

**BYLAWS  
OF  
RUTHERFORD BUILDING AGRICULTURAL RESORCUES NOW  
("BYLAWS")**

**ARTICLE I. ORGANIZATION**

**SECTION 1.1.** Organization. The name of the organization shall be Rutherford Building Agricultural Relationships Now ("Rutherford BARN" or "the Corporation"). It shall be a non-profit organization incorporated under the laws of the State of North Carolina.

**SECTION 1.2.** Aspirational Statement. The Mission of Rutherford BARN is to promote the local production of quality foods and the direct marketing of farm products and handcrafted goods from producers to consumers.

**SECTION 1.3.** Seal. The Board shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed on it the name of corporation and the words "Corporate Seal".

**ARTICLE II. PURPOSE AND POWERS**

**SECTION 2.1.** Purpose. Rutherford BARN is a non-profit corporation serving to operate a farmer's market (the "Market") in Rutherford County with permanent and/or mobile markets. Rutherford BARN shall be operated exclusively for the purpose of a) improving public health and well-being by increasing dietary intake of fresh produce; b) improving access to fresh produce by limited resource families and local impoverished communities c) enhancing the capacity for sustainable food production, processing, and distribution by addressing the educational needs of the producer and consumer; (d) supporting agri-tourism and economic development in the surrounding areas by providing a direct retail outlet for local agriculture producers, artisans, food vendors and their goods; (e) providing an atmosphere conducive for exchange of information and ideas between producers and consumers, and; (f) strengthening the social fabric of the local community by increasing awareness and support of local agriculture and the arts.

**SECTION 2.2.** Powers. Rutherford BARN shall have the power, directly or indirectly, alone or in conjunction or cooperation with others, to do any and all lawful acts which may be necessary or convenient to affect the charitable purposes, for which Rutherford BARN is organized, and to aid or assist other organizations or persons whose activities further accomplish, foster, or attain such purposes. The powers of Rutherford BARN may include, but not be limited to, the acceptance of contributions from the public and private sectors, whether financial or in-kind contributions.

**SECTION 2.3.** Lobbying Restrictions. Rutherford BARN shall not engage in substantial activities that attempt to influence legislation. The lobbying restriction shall not prohibit Rutherford BARN from engaging in public policy issues in an educational manner.

### **ARTICLE III. OFFICES**

**SECTION 3.1.** The principal office of Rutherford BARN in the State of North Carolina shall be located in the City of Spindale, County of Rutherford. Rutherford BARN may have such other offices, either within or without the State of North Carolina, as the Board of Directors (“Board”) may determine or as the affairs of Rutherford BARN may require.

**SECTION 3.2.** Rutherford BARN shall have and continuously maintain in the State of North Carolina a registered office, and a registered agent whose office is identical with such registered office. The registered office may but need not be identical with the principal office in the State of North Carolina, and the address of the registered office may be changed by the Board.

### **ARTICLE IV. MEMBERS**

**SECTION 4.1.** Categories of Members. There shall be three categories of Members.

- a. **Producer/Vendor.** Any individual, farm, or business actively engaged in the production of farm products or handcrafted goods for direct sale that meets the requirements set forth in Section 2 of this Article.
- b. **Organization/Institution.** Any community organization or institution with an interest in enhancing the production and marketing of quality, locally grown foods or handcrafted goods that meets the requirements set forth in Section 3 of this Article; and,
- c. **Individual.** Any resident of Rutherford County with a commitment to the production of marketing of locally grown farm products or handcrafted goods for direct sale that meets the requirements for membership set forth in Section 4 of this Article.

**SECTION 4.2.** Qualifications of Producer/Vendor Members. Producer/Vendor Membership in Rutherford BARN shall be available to individuals who meet the following criteria:

- a. Producer/Vendors must be actively engaged in the production of farm products or handcrafted goods for direct sale.
- b. Producer/Vendors must be members of the Market in order to sell at the Rutherford BARN location or any of its sanctioned satellite locations. Only Producer/Vendor members are eligible to sell at the Market.
- c. Members’ farms and/or production facilities must be within a forty (40) mile radius of Rutherford County.
- d. Members must allow an initial inspection of any farms and/or facilities to be conducted by a committee designated by the Board of Directors in order to verify to the Corporation that the Member is the producer of all goods being sold. The inspection must be carried out before the Member is allowed to sell at the Market.
- e. Members must abide by all of the rules, regulations and bylaws of the Corporation, including the Market Rules. A copy of the Market Rules will be given to each Member before the start of the Market season; the Member will sign a statement agreeing to the Market Rules. Definitions of those farm products and crafts which may be sold at the Market are determined by the Board of Directors and are included in the Market Rules.

