

# Alaska Peony Cooperative (APC) Bylaws

## Article I **Name and Authority**

**Section 1: Name.** Pursuant to the Articles of Incorporation and the laws of the State of Alaska, this organization shall be known as the Alaska Peony Cooperative. It shall be a non-profit farmer's cooperative organized and operated under section 521 and subchapter T of the IRS tax code.

**Section 2: Authority.** Acting as the agent for producers, the cooperative will establish and maintain financial controls to safeguard assets; establish and maintain a managerial structure as needed to receive, process, and market cut peony stems for domestic and international sales; and other such business the cooperative may engage in under the authority of the Articles of Incorporation.

## Article II **Purposes**

The cooperative is formed for the following purposes:

**Section 1:** To engage in any activity in connection with planting, harvesting, processing, grading, cooling, packing, transporting, storing, quarantine, marketing, distributing, and selling members peony products for domestic and international sales.

**Section 2:** Act as a resource for facilitating member education in the areas of peony production and farming.

**Section 3:** To facilitate orders for its members, including but not limited to rootstock, farm supplies, and equipment used to aid farmers in the production of peonies.

## Article III **Memberships**

The Membership year of the Alaska Peony Cooperative shall extend from January 1 through December 31 of one calendar year.

**Section 1:** Requirements for Membership:

Membership is open to any individual persons, farms, firms, partnerships, corporations or associations including landlord and tenant's tenancies, associated businesses, and contributing

parties provided he or she first:

- a) Presently owns or operates a farm in the State of Alaska with the intent of selling cut-flower peonies in the wholesale and/or retail market.
- b) Submits a written application.
- c) Pays the membership fee and annual dues by the specified date.
- d) Has been approved by a majority vote of the Board of Directors.
- e) Agrees to comply with and be bound by the Articles of Incorporation, Bylaws of the co-operative, the terms and conditions of the membership agreement and the marketing agreement, and any rules, policies, and regulations adopted by the Board.

Membership status is effective as of the time the board approves the application. Individuals may apply for membership at any time; however, membership dues and fees will not be prorated.

**Section 2:** Membership fees and dues will be established by the Board and will be published in the policy manual and on the membership forms. Membership fees and dues shall be reviewed annually by the Board prior to the annual meeting. Any change in the membership fees or dues shall not be effective until the first day of the next membership year. General membership shall be notified of any changes by December 1st of the current year.

**Section 3:** All members pay annual dues. Annual dues are determined by a majority vote of the membership at the request of the Board of Directors. Annual dues must be paid in full by January 31st in order to continue using APC services for that calendar year. Membership forms and policy manuals are updated to reflect changes in annual membership dues.

**Section 4:** Members are responsible for filing their own taxes, and shall include in their own income for tax purposes, those amounts disbursed and/or held by the cooperative as per-unit retains. Hiring of a tax professional and/or tax attorney is at the member's discretion and expense.

**Section 5: Suspension or termination.**

- a) Any member may withdraw from membership without cause per the membership agreement by written notice to the secretary.
- b) The board may, by majority vote of the Board, suspend or terminate any member who fails to comply with any of the provisions of the membership agreement, bylaws or governing policies; but only after that member has been given Notice of an intent to suspend or terminate, and had opportunity to respond to the allegations upon which the intent to suspend or terminate is based, in writing and/or in person at a hearing held for that purpose.

Notice of the Board's intent to suspend or terminate shall be given in writing, and shall include the allegations upon which the Board's intent to suspend or terminate is based, the date (not less than 30 days after the date of mailing of the Notice), time and place of the hearing, and statement of the right of the member to respond in writing and/or in person at the hearing.

c) Upon withdrawal, death or expulsion of a member, the membership shall terminate. Termination in any manner shall not release a member from any debts due the cooperative.

d) In the event of termination, voluntary or otherwise, the initial membership share and annual dues shall not be refunded, and will not be entitled to any share or part of the cooperatives assets or property. Any uncashed per-unit retains held shall be redeemed per APC policy minus expenses owed.

e) Memberships will expire upon a member's death, when no longer farming or not in ownership of a farm as defined by these bylaws.

f) Notwithstanding anything stated above or elsewhere in this or other sections, when membership is held by a partnership (i.e. a farm), corporation or other legal entity, the death of any individual person within the entity does not affect the membership of the entity, so long as the entity continues to meet the requirements for membership in this organization.

