

Fruit Growers Supply Company



**Amended and Restated
Articles of Incorporation
And
By-laws**

With amendments through August 19, 2020

TABLE OF CONTENTS

ARTICLES OF INCORPORATION

1.	Name.....	1
2.	Purpose.....	1
3.	Nonprofit Cooperative Supply Corporation.....	1
4.	Principal Office	1
5.	Number of Directors.....	1
6.	Original Directors.....	1
7.	Original Subscribers	2
8.	Revolving Funds and Other Allocated Reserves.....	2
9.	Members, Voting Power and Property Rights	3
10.	Perpetual Existence	4
11.	Liability of Directors and Officers	4
12.	Indemnification of Agents	4

TABLE OF CONTENTS

BYLAWS

Page

1.	GENERAL	1
1.1	Articles of Incorporation	1
1.2	Definitions	1
2.	MEMBERSHIP	2
2.1	General Organization	2
2.2	Classes of Members	2
2.3	Agreements of Local Associations and District Exchanges With Their Growers	3
2.4	Representative of Member	3
2.5	Membership Contract.....	3
2.6	Nontransferability of Membership.....	4
2.7	Termination of Membership	4
2.8	Expulsion.....	4
3.	VOTING RIGHTS	5
3.1	Growers	5
3.2	Local Associations and Voting Units of Growers	5
3.3	District Exchanges	6
3.4	Sunkist.....	6
3.5	Class A Members.....	6
3.6	Proxies.....	6
3.7	Voting by Mail.....	6
4.	MEETINGS OF MEMBERS	7
4.1	Place of Meetings.....	7
4.2	Regular Annual Meetings.....	7
4.3	Notice of Regular Annual Meeting.....	7
4.4	Special Meetings.....	7
4.5	Notice of Special Meeting.....	7
4.6	Adjournment and Notice	8
4.7	Quorum.....	8
4.8	Consent of Absentees.....	8

TABLE OF CONTENTS
(continued)

	Page
5. DIRECTORS.....	8
5.1 Number.....	8
5.2 Qualification of Directors.....	8
5.3 Election of Directors.....	8
5.4 Resignation.....	10
5.5 Removal.....	10
5.6 Vacancies; Absence from a Meeting.....	10
5.7 Place of Meetings.....	11
5.8 Organization Meeting.....	11
5.9 Meetings.....	11
5.10 Participation in Meetings by Conference Telephone.....	11
5.11 Notice of Meetings of Directors.....	11
5.12 Adjournment.....	12
5.13 Waiver of Notice.....	12
5.14 Quorum.....	12
5.15 Action Without Meeting.....	12
5.16 Fees and Expenses.....	12
6. POWERS OF DIRECTORS.....	13
6.1 General Powers.....	13
6.2 Committees of the Board.....	13
7. OFFICERS.....	14
7.1(a) Corporate Officers.....	14
7.1(b) Election and Term of Office.....	14
7.2 Powers and Duties.....	14
8. COOPERATIVE PURCHASING.....	15
8.1 Purchasing Obligation.....	15
8.2 Optional Purchases.....	15
8.3 Cooperative Purchasing Pools.....	15
8.4 Liquidated Damages for Breach.....	16
9. OTHER BUSINESS.....	16

TABLE OF CONTENTS
(continued)

	Page
9.1 Other Business	16
10. REVOLVING FUND AND OTHER ALLOCATED RESERVES	18
10.1 Revolving Fund Created.....	18
10.2 Revolving Fund Rate	18
10.3 Repayment.....	19
10.4 Revolving Fund Statement	19
10.5 Nature of Revolving-Fund Credits.....	19
10.6 Payment of Revolving-Fund Credits on Dissolution	19
10.7 No Segregation of Funds.....	19
10.8 Assignment or Transfer	20
10.9 Compromise of Revolving-Fund Credits	20
10.10 Tax Treatment.....	20
10.11 Allocated-Reserve Credits from Other Business	20
11. MISCELLANEOUS	21
11.1 Principal Office.....	21
11.2 Method of Giving Notices	21
11.3 Indemnity.....	21
11.4 Set-off.....	21
11.5 Losses	21
11.6 Assignment of Monies Owed or Held by Sunkist or District Exchange	22
11.7 Assignment of Debts or Other Obligations of Supply Company	23
11.8 Fiscal Year.....	25
11.9 Seal.....	25
11.10 Amendments	25
11.11 Dividends.....	25
11.12 Disposition of Undistributable Funds	26
11.13 Indemnification of Directors and Officers	26
11.14 Horticultural Advice and Information.....	27
12. DISPUTE RESOLUTION	27
12.1 Arbitration and Litigation.....	27

TABLE OF CONTENTS
(continued)

	Page
12.2 Time Limitations.....	28
12.3 Damages Limitation.....	28

FRUIT GROWERS SUPPLY COMPANY
AMENDED AND RESTATED ARTICLES OF INCORPORATION

AMENDED ARTICLES OF INCORPORATION

FIRST: The name of this corporation (herein referred to as "Supply Company") is:

FRUIT GROWERS SUPPLY COMPANY

SECOND: The purposes for which Supply Company is formed are:

- (a) To manufacture, buy, sell and deal in supplies and services of every kind and nature necessary or incidental to the growing, packing, shipping, or marketing of agricultural and horticultural products, including citrus fruits and citrus-fruit products marketed by members of Supply Company through Sunkist Growers, Inc., a California corporation, herein referred to as "Sunkist," and all other agricultural, horticultural, and related products otherwise marketed by members of Supply Company.
- (b) To engage in any business directly or indirectly related to that described in clause (a) of this Article SECOND from time to time authorized or approved by the board of directors of Supply Company.

In carrying out said purposes, Supply Company shall have every power, privilege, right, and immunity now or hereafter authorized or permitted by law to a corporation organized or existing pursuant to the provisions of Chapter 1 of Division 20 of the Agricultural Code of the State of California and amendments thereto and substitutions therefor and continuances thereof.

Nothing herein contained shall be deemed to limit the right or power of Supply Company to do any lawful act that the board of directors shall determine.

THIRD: Supply Company is organized and exists as a nonprofit cooperative supply corporation, without capital stock, pursuant to the provisions of Chapter 1 of Division 20 of the Food and Agricultural Code of the State of California.

FOURTH: The principal office for the transaction of business of Supply Company is located in the County of Los Angeles, State of California.

FIFTH: The number of directors shall be twenty-six (26); provided that bylaws may be adopted whereby a different number of directors may be fixed, in which event the number of directors shall be as provided in said bylaws.

SIXTH: As stated in the original articles, the names and addresses of the persons who were to serve as the first directors were:

NAME	RESIDENCE
F. Q. Story	Alhambra, California
H. E. Swan	Ontario, California
G. N. Atwood	Covina, California
Dana C. King	Azusa, California
P. C. Daniels	Azusa, California
J. S. Edwards	Redlands, California
F. H. Roberts	Corona, California
S. J. Beals	Orange, California
W. P. Russell	Riverside, California
W. G. Fraser	Riverside, California
John Scott	Duarte, California
E. G. Dezell	Los Angeles, California
P. J. Dreher	Pomona, California
E. F. VanLuven	Colton, California
W. E. Sprott	Porterville, California

SEVENTH: Although Supply Company is now a nonstock membership corporation, it was originally incorporated on October 5, 1907 with capital stock. The statement in the original articles of incorporation of the number of shares subscribed and by whom (which statement may not be altered) was as follows:

NAME OF SUBSCRIBER	NUMBER OF SHARES	AMOUNT
F. Q. Story	1	\$10.00
H. E. Swan	1	10.00
G. N. Atwood	1	10.00
Dana C. King	1	10.00
P. C. Daniels	1	10.00
J. S. Edwards	1	10.00
F. H. Roberts	1	10.00
S. J. Beals	1	10.00
W. P. Russell	1	10.00
W. G. Fraser	1	10.00
John Scott	1	10.00
E. G. Dezell	1	10.00
P. J. Dreher	1	10.00
E. F. Van Luven	1	10.00
W. E. Sprott	1	10.00
Total amount subscribed	15 shares	\$150.00

EIGHTH: To provide funds for corporate purposes of Supply Company, revolving funds, capital credits, and other allocated reserves may be established. Such revolving-fund, capital, or other allocated-reserve credits shall not be deemed to evidence, create, or establish any present

property rights or interest, as such terms are herein used, but such credits shall be deemed to evidence an indebtedness of Supply Company payable only as provided in the bylaws. In the event the membership of any member shall terminate for any reason whatsoever, such member shall not thereupon become entitled to demand or receive any interest in the property and assets of Supply Company as herein defined, but shall be entitled only to receive payment of its revolving-fund, capital, or other allocated-reserve credits as and when same would have been paid had it remained a member.

