

**BYLAWS**

**OF**

**SOYMOR**

**A COOPERATIVE ORGANIZED UNDER  
MINNESOTA STATUTES, CHAPTER 308A**

**Approved by Board of Directors  
First Amended: June 10, 2003  
Next Amended: February 16, 2006 at Annual Meeting**

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**ADOPTED BY BOARD OF DIRECTORS  
AFTER INCORPORATION**

**BYLAWS**

**OF**

**SOYMOR**

**A Cooperative Organized Under  
Minnesota Statutes, Chapter 308A**

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**BYLAW 1  
MEMBERSHIP**

**Section 1.01. Eligibility for Membership.** Any producer of agricultural products or associations of those producers who are eligible for membership under the Articles of Incorporation of this cooperative (the “Articles”) may become a member of this cooperative upon meeting all of the following conditions:

- (1) becoming the holder of one (1) share of common stock of this cooperative;
- (2) becoming the holder of the minimum number of shares of Class A preferred stock of this cooperative as determined by the Board of Directors on and after the date at the end of the purchase period on which Class A preferred stock is initially offered for sale by this cooperative;
- (3) receiving from this cooperative written notification and a copy of the consent bylaw providing for consent to take patronage distributions and per unit retains into income;
- (4) entering into an uniform delivery and marketing agreement with this cooperative when required by the Board of Directors, under which the person or entity shall contract to deliver soybeans or other agricultural products to this cooperative in an amount in proportion to the number of shares of Class A preferred stock held by the person or entity;
- (5) meeting other membership criteria or requirements established from time to time by the Board of Directors of this cooperative (the “Board of Directors”); and
- (6) receiving approval of or pursuant to the authorization of the Board of Directors.

**Section 1.02. 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:

- (1) become ineligible for membership for any reason;
- (2) failed to patronize this cooperative for a period of one year or more;
- (3) not paid any membership or registration fees required by the Board of Directors;
- (4) died or ceased to exist as a legal entity and leaves no successor; or
- (5) the Board of Directors by resolution finds that a member has:
  - (i) intentionally or repeatedly violated any provision of the Articles of Incorporation, the Bylaws, or Board policies of this cooperative;
  - (ii) taken actions that will impede the cooperative from accomplishing its purposes;
  - (iii) takes or threatens actions that adversely affect the interests of this cooperative or its members;
  - (iv) willfully obstructed any lawful purpose or activity of this cooperative; or
  - (v) breached any Uniform Delivery and Marketing Agreement or any other contract with this cooperative.

### **Section 1.03. Consequences of Membership Termination.**

- (a) In the event the Board of Directors shall find that any common stock of this cooperative has come into the hands of any person or entity who is not eligible to own common stock or who has otherwise become ineligible for membership in this cooperative, the Board of Directors of this cooperative shall have the right, at its option, (1) to redeem the common stock at an amount equal to the value of the consideration for which the common stock was issued; or (2) to convert the common stock into a nonvoting certificate of interest or other nonvoting equity credit at an amount equal to the value of the consideration for which the common stock was issued.
  - (b) Upon redemption or conversion, the ineligible holder of common stock shall:
    - (1) cease to be a member of this cooperative and shall cease to have voting rights in this cooperative; and
    - (2) and the right to deliver soybeans to this cooperative may be terminated by the Board of Directors.
  - (c) In exercising its right to redeem or to convert the common stock under paragraph (a) of this Section, this cooperative may cancel the certificate or certificates of the common stock

on its books in the event the holder fails to deliver the certificate or certificates evidencing the common stock to the cooperative. If this cooperative exercises its right to convert the common stock into a nonvoting certificate of interest or other nonvoting equity credit, this cooperative shall have no obligation to redeem the nonvoting equity interest, nor shall the holder of the interest have any right to demand the redemption of the interest.

(d) 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 to the member's last known address. The notice shall state with reasonable particularity the grounds upon which the member is alleged to be ineligible and the member shall be entitled to be heard on the allegations at the meeting.

(e) Except as provided in the Articles and Bylaws of this cooperative, no termination of membership or other action taken by this cooperative with respect to a member or the member's common stock shall modify the obligations and liabilities to the cooperative of any holder of the membership or stock under any uniform marketing and delivery contract or other contract between the holder and this cooperative, nor impair the rights of this cooperative under any contracts, which may be terminated only as provided in the contracts.