**Section 6: Member Liability.** Except for a debt lawfully contracted between a member and the cooperative, a member is not liable for the debts of the cooperative in an amount exceeding the sum remaining unpaid of that member's share cost and/or unpaid per-unit retain certificates.

#### Article IV General Membership Meetings

**Section 1:** A General Membership Meeting shall be held annually in February of each year to elect directors and, if needed, amend these by-laws.

**Section 2:** Other General Membership Meetings;

a) General Membership Meetings shall be held quarterly.

b) Other meetings of the general membership may be called at any time by order of the president or the board of directors.

c) The secretary shall call a special membership meeting upon the filing of a petition in writing stating the business or complaint to be brought before the membership and signed by not less than a 25% of the members in good standing.

**Section 4: Meeting Notice.** Written notice stating place, day, and hour and, and in the case of a special meeting, the purpose, shall be given to each member personally via e-mail not less than seven days or more than 30 days before the meeting.

**Section 5: Voting.** Each Voting Membership has one vote. There shall be no proxy votes.

a) Voting by email or electronic ballot may be allowed when the proper protocols are in place and approved by the board of directors.

- b) Elections and issues voted on shall be satisfied by a majority vote of the total votes cast.
- c) If a membership is held by a partnership (i.e. a farm), corporation or other legal entity, the member shall designate in writing the person who shall cast the vote on behalf of the membership.

**Section 6: Quorum:** A quorum shall exist when three voting members (or 25% of the membership, whichever is greater) are present, plus the president, vice president, or the secretary, at a general membership meeting.

**Section 7:** All meetings shall be conducted according to the most recent version of Robert's Rules of Order.

## Article V Board of Directors

The business and affairs of this cooperative shall be managed by the board of directors. The board shall develop such policies as will aid in short to long term planning, establish fiscal stability, actively engage in marketing, contractual sales and any other activities viewed as beneficial to the purpose of this cooperative. The board shall also act in a judicial capacity in matters of suspension or termination of a member and work to bring maximum benefit to its members.

**Section 1: Number and Qualification of Directors.** This cooperative shall have a board with a minimum of three (3) directors. Each director elected shall be a voting member of this association and a member in good standing. The Board may consist of more than three (3) directors at the discretion of the membership.

- a) No person shall be eligible to be a director if that person is in competition with the association.
- b) No director, after having served two (2) consecutive full terms, shall be eligible to succeed himself/herself, but after a lapse of one (1) year shall again be eligible. (This paragraph becomes effective at the discretion of the membership at a time when there are sufficient members to rotate directorships).

**Section 2: Election and Term of Directors.** Initiating directors will hold office for a maximum of one year until the first annual meeting where a new Board of Directors will be elected.

Three weeks prior to the first annual meeting, the Nomination Committee will contact members via email to solicit nominations for the Board of Directors. One week prior to the first annual meeting the Nomination Committee shall contact nominated members to determine if they would like to be considered for the Board. At the first annual meeting of the members, directors shall be elected to succeed the incorporating directors. One director shall be elected for one (1) year; one (1) director for two (2) years; and one director for three (3) years.

At each annual meeting thereafter, new directors shall be elected for a term of three (3) years for those director positions that are lapsing. All directors shall be elected by secret ballot. The nominees receiving the greatest number of votes shall be elected.

**Section 3: Vacancies.** Whenever a vacancy occurs on the board of directors, other than from an expired term, the remaining directors solicit volunteers from the membership and appoint a member to fill that vacancy until the term of the vacancy has expired.

