

FIRST AMENDED AND RESTATED BYLAWS
OF
MINNESOTA SOYBEAN PROCESSORS
A Minnesota Chapter 308B Cooperative
(Contains Restrictions on Transfer of Membership Interests)

Adopted Effective April 1, 2013

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**FIRST AMENDED AND RESTATED BYLAWS
OF
MINNESOTA SOYBEAN PROCESSORS**

THESE FIRST AMENDED AND RESTATED BYLAWS are adopted by the members of the Cooperative effective April 1, 2013, pursuant to the provisions of the Act, on the terms and conditions set forth herein.

**SECTION 1
THE COOPERATIVE**

1.1 Formation. Minnesota Soybean Processors was originally organized as a Minnesota Chapter 308A cooperative under the provisions the Minnesota Cooperative Law, Chapter 308A, Minnesota Statutes, converted and became subject to and governed by the provisions of the Minnesota Cooperative Associations Act, Chapter 308B, Minnesota Statutes (the “Act”) effective April 1, 2013, and will operate in accordance with the Act and upon the terms and conditions set forth in the Second Amended and Restated Articles of Organization (the “Articles”) and these Bylaws. To the extent the rights or obligations of any Member or nonmember Unit Holder are different by reason of any provision of these Bylaws than they would be in the absence of such provisions, these Bylaws will, to the extent permitted by the Act, control.

1.2 Name. The name of the Cooperative is Minnesota Soybean Processors and all business of the Cooperative will be conducted in this name. The Members may change the name of the Cooperative from time to time in accordance with the Act.

1.3 Purpose. The purposes of the Cooperative are:

(a) to receive, handle, store, warehouse, manufacture, process, market, prepare for market including changing the form or marketability of, buy, sell and otherwise deal in its own agricultural products and services or the agricultural products and services of its Members, Nonpatron Members, nonmembers, and others;

(b) to manufacture, buy, sell, market, store, warehouse, acquire, transport, distribute, process, produce, drill, mine, refine, and otherwise deal in and procure for its Members, nonmembers and others, petroleum products, feed, grain, fertilizer, chemicals, livestock, machinery, equipment, supplies, and other goods, products, merchandise and services used or useful in farming and the agricultural industry;

(c) to engage in activities involving agricultural education, research and development, legislation and economic or social conditions pertaining to farmers and the agricultural industry;

(d) to engage in the financing of the activities described above; and

(e) to engage in any activity connected with or related to any such purposes, and to engage in any and all other lawful purposes or business for which a cooperative organized under Minnesota Statutes, Chapter 308B, may conduct or is authorized to perform by law.

To this end, the business and activities of this Cooperative shall be conducted on a cooperative basis, as more particularly provided in the Articles of Organization and Bylaws of this Cooperative.

1.4 Powers. In addition to other powers, this Cooperative may perform every act and thing necessary, proper, incidental or convenient to or in furtherance of the conduct of its business or the accomplishment of its purposes. This Cooperative shall have all powers, privileges and rights conferred upon it by applicable law and has, without limitation, any and all powers that may be exercised on behalf of the Cooperative by the Board of Directors pursuant to Section 5 hereof. Without limiting the foregoing, this Cooperative shall have the power:

(a) to borrow money from and to loan money to its Members, nonmembers and others; to guarantee or stand as surety on loans made to its Members, nonmembers and others by lenders; to issue bonds, deeds of trust, debentures, notes, and other obligations and to secure the same by pledge, mortgage, or trust deed on any real or personal property of this Cooperative; to draw, make, accept, endorse, guarantee, execute, and issue promissory notes, bills of exchange, drafts, warrants, warehouse receipts, certificates and other obligations, and negotiable or transferable instruments for any purpose deemed necessary to further the objects for which this Cooperative is formed;

(b) to acquire, purchase, hold, lease, encumber, sell, exchange, and convey such real estate, buildings, and personal property as the business of this Cooperative may require;

(c) to purchase, acquire, own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, equity or debt securities created by any other corporation or other legal entity wherever organized, with all the rights, powers and privileges of ownership thereof;

(d) to borrow money, to incur obligations and to assume obligations of any other person, individual, corporation or other legal entity, in any amount; and to make contracts for hire;

(e) to issue equity and debt securities, whether certificated or uncertificated, as further provided in the Articles and in the Bylaws;

(f) to join with other cooperatives, limited liability companies, corporations, partnerships, associations or other entities to form district, state, or national marketing, manufacturing, purchasing and service organizations, and other organizations engaged in the general purposes for which this Cooperative is formed, and to purchase, acquire, and hold the capital stock or other equity interests and the notes, bonds and other obligations of such organizations;

(g) to have one or more offices, and to conduct any or all of its operations and business, and promote its purposes without restriction as to places or amounts; and

(h) to carry on any other business in connection with the foregoing and to engage in any of said activities on its own account or as agent for others, or alone or in association with others; and to employ agents, consultants and nominees to perform any or all of the powers described or referred to herein.

The powers, privileges and rights specified herein shall, except where otherwise expressed, be in no way limited or restricted by reference to or inference from the terms of any other provision of these Bylaws. The enumeration of powers, privileges and rights herein shall not be held to limit or restrict in any manner the general powers, privileges and rights conferred upon this Cooperative under applicable law.

Notwithstanding the foregoing, this Cooperative shall not market the products of nonmembers in an amount the value of which exceeds the value of the products marketed for Members. It shall not purchase supplies and equipment for nonmembers in an amount the value of which exceeds the value of the supplies and equipment purchased for Members. It shall not purchase supplies and equipment for persons who are neither Members nor producers of agricultural products in an amount the value of which exceeds fifteen percent (15%) of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the limitations imposed by this provision.

1.5 Principal Place of Business. The principal place of business of the Cooperative is the city of Brewster, Minnesota, in the county of Nobles County, Minnesota. The registered office address of this Cooperative is 121 Zeh Avenue, P.O. Box 100, Brewster, Minnesota 56119-0100. The records required by the Act will be maintained at the Cooperative's principal place of business.

1.6 Term. The term of the Cooperative began on the date the Articles were originally filed with the Secretary of State of the State of Minnesota, and shall continue until the winding up and liquidation of the Cooperative and its business is completed following a Dissolution Event, as provided in Section 11 hereof.

1.7 Filings. The organizer has caused the necessary organizational documents to be filed in the office of the Secretary of State of the State of Minnesota in accordance with the Act. The Cooperative must take any and all other actions reasonably necessary to perfect and maintain the status of the Cooperative as a cooperative under the laws of the State of Minnesota. The Board shall cause amendments to be filed whenever required by the Act.

(a) The Members and the Board must execute and cause to be filed original or amended articles of organization and must take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Cooperative as a cooperative or similar type of entity under the laws of any other jurisdictions in which the Cooperative engages in business.

(b) Upon the dissolution and completion of the winding up and liquidation of the Cooperative in accordance with Section 11, the Board must promptly execute and file Articles of Dissolution in accordance with the Act and the laws of any other jurisdictions in which the Board deems such filing necessary or advisable.

1.8 Title to Property. All Property owned by the Cooperative is owned by the Cooperative as an entity and no Member has any ownership interest in such Property in its individual name, and each Member's interest in the Cooperative is personal property for all purposes. The Cooperative will hold title to all of its Property in the name of the Cooperative and not in the name of any Member.

1.9 Payments of Individual Obligations. The Cooperative's credit and assets must be used solely for the benefit of the Cooperative, and no asset of the Cooperative may be Transferred or encumbered for, or in payment of, any individual obligation of any Member.

1.10 Independent Activities.

(a) Each Director shall be required to devote only such time to the affairs of the Cooperative as may be necessary to manage the business and affairs of the Cooperative in accordance with Section 5, and shall be free to serve any other Person or enterprise in any capacity that the Director may deem appropriate in his discretion.

(b) Neither these Bylaws nor any activity undertaken pursuant hereto shall: (i) prevent any Member, or its Affiliates, acting on their own behalf, from engaging in whatever activities they choose, whether the same are competitive with the Cooperative or otherwise, and any such activities may be undertaken without having or incurring any obligation to offer any interest in such activities to the Cooperative or any other Member; or (ii) require any Member to permit the Cooperative or other Member or its Affiliates to participate in any such activities, and as a material part of the consideration for the adoption of these Bylaws by each Member, each Member hereby waives, relinquishes, and renounces any such right or claim of participation.

1.11 Member Authority. Each Member represents and warrants to the Cooperative and to the other Members that:

(a) the Member, if not an individual, is duly organized, validly existing and in good standing under the laws of its state of organization and is duly qualified and in good standing as a foreign organization in the jurisdiction of its principal place of business if not organized therein; and, in all instances:

(b) the Member has full corporate, limited liability company, partnership, trust or other applicable power and authority to agree to these Bylaws and to perform its obligations hereunder and all necessary actions by the board of directors, shareholders, managers, members, partners, trustees, beneficiaries, or other Persons necessary or appropriate for the due authorization and performance of these Bylaws by the Member have been taken.

1.12 Access to and Confidentiality of Information.

(a) In addition to the other rights specifically set forth in these Bylaws, each Member is entitled to all information to which the Member is entitled to have access pursuant to the Act under the circumstances and subject to the conditions therein stated, which conditions include but are not limited to such reasonable standards governing what information and documents are to be furnished at what time and location and at whose expense as may be set forth herein or otherwise established by the Board of Directors. However, except as otherwise provided by law, the Board of Directors may determine, due to contractual obligations, business concerns or other considerations, that certain information regarding the business, affairs, properties, and financial condition of the Cooperative should be kept confidential and not provided to some or all of the Members or that it is not just or reasonable for some or all of the Members or their assignees or representatives to examine or copy any such information.

(b) Each Member acknowledges that the Member may receive information from or regarding the Cooperative in the nature of trade secrets or that is otherwise confidential, the release of which may be damaging to the Cooperative or Persons with whom it does business. Each Member agrees to hold in strict confidence any information it receives regarding the Cooperative that is identified as being confidential (and if such information is provided in writing, is so marked) and may not disclose such information to any Person, except for disclosures: (i) to another Member having the right to such information; (ii) compelled by law, provided the Member must promptly notify an officer of the Board of Directors of any request or demand for such information, to the extent reasonably possible; (iii) to advisors or representatives of the Member, or to Persons (and their advisors or representatives) seeking to acquire all or any portion of the Member's Interest through a Transfer in accordance with these Bylaws, but only if in each case such Person has agreed to be bound by the provisions of this section; or (iv) of information that the Member has also received from a source independent of the Cooperative that the Member reasonably believes has the legal right to disclose such information to the Member.

Each Member acknowledges that a breach of the provisions of this section may cause the Cooperative irreparable harm and injury for which monetary damages are inadequate or difficult to calculate or both. Accordingly, each Member specifically agrees that the Cooperative shall be entitled to injunctive relief to enforce the provisions of this section, that such relief may be granted without the necessity of proving actual damages, and that such injunctive or equitable relief shall be in addition to, not in lieu of, the right to recover monetary damages for any breach of this section by the Member. The obligations referred to in this section shall survive the termination of a Member's membership in the Cooperative.

1.13 Limited Liability. Except as otherwise expressly provided by the Act, these Bylaws, or agreed to under another written agreement, the debts, obligations and liabilities of the Cooperative, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Cooperative, and no Member or Director of the Cooperative shall be obligated personally for any such debt, obligation or liability of the Cooperative solely by reason of being a Member or acting as a Director of the Cooperative. The failure of the Cooperative to

observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under these Bylaws or the Act shall not be grounds for imposing liability on the Members or Directors for any debt, obligation or liability of the Cooperative.

1.14 Definitions. Capitalized words and phrases used in these Bylaws have the following meanings:

“Act” means the Minnesota Cooperative Associations Act as set forth in Minnesota Statutes §§308B.001 to 308B.975, as amended from time to time (or any corresponding provision or provisions of any succeeding law).

“Adjusted Capital Account Deficit” means, with respect to any Unit Holder, the deficit balance, if any, in the Unit Holder’s Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments: (i) Credit to the Capital Account any amounts which such Unit Holder is deemed to be obligated to restore pursuant to the next to the last sentences in §§1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and (ii) Debit to such Capital Account the items described in §§1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6) of the Regulations. The foregoing definition is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

“Affiliate” means, with respect to any Person: (i) any Person directly or indirectly controlling, controlled by or under common control with the Person; (ii) any officer, director, general partner, member or trustee of such Person; or (iii) any Person who is an officer, director, general partner, member or trustee of any Person described in clauses (i) or (ii) of this sentence. For purposes of this definition, the terms “controlling,” “controlled by” or “under common control with” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, officers, members, or persons exercising similar authority with respect to such Person or entities.

“Articles” means the Articles of Organization and related documents filed with the Minnesota Secretary of State for the purpose of the Cooperative becoming subject to the Act.

“Assignee” means a transferee of Units who is not admitted as a substituted member pursuant to Section 10.6.

“Bylaws” mean the Bylaws of Minnesota Soybean Processors, as amended from time to time. Words such as “herein,” “hereinafter,” “hereof,” “hereto” and “hereunder” refer to these Bylaws as a whole, unless the context otherwise requires.

“Board” or **“Board of Directors”** means collectively the persons who are named as Directors of the Cooperative in or designated or elected as Directors of the Cooperative under these Bylaws. **“Director”** or **“Directors”** means any such person or persons.

“**Capital Account**” means the capital account maintained for each Unit Holder in accordance with Section 2.5.

“**Capital Contributions**” means, with respect to any Unit Holder, the amount of money and the initial Gross Asset Value of any contributed assets (other than money) contributed to the Cooperative with respect to the Units in the Cooperative held or purchased by such Unit Holder, including additional Capital Contributions.

“**Capital Unit**” means a Class A, Class C, or Class D Preferred Unit, and “**Capital Units**” means all such Units.

“**Class A Preferred Unit**” means a Unit that is designated as such and issued pursuant to Section 2 hereof.

“**Class B Preferred Unit**” means a Unit that is designated as such and issued pursuant to Section 2 hereof.

“**Class C Preferred Unit**” means a Unit that is designated as such and issued pursuant to Section 2 hereof.

“**Class D Preferred Unit**” means a Unit that is designated as such and issued pursuant to Section 2 hereof.

“**Class**” is the designated division in Interests as provided in Section 2 hereof, and “**Classes**” means all such Classes.

“**Class Percentage**” means, (i) until Class C Preferred Units or Class D Preferred Units are issued, one hundred percent (100%) with respect to the Class A Preferred Units and zero percent (0%) with respect to the Class C Preferred Units and the Class D Preferred Units; and (ii) once Class C Preferred Units or Class D Preferred Units are issued, the “**Class Percentage**” means the Class Percentages established and set forth on or in accordance with the designation attached hereto as an exhibit as provided in Section 2 hereof.

“**Code**” means the United States Internal Revenue Code of 1986, as amended from time to time.

“**Common Unit**” means a Unit that is designated as such and issued pursuant to Section 2 hereof.

“**Company Minimum Gain**” has the meaning given the term “partnership minimum gain” in §§1.704-2(b)(2) and 1.704-2(d) of the Regulations.

“**Cooperative**” means the cooperative formed pursuant to these Bylaws and the Articles and the cooperative continuing the business of this Cooperative in the event of dissolution of the Cooperative as herein provided.

“**Debt**” means (i) any indebtedness for borrowed money or the deferred purchase price of property as evidenced by a note, bonds, or other instruments, (ii) obligations as lessee under capital leases, (iii) obligations secured by any mortgage, pledge, security interest, encumbrance, lien or charge of any kind existing on any asset owned or held by the Cooperative whether or not the Cooperative has assumed or become liable for the obligations secured thereby, (iv) any obligation under any interest rate swap agreement, (v) accounts payable, and (vi) obligations under direct or indirect guarantees of (including obligations (contingent or otherwise) to assure a creditor against loss in respect of) indebtedness or obligations of the kinds referred to in clauses (i), (ii), (iii), (iv) and (v) above, provided that Debt shall not include obligations in respect of any accounts payable that are incurred in the ordinary course of the Cooperative’s business and are not delinquent or are being contested in good faith by appropriate proceedings.

“**Depreciation**” means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board.

“**Dissolution Event**” has the meaning set forth in Section 11.1.

“**Effective Date**” means April 1, 2013.

“**Fiscal Quarter**” means (i) the period commencing with the Effective Date and ending on June 30, 2013, (ii) any subsequent three-month period commencing on each July 1, October 1, January 1, and April 1, and ending on the last date before the next such date and (iii) the period commencing on the immediately preceding January 1, April 1, July 1, and October 1, as the case may be, and ending on the date on which all Property is distributed to the Unit Holders pursuant to Section 11.