**SECTION 4.3.** Qualifications of Organization/Institution Members.

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- a. Organization/Institution Members must display an interest in enhancing the production and marketing of quality, locally grown foods or handcrafted goods.
- b. Organization/Institution Members must be a resident of Rutherford County or a resident within forty (40) miles of Rutherford County.
- c. Organization/Institution Members must abide by all of the rules, regulations and bylaws of the Corporation, including the Market Rules. A copy of the Market Rules will be given to each Member before the start of the Market season

**SECTION 4.4. Qualifications of Individual Members.**

- a. Individual Members must display a commitment to the production of marketing of locally grown farm products or handcrafted goods for direct sale.
- b. Individual Members must be a resident of Rutherford County or a resident within forty (40) miles of Rutherford County.
- c. Individuals must abide by all of the rules, regulations and bylaws of the Corporation, including the Market Rules. A copy of the Market Rules will be given to each Member before the start of the Market season.

**SECTION 4.5. Steps for Membership.** The required steps for membership are (i) application, (ii) acceptance by the Board of Directors, and (iii) payment of annuals dues. The application requirements are set forth in Subsection 6(a) of this Article. The process with which the applications are accepted by the Board of Directors is set forth in Subsection 6(b) of this Article. Annual dues are set forth in Section 7 of this Article.

**SECTION 4.6. Application.**

- a. Submission of Application to the Board. Any Producer/Vendor, Organization/Institution, or Individual member applying for Membership shall complete the application procedure and submit a completed application to the Board for its review. Any controversy concerning Membership criteria and qualifications will be resolved by the Board, which has final authority in this regard.
  1. Organizations/Institutions and Individuals applying for membership shall indicate in the application for membership a statement of intent to collaborate and support the activities of the Market.
- b. Approval Procedure. The Board must approve a new Member application by a majority vote of all Directors. Applications for membership are accepted or rejected by the Board of Directors. The Board of Directors retains the power to determine at any time who is eligible for membership and to limit the number of Members according to the size of the Market, number of vendors/demand for product, and/or the number of market days in a season. The Board reserves the right to limit the number of vendor members based on the product they are selling.

**SECTION 4.7. Term, Dues, and Renewal.** The term of Membership shall be one (1) year ending on the last day of the fiscal year. All Members shall pay dues annually as determined by the Board. Producer/Vendor Membership shall be renewed automatically in subsequent years if the Member is in good standing with dues paid in full. Organization/Institution and Individual

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Membership shall be renewed in subsequent years upon resubmitting an application. The Board shall make reasonable provisions for the proration of dues and Membership terms for Members joining during, but after the start of, a fiscal year.

**SECTION 4.8.** Termination of Membership.

- a. Delinquency. A Member shall become delinquent if annual dues are not paid within two (2) months of the initial dues notification. A notice of delinquency shall be given and the Membership shall be terminated if payment is not made within thirty (30) days of notice. Any individual whose Membership has been terminated for reasons of delinquency may be reinstated according to procedures established by the Board. The Board may decline to reinstate Members whose Membership has been terminated for reasons of delinquency.
- b. Discipline. By a two-thirds (2/3) affirmative vote, the Board may expel a Member for any cause which, in its judgment, is deemed sufficient, provided that said cause is fair and reasonable. No Member shall be expelled until he or she has been notified pursuant to subsection 4.8(f). If no response is received within the time limit set forth in the notice, the Member may be automatically expelled. Upon expulsion under this section, all rights and privileges of Membership of the expelled Member are terminated and any Membership certificate shall be surrendered to Rutherford BARN by the expelled Member. The Member shall be liable for all costs, including, but not limited to, attorney's fees, incurred by Rutherford BARN in seeking recovery of any Membership certification, collection of delinquent Membership dues, and in seeking injunctions prohibiting the expelled Member from claiming Membership after the expulsion.
- c. Death. A Member's Membership in Rutherford BARN is automatically terminated upon that Member's death or dissolution.
- d. Incapacity. A Member's Membership in Rutherford BARN is automatically suspended upon that Member's incapacity (in the sole opinion of the Board). If the incapacity is cured or otherwise removed, then the incapacitated Member's suspension may be lifted and the Member reinstated upon petition to the Board for such reinstatement.
- e. Resignation. A Member desiring to resign shall submit in writing notification to the Board for its action. This notification does not relieve the Member of any dues owed at the time of the notification. Membership shall be terminated upon the acceptance of the resignation by the Board.
- f. Procedure. Any Member's rights may be terminated or suspended or the Member expelled pursuant to any procedure that is fair and reasonable and is carried out in good faith. The Member should be notified in writing at least fifteen (15) days prior to the expulsion or termination or suspension of his/her Membership and the reasons for said expulsion, termination, or suspension. At least five (5) days before the proposed expulsion of the Member or the proposed termination or suspension of the Member's Membership, the Member may provide to the Board a written explanation of why the proposed expulsion, termination, or suspension should not take place. The Board may also allow, but is not required to do so, the Member to give oral testimony before the Board on that Member's behalf to request that no expulsion, termination, or suspension

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be instituted. If a Board meeting is held to consider a written statement by the Member or an oral hearing is held, a decision shall be made and conveyed in writing to the Member within thirty (30) days of said Board meeting or hearing date. Immediate expulsion of a Member or termination or suspension of a Member's Membership may take place prior to the end of the fifteen (15) days' notice period required above, if such termination or suspension is fair and reasonable taking into consideration all of the relevant facts and circumstances. Any written notice given by mail must be given by first-class or certified mail sent to the last address of the Member shown on RUTHERFORD BARN's records. Any proceeding challenging an expulsion, termination or suspension, including a proceeding in which defective notice is alleged, must be commenced within one (1) year after the effective date of the expulsion, termination or suspension.

