



THE VETERINARY COOPERATIVE MEMBERSHIP AGREEMENT

THIS MEMBERSHIP AGREEMENT (this “Agreement”) is entered into as of the date TVC receives and enters your check or the date this agreement is signed and entered into the TVC databases as “joined” if the membership payment is waived (the “Effective Date”) by and between The Veterinary Cooperative, a Minnesota cooperative association (the “Cooperative”), and the party identified on the last page (the “Applicant” and upon execution of this Agreement by the Cooperative, the “Member”).

RECITALS

1. The Cooperative is organized to provide centralized purchasing, financing, marketing and other services for its Members, who operate independent animal hospitals, and other patrons and to be operated on a cooperative basis for the mutual benefit of its Members.
2. The Applicant desires to become a Member of the Cooperative.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and obligations of the Cooperative and the Applicant set forth in this Agreement, similar obligations of other members of the Cooperative, and in accordance with the Articles of Organization (“Articles”) and Bylaws of the Cooperative (“Bylaws”), the Cooperative and the Applicant agree as follows:

SECTION 1. Membership.

1.1 Member of the Cooperative. Provided all other membership criteria have been met, effective upon acceptance of the Applicant’s membership application and execution of this Agreement by the Cooperative, the Applicant shall become a Member of the Cooperative. Upon execution of this Agreement, the Member shall pay to the Cooperative a one-time membership fee in an amount (if any) established from time to time by the Board of Directors (the “Initial Fee”). Payment of the Initial Fee does not create an equity interest and is non-refundable. The Member acknowledges that the amount of the Initial Fee may be increased or decreased from time to time by the Board of Directors and the amount of the Initial Fee, if any, paid by the Member may be different from the amount of the Initial Fee, if any, paid by members admitted to the Cooperative before or after the Member is admitted.

1.2 Membership Certification. Membership in the Cooperative shall be evidenced by this Agreement or another form of certification as determined by the Cooperative’s board of directors (the “Board of Directors”) from time to time.

1.3 Electronic Notices. The Member consents to delivery of notices of membership meetings, etc., to the Member by electronic communication as may be authorized by the Board of Directors.

1.4 Agreement and Incorporation of the Cooperative’s Governing Instruments. The Member hereby acknowledges and agrees that it has received or has been provided reasonable

access to current copies of the Articles, Bylaws and policies of the Board of Directors and that all provisions of those documents are incorporated by reference herein.

SECTION 2. Term and Termination.

2.1 Term. The initial term of this Agreement shall be for one calendar year following the Effective Date (the “Initial Term”). After the expiration of the Initial Term, this Agreement will thereafter be automatically renewed for additional periods of twelve months unless the Member gives to the Cooperative its notice of intent to terminate. Upon TVC receiving such a notice of termination from a member by e-mail or letter, the member's termination will be effective immediately. Such Initial Term and any subsequent renewal periods are referred to herein as the “Term.”

2.2 Termination by the Cooperative.

(a) The Cooperative may, at its option, terminate this Agreement, by written notice to the Member, if the Board of Directors finds that the Member:

- i. intentionally or repeatedly violated any bylaw, policy or standard of this Cooperative;
- ii. breached any contract with this Cooperative;
- iii. willfully obstructed any lawful purpose or activity of this Cooperative;
- iv. remains indebted to this Cooperative for ninety (90) days after such indebtedness becomes payable; or
- v. failed to patronize this Cooperative for a period of one year or at minimum levels established from time to time by the Board of Directors and disclosed to the Members.
- vi. Failed to indicate to TVC vendors that TVC is their cooperative or GPO over all other groups they may belong.

2.3 Termination by Member. A Member may, at its option, terminate this Agreement by written notice to the Cooperative. A Member's membership shall terminate automatically in the event of such Member's death or dissolution or cessation of business.

2.4 Effect of Termination. Upon termination of membership such Member shall thereafter have no further rights in this Cooperative except rights to redemption or retirement of the Member's Patrons Equities at the Board of Directors' discretion, as provided in the Bylaws. Termination of membership shall not impair the obligations or liabilities of either party under any contract with the Cooperative which may be terminated only as provided therein. A terminated Member shall pay to the Cooperative within ninety (90) days of termination all outstanding invoices and other amounts due to the Cooperative.

SECTION 3. Obligations of the Cooperative.

3.1 Services. The Cooperative shall to the best of its ability furnish to its Members those services which it is authorized to offer by its Board of Directors and empowered by the Articles, the Bylaws and the Minnesota Cooperative Associations Act, Minnesota Statutes Chapter 308B (the “Act”) to offer and perform.

SECTION 4. Representations and Warranties of Member.

Member hereby represents and warrants that:

4.1 No Conflict. The execution, delivery and performance by the Member of this Agreement and participation in performance under this Agreement, does not and will not: (a) violate any provision of law, statute, judgment, order, writ, injunction, decree, award, rule, or regulation of any court, arbitrator, or other governmental or regulatory authority applicable to the Member or any such employee, subcontractor and representative; or (b) conflict with, violate, result in a breach of or constitute (with due notice or lapse of time or both) a default under any arrangement, understanding, agreement or other legal obligation to which the Member is party or subject.

