3. **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, including through electronic transmission, not less than 14 days prior to the date of the meeting.
- 3.4. **Voting.** Voting on all matters that member-owners are entitled to vote upon will be accomplished through paper or electronic ballots, or both, as authorized by the Board. Unless otherwise specified in these bylaws, notice of the vote shall be posted in a conspicuous place at the Cooperative and communicated by written notice delivered to member-owners' postal or electronic address not less than 15 days prior to the end of the election period. Unless otherwise stated in the articles of incorporation, or these bylaws, or required by law, all questions shall be decided by a vote of a majority of the member-owners voting thereon. Proxy voting is not allowed.
- 3.5. **Member Quorum.** At any meeting of the member-owners, or for any vote of the member-owners, a quorum necessary for decision-making shall be at least 10% of the total number of active member-owners at the time of such vote.

ARTICLE IV: BOARD OF DIRECTORS

- 4.1. **Powers and Duties.** The Board shall be composed of at least seven (7), but not more than nine (9), directors (henceforth the "Directors"). Except for matters for which member-owner voting is required by these bylaws or applicable law, the Board shall have full power to govern the Cooperative, including, but not limited to, hiring a general manager, establishing compensation, if any, for the Board and the general manager, assuring that the objectives of the Cooperative are articulated and carried out, and assuring that the Cooperative meets all other obligations under applicable law.
- 4.2. **Eligibility.** Directors must be active member-owners of the Cooperative in good standing. Current employees and spouses or domestic partners of current employees and current Directors may not serve as Directors. Former employees and spouses or domestic partners of former employees may serve as Directors provided that the employment with the Cooperative must have ended at least one (1) year prior to becoming a Director and such person was not terminated by the Cooperative for cause. A person with a conflict of interest so continuing and pervasive that he or she is unable to effectively fulfill the responsibilities of a Director with the Cooperative shall not be qualified to serve as a Director.
- 4.3. **Conflicts.** 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 otherwise determined by the Board. Directors may not do business with the Cooperative except in the same manner as other member-owners generally do business with the Cooperative or under other conditions that are procedurally defined to avoid preferential treatment.

- 4.4. **Terms and Elections.** Elections of Directors shall occur annually, in a manner prescribed by the Board. Directors shall serve a term of three (3) years and shall serve staggered terms so that approximately one-third (1/3) of the Board is elected each year. No Director may serve more than three (3) consecutive terms.
- 4.5. **Vacancies.** Any vacancy among Directors prior to the conclusion of a Director's term may be filled by appointment by the Board. A Director so appointed shall be appointed until the end of the pertinent term.
- 4.6. **Removal.** A Director may be removed by decision of 2/3 of the remaining Directors for conduct contrary to the Cooperative or failure to follow Board policies. A Director may be removed by decision of the member-owners in accordance with the petition and voting provisions of these bylaws.
- 4.7. **Meetings.** The Board shall hold regular and special meetings at such time and place as it shall determine, and all Directors shall be notified of said meeting at least five (5) days in advance, unless the Board agrees to a shorter notice. The Board will provide reasonable notice of all Board meetings to member-owners, which may include notice by electronic transmission to the extent permitted by law. Attendance at any meeting constitutes waiver of notice of that meeting or any deficiencies in notice. Meetings shall be open to all active member-owners in good standing, unless the Board enters into executive session due to confidential or proprietary matters as determined by the Board, such as: labor relations or personnel issues; legal matters affecting the Cooperative; negotiation of a contract; discussion of strategic goals or business plans, the disclosure of which would adversely impact the Cooperative's position in the marketplace; and/or discussion of a matter that may, by law or contract, be considered confidential. The results of any executive session shall, without violation of confidentiality or as otherwise is deemed necessary by the Board, be recorded in the general minutes.
- 4.8. **Officers.** The Board will designate officers as necessary for the effective conduct of Board business, consistent with any requirements of state law.
- 4.9. **Committees.** The Board may designate one or more committees, each consisting of two or more directors, to serve at the pleasure of the Board. The purpose of any

committee is to inform and advise the Board regarding matters for which the committee is formed. The committee shall have no authority of its own to act on behalf of the Board or the Cooperative unless specifically granted by the Board.

- 4.10. **Directors Quorum.** A majority of the current Directors shall constitute a quorum. No decisions shall be made by the Board without a quorum.
- 4.11. **Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken by written action without a meeting if affirmed by all of the Directors in writing. The action is effective when affirmed by all of the Directors, unless a different effective time is provided in the action.

ARTICLE V: CONTRACTS, CHECKS, DEPOSITS AND GIFTS

- 5.1. **Contracts.** The Board may authorize any officer or agent of the Cooperative, in addition to the officers so authorized by these bylaws, to enter into any contract in the name of the Cooperative and such authority may be general or may be confined to specific instances.
- 5.2. **Gifts.** The Board may accept on behalf of the Cooperative any contribution, gift or bequest to be used for any purpose of the Cooperative.

