

**BYLAWS OF HEATING, AIRCONDITIONING & REFRIGERATION  
DISTRIBUTORS INTERNATIONAL**

**ARTICLE I  
NAME**

The name of the Association is Heating, Airconditioning & Refrigeration Distributors International (“Association”).

**ARTICLE II  
PURPOSES AND POWERS**

**Section 1. Purposes.** The purposes of the Association are:

(a) to promote the interests of the wholesale heating, refrigeration and air conditioning industry by undertaking such programs, services and activities as are lawful and consistent with this Article,

(b) to improve the business conditions and efficiency of the wholesale heating, refrigeration and airconditioning industry,

(c) to secure cooperative action and communication among its members in advancing the common purposes and objectives of its members,

(d) to collect and disseminate information to enable the members to conduct their business with greater economy, efficiency and profitability,

(e) to advance the education of the industry at all levels of distribution to attain a higher standard of efficiency to better serve the consuming public,

(f) to inform its members of legislation and requirements of law applicable to their business and to encourage and promote reasonable laws, code standards and regulations applicable to their business, and

(g) to promote a better understanding between the heating, refrigeration and air conditioning wholesaler and others in the industry’s supply chain.

**Section 2. Powers.** The Association shall have such powers as are now or may be granted by the Ohio Nonprofit Corporation Law.

### ARTICLE III OFFICES

The principal office of the Association shall be located in Columbus, County of Franklin, State of Ohio, or any other location approved by the Board of Directors. The Association may have such other offices within or without the State of Ohio as the Board of Directors may from time to time authorize.

### ARTICLE IV MEMBERSHIP

**Section 1. Wholesaler Members.** Any person, firm, or corporation is eligible to become a Wholesaler Member if the applicant:

(a) qualifies as a Wholesaler, Plan and Spec Distributor, Corporate Wholesaler or Integrated Wholesale Distributor, or Wholesaler/Master Distributor as those terms are defined below, and

(b) does not engage in the service or contracting of residential heating, ventilation, sheet metal, airconditioning and refrigeration (HVACR) equipment, components, parts and/or accessories or have an interest in firm performing these services, and

(c) takes title to HVACR products and maintains an adequate inventory of such products, and

(d) operates a working sales counter and provides technical support to customers, and

(e) sells online only to authorized accounts, and

(f) has had an established place of business in the United States, and Canada for at least three years. If the applicant has been in business for one year but less than two years, a three-year membership commitment is required. If the applicant has been in business two years but less than three years, a two-year membership commitment is required.

**Wholesaler** is any wholesaler of HVACR equipment, components, products and accessories who sells to dealer-contractors for resale.

Subsidiaries and branches of Wholesale Members must share the same business name as their headquarters' location. Wholesalers with wholly-owned subsidiaries operating under different business names must either have separate Wholesaler memberships or transition to a Corporate Wholesaler membership.

**Plan and Spec Distributor** is any engineered products distributor that takes title to products with assigned distribution rights, whose primary business focus is the specification, take-off, bidding, sales, procurement and supply of HVACR equipment, components, parts and/or accessories, and whose services shall be directed to commercial, institutional, industrial and

contractor accounts and specifically excluding retail sales. Subsidiaries and branches of Plan and Spec Distributor membership must share the same business name as their headquarters' location.

**Corporate Wholesaler** is any corporate entity involved in the wholesale distribution of HVACR equipment, components, parts and/or accessories which operates and/or defines the business practice of subsidiary wholesale distribution companies. Subsidiaries of Corporate Wholesaler may be listed in the association with different business names.

**Integrated Wholesale Distributor** is any wholesale distribution business for HVACR equipment, components, parts and/or accessories that operates as a subsidiary of a non-wholesaling incorporated business entity such as a manufacturer, mass merchandiser, entity, energy provider, consolidator or e-commerce business, and whose corporate parent maintains Associate Membership in the Association. Subsidiaries of Integrated Wholesalers may be listed in the association with different business names.