NINTH: Supply Company is a member corporation without shares of stock. It shall have five classes of members, as more particularly defined in the bylaws: (1) Growers, (2) Local Associations, which shall be nonprofit cooperative associations of Growers, (3) District Exchanges, (4) Sunkist, and (5) all others (“Class A Members”), who are admitted as member patrons of Supply Company, but are not directly or indirectly members of Sunkist. In order to be eligible for membership in Supply Company, Local Associations and District Exchanges shall provide voting rights and property rights consistent with this Article NINTH. The voting power and property rights and interests of each said class shall be as follows:

1. Voting Power. The voting power of members shall be unequal. All voting power shall ultimately be exercised by the Growers, through the representative channels of their respective Local Associations and District Exchanges. The Growers shall have the sole voting power in, and control of, their Local Associations, including the power to elect the boards of directors thereof. The Local Associations and direct Grower members shall elect the board of directors of their respective District Exchanges. The member District Exchanges alone shall have the power to vote for directors. In the election of directors, each member District Exchange shall be entitled to as many votes as are obtained by multiplying the number of directors it is entitled to nominate, as prescribed by the bylaws of Supply Company, by the number of directors to be elected. Member District Exchanges shall have no other voting powers.

Other than in the election of directors, the voting rights of the Growers shall be exercised by and through their respective Local Associations or their representative or representatives on the board of directors of their District Exchange, on the basis of one (1) vote for each one thousand (1,000) cartons or equivalent (or major fraction thereof) of fresh citrus fruit marketed by such Local Association or such voting unit of Growers through Sunkist, while a patron of Supply Company, during the three (3) preceding completed fiscal years of Sunkist, as shown by Sunkist records. The voting rights of Sunkist shall be exercised through the Growers as members of Sunkist. Class A Members shall have voting powers only with respect to their respective patronage pools as set forth in the Bylaws as amended from time to time.

2. Property Rights. The property rights and interests of the members of Supply Company shall be unequal. The member District Exchanges, Local Associations and Sunkist, as such, shall have no property rights or interests. The property rights and interests of the Growers in Supply Company at any time shall be such part of the entire property rights and interests as the amount of fresh citrus fruit marketed by each Grower member through Sunkist, while a patron (directly or through a packinghouse as agent) of Supply Company, during the six (6) preceding completed fiscal years of Sunkist (as shown by Sunkist records) bears to the total of such fresh citrus fruit shipped by all such Grower members of Supply Company through Sunkist during the

same six (6) year period. Class A Members shall have no property rights in any assets of Supply Company, except the right to participate in their respective patronage pools on a patronage basis.

In the event of dissolution or liquidation of Supply Company, any residue that may remain after payment in full of all indebtedness, including that evidenced by revolving fund, capital, or other allocated-reserve credits, shall be distributed to those Grower members (other than any member that has been expelled) who are members at the time of commencement of proceedings for liquidation or dissolution, in proportion to the property rights held by each such Grower member, at the time of commencement of proceedings for liquidation or dissolution, as determined under this Article NINTH, Section 2.

In the event Supply Company shall at any time determine to transfer the property and assets of Supply Company to a successor corporation and shall designate such corporation as the successor of Supply Company, then the transfer of said property and assets by Supply Company to such successor shall not be considered a dissolution or liquidation within the meaning of the foregoing paragraph. Such successor shall be formed by consolidation or be the survivor of a merger. Property rights and interests of the members of Supply Company shall be recognized and preserved in an equitable manner in such successor.

TENTH: Supply Company shall have perpetual existence.

ELEVENTH: The liability of the directors and officers of Supply Company for monetary damages shall be eliminated to the fullest extent permissible under California law.

TWELFTH: Supply Company is authorized to provide indemnification of agents (as defined in California Corporations Code section 317) for breach of duty to Supply Company and its members through Bylaw provisions, agreements with the agents, or otherwise, in excess of the indemnification otherwise permitted by California Corporations Code section 317, subject to the limits on such excess indemnification set forth in California Corporations Code section 204. Any amendment, repeal or modification of any provision of this Article TWELFTH shall not adversely affect any right or protection of an agent of Supply Company existing at the time of such amendment, repeal or modification.

**FRUIT GROWERS SUPPLY COMPANY
AMENDED BYLAWS**

1. GENERAL

1.1 Articles of Incorporation. The articles of incorporation of Fruit Growers Supply Company, herein referred to as “Supply Company,” are hereby made a part of these bylaws and all matters herein contained in these bylaws shall be subject to such provisions in regard thereto, if any, as are set forth in the articles of incorporation. All references in these bylaws to the articles of incorporation shall be construed to mean the articles of incorporation as from time to time amended.

1.2 Definitions. As used in these bylaws the following terms have the following meanings:

- (a) “Board” or “board of directors” means the body of directors duly elected under Article 5 hereof.
- (b) “CGCL” means the California General Corporation Law, as amended from time to time.
- (c) “Cal. Ag. Code” means the Food and Agricultural Code of California, as amended from time to time.
- (d) “Carton of fruit” means the quantity of the particular fruit involved that is contained in the standard carton in common use for fresh shipments of such fruit, or the equivalent thereof, as determined from time to time by the board of directors. The board of directors may from time to time establish the relationship or ratio between the standard carton and other units of weight or quantity.
- (e) “Fresh fruit” or “fresh citrus fruit” means oranges, tangerines, grapefruit, lemons, and limes destined only for fresh consumption and moving in normal fresh-fruit channels. The board of directors may from time to time specify other and more detailed definitions not inconsistent herewith.
- (f) “Marketed” means the sale or shipment for purposes of sale.
- (g) “Licensed packinghouse” means a packinghouse licensed by Sunkist to grade, pack and ship the citrus fruit of Grower members of Sunkist that has entered into an agreement with Supply Company.
- (h) “Person” means and includes an individual natural person, a corporation, a partnership, an association, a fiduciary, a trust, a limited liability company or any other entity or organization.

- (i) “Voting unit of Growers” means a group of Growers who have contracted with a licensed packinghouse to grade, pack and ship certain citrus fruit and who are not as to such citrus fruit affiliated with a member Local Association.

2. MEMBERSHIP

2.1 General Organization. Throughout California and Arizona since the 1880’s citrus growers have formed themselves into cooperatives or have constructed their own facilities to pick, pack, and market their fruit in fresh or products form. Local nonprofit cooperative packinghouse organizations have been known, and will in these bylaws be referred to, as “Local Associations.” The Local Associations created regional marketing agencies in common, generally known and in these bylaws referred to as “District Exchanges”. In addition to those growers who formed Local Associations, some growers have become direct members of their respective District Exchanges for marketing purposes, preferring to contract individually for packing services. The Local Associations and their District Exchanges in turn formed Sunkist Growers, Inc., herein referred to as “Sunkist”, in order to furnish additional facilities and agencies in maintaining, extending, and making more efficient the marketing of the Growers’ citrus fruit. In time the Local Associations and District Exchanges realized the necessity for forming Supply Company to assure a dependable and economic source of supplies for the production, packing, shipping, and marketing of their fruit.

A fundamental purpose of Supply Company since its formation in 1907 has been to provide such supplies on a dependable and economic basis to Local Associations, District Exchanges, and their affiliated Growers who market through the Sunkist marketing system. Another purpose of Supply Company is to do business on a cooperative basis with persons who are not members of Sunkist but are admitted as Class A Members of Supply Company in the discretion of the Board. In carrying out such purposes, Supply Company shall act as a nonprofit cooperative association and as an agent for its members. Supply Company may, at the discretion of the board of directors, also do business with and for nonmembers; but such nonmember business shall not exceed fifty percent (50%) by value of the total business of Supply Company. In addition, Supply Company may, at the discretion of its board of directors, undertake any legally permitted activities for the mutual benefit of its members.

2.2 Classes of Members. There shall be five classes of members:

- (a) “Growers”, each of which shall be a member of Sunkist and engaged in the production of citrus fruit to be marketed through Sunkist. Each Grower must also be a member of a Local Association or a District Exchange.

- (b) “Local Associations”, each of which shall be a nonprofit cooperative association of persons engaged in the production of citrus fruit and a member of Sunkist. Each Local Association member must also be a member of a District Exchange.
- (c) “District Exchanges”, each of which shall be a member of Sunkist and a marketing agent for one or more Local Association members of Supply Company or for the producers for whom one or more licensed packinghouses grade, pack, and ship citrus fruit.
- (d) “Sunkist Growers, Inc.”, a nonprofit cooperative association, all of whose members are eligible to be members of Supply Company.
- (e) “Class A Members” include other persons admitted in the sole discretion of the Board from time to time, each of which shall be directly or indirectly involved in the production, packaging, marketing, or distribution of agricultural or horticultural products, but who would not qualify under any of the other four categories of membership.

