

# NORTHERN ILLINOIS INDEPENDENT PURCHASING COOPERATIVE

## RESTATED ARTICLES OF JOINT AGREEMENT AND BYLAWS

### (“JOINT AGREEMENT AND BYLAWS”)

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#### ARTICLE I

##### Definitions

##### **DEFINITIONS:**

1.1 As used in the Joint Agreement and Bylaws, the following terms shall have the meaning hereinafter set out:

- (a) **AGREEMENT** – The terms and conditions set forth in the Joint Agreement and Bylaws, an intergovernmental agreement that shall be binding upon the Parties and as authorized pursuant to Article VII, Section 10, of the 1970 Constitution of the State of Illinois, the Intergovernmental Cooperation Act 5 ILCS 220/2, which Act provides that any power which may be exercised by only one school district may be exercised jointly with other school districts or other public agencies, and the Governmental Joint Purchasing Act (30 ILCS 525/1), and any future amendments thereto. The term Agreement may be used interchangeably herein with the Joint Agreement and Bylaws.
- (b) **MEMBER DISTRICTS** – The school districts that are Members of the Cooperative as of the Effective Date of this Agreement and whose names are listed on Appendix A, and such school districts that may later enter into this Agreement.
- (c) **MEMBER REPRESENTATIVE** – Individuals employed by each Member District and designated as the primary and authorized representative of the District in all matters relating to the Member District’s obligations hereunder.

- (d) **COOPERATIVE** – The Northern Illinois Independent Purchasing Cooperative established pursuant to the constitutional and statutory authority referenced herein.
- (e) **EXECUTIVE OFFICERS** – Representatives elected by the Member Districts to oversee and conduct the administration and operations of the cooperative as set forth herein.
- (f) **ADVISORY COUNCIL** - Member District representatives that help guide the work of the cooperative. Member Districts with enrollment greater than 10,000 students must have a Member Representative that participates on the Advisory Council.
- (g) **BOARD OF DIRECTORS or BOARD** – Member Representatives appointed by the Member Districts to approve bids and the Cooperative’s operating budget with input and recommendations from the Executive Officers
- (h) **ADMINISTRATIVE DISTRICT** – The Member District of an Executive Officer approved by the Cooperative’s Executive Officers to oversee the affairs of the Cooperative as more fully set forth herein.

**ARTICLE II**

**Name**

2.1 The name of the Cooperative shall be the Northern Illinois Independent Purchasing Cooperative, hereinafter referred to as the Cooperative.

**ARTICLE III**

**Purpose**

3.1 The Cooperative, serving to assist Member Districts in meeting state and federal mandates relating to the bidding and procurement of goods and services, is organized exclusively for the charitable, scientific, literary or educational purposes within the meaning of applicable laws and regulations

governing exemption from taxation as an intergovernmental organization. As applicable, the Cooperative shall have all the general powers set forth in the provisions of the Illinois School Code or as otherwise permitted by the Illinois Constitution and Intergovernmental Cooperation Act (5 ILCS 220/2), and the Governmental Joint Purchasing Act (30 ILCS 525/1), including the power to accept, administer, apply and to use money, property and services acquired by gift, grant, devise, bequest or otherwise in accordance with any of the purposes and objects that may be specified by Member Districts, provided that all such property may be used for the general purposes of the Cooperative in the sound discretion of its Board of Directors, and to establish and maintain a fund or funds of real or personal property for such purposes, provided that the Cooperative exercises all such powers in furtherance of the purposes set forth herein, which shall include but not be limited to, the following:

- (a) Conducting competitive bidding and other procurement-related activities required for the establishment of contracts satisfying the requirements of Illinois School Code (105 ILCS 5/10-20.21), the Governmental Joint Purchasing Act (30 ILCS 525/1), and other state or federal regulations applicable to the procurement of goods and services by public school districts acting as school food authorities (“SFAs”) in connection with the operation of school meal programs that do not rely on food service management companies (“FSMCs”).
- (b) Establishing contracts satisfying the requirements of Illinois School Code (105 ILCS 5/10-20.21), the Governmental Joint Purchasing Act (30 ILCS 525/1), and other state or federal regulations applicable to the procurement of goods and services by public school districts in Illinois for the benefit of Member Districts;
- (c) Performing any and all such other acts as may be necessary or desirable to carry out the Cooperative’s purposes, as determined by the Board of Directors.

It is the intent of the Member Districts to operate an intergovernmental entity in accordance with the Agreement. Funds received by the Cooperative are funds derived from its Member Districts or as may otherwise be donated to the Cooperative as charitable contributions. It is the intent of the parties in operating the Cooperative to retain on behalf of each Member District and Member Representative any

defenses as immunities permitted by Illinois law.

