

CODE OF REGULATIONS

Holmes-Wayne Electric Cooperative, Inc.

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The aim of the Holmes-Wayne Electric Cooperative, Inc. is to furnish its members the best possible electric service at the lowest cost, consistent with sound and good management.

STATEMENT OF NONDISCRIMINATION

Holmes-Wayne Electric Cooperative, Inc., PO Box 112, Millersburg, OH 44654-0112, is the recipient of Federal financial assistance from the Rural Utilities Service, an agency of the U. S. Department of Agriculture, and is subject to the provisions of Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended, in accordance with Federal law and the US Department of Agriculture's policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, religion, age, or disability (not all prohibited bases apply to all programs) shall be excluded from participation in, admission or access to, denied the benefits of, or otherwise be subjected to discrimination under any of this organization's programs or activities.

The person responsible for coordinating this organization's nondiscrimination compliance efforts is the President/General Manager. Any individual, or specific class of individuals, who feels that this organization has subjected them to discrimination may obtain further information about the statutes and regulations listed above from and/or file a written complaint of discrimination with this organization; or the Administrator, write USDA , Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington DC 20250-9410, or call (202) 720-5964 (voice or TDD) . USDA is an equal opportunity provider and employer. Complaints must be filed within 180 days after the alleged discrimination. Confidentiality will be maintained to the extent possible.

CODE OF REGULATIONS
HOLMES-WAYNE ELECTRICCOOPERATIVE, INC.
Amended June 30, 2005

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**CODE OF REGULATIONS OF
HOLMES –WAYNE ELECTRIC COOPERATIVE, INC.
Amended June 30, 2005**

**ARTICLE I
MEMBERSHIP**

SECTION 1 Requirements for Membership. Any person, firm, association, partnership, corporation, body politic or subdivision thereof will become a Member of Holmes-Wayne Electric Cooperative, Inc. (herein after called the “Cooperative”)

upon receipt of electric service from the Cooperative, provided that he, she or it has first:

- a) Made a written application for membership in the Cooperative signed by one person or entity;
- (b) Agreed to purchase electric energy from the Cooperative as hereinafter specified;
- (c) Agreed to comply with and be bound by the Articles of Incorporation of the Cooperative, this Code of Regulations and any rules and regulations adopted by the Board of Trustees, and;
- (d) Paid the membership fee and other fees hereinafter specified.

Each person, firm, association, partnership, corporation, body politic or subdivision thereof that has complied with the above requirements and those set forth in Section 2 below shall be hereinafter called a "Member" and collectively called "Members."

SECTION 2 Members of Acquired Systems. Where electric systems, or portions thereof, other than those constructed by the Cooperative are acquired, or are merged into or otherwise become a part of the Cooperative's electric system, each person, firm, partnership, corporation, body politic or subdivision thereof, or other organization then receiving service from such acquired systems shall become and shall be considered a Member of the Cooperative provided that the other requirements for membership specified in Section 1 above have been met.

SECTION 3 One Membership; One Vote; Transferability. No Member may hold more than one membership in the Cooperative except for those Members that have been issued more than one membership prior to June 10, 1998. No Member, regardless of the number of memberships held by such Member shall be entitled to more than one vote. No Member may transfer his, her or its membership, except as provided in this Code of Regulations.

SECTION 4 Evidence of Membership. Each Member who has complied with the requirements of this Code of Regulations for membership shall be issued such evidence of membership as the Board of Trustees deems appropriate.

SECTION 5 Joint Membership. Applications for joint membership shall not be accepted; however, in those cases where such applications have been accepted prior to June 10, 1998, the term "Member" as used in this Code of Regulations shall include a husband and wife holding joint membership and all provisions relating to the rights and liabilities of membership shall apply equally to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect to the holders of joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one Member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one vote;
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion of either shall terminate the membership of both;
- (f) Withdrawal of either shall terminate the membership of both;
- (g) Either but not both may be elected or appointed as an officer or Trustee, provided that both meet the qualifications for such office.

SECTION 6 Representation of Members. Membership applications for partnerships, corporations, organizations, associations, firms, bodies politic or subdivisions thereof shall be signed by the person authorized by such partnership, corporations, organization, association, firm, body politic or subdivision thereof, and the person signing such application shall upon approval of the application, become the agent for the Member on the records of the Cooperative, and shall be authorized to vote for the Member in any election or balloting held by the Cooperative. Such organization may designate a voting delegate, other than the regularly authorized agent, at any Meeting of the Members. Such delegate shall be furnished written credentials by the organization which he represents at the particular meeting involved. It shall be the obligation of the partnership, corporation, organization, association, firm, body politic or subdivision thereof, to notify the Cooperative in the event of any change in person authorized to represent it in dealings with the Cooperative.

SECTION 7 Membership Fee; Connection and Other Fees; Aid in Construction. Membership fees, service connection fees and additional aid in construction fees shall be in such amounts as shall be determined from time to time by the Board of Trustees. In addition, the Board of Trustees may from time to time establish such other fees as the Board of Trustees deems appropriate in connection with the furnishing of electric power or other services provided by the Cooperative.

SECTION 8 Purchase of Electric Energy. Each Member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy used on the premises specified in the application for membership, and shall pay therefore monthly at rates which shall from time to time be fixed by the Board of Trustees. It is expressly understood that amounts paid for electric energy in excess of the cost of services are furnished by Members as capital and each Member shall be credited with the capital so furnished as provided in this Code of Regulations. Each Member shall pay to the Cooperative such minimum amounts per month regardless of the amount of electric energy consumed, as shall be fixed by the Board of Trustees from

time to time. Each Member shall also pay all amounts owed by Member to the Cooperative as and when the same shall become due and payable.