- g. **Obligation of Member for Dues.** A Member who has resigned, been expelled, or whose Membership has been terminated or suspended may be liable to Rutherford BARN for dues, assessments or fees as a result of obligations incurred or commitments made prior to such resignation, expulsion, termination, or suspension. Dues are incurred at the beginning of each fiscal year and no refunds shall be given for expulsion, termination, suspension or resignation, unless otherwise indicated in the Bylaw for certain rare circumstances.

**SECTION 4.9.** Transfer of Membership. Membership in Rutherford BARN, or any rights connected to the membership, is not transferable.

## **ARTICLE V. MEETINGS OF THE MEMBERS**

**SECTION 5.1.** Annual Meeting. The annual meeting of the Members shall be held at a time and place designated by the Board of Director's sometime during the first quarter of the calendar year.

**SECTION 5.2.** Regular Meetings. The Board of Directors will establish a schedule of regular meetings of Members and may designate the time and place of the meetings. The Board may fix regular meetings any place, within Rutherford County, North Carolina, as the place for holding any special meeting.

**SECTION 5.3.** Special Meetings. Special meetings of the Members may be called by or at the request of the President, by a majority vote of the Board of Directors, or by at least one-third (1/3) of all Members entitled to cast votes on any issue proposed to be considered at the proposed special meeting. The person or persons authorized to call special meetings of the Members may fix any place, within Rutherford County, North Carolina, as the place for holding any special meeting.

**SECTION 5.4.** Notice. Rutherford BARN shall notify Members of the date, time and place of each annual, special, and regular Members' meeting no fewer than fifteen (15) days Rutherford BARN is required to give notice only to Members entitled to vote at the meeting. All notices of special meetings shall include a description of the purpose or purposes for which the meeting is

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called. A notice of any meeting (annual, regular or special) called for any of the following purposes shall include a description of said purpose(s) to be voted upon by the Members:

- a. A conflict of interest transaction;
- b. Indemnification of an Officer, employee, or;
- c. Amendment of the Articles or Bylaws;
- d. Merger with another entity;
- e. Sale of substantially all of the assets of Rutherford BARN other than in the ordinary course of activities;
- f. Dissolution of Rutherford BARN

**SECTION 5.5.** Waiver of Notice. A Member may waive any notice required by the Articles or the Bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the Member entitled to the notice, and be delivered to Rutherford BARN for inclusion in the minutes or filing with the corporate records.

**SECTION 5.6.** Voting. One vote is allotted per member unless otherwise specified in the Articles or the Bylaws. Membership votes may be conducted only if a quorum of the Members is present at any annual, regular, or special meeting. If a quorum is present when a vote is taken, the affirmative vote of a majority of Members present constitutes the act of the Members, unless a greater number than a majority of the Members present is required by the Articles or the Bylaws. A Bylaw amendment to increase or decrease the vote required for any Member action must be approved by the Members by the same vote required to take action under the Bylaw voting requirements then in effect or proposed to be adopted, whichever is greater. A Member who is present at a meeting when corporate action is taken is deemed to have assented to the action unless:

- a. He or she objects at the beginning of the meeting, or promptly upon his or her arrival, to holding the meeting or transacting business at the meeting;
- b. He or she dissents or abstains from the action taken, which dissent or abstention is entered in the minutes of the meeting; or

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- c. He or she delivers written notice of his/her dissent or abstention to the presiding Officer of the meeting before its adjournment or to the Secretary immediately after adjournment of the meeting. The right of dissent or abstention is not available to a Director who votes in favor of the action taken.

**SECTION 5.7. Quorum.** Members representing 50% or more of the combined Producer/Vendor, Individual, and Organization/Institution membership (rounded up in the case of an odd number of members) will constitute a quorum. In the event that a quorum is not present, a meeting may be adjourned by the Members present until a quorum can be obtained. A quorum is required for a membership vote to take place.

- a. *Amendment Quorum.* An amendment to the Articles or Bylaws that adds, changes, or deletes a quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.
- b. *Quorum If Notice Is Not Given of Matter.* Unless one-third (1/3) or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of Members are those matters that are described in the meeting notice.