## **ARTICLE IV**

### **Powers and Duties**

4.1 The powers of the Cooperative to perform and accomplish the purposes set forth above shall, within the budgetary limits and procedures set forth in this Agreement, be the following:

- (a) To enter into contracts with third parties selected for the award of contracts in accordance with the competitive bidding requirements of the Illinois School Code (105 ILCS 5/10-20.21), the Governmental Joint Purchasing Act (30 ILCS 525/1), and other state and federal regulations,
- (b) To benefit from the services of employees and independent contractors assigned to perform duties by and on behalf of the Cooperative by its Members,
- (c) To carry out educational and other programs relating to joint purchasing, cooperative purchasing, and competitive bidding requirements,
- (d) To admit and expel Member Districts by a majority vote of the Board of Directors.
- (e) To amend this Agreement by a majority vote of the Board,
- (f) To employ agents, employees and independent contractors,
- (g) To lease real property and to purchase or lease equipment, machinery, or personal property necessary for the carrying out of the purpose of the Cooperative,
- (h) To collect funds from its Member Districts and other third parties for the activities permitted by the purposes established above,
- (i) To secure insurance and engage professional services in managing risks resulting from the activities of the Cooperative,
- (j) Solely within the financial limits established by the Member Districts to carry out such other activities as are necessarily implied or required to carry out the purposes of the Cooperative specified in Article III or the specific powers enumerated in Article IV.

## **ARTICLE V**

### **Members; Participation in and Withdrawal from the Cooperative**

5.1 Membership in the Cooperative shall be limited to public school districts that independently operate food service programs as SFAs for the benefit of their students in accordance with state and federal laws and regulations and without the assistance of FSMCs. Unless admitted upon at least a two-thirds (2/3) affirmative vote of the Board of Directors or, if otherwise approved by the current Executive Officers, all Member Districts joining the Consortium after the Effective Date of this Agreement shall have an enrollment of no fewer than 2,000 students.

5.2 The membership of the Cooperative on the effective date of this Agreement shall be those Illinois public school districts identified as Member Districts in Appendix A, which is hereby appended to and made a part of this Agreement as Member Districts. New Member Districts shall be admitted only upon at least a two-thirds (2/3) affirmative vote of the Board of Directors or, if otherwise approved by the current Executive Officers, and subject to the payment of such fees and such further conditions as shall be contained within the motion approving membership, or as shall be established generally for new Member Districts, by the Board of Directors or this Agreement. New Member Districts must submit a letter of intent to participate as a member by February 1st of the school year preceding their effective date of membership.

5.3 Member Districts must give the Board of Directors a written notice of a voluntary withdrawal from the Cooperative no later than February 1st of the year in which such notice is given, with such withdrawal becoming effective the July 1st thereafter. Following expiration of the initial term of participation of any Member District, their participation in the Cooperative shall continue until the Member District withdraws, subject to the terms of this Agreement, or is expelled.

5.4 All Member Districts shall pay an annual amount in dues to be established by the Board of Directors. Such amounts may differ by Member District and, in all cases, may be increased upon approval of an increase by a majority of the Board of Directors.

5.5 All membership dues are due no later than November 30th of the academic year (July 1st through

June 30th) during which a Member District participates in this Agreement or has otherwise failed to withdraw in accordance with the terms hereof.

5.6 All contracts established by the Cooperative shall include a provision terminating Member District's participation in the contract and entitlement to any benefits of the terms and condition of such contract in the event that the Member District terminates their membership in the Cooperative or is otherwise expelled from the Cooperative in accordance with the Agreement.

5.7 A Member District may be expelled upon a vote of the Board of Directors for failure to participate, cooperate or support the activities and purposes of the Agreement, or for any action which is seriously detrimental to the operation and administration of the Agreement, as determined by the Board. Upon such vote of expulsion, a Member District's participation shall terminate sixty (60) days after the expulsion vote. An expelled Member District shall remain liable for any obligation incurred to the effective date of expulsion.

## **ARTICLE VI.**

### **Term of the Cooperative; Form of Agreement**

6.1 This Agreement in its existing form and as it is validly amended, shall govern the relationship between the Cooperative and its Member Districts during the entire existence of the Cooperative following ratification and adoption by the Member Districts.

6.2 This Agreement, and any amendments thereto, may be executed in separate identical counterparts and shall be binding upon all Member Districts.

6.3 Termination of this Agreement by Member Districts shall not occur without a two-thirds majority vote of all Member Districts.