SECTION 9 Expulsion of Members. The Board of Trustees of the Cooperative may, by the affirmative vote of not less than two-thirds (2/3) of the members of the Board of Trustees, expel any Member who has violated or refused to comply with any of the provisions of the Articles of Incorporation of the Cooperative or this Code of Regulations or any rules or regulations adopted from time to time by the Board of Trustees. Any Member so expelled may be reinstated as a Member by the affirmative vote of a majority of the Members at any annual or special meeting of the Members. The action of the Members with respect to any such reinstatement shall be final.

SECTION 10 Responsibility For Wiring of Premises, Meter Tampering or Bypass and Damage to Cooperative Property: Access to Premises. Each Member shall cause all premises receiving electric service from the Cooperative to become and to remain wired in accordance with the specifications of the National Electrical Code, any applicable State or local government ordinance, and the Cooperative. Each Member shall be responsible for and shall indemnify the Cooperative and any other person against death, injury, loss or damage resulting from any defect in or improper use or maintenance of such premises and all wiring and apparatus connected thereto or used thereon. Each Member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized employees, agents and independent contractors to have access thereto for inspection, maintenance, replacement, relocation, repair and reading thereof at all reasonable times. As part of the consideration for such service, each Member shall be the Cooperative's bailee of the Cooperative's facilities and shall accordingly desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use the Member's best efforts to prevent others from so doing. In the event any Cooperative facilities are interfered with, impaired in their operation or damaged by the Member, or by any other person when the Member's reasonable care and surveillance could have prevented such, the Member shall indemnify the Cooperative and any other person against death, injury, loss or damage resulting therefrom, including but not limited to the Cooperative's cost of repairing, replacing, or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment.

In no event shall the responsibility of the Cooperative extend beyond the point at which its service wires are attached to the meter loop provided for measuring electricity used on such premises, except that the Cooperative shall, in accordance with its applicable service rules and regulations, indemnify the Member for any overcharges for service that may result from a malfunctioning of its metering equipment.

SECTION 11 Grant of Easements to Cooperative. Each Member shall, upon request of the Cooperative, execute and deliver to the Cooperative, grants of easement or right-of-way over, on and under the premises of the Member to be serviced by the Cooperative with electric, for distribution lines, in accordance with such reasonable terms and conditions, as the Cooperative shall require.

SECTION 12 Transfer and Termination of Membership

(a) Membership in the Cooperative shall not be transferable, except as specifically provided in this Code of Regulations, and upon the death, cessation of existence, expulsion or withdrawal of a Member, the membership of such Member shall terminate forthwith. Termination of membership in any manner shall not release the Member from the debts or liabilities of such Member to the Cooperative.

(b) When a membership is held jointly by a husband and wife, as permitted by this Code of Regulations, upon the death of either, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to him or her, as the case may be; provided however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Cooperative.

SECTION 13 Non-liability for Debts of the Cooperative. The private property of the Members shall be exempt from execution for the debts of the Cooperative and no Member shall be individually liable for any duties or liabilities of the Cooperative.

SECTION 14 Withdrawal of Membership. Any Member may withdraw as a Member upon payment in full of all debts and liabilities of such Member to the Cooperative and upon compliance with such terms and conditions as the Board of Trustees may prescribe. Provided, however, that no Member may withdraw from membership for the purpose of having a person other than the Cooperative provide electric energy for use on the premises specified in the Member's application for membership, any such withdrawal being automatically null and void.

SECTION 15 Furnishing Electric Energy and Service to Non- Members. Nothing contained in this Code of Regulations shall be deemed or construed to prevent or prohibit the Cooperative from generating, manufacturing, purchasing, acquiring, or accumulating electric energy for non-members, or from transmitting, distributing, furnishing, selling or disposing of such electric energy to, or rendering services to non-members, nor to prohibit the Cooperative from executing and performing franchise or other contracts with political subdivisions or

bodies politic providing for the furnishing of electric energy or rendering of services to such subdivisions or bodies, or the citizens thereof, in the manner prescribed by law.

**ARTICLE II
MEETINGS & VOTING OF MEMBERS**

SECTION 1 Annual Meeting. The annual meeting of the Members shall be held at such time and on such date during the last ten (10) days of February, or within one hundred eighty (180) days thereafter of each year and at such place as selected by the Board of Trustees and which shall be designated in the notice of annual meeting, for the purpose of electing Trustees, unless the Board of Trustees has determined to conduct the election by mail ballot or other means as permitted by Section 8 of this Article II, considering reports for the previous fiscal year and transacting such other business as may come before the annual meeting. Failure to hold the annual meeting at the designated time and place shall not work a forfeiture or dissolution of the Cooperative. In the event that any annual meeting is not held, for any reason, a special meeting in lieu thereof shall be called by the Board of Trustees and held as soon thereafter as convenient, and any business transactions or elections held at such special meeting shall be as valid as if transacted or held at the annual meeting.

SECTION 2 Special Meetings. Special meetings of the Members may be called by the Chairperson, Vice-Chairperson or a majority of the members of the Board of Trustees (acting with or without a meeting) or by twenty percent (20%) or more of the Members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. A special meeting of the Members may be held only at a place within any of the counties wherein service is provided by the Cooperative, day and hour designated by the Board of Trustees. If any written request to call a special meeting by any persons entitled to call a special meeting is refused after deliver to the Chairperson or Secretary, the persons making such request may call a special meeting by giving notice in the manner prescribed by this Code of Regulations.

SECTION 3 Notice of Members' Meetings. Written or printed notice stating the place, day and hour of the annual meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than forty-five (45) days before the date of the meeting, either personally or by mail (including publication within a magazine mailed to the Members), at the direction of the Secretary or the persons calling the meeting, to each Member. If mailed, notice shall be deemed delivered when deposited in the United States mail, postage prepaid, addressed to the Member at the Member's address as it appears on the records of the Cooperative. The failure of any Member to receive notice of an annual or special meeting of the Members shall not invalidate any action which may be taken by the Members at such meeting. Notice of adjournment of a Member's meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting.