**SECTION 5.8. Record Date.** The Board of Directors shall fix as the record date for the determination of Members entitled to notice of a Members' meeting, to demand a special meeting, to vote, or to take any other action, a date not more than seventy (70) days before the meeting or action requiring a determination of Members. If the Board of Directors fails to fix a record date for any meeting of Members, Members of record on the close of business on the business day next preceding the day of which notice is given shall be entitled to notice. A record date fixed for a Members' meeting is effective for any adjournment of such meeting unless the Board of Directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

**SECTION 5.9. List of Members.**

- a. *List of Members.* After fixing a Record Date for a notice of a meeting, Rutherford BARN shall prepare an alphabetical list of the names of all its Members who are entitled to notice of a meeting. The list must show the address and number of votes each Member is entitled to vote at the meeting. Rutherford BARN shall prepare, on a current basis through the time of the Membership meeting, a list of Members, if any, who are entitled to vote at the meeting, but not entitled to notice of the meeting. This list shall be prepared on the same basis and be part of the list of Members. The list of Members must be available for inspection by any Member for the purpose of communication with other Members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at Rutherford BARN 's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A Member, a Member's agent, or Member's attorney is entitled, upon written demand, to inspect and, subject to the limitations set forth in subsection 5.9(b), to copy the list, at a reasonable time and at the Member's expense, during the period it is available for inspection. Rutherford BARN

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shall make the list of Members available at the meeting, and any Member, a Member's agent, or Member's attorney is entitled to inspect the list at any time during the meeting or any adjournment. If Rutherford BARN refuses to allow a Member, a Member's agent, or Member's attorney to inspect the list of Members before or at the meeting (or copy the list as permitted by subsection b), a court of record having equity jurisdiction in the county where Rutherford BARN 's principal office (or, if none in this State, its registered office) is located, on application of the Member, may summarily order the inspection or copying at Rutherford BARN 's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete. Refusal or failure to make available the list of Members does not affect the validity of action taken at the meeting.

b. *Limitations on Use of List of Members.* A Member's rights to inspect, copy, and use the List of Members prepared in compliance with this section shall be subject to the following limitations:

1. A Member may inspect and copy the records identified in subsection 5.9(a) only if:
  - i. The Member's demand is made in good faith and for a proper purpose;
  - ii. The Member describes with reasonable particularity the purpose and the records the Member desires to inspect in the written demand for inspection; and
  - iii. The records requested are directly connected with this purpose.
2. Without consent of the Board, a List of Members or any part thereof may not be obtained or used by any person for any purpose unrelated to a Member's interest as a Member. Without limiting the generality of the foregoing, without the consent of the Board, a List of Members or any part thereof may not be:
  - i. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by Rutherford BARN;
  - ii. Used for any commercial purpose (other than to refer business to another Member); or
  - iii. Sold to or purchased by any individual or entity.

**SECTION 5.10.** Proxies. A Member may vote by proxy and/or representation up to but not more than twice in a given fiscal year by appointing one or more proxies to vote or otherwise act for the Member by signing an appointment form, either personally or by the Member's attorney-in-fact. Only proxies executed on an appointment form authorized by the Secretary of this Organization will be recognized. An appointment form is a form that expresses the intent of a Director to appoint a named individual as a proxy. When selecting a proxy, the Member seeking to vote by proxy must select a fellow Member to act as said Member's proxy. See attached as Appendix A.



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**SECTION 5.11.** Informal Actions by Members. Any action required by law to be taken at a meeting of Members, or any action which may be taken at a meeting of Members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by eighty percent (80%) of all Members entitled to vote on the action. Such consent may be evidenced by signature or electronic indicia of assent, as well as by facsimile transmission, and should be filed with the minutes of the proceedings of the Members, whether done before or after the action taken.

## **ARTICLE VI. BOARD OF DIRECTORS**

**SECTION 6.1.** General Powers. All corporate powers shall be exercised by, or under the authority of, the Board. The business and affairs of Rutherford BARN shall be managed under the direction of its Board. The Board of Directors will have general supervision and control of the Corporation's affairs and has the authority to make all rules and regulations consistent with North Carolina law and the Corporation's bylaws for the management of the business, guidance of all agents of the Corporation and supervision of employees and contractors. This includes the power to levy a fee for any services provided by the Corporation to its members provided that said fee is approved by a majority vote of the Members at any regular or special membership meeting before it goes into effect. The Board of Directors also retains the authority to implement an ethical code governing the conduct of all Members. The Board of Directors must maintain proper records of all business

**SECTION 6.2.** Number, Term, and Qualifications.

- a. Number. The Board shall consist of no more than fifteen (15) and no less than nine (9) Directors. The number of Directors shall always be divisible by three (3). Producer/Vendor members shall at any time hold at least seven (7) of the available seats, or make up 51% of membership. At any given time, at least one Director shall be an Organization/Institution Member and one director shall be an Individual member, if possible.
- b. Term.
  1. All Directors shall be appointed for a three (3) year term beginning with Rutherford BARN's fiscal year (January 1 through December 31).
  2. Directors shall be eligible for re-appointment for a second three (3) year term, but must be separated from the Board for a period of one (1) year before they will be eligible to return to the Board for additional terms. Each Director shall hold office until his successor shall have been elected and qualified.
  3. A Board Member may serve no more than two consecutive terms of office.
- c. Qualifications. In order to serve on the Board, a Director shall possess the following:

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1. must be natural persons who are eighteen (18) years of age or older
2. resident(s) of the state of North Carolina
3. active member(s) of Rutherford BARN

**SECTION 6.3.** Resignation of Director. A Director may resign from the Board at any time by delivering written notice to the Secretary. The resignation shall be effective when notice is delivered unless the notice specifies a later effective date.