“**Fiscal Year**” means (i) the period commencing with the Effective Date and ending on December 31, 2013, (ii) any subsequent twelve-month period commencing on January 1 and ending on December 31, and (iii) the period commencing on the immediately preceding January 1 and ending on the date on which all Property is distributed to the Unit Holders pursuant to Section 11, or, if the context requires, any portion of a Fiscal Year for which an allocation of Profits or Losses or a distribution is to be made.

“**GAAP**” means generally accepted accounting principles in effect in the United States of America from time to time.

“**General Manager**” means the General Manager of the Cooperative, including any interim General Manager, as appointed by the Board of Directors.

“**Gross Asset Value**” means with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Unit Holder to the Cooperative shall be the gross fair market value of such asset, as determined by the Board. The Board shall establish the initial Gross Asset Values of all Cooperative assets as of the Effective Date;

(ii) The Gross Asset Values of all Cooperative assets shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account) as determined by the Board of Directors as of the following times: (A) the acquisition of an additional interest in the Cooperative by any new or existing Unit Holder in exchange for more than a de minimis Capital Contribution; (B) the distribution by the Cooperative to a Unit Holder of more than a de minimis amount of Cooperative property as consideration for an interest in the Cooperative; (C) the liquidation of the Cooperative within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and (D) such other times as the Regulations may permit, provided that an adjustment described in clauses (A), (B) and (D) of this paragraph shall be made only if the Board of Directors determines that such adjustment is necessary to reflect the relative economic interests of the Unit Holders in the Cooperative;

(iii) The Gross Asset Value of any item of Cooperative assets distributed to any Unit Holder shall be adjusted to equal the gross fair market value (taking Code Section 7701(g) into account) of such asset on the date of distribution as determined by the Board of Directors; and

(iv) The Gross Asset Values of Cooperative assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and subparagraph (vi) of the definition of “Profits” and “Losses” or Section 3.3(g) hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent that an adjustment pursuant to subparagraph (ii) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (ii) or (iv), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset, for purposes of computing Profits and Losses.

“**Interest**” means, collectively, a Unit Holder’s share of the “Profits” and “Losses” of the Cooperative, a Unit Holder’s right to receive distributions of the Cooperative’s assets, and, with respect to a Member, any right of the Member to vote or participate in the management of the Cooperative. An Interest is quantified by the unit of measurement referred to herein as a “Unit” (as defined below).

“Issuance Items” has the meaning set forth in Section 3.3(h).

“Liquidation Period” has the meaning set forth in Section 11.7.

“Losses” has the meaning set forth in the definition of “Profits” and “Losses.”

“Member” means any Person who is the holder of one (1) Common Unit of the Cooperative, is the holder of or has subscribed for the minimum number of Capital Units required for membership established by or pursuant to these Bylaws, who has met such other requirements for membership established by or pursuant to these Bylaws, and who has not ceased to be a Member pursuant to the terms of these Bylaws. **“Members”** means all such Persons. A Member may be either a Patron Member or Nonpatron Member or both.

“Membership Interests” means a Member’s interest in the Cooperative consisting of a Member’s financial rights, a Member’s right to assign financial rights, a Member’s governance rights, and a Member’s right to assign governance rights. **“Membership Interests”** includes Patron Membership interests and Nonpatron Membership Interests.

“Net Cash Flow” means the gross cash proceeds of the Cooperative less the portion thereof used to pay or establish reserves for all Cooperative expenses, debt payments, capital improvements, replacements, and contingencies, all as reasonably determined by the Board of Directors. “Net Cash Flow” shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established.

“Nonpatronage Unit Retains” has the meaning set forth in Section 2.4(b).

“Nonpatron Member” means a Member holding a minimum number of Class C Units, Class D Units or other Classes or series of Classes of Units that do not require the holder to conduct Patronage Business for or with the Cooperative to receive allocations of Profit or Loss or distributions.

“Nonpatron Membership Interest” means a Membership Interest that does not require the holder to conduct Patronage Business for or with this Cooperative to receive allocations of Profit or Loss or distributions.

“Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(b)(1) of the Regulations.

“Nonrecourse Liability” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“Patronage” or “Patronage Business” means business done by the Cooperative with or for a Patron Member pursuant to a Uniform Marketing and Delivery Agreement, and such business shall be subject to and shall include as a part of its terms each provision of the Articles

and the Bylaws, whether or not the Articles or the Bylaws are expressly referred to in the business documentation. Any business done by the Cooperative with or for a Nonpatron Member or a non-Member, or done by the Cooperative with or for a Patron Member that is not done pursuant to a Uniform Marketing and Delivery Agreement, shall be presumed to be and shall be conducted on a nonpatronage basis unless the Cooperative obligates itself in writing before or at the time of the business to conduct the business on a patronage basis. The Board of Directors shall reasonably and equitably determine whether Patronage shall be measured on the basis of quantity or value.

“Patronage Unit Retains” has the meaning set forth in Section 2.4(a).

“Patron Member” means a Member holding a minimum number of Class A Units and who conducts Patronage Business with the Cooperative.

“Patron Membership Interest” means the Membership Interest in this Cooperative requiring the holder to conduct Patronage Business for or with this Cooperative.

“Permitted Transfer” has the meaning set forth in Section 10.2.

“Person” means any individual, partnership (whether general or limited), limited liability company, cooperative, trust, estate, association, nominee or other entity.

“Profits” and “Losses” mean, for each Fiscal Year, an amount equal to the Cooperative’s taxable income or loss for such Fiscal Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

(i) Any income of the Cooperative that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of “Profits” and “Losses” shall be added to such taxable income or loss;

(ii) Any expenditures of the Cooperative described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of “Profits” and “Losses” shall be subtracted from such taxable income or loss;

(iii) If the Gross Asset Value of any Cooperative asset is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of Gross Asset Value, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the asset) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;

(iv) Gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;

(v) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year, computed in accordance with the definition of Depreciation;

(vi) To the extent an adjustment to the adjusted tax basis of any Cooperative asset pursuant to Code Section 734(b) is required, pursuant to Regulations Section 1.704-(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Unit Holder's interest in the Cooperative, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses; and

(vii) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 3.3 and Section 3.4 shall not be taken into account in computing Profits or Losses.

The amounts of the items of Cooperative income, gain, loss or deduction available to be specially allocated pursuant to Section 3.3 and Section 3.4 shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (vi) above.

“Property” means all real and personal property acquired by the Cooperative, including cash, and any improvements thereto, and shall include both tangible and intangible property.

“Regulations” means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations are amended from time to time.

“Regulatory Allocations” has the meaning set forth in Section 3.4.

“Securities Act” means the Securities Act of 1933, as amended.

“Series 2004 Preferred Dividend” means, with respect to each Series 2004 Class B Unit Holder, a distribution amount the Series 2004 Class B Unit Holders are entitled to receive when, as and if declared by the Board of Directors out of funds legally available for such purpose, of up to 8% per annum per Class B Unit, provided such Series 2004 Preferred Dividend shall be non-cumulative. The amount of the Series 2004 Preferred Dividend payable per annum shall be computed on the basis of a 365-day year, the date on which payment for the Series 2004 Class B Preferred Unit was released from Escrow, and the price per Unit for which the Series 2004 Class B Preferred Units was issued.

“Syndication Expenses” means all expenditures classified as syndication expenses pursuant to Section 1.709-2(b) of the Regulations.

“Subsidiary” means any partnership, joint venture, limited liability company, cooperative, association or other entity in which such Person owns, directly or indirectly, fifty percent (50%) or more of the outstanding equity securities or interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such entity.

“Transfer” means, as a noun, any voluntary or involuntary transfer, sale, pledge or hypothecation or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, pledge or hypothecate or otherwise dispose of.

“2012 QWNAs” means the qualified written notices of allocation issued by the predecessor of the Cooperative operating as a cooperative association under the provisions of Chapter 308A of the Minnesota Statutes in respect of its fiscal year ended August 31, 2012.

“Unit” means the unit of measurement into which an Interest is divided for purposes of those provisions of these Bylaws that require quantification of the rights, preferences, and obligations represented by an Interest.

“Unit Holder” means a person who owns Units, regardless of whether such Person is a Member. **“Unit Holders”** means all Unit Holders. Unit Holders may be designated with respect to specific types or classes of Units held.

“Unit Holder Nonrecourse Debt” has the same meaning as the term “partner nonrecourse debt” in Section 1.704-2(b)(4) of the Regulations.

“Unit Holder Nonrecourse Debt Minimum Gain” means an amount, with respect to each Unit Holder Nonrecourse Debt, equal to the Cooperative Minimum Gain that would result if such Unit Holder Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

“Unit Holder Nonrecourse Deductions” has the same meaning as the term “partner nonrecourse deductions” in §§1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

“Unpaid Series 2004 Preferred Dividend” means, with respect to any Series 2004 Class B Unit Holder, an amount equal to all Series 2004 Preferred Dividends accumulated and unpaid on such Series 2004 Class B Unit, whether or not declared, without interest, to the date fixed for redemption, using the maximum 8% per annum dividend rate.

SECTION 2 MEMBERS' CAPITAL CONTRIBUTIONS; UNITS

2.1 Members; Authorized Membership Interests. The Members of this Cooperative are those Persons described in Sections 6.1 and 6.2 hereof, who have not ceased to be Members. This Cooperative is organized on a membership interest basis. This Cooperative is authorized to issue patron membership interests and nonpatron membership interests. Patron membership interests shall be represented and quantified by Class A Preferred Units. Nonpatron membership interests shall be represented and quantified by Class C Preferred Units or Class D Preferred Units. This Cooperative is also authorized to issue Class B Preferred Units, which Class B Preferred Units shall represent a nonmember Interest in the Cooperative. Membership Interests and nonmember Interests in the Cooperative shall be represented and quantified by a unit of measurement referred to herein as a "Unit." The relative rights of Units are established herein or pursuant hereto and, in general, Units (other than Class B Preferred Units) shall participate in the growth and appreciation in value of the Cooperative as well as the risk of a decline in the value of the Cooperative. Except as may be limited by applicable law, the Articles or these Bylaws, the Board shall also have the authority and power to establish and issue and maintain such capital reserve, nonunit revolving capital, unit retains, patronage equities, and other types of equity credits, as it reasonably determines is necessary and proper and in the best interests of this Cooperative.

2.2 Authorized Units; Designation of Classes of Units. The authorized Units of this Cooperative shall consist of: Five Thousand (5,000) Common Units; Fifty Million (50,000,000) Class A Preferred Units; Ten Million (10,000,000) Class B Preferred Units; Fifty Million (50,000,000) Class C Preferred Units; and Fifty Million (50,000,000) Class D Preferred Units. Units shall be issued in accordance with Section 2.3 hereof. Except as may be limited by applicable law, the Articles or these Bylaws, the Board of Directors shall have the authority and power to issue each class of authorized Units and to establish and issue one or more than one series of Units within a class, to set forth the designation of series of such Units, and to fix the relative rights, preferences, privileges and limitations of each series of Units as further provided for in or established pursuant to the Articles and these Bylaws, and the rights and preferences of such series of Units within a class shall be set forth in an exhibit designating such rights and preferences and shall be attached hereto and made a part of these Bylaws, and such exhibit shall have the effect of amending the applicable provisions of these Bylaws and such rights and preferences set forth in such exhibit may thereafter only be amended pursuant to the applicable provisions of these Bylaws or, if specifically provided for, of such exhibit.

(a) **Membership and Common Units.** The Common Units are the Membership Units of this Cooperative. The Common Units are non-transferable and cannot be pledged. No Common Unit Holder shall not have any right whatsoever to require the redemption of its Common Units. The Common Units may be redeemed only at the option of the Board of Directors in accordance with the provisions of the Articles and the Bylaws. The Board of Directors shall have the authority to establish a redemption policy on terms and conditions it deems advisable in its sole discretion; provided, however, that the Common Units may never be

redeemed for more than the value of the consideration for which the Common Units were issued. No dividends on capital or distributions (other than liquidating distributions) shall be paid on the Common Units of this Cooperative.

(b) **Class A Preferred Units.** Holders of Class A Preferred Units shall be restricted to Patron Members who are required to conduct Patronage Business for or with this Cooperative to receive allocations of Profit or Loss or distributions. Class A Preferred Units may only be issued to Persons who conduct Patronage Business for or with the Cooperative as defined herein, and only Patron Members are eligible to hold Class A Preferred Units. These Bylaws may establish additional conditions, requirements or limitations of holding Class A Preferred Units. The Class A Preferred Units are nonvoting, and Class A Unit Holders are not entitled to voting rights in this Cooperative solely by virtue of their ownership of Class A Preferred Units. No dividends on capital shall be paid on the Class A Preferred Units, provided that the foregoing restriction shall not limit the financial rights of the Class A Unit Holders to receive allocations of Profit or Loss or distributions in accordance with these Bylaws. Class A Preferred Units shall be transferable only with the approval of the Board of Directors, and then only to persons eligible to hold Class A Preferred Units. No purported assignment or transfer of any Class A Preferred Units to any person not eligible to hold such Units shall pass any rights or privileges on account of such Units. Class A Preferred Units may be redeemed or exchanged only at the option of the Board of Directors in accordance with the provisions of the Articles and these Bylaws. No Class A Unit Holder shall have any right whatsoever to require the redemption or exchange of its Class A Preferred Units. The Board of Directors shall have the authority to establish a redemption or exchange policy with respect to Class A Units on terms and conditions it deems advisable in its sole discretion. The Board of Directors shall have the authority to establish such additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of holding Class A Preferred Units as it may from time to time deem advisable.

(c) **Class B Preferred Units.** Class B Preferred Units may be issued to any person or entity, and represent nonmember Interests in the Cooperative. Class B Preferred Units are nonmember, nonvoting Units, and Class B Unit Holders are not Members of this Cooperative and shall have no voting rights in this Cooperative solely by virtue of their ownership of Class B Preferred Units. Dividends on Class B Preferred Units may be paid as determined by the Board of Directors. Dividends on the Class B Preferred Units shall not exceed eight percent (8%) annually on the value of the consideration for which the Units were issued, and the dividends may be cumulative. As further provided herein, the Board of Directors shall have the authority and power to establish and issue one or more than one series of Class B Preferred Units, to set forth the designation of series of such Units, and to fix the relative rights, preferences, privileges and limitations of each series of Units of Class B Preferred Units. The Board of Directors shall have the authority to establish a redemption policy with respect to each series of Units of Class B Preferred Units on terms and conditions it deems advisable in its sole discretion. Class B Preferred Units shall be transferable only with the approval of the Board of Directors.

(d) **Class C Preferred Units.** Holders of Class C Preferred Units shall be restricted to Nonpatron Members who are not required to conduct Patronage Business for or with

this Cooperative to receive allocations of Profit or Loss or distributions. These Bylaws may establish additional conditions, requirements or limitations of holding Class C Preferred Units. The Class C Preferred Units are nonvoting, and Class C Unit Holders are not entitled to voting rights in this Cooperative solely by virtue of their ownership of Class C Preferred Units. No dividends on capital shall be paid on the Class C Preferred Units, provided that the foregoing restriction shall not limit the financial rights of the Class C Unit Holders to receive allocations of Profit or Loss or distributions in accordance with the Bylaws. Class C Preferred Units shall be transferable only with the approval of the Board of Directors, and then only to persons eligible to hold Class C Preferred Units. No purported assignment or transfer of any Class C Preferred Units to any person not eligible to hold such Units shall pass any rights or privileges on account of such Units. Class C Preferred Units may be redeemed or exchanged only at the option of the Board of Directors in accordance with the provisions of the Articles and these Bylaws. No Class C Unit Holder shall have any right whatsoever to require the redemption or exchange of its Class C Preferred Units. The Board of Directors shall have the authority to establish a redemption or exchange policy with respect to Class C Preferred Units on terms and conditions it deems advisable in its sole discretion. The Board of Directors shall have the authority to establish such additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of holding Class C Preferred Units as it may from time to time deem advisable.