SECTION 4 Quorum. The Members entitled to vote present in person or by proxy at any meeting of the Members or those Members casting a vote by mail ballot or other means as permitted by Section 8 of this Article II shall constitute a quorum.

SECTION 5 Voting. Each Member shall be entitled to one (1) vote and not more upon each matter submitted to a vote at a meeting of the Members. At all meetings

of the Members at which a quorum is present and for all votes conducted by mail ballot or other means as permitted by Section 8 of this Article II, all questions shall be decided by vote of a majority of the Members voting thereon in person, by proxy or by mail ballot or other means as permitted by Section 8 of this Article II, except as otherwise provided by law, the Articles of Incorporation of the Cooperative, or this Code of Regulations. If a husband and wife hold a joint Membership, they shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote of the Members.

SECTION 6 Representative of Member. The vote of a Member who is a firm, association, partnership, corporation, body politic or subdivision thereof, who has not authorized an agent to act on its behalf on its membership application, as provided in Article I Section 6, may designate a voting agent, for any vote of the Members of the Cooperative. Such voting agent shall be furnished with written credentials by the governing body of the organization he is to represent. Once so designated, he shall remain the voting agent for the organization, until revoked in writing by the governing body of the organization. No person may serve as voting agent for more than one organizational Member.

SECTION 7 Proxies. Members may vote by proxy. All proxies shall be in writing, signed by the Member in the presence of at least one witness and shall be filed with the Secretary at least three (3) days prior to the date the vote of the Members is cast. No proxy shall be voted unless it shall designate the particular meeting at which or vote for which it is to be voted, and no proxy shall be voted at any meeting or for any vote of the Members other than the one so designated. Only Members may vote as proxy and no Member shall vote as proxy for more than one (1) Member at any meeting of the Members or for any vote of the Members. No proxy shall be valid after sixty (60) days from the date of its execution. The presence of a Member at a meeting of the Members or the vote of the Member if cast other than at a meeting of the Members shall revoke a proxy theretofore executed by said Member and such Member shall be entitled to vote at such meeting or on the matter to be voted on by mail ballot or other means as permitted by Section 8 of this Article II in the same manner and with the same effect as if the Member had not executed the proxy. Notwithstanding the above, the spouse of a Member may, in the same manner and with the same effect as if the Member had not executed the proxy. Notwithstanding the above, the spouse of a Member may, upon presentation of written authorization at any time before a vote is taken, cast the vote on behalf of such Member. Such written authorization need not be witnessed.

SECTION 8 Alternative Voting Methods. On all matters to be submitted to a vote of the Members, voting thereon may, in the discretion of the Board of Trustees be conducted at a duly called meeting of the Members, by mail ballot or by other means deemed appropriate by the Board of Trustees except as otherwise provided by law, the Articles of Incorporation of the Cooperative or this Code of Regulations. For all

matters voted on by the Members other than at a meeting of the Members, the Secretary shall prepare a ballot which lists the nominees for Trustee nominated as provided in this Code of Regulations and all other matters to be voted on by the Members. The ballot shall be delivered to the Members at least twenty (20) days prior to the date of the meeting of the Members at which the vote is to be taken or the results announced. The ballot may be delivered to the Members personally, by regular mail at the Members current address on the books and records of the Cooperative (including with a magazine, monthly billing statement or other mailing addressed to all Members), or by any other means deemed appropriate by the Board of Trustees). The ballot when voted shall be returned to the Secretary by mail, personal delivery or other means deemed acceptable by the Board of Trustees, and must arrive at the office of the Cooperative at least seven (7) days prior to the meeting of the Members at which the vote is to be taken or the results announced. An auditing or legal firm selected by the Board of Trustees shall supervise the tabulation of all ballots, which shall thereby determine the results of the election.

SECTION 9 Order of Business. The order of business at the annual meeting of the Members and, so far as possible, at all other meetings of the Members, shall include the following matters with the order to be determined by the Board of Trustees or the Chairperson of such meeting:

1. Call to order.
2. Invocation.
3. Reading of the notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting as the case may be.
4. Approval of Minutes of previous meeting as contained in Annual Report.
5. Chairperson's Report.
6. Election of Board of Trustees Member(s) if to be conducted at such meeting.
7. Financial Report.
8. Unfinished business.
9. New business.
10. President's Report.
11. Report on Election of Trustees and other matters submitted to the Members for vote.
12. Adjournments.

ARTICLE III BOARD OF TRUSTEES

SECTION 1 General Powers. The business and affairs of the Cooperative shall be managed by a board of nine (9) trustees which shall exercise all of the powers of the Cooperative except such as are by law or by the Article of Incorporation of the Cooperative or by this Code of Regulations conferred upon or reserved to the

Members (herein singularly called a "Trustee" and collectively the "Board of Trustees").

SECTION 2 Qualifications. No person shall be eligible to become or remain a Trustee who:

- (a) At the time of election or appointment is not a Member and bona fide resident of and receiving service from the Cooperative in the District which the Member is to represent as Trustee or who shall not continue to be a Member and a bona fide resident, receiving service from the Cooperative in the District which the Member was elected or appointed to represent as Trustee, after election or appointment to the Board of Trustees, or;
- (b) Is an employee of the Cooperative or within the three (3) year period ending on the date of the annual meeting at which the Trustee is to be elected or the results of election announced has been an employee of the Cooperative or is closely related to an employee of the Cooperative or to someone who has been an employee of the Cooperative within the three (3) year period ending on the date of the annual meeting at which the Trustee is to be elected or results of election announced. Closely related, in this Section, shall mean the relationship of spouse, father, mother, brother, sister, son and daughter (or the spouse of any of the foregoing) existing by reason of blood, marriage (step children and in-laws) or adoption.
- (b) Is in any way employed by or financially interested in a competing enterprise or a business selling electric power, energy or supplies to the Cooperative.

Nothing contained in this Section shall affect in any manner whatsoever the validity of any action taken by the Board of Trustees.