**SECTION 6.4.** Removal of Director. A Director may be removed by a two-thirds (2/3) vote of the Board at any regular or special meeting of the Board at which quorum is present, provided that the Director being considered for removal is provided with a written explanation as to why the Director is being removed, and that an opportunity for a hearing before the Board has been offered. Furthermore, any Board Member may be removed for cause by a two-thirds vote of the Members at a special or regular membership meeting. Any Member may initiate a vote to remove, but the vote only may be taken after the membership has received written notice of the Member's intention to initiate a vote to remove that Board Member at least thirty days but not more than sixty days prior to the vote. A Director may also be removed in accordance with Article 7.5. Nothing in this section should be construed as requiring that a Director be removed only for cause

**SECTION 6.5.** Vacancies. Any vacancy occurring in the Board and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

**SECTION 6.6.** Compensation. Directors shall not receive any stated salaries for their service as Director; but nothing contained in these Bylaws shall be construed to preclude any Director from serving Rutherford BARN in any other capacity and receiving compensation for those services.

**SECTION 6.7.** Duties.

- a. Employees and Contractors. The Board of Directors may employ or authorize the employment of employees and contractors as deemed necessary and to set compensation at the fair market value for the services rendered.
- b. Insurance. The Board of Directors will provide for the adequate insurance of the Corporation's property or property stored by the Corporation and not otherwise adequately insured. The Board of Directors will provide adequate general commercial liability insurance to cover market activities.
- c. Audits. At least once a year the Board of Directors will review the Corporation's financial records. Furthermore, the Secretary-Treasurer must deliver an annual written statement of the Corporation's financial affairs. The Board of Directors may secure the services of a disinterested public auditor or accountant to submit a written report based on the findings to the Corporation's membership.
- d. Depository of Funds. The Board of Directors will use a federally insured bank to deposit the funds of the Corporation.
- e. Memberships. The Board of Directors will accept new memberships, terminate memberships and reinstate memberships as stated in Article II of the bylaws.

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- f. Observance of the Bylaws. The Board of Directors has the power to enforce the observance of the Corporation's bylaws by all Members.
- g. Market Rules. The Board of Directors shall develop and implement a set of Market Rules to govern the operation of the Market, including any sponsored mobile markets.
  - 1. The Market Rules shall be reviewed annually by the Board of Directors.
  - 2. Any revisions or changes of the Market Rules must be submitted in writing to the Board of Directors for consideration prior to a change.
  - 3. Any revisions or changes must be conveyed to the Members in writing at least ten days before affecting the operation of the Market.
  - 4. Members may challenge any Market Rule in writing to the Board of Directors in order to effect or rescind any rule

## **ARTICLE VII. MEETINGS OF THE BOARD**

**SECTION 7.1.** Annual Meeting. The annual meeting of the Board shall be held in Rutherford County, North Carolina, in the month preceding the annual meeting of the Members. The Board may provide by resolution the time and place, within Rutherford County, North Carolina, for the holding of such annual meeting of the Board.

**SECTION 7.2.** Regular Meetings. Regular meetings of the Board, other than the annual meeting, shall be held in accordance with a schedule set by the Board in the first quarter. The Board shall meet at least once per quarter. The Board may provide by resolution the time and place, within Rutherford County, North Carolina, for the holding of such regular meetings of the Board.

**SECTION 7.3.** Special Meetings. Special meetings of the Board may be called by or at the request of the President or any two (2) Board Members. The person or persons authorized to call special meetings of the Board may fix any place, within Rutherford County, North Carolina, as the place for holding any special meeting.

**SECTION 7.4.** Attendance. Directors who fail to attend two (2) meetings of the Board of Directors within in the same fiscal year and without acceptable excuse/prior notice to the other members of the board shall be subject to removal at the discretion of the Board. Attendance by a Director need not always be in person to count a Director present. A Director may attend via teleconference or videoconference over the course of his or her appointed term. Directors with excessive absence (over half the meetings within the same fiscal year) from meetings regardless of notice will be asked to resign from the board. Any member of Rutherford BARN may attend meetings by the Board of Directors.

**SECTION 7.5.** Quorum. A simple majority of the Board Members on the Board of Directors constitutes a quorum. Quorum is necessary for the transaction of any business by the Board of Directors. Fifty percent (50%) of the duly appointed Directors of the Board shall constitute a quorum for the transaction of business at any meeting of the Board; however, if less than fifty percent (50%) of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting without further notice.

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**SECTION 7.6.** Voting. If a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present constitutes the act of the Directors, unless a greater number than a majority of the Directors present is required by the Articles of Incorporation or the Bylaws.

**SECTION 7.7.** Secret Ballot. Secret ballot may be used in voting on all motions raised in closed session upon vote of a majority of Directors present at such closed session. A secret ballot is not required.