(e) **Class D Preferred Units.** Holders of Class D Preferred Units shall be restricted to Nonpatron Members who are not required to conduct Patronage Business for or with this Cooperative to receive allocations of Profit or Loss or distributions. These Bylaws may establish additional conditions, requirements or limitations of holding Class D Preferred Units. The Class D Preferred Units are nonvoting, and Class D Unit Holders are not entitled to voting rights in this Cooperative solely by virtue of their ownership of Class D Preferred Units, subject to the authority and the power of the Board of Directors, upon the approval of a majority of the voting power of members present and entitled to vote at a duly held meeting called for that purpose or the notice of which included such purpose, to establish and issue Nonpatron Membership Interests represented by Class D Preferred Units with voting power based on and in proportion to Class D Preferred Units held (and not based on one Member, one vote), provided that the collective voting power of the Patron Members of this Cooperative may not be less than fifty percent (50%) of the voting power of all Members. No dividends on capital shall be paid on the Class D Preferred Units, provided that the foregoing restriction shall not limit the financial rights of the Class D Unit Holders to receive allocations of Profit or Loss or distributions in accordance with the Bylaws. As further provided herein, upon the approval of a majority of the voting power of members present and entitled to vote at a duly held meeting called for that purpose or the notice of which included such purpose, the Board of Directors shall have the authority and power to establish and issue one or more than one series of Class D Preferred Units, to set forth the designation of series of such Units, and to fix the relative rights, preferences, privileges and limitations of each series of Units of Class D Preferred Units. Class D Preferred Units shall be transferable only with the approval of the Board of Directors, and then only to persons eligible to hold Class D Preferred Units. No purported assignment or transfer of any Class D Preferred Units to any person not eligible to hold such Units shall pass any rights or privileges on account of such Units. Class D Preferred Units may be redeemed or exchanged

only at the option of the Board of Directors in accordance with the provisions of the Articles and these Bylaws. No Class D Unit Holder shall have any right whatsoever to require the redemption or exchange of its Class D Preferred Units. The Board of Directors shall have the authority to establish a redemption or exchange policy with respect to Class D Preferred Units on terms and conditions it deems advisable in its sole discretion. The Board of Directors shall have the authority to establish such additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of holding Class D Preferred Units as it may from time to time deem advisable.

(f) The Board of Directors shall have the authority and power to establish, authorize the issuance of, and grant rights, warrants, and options entitling the holders to purchase Units from the Cooperative or any series authorized herein, or bonds, notes debentures, or other obligations convertible into Units or series authorized herein, subject to all qualifications, requirements or conditions of holding such class or series established by or pursuant to these Bylaws.

2.3 Capital Contributions; Issuance of Units.

(a) **Exchange, Redesignation and Conversion and Continuation of Stock and Non-Stock Allocated Equity Interests.** On and as of the Effective Date, without any further action of the Cooperative or its Members, all allocated or apportioned or capital stock equity interests standing on the books of the predecessor of the Cooperative operating as a cooperative association under the provisions of Chapter 308A of Minnesota Statutes immediately prior to the Effective Date, including all stock and non-stock equity interests, allocated patronage equity interests (including all entitlements to patronage refunds), and any other allocated equity interests of the Cooperative shall be determined and exchanged for equity interests in the Cooperative, as follows:

(i) Common Stock. Each share of common stock of the predecessor of the Cooperative issued and outstanding or otherwise standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date shall be exchanged for one (1) Common Unit, and in such denominations or other designations or series so as to preserve the year of issue (as the Cooperative deems necessary) and other terms and conditions of the original issue.

(ii) Class A Preferred Stock. Each whole share or fractional share of Class A Preferred Stock of the predecessor of the Cooperative issued and outstanding or otherwise standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date shall be exchanged for one (1) Class A Preferred Unit, in such face amount and in such denominations or other designations or series so as to preserve the year of issue (as the Cooperative deems necessary) and other terms and conditions of the original issue.

(iii) Class B Preferred Stock. Each whole share or fractional share of Class B Preferred Stock of the predecessor of the Cooperative issued and

outstanding or otherwise standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date shall be exchanged for one (1) Class B Preferred Unit, in such face amount and in such denominations or other designations or series so as to preserve the year of issue (as the Cooperative deems necessary) and other terms and conditions of the original issue.

(iv) Patronage Equity Interests. Except for the 2012 QWNAs which shall remain outstanding following the Effective Date, all other patronage refunds, patronage equities and any other allocated or to be allocated equity interests (including all entitlements to patronage refunds) standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date which are not otherwise evidenced by Class A Preferred Units shall be cancelled.

(v) Deferred Patronage and Unallocated Reserve. All deferred patronage (not exchanged above), unallocated reserves, and any other unallocated equity interests standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date shall be cancelled.

(vi) Net Effect. The net effect of the exchange of the Cooperative equity interests shall be that the holders of Common Stock, Class A Preferred Stock and Class B Preferred Stock standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date shall hold and will have equal equity interests in the Cooperative immediately following the Effective Date, in terms of stated dollar amount on a dollar-for-dollar basis, year of issue (as determined necessary by the Cooperative) and any other rights and preferences so as to preserve the year of issue and other terms and conditions of the original issue (as the Cooperative deems necessary) and that, except for the 2012 QWNAs which shall remain outstanding following the Effective Date, all other deferred patronage, patronage equities, patronage refunds, allocated equities, unallocated reserves and other unallocated equity interests of the Cooperative, as standing on the books of the predecessor of the Cooperative immediately prior to the Effective Date, shall be cancelled; provided, however, that, notwithstanding the foregoing, the equity interests that are held by the predecessor of the Cooperative immediately prior to the Effective Date shall be treated in accordance with generally accepted accounting principles.

(b) Units may only be issued in consideration of Capital Contributions. The Board of Directors may accept Capital Contributions from Members or Persons seeking to become Members, may authorize the Cooperative to enter into a written subscription agreement with such Members or Persons seeking to become Members to make Capital Contributions for the purchase of Units, and may cause the Cooperative to issue additional Units to such Persons in consideration of Capital Contributions to the Cooperative. Subject to Section 6.1, Capital Contributions and the issuance of additional Units shall be made at such times and upon such terms and conditions as the Board of Directors and the Person acquiring the Units may agree.

(c) Except as otherwise provided in Section 2.4, no Member shall be obligated to make any additional Capital Contributions to the Cooperative or to pay any assessment to the Cooperative, other than the unpaid portion of such Member's written agreement to make Capital Contributions, and no Units shall be subject to any mandatory assessment, requests or demands for capital.

(d) Upon acceptance of Capital Contributions and the issuance of additional Units, the Board of Directors shall cause the books and records of the Cooperative to be appropriately adjusted.

2.4 Unit Retentions.

(a) **Patronage Unit Retains.** This Cooperative may require investment in its capital in addition to the investments from retained earnings. These investments shall be direct capital investments from a retain on a per unit basis of the products purchased from its Patron Members ("**Patronage Unit Retains**"). Patronage Unit Retains, if required, shall be made on all products delivered, in the same amount per unit and shall at no time become a part of Net Cash Flow available for distribution. If approved by Patron Members as prescribed in this Section 2.4, capital in the form of Patronage Unit Retains may be contributed on a prepaid basis prior to delivery of the products purchased from Patron Members. For tax purposes, and for purposes of maintaining Capital Accounts hereunder, Patronage Unit Retains shall be deemed to have been paid by the Cooperative to the Patron in respect of the products purchased from the Patron and then reinvested in the Cooperative as a Capital Contribution. Each Patron Member, by continuing to be such, agrees to invest in the capital of this Cooperative as prescribed in this Section 2.4 and agrees to the tax consequences thereof. Such investments shall be accounted for separately in a unit retention account set up on the books of this Cooperative. Only the Board of Directors shall have the authority and power to require investment in the capital of this Cooperative as prescribed in this Section 2.4, and the Board of Directors shall only have such authority upon the approval by a 60% majority of the votes cast by Patron Members at a duly held meeting of the members called for that purpose. No receiver, trustee or similar officer of any property of this Cooperative shall have the authority or the power to require investment in the capital of this Cooperative as prescribed in this Section 2.4, and any assignment for the benefit of creditors or any commencement of any proceeding under any bankruptcy, insolvency, receivership, dissolution, liquidation or similar law by or against this Cooperative shall terminate the authority of the Board of Directors to require investment in the capital of this Cooperative as prescribed in this Section 2.4. The power and authority of the Board of Directors to require investment in the capital of this Cooperative as prescribed in this Section 2.4 shall be subject to the minimum cash payment provisions expressly provided for in any uniform delivery and marketing agreement between this Cooperative and its Patron Members, if any. Except as may be limited by applicable law, the Articles or these Bylaws, the Board of Directors shall have the authority and power to establish and issue classes of Patronage Unit Retains and one or more than one series of Patronage Unit Retains within a class, to set forth the designation of series of such Patronage Unit Retains, and to fix the relative rights, preferences, privileges and limitations of each series of Patronage Unit Retains as further provided for in or established pursuant to the

Articles and these Bylaws, and the rights and preferences of such series of Patronage Unit Retains within a class shall be set forth in an exhibit designating such rights and preferences and shall be attached hereto and made a part of these Bylaws, and such exhibit shall have the effect of amending the applicable provisions of these Bylaws and such rights and preferences set forth in such exhibit may thereafter only be amended pursuant to the applicable provisions of such exhibit. The Board of Directors may designate the distribution and liquidating priority of payments with respect to the face amount of unit retain certificates at the time they are issued, but if no designation is made, the face amount of unit retain certificates shall have the same liquidating priority as Class A Preferred Units.

(b) **Nonpatronage Unit Retains.** In the event the Patron Members authorize the Board of Directors to require a direct capital investment by Patronage Unit Retain pursuant to Section 2.4(a), the Nonpatron Members shall make an additional Capital Contribution, in cash, to the Cooperative within thirty (30) days of the Patronage Unit Retain call on the Patron Members in an amount equal to their pro rata portion of the total amount of capital required by the Cooperative, calculated by dividing the aggregate amount of the direct capital investment called from Patron Members by the Class Percentage of the Patron Members (“**Nonpatronage Unit Retains**”). The aggregate amount of the additional Capital Contribution required from Nonpatron Members shall then be divided by the number of issued Units representing Nonpatron Membership Interests to determine the per Unit additional Capital Contribution amount. Except as may be limited by applicable law, the Articles or these Bylaws, the Board of Directors shall have the authority and power to establish and issue classes of Nonpatronage Unit Retains and one or more than one series of Nonpatronage Unit Retains within a class, to set forth the designation of series of such Nonpatronage Unit Retains, and to fix the relative rights, preferences, privileges and limitations of each series of Nonpatronage Unit Retains as further provided for in or established pursuant to the Articles and these Bylaws, provided however that such rights and preferences shall be identical to the rights and preferences of the Patronage Unit Retains issued as part of the same capital call, and the rights and preferences of such series of Nonpatronage Unit Retains within a class shall be set forth in an exhibit designating such rights and preferences and shall be attached hereto and made a part of these Bylaws, and such exhibit shall have the effect of amending the applicable provisions of these Bylaws and such rights and preferences set forth in such exhibit may thereafter only be amended pursuant to the applicable provisions of such exhibit.

2.5 Capital Accounts. A Capital Account will be maintained for each Unit Holder in accordance with the following provisions:

(a) To each Unit Holder’s Capital Account there shall be credited the following: (i) the Unit Holder’s Capital Contributions (including Capital Contributions made pursuant to Section 2.4(a) and 2.4(b)); (ii) the Unit Holder’s distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Section 3.3 and Section 3.4; and (iii) the amount of any Cooperative liabilities assumed by such or which are secured by any Property distributed to such Unit Holder. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to

the Cooperative by the maker of the note (or a Unit Holder related to the maker of the note within the meaning of Regulations §1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Unit Holder until the Cooperative makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations §1.704-1(b)(2)(iv)(d)(2);

(b) To each Unit Holder's Capital Account there shall be debited the following: (i) the amount of money and the Gross Asset Value of any Property distributed to the Unit Holder pursuant to any provision of these Bylaws; (ii) the Unit Holder's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Section 3.3 and Section 3.4; and (iii) the amount of any liabilities of such Unit Holder assumed by the Cooperative or which are secured by any Property contributed by such Unit Holder to the Cooperative;

(c) In the event Units are Transferred in accordance with the terms of these Bylaws, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Units; and

(d) In determining the amount of any liability for purposes of subparagraphs (a) and (b) above there shall be taken into account Code §752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of these Bylaws relating to the maintenance of Capital Accounts are intended to comply with Regulations §1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. If the Board of Directors shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Cooperative or any Unit Holders, or which are computed in order to comply with such Regulations, the Board of Directors may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Person pursuant to Section 11 upon the dissolution of the Cooperative. The Board of Directors also shall (1) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Unit Holder and the amount of capital reflected on the Cooperative's balance sheet, as computed for book purposes, in accordance with Regulations §1.704-1(b)(2)(iv)(q), and (2) make any appropriate modifications in the event unanticipated events might otherwise cause these Bylaws not to comply with Regulations §1.704-1(b).

2.6 Correlation of Subchapter K of the Code with the Act. The Capital Account maintenance provisions of the Bylaws, including Capital Contributions, Capital Accounts, Allocations of Profits and Losses, and distributions of Net Cash Flow and in Dissolution are intended to conform the requirements of Subchapter K of the Code, as referenced and incorporated throughout those provisions, and are intended to conform to the requirements of the Act in the following manner:

- (a) The allocation of Profits and Losses and the distribution of cash and other property between Patron Members and Nonpatron Members under the Bylaws is intended to satisfy the allocation and distribution requirements of §308B.721 of the Act.
- (b) The allocation of Profits among Patron Members under the Bylaws is intended to satisfy the requirements of Subdivisions 1, 2 and 3 of §308B.725 of the Act. Since the Code requires all taxable income to be allocated to the members, the Board of Directors shall not exercise the authority provided in Subdivisions 1 and 2 of §308B.725 of the Act to set aside net income for capital reserves and the other purposes specified in those subdivisions. The definition of Net Cash Flow in the Bylaws is intended to vest in the Board of Directors the discretion contemplated in Subdivisions 1, 2 and 3 of §308B.725 of the Act.
- (c) The Cooperative may issue “dividend” paying equity as referenced in Subdivision 3 of §308B.725 of the Act; provided, such equity interests are authorized by or pursuant to these Bylaws and provided further that this restriction shall not be construed to prevent the issuance of Units that are entitled to priority over other Units to allocations of Profits and distributions of Net Cash Flow or in Dissolution.
- (d) The crediting of allocations of Profits to the Capital Accounts of the Patron Members is intended to constitute the distribution of net income in the form of capital credits within the meaning of Subdivision 5 of §308B.725 of the Act, and the distribution of Net Cash Flow and winding up proceeds to the Patron Members is intended to constitute a retirement of capital credits.
- (e) The debiting of Losses to the Capital Accounts of the Patron Members is intended to conform to the implicit authority of cooperatives to cancel or impair previously issued and outstanding capital credits or other patronage allocations in a manner that equitably burdens the appropriate patrons with their share of losses incurred by a cooperative.
- (f) The revaluation procedures in the definition of Gross Asset Value are intended to conform to the requirements of §308B.705 of the Act.

SECTION 3 ALLOCATIONS

3.1 Profits. After giving effect to the special allocations set forth in Sections 3.3 and 3.4, Profits for any Fiscal Year will be allocated among the Classes according to Class Percentage, provided that in no event shall allocations of Profits to the Patron Members collectively be less than fifty percent (50%) of the total profits in any Fiscal Year. Among the Patron Members, the Class allocation shall be further allocated on the basis of the Patronage that each Patron Member has conducted with the Cooperative during the Fiscal Year, or in the case of gain on a substantial sale of property that is not in the ordinary course of business, during such Fiscal Years as the Board determines, taking into consideration the origin of the gain and the period to which it relates. Among the Nonpatron Members, the Class allocation shall be further

allocated in proportion to holdings of Capital Units of the Class. The Class Percentages are subject to change if the Cooperative issues additional Capital Units pursuant to Section 2.3.

3.2 Losses. After giving effect to the special allocations set forth in Sections 3.3 and 3.4 and subject to Section 3.5, Losses for any Fiscal Year will be allocated among the Classes according to Class Percentages. Among the Patron Members, the Class allocation shall be further allocated on the basis of Patronage business that each Patron Member has conducted with the Cooperative during the Fiscal Year, or in the case of loss on a substantial sale of property that is not in the ordinary course of business, during such Fiscal Years as the Board determines, taking into consideration the origin of the loss and the period to which it relates. Among the Nonpatron Members, the Class allocation shall be further allocated in proportion to holdings of Capital Units of the Class. The Class Percentages are subject to change if the Cooperative issues additional Capital Units pursuant to Section 2.3.

3.3 Special Allocations. The following special allocations shall be made in the following order:

(a) **Minimum Gain Chargeback.** Except as otherwise provided in §1.704-2(f) of the Regulations, notwithstanding any other provision of this Section 3, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Unit Holder shall be specially allocated items of Cooperative income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to the Unit Holder's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations §1.704-2(g). These allocations shall be made in proportion to the respective amounts required to be allocated to each Unit Holder. The items to be allocated shall be determined in accordance with §§1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 3.3(a) is intended to comply with the minimum gain chargeback requirement in §1.704-2(f) of the Regulations and shall be interpreted accordingly.