SECTION 3 Voting Districts. The territory served or to be served by the Cooperative shall be divided into nine (9) districts, each of which shall contain as nearly as possible the same number of Members (herein called a "District" and collectively the "Districts"). Each District shall be represented by one Trustee. As of June 10, 1998, the date of adoption of this Amended Code of Regulations, the nine Districts are as follows:

District No. 1: Paint and Walnut Creek Townships, Holmes County; Paint and Sugar Creek Townships, Stark County; and, Wayne Township, Tuscarawas County.

District No. 2: Clark, Monroe and Tiverton Townships, Coshocton County; Killbuck, Knox and Richland Townships, Holmes County; and, Jefferson and Union Townships, Knox County.

District No. 3: Hanover, Lake, Mohican and Perry Townships, Ashland County; Ripley and Washington Townships, Holmes County; and Clinton Township, Wayne County.

District No. 4: Berlin, Clark, Mechanic and Salt Creek Townships, Holmes County.

District No. 5: Hardy, Monroe and Prairie Townships, Holmes County.

District No. 6: Chester and Plain Townships, Wayne County.

District No. 7: Jackson Township, Ashland County and Congress Township, Wayne County.

District No. 8: Canaan, Green, Milton and Wayne Townships, Wayne County.

District No. 9: East Union, Franklin, Salt Creek and Wooster Townships, Wayne County.

The Board of Trustees shall have the power to change the boundaries of the Districts whenever in their opinion inequalities in representation have developed which can be corrected by a redelineation of the Districts, so that each District shall contain as nearly as possible the same number of Members. Any redistricting by the Board of Trustees shall not shorten the term of any currently serving Trustee, i.e. all Trustees serving at the time of redistricting by the Board of Trustee will serve the remaining term for which they were elected or appointed.

SECTION 4 Election and Tenure of Office. Each District shall be represented by one Trustee. Trustees shall be elected for a term of three (3) years from the date of their election and until the election and qualification of their successors, subject to removal as provided in this Code of Regulations. In the 2005 election, Trustees shall be elected from Districts No. 4, No. 5 and No. 6. In the 2006 election, Trustees shall be elected from Districts No. 1, No. 3 and No. 7. In the 2007 election, Trustees shall be elected from Districts No. 2, No. 8 and No. 9. In elections thereafter the same rotation among the Districts shall be adhered to.

For each election of Trustees, the candidates selected by the nominating committee and those nominated by the Members as provided in Article III, Section 5 shall be placed in nomination. Nomination of Trustees from the floor at any meeting shall not be permitted. Trustees shall be elected by secret ballot if there is more than one nominee to represent a District. Each Member in the manner provided in this Code of Regulations, shall be entitled to vote for one nominee from each District from which a Trustee is to be elected. The nominee from each District receiving the highest number of votes shall be declared and elected as Trustee, subject to removal as provided in this Code of Regulations.

SECTION 5 Nominations. It shall be the duty of the Board of Trustees to appoint, not less than 150 days nor more than 180 days before the date of a meeting of the Members at which Trustees are to be elected or the results of election are to be announced, a committee on nominations consisting of at least six (6) persons. One

(1) nominating committee person shall be selected from each District, from which a Trustee is to be elected and the remaining nominating committee persons shall be selected from the remaining six (6) Districts. No officer or Trustee shall be appointed a member of the nominating committee. The nominating committee shall prepare and post at the principal office of the Cooperative at least 120 days before the meeting a list of nominations for Trustees, which shall include at least one (1) and not more than three (3) nominees from each District from which a Trustee is to be elected. Any 15 or more Members residing in the District from which a Trustee is to be elected may make other nominations in writing over their signatures, not less than 105 days prior to the meeting at which Trustees are to be elected or the results of election are to be announced, and the Secretary shall post the same at the place where the list of nominations made by the nominating committee is posted.

SECTION 6 Removal of Trustee. Any Member may bring specific charges of malfeasance, misfeasance or nonfeasance in office against a Trustee and, by filing with the Secretary in writing a detailed description of each charge and the evidentiary basis therefore together with a petition signed by at least ten (10) percent of the Members may request the removal of such Trustee by reason thereof. If more than one Trustee is sought to be removed, individual charges against each such Trustee and the evidentiary basis for each such charge shall be specified. For purposes of this Article “malfeasance, misfeasance or nonfeasance” means an act or omission amounting to gross negligence, fraud, or criminal conduct, which has a material adverse affect on the business and affairs of the Cooperative. At the next regular or special meeting of the Members occurring not less than forty-five (45) days after the filing of such charges, the Member bringing the charges against the Trustee shall have an opportunity to be heard in person or by counsel and to present evidence in support of the charges; and the Trustee shall have the opportunity to be heard in person or by counsel and to present evidence in response to the charges. No Trustee shall be removed from office unless the specific charges against such Trustee are supported by clear and convincing evidence. The question of the removal of such Trustee shall be considered and voted upon at the meeting of Members and any vacancy created by such removal shall be filled, by the affirmative vote of a majority of the remaining Trustees, for the unexpired portion of the term and until a successor shall have been elected and qualified. The removal of no more than two (2) Trustees may be considered or voted upon at any meeting of Members.

SECTION 7 Vacancies. Subject to the provisions of this Code of Regulations with respect to the removal of Trustees, vacancies occurring in the Board of Trustees shall be filled by the affirmative vote of a majority of the remaining Trustees, for the unexpired portion of the term and until a successor shall have been elected and qualified.

SECTION 8 Compensation. Trustees as such shall not receive any salary for their services, but by resolution of the Board of Trustees a fixed sum and expenses of attendance, if any, may be allowed for attendance at each meeting of the Board of Trustees. Trustees may also be reimbursed, when authorized by the Board of Trustees, for expenses actually and necessarily incurred in carrying out the business of the Cooperative, including attendance at conferences, training programs, and district, state and nationwide meetings; or in lieu thereof Trustees may, in any particular instance, be granted a reasonable allowance for such expenses by the Board of Trustees when, in the opinion of the Board of Trustees, a detailed accounting appears to be burdensome or impracticable.