**Wholesaler/Master Distributor** is any wholesale distribution business for HVACR equipment, components, parts and/or accessories that has an arrangement under which a manufacturer grants a distributor the right to appoint sub-distributors within a specific geographical trade area. More than 50% of a Wholesaler/Master Distributor's sales are to other distributors within the channel distribution model. The Wholesaler/Master Distributors main role is to grow product offerings and establish an online presence as the HVACR industry continuously evolves.

**Section 2. Supplier Members.** Any person, firm or corporation is eligible to become a Supplier Member if the applicant:

(a) qualifies as a Supplier or a Manufacturer Representative, as those terms are defined below, and

(b) has completed and can verify completion of a minimum of one year in business. If the applicant has been in business for one year but less than two years, a three-year membership commitment is required. If the applicant has been in business two years but less than three, a two-year membership commitment is required.

*Supplier* is any manufacturer or importer of HVACR equipment, components, parts and/or accessories for resale to HVACR dealer-contractors and facilities.

*Manufacturer Representative* is any person, firm or corporation who handles HVACR equipment, components, parts and/or accessories as an agent for resale to HVACR dealer-contractors and facilities.

**Section 3. Service Vendor Members.** Any person, firm or corporation is eligible to become an Service Vendor member if the applicant:

(a) qualifies as a Service Vendor, as those terms are defined below,

(b) has completed and can verify completion of a minimum of one year in business (if the applicant has been in business for less than two years, a two-year membership commitment is required), and

(c) attends at least one HARDI event per membership year.

*Service Vendor* is any business entity which sells or provides, or seeks to sell or provide, business products or services not intended for resale to businesses which qualify as a Wholesaler Member, or a Supplier Member, or a Manufacturer Representative Member.

**Section 4. Marketing/Purchasing Cooperative Members.** Any person, firm or corporation is eligible to become an Marketing/Purchase Cooperative member if the applicant:

(a) qualifies as a Marketing/Purchasing Cooperative, as those terms are defined below, and

(b) has completed and can verify completion of a minimum of one year in business.

(c)

*Marketing/Purchasing Cooperative* is any business entity formed by independently owned wholesaler distributors of HVACR equipment, parts and/or supplies for the purpose of achieving greater buying power among vendors and suppliers, and offering members such services as cost rebates, special marketing and purchasing programs, and centralized business operations and benefits.

**Section 5. International Wholesaler Members.** Any person, firm or corporation is eligible to become an International Wholesaler Member if the Applicant:

(a) would qualify as a Wholesaler Member as specified in Section 1 of this Article, except that the applicant (i) does not have an established place of business in the United States, Canada, or Mexico, and (ii) may have an interest in a HVACR retail establishment adjacent to, or a financial integrated part of, its wholesale business, and

(b) does not primarily sell HVACR equipment, parts and/or supplies in United States, Canada, or Mexico, and

(c) has completed and can verify completion of a minimum of one year in business.

Wholesalers headquartered in U.S. Territories not primarily selling into the United States, Canada, or Mexico, would apply as International Wholesaler members.

**Section 6. Mexico Division Members.** Any person, firm or corporation is eligible to become a member of the Mexico Division if the Applicant:

(a) would qualify as a Wholesaler Member as specified in Section 1 of this Article, except that the applicant (i) is headquartered and/or primarily sells HVACR equipment, parts, and /or supplies

in Mexico and (ii) may have an interest in a HVACR retail establishment adjacent to, or a financially integrated part of, its wholesale business and (iii) does not primarily sell HVACR equipment, parts, and/or supplies in the United States, U.S. Territories, or Canada.

(b) would qualify as a Supplier Member as specified in Section 2 of this Article if its intent is to grow sales through Mexico Division Wholesaler members, regardless whether they already hold a Supplier Membership in HARDI.

(c) would qualify as any other HARDI membership category, except that its focus is the Mexico market.