(b) **Unit Holder Minimum Gain Chargeback.** Except as otherwise provided in §1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Section 3, if there is a net decrease in Unit Holder Nonrecourse Debt Minimum Gain attributable to a Unit Holder Nonrecourse Debt during any Fiscal Year, each Unit Holder who has a share of the Unit Holder Nonrecourse Debt Minimum Gain attributable to such Unit Holder Nonrecourse Debt, determined in accordance with §1.704-2(i)(5) of the Regulations, shall be specially allocated items of Cooperative income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Unit Holder's share of the net decrease in Unit Holder Nonrecourse Debt, determined in accordance with Regulations §1.704-2(i)(4). These allocations shall be made in proportion to the respective amounts required to be allocated to each Unit Holder. The items to be so allocated shall be determined in accordance with §§1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 3.3(b) is intended to comply with the minimum gain chargeback requirement in §1.704-2(i)(4) of the Regulations and shall be interpreted accordingly.

(c) **Qualified Income Offset.** If any Unit Holder unexpectedly receives any adjustments, allocations, or distributions described in §§1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Cooperative income and gain shall be specially allocated to such Unit Holder in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Unit Holder as quickly as possible, provided that an allocation pursuant to this Section 3.3(c) shall be made only if and to the extent that the Unit Holder would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 3 have been tentatively made as if this Section 3.3(c) was not in the Bylaws.

(d) **Gross Income Allocation.** If any Unit Holder has a deficit Capital Account at the end of any Fiscal Year, which is in excess of the sum of the amount such Unit Holder is obligated to restore pursuant to the penultimate sentences of Regulations §§1.704-2(g)(1) and 1.704-2(i)(5), each such Unit Holder shall be specially allocated items of Cooperative income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 3.3(d) shall be made only if and to the extent that such Unit Holder would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Section 3 have been made as if Section 3.3(c) and this Section 3.3(d) were not in the Bylaws.

(e) **Nonrecourse Deductions.** Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Unit Holders in proportion to their respective interests in Profits under Section 3.1.

(f) **Unit Holder Nonrecourse Deductions.** Any Unit Holder Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Unit Holder who bears the economic risk of loss with respect to the Unit Holder Nonrecourse Debt to which such Unit Holder Nonrecourse Deductions are attributable in accordance with Regulations §1.704-2(i) (1).

(g) **Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Cooperative asset, pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations §1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Unit Holder in complete liquidation of such Unit Holder's interest in the Cooperative, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Unit Holders in accordance with their interests in the Cooperative if Regulations §1.704-1(b)(2)(iv)(m)(2) applies, or to the Unit Holder to whom such distribution was made in the event Regulations §1.704-1(b)(2)(iv)(m)(4) applies.

(h) **Allocations Relating to Taxable Issuance of Units.** Any income, gain, loss or deduction realized as a direct or indirect result of the issuance of Units by the Cooperative to a Unit Holder (the "Issuance Items") shall be allocated among the Unit Holders so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations under

these Bylaws to each Unit Holder shall be equal to the net amount that would have been allocated to each such Unit Holder if the Issuance Items had not been realized.

(i) **Syndication Expenses.** Syndication Expenses for any Fiscal Year shall be specially allocated to the Unit Holders in proportion to their interests in Profits under Section 3.1, provided that, if Units are issued at different times during the Fiscal Year, all Syndication Expenses shall be divided among the Unit Holders from time to time so that, to the extent possible, the cumulative Syndication Expenses allocated with respect to each Unit within a Class at any time is the same amount. In the event the Board of Directors shall determine that the result is not likely to be achieved through future allocations of Syndication Expenses, the Board of Directors may allocate other items of income, gain, deduction, or loss so as to achieve the same effect on the Capital Accounts of the Unit Holders.

(j) **Gross Income Allocation for Series 2004 Preferred Dividends.** If the holders of Class B Preferred Units receive with respect to a Fiscal Year, or have received with respect to a prior Fiscal Year, a Series 2004 Preferred Dividend, items of Cooperative gross income and gross gain shall be specially allocated to the holders of Class B Preferred Units, pro rata, in accordance with, as to each such Class B Unit Holder, the excess of (x) the aggregate amount of Series 2004 Preferred Dividends such Class B Unit Holder has received for all Fiscal Years, over (y) the cumulative amount of gross income and gross gain allocated to such Class B Unit Holder pursuant to this Section 3.3(j) for all prior Fiscal Years until, with respect to each such Class B Unit Holder, the cumulative amount of gross income and gross gain allocated pursuant to this Section 3.3(j) for the current Fiscal Year and all prior Fiscal Years equals the aggregate amount of Series 2004 Preferred Dividends that such Class B Unit Holder has received for all Fiscal Years.

3.4 Curative Allocations. The allocations set forth in Sections 3.3(a) through (g) and 3.5 (the “**Regulatory Allocations**”) are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Cooperative income, gain, loss or deduction pursuant to this Section 3.4. Therefore, notwithstanding any other provision of this Section 3 (other than the Regulatory Allocations), the Board of Directors shall make such offsetting special allocations of Cooperative income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Unit Holder’s Capital Account balance is, to the extent possible, equal to the Capital Account balance such Unit Holder would have had if the Regulatory Allocations were not part of the Bylaws and all Cooperative items were allocated pursuant to Sections 3.1, 3.2, 3.3(h) and 3.3(j).

3.5 Loss Limitation. Losses allocated pursuant to Section 3.2 shall not exceed the maximum amount of Losses that can be allocated without causing any Unit Holder to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. If some but not all of the Unit Holders would have Adjusted Capital Account Deficits as a consequence of an allocation of

Losses pursuant to Section 3.2, the limitation set forth in this Section 3.5 shall be applied on a Unit Holder by Unit Holder basis and Losses not allocable to any Unit Holder as a result of such limitation shall be allocated to the other Unit Holders in accordance with the positive balances in such Unit Holder's Capital Accounts so as to allocate the maximum permissible Losses to each Unit Holder under §1.704-1(b)(2)(ii)(d) of the Regulations.

3.6 Other Allocation Rules.

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Board of Directors using any permissible method under Code Section 706 and the Regulations thereunder.

(b) Generally, all Profits and Losses allocated to the Unit Holders or the holders of specified Units or a specified Class thereof shall be allocated among them in proportion to the Units or specified Units or Class thereof, respectively, held by each. If Units are issued pursuant to Section 2 hereof during a Fiscal Year, the Profits (or Losses) allocated to the Unit Holders for each such Fiscal Year shall be allocated among the Unit Holders in proportion to the number of Units each holds from time to time during such Fiscal Year in accordance with Code Section 706, using any convention permitted by law and selected by the Board of Directors.

(c) The Unit Holders are aware of the income tax consequences of the allocations made by this Section 3 and hereby agree to be bound by the provisions of this Section 3 in reporting their shares of Cooperative income and loss for income tax purposes.

(d) Solely for purposes of determining a Unit Holder's proportionate share of the "excess nonrecourse liabilities" of the Cooperative within the meaning of Regulations §1.752-3(a) (3), the Unit Holders' interests in Cooperative profits are in proportion to their respective interests in Profits under Section 3.1.

To the extent permitted by §1.704-2(h) (3) of the Regulations, the Unit Holder shall endeavor to treat distributions of Net Cash Flow as having been made from the proceeds of a Nonrecourse Liability or a Unit Holder Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Unit Holder.

3.7 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any Property contributed to the capital of the Cooperative shall, solely for tax purposes, be allocated among the Unit Holder so as to take account of any variation between the adjusted basis of such Property to the Cooperative for federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of Gross Asset Value) using such allocation method as may be provided by Regulations and selected by the Board of Directors.

In the event the Gross Asset Value of any Cooperative asset is adjusted pursuant to subparagraph (ii) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Board of Directors in any manner that reasonably reflects the purpose and intention of these Bylaws. Allocations pursuant to this Section 3.7 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Unit Holder's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of these Bylaws.

SECTION 4 DISTRIBUTIONS

4.1 Net Cash Flow. Unless otherwise provided by the Board of Directors or as otherwise provided in Section 11, Net Cash Flow, if any, shall be distributed after the end of each Fiscal Year among the Classes in proportion to Class Percentages or, in the discretion of the Board, to the holders of 2012 QWNAs in proportion to their distribution entitlements thereunder, provided that, with respect to the 2012 QWNAs, such distribution shall be considered a redemption of the 2012 QWNA and said redemption may be in whole or in part of the face amount of the 2012 QWNA (if less than all of the 2012 QWNAs, said redemption shall be pro rata across all 2012 QWNAs unless redeemed or retired pursuant to a redemption policy adopted by the Board of Directors for death or retirement of members), no person or entity shall have any right to require the retirement or redemption of the 2012 QWNAs or any portion thereof, and the retirement or redemption of any such 2012 QWNAs shall be solely within the discretion and on the terms prescribed by the Board of Directors from time to time. Among the Patron Members, the Class distribution shall be further distributed in proportion to holding of Capital Units of the Class. Among the Nonpatron Members, the Class distribution shall be further distributed in proportion to holding of Capital Units of the Class. The Board of Directors shall have the discretion to make distributions at any time during the Fiscal Year. In no event shall distributions to the Patron Members collectively be less than fifty percent (50%) of the total distribution in any Fiscal Year. Notwithstanding the foregoing, no distributions shall be made to any holder of Capital Units for a Fiscal Year unless an 8% Series 2004 Preferred Dividend shall first be made to the holders of the Series 2004 Class B Units with respect to such Fiscal Year.

4.2 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state, local or foreign tax law with respect to any payment, distribution or allocation to the Cooperative or the Members shall be treated as amounts paid or distributed, as the case may be, to the Members with respect to which such amount was withheld pursuant to this Section 4.2 for all purposes under these Bylaws. The Cooperative is authorized to withhold from payments and distributions, or with respect to allocations to the Unit Holders, and to pay over to any federal, state and local government or any foreign government, any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state or local law or any foreign law,

and shall allocate any such amounts to the Unit Holder with respect to which such amount was withheld.

4.3 Limitations on Distributions.

(a) The Cooperative shall make no distributions to the Members except as: (i) provided in this Section 4 and Section 11; or (ii) agreed to by all of the Members.

(b) A Unit Holder may not receive a distribution from the Cooperative to the extent that, after giving effect to the distribution, all liabilities of the Cooperative, other than liability to Unit Holder on account of their Capital Contributions, would exceed the fair value of the Cooperative's assets.

SECTION 5 MANAGEMENT AND OPERATIONS

5.1 Management by Board of Directors.

(a) Except those matters for which approval of the Members is required by these Bylaws or any nonwaivable provisions of the Act, and subject to the provisions of Section 5.2, the powers and privileges of the Cooperative shall be exercised by or under the authority of, and the business and affairs of the Cooperative shall be managed under the direction of, the Board of Directors and not by the Members. No Member, other than a Member acting in his or her capacity as a member of the Board of Directors in accordance with these Bylaws or as an officer of the Cooperative, has the power or authority to act for or on behalf of the Cooperative, to bind the Cooperative by any act, or to incur any expenditures on behalf of the Cooperative, except with the prior consent of the Board of Directors. Without limiting the foregoing authority of the Board of Directors to manage the business and affairs of the Cooperative or the actions the Board of Directors may take in exercising the powers and privileges of the Cooperative, the Board of Directors shall have the right to make the following decisions and take the following actions:

(i) Acquire by purchase, lease, or otherwise any real or personal property;

(ii) Operate, maintain, finance, improve, construct, own, grant operations with respect to, sell, convey, assign, mortgage, or lease any real estate and any personal property;

(iii) Execute any and all agreements, contracts, documents, certifications, and instruments necessary or convenient in connection with the management, maintenance, and operation of the business or affairs of the Cooperative, including executing amendments to these Bylaws in accordance with the terms of these Bylaws;

(iv) Borrow money and issue evidences of indebtedness, and secure the same by mortgage, pledge, or other lien on any or all of the Cooperative's assets;

(v) Execute any deed, lease, mortgage, deed of trust, mortgage note, promissory note, bill of sale, contract, or other instrument purporting to convey or encumber any or all of the Cooperative's assets;

(vi) Prepay in whole or in part, refinance, recast, increase, modify, or extend any liabilities affecting the assets of the Cooperative and in connection therewith execute any extensions or renewals of encumbrances on any or all of such assets;

(vii) Care for and distribute funds to the Unit Holders by way of cash income, return of capital, or otherwise, all in accordance with the provisions of these Bylaws, and perform all matters in furtherance of the objectives of the Cooperative or these Bylaws;

(viii) Hire or contract on behalf of the Cooperative for the employment and services of employees and/or independent contractors, such as consultants, lawyers and accountants, and delegate to such Persons the duty to manage or supervise any of the assets or operations of the Cooperative;

(ix) Engage in any kind of activity and perform and carry out contracts of any kind (including contracts of insurance covering risks to Cooperative assets and Director liability), as may be lawfully carried on or performed by a Cooperative under the laws of each state in which the Cooperative is then formed or qualified;

(x) Take, or refrain from taking, all actions, not expressly proscribed or limited by these Bylaws, as may be necessary or appropriate to accomplish the purposes of the Cooperative;

(xi) Institute, prosecute, defend, settle, compromise, and dismiss lawsuits or other judicial or administrative proceedings brought on or in behalf of, or against, the Cooperative, the Members or the Directors in connection with activities arising out of, connected with, or incidental to these Bylaws, and to engage counsel or others in connection therewith;

(xii) Purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in or obligations of domestic or foreign corporations, associations, general or limited partnerships, other limited liability companies, or individuals or direct or indirect obligations of the United States or of any government, state, territory, government district or municipality or of any instrumentality of any of them;

(xiii) Subject to Section 5.1(c) and Section 2, agree with any Person as to the form and other terms and conditions of such Person's Capital Contribution to the Cooperative and cause the Cooperative to issue Units in consideration of such Capital Contribution; and

(xiv) Indemnify a Member or Director or officer or former Member or Director or officer, and to make any other indemnification that is authorized by these Bylaws in accordance with the Act.

The Board of Directors may adopt such policies, rules, and regulations and may take such actions as it shall deem advisable in furtherance of the purposes of the Cooperative, provided that the Board of Directors shall not act in a manner contrary to these Bylaws.

(b) The Board of Directors shall take action by the affirmative vote of the Directors present at a duly held meeting of the Board at which a quorum is present.

(c) Notwithstanding Section 5.1(a), the Board of Directors shall not have authority to approve, authorize or take the following actions with respect to the Cooperative without the approval or consent of two-thirds of the voting power of the Members present in person, or by mail ballot if authorized, and entitled to vote at a duly held meeting, as such voting power is determined in accordance with Section 6.2 hereof: (i) sell, lease, exchange or otherwise dispose of all or substantially all of the assets of the Cooperative; (ii) merge or consolidate the Cooperative with another Person; (iii) make any change in the business purpose of the Cooperative; or (iv) voluntarily dissolve the Cooperative.

5.2 Actions by Directors; Committees; Reliance on Authority.

(a) In managing the business and affairs of the Cooperative and in exercising the powers and privileges of the Cooperative, the Board of Directors shall act: (i) collectively through meetings held and conducted pursuant to the provisions of these Bylaws or by written action taken pursuant to the provisions of these Bylaws; (ii) through committees established pursuant to Section 5.2(b); and (iii) through officers of the Cooperative or other employees or agents to whom authority and duties have been delegated pursuant to the provisions of these Bylaws.

(b) The Board of Directors, by resolution approved by the affirmative vote of a majority of the Directors then holding office, may from time to time establish one or more committees, each of which shall be comprised of one or more natural persons who may but need not be Directors or Members, provided that a majority of committee members on each committee must be a Director or Member. Any such committee shall have and may exercise only such authority and duties to the extent provided by the Board of Directors in such resolution, subject at all times to the limitations set forth in the Act, these Bylaws and to the direction and control of the Board of Directors. Unless otherwise provided by the Board of Directors, the presence of a majority of the members of any such committee shall constitute a quorum for the transaction of business at a meeting of the committee, and the committee shall act by the affirmative vote of a

majority of committee members present at a duly held meeting. In other matters of procedure the provisions of these Bylaws shall apply to committees and the members thereof to the same extent they apply to the Board of Directors and Directors, including, without limitation, the provisions with respect to meetings and notice thereof, absent members, written actions, and valid acts. Each committee shall keep regular minutes of its proceedings and report the same to the Board of Directors. The Board of Directors may dissolve any committee at any time.

(c) Any Person dealing with the Cooperative, other than a Member or a Director or an Affiliate of a Member or Director, may rely on the authority of any officer of the Board of Directors or any officer of the Cooperative in taking any action in the name of the Cooperative without inquiry into the provisions of these Bylaws or compliance herewith, regardless of whether the action is actually taken in accordance with the provisions of these Bylaws.