**Section 4: Regular and Special Board Meetings.**

- a) Regular meetings of the board shall be held at such times and at such places as the board may determine.
- b) A special meeting of the board shall be held whenever called by the president or by a majority of the board of directors.

**Section 5: Notice of Meetings.** Oral or written notice of each meeting of the board of directors shall be given each director by the secretary not less than 48 hours prior to the time of the meeting. But such notice may be waived by all the directors and their appearance at a meeting shall constitute a waiver of notice.

**Section 6 : Quorum.** A majority of the board shall constitute a quorum at any meeting of the board. A majority of the board consists of three (3) board members including the president or vice president or secretary. A quorum shall not be established if more than 50 percent of such quorum is related by blood or marriage or otherwise have joint financial interests, such as business partnerships, etc. A majority of the directors present may adjourn the meeting without further notice when less than a majority is present.

**Section 7: Presumption of Assent.** A director of the Cooperative who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless her/his dissent is entered into the minutes of the meeting or unless she/he files a written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof, or forwards such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

**Section 8: Reimbursement and Benefits.** The cooperative membership shall vote to approve reimbursement to a director for all reasonable expenses incurred in carrying out their duties and responsibilities.

- a) A director may not hold, during a term as director, a position in the cooperative on regular salary.
- b) The board may provide, for prior or future services of an officer or employee, reasonable compensation, or other benefits.

**Section 9: Liability.** No director shall be personally liable to the cooperative or to its members

for monetary damages for actions and/or decisions, or a failure to act, while they are acting in good faith on behalf of the cooperative, except that the foregoing shall not eliminate or limit liability of a director to the cooperative for monetary damages resulting from reckless and outrageous acts or omissions, and acts of bad faith.

**Section 10: Annual Conflict of Interest Statements.** Each director shall annually sign a statement which affirms such person: (a) has received a copy of the conflicts of interest policy, (b) has read and understands the policy, (c) has agreed to comply with the policy, and (d) understands the Cooperative is a not for profit corporation and must engage only in activities which maintain its federal tax exemption. The President is responsible for ensuring the annual statements are submitted.

**Section 11: Removal of Directors.** A director may be removed upon a majority vote of all members voting in person at a general membership meeting. Before a vote for removal may be taken, written reasons for removal of the director shall be presented at a meeting of the members and the director sought to be removed shall have an opportunity to answer the reasons for removal at that meeting. The written statement of reasons for removal shall be filed with the minutes of the meetings.

## Article VI Duties of Directors

**Section 1: Management of Business.** The board of directors shall have general supervision and control of the business and the affairs of the cooperative and shall make all rules and regulations consistent with law, the Articles of Incorporation and these By-Laws for the management of the business and the guidance of the members, officers, employees and agents of the cooperative. The board of directors may also:

- a) Engage in establishing cooperative policy;
- b) Oversee acquisition and preservation of cooperative assets; and,
- c) Represent the general membership in fulfilling the mission and upholding the bylaws of the cooperative.

**Section 2: Employment of Manager.** The board of directors shall have power to employ, define duties, fix compensation and dismiss a manager with or without cause at any time. The board shall authorize the employment of such other employees, agents, and council as it from time to time deems necessary or advisable in the interest of the cooperative. The manager shall have charge of the business of the cooperative under the direction of the board of directors.

**Section 3: Bonds and Insurance.** The board of directors shall, when feasible, take reasonable steps for the cooperative to acquire adequate insurance of the property of the cooperative, or property which may be in the possession of the cooperative or stored by it, and not otherwise adequately insured, and, in addition, adequate insurance covering liability for accidents to employees, members and the public at meetings and events.

**Section 4: Accounting System and Audits.** The board of directors shall utilize an accounting system adequate to meet the requirements of the business and shall require proper records to be kept of all business transactions. At least once each year the board of directors shall secure the services of a competent and disinterested public accountant, who shall make a careful audit of the books and accounts of the cooperative and render a report in writing thereon, which report shall be submitted to the directors and the manager of the cooperative and made available to the membership. This report shall include at least a balance sheet showing the true assets and liabilities of the cooperative, and an operating statement for the fiscal period under review.