## **ARTICLE VII**

### **Administrative District**

7.1 The Board shall appoint an Administrative District, as agreed upon by the Executive Officers, to serve for a term to be mutually agreed upon by the Administrative District and Executive Officers. During

such service, all dues or fees that would otherwise be paid by the Administrative District shall be waived. The Administrative District, unless otherwise agreed, shall be responsible for the management and expenditure of monies from any funds established for the benefit of the Cooperative, and such other responsibilities as approved by the Board or its designee.

7.2 Nothing herein shall prevent the Board from appointing officers, employees or other persons to carry out functions or duties expected to be carried out by the Administrative District.

## **ARTICLE VIII.**

### **Board of Directors**

8.1 There is hereby established a Board of Directors of the Cooperative. The provisions regarding the appointment of Directors, Alternate Directors, and Members of the Executive Committee, and officers shall become effective at the start of the first fiscal year, which commences after the effective date of this Comprehensive Amendment.

The Board of Directors shall consist of seven Member Representatives of Member Districts. The seven Member Representatives must all be from different Member Districts. The Board of Directors shall be approved by two-thirds of the Member Districts. A Member District Representative cannot serve as an Executive Officer and on the Board of Directors at the same time. A Member District Representative shall serve on the Board of Directors for a term of two (2) years or until a successor Director has been appointed. The Member District Representative shall also select an Alternate from the Member District or, if no Alternate is available from the Member District, from the Member Districts to serve when the Director is unable to carry out the assigned duties. The Member Representative or Alternate selected need not be an elected official of the Member District but must be an elected official or employee of the Member District that is authorized to bind and carry out business on behalf of the Member's Districts Board of Education. Upon appointing a Member District Representative to serve as a Director and an Alternate, the Member District shall promptly provide the names of these appointees to the Executive Officers for approval.

At its first meeting of the Cooperative after the Effective Date of this Amendment, and before

each second fiscal year thereafter, the Board of Directors shall elect from amongst its Directors, a Chairman, Vice-Chairman, and Secretary of the Board of Directors, each of which shall serve until replaced by the Board of Directors.

8.2 The Board of Directors shall determine the general policies, to be carried out by the Executive Offices of the Cooperative, by majority vote, which policy shall be followed by all Cooperative agents, employees and independent contractors employed by the Cooperative and the Administrative District. It shall have the responsibility for (1) approving of hiring of agents, non-clerical employees and independent contractors, as recommended by the Executive Officers (2) setting of compensation for all persons, firms and corporations employed by the Cooperative, (3) setting of fidelity bonding requirements for employees or other persons, (4) approval of amendments to the Agreement, (5) upon receiving and approving any recommendation from the Executive Officers, performing those necessary functions to obtain bids and award to a preferred vendor the purchase of food and supply items by individual Member Districts of the Cooperative. (5) approval of the acceptance of new Member Districts, (6) approval of the annual budget of the Cooperative, (7) approval of educational and other programs resulting from the Cooperative's operations, (8) approval of reasonable and necessary financial management policies relating to the use of Cooperative funds, (9) expulsion of Member Districts, and (10) resolution of disputes arising under this Agreement.

8.3 Each Director shall serve until the Director's successor has been selected. In the event that a vacancy occurs, the Executive Officers shall appoint a successor. The failure to do so shall not affect the responsibilities, obligations or duties of a Member District under this Agreement.

8.4 The Board of Directors may establish rules governing its own conduct and procedure not inconsistent with this Agreement.

## **ARTICLE IX**



## **Board of Directors Meetings**

9.1 Regular meetings of the Board of Directors shall be held at least three (3) times a year. The dates of regular meetings of the Board may be established at the beginning of each fiscal year. Any item of business may be considered at a regular meeting. Special meetings of the Board of Directors may be called by its Chairman, or by any two (2) Directors. Five (5) days written notice of regular or special meetings shall be given to the official representatives of each Member, and an agenda specifying the subject of any special meeting shall accompany such notice. Business conducted at special meetings shall be limited to those items specified in the agenda.

9.2 The time, date and location of regular and special meetings of the Board of Directors shall be determined by the Chairman or by the Directors who call the meeting.

9.3 To the extent not contrary to this Agreement, and except as modified by the Board of Directors, Robert's Rules of Order, latest edition, shall govern all meetings of the Board of Directors. Minutes of all regular and special meetings of the Board of Directors shall be sent to all Directors and Alternate Directors.

9.4 Each Member Representative serving on the Board of Directors shall be entitled to one (1) vote on the Board of Directors. Such vote may be cast only by the Member Representative serving on the Board or designated alternate representative of the Member District. No proxy votes shall be permitted. Further, no absentee votes shall be permitted. Voting shall be conducted in person or electronically .