2.3 Agreements of Local Associations and District Exchanges With Their Growers. Each Local Association and District Exchange shall maintain appropriate written agreements between itself and its Growers. Each Local Association and District Exchange shall furnish to Supply Company, upon request, a list of Growers then affiliated with said Local Association or District Exchange and a copy of its agreement with Growers.

2.4 Representative of Member. If any member is other than a natural person, such member may be represented by any individual duly authorized in a writing filed with the secretary of Supply Company.

2.5 Membership Contract. Growers, Local Associations, District Exchanges, and Class A Members qualified under Bylaw 2.2 and Sunkist may become members of Supply Company by submitting an application for membership, in a form or such forms as may be prescribed by the board of directors from time to time, upon acceptance of such application by the Board in its sole discretion. In addition to the terms and conditions of the membership agreement itself, and as a material part of the consideration given by a member for his, her or its membership, members shall be bound by Supply Company’s Articles of Incorporation and these Bylaws as in force at the time or as the same may be thereafter amended. When executed and delivered by Supply Company, the membership agreement, together with such Articles of Incorporation and Bylaws, shall constitute a contract between the member and Supply Company, for the benefit of each and every other member of Supply Company. The Board may refuse to accept any

membership application or membership agreement for any reason. Membership agreements existing at the time that the Board prescribes a new or amended form of membership agreement shall be deemed (automatically and without further signature, written, oral or other consent or any other act of the members) to have been amended to conform to the new or amended form of membership agreement prescribed by the Board; provided, however, that no such deemed amendment of an existing membership agreement shall be effective as to any member that delivers written notice of termination of such member's membership within thirty (30) days after written notice of the new or amended form of membership agreement is delivered to such member in accordance with Bylaw 11.2.

2.6 Nontransferability of Membership. No membership shall be assigned or transferred either voluntarily or by operation of law, nor shall any membership or membership rights of a member be assigned, transferred, alienated, or encumbered in any manner or by any means whatsoever without the prior approval of Supply Company. Such approval shall be in writing and at Supply Company's sole discretion. However, nothing contained in this section shall be deemed to impair the transferability of revolving-fund, capital, or other allocated-reserve credits as herein provided in Bylaw 10.9.

2.7 Termination of Membership. Any membership in Supply Company shall be terminated upon occurrence of any of the following events:

- (a) If the member ceases to qualify as such in accordance with Bylaw 2.2; or
- (b) By death, disbanding, or dissolution of the member; or
- (c) If the member Local Association or the licensed packinghouse with which Growers are affiliated, makes no purchases of containers and container supplies (as defined in Bylaw 8.1) from Supply Company during a period of twelve (12) consecutive months, as to the membership of such Growers and of such Local Associations; or
- (d) With respect to a Class A membership, if the Class A Member fails to transact any business with Supply Company during a period of twelve (12) consecutive months; or
- (e) By termination as provided in the membership contract; or
- (f) By expulsion as provided in Bylaw 2.8.

2.8 Expulsion. Any member may be expelled by a majority vote of the authorized number of the board of directors for failure to comply with the membership contract or these bylaws or rules and

regulations issued thereunder, or by a two-thirds (2/3) vote of the authorized number of directors if termination of such membership is judged to be in the best interests of the other members. Before vote upon a proposal to expel any member, such member shall be given notice and a fair and reasonable opportunity to be heard at a regular or special meeting of the board. Any action of the board of directors hereunder shall be final and conclusive. Upon expulsion, all voting and property rights of the member so expelled shall cease and terminate except that such member shall be entitled to receive payment of any outstanding revolving-fund, capital, or other allocated-reserve credits and any cooperative pool refunds that such member is or would be entitled to receive pursuant to Bylaw 8.3 (less any indebtedness to Supply Company), to be paid in the manner and at the time such payment would have been made had such membership been continued.

3. VOTING RIGHTS

3.1 Growers. All voting power within Supply Company shall ultimately be exercised by Growers, through the representative channels of their respective Local Associations or District Exchanges. Growers shall have the sole voting power in, and control of, their Local Associations and District Exchanges, including the power to elect the boards of directors thereof. Each Local Association and District Exchange shall within each of their fiscal years conduct a regular annual meeting of members at which directors shall be elected. To ensure that each Grower member of Supply Company has an opportunity to vote at an annual meeting of either a Local Association or a District Exchange, each Local Association and District Exchange shall provide written notice of its regular annual meeting to each of its members, including each Grower member, if any.

3.2 Local Associations and Voting Units of Growers. For purposes of voting, Growers who are not members of Local Associations shall be grouped with relation to packing facilities preparing their fruit for market, in accordance with the bylaws of the respective District Exchanges. Such grouping is herein called a “voting unit” of Growers. Each voting unit of Growers shall exercise its voting right in Supply Company through the person or persons it nominated on the board of directors of its District Exchange. Local Associations and the District Exchange director or directors nominated by each voting unit of Growers shall exercise their Growers’ vote upon all questions requiring membership action except the election of directors. All such voting shall be based on volume of fruit marketed and each Local Association or voting unit shall be entitled to one (1) vote for each thousand (1,000) cartons or equivalent (or major fraction thereof) of fresh citrus fruit marketed by Local Association or voting unit through Sunkist (while purchasing containers and container supplies from

Supply Company) during the three (3) preceding completed fiscal years of Sunkist, as shown by the records of Sunkist.

The affirmative vote or written assent of a majority of the voting power shall be necessary for any action by members to be effective, except as otherwise provided in Bylaw 4.4.

3.3 District Exchanges. Member District Exchanges shall have the exclusive power to nominate and elect directors but shall have no other voting rights. Each member District Exchange shall nominate only as many directors as it shall be entitled to under Bylaw 5.3. Each member District Exchange shall be entitled to cast votes for election of directors in accordance with the following formula: the number of directors that it is entitled to nominate under Bylaw 5.3 multiplied by the number of directors to be elected.

3.4 Sunkist. Since all Growers who are members of Supply Company are members of Sunkist, Sunkist shall exercise its voting rights through Growers.

3.5 Class A Members. Class A Members shall have voting rights, on a one vote per member basis, limited to:

- (a) Recommendations to the Board with respect to the admission or expulsion of Class A Members;
- (b) Recommendations to the Board with respect to allocation of patronage dividends to and within Class A Member pools; and
- (c) Any other matters determined by the Board in its sole discretion from time to time.

3.6 Proxies. Any member, or its duly authorized representative appointed under Bylaw 2.4, entitled to vote at a membership meeting or to execute consent shall have the right to do so either in person or by proxy, which proxy shall be in writing executed by the member or its duly designated representative and filed with the secretary of Supply Company. No proxy shall be valid after the expiration of eleven (11) months from its date, unless it specifies the length of time it shall be in force, which shall in no event be for more than seven (7) years.

3.7 Voting by Mail. Whenever so authorized by these Bylaws or by the Board, a membership vote may be conducted by mail, without the necessity of a meeting. Subject to Section 603(d) of the CGCL, to be effective, the total vote cast by mail on any question shall not be less than the number required to constitute a quorum had such vote been taken at a meeting of members.

4. MEETINGS OF MEMBERS

4.1 Place of Meetings. Unless the board of directors by resolution appoints some other place in any instance, meetings of members, both annual and special, shall be held at the principal office of Supply Company or at such other place as may be designated by the Board. Members may participate in any meeting of the members by electronic transmission by and to Supply Company or by electronic video screen communication, so long as Supply Company provides members a reasonable opportunity to participate in the meeting and to vote on matters submitted to members, and if any member votes or takes other action at the meeting by means of electronic transmission or electronic video screen communication, a record of that vote or action is maintained by Supply Company.

4.2 Regular Annual Meeting. A regular annual meeting of all Supply Company members (other than Class A Members, if any, who shall have separate Class A membership meetings at least annually at times and places specified by the Board from time to time) shall be held during normal business hours on a business day in March of each year, or during normal business hours on such other business day as may be designated by the Board at least ten (10) days prior to such annual meeting of members. At such meeting directors shall be elected, reports of the affairs of Supply Company shall be considered and any business may be transacted that is within the power of the members.

4.3 Notice of Regular Annual Meeting. Ten days' notice of each regular annual meeting of the members shall be given as provided in Bylaw 11.2. Such notice shall state the place, the day, and the hour of the meeting, and that the purposes thereof are the election of directors and the transaction of such other business as may come before the meeting.

4.4 Special Meetings. Except in those instances where a particular manner of calling a meeting or obtaining a vote of members is prescribed by law or in these bylaws, a special meeting of all members or of the members of any class may be called at any time by the chairman of the board or on demand of one-third (1/3) of the directors, or by members entitled to exercise one-fifth (1/5) of the voting power. No business shall be transacted at a special meeting other than such as is included in the purposes stated in the notice.

4.5 Notice of Special Meeting. Notice of each special meeting shall be given in the same manner as for annual meetings. Notice of any special meeting shall specify the purposes of the meeting, in addition to the place, the day, and the hour of such meeting.