**Section 5: Depository.** The board of directors shall select one or more banks or credit unions to act as depositories of the funds of the cooperative and determine the manner of receiving, depositing and disbursing the funds of the cooperative and the form of checks and the person or persons by whom they shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.

**Section 6: Committees.** The board of directors shall cause to be created two categories of committees to benefit the operation of the cooperative.

- a) The standing committee, a perpetual committee to address those issues and activities which are always present.
- b) Special committees created on a temporary basis to speak to issues which arise intermittently or for very short periods of time.
- c) Committees shall be made up of volunteers and presidential appointments.

**Section 7: Election of Officers.** The board of directors shall elect officers at the first board meeting after the annual meeting and shall by ballot elect a president, vice president, secretary and treasurer from within the board of directors guided by the preferences of the general membership. Each initiating officer will hold office for one year until the next election.

**Section 8: Director's Handbook.** All directors shall keep a handbook containing at minimum copies of the Articles, Bylaws, membership/marketing agreements, board policies and other governing documents pertaining to the membership.

## Article VII Officers and Duties

**Section 1: President.** The president shall:

- 1) Preside over all meetings of the cooperative and the board of directors,
- 2) Call special meetings of the board of directors.
- 3) Perform all acts and duties usually performed by a presiding officer including signing or co-signing and executing all contracts, agreements, and other instruments in the name of the cooperative which the general membership, through the board, has authorized.

It is the duty of the president to enforce these Bylaws and the Articles. This office has no overriding authority over the other officers other than to insist upon detailed reporting of the status of those offices.

**Section 2: Vice President.** The vice president shall serve as chief executive officer during the absence or incapacity of the president. The vice president shall assist the president in performing the duties of that office.

**Section 3: Secretary.** The secretary shall record and keep the minutes of all general membership and board of director meetings in appropriate books solely for that purpose. The secretary shall see that all notices are duly given in accordance with the provisions of these bylaws and other documents that directly affect the operations and governance of this cooperative, attend to all the correspondence, accept new memberships and keep a record of the membership rolls of both present and past members in good standing including last known contact addresses and phone numbers. The secretary shall make the biennial report to the State and report any changes occurring due to elections and amendments to the Articles and bylaws. Upon election of a successor, the secretary shall turn over all books and other property belonging to the cooperative to the incoming secretary. When there is no membership secretary, the secretary shall perform the duties of the membership secretary as stated below.

**Section 4: Membership Secretary (as needed per decision of the board of directors).** The membership secretary shall accept all new membership forms and pass them to the secretary. Monies that accompany applications shall be tendered to the treasurer. Other duties will include helping the secretary and any other task assigned by the board of directors.

**Section 5: Treasurer.** The treasurer shall be responsible for the keeping and disbursing of all monies of the cooperative and shall keep accurate books of accounts of all transactions of the cooperative. The treasurer shall perform such duties with respect to finances of the cooperative as may be prescribed by the board of directors. To preserve financial continuity, the treasurer will serve at the pleasure of the board and is exempt from Article V, Section 1.b). At the request from the treasurer to retire or with a majority vote of the board, the treasurer shall promptly turn over to his/her successor all monies, property, books, records and documents pertaining to the office or belonging to the cooperative.

#### Article VIII **Fiscal Year**

The fiscal year of this cooperative shall run from January 1 to December 31.

#### Article IX **Books and Records**

As per AS10.15.315 this cooperative will keep correct, complete books and records of accounts and shall also keep minutes of the proceedings of its general membership and board of director meetings, and shall keep at a location designated by the board a record giving the names and addresses of those members entitled to vote. All books and records of this cooperative may be



inspected by any current member or his/her agent or attorney for any proper purpose at any reasonable time upon written notice stating the purpose and may make copies.