**Section 7. Affiliate Members.** Any firm or corporation is eligible to become an Affiliate Member if the applicant:

- (a) does not qualify for any other category of membership, and
- (b) qualifies as an Affiliate, as those terms are defined below, and
- (c) has a signed Use of Terms agreement with HARDI on file, and
- (d) has completed and can verify completion of a minimum of one year in business.

*Affiliate* is any business entity which fails to meet the requirements of any other HARDI membership category and wishes to have access to HARDI's market and benchmarking reports and resources as specified by the Board. A requirement of membership is a signed Terms of Use agreement not to share HARDI reports or data with entities outside the employ of the firm or corporation without express written permission from HARDI. Failure to comply with this requirement may result in immediate expulsion from the membership and appropriate legal action. Affiliate members will be eligible to register for HARDI meetings and events, but will not be eligible for access to HARDI's membership directory or any such listing, including contact information of any HARDI members without said members' written or verbal consent.

**Section 8. Energy Efficiency Partner Members.** Any firm or corporation is eligible to become an Energy Efficiency Partner Member if the applicant:

- (a) does not qualify for any other category of membership, and
- (b) qualifies as one of the two Energy Efficiency Partner categories, as those terms are defined below, and
- (c) has a signed Use of Terms agreement with HARDI on file, and
- (d) has completed and can verify completion of a minimum of one year in business.

*Energy Efficiency Partner* is any business entity which fails to meet the requirements of any other HARDI membership category and is either a) a utility or government agency or b) an

energy efficiency contractor or consultant. Affiliate members will be eligible to register for HARDI meetings and events but will not be eligible for access to HARDI's membership directory or any such listing, including contact information of any HARDI members without said members' written or verbal consent. Energy Efficiency Partner Members will not have access to HARDI market or benchmarking reports as a benefit of this membership but may purchase or subscribe separately to said reports.

**Section 9. Retired Colleague Members.** Any retired person is eligible to become a Retired Colleague Member and remain engaged and involved in the work of the association if the Applicant:

(a) is a fully retired individual of a HARDI member company with no present or future involvement in the operations or governance of any HVACR company or service provider to HVACR companies.

Benefits of the membership shall include access to the general HARDI information flow, social networking sites and other standard member services. Retired Colleague Members are entitled to a special dues rate and access to HARDI meetings and events at a reduced registration cost.

**Section 10. Voting Rights and Privileges.** Wholesaler Members in good standing shall have the right to one vote and to all other rights and privileges of membership. Other Membership categories may participate in Association programs and activities as determined by the Board of Directors. No Membership category, other than the Wholesaler Member, shall have voting rights or be eligible for election as an officer or director, except for the Supplier Member representative on the Board of Directors as provided in Article VI, Section 2. No member shall have any proprietary interest in the property of the Association.

**Section 11. Application for Membership.** All applications for membership shall be made using forms supplied by the Association and shall be processed in accordance with procedures adopted by the Board of Directors.

**Section 12. Resignation.** Any member may submit a resignation in writing to the Association, and such resignation shall be effective upon its acceptance by the Board of Directors, but such resignation shall not relieve the obligation to pay any dues accrued and unpaid, and any assessments theretofore levied and unpaid, or to pay any obligations to the Association which arose out of acts of the Association performed prior to acceptance of the resignation.

**Section 13. Termination.** Membership in the Association shall cease and terminate in the event that a member ceases to meet the criteria for membership applicable to that member's membership category. If any Service Vendor member fails to attend one (1) HARDI-hosted event within the first twelve (12) months of membership activation, they shall be given a probationary period of one (1) year in which they can maintain their active membership status if they attend one (1) HARDI-hosted event within the second twelve (12) months of their HARDI membership.