4.6 Adjournment and Notice. Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by a vote of the majority of the voting power of the members present in person or by proxy, but in the event there is not a quorum initially present at any members' meeting no other business may be transacted. When any meeting of members is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise, it shall not be necessary to give any notice of adjournment other than by announcement at the meeting at which adjournment is taken, nor shall it be necessary to give any notice of the business to be transacted at an adjourned meeting.

4.7 Quorum. At any meeting of all members, or of any class of members, the presence in person or by proxy of persons entitled to vote a majority of the voting power entitled to vote at such meeting shall constitute a quorum for the transaction of business, except as otherwise may be required by law. The members present at a duly called and held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

4.8 Consent of Absentees. The transactions of any meeting of members, either regular or special, however called and noticed, shall be as valid as though had at a meeting duly held upon regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the members entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

5. DIRECTORS

5.1 Number. The authorized number of directors of Supply Company shall not be less than seventeen (17) nor more than thirty-two (32). Within the foregoing limits, the authorized number of directors shall be established by the Board, from time to time, in accordance with the formula contained in Bylaw 5.3.

5.2 Qualification of Directors. To be eligible to serve as a director of Supply Company, a person must be concurrently serving as a director of Sunkist. In the event a director ceases to be a director of Sunkist, such person shall no longer be qualified to serve as a member of the board of directors of Supply Company.

5.3 Election of Directors. Each District Exchange shall be entitled to nominate one (1) director and one (1) alternate director.

Each alternate director nominee and each alternate director must meet the requirements of Bylaw 5.2, but shall become a director and serve as such only as provided in Bylaw 5.6(b). Additional directors (but not alternate directors) may be nominated by District Exchanges, on the basis of the average volume of all fruit marketed through Sunkist as shown by Sunkist's records, by the Local Association and voting units of Growers that are affiliated with such District Exchanges and that are members of Supply Company at the time of the nomination or election, during any combination of three (3) of the four (4) preceding fiscal years of Sunkist, as provided in Sunkist Bylaw 1.2(l), which will result in each District Exchange being able to nominate the greatest number of directors in accordance with the following formula; provided, however, that the divisor used to compute the District Exchange percentages shall be the total of the three-year average volumes used for all the District Exchanges such that the sum of the percentages that each District Exchange three-year volume bears to the total of all such three-year volumes shall not exceed one hundred percent (100%):

- (i) Each District Exchange shall be entitled to nominate one (1) additional director for each whole four percent (4%) increment of such volume which such District Exchange has in excess of two percent (2%) of such volume.
- (ii) Each District Exchange having less than two percent (2%) of such volume, as reflected in any two of the three most recent compilations of such volume approved or accepted by the Board, shall, for the purpose of nominating directors as specified above, combine its volume with one or more other District Exchanges in such manner as shall allow such combination of District Exchanges to nominate not less than one (1) director in accordance with the above formula as though they were a single District Exchange, and such combination of District Exchanges may so nominate a director or directors as though they were a single District Exchange. If such combination of District Exchanges is not achieved by mutual consent, the Board shall specify such combination. Within each such combination of District Exchanges the nominee or nominees of such combined District Exchanges shall be determined between or among such District Exchanges by a vote on the basis of their respective amounts of such volume.
- (iii) Solely for purposes of this Section 5.3, the term "fruit" means both fresh fruit and products fruit of all varieties.

The directors shall be elected annually by District Exchange members at the time of the regular annual meeting of the members, but if any such annual meeting is not held, or the directors are not elected thereat, the directors may be elected at any special meeting of District Exchange members held for that purpose. Any director shall hold office until

the earliest of the time that (a) his/her successor is elected, (b) his/her resignation is effective, (c) he/she is removed from office, or (d) he or she is found to be ineligible to continue serving as a director under Bylaw 5.2. Alternate directors shall be elected as alternate directors in the same manner as directors are, but no alternate director shall be or become a director except as provided in Bylaw 5.6(b).

5.4 Resignation. Any director may resign by giving notice in writing to Supply Company as permitted by Section 305(d) of the CGCL. Unless the notice specifies a later time, the resignation will be effective when notice is given. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

5.5 Removal. Unless otherwise restricted by the Articles or the CGCL, any director or the entire Board may be removed, with or without cause, by the holders of a majority of the voting power entitled to vote at an election of directors.

5.6 Vacancies; Absence from a Meeting

- (a) Vacancies – Subject to Bylaws 5.2 and 5.6(b), vacancies resulting from any death, resignation, disqualification, removal or other cause shall be filled by the alternate director of the District Exchange that nominated the director who previously occupied the newly vacant Board position, or by such other individual as the District Exchange so determines. Vacancies constituting newly created directorships resulting from any increase in the authorized number of directors shall be filled by the members in accordance with these Bylaws.
- (b) Absence from a Meeting – If a director is absent from a meeting of the Board, and the alternate director previously elected by the appropriate District Exchange is present, (i) that absent director shall be deemed to have resigned as director; (ii) the alternate director shall be deemed to have been elected to fill that vacancy and to hold office until the earlier of a successor is elected or the absent director returns; and (iii) the absent director shall be deemed to have become the alternate director for the prior alternate director then elected as director by virtue of this Section 5.6(b). The absent director shall in any case return to his or her status as director at any meeting that he or she subsequently attends, and the original alternate director shall return to his or her status as such at that time as well.

5.7 Place of Meetings. Meetings of the board of directors shall be held at the principal office of Supply Company, or at any other place within or without the State of California that has been designated by the board or by written consent of all members of the board. Meetings of the board of directors of Supply Company may be held

concurrently with meetings of the Sunkist Board of directors, in which case Supply Company's meeting shall be deemed to be temporarily adjourned while matters relating only to Sunkist are discussed.

5.8 Regular Meetings. The Board shall have the following three (3) regular meetings during each twelve (12) month period:

- (a) Immediately after the regular meeting of the members at which the annual election of directors takes place (as contemplated in Bylaw 4.2), the Board shall hold a regular meeting for the purpose of organization, election of officers (including the chairperson and three (3) vice chairpersons), designation of members to each committee established in accordance with Section 6.2 and the transaction of other business. Notice of such meeting is hereby dispensed with.
- (b) The Board shall also hold a regular meeting in August of each year, or at such other time as may be designated by the Chair or by the Board and duly noticed.
- (c) The Board shall also hold a regular meeting in October of each year, or at such other time as may be designated by the Chair or by the Board and duly noticed.
- (d) The Board shall hold such other meetings as the Board may provide by resolution and as duly noticed.

5.9 Meetings. Meetings of the board of directors for any purpose or purposes may be called at any time by the chairman of the board, or if he is absent or unable or refuses to act, by any vice chairman of the board or by one third (1/3) of the directors. Any and all business may be transacted at a special meeting.

5.10 Participation in Meetings by Conference Telephone. Members of the Board may participate in any meeting of the Board through use of conference telephone, electronic video screen communication or electronic transmission by and to Supply Company, so long as, (i) in the case of participation through use of conference telephone or electronic video screen communication, all members participating in the meeting can hear one another, and (ii) in the case of participation in the meeting through other electronic transmission, each member participating in the meeting can communicate with all of the other members concurrently and each member is provided the means of participating in all matters before the Board (including without limitation the capacity to propose, or to interpose an objection to, a specific action to be taken by Supply Company).

5.11 Notice of Meetings of Directors. Notice of meetings of the board of directors shall be given pursuant to Bylaw 11.2, showing

the time and place, at least three (3) days prior to the time of such meeting.

5.12 Adjournment. Notice of the time and place of holding an adjourned meeting need not be given to absent directors, if the time and place be fixed at the meeting adjourned and the adjournment is for a period of not more than seven (7) days.

5.13 Waiver of Notice. The transactions of any meeting of the board of directors, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held, after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Furthermore, notice of a meeting need not be given to a director who attends the meeting, without protesting, prior thereto or at its commencement, for lack of notice to that director.

5.14 Quorum. A majority of the authorized number of directors shall be necessary to constitute a quorum for the transaction of business. However, in the absence of a quorum of directors who have been previously regularly seated, a quorum for the purpose of accepting resignations of directors and filling such vacancies shall be one-third (1/3) the authorized number of directors. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present will be regarded as the act of the Board, unless a greater number is required by the CGCL, by the Articles or by the Bylaws. A meeting at which a quorum was present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for the meeting.

5.15 Action Without Meeting. Unless restricted by the Articles or these Bylaws, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board consent to the action in writing or by electronic transmission. Written consent or consents will be filed with the minutes of the proceedings of the Board.

5.16 Fees and Expenses. Directors shall not receive any stated salary for their services as directors, but, by resolution of the board, a fixed fee, plus expenses, may be paid for attendance at any meeting of the board or at any committee meeting.