**Section 1.04. Stock Certificates.** Certificates of stock shall be issued to each holder of fully paid stock as determined by the Board of Directors. On the stock certificate, there shall be stated the name of the cooperative, the class of stock, the par value of the stock, the number of shares represented, and the name of the member to which issued. Each certificate shall bear the signature of the Chair and the Secretary or Secretary-Treasurer. A record of the stock certificate issued shall be kept by the cooperative.

**Section 1.05. Replacement of Stock Certificates.** When existing stock certificates are to be replaced, they must be surrendered before new certificates are issued. Each surrendered certificate and the record of the certificate shall be marked canceled, with the date of cancellation noted on the certificate. In the event that any stock certificate has been lost or destroyed, the registered owner of the certificate shall be required to deliver appropriate indemnification commitments to this cooperative before this cooperative issues a replacement certificate for the lost or destroyed certificate.

## **BYLAW 2**

### **MEETINGS OF MEMBERS**

**Section 2.01. Annual Meetings.** The Annual Meeting of the members of this cooperative shall be held at a time and place as shall be determined by the Board of Directors. The notice of the meeting shall state the date, place and hour of the meeting. At the Annual Meeting, the members shall transact business as may properly come before the meeting.

The officers of this cooperative must submit reports to the members at the Annual Meeting of the members which cover the business of this cooperative for the previous fiscal year, and which show the condition of this cooperative at the close of the fiscal year.

**Section 2.02. Special Member Meetings.** The Chair shall cause written notice of a Special Member Meeting to be given upon majority vote of the Board of Directors, or a written petition by the members having at least twenty percent (20%) of the votes entitled to be cast at the meeting. The written notice shall state the day, place, hour and purpose of the Special Member Meeting. The written notice of the meeting shall be given within ten (10) days from and after the date of presentation of the members' petition. 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 transacted at a Special Member Meeting except that stated in the notice of the meeting.

**Section 2.03. Director Elections.** The directors' election at the Annual Meeting of the members shall be conducted by the use of the following procedures:

(1) each member present at the Meeting and eligible to vote may nominate any eligible person to the Board of Directors by the submission of a paper ballot containing the name of the eligible person, provided that the natural person who is the representative of an entity that is a member shall be the eligible person.

(2) in the event that any person receives a majority of the votes cast on the nominating ballot, that person shall be elected to the Board of Directors; and

(3) if no person receives a majority of the votes cast on the nominating ballot, the three (3) persons receiving the highest number of votes shall be considered to have been placed in nomination, and the members shall cast paper ballots for those persons. Should one of those three persons not receive a majority of the votes cast, the two (2) persons with the most votes shall be voted on until one person receives a majority of the votes cast.

**Section 2.04. Notice.** Notice shall be given by the Secretary of all Annual and Special Member Meetings of the voting members by mailing a notice of the meeting to each voting member at the member's last known address. Notice for annual meetings shall be provided not less than twenty (20) nor more than thirty (30) days prior to the date of the meeting. The failure of any member to receive the notice shall not invalidate any action which may be taken by the voting members at the meeting.

The Secretary shall execute a certificate which shall set forth or include as an exhibit a correct copy of the notice, and which shall show the date of mailing thereof and the same was mailed within the time and the manner prescribed by law. The certificate shall be made a part of the record of the meeting. The failure of any voting member to receive notice shall not invalidate any action which may be taken by the voting members at a meeting.

**Section 2.05. Quorum.** At any Annual or Special Member Meeting of the members, a quorum necessary for the transaction of business shall be ten percent (10%) of the total number of members.

**Section 2.06. Voting.** Each voting member shall be entitled to only one vote, regardless of the number of shares owned unless voting is allocated by the Board of Directors or authorized by law. Cumulative voting is not permitted.

Voting members that are entities must designate an authorized representative 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. The written designation will remain effective until it is superseded by a more recent written designation meeting the same criteria.

The Board of Directors may cause to be submitted by mail ballot any question to be voted on at any voting member meeting. The ballot shall contain the exact text of the proposed motion, resolution or amendment to be acted upon and the date of the meeting and shall also contain spaces in which the voting member may indicate an affirmative or negative vote thereon. The ballot, when completed by an absent member and received by this cooperative, shall be counted as the vote of the member at the meeting.

**Section 2.07. Order of Business.** Insofar as practical, the order of business at the Annual 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

**Section 2.08. Action Without a Meeting.** Any action which may be taken at a meeting may be taken without a meeting if a writing setting forth and approving the action taken shall be signed by all of the voting members, directors, or executive committee entitled to vote on the action. The consent shall have the same force and effect as a unanimous vote at a meeting.