SECTION 9 Rules and Regulations. The Board of Trustees have power to make and adopt such rules and regulations, not inconsistent with law, the Articles of Incorporation of the Cooperative or this Code of Regulations, as it may deem advisable for the management, administration and regulation of the business affairs of the Cooperative.

SECTION 10 Accounting Systems and Reports. The Board of Trustees shall cause to be established and maintained, a complete accounting system. The Board of Trustees shall also cause to be made by a certified public accountant a full and complete audit of the accounts, books and financial condition of the Cooperative on an annual basis. A report of such audit shall be submitted to the Members at the next following annual meeting.

SECTION 11 Membership in Other Organizations. The Trustees shall have full power and authority to authorize the Cooperative to purchase stock in or to become a Member of any corporation, Cooperative, or other organization whose purposes are related to the functions and purposes of this Cooperative.

SECTION 12 Executive Committee. The Board of Trustees may appoint an executive committee of not less than three from their own number. The executive committee shall have charge of management of the business and affairs of the Cooperative in the interim between meetings of the Board of Trustees. The executive committee shall at all times act under the direction and control of the Board of Trustees and shall make a report to the Board of Trustees of their acts which shall form a part of the records of the Cooperative.

SECTION 13 Contracts. Whenever, in the judgment of the Board of Trustees, it is deemed advisable for the best interest of the Cooperative, the Board of Trustees may enter into a contract or contracts with another cooperative or association for the purpose of securing managerial, auditing, accounting, engineering and other technical services for the Cooperative. The terms and conditions of such contracts shall be determined by the Board of Trustees.

ARTICLE IV MEETING OF TRUSTEES

SECTION 1 Regular Meetings. A regular meeting of the Board of Trustees shall be held monthly at such time and place in the State of Ohio, or such other place, as the Board of Trustees may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

SECTION 2 Special Meetings. Special meetings of the Board of Trustees may be called by the Chairperson or by a majority of the Trustees. The person or persons calling special meetings of the Board of Trustees may fix the time and place, which shall be in the State of Ohio or such other place as the Board of Trustees shall direct.

SECTION 3 Notice. Notice of the time, place and purpose of any special meeting of the Board of Trustees shall be given at least four (4) days (exclusive of Sundays and holidays) prior to the holding of said meeting, by written notice, delivered personally or mailed, to each Trustee at the Trustee's last known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. The attendance of a Trustee at any meeting shall constitute a waiver of notice of such meeting, except in case a Trustee shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

SECTION 4 Quorum. A majority of the Board of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees, provided, that if less than a majority of the Trustees is present at a meeting, a majority of the Trustees present may adjourn the meeting from time to time without further notice.

ARTICLE V OFFICERS

SECTION 1 Number. The officers of the Cooperative shall be Chairperson of the Board, Vice Chairperson, Secretary, Treasurer, President and such other officers as may be determined by the Board from time to time. The office of Secretary and Treasurer may be held by the same person.

SECTION 2 Election and Term of Office. Each officer, except the President and any officer appointed pursuant to Article V Section 3, shall be elected by ballot annually by and from the Board of Trustees at the meeting of the Board of Trustees held immediately after the annual meeting of the Members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be.

Each officer shall hold office until the first meeting of the Board of Trustees following the next succeeding annual meeting of the Members or until a successor shall have been elected and shall have qualified, subject to the provisions of this Code of Regulations with respect to the removal of officers. A vacancy in any office shall be filled by the Board of Trustees for the unexpired portion of the term. The President

shall be chosen and employed by the Board of Trustees and the President's compensation shall be set by the Board of Trustees.

SECTION 3 Additional Officers. In addition to the officers specified in Section 1 of this Article V, the Board of Trustees, in its discretion, may appoint one or more Assistant Secretaries, one or more Assistant Treasurers and such other officers as may be deemed necessary or desirable who shall have such duties and authority as generally pertains to their respective offices and such as may be prescribed by the Board of Trustees and who shall hold office for such period as may be prescribed by the Board of Trustees.

SECTION 4 Removal of Officers and Agents by the Board of Trustees. Any officer elected or appointed by the Board of Trustees may be removed by the Board of Trustees whenever in its judgment the best interests of the Cooperative will be served thereby.

SECTION 5 Resignations. Any officer may resign at any time by giving written notice to the Board of Trustees, the Chairperson or the Secretary. Any such resignation shall take effect at the time specified therein and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6 Vacancies. A vacancy in any office, except that of President, may be filled by the Board of Trustees for the unexpired portion of the term. In the event of a vacancy in the office of President, the Board of Trustees shall choose and employ a President upon terms and conditions as the Board of Trustees considers to be in the best interest of the Cooperative.

SECTION 7 Chairperson of the Board of Trustees. The Chairperson of the Board of Trustees shall:

- (a) Be the principal officer of the Cooperative and, unless otherwise determined by the Board of Trustees, shall preside at all meetings of the Board of Trustees;
- (b) On behalf of the Cooperative, subject to the direction and instruction of the Board of Trustees, sign, with the Secretary, evidence of Membership and any deeds, mortgages, deeds of trust, notes, bonds, financing statements, security agreements, contracts or other instruments, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Trustees or by this Code of Regulations to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed;
- (c) In general perform all duties incident to the office of Chairperson and such other duties as may be prescribed by the Board of Trustees from time to time.

SECTION 8 Vice Chairperson of the Board of Trustees. In the absence of the Chairperson, or in the event of the Chairperson's inability or refusal to act, the Vice Chairperson shall perform the duties of the Chairperson, and when so acting shall have all the power of and be subject to all the restrictions upon the Chairperson. The

Vice Chairperson shall also perform such other duties as from time to time may be assigned by the Board of Trustees or by the Chairperson.