**Section 14. Expulsion.** Any member who shall have made a false statement in the application for membership, or whose conduct shall have been found by the Board of Directors to be prejudicial to the welfare, interest or character of the Association, may be censured, suspended or expelled from membership by the Board of Directors, provided, however:

(a) that formal charges drafted by a committee which shall be appointed by the Chairman for that purpose, stating the charges in detail and the grounds for the same, shall have been presented by the Board of Directors at least thirty (30) days before such action is taken;

(b) that there shall have been delivered to the member under charges, at his address appearing on the books of the Association, a statement of the charges at least thirty (30) days before final action thereupon is taken; this statement shall be accompanied by a notice of the date, time and place when and where the Board of Directors is to take action; and

(c) that the said member shall have been given an opportunity to present any defense at the time and place stated in the notice.

No member of the Board of Directors shall have the right to be present or to vote on the question of such member's censure, suspension, expulsion or resignation. In such case the question of quorum shall be determined as though the Board of Directors consisted of one less than the number of directors then in office.

## **ARTICLE V MEETING OF MEMBERS**

**Section 1. Annual Meeting.** The annual meeting of the members, for the election of Directors and Officers, the consideration of reports, and the transaction of such other matters as may properly be brought before such meeting, shall be held at a time and place designated by the Board of Directors. Upon due notice there may also be considered and acted upon at the annual meeting any matter which could properly be considered and acted upon at a special meeting.

**Section 2. Special Meeting.** Special meetings of the members may be held on any business day when called by the Chairman, the Board of Directors or upon the written request of at least twenty (20) Wholesaler Members.

**Section 3. Place of Meetings.** Any meeting of members may be held at such place as may be designated by the Board of Directors in the Notice of said meeting.

**Section 4. Notice of Meeting.** Written notice of the time and place, and in case of a special meeting, the purpose or purposes for which the meeting is called shall be given to each member not less than ten (10) days nor more than sixty (60) days before the date fixed for the meeting and as prescribed by law. Such notice shall be sent to each member and shall be directed to the member at his respective address as it appears upon the records of the Association, and notice, if mailed, shall be deemed to have been given on the day so mailed.

If any meeting is adjourned to another time or place, no notice as to such adjourned meeting need be given other than by announcement at the meeting at which an adjournment is taken. No business shall be transacted at any such adjourned meeting except as might have been lawfully transacted at the meeting at which such adjournment was taken. Notice of any meeting may be waived in writing by any member either before or after any meeting of members, or by attendance at such meeting without protest prior to the commencement thereof.

**Section 5. Proxies.** A person is entitled to attend a meeting of members, to vote thereat, or to execute consents, waivers or releases, may be represented at such meeting to vote thereat, and execute consents, waiver or release, and exercise any of its rights, by proxy or proxies appointed by a writing signed by such person, or by its duly authorized attorney.

**Section 6. Quorum.** Ten percent (10%) of the Wholesaler Members in good standing, present in person or by proxy, shall constitute a quorum at any meeting of members of the Association, provided that if a quorum is not present at any meeting, a majority of the Wholesaler Members present may adjourn the meeting from time to time without further notice.

**Section 7. Voting.** Voting shall be via voice unless a roll call is demanded by ten (10) Wholesaler Members. Each Wholesaler Member company shall be entitled to one (1) vote, and a majority vote of the Wholesaler Members present shall prevail, unless a greater proportion is required by law or the bylaws.

**Section 8. Order of Business.** The order of business at all meetings of members shall be as determined by the Board of Directors from time to time.

**Section 9. Conduct of Meetings.** The rules contained in the latest edition of Roberts' Rules of Order shall govern all meetings in all cases to which they are applicable, except as they are inconsistent with the bylaws. The Chairman, or in such person's absence a person designated by Chairman, shall call all meetings of the members to order and shall act as Chairman thereof. If both are absent, the members shall select a Chairman. The Secretary or a designee shall record minutes of the meeting.

## **ARTICLE VI BOARD OF DIRECTORS**

**Section 1. General Purposes.** The business and affairs of the Association shall be supervised by, and policies of the Association set by, the Board of Directors, except where the law or the bylaws require action to be taken or authorized by the members entitled to vote.