**SECTION 7.8.** Order of Business. The annual and regular meetings of the Board shall proceed using the following format: Roll Call, Approving the Minutes of the preceding meeting, Reports of Committees, Reports of Officers, Old and Unfinished Business, New Business, Adjournments.

**SECTION 7.9.** Agenda. All board meetings shall have a written agenda that shall be sent to all members of the Board.

**SECTION 7.10.** Notice. Notice of all regular meetings shall be given seven (7) days in advance and notice of all special meetings shall be given at least three (3) days in advance by written notice delivered personally, sent by mail, facsimile transmission, or electronic mail to each Director at his/her address as shown by the records of Rutherford BARN. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with prepaid postage. If sent by facsimile transmission or electronic mail, such notice shall be deemed delivered when confirmation of delivery to the designated number or mailbox is received. Such notice need not specify the purpose for which the meeting is called.

**SECTION 7.11.** Waiver of Notice. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director 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, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these Bylaws.

**SECTION 7.12.** Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or by these Bylaws.

**SECTION 7.13.** Informal Action by Directors. Any action required by law to be taken at a meeting of Directors, or any action which may be taken at a meeting 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. Such consent may be evidenced by signature or electronic indicia of assent, as well as by facsimile transmission, and should be filed with the minutes of the proceedings of the Board, whether done before or after the action taken.

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## ARTICLE VIII. OFFICERS

**SECTION 8.1.** Officers. The Officers of the Rutherford BARN shall be the President, Vice-President, Secretary-Treasurer, and such other officers as may be approved by a resolution of the Board. Such other officers shall be elected in accordance with the provisions of this Article. No Board Member may simultaneously hold more than one of the following positions: President, Vice-President, or Secretary-Treasurer.

**SECTION 8.2.** Election and Term of Office.

- a. The officers of Rutherford BARN shall be elected annually by the Board immediately after each election of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon after as practicable.
- b. New offices may be created and filled at any meeting of the Board.
- c. Each officer shall be elected for a term of one year or until his successor shall have been duly elected and shall have qualified. Officers shall be eligible for re-election for one additional term provided such election does not create a violation of Article VI, Section 2.

**SECTION 8.3.** Resignation of Officer. An Officer may resign at any time by delivering written notice to the Secretary. The resignation shall be effective when it is delivered unless the notice specifies a later effective date.

**SECTION 8.4.** Removal of Officer. An Officer elected or appointed by the Board may be removed by the Board whenever, in its judgment, the best interests of Rutherford BARN would be served. Removal shall require a two-thirds (2/3) vote of the Board at any regular or special meeting.

**SECTION 8.5.** Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term. At the end of said term, the interim replacement is eligible for re-election, unless he/she is completing the second consecutive term of the vacated seat. Otherwise, the Board of Directors may declare the office vacant and elect the Officer's successor as provided in Section 2 of this Article.

**SECTION 8.6.** Officers and Duties.

- a. *President.* The President shall: a) preside over all meetings of the Board of Directors; b) preside over all meetings of the members; c) call special meetings of the Board of Directors; d) perform all acts and duties usually performed by an executive and presiding officer; e) supervise employees and contractors; f) sign all papers for the board of Directors (except for authority granted in Section 6.7(d)-(e)); and g) perform any other duties as may be prescribed by the Board of Directors.
- b. *Vice-President.* The Vice-President shall: a) assist the President and will perform the duties of the President in his/her absence; and b) perform any other duties as may be

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prescribed by the Board of Directors. The Vice-President shall be considered next in succession for the President, if the President's position is vacated or when the President's present term expires. This consideration would be made with the recommendation of the Nominating Committee and Board's approval. The Vice-President shall perform such duties as may be assigned by the President or by the Board.

- c. *Secretary-Treasurer.* The Secretary-Treasurer shall: a) be responsible for keeping the archives of the Corporation's records and documents, including a complete record of all meetings of the Members and meetings of the Board of Directors; b) serve all notices required by law and by the bylaws of the Corporation, including state and federal legal and tax documents; c) make a full report of all matters and business pertaining to the office of the Secretary-Treasurer at the Annual Membership Meeting; d) participate in the compilation of reports required by the Corporation or the Board of Directors; e) retain a current complete list of Members, agents, employees and contractors of the Corporation and their contact information as compiled by the Market Manager; f) perform all duties with respect to Corporation finances as prescribed by the Board of Directors and as provided in Section 6.7(d); and g) turn over all records, documents and other Corporation property in his/her possession upon the election of a successor.

**SECTION 8.7.** Other Officers. The duties and terms of office of any other officer or assistant officer appointed pursuant to Section 1 of this Article shall be specified by the Board and or by the President if so authorized by the Board.