5.3 The Board of Directors.

(a) **Number, Qualifications and Terms of Office.** The business and affairs of this Cooperative shall be governed by the Board of Directors. The number of directors shall be established by the Board of Directors, having due consideration for equitable representation of the membership, provided that the number of directors shall not be less than five (5) directors nor greater than fifteen (15) directors, and provided that no resolution shall shorten the term of a director previously elected. All directors must be a member of this Cooperative or an elected or appointed representative of a non-individual member of this Cooperative for at least one year prior to becoming eligible to become a director (i.e. persons must be a member for at least one year to be eligible, or to have their elected representatives eligible, to become a director). Except as otherwise provided herein, all directors shall serve three-year terms and until their successors are duly elected and qualified. Directors shall not be permitted to serve more than three, consecutive, full three-year terms. In order to preserve continuity of governance and the harmonious transition of the initial Board of Directors to the elected Board of Directors, the directors of this Cooperative serving on the Board of Directors immediate prior to the Effective Date of these Bylaws shall constitute the initial directors on the first Board of Directors of this Cooperative under Chapter 308B on and after such effective date, and shall serve for the terms for which said directors were previously elected and in the manner in accordance with the Bylaws.. The Board of Directors shall adopt a procedure to achieve the desired staggered effect prescribed by these Bylaws.

(b) **Districts.** The nomination and election of directors of this Cooperative shall be on a district basis. For the purpose of nominating and electing directors, following the date on which the Board of Directors determines that the initial membership in this Cooperative has been established and before the next annual members' meeting following such date, the initial Board of Directors shall divide the territory encompassing the location of the members of this Cooperative into districts, having due consideration for equitable representation of the membership. The boundary lines of each district shall generally follow state, county, portion of county, or combination of county lines. From time to time, but no more often than once every three years, the Board of Directors shall review member representation and may appoint

members to a redistricting committee, and any future redistricting plans shall be designed to maintain equitable representation. No member of the Board of Directors may serve on any redistricting committee.

(c) **Nominations and Election of Directors.**

(i) Nominations by district for the election of directors may be made by balloting, by petition signed by at least ten members residing within a district and submitted to the Secretary at least ten days prior to the annual members' meeting, from the floor at the district meeting or annual members' meeting by a member residing within a district, or by nominating committee; provided that nominations from the floor shall be requested in addition to nominations made by petition or nominating committee. Before each annual members' meeting, the Board of Directors may appoint a nominating committee to supervise the nominating procedure for election of directors established by the Board of Directors. In order to promote nominations by members and to provide information to the membership, the Board of Directors may call district meetings of the members to be held at least seven days prior to the annual members' meeting. If called, the district meeting shall be presided over by the incumbent director of that district whose term of office is the last to expire, except that the Board of Directors shall designate the person to preside over a district meeting when such incumbent director is not available. Notice of any district meetings shall be given in the same manner as a notice of an annual or special members' meeting.

(ii) Each district shall be represented by an equal number of directors (or as nearly as possible), and the staggered terms of the directors shall be established such that the terms of one director from each district (or as nearly as possible) shall expire at the next annual members' meeting and at each annual members' meeting thereafter. Directors shall be elected at the annual members' meeting by a vote of the members of the district to be represented by the director (and not by a vote of the entire membership), and the Board of Directors may adopt such registration or other voting procedures to further implement this election procedure.

(d) **Member Assignment.** Each member shall be assigned to a district in which such member's principal farm is located. A member who is other than a natural person shall be assigned to the district where such member has its principal place of business. In appropriate cases, the Board of Directors reserves the right, upon request of a member, to assign such member to a different district. The determination by the Board of Directors as to a member's district shall in all cases be final and conclusive.

(e) **Annual Meeting.** Within thirty (30) days after each annual members' meeting, the Board of Directors shall meet for the purpose of electing officers of this Cooperative and for the transaction of such other business as shall come before the meeting. The annual

meeting of the Board of Directors shall be held at such time and place as may be fixed by resolution adopted by the Board of Directors.

(f) **Regular Meeting.** Regular meetings of the Board of Directors shall be held from time to time at such time and place as may be fixed by resolution adopted by the Board of Directors.

(g) **Special Meetings.** Special meetings of the Board of Directors may be called by the President, the Secretary or by any three (3) of the directors and shall be held from time to time at a time and place as may be designated in the notice of the meeting.

(h) **Notice of Meetings.** Notice of each annual, regular or special meeting of the Board of Directors shall be given by the President or Secretary who shall give at least five (5) days prior notice of the meeting to each director by mail, telephone, telephonic facsimile transmission, telegram, electronic mail or in person unless, a shorter time period is otherwise agreed to. Notice shall be deemed given upon mailing, if notice is given by mail.

(i) **Waiver of Notice.** Notice of any meeting of the Board of Directors may be waived either before, at or after the meeting, in writing signed by each director. A director, by attendance at any meeting of the Board of Directors, shall be deemed to have waived notice of such meeting, except when a director attends the meeting and objects to the transaction of business because the meeting was not lawfully convened

(j) **Quorum; Board Action.** A majority of the members of Board of Directors shall constitute a quorum for the transaction of business except that, when a vacancy or vacancies exist, a majority of the remaining directors shall constitute a quorum. The Board of Directors shall take action by the affirmative vote of a majority of the directors present at a duly held meeting.

(k) **Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken by written action signed by all of the directors. The written action is effective when signed by all of the directors, unless a different effective time is provided in the written action.

(l) **Electronic Communications.** Any meeting of the Board of Directors may be conducted by telephonic or other electronic means of communication through which the directors may simultaneously hear one another.

(m) **Vacancies.** If a director's position is vacant, the Board of Directors may appoint a member of this Cooperative from the district of the vacant director position to fill the directors position until the next annual or special members' meeting. At the next annual or special members' meeting, the members from the district of the vacant director's position shall elect a director to fill the unexpired term of the vacant director's position.

(n) **Removal.** Members of a district may remove a director from their district at a members' meeting for cause related to the duties of the position of the director and fill the vacancy caused by the removal.

(o) **Compensation.** Directors who are not salaried officers of this Cooperative shall receive such fixed sum per meeting attended or such fixed annual sum as shall be determined, from time to time, by resolution of the Board of Directors. All directors shall receive their expenses, if any, of attendance at meetings of the Board of Directors or any committee thereof. Nothing in these Bylaws shall be construed to preclude any director from serving this Cooperative in any other capacity and receiving proper compensation for the service

5.4 Duties and Obligations of Directors.

(a) **Duties.** The Board of Directors shall cause the Cooperative to conduct its business and operations separate and apart from that of any Member, Director or any of its Affiliates. The Board of Directors shall take all actions that may be necessary or appropriate for: (i) the continuation of the Cooperative's valid existence as a cooperative association under the laws of the State of Minnesota and each other jurisdiction in which such existence is necessary to protect the limited liability of Members or to enable the Cooperative to conduct the business in which it is engaged; and (ii) the accomplishment of the Cooperative's purposes, including the acquisition, development, maintenance, preservation, and operation of Cooperative property in accordance with the provisions of these Bylaws and applicable laws and regulations. Each Director shall have the duty to discharge the foregoing duties in good faith, in a manner the Director believes to be in the best interests of the Cooperative, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. No Director shall be under any other duty to the Cooperative or the Members to conduct the affairs of the Cooperative in a particular manner.

(b) **Appointment of General Manager.** When determined necessary by the Board of Directors, the Board of Directors shall select, employ, and fix the compensation of the General Manager of the Cooperative, who shall not be a member of the Board of Directors. The General Manager shall have responsibility for all administrative and operational aspects of the Cooperative, shall have responsibility for hiring and supervising all employees, and shall perform such other duties that may be assigned by the Board of Directors.

(c) **Bonds and Insurance.** The Board of Directors may require all officers, agents and employees charged by this Cooperative with responsibility for the custody of any of its funds or property to give bonds. Bonds shall be furnished by a responsible bonding Cooperative and approved by the Board of Directors, and the cost shall be paid by the Cooperative. The Board of Directors shall cause the Cooperative to provide for insurance of the property of the Cooperative, or property which may be in the possession of the Cooperative and not otherwise adequately insured by the owner of the property. In addition, the Board of Directors shall cause the Cooperative to provide for insurance covering liability of the

Cooperative to all employees and the public, in such commercially reasonable amounts as is customary for businesses similar to the Cooperative.

5.5 Officers.

(a) **Officers.** The officers of this Cooperative shall be a President, a Vice President, a Secretary and a Treasurer, who shall be elected in the manner as provided in Section 5.07 of these Bylaws. The offices of the Secretary and Treasurer may be combined and when so combined shall be termed "Secretary-Treasurer." Except for the Secretary-Treasurer, no offices may be held concurrently by the same person. The President and Vice President must be Directors and Members of this Cooperative. The Board of Directors may elect other officers from time to time as it deems advisable or as required by these Bylaws, and in such event shall establish appropriate duties and responsibilities for any such other officers. The Treasurer, Secretary and any such additional officers need not be directors or members.

(b) **President.** The President shall see that all orders and resolutions of the Board of Directors are carried into effect and shall preside at all meetings of the members and directors. The President shall be the official representative of this Cooperative to all outside associations or organizations of which this Cooperative is a member, unless another person is appointed by the President or other action is taken by the Board of Directors. The President shall sign and deliver in the name of this Cooperative any deeds, mortgages, bonds, contracts and other instruments pertaining to the business of this Cooperative, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the Articles or the Bylaws or the Board to some other officer or agent of this Cooperative. This broad signing authority shall not be construed so as to preclude the Board of Directors from authorizing any other officer or agent of this Cooperative to sign any deeds, mortgages, bonds, contracts and other instruments pertaining to the business of this Cooperative on behalf of this Cooperative. The President shall have such other duties as may, from time to time, be assigned by the Board of Directors .

(c) **Vice President.** The Vice-President shall have powers and perform duties as may be specified in the Bylaws or prescribed by the Board of Directors or by the President. In the event of the absence or disability of the President, the Vice-President shall perform the duties and exercise the powers of the President.

(d) **Secretary.** The Secretary shall attend all meetings of the members and Board of Directors; record all votes at and keep minutes of all the meetings; and record all proceedings of the meetings in the minute book of this Cooperative. The Secretary shall give proper notice of meetings of the members and of the Board of Directors. The Secretary shall perform such other duties as may, from time to time, be prescribed by the Board of Directors or by the President.

(e) **Treasurer.** The Treasurer shall be the custodian of all funds, securities and properties of this Cooperative and shall perform such other duties with respect to the finances of this Cooperative as may be prescribed by the Board of Directors or by the President.

(f) **Compensation.** The officers of this Cooperative shall receive compensation for their services as may be determined, from time to time, by resolution of the Board of Directors. No officer who is a director may take part in the vote on his or her salary for services rendered to the cooperative.

(g) **Election of Officers.** At its annual meeting, the Board of Directors shall elect from its members a President and one or more Vice-Presidents. Election for persons to fill any other offices established by these Bylaws or by the Board of Directors pursuant to Section 5.01 of these Bylaws shall be held at the annual meeting of the Board of Directors or at any other meeting of the Board of Directors, provided that notice of such election has been given in the notice of such meeting if other than the annual meeting. The officers shall hold their offices until their successors have been elected and have qualified, subject to any removal provisions of these Bylaws.

(h) **Removal of Officers.** The members may remove an officer at a members' meeting for cause related to the duties of the position of the officer and fill the vacancy caused by the removal. In addition, any officer may be removed by the Board of Directors whenever in its judgment the best interests of the cooperative will be served. Any vacancy among the officers caused by such removal shall be filled by the Board of Directors. No election or appointment to an office of this Cooperative shall itself create any contract rights .

5.6 Limitation of Liability; Indemnification of Directors and Officers.

(a) No Director or officer of the Cooperative shall be personally liable to this Cooperative or its Members for monetary damages for a breach of fiduciary duty by such Director or officer; provided that this provision shall not eliminate or limit the liability of a Director or officer for an act or failure to act in a manner that constitutes any of the following: (i) a breach of the Director's duty of loyalty to the Cooperative or its members; (ii) an act or omission that is not in good faith or involves intentional misconduct or a knowing violation of law; (iii) a knowing violation of securities laws or for illegal distributions; or (iv) a transaction from which the Director derived an improper personal profit. It is the intention of the Members of this Cooperative to eliminate or limit the personal liability of the directors of the Cooperative to the greatest extent permitted under the Act.

(b) The Cooperative, its receiver, or its trustee (in the case of its receiver or trustee, to the extent of Cooperative Property) shall indemnify, defend, save harmless, and pay all judgments and claims against, and reasonable expenses of, each present and former Director or officer relating to any liability or damage or reasonable expenses incurred with respect to a proceeding if the Director or officer (or former Director or officer) was a party to the proceeding in the capacity of a Director or officer of the Cooperative (which reasonable expenses including reasonable attorneys' fees may be paid as incurred). Notwithstanding the foregoing provisions, the Cooperative shall not indemnify, defend, save harmless, or pay all judgments and claims against, and reasonable expenses of, a Director (or former Director) under the foregoing provisions where such judgments and claims or proceedings arise out of or are related to act or failure to act of the Director in a manner that constitutes any of the acts listed at Section 5.6(a).

(c) The Cooperative may purchase and maintain insurance on behalf of any person in such person's official capacity against any liability asserted against and incurred by such person in or arising from that capacity, whether or not the Cooperative would otherwise be required to indemnify the person against the liability.

SECTION 6 MEMBERS

6.1 Members; Rights and Powers Generally.

(a) As of the Effective Date, the Members of the Cooperative are the Persons who were members of the Cooperative immediately prior to the Effective Date as shown on the books and records of the Cooperative, and each such member shall be a Patron Member. The Board shall cause the books and records of the Cooperative to be amended from time to time as Transfers occur or as additional Units are issued and additional Members are admitted to the Cooperative in accordance with these Bylaws.

(b) Additional persons may, upon the approval of the Board, become Members of the Cooperative: (i) by submitting a completed subscription agreement to subscribe for Units in the Cooperative upon the terms and conditions as may be set forth in the subscription agreement, which shall include a representation and warranty that the representations and warranties required of all Members in these Bylaws are true and correct with respect to such Person, and the acceptance thereof by the Cooperative, (ii) by meeting any and all requirements of membership established in or pursuant to these Bylaws, (iii) by submitting an executed counterpart signature agreeing to be bound by these Bylaws, (iv) by submitting payment of the purchase price for the number of Units subscribed for in the subscription agreement, in accordance with the terms of the subscription agreement, and (v) upon being admitted as a Member by the Board; or in any other manner authorized in or pursuant to this Agreement. The Board may refuse to admit any Person as a Member in its sole discretion.

(c) Transferees of Units may become Members as provided in Section 10.6 hereof.

(d) Other than the right to elect Directors to the Board, no Member, other than a Member acting in his, her or its capacity as a member of the Board or as an officer of the Cooperative, has any right or power to take part in the management or control of the Cooperative or its business and affairs. No Member other than a Member acting in his, her or its capacity as a member of the Board or as an officer of the Cooperative, has the authority or power to act for or on behalf of the Cooperative, to do any act that would be binding on the Company, or to incur any expenditures on behalf of the Cooperative, except with the prior written consent of the Board.

(e) No Member shall have any voting right except with respect to those matters requiring a Member vote or approval as specifically provided for in these Bylaws or as otherwise required by the Act.

6.2 Membership.

(a) **Membership Generally.** The Cooperative may have Patron Members and Nonpatron Members. Membership in the Cooperative is restricted to the holders of the Common Units of this Cooperative, and each Member of this Cooperative must hold one Common Unit. No person may hold more than one Common Unit. Only the holders of Common Units shall have voting power in this Cooperative. Holders of the Common Units shall be restricted to persons who meet the requirements and conditions of Patron Membership or Nonpatron Membership in this Cooperative as provided in or established pursuant to the Articles and these Bylaws. The Board of Directors shall have the authority to establish such additional terms and conditions, qualifications, methods of acceptance, duties, rights and privileges of membership in this Cooperative and holding Common Units as it may from time to time deem advisable. The Board of Directors may refuse membership or provide conditional membership to an applicant in its sole discretion.

(b) **Member Voting.** Each holder of Common Units shall have one vote in the affairs of this Cooperative regardless of the number of Class A, Class C or Class D Preferred Units held by such Common Unit Holder, subject however to the authority and the power of the Board of Directors, upon the approval of a majority of the voting power of Members present and entitled to vote at a duly held meeting called for that purpose or the notice of which included such purpose, to establish and issue Nonpatron Membership Interests represented by Class D Preferred Units with voting power based on and in proportion to Class D Preferred Units held (and not based on one member, one vote), provided that the collective voting power of the Patron Members of this Cooperative may not be less than fifty percent (50%) of the voting power of all Members.