6. POWERS OF DIRECTORS

6.1 General Powers. Subject to the limitations of the articles of incorporation, of the bylaws, and of the statutes of the State of California (including, without limitation, the CGCL and Cal. Ag. Code) relating to action that shall be authorized or approved by members, all corporate powers shall be exercised by or under the authority of, and the business and affairs of Supply Company shall be controlled by, the board of directors. Without prejudice to such general powers, but subject to the same limitations, it is expressly declared that the board of directors shall have the following powers, to wit:

- (a) To appoint and remove, at pleasure, all officers, agents, and employees of Supply Company, prescribe their duties, fix their compensation, and require from them, if deemed advisable, security for faithful service.
- (b) To conduct, manage, and control the affairs and business of Supply Company and to make rules and regulations not inconsistent with the laws of the State of California, the articles of incorporation, or the bylaws, for the guidance of its officers and the management of its affairs.
- (c) To borrow money and incur indebtedness for the purposes of Supply Company, and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of indebtedness and securities therefor, and to do every act and thing necessary to effectuate the same.
- (d) To establish and maintain cooperative purchasing pools and to prescribe rules and regulations in connection with operations under any such purchasing pool.
- (e) To provide for the preparation of financial statements and reports, to prescribe their form, and to provide for appropriate distribution thereof to members. The provisions of Section 1501 of the CGCL and of Section 54204 of the Agricultural Code of California are expressly dispensed with.

6.2 Committees of the Board. The board of directors is authorized to appoint committees, including but not restricted to an advisory committee, an operating committee, a supply committee, and a finance committee, which committees shall have such powers and perform such functions as are prescribed from time to time by the board of directors. The chairman of the board of Supply Company shall be ex officio a member of all committees.

7. OFFICERS

7.1

- (a) Corporate Officers. The officers of Supply Company shall be elected by the Board and shall be a chairperson of the Board, one vice chairperson of the Board for each growing district as such districts may be established from time to time by the Board, a president, one or more vice presidents, a secretary and a treasurer. The Board may also appoint one or more assistant secretaries or assistant treasurers and any other corporate officers which the Board may see fit in its discretion to designate. The chairperson of the Board and vice chairpersons shall be elected by the Board from their number, provided that to qualify as such, each such Person must also be the chairperson or a vice chairperson of Sunkist's Board, respectively. Neither the chairperson of the Board nor any vice chairperson may be elected to that office more than five successive times. One Person may hold two or more offices except that the offices of president and secretary may not be held by the same Person.
- (b) Election and Term of Office. Officers shall be elected annually at the organization meeting of the Board following the annual meeting of members, or at such other time as the Board shall determine. Unless sooner removed by the Board, or unless they resign or become disqualified, all officers shall hold office for their elected term of office until their successors are chosen and have qualified. Any officer, whether elected or appointed by the Board, may be removed at any time by the Board. A Board vote to reduce the number of directors within the number range set forth in Bylaw 5.1 shall not prevent a then duly elected and acting director from completing his or her term.

7.2 Powers and Duties. Subject at all times to the control and direction of the board of directors, each officer shall have and exercise the powers and duties usual to his office.

The chairman of the board, shall, if present, preside at all meetings of members and of the board of directors. In the absence of the chairman of the board, a vice chairman of the board designated by the board of directors shall assume the powers and duties of the chairman of the board.

The president shall be the chief executive officer of Supply Company and shall, subject to the control and direction of the board of directors, have general and active management, direction, and control of the business, officers (other than the chairman of the board and any vice chairman of the board), and employees of Supply Company. He shall conduct the business operations and affairs of Supply Company in accordance with the policies and directives of the board of directors, and according to his own discretion whenever not expressly guided by such policies and directives.

8. COOPERATIVE PURCHASING

8.1 Purchasing Obligation. Each member Local Association and each group of Growers affiliated with a licensed packinghouse acting through such licensed packinghouse as agent shall purchase from Supply Company all requirements of containers and container supplies (as defined herein) at prices and upon terms and conditions from time to time prescribed by Supply Company, but such prices shall be subject to adjustment to reflect actual cost of the containers and container supplies as provided by Bylaw 8.3. Supply Company shall use its best efforts to furnish each Local Association and licensed packinghouse its requirements of containers and container supplies. Class A Members shall have whatever purchasing obligations are set forth in their respective contracts with Supply Company.

“Containers and container supplies” means the following new (unused) items to be used by Local Associations and licensed packinghouses in harvesting, storing, packing, or shipping their citrus fruit or that of their Growers: cartons for shipping the fruit; adhesives for sealing the cartons; bags or bagging materials for shipping the fruit (includes labels and bag closures); shook - field-box, storage-box, and packing-box; plastic boxes used in storage, picking, or packing; staples, strapping used in shipping, strapping and wire for making, repairing, or closing field boxes, storage boxes, bulk bins, or cartons; diphenyl sheets, bulk field and shipping bins and component parts; pallets and slip sheets for fruit handling or shipping; fruit shipping trays, separators, and dividers; paper liners (polyethylene-coated) for lemon storage boxes; tissue fruit wraps.

Growers affiliated with each licensed packinghouse shall take all steps reasonably necessary to assure that such licensed packinghouse will be obligated to purchase, and will in fact purchase, as agent for such Growers, all requirements of containers and container supplies required in connection with harvesting, storing, packing and shipping citrus fruit.

Supply Company may require that purchases by or for the benefit of a Grower member be billed to the Local Association or licensed packinghouse that packs the citrus fruit of the Grower. Each Local Association or licensed packinghouse shall be severally liable to Supply Company for the billing-out price for all purchases as agent for Growers or by Growers to the extent authorized by such Local Association or licensed packinghouse.

8.2 Optional Purchases. Each member may purchase from Supply Company such other supplies as Supply Company is able and willing to furnish, at prices and upon terms and conditions from time to time prescribed by Supply Company, but such prices shall be subject to adjustment to reflect actual cost of the supplies as provided in Bylaw 8.3.

8.3 Cooperative Purchasing Pools. Supply Company shall establish and maintain a container pool and such other cooperative purchasing pools as the board of directors may from time to time deem

advisable, and qualifying members of Supply Company and other qualifying persons that the board of directors may authorize from time to time in its sole discretion shall be permitted to participate therein. In all such pools any excess of billing-out prices charged to participants over actual cost of the materials or supplies involved plus necessary expenses shall be refunded to participants or their agents for their benefit each year, as soon as practicable after the close of the fiscal year of Supply Company, on the basis of the dollar value of the respective billings to them in each pool.

8.4 Liquidated Damages for Breach. In the event that any member Local Association or licensed packinghouse acting as agent for Growers shall purchase containers or container supplies required to be purchased through Supply Company under the provisions of these bylaws other than through the facilities of Supply Company, such act will injure Supply Company and its members in an amount that is, and will be, impractical and extremely difficult to determine and fix. The said damages are, therefore, fixed at twenty-five percent (25%) of Supply Company's established billing price for all containers or container supplies that are purchased contrary to the provisions of these bylaws. A Local Association or licensed packinghouse acting as agent for Growers so violating the purchase obligation shall pay said amount to Supply Company as liquidated damages, and, in default of payment thereof to Supply Company upon demand, the same may be recovered in an action in any court of competent jurisdiction in the name of Supply Company, in which case Supply Company shall recover, in addition to said liquidated damages, all costs, premiums for bonds, expenses, and fees, including attorneys' fees, in such action. Nothing contained in this Bylaw 8.4 shall limit or diminish Supply Company's right to terminate a member's membership in Supply Company.

9. OTHER BUSINESS

9.1 Other Business. Any profits accruing to Supply Company from business done with persons other than participants in the cooperative purchasing pools, after making provision for all taxes thereon, Federal and otherwise, may be used, in whole or in part and from time to time, for any one or more of the following purposes, provided, however, that no Class A Member shall have any entitlements to, or property interest in, such profits or related distributions:

- (a) Distribution (in cash or by written notice of allocation) of none, some, or all such profits to one or both of the following, as the Board, in its discretion, may determine each year:
 - (i) member Local Associations and voting units of Growers that purchased containers and container supplies from Supply Company at

any time during its fiscal year immediately preceding the year of such distribution, provided that (A) each such Local Association and voting unit of Growers shall receive such proportionate part of such distribution as the total dollar value of the billings to it or its agent in the container and container supplies pools and packaging related optional purchases subpool bears to the total dollar value of the billings in those pools to all such Local Associations and voting units of Growers or their agents during the six (6) year fiscal years immediately preceding the year of such distribution; (B) any such distribution to a voting unit of Growers may be made in a lump sum to the licensed packinghouse with which it is affiliated; (C) such distribution shall be to the licensed packinghouse as agent for the benefit of the Growers contracting with such packinghouse; (D) to be entitled to receive the cash payment of a written notice of allocation, the recipient of any such distribution, whether a Local Association or a licensed packinghouse, must be licensed by Sunkist at both the time of the written allocation and the time of the cash payment; and (E) allocations that are not paid in cash because the Local Association or licensed packinghouse is not licensed by Sunkist at the time of cash payment shall be transferred to Supply Company's permanent capital under Bylaw 9.1(b) and shall be paid as provided under Bylaw 9.1(b).