SECTION 9 Secretary. The Secretary shall be responsible for:

- (a) Keeping the minutes of the meetings of the Board of Trustees in books provided for that purpose;
- (b) Seeing that all notices are duly given in accordance with this Code of Regulations or as required by law;
- (c) The safekeeping of the books and records and the seal of the Cooperative and affixing the seal of the Cooperative or a facsimile thereof to all evidence of Membership prior to the issue thereof, and to all documents, the execution of which on behalf of the Cooperative under this seal is duly authorized in accordance with the provisions of this Code of Regulations;
- (d) Keeping a register of the names and post office addresses of all Members;
- (e) Signing, with the Chairperson, evidence of Membership;
- (f) Keeping on file at all times a complete copy of the Articles of Incorporation and Code of Regulations of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any Member) and at the expense of the Cooperative, furnish a copy of the Code of Regulations and of all amendments thereto to any Member upon request; and,
- (g) In general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Trustees.

SECTION 10 Treasurer. The Treasurer shall be responsible for:

- (a) Custody of all funds and securities of the Cooperative;
- (b) The receipt of and issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of this Code of Regulations; and,
- (c) The general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Trustees.

SECTION 11 President. The President shall:

- (a) Be the chief administrative officer responsible for the general direction, coordination and control of all operations of the Cooperative in accordance

- with the policies adopted by the Board of Trustees, subject to the direction and instruction of the Board of Trustees;
- (b) Have supervision over and be responsible for the operations of the Cooperative and, in performing this duty, carry out and administer the policies adopted by the Board of Trustees;
 - (c) Prepare for the Board of Trustees such reports and budgets as are necessary to inform the Board of Trustees concerning the operations of the Cooperative;
 - (d) Appoint, hire, fire and discipline operational employees and fix salaries and wages for operational employees (within ranges set by the Board of Trustees) and to have supervision over and be responsible for all operational employees. The President shall report all such actions to the Board of Trustees; and,
 - (e) In general perform all duties incident to said office and shall perform such other duties as may from time to time be assigned by the Board of Trustees.

SECTION 12 Bonds of Officers. The Treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds or property shall be bonded in such sum and with such surety as the Board of Trustees shall determine. The Board of Trustees in its discretion may also require any other officer, agent or employee of the Cooperative to be bonded in such amount and with such surety as it shall determine.

SECTION 13 Compensation. The powers, duties and compensation of officers, agents and employees shall be fixed by the Board of Trustees subject to the provisions of this Code of Regulations with respect to compensation for a Trustee. The Board of Trustees may delegate the fixing of the compensation of employees, except that of the President, to the President, within a range determined by the Board of Trustees.

SECTION 14 Reports. The officers of the Cooperative shall submit at each annual meeting of the Members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the conditions of the Cooperative at the close of such fiscal year.

ARTICLE VI CONTRACTS, CHECKS AND DEPOSITS

SECTION 1 Contracts. Except as otherwise provided in this Code of Regulations, the Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

SECTION 2 Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, and all notes, bonds, or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board of Trustees. Although any officer of

the Cooperative whose manual or facsimile signature is affixed to any such instrument ceases to be such officer before the instrument is delivered, such instrument nevertheless shall be effective in all respects when delivered.

ARTICLE VII FINANCIAL TRANSACTIONS

SECTION 1 Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of January of each year and end on the thirty-first day of December of each year.

SECTION 2 Interest or Dividends on Capital Prohibited. The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its Patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its Patrons.

SECTION 3 Patronage Capital in Connection with Furnishing Electric Energy.

(a) In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all Members and non-member customers (collectively "Patrons") will through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account, on a patronage basis, to all its Patrons for all amounts received and receivable from the furnishings of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts are received with the understanding that they are furnished by the Patrons as capital. The Cooperative is obligated to pay, by credits to a capital account for each Patron, revenues of the Cooperative from whatever source derived, all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such manner that at the end of each fiscal year the amount of capital, if any, so furnished by each Patron is clearly reflected and credited in an appropriate record to the capital account of each Patron, and the Cooperative shall, within a reasonable time after the close of the fiscal year, notify each Patron of the amount of capital so credited to his/her account. All such amounts credited to the capital account of any Patron shall have the same status as though they have been paid to the Patron in cash in pursuance of a legal obligations to do so and the Patron had then furnished the Cooperative corresponding amounts for capital. All other amounts received by the Cooperative from its operations other than from the furnishing of electric energy in excess of costs and expenses shall insofar as permitted by law, be;

(1) Used to offset any losses incurred during the current or any prior Fiscal Year; and,

2) To the extent not needed for that purpose, allocated to its Patrons on a patronage basis and any amounts so allocated shall be included as a part of the capital credited to the accounts of Patrons, as herein provided.

All amounts credited to the accounts of a Patron as provided in this subsection

- (a) shall be subject to diminution to the extent of any obligation of said Patron. Such patronage capital credited to the accounts of Patrons shall be subject to diminution to the extent of loss, if any, incurred in the operation of the Cooperative, provided that each Patron's accumulation credits in the Cooperative shall be subject to a pro-rated diminution of the aggregate of credit caused by said losses.
- (b) In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of Patrons.
- (c) If, at any time, prior to dissolution or liquidation, the Board of Trustees shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to Patrons' accounts may be retired in full or in part. The Board of Trustees shall determine the method, the basis, the priority, the assignment of patronage, if any, and the order of retirement, if any, for all amounts furnished as capital. The Cooperative shall not be obligated to issue checks to Patrons for the retirement of capital in an amount less than ten dollars (\$10.00). In such cases, the Board of Trustees shall determine the method and manner of payment to such Patrons which may include credit to such Patron's electric bill, accumulation until the total capital refundable to such Patron is ten dollars (\$10.00) or more or such other methods as deemed appropriate by the Board of Trustees. Provided further, however, that the Board of Trustees shall have the power to adopt rules providing for the separate retirement of that portion of capital credited to the accounts of Patrons which corresponds to capital credited to the account of the Cooperative by an associated organization furnishing electric service and/or furnishing financing service to the Cooperative. Such rules shall:
 - (1) establish a method for determining the power supply portion of capital credited to each Patron for each applicable fiscal year;
 - (2) provide for separate identification on the Cooperatives' books of the power supply portion of capital credited to the Cooperative's Patrons;
 - (3) provide for appropriate notifications to Patrons with respect to the power supply portion of capital credited to the Cooperative's Patrons; and,
 - (4) preclude a general retirement of the power supply portion of capital credited to Patrons for any fiscal year prior to the general retirement of other capital credited to Patrons for the same year or any capital credited to Patrons for any prior fiscal year.
- (d) At the discretion of the Board of Trustees, the capital credited to any discontinued or former Patron who has moved off line and which shows a remaining balance of fifty dollars (\$50.00) or less may be retired in full. Payment under this provision shall be discounted to the present day value of the amount credited to the former Patron's account compared to the