### **BYLAW 3 DIRECTORS**

**Section 3.01. General Powers.** The Board of Directors shall govern the business and affairs of this cooperative and shall be empowered to adopt all necessary rules and regulations not inconsistent with the Articles of Incorporation or Bylaws. Rules and regulations may be established for the operation of the business, the guidance of the officers and other employees, and the management of this cooperative. The Board of Directors or the officer or officers to whom the power is delegated, shall hire and terminate employees of this cooperative, and determine duties, salaries and other conditions of employment.

**Section 3.02. Number, Qualifications and Terms of Office.** The number of directors shall be established by the Board of Directors, but shall not be less than five (5) nor greater than seven (7), and 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. Except as otherwise provided herein, all directors shall serve three-year terms and until their successors are duly elected and qualified. To achieve staggered terms, the Board of Directors shall be divided into three classes, which classes shall be as equal in number of directors as possible, with the term of each class set so as to achieve the desired staggered effect. Any vacancy in the Board, other than by expiration of a term of office, shall be filled by a majority vote of the remaining directors. In case a vacancy in the Board of Directors extends beyond the next annual meeting, the vacancy shall be filled until the next annual meeting, at which meeting a director shall be chosen by the members for the unexpired term of the vacancy; otherwise the vacancy shall be filled by the directors for the unexpired term.

**Section 3.03. Districting.** The Board of Directors shall determine districts as it deems appropriate in order to have equitable representation of members on the Board of Directors. In districting the Board of Directors shall consider all factors they deem relevant in order to achieve fair representation of members on the Board of Directors including by way of example, and not in limitation, the number of members in each district and the size of each district. The Board of Directors may also provide for the election of one or more directors at-large.

The Board of Directors may re-district as it deems necessary in order to have a fair representation of the members on the Board of Directors. Each District shall nominate a director for election to the Board of Directors.

**Section 3.04. Annual Meeting.** Within thirty (30) days after each Annual Meeting of members, the Board of Directors shall meet for the purpose of electing officers of this cooperative and for the transaction of other business as shall come before the meeting. The Annual Meeting of the Board of Directors shall be held at a time and place set by resolution adopted by a majority of the whole Board of Directors.

**Section 3.05. Regular Meeting.** Regular Meetings of the Board of Directors shall be held from time to time at a time and place set by resolution adopted by a majority of the whole Board of Directors.

**Section 3.06. Special Meetings.** Special Meetings of the Board of Directors may be called by the Chair, 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.

**Section 3.07. Notice of Meetings.** Notice of each annual regular or special meeting of the Board of Directors shall be given by the Chair 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.

**Section 3.08. 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 the meeting, except when a director attends the meeting and objects to the transaction of business because the meeting was not lawfully convened.

**Section 3.09. Quorum.** 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. All questions shall be decided by a vote of a majority of the directors present at a meeting.

**Section 3.10. Vacancies.** If there be a vacancy among the directors of this cooperative by reason of death, resignation, or otherwise, the vacancy shall be filled for the unexpired term by a majority of the remaining directors of the Board, and each person so elected shall be a director until a successor is elected by the members at their next Annual Meeting, or at a Special Meeting duly called for that purpose.

**Section 3.11. Removal.** Any director may be removed from office, for cause, by a majority vote of all members at an Annual Meeting or a Special Meeting called for that purpose as provided by law. In case of the removal of a director, the members may elect another director to fill the vacancy for the unexpired term at the same meeting.

**Section 3.12. Executive Committee.** The Board of Directors may appoint an Executive Committee consisting of persons, and having the powers, designated by the Board of Directors. The Management Committee may have authority to exercise all powers of the full Board of Directors except with respect to:

- (1) Powers reserved by the Board to itself.
- (2) Apportionment or distribution of proceeds.
- (3) Election of officers.
- (4) Filling of vacancies in the Board.
- (5) Amendments to the Bylaws.

**Section 3.13. Committees.** The Board of Directors may establish other committees from time to time making the regulations, as it deems advisable, with respect to the membership, authority and procedures of the committees.

**Section 3.14. Compensation.** Directors, who are not salaried officers of this cooperative, shall receive a fixed sum per meeting attended or a 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 of the Board of Directors. 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.