(ii) Growers, based on the volume of their Sunkist patronage (as determined from Sunkist's records), during the fiscal year immediately preceding the year of such distribution, provided that (A) the Grower receiving such distribution must be a member of Supply Company at both the time of the written allocation and the time of the cash payment, and (B) allocations that are not paid in cash because the Grower is not a member of Supply Company at the time of cash payment shall be transferred to Supply Company's permanent capital under Bylaw 9.1(b) and shall be paid as provided under Bylaw 9.1(b).

Each written notice of allocation made under this Bylaw 9.1(a) must be fully paid in cash within six months of the written notice of allocation, unless that Board shall declare the existence of extraordinary and unforeseen circumstances that make such cash payment inappropriate, in which case such cash payment shall be delayed for such time as the Board determines to be proper.

- (b) Distribution by written notice of allocation of such profits to Growers who are Supply Company members as of the date of such notice. All distributions made under this Bylaw 9.1(b) shall: (i) be deemed to be contributions to the Supply Company's permanent capital; and (ii) not be paid in cash to the Growers unless and until liquidation or dissolution of the Supply Company. Without limiting the generality of (i) and (ii), Supply Company's allocations and payments under Bylaw 9.1(a) shall be separate from and without regard to allocations under this Bylaw 9.1(b), and Bylaw 9.1(a) allocations and payments may be made regardless of

past, present, or future Bylaw 9.1(b) allocations. With respect to distributions made under this Bylaw 9.1(b), unless otherwise determined by the Board, each Grower's allocation shall be in proportion to volume of fresh fruit and products fruit marketed through Sunkist during the fiscal year immediately preceding the year in which the written notice is sent, regardless of whether the profits are ordinary or extraordinary and regardless of the year or years over which such profits were earned or accumulated; provided that, if the Grower is no longer a member at the time of commencement of proceedings for liquidation or dissolution, then, notwithstanding any contrary provision in these Bylaws (including, without limitation, Bylaw 2.8), the Grower shall not be entitled to payment under this Bylaw 9.1(b), and that allocated amount shall become residue and shall be distributed under Articles of Incorporation, NINTH, Section 2 upon liquidation or dissolution of the Supply Company. Any distribution made under this Bylaw 9.1(b) shall be designated as such by the Board. If, upon any liquidation or dissolution of the Supply Company, the remaining assets of the Supply Company available for distribution shall be insufficient to pay all allocated amounts under Bylaw 9.1(b), payments of Bylaw 9.1(b) allocations in any distribution of the remaining assets and funds of the Supply Company shall be made ratably based on the amount that each Bylaw 9.1(b) allocation bears to the total Bylaw 9.1(b) allocations, regardless of when such Bylaw 9.1(b) allocations were made.

- (c) Any other purpose authorized by the Articles of Incorporation or the Bylaws of Supply Company, or subject to any restrictions or limitations contained in said Articles of Incorporation or Bylaws, by law.

10. REVOLVING FUND AND OTHER ALLOCATED RESERVES

10.1 Revolving Fund Created. A fund, to be known as "Fruit Growers Supply Company Revolving Fund", is hereby created for the purpose of furnishing on an equitable basis, in accordance with established cooperative practice, the capital to operate the business of Supply Company.

10.2 Revolving Fund Rate. Additions to said revolving fund may be made from time to time, as determined by the board of directors, by assessments, deductions, or withholdings from member Local Associations and voting units of Growers (including any Local Association or voting unit of Growers whose membership may have terminated during the period with respect to which such determination is made) in an amount equal to not more than two cents (2¢) for each carton of fresh fruit marketed through Sunkist by such member Local Association or voting unit of Growers while purchasing containers and container supplies from Supply Company. Such additions may be made by assessment and collection direct from the member Local Association or the licensed packinghouse with which the voting unit of Growers is

affiliated or through the member District Exchanges or Sunkist or by deduction, withholding, or retain from patronage refunds or any other amount otherwise due such member or members. Subject to the maximum rate of two cents (2¢) a carton, the board of directors may change the amount or entirely suspend such additions, and, if suspended, they may be resumed by the board of directors. Class A Members shall have no obligation to contribute to, and shall have no property or other rights in or to, the Revolving Fund.

10.3 Repayment. Any additions to the revolving fund or amounts determined by the board to be no longer needed, may be used for repayment of outstanding revolving-fund credits, in such manner and upon such terms and conditions as the board of directors may determine.

10.4 Revolving Fund Statement. Promptly after the close of each fiscal year of Supply Company, it shall furnish each member Local Association or voting unit of Growers (in care of the licensed packinghouse that is the agent for such unit of Growers) with a statement of its revolving fund credits showing the balance of such credits as of the end of the preceding fiscal year and any amounts allocated and assessed, withheld, retained, or repaid since the date of the last previous statement, and containing such other information and being in such form as the board of directors may prescribe.

10.5 Nature of Revolving-Fund Credits. All revolving-fund credits shall constitute indebtedness of Supply Company to the respective persons to whom credited, but such indebtedness shall be paid solely upon the conditions and at the time and times herein provided. No interest shall be payable on any such credits. Such revolving-fund credits shall be subordinate to all other indebtedness of Supply Company, secured or unsecured, as provided in Bylaw 11.7.

10.6 Payment of Revolving-Fund Credits on Dissolution. In the event of dissolution or liquidation of Supply Company, all unpaid revolving-fund credits shall be deemed due without regard to priority, if any, but shall not be paid in any part until all other indebtedness of Supply Company has been paid or adequately provided for. In the event funds are insufficient to cover all such credits, payment of revolving-fund credits shall be on a pro-rata basis.

10.7 No Segregation of Funds. The monies in the revolving fund may be commingled with and used for corporate purposes as other monies belonging or coming to Supply Company are used. Nothing herein contained shall be deemed to require that any specific monies or funds be segregated, or designated, or marked, or set apart, or held for

the revolving fund, nor shall the revolving fund be deemed a trust fund held for the owners of revolving-fund credits.

10.8 Assignment or Transfer. Revolving-fund credits may be assigned or transferred by the member, subject to the prior rights of Supply Company as set forth in Bylaws 11.4 and 11.5. Assignment or transfer must be by execution of a written assignment, on a form to be provided by Supply Company, and delivery thereof to the secretary of Supply Company; and no such transfer or assignment shall be complete until recorded on the records of Supply Company.

10.9 Compromise of Revolving-Fund Credits. The board of directors may pay off or secure a release or satisfaction of any revolving-fund credits to compromise or obtain a discharge of any claim, or settle any dispute, with respect to such credits. The amount so paid shall be charged to the fund from which such credits would have been payable eventually.

10.10 Tax Treatment. Every person who hereafter applies for and is accepted to membership in Supply Company and each member of Supply Company on the effective date of this bylaw who continues as a member after such date shall, by such act alone, consent and agree that the amount of any distributions with respect to his patronage that are made in written notices of allocation (as defined in 26 USC 1388(b)) or per unit retain certificates (as defined in 26 USC 1388(g)) that are denominated “qualified written notice of allocation” or “qualified per unit retain certificate”, and that are received by him from Supply Company will be taken into account by him at their stated dollar amounts in the manner provided in 26 USC 1385(a) in the taxable year in which such qualified written notice of allocation or qualified per unit retain certificate is received by him.

10.11 Allocated-Reserve Credits from Other Business. The allocated-reserve credits arising from written notices of allocation pursuant to Bylaw 9.1(a) shall be paid when determined by the board of directors to be no longer needed and in such manner and upon such terms and conditions as the board of directors may determine. The allocated-reserve credits arising from written notices of allocation pursuant to Bylaw 9.1(b) shall be paid in accordance with Bylaw 9.1(b). The provisions of Bylaws 10.6, 10.7, 10.8, 10.9 and 10.10 shall be deemed to apply to the allocated reserves and allocated-reserve credits under Bylaws 9.1(a) or 9.1(b), as well as to the revolving fund and revolving-fund credits, except that, (i) notwithstanding any provision of Bylaw 9.1(b), upon liquidation or dissolution of Supply Company, no unpaid allocated reserve credits under Bylaw 9.1(b) shall be paid unless and until all allocated reserve credits under Bylaw 9.1(a) are paid in full, and (ii) in addition to the requirements of Bylaw 10.9, allocated-

reserve credits may not be assigned or transferred without the prior written approval of Supply Company.

11. MISCELLANEOUS

11.1 Principal Office. The principal office for the transaction of business of Supply Company is hereby fixed and located at 27770 N. Entertainment Drive, Valencia, California.