## Article X Member's Capital

**Section 1: Operation-at-Cost.** This cooperative shall at all times be operated on a cooperative not for profit basis for the mutual benefit of its membership.

**Section 2: Margin Allocation.** In order to induce member patronage and to assure that this cooperative will operate on a not for profit basis in all its transactions with its members, the cooperative is obligated to account on a patronage basis to all member patrons on an annual basis for all amounts received from business conducted with members on a patronage basis, over and above the cost of providing such services and making reasonable additions to reserves. Such allocation shall be on the basis of the volume (or dollar value) of product marketed through the cooperative.

**Section 3: Payment of Patronage Refunds.** The cooperative is hereby obligated to pay all such amounts to member patrons in cash or by credits to a capital account.

**Section 4: Per-Unit Retain.** Each member also agrees that from the member's sale of product through the cooperative, the cooperative will retain a percentage, as determined by the board, of that member's gross receipts as capital. Such per-unit retains shall be allocated to the member's capital account.

**Section 5: Notice of Allocation.** The cooperative shall, within 8 ½ months after the close of each fiscal year, notify each member of the capital so credited to the member's account. The notice shall be in the form of a written notice of allocation or per-unit retain certificate as per Subchapter T of the IRS Code or other appropriate written document. The board shall have discretion to issue such notices and certificates in either "qualified" or "nonqualified" form as permitted by the IRS and other applicable laws.

## Article XI Equity Redemption

**Section 1: Regular Redemption, Revolving Fund.** If at any time the board of directors determines that the financial condition of the cooperative will not be impaired thereby, capital credited to member's accounts may be redeemed in full or in part. Any such redemption of capital shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the cooperative being the first redeemed.

**Section 2: Discretionary Special Redemptions.** Notwithstanding any other provision of these bylaws, the board, at its sole discretion, shall have the power to retire any capital credited to a member's account on such terms and conditions as may be agreed upon by the parties in any instance in which the interests of the cooperative and its members are deemed to be furthered thereby and funds are determined by the board to be available for such purposes. Examples for discretionary special redemptions are when a member dies, is involuntarily removed from the membership or requests withdrawal of membership.

Article XII  
**Consent**

Each person who hereafter applies for and is accepted to membership in this cooperative, and each member of this cooperative on the effective date of this bylaw who continues as a member after such date, shall by such act alone, consent that the amount of any distributions with respect to his/her patronage occurring after the effective date of this bylaw, which are made in qualified written notices of allocation or qualified per-unit retain certificates (as defined in 26 USC 1388), and which are received by him/her from the cooperative, will be taken into account by him/her at their stated dollar amounts in the manner provided in 26 USC 1385(a) in the taxable year in which such written notices of allocation and per-unit retain certificates are received by him/her. Written notification of the adoption of this article, a statement of its significance, and a copy of the provision shall be given separately to each member and prospective member before membership in the cooperative.

Article XIII  
**Nonmember Businesses**

Purchasing products, or business dealings with non-members will be in accordance with applicable IRS codes for maintaining cooperative status.

Article XIV  
**Non-patronage Income**

Non-patronage Income shall be in accordance with the applicable IRS codes for maintaining cooperative status.

Article XV  
**Losses**

**Section 1: Patronage Losses.** In the event the cooperative suffers a loss during any year on business conducted with or for patrons, such loss may be apportioned among the patrons during the year of loss so that such loss will, to the extent practicable, be borne by the patrons of the loss year on an equitable basis. The board shall have full authority to prescribe the basis on which capital furnished by patrons may be reduced or such loss otherwise equitably apportioned among the patrons. In the event of a patronage loss in one or more departments or divisions of the operation of this cooperative, but not so much as to cause an overall loss for the fiscal year, such loss or losses may be pro-rated against each of the remaining profitable departments or divisions on the basis of their respective percentage of the net margins during such fiscal year.