## **ARTICLE IX. GENERAL STANDARDS OF CONDUCT**

**SECTION 9.1.** Standards of Conduct for Director and Officers. A Director or Officer shall discharge his or her duties as a Director or Officer, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of Rutherford Building Agricultural Relationships Now. The Director or Officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- a. One or more Officers or employees of the Rutherford BARN whom the Director reasonably believes to be reliable and competent in the matters presented;
- b. Legal counsel, public accountants, or other persons as to matters the Director reasonably believes are within the person's professional or expert competence; or
- c. A committee of the Board of which he is not a member if the Director reasonably believes the committee merits confidence. (Only for Directors).

A Director or Officer is not acting in good faith if said Director or Officer has knowledge concerning the matter in question that makes reliance otherwise permitted by this section unwarranted.

**SECTION 9.2.** Loans to Directors or Officers. The Rutherford Building Agricultural Relationships Now may not lend money to, or guarantee the obligation of, a Director or Officer

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of Building Agricultural Relationships Now. The fact that a loan or guaranty is made in violation of this section does not affect the borrower's liability on the loan.

**SECTION 9.3.** Compliance with State and Federal Laws. Directors and Officers shall at times be in compliance with various provisions of applicable state and federal laws governing nonprofit organizations.

## **ARTICLE X. COMMITTEES**

**SECTION 10.1.** Committees of the Board. The Board may create standing committees, which shall have and may exercise such powers as conferred or authorized by the resolutions creating them.

**SECTION 10.2.** Ad Hoc Committees. The Board, by resolution, may create ad hoc committees to exist for as long as the Board deems the committees are needed.

**SECTION 10.3.** Other Committees. There shall be such other standing and special committees as the Chair of the Board may appoint. Other committees not having and exercising the authority of the Board in the management of Rutherford BARN may be appointed in such manner as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present.

**SECTION 10.4.** Appointment to Committee. Committee members shall be appointed by the Chair subject to the approval of the Board.

## **ARTICLE XI. STAFF**

**SECTION 11.1.** Executive Director. The Board may appoint an Executive Director who shall be the principal administrative officer of Rutherford BARN, responsible for carrying out the policies and programs of Rutherford BARN in accordance with the Articles of Incorporation, the Bylaws, and the policies of the Board.

**SECTION 11.2.** Other Staff. The Executive Director may appoint such staff members as may be authorized by the Board and shall assign their duties. Staff members shall be responsible to the Executive Director.

**SECTION 11.3.** Compensation. Compensation packages for staff members shall be determined by using salary surveys (ex. Guidestar) to compare the position to similar positions in the non-profit sector.

## **ARTICLE XII. CONTRACTS, CHECKS, DEPOSITS, AND FORMS**

**SECTION 12.1.** Contracts. The Board may authorize any Officer or Agent of Rutherford BARN, in addition to the Officers so authorized by these Bylaws, to enter into any contract or

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execute and deliver any instrument in the name of and on behalf of Rutherford BARN , and such authority may be general or confined to specific instances.

**SECTION 12.2.** Loans. No loans shall be contracted on behalf of the Rutherford Building Agricultural Relationships Now and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

**SECTION 12.3.** Checks, Drafts, etc. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of Rutherford BARN , shall be signed by such Officer(s) or Agent(s) of Rutherford BARN and in such manner as shall be determined by resolution of the Board.

**SECTION 12.4.** Deposits. All funds of Rutherford BARN shall be deposited to the credit of Rutherford BARN at such banks, trust companies, or other depositaries as the Board shall designate.

**SECTION 12.5.** Gifts. The Board may accept on behalf of Rutherford BARN any contribution, gift, bequest, or devise for the general purpose(s) or for any special purpose(s) of Rutherford BARN.

## **ARTICLE XII. CONFLICTS OF INTEREST POLICY**

**SECTION 13.1.** Purpose of Conflict of Interest Policy. The purpose of the conflict of interest policy is to protect Rutherford BARN's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Director of Rutherford BARN or might result in a possible excess benefit transaction. This policy is intended to supplement, but not replace any applicable state or federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

**SECTION 13.2.** Definitions. The following definitions relate to this Article XI (Conflict of Interest Policy):

- a. *Interested Person.* Interested Person shall mean any Director, Officer, or member of a committee with Board powers delegated by the Board, who has a direct or indirect Financial Interest.
- b. *Financial Interest.* Financial Interest shall mean an interest of a person if the person has, directly or indirectly, through business, investment, or family:
  1. an ownership or investment interest in any entity with which Rutherford BARN has a transaction or arrangement;



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2. a compensation arrangement with Rutherford BARN or with any entity or individual with which Rutherford BARN has a transaction or arrangement; or
  3. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Rutherford BARN is negotiating a transaction or arrangement.
- c. *Compensation.* Compensation shall include direct or indirect remuneration, as well as gifts or favors, that are not insubstantial.

### **SECTION 13.3.** Procedures.

- a. *Duty to Disclose.* In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Directors and members of committees with Board powers considering the proposed transaction or arrangements.
- b. *Determining Whether a Conflict of Interest Exists.* After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, the Interested Person shall leave the Board or committee meeting while the determination of conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.
- c. *Procedures for Addressing Conflict of Interest.*
  1. An Interested Person may make a presentation at the Board or committee meeting, but after the presentation, the Interested Person shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
  2. The preceding officer of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
  3. After exercising due diligence, the Board or committee shall determine whether Rutherford BARN can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
  4. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in Rutherford BARN's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decisions as to whether to enter into the transaction or arrangement.