11.2 Method of Giving Notices. Whenever in these bylaws notice is required to be given, it shall be in writing and may be given by one (1) or more of the following methods:

- (a) Delivered personally; or
- (b) Sent by U.S. mail, postage prepaid, addressed to the residence or place of business of the member or director, as the same shall appear on the books of Supply Company; or
- (c) Sent by facsimile transmission to the residence or place of business of the member or director, with a copy sent contemporaneously by mail; or
- (d) Sent by electronic transmission in accordance with Sections 20 and 21 of the CGCL, as applicable, delivered to each member or director at the address as it is shown upon the records of Supply Company or as may have been given to Supply Company by the member or director for purposes of notice.

11.3 Indemnity. Each member shall severally indemnify and save Supply Company harmless against all loss, damage, injury, liability, cost, and/or expense of whatsoever nature suffered or to be suffered by Supply Company by reason of any claim or claims asserted or made to or against Supply Company by reason of any act of commission or omission of such member.

11.4 Set-off. Any amount owing by Supply Company to a Class A Member, Local Association, or voting unit of Growers shall be deemed to be paid if applied by Supply Company upon any indebtedness owing by such member or members (including amounts owing by a licensed packinghouse as agent therefor) to Supply Company, whether due or not yet due.

11.5 Losses. In the event Supply Company sustains a loss, from any cause whatsoever, the board of directors may, in its sole discretion, charge all or any part of said loss to any one or more of the following accounts:

- (a) Current cooperative-pool operating expenses;

- (b) Current income from business other than that through the cooperative purchasing pools;
- (c) Unallocated capital surplus;
- (d) Revolving-fund, capital, and/or other allocated-reserve credits for the fiscal year in which such loss occurred or to which the loss is attributable;
- (e) All revolving-fund, capital, and/or other allocated-reserve credits for all years.

In the event said loss is to be charged to revolving-fund, capital, or other allocated-reserve credits, the same shall be charged ratably and proportionately against all such credits in the same class or priority, if any. Notice of such charge shall be given within the period specified by law after the close of Supply Company's fiscal year in which the loss is charged, to the persons in whose names the credits stand on the books of Supply Company. Anything in these bylaws to the contrary notwithstanding, there shall be payable in respect to such credits only the difference between the amount of the credit originally entered and the portion of the loss charged thereto.

The board of directors shall have the power to determine when a loss has occurred, and its determination shall be conclusive. In making such determination, the board may consider, among other factors, losses from bank suspensions, uncollected accounts, fire, explosion, accident, or other calamity, excessive or high manufacturing, operating, or overhead costs due to crop failure or below-normal production, inadequate depreciation charges, and unusual or unforeseen expenses, including taxes, assessments, fines, penalties, and claims arising under any present or future law.

11.6 Assignment of Monies Owed or Held by Sunkist or District Exchange. As security for the payment of any indebtedness of a member or its agent to Supply Company, heretofore or hereafter incurred, each member (other than Class A Members) by executing the Membership Contract assigns to Supply Company: (1) monies from the proceeds of the sale of fruit sold for member and any other debts or obligations to member of District Exchange or Sunkist in an amount equal at any given time to the total amount of indebtedness of member or its agent to Supply Company, provided that at no time shall the amount to be paid Supply Company by a District Exchange or by Sunkist under this assignment exceed the amount of such indebtedness to member of the District Exchange or of Sunkist; and (2) any security interest, perfected or otherwise, that member may now have or hereafter acquire in monies from the proceeds of the sale of fruit, which monies are in the hands of District Exchange or Sunkist, to the limit recited above. Any reference herein to "monies" is intended to refer also to said security interest taken in monies due to growers. The Assignments made in this paragraph are expressly made junior to, and subject to, any right of District Exchange or of Sunkist in the monies owed or held by

them, whether such right arises from offset of mutual obligations or by other assignments made herein.

With respect to any Local Association a party to the Membership Contract first effective January 1, 1968 and amended effective March 21, 1973, this assignment constitutes a continuation and renewal of assignment under that contract, and the assignment herein is intended to be, and shall be construed as being, effective as of the date such prior assignment first became effective under said contract or any prior revolving-fund agreements to which Local Association was a party.

Amounts assigned hereunder are to be collected and used by Supply Company when and only when Supply Company considers it desirable or necessary to apply such monies to any indebtedness of member or its agent to Supply Company, whether due or not yet due. District Exchange and Sunkist may continue to pay member or its agent any monies due it until Supply Company shall give written notice to Sunkist and/or the District Exchange with which member is affiliated of the existence of such debt and shall in writing demand payment thereof. From and after receipt of such notice and demand, the District Exchange and Sunkist shall pay to Supply Company any monies assigned by member to Supply Company that are in their possession or that come into their possession until said indebtedness to Supply Company is satisfied. Payments by the District Exchange or by Sunkist to Supply Company pursuant hereto shall be deemed payment to that extent to member. Supply Company shall promptly notify such member when any such payments are made. Each such member shall defend, indemnify, and hold Sunkist and District Exchange harmless from and against any claim of or liability to such member or any other person with respect to amounts so paid to Supply Company.

This assignment of monies due from Sunkist and/or District Exchange under this Bylaw 11.6 is intended to create in Supply Company a security interest (hereinafter referred to as the "Security Interest") in said monies. In order to protect said Security Interest, member shall not sell, transfer, or dispose of said monies, or allow them to be subjected to any unpaid charge, including taxes, or to any subsequent interest of a third person created or suffered by member either voluntarily or involuntarily, either before or after such monies become the property of member, unless written consent has been obtained from Supply Company, or until such monies have been paid to member. Member shall sign and execute, alone or with Sunkist, District Exchange, and/or Supply Company, any Financing Statement or other document reasonably necessary to protect the Security Interest against the rights or interests of third persons, or act to perfect its own security interest in monies due to Growers from Sunkist and/or District Exchange that may be subject to this Security Interest.

Each Grower member designates and appoints the Local Association or the licensed packinghouse selected by Grower to pack Grower's citrus fruit as agent to execute any Financing Statement or other document granting a security interest in amounts due Grower and to receive payment and notice for Grower, as contemplated by this Bylaw 11.6.

11.7 Assignment of Debts or Other Obligations of Supply Company. As security for the payment of any indebtedness of a member (other than a Class A Member) or its agent to District Exchange or Sunkist, heretofore or hereafter incurred, each such

member by executing the Membership Contract assigns to District Exchange and Sunkist any debts or other obligations to such member of Supply Company, including any interest less than a total right to title and possession thereof. Said monies shall include but not be limited to refunds from cooperative purchasing pools, repayment of revolving-fund credits, and distributions from nonmember business. At no time shall the amount deemed to be security for the debts owed to District Exchange and Sunkist exceed the total amount of such debts or other obligations of Supply Company. The assignments made in this paragraph are expressly made subject to, and junior to, any right of Supply Company in these debts or other obligations, whether such right arises from offset of mutual obligations or by other assignments made herein.

Each such member irrevocably authorizes Supply Company to pay over to District Exchange or Sunkist, for the account of such member, any amounts due and payable from Supply Company to such member, upon written notice from District Exchange or Sunkist to Supply Company based upon amounts either District Exchange or Sunkist may claim are due to them from such member or its agent. Any assignment by such member of amounts payable to it by Supply Company shall be subject to the authorization for Supply Company to pay such amounts to District Exchange or Sunkist, and to the rights of District Exchange and Sunkist, hereby granted or otherwise in effect, to apply such amounts that are hereby assigned by such member to District Exchange or Sunkist, as applicable, against any indebtedness of such member or its agent to District Exchange or Sunkist. Supply Company shall promptly notify such member when such payments are made. Such member shall defend, indemnify, and hold Supply Company harmless from and against any claim of or liability to such member or any other person with respect to such amounts so paid to District Exchange or Sunkist.

As security for the payment of any indebtedness of any member or its agent to Supply Company heretofore or hereafter incurred, each Local Association by executing the Membership Contract assigns to Supply Company any debts or other obligations to such member of Supply Company, including any interest less than a total right to title and possession thereof. Said monies shall include but not be limited to refunds from cooperative purchasing pools, repayment of revolving-fund credits, and distributions from nonmember business. At no time shall the amount deemed to be security for the debts owed to Supply Company exceed the total amount of such debts or other obligations of Supply Company.

These assignments of debts or other obligations of Supply Company are intended to create in Supply Company, Sunkist, and District Exchange a Security Interest in the assigned debts or obligations. In order to protect said Security Interest, member shall not sell, transfer, or dispose of said debts or obligations, or allow them to be subjected to any unpaid charge, including taxes, or to any subsequent interest of a third person created or suffered by member either voluntarily or involuntarily, either before or after said debts or obligations become the property of member, unless written consent has been obtained from Supply Company, District Exchange and Sunkist or until such debts or obligations have been paid to member. Member shall sign and execute, alone or with District Exchange, Sunkist, and/or Supply Company, any

Financing Statement or other document reasonably necessary to protect the Security Interest against the rights of third persons.