4.2 Eligibility. The Member meets all of the qualification and eligibility criteria for membership in the Cooperative, to the extent the qualification and eligibility criteria are included in the Cooperative’s Bylaws or policies which have been made available to the Member.

4.3 Accurate Information. To the best of the Member’s knowledge and belief, all information provided or to be provided by the Member hereunder is true, complete and accurate.

SECTION 5. Covenants, Duties and Responsibilities of Member.

Member shall:

5.1 Comply with all Bylaws and with the policies, rules, and regulations for the transaction of business with the Cooperative now in effect and from time to time hereafter adopted by the Cooperative, including those now and hereafter set forth in this Agreement, member policies. If the Member fails the responsibilities listed in 5.1a and 5.1b, the Member’s Patronage refund can be forfeited to the co-op to pay cooperative expenses. The member has 30 days to perform these duties after receiving the notice of forfeiture to reinstate the Member’s Patronage refund. The activities include:

(a) Send a representative to attend the Cooperative’s annual conference live in person or on-line (“Annual Conference”) **or** attend at least 4 hours of on-line workshops/cooperative meetings live or listen to the recordings.

(b) Complete at least one of the quarterly TVC surveys (the “Quarterly Survey”), which must be completed and returned within thirty (30) days of receipt from the Cooperative. The Cooperative will deliver the Quarterly Survey electronically to the Member.

5.2 Use the Member's best efforts to promote, in a manner consistent with the size of the Member's business, in the Member's trading area, those lines of goods and supplies available from the Cooperative, which are appropriate for the Member's business.

5.3 Use only in the manner authorized by the Cooperative, any present or future trademarks, trade names, service marks, slogans, trade dress (such as but not limited to color combinations and designs) and copyrights of the Cooperative, provided, however, that this paragraph does not create any right in the Member to use said marks except as is authorized (by agreement or by purchase of materials or goods and supplies bearing one or more of the marks) by the Cooperative.

5.4 Keep confidential all trade secrets and confidential information about the Cooperative, including, but not limited to, its member prices for goods and supplies, proposed private-label products, supplier information, financial information, member information, nonmember patron information, strategic planning directives, governing documents and procedures, all of which shall be referred to herein as "Confidential Information," and disclose Confidential Information only to those employees of the Member who need such Confidential Information to enable the Member to effectively promote and sell the goods and supplies purchased from the Cooperative; and to make this policy regarding Confidential Information known to all persons to whom any of the Confidential Information is disclosed. The obligation of the Member regarding Confidential Information under this Section 5.7 shall remain in force for three (3) years in connection with all Confidential Information, written and verbal, obtained from the Cooperative, its employees or members, with such three (3) year period commencing on the date the last of such Confidential Information was obtained. Upon breach by the Member of the Member's obligation regarding Confidential Information under this Section 5.7, the Member's membership may be terminated at the discretion of the Board of Directors, and, if membership is terminated, the Member forfeits the right to any unpaid rebates and distributions. In addition, the Cooperative will have the right to seek compensation for damages to the Cooperative, its members and suppliers due to such breach.

5.5 Operate the Member's business in compliance with all applicable laws, ordinances and regulations.

5.6 Promptly make written disclosure to the Cooperative of any change in the form of organization, ownership, or control of the Member's business (whether by merger, consolidation, reincorporation, incorporation, dissolution or any other manner) and to advise the Cooperative in the same manner of any change in the officers or identity of the directors of the Member, if the Member is a corporation.

5.7 Notwithstanding the foregoing covenants, duties and responsibilities of Member in this Section 5, Member shall not be obligated to act in such a way that would violate any state veterinary practice law or that would jeopardize the Member's state issued license to practice veterinary medicine.

SECTION 6. Trademarks; Tradenames.

6.1 Property of Cooperative. The Member acknowledges that the Cooperative's trademarks and tradenames used in relation to private-label goods, supplies, promotional materials, signs and services, are exclusively the property of the Cooperative and are not the property of the Member, and no member of the Cooperative has, or may claim, any interest therein.

6.2 Duty to Report Infringement. The Member shall report to the Cooperative any advertisement, whether in print or electronic media, which may infringe upon or confuse the public with respect to the Cooperative's trademarks, trade names or copyrights; but only the Cooperative shall have the right to take any action against any person or organization which it may consider to be infringing upon or making improper use of such trademarks, tradenames or copyrights.

SECTION 7. Patronage Distributions.

7.1 Patronage Refund. At the end of each fiscal year, or more often as determined by the Board of Directors, the Cooperative will return to the Member in the form of a patronage refund, a portion of the net earnings of the Cooperative determined in such manner and according to such formulae as approved by the Board of Directors.

7.2 Changes. Any change in the Cooperative's rebates or discounts will be communicated to the Member as soon as practicable by electronic communication. No rebate, discount or offer is guaranteed.

SECTION 8. Indemnification.