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d. *Violations of the Conflict of Interest Policy.*

1. If the Board or committee has reasonable cause to believe a Director, Officer or Member has failed to disclose any actual or possible conflicts of interest, it shall inform the potential Interested Person of the basis for such belief and afford the potential Interested Person an opportunity to explain the alleged failure to disclose.
2. If, after hearing the potential Interested Person's response and after making further investigation as warranted by the circumstances, the Board or committee determines the potential Interested Person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

**SECTION 13.4.** Records of Proceedings. The minutes of the Board and all committees with Board powers shall contain the following:

- a. Names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest;
- b. The nature of the Financial Interest;
- c. Any action taken to determine whether a conflict of interest was present;
- d. The Board's or committee's decisions as to whether a conflict of interest, in fact, existed;
- e. The names of the persons who were present for the discussions and the votes relating to the transaction or arrangement;
- f. The content of the discussion, including any alternatives to the proposed transaction or arrangement; and
- g. A record of any votes taken in connection with the proceedings.

**SECTION 13.5.** Compensation. A voting Director who receives Compensation, directly or indirectly, and in whatever capacity, from Rutherford BARN for services is precluded from voting on matters pertaining to that Director's Compensation. A voting member of any committee whose jurisdiction includes Compensation matters and who receives Compensation, directly or indirectly, and in whatever capacity, from Rutherford BARN for services is precluded from voting on matters pertaining to that committee member's Compensation. No voting Director or committee member whose jurisdiction includes Compensation matters and who receives Compensation, directly or indirectly, and in whatever capacity, from Rutherford BARN, either individually or collectively, is prohibited from providing information to any committee regarding Compensation.

**SECTION 13.6.** Annual Statements. Each Director, Officer, and member of a committee with Board powers shall annually sign a statement which affirms such person:

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- a. Has received a copy of the conflict of interest policy;
- b. Has read and understands the policy;
- c. Has agreed to comply with the policy; and
- d. Understands that Rutherford BARN is charitable and, in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

#### **SECTION 13.7. Periodic Reviews.**

- a. To ensure Rutherford BARN operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:
  1. Whether compensation arrangements and benefits are reasonable, based on competent survey information,
  2. Whether partnerships, joint ventures, and arrangements with management organizations conform to Rutherford BARN's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in an inurement, an impermissible private benefit, or an excess benefit transaction.
- b. When conducting the periodic reviews, Rutherford BARN may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

### **ARTICLE XIV. BOOKS AND RECORDS**

**SECTION 14.1.** Management. Rutherford BARN's shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board and committees having any of the authority of the Board.

**SECTION 14.2.** Right to Access. Directors shall have the right to inspect the Rutherford BARN's records and boards.

### **ARTICLE XV. FISCAL YEAR**

The fiscal year of Rutherford BARN shall begin on the first day of January and end on the last day of December in each year.

### **ARTICLE XVI. AMENDMENTS TO BYLAWS**

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These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a two-thirds vote of the Directors of Rutherford BARN at any regular meeting or any special meeting, if at least five (5) days written notice – be it sent by mail, facsimile transmission, or electronic mail – is given of intention to alter, amend, repeal, or adopt new Bylaws at such meeting. Notice of the amendment shall include the text of the proposed amendments to the Bylaws.

#### **ARTICLE XVII. DISSOLUTION OF CORPORATION**

In the event of the dissolution of the Rutherford BARN, no director or officer shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the corporation from any source, after the payment of all debts and obligations of the Corporation, shall be disposed of exclusively for the purposes of the Corporation in such manner or to such organization or organizations organized and operated for substantially the same purposes as this Corporation or exclusively for charitable, education, religious, or scientific purposes as shall at the time qualify as exempt organization or organizations under 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.

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**APPENDIX A**

**MEMBER PROXY APPOINTMENT FORM**

I, \_\_\_\_\_ (name of member appointing proxy), appoint  
\_\_\_\_\_ (name of member appointed as a proxy) as my proxy to  
attend the meeting of the Members of NON-PROFIT NAME, to be held  
\_\_\_\_\_, 20\_\_, at \_\_\_\_\_ (time), in \_\_\_\_\_, STATE NAME.

The proxy named above has the authority to vote and act for me to the same extent that I would if  
personally present, with power of substitution, only as to the following matters:

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DATE: \_\_\_\_\_

Member Appointing Proxy

\_\_\_\_\_

This proxy is to be presented by the proxy to the Secretary at the meeting dated above for approval.

**THIS PROXY IS VALID ONLY FOR THE MEETING FOR WHICH IT IS GIVEN AND ANY  
LAWFUL ADJOURNMENT. IN NO EVENT IS THE PROXY VALID FOR MORE THAN  
NINETY (90) DAYS FROM WHICH IT IS DATED.**