9.4.1 Any vote which requires a supermajority vote for passage shall be by roll call vote. All other votes may be taken by voice vote.

9.4.2 In the event that there are any negative votes or abstentions relating to the authorization of the expenditure of funds, the names of the Directors Board Members so voting shall be specifically noted. All other Directors Board Members present and not voting in the negative shall be listed as having joined the affirmative vote on the proposition.

## **ARTICLE X**

### **Executive Officers**

10.1 Officers of the Cooperative shall consist of the President, Vice President/Bid Coordinator and Secretary/Treasurer, any of which a Director of the Administrative District may fill, and such other Member Representatives as appointed by the Board from time to time. All officers shall be approved by Member Districts and shall serve until a successor is approved and has commenced his or her duties.

10.2 The Board of Directors shall elect a new Director to fill any vacancy among the Executive Officers. Executive Officers shall serve staggered for such terms as are established and shall fill vacancies until the end of the person's term. The Executive Officers Committee may be formally assigned by the Board of Directors to undertake and carry out any power otherwise assigned to the Board of Directors, except ~~that~~ the power to expel a Member District, to amend the Agreement, or to establish any new fees relating to Membership in the Cooperative shall be retained by the Board. Meetings of the Executive Officers may be called by the Chair President or any two Executive Officers. Except as otherwise provided, a majority of a quorum of the Executive Officers shall be sufficient to act upon all matters.

10.3 The Executive Officers shall be charged with making recommendations for the approval of any contract entered into by the Board of Directors based on procedures adopted by the Executive Officers Committee with approval by the Board of Directors. The Board of Directors shall ratify such contracts at its regularly scheduled meetings. Further, the Executive Committee shall be charged with recommending the approval of any application for membership for new Member Districts.

10.4 The President shall be the Chief Executive Officer of the Cooperative. Among the duties and authority of the President shall be the following:

- (a) To sign on behalf of the Cooperative any instrument which the Board or Member Districts have authorized to be executed and, in general, to perform all duties incident to the office of

President and such other duties as may be prescribed by the Board consistent with this Agreement from time to time.

(b) To make recommendations regarding policy decisions, the creation of other Cooperative officers and the employment of agents, employees and independent contractors.

(c) To present a full report of activities and the fiscal condition of the Cooperative at each regular meeting of the Board and at such other times, as requested to do so by the Board.

(d) To preside at all meetings of the Board and the Executive Officers at which the President is present. The President may request information from any member of the Board or the Cooperative or any employee or independent contractor of the Cooperative. The President shall be a non-voting ex-officio member of all committees of the Cooperative on which the President does not directly serve. The President shall have such other powers as are set forth in this Agreement and such other powers as (s)he may be given from time to time by action of the Board.

(e) To receive and approve of recommendations from any committee established by the Board for recommendations relating to contracting with third parties in accordance with the procedures established by such committees.

(f) To receive and approve of applications for membership by prospective Members.

The President may assign any of the duties described above to other officers, directors, employees or independent contractors of the Cooperative.

10.5 The Vice-President/Bid Coordinator shall:

(a) Carry out all duties of the President of the Board during the absence, refusal or inability of the President to perform such duties and shall carry out such other functions as are assigned from time to time by the President or the Board of Directors. In the event the position of the Vice President becomes vacant, such vacancy shall be filled by the Board of Directors at its next regular or special meeting immediately following the vacancy. Until such time as the vacancy is filled by the Board of Directors, the Secretary/Treasurer shall serve as the Vice-President/Bid

Coordinator of the Cooperative in addition to fulfilling the responsibilities of Secretary/Treasurer.

10.6 The Secretary/Treasurer shall:

- (a) Keep and maintain all permanent records of the Cooperative.
- (b) In general, perform all of the duties incidental to the office of Secretary/Treasurer and such other duties as from time to time may be assigned.
- (c) In the absence of the Secretary/Treasurer or in the event of the inability or refusal of the Secretary/Treasurer to act, the President shall perform the duties of the Secretary/Treasurer and, when so acting, shall have all the powers and be subject to all the restrictions upon the Secretary/Treasurer.
- (d) Have charge and custody of and be responsible for all funds and securities of the Cooperative; receive and give all receipts for moneys due and payable to the Cooperative from any source whatsoever; deposit all such moneys in the name of the Cooperative in such banks, savings and loan associations or other depositories as shall be selected by the Board, keep the financial records of the Cooperative; and invest the funds of the Cooperative as are not immediately required in such securities as the Board shall specifically or generally select from time-to-time. Provided, however, that all investments of Cooperative funds shall be made only in those securities which may be purchased by Illinois non-home rule units of local government under the provisions of the Illinois Revised Statutes.
- (e) The Board of Directors may select a financial institution or financial consultant to carry out some or all of the functions which would otherwise be assigned to a Treasurer.