**Section 2. Number, Qualification.** The Board of Directors shall consist of eleven (11) Directors in 2019, and nine (9) Directors in 2020 and thereafter. One Director position shall be held by a representative from a Supplier Member, provided the representative is a senior decision-maker for the Member, and the Member goes to market exclusively through the wholesale distribution channel. The Board of Directors may appoint non-voting advisors to the Board, including but not limited to a Manufacturer Representative Member. The Board of Directors may appoint non-voting advisors to the Board who may not be members of the Association.



The CEO will serve as an Ex-Officio member of the Board.

**Section 3. Governance Role.** The governance role of the Board of Directors is to ensure HARDI achieves its mission and strategic priorities in a sustainable and effective fashion. Board responsibility may be viewed as three-fold:

(a) *Identify and Mitigate Risk to the Organization.* These risks include: Financial risks from expenditures and investments and associated with the ongoing operation of the organization, Legal risks associated with employees, Directors, Members, business partners and other stakeholders and competitors, Market risk from competitors, economic, industry and other changes/trends, and Operating risk from execution of plans, policies and procedures.

(b) *Set Organizational Direction.* This includes: set and advance the organization's mission and a vision for the organization into the future; establish and promote organizational values, and; approve regular updates to the strategic plan and annual operating plans for achieving the organization's mission.

(c) *Oversee performance of the Chief Executive Officer and Senior Staff* in executing the organization's mission, vision and strategic priorities. This includes: ensuring a well-staffed and well-run organization; adequate financial resources; a positive public image; achievement against strategic planning goals and annual operating objectives; and effective implementation of programs and services.

**Section 4. Election of Directors.** Directors shall be elected by the members during the annual meeting of the Association.

**Section 5. Term of Office.** The term of office for a Director shall be up to three (3) years. As a guideline, the Association does not favor having a Director serve more than two consecutive three-year terms.

**Section 6. Vacancy.** Any vacancy in a Director position may be appointed by the Chair for the remainder of the term.

**Section 7. Meetings.** Regular or Special meetings of the Board of Directors may be called either by or at the request of the Chairman or a majority of the Directors. The person or persons authorized to call meetings may fix any place as the place for holding such meeting. Any such meeting may be held and action taken through the use of conference telephone or other communication equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and present in person at the meeting of the person or persons to participating.

**Section 8. Notice.** Notice of any meeting of the Board of Directors shall be given at least five (5) days previously thereto by notice delivered personally, faxed, emailed or sent to each Director and Advisor at their address as shown by the records of the Association. If mailed, such notice shall be deemed delivered when deposited in the United States mail in a sealed envelope so

addressed, with postage thereon prepaid. Any Director or Advisor may waive notice of any meeting. The attendance of a Director or Advisor at any meeting shall constitute a waiver of notice of such meeting, except where a Director or Advisor attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or wavier of notice of such meeting, unless specifically required by law or these bylaws.

**Section 9. Quorum.** A majority of the Directors (six (6) in 2019 and five (5) in 2020 and thereafter) shall constitute a quorum for the transaction of business at any meeting of the Board, provided that if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

**Section 10. Manner of Acting.** The act of a majority of the Directors at a meeting at which a quorum is present shall be the act of the Board of Directors except where otherwise required by these bylaws.

**Section 11. Voting.** A vote of the Board of Directors shall require that a Quorum of the total number of Directors are participating in a Board meeting at the time of the vote. To pass a Board resolution or to adopt a Board policy or other Board action a majority of the Quorum must vote in favor of said resolution, policy or action. The Chair may authorize digital votes (email, online voting tools, etc.) and the process by which digital votes shall take place.

**Section 12. Informal Action.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to such action.

## **ARTICLE VII OFFICERS**

**Section 1. Officers.** The Officers of the Association shall be a Chairman, Lead Director/Secretary, and the Finance Committee Chair/Treasurer.