The rights of District Exchange and Sunkist by reason of this authorization are at all times subordinate to the prior right of Supply Company to offset from monies due member any indebtedness of member or its agent to Supply Company. Supply Company, Sunkist, and District Exchange shall act so as to establish the following priorities in the monies assigned in this last section titled "Assignment of Debts or Other Obligations of Supply Company": (1) first, any right or interest of Supply Company; (2) any right or interest of Sunkist; and (3) last, any right or interest of District Exchange.

Each Grower member designates and appoints the Local Association or the licensed packinghouse selected by Grower to pack Grower's citrus fruit as agent to execute any Financing Statement or other document granting a security interest in amounts due Grower and to receive payment and notice for Grower, as contemplated by this Bylaw 11.7.

11.8 Fiscal Year. The fiscal year of Supply Company extends from January 1 to December 31 following.

11.9 Seal. The board of directors shall provide a suitable seal containing the name of Supply Company, the date of its incorporation, and other appropriate words, and may alter the same at pleasure.

11.10 Amendments. These bylaws may be amended or repealed or new bylaws may be adopted as follows:

- (a) By affirmative vote or written assent of members entitled to exercise a majority of the voting power.
- (b) By affirmative vote of two-thirds (2/3) of the authorized number of directors, except that the board may not amend Bylaws 3.1, 3.2 or 3.3 (relating to the voting rights of members), or 5.1, 5.2, or 5.3 (relating to number, qualification, and election of directors), except that the board may amend Bylaw 5.1 solely for the purpose of establishing the exact authorized number of directors within the limits therein prescribed (such exact authorized number to be computed solely in accordance with the formula contained in Bylaw 5.3), or Bylaw 11.10, provided, however, that the power of the board of directors to adopt, amend, or repeal bylaws may be revoked at any time by vote or written assent of members entitled to exercise a majority of the voting power.

11.11 Dividends. As contemplated by Section 1388(a) of the Internal Revenue Code, dividends on capital stock or other proprietary interests of Supply Company are in addition to amounts otherwise payable to member or nonmember patrons of Supply Company that are derived from business done with or for such patrons during the taxable year.

11.12 Disposition of Undistributable Funds. Whenever a member or other person deriving rights from a member is entitled to receive a payment or allocation from Supply Company, and Supply Company after making reasonable efforts to do so within three (3) years after the same became payable, is unable to locate the person entitled to payment, or, after making reasonable efforts to do so, is unable to determine the amount to which such member or person deriving rights from a member is entitled, the board of directors shall charge-off the same as a liability on its books, and transfer such amount to the general unallocated reserve of Supply Company whereupon the claim of any such person to any such monies shall thereby be forever extinguished. No charge-off or termination of liability herein provided shall occur, however, unless at least sixty (60) days prior written notice of the proposed charge-off is mailed by first-class or certified mail to the last address shown on the records of Supply Company of the person entitled to such monies and published in a newspaper of general circulation in the county in which such person last resided, as shown on the records of Supply Company. No such charge-off shall take place if written notice objecting to such charge-off is received by Supply Company from the person entitled to such monies prior to the date of the proposed charge-off.

11.13 Indemnification of Directors and Officers.

- (a) Each director and officer of Supply Company shall be indemnified by Supply Company to the fullest extent permissible under California law against all costs, expenses and liabilities, including, without limitation, judgments, fines and settlements incurred by him/her in connection with, or resulting from, any threatened, pending or completed action, suit or proceeding, to which such director or officer may be made a party by reason of being or having been a director or officer of Supply Company. The foregoing right of indemnification shall not be exclusive of other rights to which he or she may be entitled as a matter of law.
- (b) If a claim against a director or officer includes a claim against the lawful spouse of that director or officer solely by reason of (i) such spouse's status as the spouse of the director or officer or (ii) such spouse's ownership interest in property that the claimant seeks as recovery for alleged wrongful acts of the director or officer, then all loss that such spouse becomes legally obligated to pay on account of such claims shall be treated as a loss that the director or officer becomes legally obligated to pay, and such spouse of the director or officer shall be indemnified by Supply Company to the fullest extent permissible under California law against all costs, expenses and liabilities, including, without limitation, judgments, fines and settlements incurred by such lawful spouse in connection with, or resulting from, any threatened, pending or completed action, suit or proceeding, to which such lawful spouse may be made a

party by reason of being the lawful spouse of the director or officer of Supply Company. The foregoing right of indemnification shall not be exclusive of other rights to which such lawful spouse may be entitled as a matter of law.

- (c) Subject to the then conditions and qualifications set forth in the CGCL, expenses incurred by any such Person in defending any action, suit or proceeding referred to above shall, upon written request by such Person, be advanced by Supply Company prior to the final disposition of such proceeding, upon receipt of a written promise by or on behalf of such Person to repay such amount, unless it is ultimately determined that such Person is entitled to be indemnified as set forth herein. Such written undertaking shall be accompanied by such collateral to secure repayment as the Board, in the exercise of its discretion, determines should be required under the circumstances of the case.

11.14 Horticultural Advice and Information. Members may request and/or otherwise receive from time to time written or oral advice and information from Supply Company and/or its employees or representatives pertaining to the member's horticultural practices or plans, including, without limitation, the location, planting, growth, cultivation, treatment, harvesting, storage or shipment of their citrus fruit (collectively, "Horticultural Advice"). By accepting membership in Supply Company, each member understands and agrees that in the absence of a written statement from Supply Company specifically negating this Bylaw 11.14, neither Supply Company nor any employee or representative thereof is representing, warranting or otherwise guaranteeing that any Horticultural Advice is accurate or complete or otherwise constitutes the best or most appropriate Horticultural Advice for member's circumstances. Members who rely on any such Horticultural Advice do so at their own risk, and are advised to independently review and determine the reliability of any and all Horticultural Advice received from Supply Company, its employees or representatives.

12. DISPUTE RESOLUTION

12.1 Arbitration and Litigation. Any and all disputes between Supply Company or any subsidiary of Supply Company, on the one hand, and members, on the other hand, shall be arbitrated, and all such arbitrations shall be held in the County of Los Angeles, State of California. The parties shall agree on a single, neutral arbitrator or, failing such agreement thirty (30) days after a demand for arbitration, the American Arbitration Association ("AAA") shall select the single, neutral arbitrator and administer the arbitration. Except as set forth above, the procedures of any arbitration, regardless of whether or not it is administered by the AAA, shall be governed as far as practicable by

the then-current Commercial Arbitration Rules of the AAA. Notwithstanding the foregoing, one or more parties, without waiting for the demand for or conclusion of arbitration, may commence legal action and seek interim, provisional or other prejudgment relief or remedies (including, but not limited to, temporary restraining orders, preliminary injunctions and attachments), to the extent that the party or parties, in the exercise of good faith, believe that such relief or remedies are appropriate or necessary to protect that party's rights or property before the arbitration would be concluded. Any such legal action by one party against another party or parties may be commenced and maintained only in either a state or federal court in the County of Los Angeles, State of California, and Supply Company and/or any subsidiary of Supply Company and each member, irrevocably submit and agree to the exclusive jurisdiction and venue of such courts and waives any objection thereto, including, without limitation, any objection based upon *forum nonconveniens*. If a party brings any legal suit, action, arbitration or proceeding against another party covered by this Bylaw (collectively, an "Action"), the losing party shall pay to the prevailing party a reasonable sum for attorneys' fees and shall reimburse all costs (whether or not such costs are otherwise recoverable under the provisions of the California Code of Civil Procedure or other statutory law of California or any other jurisdiction, and including, without limitation, any compensation owed to an arbitrator) incurred in connection with the prosecution or defense of such Action and/or enforcement of any judgment, order, ruling or award granted therein, all of which shall be deemed to have accrued on the commencement of such Action and shall be paid whether or not such Action is prosecuted to a judgment, order, ruling or award. A prevailing party includes, without limitation, a party that agrees to dismiss an Action on the other party's payment of some or all sums allegedly due or performance of some or all of the covenants allegedly breached, or that obtains substantially the relief sought by it.

12.2 Time Limitations. Any and all arbitrations or legal actions brought by Supply Company and/or any subsidiary of Supply Company against a member or brought by a member against Supply Company and/or any subsidiary of Supply Company shall not be had or maintained unless such arbitration or legal action is commenced within two (2) years after the alleged claim or alleged cause of action has accrued.

12.3 Damages Limitation. Supply Company and/or any subsidiary of Supply Company shall not be liable to members for any punitive or exemplary damages. Members shall not be liable to Supply Company and/or any subsidiary of Supply Company for any punitive or exemplary damages.