(c) **Patron Membership.** Class A Preferred Units are and represent the patron membership interests of the Cooperative. Producers of agricultural products, associations of such producers, and other Persons who are eligible to become a common unitholder of this Cooperative and who patronize this Cooperative under uniform conditions as may be established by the Articles, the Bylaws, or the Board of Directors may, upon the approval of the Board of Directors, become a Patron Member of this Cooperative by:

- (i) becoming the holder of one (1) Common Unit of this Cooperative;
and
- (ii) becoming the holder of a minimum number of Class A Preferred Units prescribed by the Board of Directors by the date established by the Board of Directors as the date on and after which holding such minimum number of Class A Preferred Units becomes a requirement of patron membership; and
- (iii) entering into an uniform delivery and marketing agreement with this Cooperative by the date established by the Board of Directors as the date on and after which entering into such agreement becomes a requirement of patron membership; and

- (iv) meeting other patron membership criteria or requirements established from time to time by the Board of Directors.

Each Patron Member shall be entitled to vote to elect Directors and on other matters of the Cooperative as provided herein. Each Patron Member shall have one vote upon each matter submitted to a vote at any meeting of the Members (including the election of Directors), regardless of the number of Class A Units held by the Patron Member, provided that the relative voting power of the Patron Members collectively for purposes of determining the voting power of the Members shall be determined in accordance with Section 6.2(g) hereof.

(d) **Nonpatron Membership.** Class C and Class D Preferred Units represent nonpatron membership interests and may be issued to any Person in accordance with these Bylaws. Patron Members may hold Class C or D Units and be a Nonpatron Member concurrently with being a Patron Member, provided the Patron Member meets the membership requirements to be a Nonpatron Member in addition to, and not in combination with, the membership requirements to be a Patron Member. Each Nonpatron Member shall be entitled to vote to elect Directors and to vote on other general matters of the Cooperative as provided herein. Each Nonpatron Member shall have one vote in the affairs of this Cooperative regardless of the number of Class A, Class C or Class D Preferred Units held by such Common Unit Holder, subject however to the authority and the power of the Board of Directors, upon the approval of a majority of the voting power of members present and entitled to vote at a duly held meeting called for that purpose or the notice of which included such purpose, to establish and issue Nonpatron Membership Interests represented by Class D Preferred Units with voting power based on and in proportion to Class D Preferred Units held (and not based on one member, one vote), provided that the collective voting power of the Patron Members of this Cooperative may not be less than fifty percent (50%) of the voting power of all Members.

(e) **Termination of Membership.** Membership in this Cooperative may be terminated by the Board of Directors in their discretion if the Board of Directors determines that a Member has:

- (i) become ineligible for membership for any reason;
- (ii) with respect to Patron Members, failed to patronize this Cooperative for a period of one year or more;
- (iii) not paid any required membership fees;
- (iv) died or ceased to exist as a legal entity and left no successor; or
- (v) the Board of Directors by resolution finds that a Member has:
 - (1) intentionally or repeatedly violated any provision of the Articles, the Bylaws, or Board policies of this Cooperative;

- (2) taken actions that will impede this Cooperative from accomplishing its purposes;
- (3) takes or threatens actions that adversely affect the interests of this Cooperative or its Members;
- (4) willfully obstructed any lawful purpose or activity of this Cooperative; or
- (5) breached any contract with this Cooperative.

The Board of Directors may only terminate the membership of a Member at a meeting of the Board of Directors, 20 days written notice of which was served upon the Member alleged to be ineligible by United States Certified Mail. Said notice shall state with reasonable particularity the grounds upon which the Member is alleged to be ineligible and such Member shall be entitled to heard thereon at such meeting.

(f) **Consequences of Membership Termination.** In the event the Board of Directors shall find that any Common Unit of this Cooperative has come into the hands of any person who is not eligible to own Common Units or who has otherwise become ineligible for membership in this Cooperative, the Board of Directors shall have the right, at its option, (1) to redeem the Common Unit at an amount equal to the value of the consideration for which the Common Unit was issued; or (2) to convert the Common Unit held by such person into a nonvoting certificate of interest or other nonvoting equity credit at an amount equal to value of the consideration for which the Common Unit was issued. Upon such redemption and/or conversion, such ineligible holder of Common Units shall cease to be a Member of this Cooperative and shall cease to have voting rights in this Cooperative.

In exercising its right to redeem or to convert the Common Units under the preceding paragraph, this Cooperative may cancel the certificate or certificates of such Common Units on its books in the event the holder fails to deliver the certificate or certificates evidencing such Common Units to the Cooperative. In the event this Cooperative exercises its right to convert the Common Units into a nonvoting certificate of interest or other nonvoting equity credit, this Cooperative shall have no obligation to redeem such nonvoting equity interest, nor shall the holder of such interest have any right to demand the redemption thereof, and such interest shall remain subject to the terms and conditions of the Articles and these Bylaws, including without limitation restrictions on transfer and priorities of interests on dissolution.

Except as specifically provided for in the Bylaws, no action taken by this Cooperative with respect to its Common Units shall modify the obligations and liabilities of any holder thereof to this Cooperative under these Articles and the Bylaws or under any uniform marketing and delivery agreement or other contract between the holder and this Cooperative, nor impair the rights of this Cooperative under the Articles and Bylaws or such contracts.

(g) For purposes of determining the voting power of the Members: (i) the relative voting power of Patron Members shall be based on and in proportion to (A) the total number of Class A Units held by Patron Members divided by (B) the sum of the total number of Class A Units issued and outstanding and held by Patron Members and the total number of Class C Units and Class D Units issued and outstanding (and such other issued and outstanding Units established and designated by the Board to represent nonpatron membership interests) and held by Nonpatron Members; and (ii) the relative voting power of Nonpatron Members shall be 100% less the relative voting power of Patron Members. Example: If Patron Members present and entitled to vote on a matter collectively hold 80% of all Units present and entitled to vote (excluding non-voting Units) on the matter, then the Patron Members would hold 80% of the voting power of the Members present and entitled to vote thereon and the Nonpatron Members would hold 20% of the voting power of the Members present and entitled to vote thereon. The voting power of Nonpatron Members present and entitled to vote thereon shall be allocated among and voted by Nonpatron Members individually in proportion to Class C Units and Class D Units (or other Membership Units other than Class A) held. The entire voting power of the Patron Members present and entitled to vote thereon shall be voted collectively as a block based upon and in accordance with the affirmative vote of a majority of the Patron Members present and entitled to vote thereon, unless these Bylaws or the Act require a greater than majority voting requirement for the Members to approve or take action, in which case the entire voting power of the Patron Members shall be voted collectively as a block based upon and in accordance with the affirmative vote of such higher proportion or percentage of the Patron Members present and entitled to vote thereon, and failure to achieve such higher percentage would mean that the entire voting power of the Patron Members present and entitled to vote thereon would be voted collectively as a block against such matter or action. Notwithstanding anything herein to the contrary, the voting power of the Patron Members collectively shall not be less than fifty percent (50%) of the voting power of all Members.

6.3 Meetings of Members.

(a) **Annual Meetings.** The annual meeting of the Members of this Cooperative shall be held at such time and place as shall be determined by the Board of Directors following the close of each fiscal year of this Cooperative. The notice of the meeting shall state the date, place and hour of the meeting. The Secretary shall give notice of annual members' meetings in the manner prescribed herein. The officers of this Cooperative must submit reports to the members at the annual meeting covering the business of this Cooperative for the previous fiscal year that show the condition of this Cooperative at the close of the fiscal year. At the annual meeting, Members shall elect directors of this Cooperative for the terms of office and in the manner prescribed by the Bylaws and transact such other business as may properly come before the meeting pursuant to the Cooperative's notice of the meeting or by or at the direction of the Board of Directors.

(b) **Special Member Meetings.**

(i) Special meetings of the Members of this Cooperative shall be held at the place specified in the notice of the meeting. The notice shall state the time,

place and purpose of the special Members' meeting. A special meeting of the Members may be called by a majority vote of the Board of Directors, or upon the written petition of at least 20% of the voting power of all Patron Members and Nonpatron Members holding Class C Units submitted to the President of this Cooperative. The President shall give notice of a special Members' meeting in the manner prescribed herein. In the event a special Members' meeting is called by the written petition of Members, the notice of the special Members' meeting shall be given within ten (10) days from and after the date of the presentation of the Members' petition, and the special Members' meeting must be held by thirty (30) days after the date of the presentation of the Members' petition. No business shall be considered at a special Members' meeting except as covered in the notice of the meeting.

(ii) In order for a special member meeting to be called by a written petition of Members pursuant to Section 6.3(b)(i) or applicable law, the Member or Members sponsoring such petition must be in good standing and must deliver to the President of this Cooperative not later than seventy-five (75) days nor earlier than one hundred twenty (120) days prior to the day that the petition is first circulated or sent to Members a written statement containing: (i) a brief description of the business desired to be brought before the special meeting, the text of the proposal or business (including text of any resolutions proposed for consideration on and in the event that such business includes a proposal to amend the Articles of Organization or Bylaws of this Cooperative, the language of the proposed amendment), reasons for conducting such business at the special meeting and any material interest in such business of such Member or Members sponsoring such petition, if any, or of any Member on whose behalf the proposal is made; (ii) the name, address of such Member or Members sponsoring such petition as they appear on this Cooperative's books; (iii) the class and number of Units owned by such Member or Members sponsoring such petition and entitled to vote at the special meeting; (iv) a representation that the Member or Members sponsoring such petition is a holder of Units of the Cooperative entitled to vote at a special meeting and intends to appear in person at the special meeting to propose such business; and (v) the disclosure statement or other information, if any, that will accompany the petition to be circulated or sent to Members. The petition and all information or statements that accompany the petition must not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. The Cooperative may require the Member or Members sponsoring such petition to submit additional information as the Cooperative may reasonably require to determine the eligibility or appropriateness of such proposal for action by the Members or to otherwise provide adequate information for Members to make an informed decision on whether or not to support the petition. The Cooperative shall have the opportunity to provide information on the petition to the Member or Members sponsoring the petition

under the same standards of disclosure, which information shall accompany the petition that is circulated or sent to the Members. Petitions circulated or sent to Members that do not meet the procedures set forth in this Section 6.3(b) or otherwise in accordance with the Bylaws shall not constitute valid petitions for the purpose of the calling of a special Member meeting. Only such business as shall have been brought before the meeting in accordance with the procedures set forth in this Section 6.3(b) and otherwise in accordance with the Bylaws shall be conducted at a special meeting of Members called by written petition of the Members.

(c) **Notice.** Notice of all annual and special Members' meetings shall be given by:

(i) publication in a legal newspaper published in the county of the principal place of business of this Cooperative;

(ii) publication in a magazine, periodical, or other publication of this Cooperative that is regularly published by or one behalf of this Cooperative and circulated generally among Members;

(iii) mailing the notice of the meeting to each Member personally at the Member's last known post office address, which for a member cooperative means notice mailed to the secretary of the member cooperative; or

(iv) otherwise providing notice in a manner prescribed by applicable law.

Failure of a Member to receive notice of an annual or special members' meeting shall not invalidate an action that is taken by the Members at a Members' meeting. The Secretary shall execute a certificate containing a correct copy of the mailed or published notice; the date of mailing or publishing the notice; and a statement that the notices were mailed or published as prescribed by the Act. The certificate shall be made a part of the record of the meeting

(d) **Quorum.** At any annual or special Members' meeting, a quorum necessary for the transaction of business shall be ten percent (10%) of the total number of Members if the Cooperative has 500 or fewer Members; or fifty (50) Members if the Cooperative has more than 500 Members. In determining a quorum at a meeting, on a question submitted to a vote by mail, Members present in person or represented by mail vote shall be counted. The attendance of a sufficient number of Members to constitute a quorum shall be established by a registration of the Members present in person or by mail ballot at the meeting. The registration shall be verified by the President and Secretary of this Cooperative and shall be reported in the minutes of the meeting.

(e) **Voting.** Each Patron Member and Nonpatron Member shall have one vote in the affairs of this Cooperative regardless of the number of Class A, Class C or Class D

Preferred Units held by such Member, subject however to the authority and the power of the Board of Directors, upon the approval of a majority of the voting power of Members present and entitled to vote at a duly held meeting called for that purpose or the notice of which included such purpose, to establish and issue Nonpatron Membership Interests represented by Class D Preferred Units with voting power based on and in proportion to Class D Preferred Units held (and not based on one Member, one vote), provided that the collective voting power of the Patron Members of this Cooperative may not be less than fifty percent (50%) of the voting power of all Members. A Member's vote at a Members' meeting must be in person or may be by mail if a mail vote is authorized by the Board of Directors. Voting by proxy and cumulative voting shall not be permitted; provided that the spouse of the Member may vote on behalf of the Member unless the Member has indicated otherwise in writing to this Cooperative. Members that are not individual persons must designate a representative (and may also designate an alternate representative) authorized to cast their vote in the affairs of this Cooperative. The designation must be in writing, must be properly authorized by the Member, and must be provided to the Secretary of this Cooperative at or before the Member meeting. The written designation will remain effective until it is superseded by a more recent written designation meeting the same criteria. Except where a higher percentage is specified in the Bylaws or required by applicable law, Members shall take action on all matters submitted to them by the affirmative vote of a majority of the voting power of Members present and entitled to vote at a duly held meeting, either in person or by mail vote if a mail ballot has been authorized by the Board of Directors.

(f) **Mail Vote.** A Member who is absent from a Members' meeting may vote by mail on the ballot prescribed hereunder on any motion, resolution, or amendment that the Board of Directors submits for vote by mail to the Members. The mail vote must be cast on a ballot that is in the form prescribed by the Board of Directors, that contains the exact text of the proposed motion, resolution or amendment to be acted upon at the meeting, that contains spaces in which the Member may indicate an affirmative or negative vote thereon, and that otherwise meets the requirements of Minnesota law. The ballot, when completed by an absent Member and received by this Cooperative in the manner prescribed by the Board of Directors, shall be counted as the vote of the Member at the meeting.

(g) **Order of Business.** Insofar as practical, the order of business at the annual Members' meeting and, where applicable, at all other meetings of the Members shall be:

1. Registration of Members
2. Proof of Notice of Meeting
3. Reading of Minutes of Prior Meeting
4. Reports of Officers and Committees
5. Election of Directors
6. Unfinished Business
7. New Business
8. Adjournment

6.4 Termination of Membership. A Member may not be expelled, provided that the failure of a Member to comply with the membership requirements established in, or pursuant to

authority granted by, this Agreement shall result in the termination of membership of such Person. The membership of a Member in the Cooperative shall terminate upon the occurrence of events described in these Bylaws or as otherwise provided for in the Act, including resignation and withdrawal. In the event a Person ceases to be a Member without having transferred all of the Units owned by such Person, such Person shall lose all voting rights and shall be considered merely an assignee of the financial rights associated with the Units held by such Person, having only the rights of an unadmitted assignee. Such Person shall remain subject to the applicable provisions of this Agreement with respect to such financial rights. Such Person shall have no right to any information or accounting of the affairs of the Cooperative, shall not be entitled to inspect the books or records of the Cooperative, shall not be entitled to vote on any matters reserved to the Members, and shall not have any of the other rights of a Member under this Agreement or of a member under the Act. Further, such Person shall not have the right to Transfer such Person's Units except by means of a Permitted Transfer in accordance with the provisions of Section 10 herein

6.5 Continuation of the Company. The Cooperative shall not be dissolved upon the occurrence of any event which is deemed to terminate the continued membership of a Member. The Cooperative's affairs shall not be required to be wound up. The Cooperative shall continue without dissolution.

6.6 No Obligation to Purchase Member's Interest. No Member whose membership in the Cooperative terminates, nor any transferee of such Member, shall have any right to demand or receive a return of such terminated Member's Capital Contributions or to require the purchase or redemption of the Units owned by such terminated Member. The other Members and the Cooperative shall not have any obligation to purchase or redeem the Units or Capital Contributions of any such terminated Member or transferee of any such terminated Member. No Member whose membership has terminated shall be entitled to receive a distribution in complete redemption of the fair value of the Units or Capital Contributions of such Person (except as provided in Section 11 hereof following a Dissolution Event), notwithstanding any provisions of the Act or any other provision of law. As a material part of the consideration for continuing or becoming a Member of the Cooperative, each Member hereby waives any right, and expressly agrees that it intends for this provision to negate any entitlement to receive a distribution in complete redemption of the fair value of Units or Capital Contributions of such Member upon an event that terminates the membership of such Member which, in the absence of the provisions in this Agreement, it may otherwise be afforded by the Act.