**Section 2. Election and Tenure.** The Chairman shall be a Director and shall be elected by the Wholesaler Members for a two (2) year term at the annual meeting of members in the manner provided in the bylaws. The Chairman may only serve one two-year term as Chairman. The Lead Director and Treasurer shall be Directors and shall be elected by the Board of Directors.. Each officer so elected shall hold office until his successor shall have been duly elected and shall have qualified; or until such officer's death, resignation, expulsion, or disability; or until such officer ceases to be employed by a member in good standing.

**Section 3. Vacancies.** In the event of a vacancy in any office, the vacancy may be filled by the Chair for the unexpired portion of the term, if it is deemed advisable. Exclusively in the event the Chair is vacated, Lead Director serves as interim Chair until term expires and the Nominating Committee will appoint an interim Lead Director and any remaining vacant Officer and Director positions.

**Section 4. Chairman.** The Chairman shall preside at all meetings of the members and of the Board of Directors and in general, perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board of Directors from time to time. The Chairman will confer with the Lead Director and the Chief Executive Officer on all matters concerning committee appointments and activities, convention plans, and such other matters as may affect the future of the Association.

**Section 5. Lead Director.** In the absence of the Chairman, the Lead Director shall perform the duties of the Chairman.

**Section 6. Secretary/Treasurer.** The Secretary shall keep, or cause to be kept, the minutes of the meetings of members and of the Board of Directors and see that all notices are duly given in accordance with the provisions of the bylaws or as required by law.

The Treasurer shall also be the chairman of the Finance Committee, and shall have charge and custody of, and be responsible for, all funds and securities of the Association; shall deposit, or cause to be deposited, all such funds in the name of the Association in such banks, trust companies or other depositories, as the Board of Directors shall elect; and in general perform all duties incident to the office of Treasurer and such other duties as may be assigned from time to time by the Chairman or the Board of Directors. The Treasurer shall give a bond for the faithful discharge of duties in such sum and with such surety or sureties as the Board of Directors shall determine, the cost of which shall be borne by the Association. The Treasurer shall make a report to the Board of Directors at each regular meeting, shall cause an annual audit or review of the Association books to be made, and shall report the results at the next annual meeting.

**Section 7. Chief Executive Officer.** The Chief Executive Officer shall be employed by the Association and shall, under the direction of the Board of Directors and Chairman, manage the business and affairs of the Association and carry out the policies of the Association as set forth by the Board of Directors. The Chief Executive Officer shall also have sole authority of the staffing of the Association in accordance with the budget.

**Section 8. Assistant Officers.** The Board of Directors from time to time may appoint one or more assistant officers who shall have such duties as may be assigned to them from time to time by the Chairman or by the Board of Directors, or they may take action to provide other means, in lieu of the Chief Executive Officer, to facilitate the conduct and management of the Association.

## **ARTICLE VIII ELECTION OF OFFICERS AND DIRECTORS**

At least ninety (90) days prior to each annual meeting, the Wholesaler Members will be solicited for nominees for the open director and officer positions for election at the annual meeting. The Nominating Committee shall then nominate a person for each of the open director and officer positions for election at the annual meeting and shall report the names of its nominees to the Board of Directors for approval. Upon approval of the Board of Directors, the names of the nominees shall be reported at the annual meeting for election. Additional nominations may be made from

the floor at the annual meeting by at least ten (10) Wholesaler Members. A majority vote of a quorum of the Wholesaler Members in attendance at the meeting in person or by proxy will be necessary for the election of nominees. The Board of Directors may establish procedures for the nomination and election process as it deems necessary.