10.7 The Board of Directors may engage an Executive Director to perform the duties described in the Executive Director job description approved by the Board of Directors and as may be amended from time to time. In the absence of an Executive Director, the Director of the Administrative District shall serve in such capacity.

## **ARTICLE XI**

### **Financial Management**

11.1 The fiscal year of the Cooperative shall commence on July 1st and end on June 30<sup>th</sup> of the immediately following year.

11.2 The Board of Directors shall approve a budget for the administration of the Cooperative for each fiscal year, at the recommendation of the Executive Officers. A majority vote of the Board of Directors shall be required to approve or to amend such budget.

11.3 Unless an Executive Director is employed by the Board, the Board shall ultimately determine the amount of annual payments to be made by each Member District and the date upon which the payment is due. Annual Payments from the Member Districts shall be in an amount sufficient to fund the administrative expenses of the Cooperative.

11.4 The Annual Payments due shall be based, in whole or in part, upon an objective formula that is in place. These formulas must be applied equally to all Member Districts similarly situated.

11.5 If at any time the amount of funds available for operation of the Cooperative is not sufficient to pay the claims and expenses and to fund the Cooperative, the Board of Directors may authorize Supplementary Payments.

11.6 The Board of Directors shall provide to the Member Districts an annual audit of the financial affairs of the Cooperative to be made at the end of each fiscal year by an independent certified public accountant in accordance with generally accepted auditing principles. The annual report shall be delivered to each Member District.

## **ARTICLE XII**

### **Obligations of Members**

12.1 The obligation of Member Districts of the Cooperative shall be as follows:

- (a) To appropriate or budget for, where necessary to levy for and to promptly pay all annual payments, supplementary and other payments due to the Cooperative at such times and in such amounts as shall be established by the Board of Directors within the scope of this Agreement. Any delinquent payments shall be paid with a penalty which shall be equivalent to one percent (1%) per month or such higher amount as allowed by law and as established by the Board of Directors. A payment is delinquent if it is not received within 60 days of the date of the invoice. The Executive Director shall notify the Board of Directors of delinquent payments. Penalties for delinquent payments may be waived by a majority vote of the Board of Directors. In the event that the Cooperative shall be required to expend funds for administrative, legal or other costs brought about by the failure of a Member District to pay sums owed the Cooperative or to take other actions required under this Agreement, such amounts expended, including attorney's fees, shall be added to the sums due the Cooperative and shall be payable by the Member District.
- (b) To nominate a person to serve on the Board of Directors and to select an alternate Director.
- (c) By this agreement, each participating Member District is required to purchase specifically identified items from the preferred vendor.
- (d) Once the bids are awarded, each Member District will maintain a separate relationship with the successful bidder with regards to order, scheduling deliveries and payment of invoices.

### **ARTICLE XIII**

#### **Termination of the Cooperative.**

13.1 If, under the terms of this Agreement, the Board of Directors does not vote to continue the existence of the Cooperative, then the Cooperative shall cease its existence at the close of the then current fiscal year. At the termination of the Cooperative, all former Member Districts shall remain fully obligated for their portion of all financial commitments of the Cooperative which were created during the term of their membership along with any other unfulfilled obligations. In the event that the Cooperative does not continue in existence, the Board of Directors shall continue to meet on such a schedule as shall be necessary to carry out the winding up of the affairs of the Cooperative. Subsequent to the effective date

of termination of the Cooperative and after all claims are paid for years for which coverage was provided by the Cooperative, if any Surplus Funds remain, said Surplus shall be distributed to the Member Districts in the same proportion as each Member District's Annual Payment was made to the Cooperative in the Cooperative's last year of existence. Only Member Districts who were in the Cooperative during its last fiscal year shall be entitled to a receipt of such Surplus.

**ARTICLE XIV**

**Member Agreement.**

14.1 This Agreement shall be binding upon Member Districts of the Cooperative, and all members shall execute a copy hereof with the Cooperative, which may be executed in one or more counterparts of which shall be considered an original, and all of which taken together shall be considered one and the same instrument binding the Cooperative and each Member District.

**IN WITNESS WHEREOF**, each Member District has caused this Agreement to be executed by a duly authorized officer thereof as of the day and year last written below.

**MEMBER DISTRICT**

By: \_\_\_\_\_  
Board President

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**SECRETARY, Member District Board of Education**

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