6.7 Waiver of Dissenters' Rights. Except for those transactions or events for which waiver of dissenters rights is expressly prohibited by the Act, each Member hereby waives and agrees not to assert any dissenters' rights under the Act.

SECTION 7 UNIT CERTIFICATES

7.1 Certificates For Units. Certificates representing Units of the Cooperative shall be in the form as determined by the Board of Directors. The Chair or the Vice Chair and the Secretary or assistant Secretary of the Cooperative shall sign the certificates. All certificates shall be consecutively numbered or otherwise identified. The name and address of the person to whom the certificate has been issued shall be entered on the books of the Cooperative. All certificates surrendered to the Cooperative for transfer shall be canceled and no new certificates shall be issued until the former certificate is surrendered and canceled by the Cooperative.

7.2 Transfer of Certificates. Transfer of certificates of the Cooperative shall be made pursuant to these Bylaws and only by the holder of record thereof or by the holder's legal representative, who shall furnish proper evidence of authority to transfer, or by the holder's attorney thereunto authorized by a power of attorney duly executed and filed with the Secretary of the Cooperative, and upon surrender of the certificate to the Cooperative for cancellation. The Person in whose name the Certificate appears on the books of the Cooperative is deemed to be the owner thereof for all purposes.

7.3 Loss or Destruction of Certificates. In case of loss or destruction of any certificate, another certificate may be issued in its place upon proof of such loss or destruction, and upon the holder of the certificate giving a satisfactory bond of indemnity to the Cooperative and to the transfer agent and registrar, if any, of the certificate, in the amount as the Board of Directors may provide.

7.4 Certificate Regulations. The Board of Directors has the power and authority to make such further rules and regulations, not inconsistent with these Bylaws and the statutes of the State of Minnesota, as they may deem expedient concerning the issue, transfer, conversion and registration of certificates of the Cooperative, including the appointment or designation of one or more transfer agents and one or more registrars. The Cooperative may act as its own transfer agent and registrar.

7.5 Legends. The Board of Directors may place one or more legends on the certificates representing the Units to indicate restrictions on transfer, registration requirements, or other restrictions or obligations contained in these Bylaws.

SECTION 8 ACCOUNTING, BOOKS AND RECORDS

8.1 Accounting, Books and Records.

(a) The books and records of the Cooperative shall be kept, and the financial position and the results of its operations recorded, in accordance with GAAP, consistently applied; provided, that the financial provisions in these Bylaws relating to Capital Contributions, Profits and Losses, distributions and Capital Accounts shall be construed and determined in accordance with these Bylaws without regard to whether such provisions are inconsistent with GAAP. The books and records shall reflect all the Cooperative's transactions and shall be

appropriate and adequate for the Cooperative's business. The Cooperative shall maintain at its principal office all of the following:

- (i) A current list of the full name and last known business or residence address of each Unit Holder set forth in alphabetical order, together with the Capital Contributions, Capital Account and Units of each Unit Holder;
- (ii) The full name and business address of each Director;
- (iii) A copy of the Articles and any and all amendments thereto together with executed copies of any powers of attorney pursuant to which the Articles or any amendments thereto have been executed;
- (iv) Copies of the Cooperative's federal, state, and local income tax or information returns and reports, if any, for the three most recent taxable years;
- (v) A copy of these Bylaws and any and all amendments thereto together with executed copies of any powers of attorney pursuant to which these Bylaws or any amendments thereto have been executed;
- (vi) Copies of the financial statements of the Cooperative, if any, for the three most recent Fiscal Years; and
- (vii) The Cooperative's books and records as they relate to the internal affairs of the Cooperative for at least the current and past four Fiscal Years.

(b) The Cooperative shall use the accrual method of accounting in preparing its financial reports and for tax purposes and shall keep its books and records accordingly. The Board of Directors may, without any further consent of the Unit Holders (except as specifically required by the Code), apply for IRS consent to, and otherwise effect a change in, the Cooperative's Fiscal Year. Any Member or its designated representative has the right to have reasonable access to and inspect and copy the contents of such books or records and shall also have reasonable access during normal business hours to such additional financial information, documents, books and records. The rights granted to a Member pursuant to this Section 8.1 are expressly subject to compliance by such Member with the safety, security and confidentiality procedures and guidelines of the Cooperative, as such procedures and guidelines may be established from time to time by the Board of Directors.

8.2 Reports.

(a) **In General.** The Treasurer of the Cooperative shall be responsible for causing the preparation of financial reports of the Cooperative and the coordination of financial matters of the Cooperative with the Cooperative's accountants.

(b) **Periodic and Other Reports.** The Cooperative shall maintain and provide to each Member upon request, the financial statements listed in clauses (i) and (ii) below,

prepared, in each case (other than with respect to Unit Holder's Capital Accounts, which shall be prepared in accordance with these Bylaws) in accordance with GAAP consistently applied (and, filed with the Securities and Exchange Commission, if required, for purposes of reporting under the Securities Exchange Act of 1934,), and such other reports as any Member may reasonably request from time to time; provided that, if the Board of Directors so determines within thirty (30) days thereof, such other reports shall be provided at such requesting Member's sole cost and expense.

(i) As soon as practicable following the end of each Fiscal Year (and in any event not later than ninety (90) days after the end of such Fiscal Year or such earlier date if required by an applicable SEC regulation) and at such time as distributions are made to the Unit Holders pursuant to Section 11 hereof following the occurrence of a Dissolution Event, a balance sheet of the Cooperative as of the end of such Fiscal Year and the related statements of operations, Unit Holders' Capital Accounts and changes therein, and cash flows for such Fiscal Year, together with appropriate notes to such financial statements and supporting schedules, all of which shall be audited and certified by the Cooperative's accountants, and in each case, to the extent the Cooperative was in existence, setting forth in comparative form the corresponding figures for the immediately preceding Fiscal Year end (in the case of the balance sheet) and the two (2) immediately preceding Fiscal Years (in the case of the statements).

(ii) As soon as practicable following the end of the first three Fiscal Quarters of each Fiscal Year (and in any event not later than forty-five (45) days after the end of such Fiscal Quarter or such earlier date if required by an applicable SEC regulation), an unaudited balance sheet of the Cooperative as of the end of such Fiscal Quarter and the related unaudited statements of operations and cash flows for such Fiscal Quarter and for the Fiscal Year to date, in each case, to the extent the Cooperative was in existence, setting forth in comparative form the corresponding figures for the prior Fiscal Year's corresponding Fiscal Quarter.

8.3 Tax Matters.

(a) **Tax Elections.** The Board of Directors shall, without any further consent of the Members being required (except as specifically required herein), make any and all elections for federal, state, local, and foreign tax purposes including, without limitation, any election, if permitted by applicable law: (1) to make the election provided for in Code Section 6231(a)(1)(B)(ii) or take any other action necessary to cause the provisions of Code §§6221 through 6231 to apply to the Cooperative; (2) to adjust the basis of Property pursuant to Code §§754, 734(b) and 743(b), or comparable provisions of state, local or foreign law, in connection with Transfers of Units and Cooperative distributions; (3) with the consent of all of the Members, to extend the statute of limitations for assessment of tax deficiencies against the Unit Holders with respect to adjustments to the Cooperative's federal, state, local or foreign tax returns; and (4) to the extent provided in Code §§6221 through 6231 and similar provisions of federal, state,

local, or foreign law, to represent the Cooperative and the Unit Holders before taxing authorities or courts of competent jurisdiction in tax matters affecting the Cooperative or the Unit Holders in their capacities as Unit Holders, and to file any tax returns and execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Unit Holders with respect to such tax matters or otherwise affect the rights of the Cooperative and the Unit Holders. The Board of Directors shall designate a qualifying Member to act as the tax matters partner within the meaning of and pursuant to Regulations §§301.6231(a)(7)-1 and -2 or any similar provision under state or local law.

(b) **Tax Information.** Necessary tax information shall be delivered to each Unit Holder as soon as practicable after the end of each Fiscal Year of the Cooperative but not later than five (5) months after the end of each Fiscal Year.

8.4 Delivery to Members and Inspection.

(a) Upon the request of any Member for purposes reasonably related to the interest of that Person as a Member, the Board of Directors shall promptly deliver to the requesting Member, at the expense of the Cooperative, a copy of the information required to be maintained under Sections 8.1(a)(i), (ii), (iii) and (iv), a copy of these Bylaws and all amendments hereto.

(b) Each Member has the right, upon reasonable request for purposes reasonably related to the interest of the Person as a Member and for proper purposes, to:

(i) Inspect and copy during normal business hours any of the Cooperative records described in Sections 8.1(a)(i) through (vii); and

(ii) Obtain from the Members, promptly after their becoming available, a copy of the Cooperative's federal, state, and local income tax or information returns for each Fiscal Year.

(c) Each Assignee shall have the right to information regarding the Cooperative only to the extent required by the Act.

SECTION 9 AMENDMENTS

Amendments to these Bylaws may be proposed by the Board of Directors. Following approval of any such proposal, the Board shall submit to the Members a verbatim statement of any proposed amendment, providing that counsel for the Cooperative shall have approved of the same in writing as to form, and the Board of Directors shall include in any submission a recommendation as to the proposed amendment. The Board may seek the written vote of the Members on the proposed amendment or may call a meeting to vote thereon and to transact any other business that it may deem appropriate. At a duly held meeting of the Members at which a quorum is present, a proposed amendment shall be adopted and be effective as an amendment

only if approved by a majority of the voting power of the Members present and entitled to vote at the duly held meeting.

Notwithstanding the above:

(a) These Bylaws shall not be amended without the consent of each Unit Holder adversely affected if such amendment would modify the limited liability of a Unit Holder, or alter the interest of a Unit Holder in Profits, Losses, other items, or any distributions (unless such alteration results from a change in the number of outstanding Units or an adjustment to the Capital Accounts as provided for herein, or from an amendment by the Board of Directors in accordance with Section 2 hereof);

(b) A provision of these Bylaws that requires the approval or consent of a specified percentage in interest of the Members may not be amended without the affirmative vote of such percentage in interest of the Members; and

(c) This Section 9 shall not be amended without the consent of at least two-thirds (2/3) of the voting power of Members present and entitled to vote at a duly held meeting.

SECTION 10 TRANSFERS

10.1 Restrictions on Transfers. No Transfer of Units shall be valid except as otherwise specifically permitted by this Section 10. It is the intent of these Bylaws that: (1) the tax status of the Cooperative be the same as for a partnership; (2) this Cooperative preserve its partnership tax status by complying with §1.7704-1, et seq., and any amendments thereto; and (3) to the extent possible, these Bylaws shall be read and interpreted to prohibit the free transferability of Units. The 2012 QWNAs may only be Transferred in connection with a simultaneous Transfer of the Class A Preferred Units held by the transferor, to the same transferee, in accordance with Section 10.10.

10.2 Permitted Transfers.

(a) No Transfer of Units shall be binding on this Cooperative without the approval of the Board of Directors nor until such Transfer shall have been entered in the books and records of this Cooperative. The Board of Directors may adopt a Unit Transfer Policy to further implement the provisions of this Section 10. The Board of Directors shall not approve, and the Cooperative shall not recognize for any purpose, any purported Transfer of Units unless and until the provisions, conditions and restrictions set forth in this Section 10 (including Section 10.3) and of any Unit Transfer Policy adopted by the Board of Directors have been satisfied. Any Transfer approved by the Board of Directors and satisfying the provisions, conditions and restrictions set forth in this Section 10 (including Sections 10.2 and 10.3) shall be referred to in these Bylaws as a “**Permitted Transfer**.” Notwithstanding the foregoing, a Member may pledge or otherwise encumber all or any portion of its Units as security for the payment of debt,

provided that any subsequent foreclosure or transfer to the secured party in lieu of foreclosure shall be considered a Transfer for all purposes of these Bylaws.

(b) Immediately following a Permitted Transfer, the Units held by the transferee shall again be subject to the Transfer restrictions set forth in this Section 10.

10.3 Conditions to Permitted Transfers. A Transfer shall not be treated as a Permitted Transfer under Section 10.2 unless and until the following conditions are satisfied:

(a) Except in the case of a Transfer involuntarily by operation of law, the transferor and transferee shall execute and deliver to the Cooperative the documents and instruments of conveyance as may be necessary or appropriate in the opinion of counsel to the Cooperative to effect the Transfer. In the case of a Transfer of Units involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Cooperative of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Cooperative. In all cases, the Cooperative shall be reimbursed by the transferor and/or transferee for all costs and expenses that it reasonably incurs in connection with the Transfer.

(b) The transferor and transferee shall furnish the Cooperative with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Units transferred, and any other information reasonably necessary to permit the Cooperative to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Cooperative shall not be required to make any distribution otherwise provided for in these Bylaws with respect to any transferred Units until it has received such information.

(c) Except in the case of a Transfer of Units involuntarily by operation of law, either (a) such Units shall be registered under the Securities Act, and any applicable state securities laws, or (b) the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Board of Directors, to the effect that such Transfer is exempt from all applicable registration requirements and that such Transfer will not violate any applicable laws regulating the Transfer of securities.

(d) Except in the case of a Transfer of Units involuntarily by operation of law, the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Board of Directors, to the effect that such Transfer will not cause the Cooperative to be deemed to be an "investment Cooperative" under the Investment Cooperative Act of 1940.

(e) Except in the case of a Transfer of Units involuntarily by operation of law, the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Board of Directors, to the effect that such Transfer will not cause the Cooperative to be deemed to be a "publicly-traded limited partnership" under applicable provisions of the Code.

(f) Unless otherwise approved by the Board of Directors, no Transfer of Units shall be made except upon terms which would not, in the opinion of counsel chosen by and mutually acceptable to the Board and the transferor Member, result in the termination of the Cooperative within the meaning of §708 of the Code or cause the application of the rules of §§168(g)(1)(B) and 168(h) of the Code or similar rules to apply to the Cooperative. In determining whether a particular proposed Transfer will result in a termination of the Cooperative, counsel to the Cooperative shall take into account the existence of prior written commitments to Transfer made pursuant to these Bylaws and such commitments shall always be given precedence over subsequent proposed Transfers.

(g) No notice or request initiating the procedures contemplated by Section 10.3 may be given by any Member after a Dissolution Event has occurred. No Member may Transfer all or any portion of its Units after a Dissolution Event has occurred.

(h) As described in Section 10.10, Class A Preferred Units may only be Transferred in conjunction with a simultaneous Transfer of the 2012 QWNAs held by the transferor, to the same transferee.

The Board of Directors shall have the authority to waive any legal opinion or other condition required in this Section 10.3.

10.4 Prohibited Transfers.

(a) Any purported Transfer of Units that is not a Permitted Transfer shall be null and void and of no force or effect whatever; provided that, if the Cooperative is required to recognize a Transfer that is not a Permitted Transfer (or if the Board of Directors, in their sole discretion, elects to recognize a Transfer that is not a Permitted Transfer), the Units Transferred shall be strictly limited to the transferor's rights to allocations and distributions as provided by these Bylaws with respect to the transferred Units, which allocations and distributions may be applied (without limiting any other legal or equitable rights of the Cooperative) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of the Units may have to the Cooperative.

(b) In the case of a Transfer or attempted Transfer of Units that is not a Permitted Transfer, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Cooperative and the other Members from all cost, liability, and damage that any of such indemnified Members may incur (including, without limitation, incremental tax liabilities, lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

10.5 Rights of Unadmitted Assignees. Unless admitted as a substitute Member pursuant to Section 10.6, a Person who acquires Units shall only be entitled to allocations and distributions with respect to such Units in accordance with these Bylaws, and shall not have any right to any information or accounting of the affairs of the Cooperative, and shall not be entitled to inspect the books or records of the Cooperative, and shall not have any of the rights of a

Member under the Act or these Bylaws. In addition, the Units held by such Person shall continue to be subject to the restrictions on Transfer provided for in this Section 10.

10.6 Admission of Substituted Members. A transferee of Units (whether as a result of a Permitted Transfer or otherwise) may be admitted as a substitute Member only upon satisfaction of each of the following conditions:

- (a) The transferee acquired its Units by means of a Permitted Transfer;
- (b) The approval of the Board of Directors which approval may be given or withheld in the sole and absolute discretion of the Board of Directors;
- (c) The transferee of Units (other than, with respect to clauses (i) below, a transferee that was a Member prior to the Transfer) shall, by written instrument in form and substance reasonably satisfactory to the Members (and, in the case of clause (ii) below, the transferor Member), (i) accept and adopt the terms and provisions of these Bylaws, including this Section 10, and (ii) assume the obligations of the transferor Member under these Bylaws with respect to the transferred Units.