## **ARTICLE IX COMMITTEES AND COUNCILS**

**Section 1. Finance Committee.** The Treasurer shall be chairman of the Finance Committee. The role of the Finance Committee is to assist the Board of Directors in fulfilling its financial oversight responsibilities including but not limited to:

- Establishing and implementing governance policies for approving and executing financial forecasts, operating budgets, capital expenditures and operating expenses
- Identifying financial risks associated with strategic and operating initiatives
- Making recommendations to the Board and staff as necessary regarding any initiative that would exceed thresholds set forth in the governance guidelines
- Providing advice and make recommendations to the Board and staff with respect to issues raised in tracking performance or reports made to the Board or Committee
- Providing oversight of financial reporting and internal controls regarding finance and accounting and the integrity of the organization's financial statements

**Section 2. Membership Committee.** The role of the Membership Committee is to streamline the Board of Directors approval process for new members, including but not limited to:

- Reviewing current membership categories and recommending changes that are consistent with HARDI's mission to the Board for approval
- Reviewing and maintaining membership criteria that mitigates risk, adheres to HARDI's strategic direction, and can be easily verified by Management
- Advising Management on application approvals as needed
- Ensuring the most streamlined membership processes and easing friction between the association and its members
- Identifying risks and opportunities within membership trends including, but not limited to, retention, engagement, recruitment, and revenue generation

**Section 3. Nominating Committee.** The role of the Nominating Committee is to ensure the presence of a capable and responsible Board including but not limited to:

- Consistent with the HARDI mission and strategic priorities, regularly assessing and

identifying the selection criteria for attracting and selecting Officers and Directors to the Board of Directors

- On an on-going basis, identifying and qualifying individuals for selection to the HARDI Board
- Recommending proposed nominees to the Board for Board membership
- Appoints Directors to serve on each of the Standing Governance Committees

**Section 4. Compensation Committee.** The role of the Compensation Committee is to assist the Board with ensuring the Chief Executive Officer is compensated appropriately for his/her performance in leading the organization, including but not limited to:

- Recommending to the Board a compensation structure for the Chief Executive Officer that is consistent with that person's role and achievement of the strategic priorities of the organization
- Developing specific performance criteria for evaluating the Chief Executive Officer's performance on an annual basis
- Establishing and conducting an annual review process with the Chief Executive Officer that includes an objective assessment of performance; its impact on compensation; establishment of forward-looking goals; and, approval by the Board of Directors

**Section 5. Other Committees and Councils.** Committees meet to execute the business of the Association, while Councils are product oriented "affinity groups" serving the interests of their respective members. The Board of Directors shall have the power to create Committees (in addition to the Standing Governance Committees listed above) and Councils of the Association; to define and limit their functions; prescribe the procedure for such Committees and Councils; appoint the chairs and members of such Committees and Councils; and to discharge or terminate any such Committees and Councils.

**Section 6. Quorum.** A majority of the members of any Committee or Council shall constitute a quorum, unless otherwise provided by the Board of Directors. The act of a majority of the Committee or Council members shall be that act of the Committee or Council.

**Section 7. Expenses.** No Committee or Council shall incur any expenses, or take any action on behalf of the Association, without the consent of the Board of Directors.

## **ARTICLE X DUES AND ASSESSMENTS**

**Section 1. Dues and Assessments.** The Board of Directors shall from time to time determine membership dues and assessments.

**Section 2. Default.** Any member who shall fail to pay dues or any special assessment within 90 days after the date they become due, shall thereupon be in default. Upon written notice mailed, the membership of a member in default thirty (30) days in advance of a meeting of the Board of Directors may be terminated at that or any subsequent meeting of the Board, by majority vote of the Directors present at the meeting.

## **ARTICLE XI CONTRACTS**

**Section 1. Contracts.** The Board of Directors may authorize any officer or officers, agent or agents, to enter into any written contract or execute and deliver any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer or agent of the Association shall have the authority to enter into any contract or to execute and deliver any instrument in the name and on behalf of the Association.

**Section 2. Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by the Board of Directors.

**Section 3. Deposits.** The funds of the Association shall be deposited to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

## **ARTICLE XII FISCAL YEAR**

**Section 1.** The fiscal year of the Association shall be determined by the Board of Directors. The Chief Executive Officer shall prepare and submit at the annual meeting an annual report and statement showing the condition of the membership, work accomplished during the year, finances of the Association, and other information of interest to the membership.