Article VI: SHARES AND SHAREHOLDERS

- 6.1. **Transfer or repurchase of shares.** After a shareholder's whereabouts are unknown for a period of two (2) years and in accordance with the laws of the State of Maine regarding due notice, the Board will have the right to cancel such membership and transfer such capital to the reserve fund.
- 6.2. **Debts.** The Cooperative will have an absolute lien on the share or loan capital and the interest due thereon of any member-owner or subscriber to share capital for debts owed to the Cooperative.
- 6.3. **Equity.** A member-owner's capital equity may be sold back to the Cooperative for its dollar value less a processing fee, to be determined by the Board, upon termination of membership with 90-days' notice.
- 6.4. **Limits on share capital return.** Any interest return on share capital will not exceed six percent (6%) per year and shall be paid out of surplus.

Article VII: PATRONAGE DIVIDENDS

- 7.1 **Allocations to member-owners.** The Cooperative shall allocate and distribute to member-owners the net profit from business done with them in such a manner as to qualify them as patronage dividends consistent with cooperative principles, applicable state and federal laws, and generally accepted accounting principles. The Board shall determine when and how such allocations and distributions will be made, consistent with these Bylaws and applicable law. The Board will annually review the patronage policy to determine what changes, if any, are required for the financial well-being of the Cooperative. Any changes in the patronage policy determined by the Board shall be promptly implemented by the Board, subject to ratification or veto by a vote at the next member annual or special meeting.
- 7.2 **Consent of member-owners.** By obtaining or retaining membership in the Cooperative, each member-owner consents to take into account, in the manner and to the extent required by federal and state tax law, any patronage dividend received from the Cooperative. The Board also may adopt policies by which member-owners are offered the chance to donate all or part of their patronage dividend to one or more other organizations aligned with the Cooperative's purpose, or forfeit all or part of the patronage dividend to the Cooperative or for any other designated purpose that furthers the Cooperative's mission.
- 7.3 **Reserve Fund.** At the end of each fiscal year, the Board may allocate at least ten percent (10%) of the net savings remaining after expenses have been met to the reserve fund, or such other amount as may be voted at the annual member-owners meeting. This reserve fund will have money especially allotted to it from net savings or earnings of the business and any other funds appropriated to it by the Board. Amounts carried in reserves by the Cooperative shall be allocated on the books of the Cooperative on a patronage basis or in lieu thereof the books and records of the Cooperative shall afford a means of doing so at any time so that in the event of distribution each member-owner and eligible patron may receive a pro rata share of such distribution. Amounts carried in reserves or unallocated surplus and not allocated to the member-owners and patrons may be so allocated by the Board at any time.
- 7.4 **Education Fund.** At the end of each fiscal year, the Board may invest a sum of at least five hundredths of a percent (.05%) from net surplus in an educational fund consistent with the Cooperative's mission and cooperative principles.

ARTICLE VIII: BOOKS AND RECORDS

- 8.1 **Records.** The Cooperative shall keep at its principal office or the office of its registered agent as permanent records:
- (a) Correct and complete books and records of accounts;
 - (b) Minutes of all meetings of its member-owners and the Board, a record of all actions taken by the member-owners or Board without a meeting, and a record of all actions taken by a committee of the Board, if any;
 - (c) A record giving the names and addresses of the member-owners and their equity; and
 - (d) Any other records required to be maintained by the Cooperative under applicable law.
- 8.2 **Right to inspection.** A member-owner may request to inspect the Cooperative's books and records during regular business hours upon at least five (5) days' written notice to the Board, provided that the Board may restrict disclosure of any financial or personal information in its discretion, subject to applicable law, and where the Board reasonably believes that the information will be used for an improper purpose, including to intimidate or harass, it may deny a member-owner access to the list of member-owners or impose such other reasonable restrictions on access.
- 8.3 **Fiscal Year.** For the purpose of keeping consistent records, the fiscal year of the Cooperative will begin on the first (1st) day of January in each year and end at midnight on the thirty first (31st) day of December of that year, unless otherwise established by the Board.

ARTICLE IX: INDEMNIFICATION

- 9.1 **Indemnification.** The Cooperative shall indemnify and reimburse each present, past and future Director, officer, and general manager for any claim or liability (including expenses and attorneys' fees actually and reasonably incurred in connection therewith) to which such person may become subject by reason of being a Director, officer, or general manager. Such indemnification shall be made only if it is determined by the Board that such person acted in good faith in the reasonable belief that their action was in the best interests of the Cooperative, or as otherwise allowed by law.

ARTICLE X: AMENDMENT OF BYLAWS

- 10.1 **Amendments.** These bylaws may be amended or repealed in whole or in part by a majority of the member-owners who participate in the vote. An amendment may be proposed by decision of the Board or by petition of at least fifteen percent (15%) of active member-owners. 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.

ARTICLE XI: DISSOLUTION

- 11.1 **Vote.** The Cooperative may be dissolved upon a decision by the Board and a two third (2/3) vote of all active member-owners in good standing. By a vote of the majority of the member-owners then voting, three or more member-owners shall be designated as trustees, who shall, on behalf of the Cooperative and within a time fixed in their designation or within any extension thereof, liquidate its assets and shall distribute them in the manner and order required by the bylaws and state law.
- 11.2 **Notice.** Should the Board propose to dissolve the Cooperative, a notice of such proposed action shall be posted in the Rising Tide and published in the Lincoln County News, and a notice and ballot will be transmitted to all active member-owners in good standing at their last recorded address.