The transferor Member shall be released from all such assumed obligations except (i) those obligations or liabilities of the transferor Member arising out of a breach of these Bylaws, (ii) in the case of a Transfer to any Person other than a Member or any of its Affiliates, those obligations or liabilities of the transferor Member based on events occurring, arising or maturing prior to the date of Transfer, and (iii) in the case of a Transfer to any of its Affiliates, any Capital Contribution or other financing obligation of the transferor Member under these Bylaws;

(d) The transferee pays or reimburses the Cooperative for all reasonable legal, filing, and publication costs that the Cooperative incurs in connection with the admission of the transferee as a Member with respect to the Transferred Units; and

(e) Except in the case of a Transfer involuntarily by operation of law, the transferee (other than a transferee that was a Member prior to the Transfer) shall deliver to the Cooperative evidence of the authority of such Person to become a Member and to be bound by all of the terms and conditions of these Bylaws, and the transferee and transferor shall each execute and deliver such other instruments as the Members reasonably deems necessary or appropriate to effect, and as a condition to, such Transfer, including amendments to the Articles or any other instrument filed with the State of Minnesota or any other state or governmental authority.

10.7 Representations Regarding Transfers; Legend.

(a) Each Member hereby covenants and agrees with the Cooperative for the benefit of the Cooperative and all Members that: (i) it is not currently making a market in Units and will not in the future make a market in Units; (ii) it will not Transfer its Units on an

established securities market, a secondary market (or the substantial equivalent thereof) within the meaning of Code Section 7704(b) (and any Regulations, proposed Regulations, revenue rulings, or other official pronouncements of the Internal Revenue Service or Treasury Department that may be promulgated or published); and (iii) in the event such Regulations, revenue rulings, or other pronouncements treat any or all arrangements which facilitate the selling of Cooperative interests and which are commonly referred to as “matching services” as being a secondary market or substantial equivalent thereof, it will not Transfer any Units through a matching service that is not approved in advance by the Cooperative. Each Member further agrees that it will not Transfer any Units to any Person unless such Person agrees to be bound by this Section 10.7(a) and to Transfer such Units only to Persons who agree to be similarly bound.

(b) Each Member hereby represents and warrants to the Cooperative and the Members that such Member’s acquisition of Units hereunder is made as principal for such Member’s own account and not for resale or distribution of the Units. Each Member further hereby agrees that the following legend may be placed upon any counterpart of these Bylaws, the Certificates, or any other document or instrument evidencing Membership of Units:

The Units represented by this document are subject to further restriction as to their sale, transfer, hypothecation, or assignment as set forth in the Cooperative’s Bylaws. Said restriction provides, among other things, that no Units may be transferred without first offering such Units to the other Members, and that no vendee, transferee, assignee, or endorsee of a Member shall have the right to become a substituted Member without the consent of the Cooperative’s Board of Directors which consent may be given or withheld in the sole and absolute discretion of the Board of Directors.

10.8 Distributions and Allocations in Respect of Transferred Units. If any Units are Transferred during any Fiscal Year in compliance with the provisions of this Section 10, Profits, Losses, each item thereof, and all other items attributable to the Transferred Units for the Fiscal Year shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the Fiscal Year in accordance with Code Section 706(d), using any conventions permitted by law and adopted by the Board of Directors. All distributions on or before the date of the Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Cooperative shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Cooperative is given notice of a Transfer at least ten business days prior to the Transfer, the Cooperative shall recognize such Transfer as of the date of the Transfer, and provided further that if the Cooperative does not receive a notice stating the date such Units were transferred and such other information as the Board of Directors may reasonably require within thirty days after the end of the Fiscal Year during which the Transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Cooperative, was the Member of the Units on the last day of the Fiscal Year. Neither the Cooperative nor any Member shall incur any liability for making allocations and distributions in

accordance with the provisions of this Section 10.8, whether or not the Members or the Cooperative has knowledge of any Transfer of Membership of any Units.

10.9 Sale of Units. In the case of a sale of the Units of the Cooperative, or a merger of the Cooperative with another Person, the consideration payable to the Unit Holders shall be shared among the Unit Holders based on the sale proceeds the Unit Holders would have received if the Cooperative had sold its assets for the implied value of the Cooperative (as determined in good faith by the Board based on the consideration being received by the Unit Holders in respect of the Units being Transferred by them in such transaction, such determination by the Board to be final and binding on the Unit Holders) and net proceeds had been distributed to the Unit Holders in accordance with Section 11.2 (after taking into account allocations of Profits and Losses through the date of the applicable transaction (including, in the case of a transaction that is not a sale of assets for tax purposes, Profits and Losses arising from the hypothetical sale of assets described above)).

10.10 2012 QWNAs. When all or a portion of a Member's Class A Preferred Units are validly transferred, the transferee shall succeed to the 2012 QWNAs of the transferor (or any predecessor owner of the transferred interest), in proportion to the number of Units transferred. Upon the effective date of the transfer, the distribution entitlements relative to the 2012 QWNAs shall vest automatically in the transferee by operation of these Bylaws, without reversion or impairment of the 2012 QWNAs as a result of such transfer, and without any requirement of action or execution of documents by any of the parties thereto.

SECTION 11 DISSOLUTION AND WINDING UP

11.1 Dissolution Events.

(a) **Dissolution.** The Cooperative shall dissolve and shall commence winding up and liquidating upon the first to occur of any of the following (each a "**Dissolution Event**"):

(i) The affirmative vote of each of the Board of Directors and two-thirds of the voting power of the Members present in person, or by mail ballot if authorized, and entitled to vote at a duly held meeting to dissolve, wind up, and liquidate the Cooperative; or

(ii) The entry of a decree of judicial dissolution pursuant to the Act.

(b) The Members hereby agree that, notwithstanding any provision of the Act, the Cooperative shall not dissolve prior to the occurrence of a Dissolution Event.

11.2 Winding Up. Upon the occurrence of a Dissolution Event, the Cooperative shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members, and no Unit Holder shall take any

action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Cooperative's business and affairs, provided that all covenants contained in these Bylaws and obligations provided for in these Bylaws shall continue to be fully binding upon the Unit Holders until such time as the Property has been distributed pursuant to this Section 11.2 and the Articles have been canceled pursuant to the Act. The Liquidator shall be responsible for overseeing the prompt and orderly winding up and dissolution of the Cooperative. The Liquidator shall take full account of the Cooperative's liabilities and Property and shall cause the Property or the proceeds from the sale thereof (as determined pursuant to Section 11.9), to the extent sufficient therefore, to be applied and distributed, to the maximum extent permitted by law, in the following order:

(a) First, to creditors (including Directors and Members who are creditors, to the extent otherwise permitted by law) in satisfaction of all of the Cooperative's Debts and other liabilities (whether by payment or the making of reasonable provision for payment thereof), other than liabilities for which reasonable provision for payment has been made; and

(b) Second, to the holders of Class B Preferred Units, pro rata in accordance with the positive balance in their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods.

(c) Third, to the holders of 2012 QWNAs, pro rata in accordance with the positive balance in their Capital Accounts in respect of their 2012 QWNAs, after giving effect to all contributions, distributions and allocations for all periods.

(d) Fourth, the balance, if any, to the holders of Class A Preferred Units, Class C Preferred Units and Class D Preferred Units pro rata in accordance with the positive balance in their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods.

11.3 Compliance With Certain Requirements of Regulations; Deficit Capital Accounts. In the event the Cooperative is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), (a) distributions shall be made pursuant to this Section 11 to the Unit Holders who have positive Capital Accounts in compliance with Regulations §1.704-1(b)(2)(ii)(b)(2). If any Unit Holder has a deficit balance in his Capital Account (after giving effect to all contributions, distributions and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such Unit Holder shall have no obligation to make any contribution to the capital of the Cooperative with respect to such deficit, and such deficit shall not be considered a debt owed to the Cooperative or to any other Person for any purpose whatsoever. In the discretion of the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Unit Holders pursuant to this Section 11 may be:

(a) Distributed to a trust established for the benefit of the Unit Holders for the purposes of liquidating Cooperative assets, collecting amounts owed to the Cooperative, and paying any contingent or unforeseen liabilities or obligations of the Cooperative. The assets of any such trust shall be distributed to the Unit Holders from time to time, in the reasonable discretion of the Liquidator, in the same proportions as the amount distributed to such trust by the

Cooperative would otherwise have been distributed to the Unit Holders pursuant to Section 11.2; or

(b) Withheld to provide a reasonable reserve for Cooperative liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Cooperative, provided that such withheld amounts shall be distributed to the Unit Holders as soon as practicable.

11.4 Deemed Distribution and Recontribution. Notwithstanding any other provision of this Section 11, in the event the Cooperative is liquidated within the meaning of Regulations §1.704-1(b)(2)(ii)(g) but no Dissolution Event has occurred, the Property shall not be liquidated, the Cooperative's Debts and other liabilities shall not be paid or discharged, and the Cooperative's affairs shall not be wound up. Instead, solely for federal income tax purposes, the Cooperative shall be deemed to have contributed all of its Property and liabilities to a new Cooperative taxed as a partnership in exchange for an interest in such new Cooperative, and immediately thereafter, the Cooperative will be deemed to liquidate by distributing such interest in the new Cooperative taxed as a partnership to the Unit Holders.

11.5 Rights of Unit Holders. Except as otherwise provided in these Bylaws, each Unit Holder shall look solely to the Property of the Cooperative for the return of its Capital Contribution and has no right or power to demand or receive Property other than cash from the Cooperative. If the assets of the Cooperative remaining after payment or discharge of the debts or liabilities of the Cooperative are insufficient to return such Capital Contribution, the Unit Holders shall have no recourse against the Cooperative or any other Unit Holder or Unit Holders.

11.6 Notice of Dissolution/Termination.

(a) Upon the occurrence of a Dissolution Event, the Board shall, within thirty (30) days thereafter, provide written notice thereof to each of the Unit Holders, and the Board may notify its known claimants and/or publish notice as further provided in the Act.

(b) Upon completion of the distribution of the Cooperative's Property as provided in this Section 11, the Cooperative shall be terminated, and the Liquidator shall cause the filing of Articles of Dissolution in accordance with the Act and shall take all such other actions as may be necessary to terminate the Cooperative.

11.7 Allocations During Period of Liquidation. During the period commencing on the first day of the Fiscal Year during which a Dissolution Event occurs and ending on the date on which all of the assets of the Cooperative have been distributed to the Unit Holders pursuant to Section 11.2 (the "Liquidation Period"), the Unit Holders shall continue to share Profits and Losses, and items of Cooperative income, gain, loss, deduction and credit in the manner provided in Section 3.

11.8 Character of Liquidating Distributions. All payments made in liquidation of the interest of a Unit Holder in the Cooperative shall be made in exchange for the interest of the

Unit Holder in Property pursuant to Section 736(b)(1) of the Code, including the interest of such Unit Holder in Cooperative goodwill.

11.9 The Liquidator.

(a) **Definition.** The “**Liquidator**” shall mean a Person appointed by the Board of Directors to oversee the liquidation of the Cooperative. The Liquidator may be the Board of Directors or a committee of three or more Directors appointed by the Board.

(b) **Fees.** The Cooperative is authorized to pay a reasonable fee to the Liquidator for its services performed pursuant to this Section 11 and to reimburse the Liquidator for its reasonable costs and expenses incurred in performing those services.

(c) **Indemnification.** The Cooperative shall indemnify, save harmless, and pay all judgments and claims against such Liquidator or any officers, Board of Directors, agents or employees of the Liquidator relating to any liability or damage incurred by reason of any act performed or omitted to be performed by the Liquidator, or any officers, Board of Directors, agents or employees of the Liquidator in connection with the liquidation of the Cooperative, including reasonable attorneys’ fees incurred by the Liquidator, officer, director, agent or employee in connection with the defense of any action based on any such act or omission, which attorneys’ fees may be paid as incurred, except to the extent such liability or damage is caused by the fraud, intentional misconduct of, or a knowing violation of the laws by the Liquidator which was material to the cause of action.

11.10 Form of Liquidating Distributions. For purposes of making distributions required by Section 11.2, the Liquidator may determine whether to distribute all or any portion of the Property in-kind or to sell all or any portion of the Property and distribute the proceeds therefrom.

SECTION 12 DISPUTE RESOLUTION

If a dispute arises out of or relates to these Bylaws, or the performance or breach thereof, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. Thereafter, any remaining unresolved controversy or claim arising out of or relating to these Bylaws, or the performance or breach thereof, shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association as modified by this Section 12, PROVIDED, that this Section 12 shall not require use of the American Arbitration Association (only that such Rules as modified by this Section 12 shall be followed). The arbitration shall be conducted in the State of Minnesota. Any award rendered shall be final and conclusive upon the parties and a judgment thereon may be entered in any court having competent jurisdiction.

The parties shall:

- (a) agree upon and appoint as the arbitrator a retired former trial Judge in Minnesota;
- (b) direct the arbitrator to follow substantive rules of law and the Federal Rules of Evidence;
- (c) allow for the parties to conduct discovery pursuant to the rules then in effect under the Federal Rules of Civil Procedure for a period not to exceed sixty (60) days;
- (d) require the testimony to be transcribed; and
- (e) require the award to be accompanied by findings of fact and a statement of reasons for the decision.

The cost and expense of the arbitrator and location costs shall be borne equally by the parties to the dispute. All other costs and expenses, including reasonable attorney's fees and expert's fees, of all parties incurred in any dispute which is determined and/or settled by arbitration pursuant to this Section 12 shall be borne by the party incurring such cost and expense. Except where clearly prevented by the area in dispute, both parties agree to continue performing their respective obligations under these Bylaws while the dispute is being resolved.

SECTION 13 MISCELLANEOUS

13.1 Notices. Any notice, payment, demand, or communication required or permitted to be given by any provision of these Bylaws shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) if delivered personally to the Person or to an officer of the Person to whom the same is directed, or (ii) when the same is actually received, if sent either by registered or certified mail, postage and charges prepaid, or by facsimile, if such facsimile is followed by a hard copy of the facsimile communication sent promptly thereafter by registered or certified mail, postage and charges prepaid, addressed as follows, or to such other address as such Person may from time to time specify by notice to the Cooperative and the Unit Holders:

- (a) If to the Cooperative, to the address determined pursuant to Section 1.5 hereof; and
- (b) If to the Unit Holders, to the address set forth on record with the Cooperative.

13.2 Binding Effect. Except as otherwise provided in these Bylaws, every covenant, term, and provision of these Bylaws shall be binding upon and inure to the benefit of the Members and their respective successors, transferees, and assigns.

13.3 Construction. Every covenant, term, and provision of these Bylaws shall be construed simply according to its fair meaning and not strictly for or against any Member.

13.4 Time. In computing any period of time pursuant to these Bylaws, the day of the act, event or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

13.5 Headings. Section and other headings contained in these Bylaws are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of these Bylaws or any provision hereof.

13.6 Severability. Except as otherwise provided in the succeeding sentence, every provision of these Bylaws is intended to be severable, and, if any term or provision of these Bylaws is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of these Bylaws. Notwithstanding the foregoing, if such illegality or invalidity would be to cause any Member to lose the material benefit of its economic bargain, then the Members agree to negotiate in good-faith to amend these Bylaws in order to restore such lost material benefit.

13.7 Incorporation by Reference. Every exhibit, schedule, and other appendix attached to these Bylaws and referred to herein is not incorporated in these Bylaws by reference unless these Bylaws expressly otherwise provides.

13.8 Variation of Terms. All terms and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person or Persons may require.

13.9 Governing Law. The laws of the State of Minnesota shall govern the validity of these Bylaws, the construction of its terms, and the interpretation of the rights and duties arising hereunder.

13.10 Waiver of Jury Trial. Each of the Members irrevocably waives to the extent permitted by law, all rights to trial by jury and all rights to immunity by sovereignty or otherwise in any action, proceeding or counterclaim arising out of or relating to these Bylaws.

13.11 Counterpart Execution. These Bylaws may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

13.12 Specific Performance. Each Member agrees with the other Members that the other Members would be irreparably damaged if any of the provisions of these Bylaws are not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event. Accordingly, it is agreed that, in addition to any other remedy

to which the nonbreaching Members may be entitled, at law or in equity, the nonbreaching Members shall be entitled to injunctive relief to prevent breaches of the provisions of these Bylaws and specifically to enforce the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction thereof.

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EXHIBIT A

MINNESOTA SOYBEAN PROCESSORS

(See attached Series 2004 Class B Preferred Units Designation)