**Section 2.** The Board of Directors shall submit an annual report at the annual meeting of members with such recommendations as it may have for the advancement and benefits of the Association and its work.

## **ARTICLE XIII AMENDMENT OF BYLAWS**

The bylaws of the Association may be repealed, modified, amended or restated by: (A) the affirmative vote of a majority of Directors then in office at a meeting of the Board of Directors, provided a copy of the proposed amendment or a summary thereof shall be provided to the Directors along with the notice of the meeting; (B) the affirmative vote of a majority of Wholesaler Members in attendance in person or by proxy at a meeting of members, provided a copy of the

proposed amendment or a summary thereof shall be provided to the Wholesaler Members along with the notice of the meeting or; (C) by the affirmative vote by written ballot of a majority of the Wholesaler Members entitled to vote, provided a copy of the proposed amendment or a summary thereof shall be provided to the Wholesaler Members along with the ballot.

## **ARTICLE XIV INDEMNIFICATION**

**Section 1. Indemnification.** The Association shall indemnify any Director or Officer to the fullest extent provided by, or permissible under, the Ohio Nonprofit Corporation Law; and the Association is hereby specifically authorized to take any and all further action to effectuate any indemnification of any Director or Officer which any Ohio corporation may have power to take, by any vote of the members, vote of disinterested Directors, by any Agreement, or otherwise. This section of the bylaws shall be interpreted in all respects to expand such power to indemnify to the maximum extent permissible to any Ohio corporation with regard to the particular facts of each case, and not in any way to limit any statutory or other power to indemnify, or right of any individual to indemnification. Indemnification by the Association shall be secondary to indemnification provided by insurance.

**Section 2. Insurance of Indemnification.** The Association may purchase and maintain insurance for protection of the Association and for protection of any Director, Officer, employee and/or any other person for whom such insurance may be purchased and maintained under the Ohio Nonprofit Corporation Law, or otherwise. Such policy or policies or insurance may provide such coverage and be upon such terms and conditions as shall be authorized or approved from time to time by the Board of Directors or the members of the Association.

## **ARTICLE XV DISSOLUTION AND LIQUIDATION**

The Association may be dissolved in the following manner:

A proposal that the Association be dissolved may be made by resolution of the Board of Directors, and in such event the Board of Directors may direct that the proposal be submitted at the next annual meeting of the members or at a special meeting of members called by the Board of Directors to consider such proposal.

A proposal that the Association be dissolved may also be made by not less than forty (40) percent of Wholesaler Members, by filing with the President or Secretary a written statement to that effect signed by the proponents, together with a request that the proposal be submitted at the next annual meeting of members, or together with a request for special meeting of members to consider such proposal.

When a proposal has been made as provided in this article, the notice of the annual or special meeting at which the proposal is to be considered shall state the purpose, or one of the purposes, of the meeting is to consider the dissolution of the Association. Dissolution of the

Association shall be effective upon receiving the affirmative vote of two-thirds of the members present at the meeting in person or by proxy.

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to its members, directors, officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the articles of incorporation of the Association.

Upon the dissolution of the Association, the Board of Directors shall, after paying or make provisions for the payment of all of the liabilities of the Association, dispose of all of the assets of the Association exclusively for the purposes of the Association in such manner, or to such organization or organizations as shall at the time qualify as an exempt organization or organizations under Section 501(c)(6) or Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the circuit court of the county in which the principal office of the Association is then located, exclusively for such purposes or to such organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

#### **ARTICLE XVI CONSISTENCY WITH ARTICLES OF INCORPORATION**

If any provision of these bylaws shall be inconsistent with the Association's Articles of Incorporation (and as they may be amended from time to time), the Articles of Incorporation (as so amended) shall govern.