**Section 2: Non-patronage Loss (reserved)**

**Section 3: General Provisions.** The board shall have no authority to make assessments against members. This section shall not be construed to deprive the cooperative of the right to carry backward or forward losses from any source whatsoever in accordance with the Internal Revenue Code or State taxing statutes.

Article XVI  
**Dissolution**

The Corporation may be dissolved at any time by the written consent of not less than three-fourths of the members in good standing. In the event of the dissolution of the Corporation, whether voluntary or involuntary, or by the operation of law, none of the property, proceeds, nor assets of the Corporation shall be distributed to any member until after payment of all Corporation debts and liabilities. Any remaining property and assets shall be distributed among its current and active members in good standing on a prorated basis as determined by the Board of Directors.

Article XVII  
**Waiver of Notice**

As per AS10.15.190, whenever a notice is required to be given to a member or director of the cooperative, under Alaska statute, the Articles of Incorporation or the bylaws, a waiver of notice in writing signed by the person entitled to the notice, before or after the time stated in the notice, is equivalent to giving the notice.

Article XVIII  
**Indemnification**

The cooperative shall indemnify its officers, and directors, while they are acting in good faith  
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on behalf of the cooperative to the fullest extent possible under the provisions of Alaska law, as it may be amended from time to time. The cooperative may purchase liability insurance coverage for any person serving as an officer, director, employee or agent to the extent permitted by applicable state law.

## Article IXX Amendments

Review of the Articles of Incorporation, Bylaws, and Membership Agreement shall occur no less than every three (3) years in order to confirm consistency with our mission and values and congruency with the goals and priorities of the cooperative membership majority at the annual membership meeting in accordance with meeting voting requirements.

**Section 1:** These bylaws may be altered, amended, repealed or added to by a quorum vote of those members in good standing who are eligible to vote and physically present at the annual meeting at which such changes are considered.

**Section 2:** There shall be no proxy voting.

**Section 3:** As per AS10.15.365-395, amendments, repeals and changes shall be presented to the general membership via resolution by the board of directors at a general membership meeting called by the president for the purpose to consider such prior to the annual meeting at which the accepting vote is taken.

**Section 4:** Written notice of general membership meetings, at which changes are to be considered shall be e-mailed or mailed not less than 20 days prior to the date of the meeting, and shall contain the proposed changes.

Effective Date \_\_\_\_\_

Secretary \_\_\_\_\_

President \_\_\_\_\_

## Glossary/Definition of Terms

Throughout the entirety of this document, and in all official documents of this organization, the following terms shall have the following meaning or definitions:

**Board Meeting:** A meeting of the elected Board of Directors. Members in good standing not elected to the Board may attend and provide comments as permitted by the Board.

**General Membership Meeting:** A meeting required by these by-laws or called by the Board of Directors to include all members in good standing in order to provide members the status of the cooperative, address by-law amendments and/or take votes of the members in good standing.

**Recruitment meeting:** A meeting held by the cooperative involving the general public to recruit new members.

**FARM:** An agriculture business that makes a good faith effort at cultivating peonies for commercial production.

**MEMBER IN GOOD STANDING:** Meets the criteria for being a farm, possesses an agriculture business license, and is current on membership dues.

**HIERARCHY:** Visual flow chart of the APC organizational hierarchy.

**FISCAL YEAR:** The first day in January through the last day in December.

**CALENDAR YEAR:** The first day in January through the last day in December.

**WRITTEN NOTICE, NOTICE IN WRITING, or IN WRITING:** written or printed, by hand or electronic means, on paper, or electronically stored, and delivered by: hand, with written statement of service; placing the document into the care of the US Postal Service addressed to the last mailing address provided in writing to the organization by the entity or person to whom the communication is made; facsimile sent to the fax number provided in writing to the organization by the entity or person to whom the communication is made, with electronic confirmation of receipt; or, by email sent to the last email address provided in writing to the organization by the entity or person to whom the communication is made, with electronic confirmation of receipt.

**ORGANIZATION:** the Alaska Peony Cooperative