date the account would have been retired and paid (based upon the plan of retirement in effect at the time of such determination).

- (e) Notwithstanding any other provision of this Code of Regulations or otherwise, if any Patron or former Patron fails to claim any cash retirement of capital credits or other payment from the Cooperative within four years after payment of the same has been made available to the Patron by notice or check mailed to said Patron at such Patron's last address, furnished by Patron to the Cooperative, such failure shall be and constitute an irrevocable assignment and gift by such Patron of such capital credit or other payment to the Cooperative. Failure to claim any such payment within the meaning of this section shall include the failure by such Patron or former Patron to cash any check mailed by the Cooperative to the last address furnished by the Patron to the Cooperative. The assignment and gift provided for under this subsection (e) shall become effective only upon the expiration of four (4) years from the date when such payment was made available to such Patron or former Patron without claim therefor and only after the further expiration of sixty (60) days following the giving of a notice by mail and publication that unless such payment is claimed within said sixty (60) day period, such gift to the Cooperative shall become effective. The notice by mail herein provided for shall be one mailed by the Cooperative to such Patron or former Patron at the last known address and the notice of publication shall be two (2) consecutive insertions in a newspaper circulated in the service area by the Cooperative, which may be the Cooperative newsletter or magazine. The sixty (60) day period following the giving of such notice shall be deemed to terminate sixty (60) days after the mailing of such notice or sixty (60) days following the last day of publication thereof, whichever is later.
- (f) Capital credited to the account of each Patron shall be assignable only on the books of the Cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or a part of such Patron's premises served by the Cooperative unless the Board of Trustees, acting under policies of general applications, shall determine otherwise.
- (g) Notwithstanding any other provisions of the Code of Regulations, the Board of Trustees, at its discretion, shall have the power at any time upon the death of any Patron, if the legal representative of such Patron's estate shall request in writing that the capital credited to any such Patron be retired prior to the time such capital would otherwise be retired, to retire capital credited to any such Patron immediately upon such terms and conditions as the Board of Trustees, acting under policies of general application, and the legal representatives of such Patron's estate shall agree; provided, however, that the financial condition of the Cooperative will not be impaired thereby.
- (h) The Patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and this Code of Regulations shall constitute and be a contract between the Cooperative and each Patron, and both the Cooperative and the

Patrons are bound by such contract as fully as though each Patron had individually signed a separate instrument containing such terms and provisions. The provisions of this Article shall be called to the attention of each Patron of the Cooperative by posting it at a conspicuous place in the Cooperative's office.

- (i) It is the responsibility of every past and present Patron or his legal representative to keep the Cooperative advised of his current address, and in the event any capital credited becomes retireable and the Cooperative cannot within six months of such date locate the person entitled to payment of such capital, any obligation to retire such capital shall be considered discharged and all claim against the Cooperative by reason thereof shall be forfeited. If any Patron to whom such capital becomes payable is at the time for payment indebted to the Cooperative, the amount available to retire such capital shall be used to discharge such indebtedness to the Cooperative and no statute of limitations shall be a bar to this procedure. This forfeiture is in addition to the gift and assignment provided for in subsection (e) above.

ARTICLE VIII MERGER, CONSOLIDATION AND DISPOSITION OF PROPERTY

The Cooperative shall not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property or merge or consolidate with any other corporation unless such sale, mortgage, lease, other disposition, encumbrance, merger or consolidation is authorized at a meeting of the Members thereof by the affirmative vote of not less than sixty-six and two-thirds percent (66 2/3%) of all of the Members of the Cooperative, and unless the notice of such proposed sale, mortgage, lease, other disposition, encumbrance, merger or consolidation shall have been contained in the notice of the meeting; provided, however that notwithstanding any other provision of this Article, the Board of Trustees of the Cooperative, without authorization by the Members thereof, shall have full power and authority to authorize the execution and delivery of mortgages, deeds of trust, security agreements and financing statements or otherwise pledge, encumber, subject, to a lien or security interest, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board of Trustees shall determine to secure any indebtedness of the Cooperative to the United States of America or any instrumentality or agency thereof or to any other bona fide lender, lending institution or investor; provided, further, however, that notwithstanding any other provision of this Article, the Board of Trustees may upon the authorization of a majority of those Members of the Cooperative present at a meeting of the Members thereof, sell, lease or otherwise dispose of all or a substantial portion of its property to, or merge or consolidate with, another non-profit corporation which is an electric distribution cooperative that was previously at any time a borrower from the Rural Utilities Service or The Rural Electrician Administration or a generation and transmission cooperative whose members are electric distribution cooperatives.

**ARTICLE IX
AMENDMENTS TO
CODE OF REGULATIONS**

This Code of Regulations may be altered, amended or repealed by the Members at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal. Any alteration, amendment or repeal of this Article or Article VIII shall require the affirmative vote of at least sixty-six and 2/3 percent (66-2/3%) of all the Members of the Cooperative, and no other provisions of this Code of Regulations may be altered, amended or repealed by an affirmative vote which is less in number or different in character than the affirmative vote required for action under that provision.