8.1 Indemnity from Liability. The Cooperative shall not be liable to the Member for any claims, demands, damages, injuries, actions and or judgments arising out of the sale or use or any of the goods and supplies purchased by the Member from the Cooperative or Third-Party Vendors. The Member shall defend, indemnify, and hold the Cooperative harmless from all claims, demands, actions, liability, damages, and/or judgments arising from or claimed to arise from, the sale, use, storage or any defects in or properties of, the goods purchased by the Member from the Cooperative or any Third-Party Vendor.

SECTION 9. Miscellaneous.

9.1 Communications. All communications required or permitted under this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery; (b) upon telephonically confirmed delivery by fax; (c) upon receipt of an e-mail or other electronically transmitted form of communication; (d) on the first business day after receipted delivery to a courier service that guarantees next-business-day delivery, under circumstances where such guaranty is applicable; or (e) on the third business day after mailing, by certified or registered mail. All communications shall be sent to the address as set forth on the signature page hereof or at such other address as such party may designate by ten (10) days' advance written notice to the other parties hereto.

9.2 Acknowledgement of Organizer's Fee. Applicant acknowledges that the Cooperative has disclosed that the start-up phase, beginning in October of 2010, of the Cooperative was funded by ROI Consulting, Inc., the Cooperative's organizer, ("Organizer"), which funded research, strategic development of the Cooperative's differentiated business model and the operating costs of the business, including salaries, legal fees, consulting fees, recruiting costs, marketing, travel and office expenses until December of 2013, or until the Cooperative is able to cash flow on its own, whichever shall come first (the "Start-up Costs"). In return for Organizer funding the Start-up Costs, the Cooperative is under contract to pay a royalty to Organizer of up to percent (1%) of the dollar volume under contract with the Cooperative through December of 2023.

9.3 Force Majeure. The Cooperative shall not be responsible for, or liable for, failure to perform or for any delay in the performance of any part of this Agreement, directly or indirectly resulting from, or contributed to, by any foreign or domestic embargoes, seizures, acts of God, insurrections, wars, labor disruptions, enactment of any law, ordinance, regulation or ruling directly or indirectly interfering with the acquisition or shipment of goods referred to herein, fires, floods, explosions, or other accidents or contingencies beyond its control.

9.4 Nonwaiver of Rights. Failure of either party to enforce any of the provisions of this Agreement or any rights with respect thereto, or failure to exercise any election provided for herein shall in no way be considered to be a waiver of such provisions, rights or elections or in any way to affect the validity of this Agreement. The failure of either party to exercise any of said provisions, rights or elections, shall not preclude or prejudice such party from later enforcing or exercising the same, or any other provisions, rights or elections which it may have under this Agreement.

9.5 Assignment. This Agreement constitutes a personal contract in which the Cooperative has relied upon the Member's membership in the Cooperative and the Member's credit worthiness, and shall not be transferred or assigned either voluntarily or by operation of law, by or on behalf of the Member.

9.6 Successors and Assigns. Subject to the provisions of the preceding Section 9.6, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. The Member has an affirmative obligation to advise the Cooperative in writing within thirty (30) days of the occurrence of any change in control of the Member, any acquisition of the Member or any interest therein by any other party, any merger or consolidation of the Member with any other entity, and any transfer by the Member to any person or other entity of all, or substantially all, of the Member's assets.

9.7 Amendment. This Agreement may not be altered, amended or modified except by written instrument signed by the parties hereto, provided, however, that as provided above, the Cooperative may unilaterally amend or modify from time to time, the pricing, terms of payment and credit provisions applicable to goods and supplies sold to member pursuant to this Agreement, upon advance written notice to Member.

9.8 Governing Law. All matters relating to the interpretation, construction, validity and enforcement of this Agreement shall be governed by the internal laws of the state of Minnesota, without giving effect to any choice of law provisions thereof.

9.9 Attorney's Fees and Costs. In the event legal action, including arbitration, mediation and/or litigation, is undertaken to enforce any of the terms and conditions of this Agreement, the prevailing party shall be entitled to recover from the other, all fees and costs incurred, including reasonable attorney's fees.

9.10 Signature; Right of Withdrawal. The Member's signature constitutes an offer to enter into this Agreement, and this Agreement shall be deemed to have been entered into when it has been accepted by the Cooperative at its principal office, which will not occur before ten (10) business days after the date the Member signs this Agreement, during which period the Member may withdraw its offer to become a member and this Agreement shall not be binding.

9.11 Severability. The determination by a Court of proper jurisdiction that any provision of this Agreement is invalid shall not affect the enforceability of the remaining provisions of this Agreement.

9.12 Counterparts. This Agreement may be executed in two or more counterparts, including counterparts transmitted by electronic means, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.13 Entire Agreement. This Agreement represents the entire understanding between the parties on the matters herein contained and there have been no oral representations or agreements relied upon by the Member.

[Signature Page Follows]



IN WITNESS WHEREOF the parties have executed this Agreement as of the Effective Date written above.

THE VETERINARY COOPERATIVE

By: _____

Richard A. Morris
CEO

APPLICANT

Signature

By clicking accept: the parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein. **The parties agree to all of the terms of THE VETERINARY COOPERATIVE MEMBERSHIP AGREEMENT**