**ARTICLE X
INDEMNIFICATION**

SECTION 1 Third-Party Action Indemnification. The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigative action, suit, or proceeding, including all appeals (other than an action, suit or proceeding by or in the right of the Cooperative), by reason of the fact that such person is or was a Trustee, officer, employee, or volunteer as defined in Section 1702.01 (N) of the Ohio Revised Code ("Volunteer"), of the Cooperative, or is or was serving at the request of the Cooperative as a Trustee, director, officer, employee, or volunteer of another domestic or foreign non-profit corporation or corporation for profit, or a partnership, joint venture, trust, or other enterprise, against expenses (including attorney's fees), judgments, decrees, fines, penalties, and amounts paid in settlement actually and reasonable incurred by such person in connection with the action, suit, or proceeding, unless it is proved by clear and convincing evidence in a court of competent jurisdiction that such person's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Cooperative or undertaken with reckless disregard for the best interests of the Cooperative and that, with respect to any criminal action or proceeding, such person had reasonable cause to believe that such person's conduct was unlawful; the termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, constitute such proof.

SECTION 2 Derivative Action Indemnification. Other than in connection with an action or suit in which the liability of a Trustee under Section 1702.55 of the Ohio Revised Code is the only liability asserted, the Cooperative shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit, including all appeals, by or in the right of the Cooperative to procure a judgment in its favor by reason of the fact that such person is or was a Trustee, officer, employee or volunteer of the Cooperative, or is or was serving at the request of the Cooperative as a Trustee, director, officer, employee, or volunteer of another domestic or foreign nonprofit corporation or corporation for

profit, or a partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by such person in connection with the defense or settlement of the action or suit unless it is proved by clear and convincing evidence in a court of competent jurisdiction that such person's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Cooperative or undertaken with reckless disregard for the best interest of the Cooperative, except that the Cooperative shall indemnify such person to the extent the court in which the action or suit was brought determines upon application that, despite the proof but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.

SECTION 3 Determination of Indemnification Rights. Any indemnification under Section 1 or 2 hereof (unless ordered by a court) shall be made by the Cooperative only as authorized in the specific case upon a determination that indemnification of a Trustee director, officer, employee, or volunteer is proper in the circumstances. The determination shall be made (a) by a majority vote of those Members of the Board of Trustees who in number constitute a quorum of the Board of Trustees and who also were not and are not parties to or threatened with any such action, suit, or proceeding or (b), if such a quorum is not obtainable (or even if obtainable) and a majority of disinterested Member of the Board of Trustees so directs, in written opinion by independent legal counsel compensated by the Cooperative or (c) by the court in which the action, suit, or proceeding was brought.

SECTION 4 Advances of Expenses. Unless the action, suit, or proceeding referred to in Section 1 or 2 hereof is one in which the liability of a Trustee under Section 1702.55 of the Ohio Revised Code is the only liability asserted, expenses (including attorney's fees) incurred by the Trustee, director, officer, employee, or volunteer of the Cooperative in defending the action, suit or proceeding shall be paid by the Cooperative as they are incurred, in advance of the final disposition of the action, suit or proceeding upon receipt of an undertaking by or on behalf of the Trustee, director, officer, employee, or volunteer in which such person agrees both (a) to repay the amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that such person's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Cooperative or undertaken with reckless disregard for the best interests of the Cooperative and (b) to cooperate with the Cooperative concerning the action, suite or proceeding.

SECTION 5 Purchase of Insurance. The Cooperative may purchase and maintain insurance or furnish similar protection, including, but not limited to, trust funds, letters of credit, and self-insurance, for or on behalf of any person who is or was a Trustee, officer, employee, agent, or volunteer or the Cooperative, or is or was serving at the request of the Cooperative as a Trustee, director, officer, employee, agent, or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, or a partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Cooperative would have the power to indemnify him against liability under the provisions of this Article X or of the Ohio Nonprofit

Corporation Law. Insurance may be purchased from or maintained with a person in which the Cooperative has financial interest.

SECTION 6 Mergers. Unless otherwise provided in the agreement of merger pursuant to which there is a merger in to this Cooperative of a constituent corporation that, if its separate existence had continued, would have been required to indemnify board members, directors, officers, employees, or volunteers in specified situations, any person who served as a trustee, officer, employee, or volunteer of the constituent corporation, or served at the request of the constituent corporation as a trustee, director, officer, employee, or volunteer of another domestic or foreign nonprofit corporation, or corporation for profit, or a partnership, joint venture, trust or other enterprise, shall be entitled to indemnification by this Cooperative (as the Surviving Corporation) to the same extent such person would have been entitled to indemnification by the constituent corporation if its separate existence had continued.

SECTION 7 Non-Exclusivity; Heirs. The indemnification provided by this Article X shall not be deemed exclusive of, and shall be in addition to, any other rights granted to a person seeking indemnification as a matter of law under the Articles of Incorporation, this Code of Regulations, any agreement, vote of Members or the disinterested members of the Board of Trustees, any insurance purchased by the Cooperative, any action by the Board of Trustees to take into account amendments to the Ohio Nonprofit Corporation Law that expand the authority of the Cooperative to indemnify a Trustee, officer, employee or volunteer of the Cooperative, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding an office or position, and shall continue as to a person who has ceased to be a Trustee, officer, employee or volunteer and shall inure to the benefit of the heirs, executors and administrators of such a person.

SECTION 8 Liability of a Trustee or Officer. Other than in connection with an action or suit in which the liability of a Trustee under Section 1702.55 of the Ohio Revised Code is the only liability asserted, a Trustee or officer of the Cooperative shall be liable in damages for any action he takes or fails to take as a Trustee or as an officer, as the case may be, only if it is proved, by clear and convincing evidence, in a court, with jurisdiction that his act or omission was one undertaken with deliberate intent to cause injury to the Cooperative or was undertaken with a reckless disregard for the best interest of the Cooperative.