**Section 3.15. Action Without a Meeting.** Any action which may be taken at a meeting may be taken without a meeting if a writing setting forth and approving the action taken is signed by all of the members, directors, or executive committee entitled to vote on the action. The executed writing of consent shall have the same force and effect as a unanimous vote at a meeting.

**BYLAW 4**  
**OFFICERS, EMPLOYEES, AND CONTRACTORS**

**Section 4.01. Officers.** The officers of this cooperative shall be a Chair, a Vice Chair, a Secretary and a Treasurer, who shall be elected in the manner as provided in Section 4.07 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. Each principal officer except the Secretary and the Treasurer shall be a director of the cooperative. The Board of Directors may elect other officers from time to time, and establish appropriate duties and responsibilities for any other officers. Other officers may, but need not, be members of the Board of Directors.

**Section 4.02. Chair.** The Chair 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 Chair shall be an ex-officio member of all standing committees and shall make appointments to all committees. The Chair shall also 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 Chair or other action is taken by the Board of Directors. The Chair shall sign all papers of this cooperative as the Chair may be authorized or directed to sign by the Board of Directors; provided, however, that the Board of Directors may authorize any other person to sign any and all checks, contracts and other written instruments on behalf of this cooperative. The Chair shall have other duties as may, from time to time, be assigned by the Board of Directors.

**Section 4.03. Vice Chair.** The Vice-Chair shall have powers and perform duties as may be specified in the Bylaws or prescribed by the Board of Directors or by the Chair. In the event of the absence or disability of the Chair, the Vice-Chair shall perform the duties of the Chair.

**Section 4.04. 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 other duties as may, from time to time, be prescribed by the Board of Directors or by the Chair.

**Section 4.05. Treasurer.** The Treasurer shall be the custodian of all funds, securities and properties of this cooperative and shall perform other duties with respect to the finances of this cooperative as may be prescribed by the Board of Directors or by the Chair.

**Section 4.06. 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 the cooperative.

**Section 4.07. Election of Officers.** At its Annual Meeting (as proscribed in Section 3.04), the Board of Directors shall elect from its number, a Chair, one or more Vice-Chairs, a Secretary and a Treasurer. Election for persons to fill any other offices established by the Board of Directors pursuant to Section 4.01 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 election has been given in the notice of the meeting. The officers shall hold their offices until their successors have been elected and have qualified, except as provided in Section 4.08.

**Section 4.08. Removal of Officers.** Any officer may be removed from office in accordance with applicable provisions of the Minnesota Statutes. 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 thereby. Election or appointment shall not itself create contract rights.

**Section 4.09. Chief Executive Officer.** The Board of Directors may enter into contracts that provide for the services of, or hire as an employee, a Chief Executive Officer (CEO) of the cooperative. The CEO shall be responsible for running the day to day affairs of the cooperative as determined by the Chair and the Board of Directors. Prior to entering into any contracts for CEO services, the Board of Directors may appoint an interim CEO.

**Section 4.10. Bonds of Employees.** The Board of Directors may require all officers, agents and employees charged by this cooperative with the custody of any of its funds or property to be adequately bonded. The bonds shall be furnished by a bonding company, and the cost of the Bonds shall be paid by this cooperative.

## **BYLAW 5 INDEMNIFICATION AND INSURANCE**

**Section 5.01. Indemnification.** This cooperative shall indemnify each person who is or was a director, officer, manager, employee or agent of this cooperative, and any person serving at the request of this cooperative as a director, officer, manager, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees, judgements, fines, and amounts paid in settlement actually and reasonably incurred to the extent to which the directors, officers, managers, employees or agents of this cooperative may be indemnified under the law of Minnesota.

**Section 5.02. Insurance.** This cooperative shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, manager, employee, or agent of this cooperative against liability asserted against and incurred by the person in the person's capacity as a director, officer, manager, employee or agent, or arising from the person's status as a director, officer, manager, employee, or agent of the cooperative.

## **BYLAW 6 OPERATIONS ON A COOPERATIVE BASIS**

**Section 6.01. Cooperative Operation.** This cooperative shall be operated upon the cooperative basis in carrying out its business within the scope of the powers and purposes defined in the Articles of Incorporation. Accordingly, the net income of this cooperative in

excess of amounts credited by the Board of Directors to capital reserves and amounts of dividends, if any, paid with respect to equity capital shall be accounted for and distributed annually on the basis of allocation units (as authorized by the Board of Directors) as provided in this bylaw. In determining the net income or net loss of this cooperative or its allocation units, there shall be taken into account this cooperative's share of the net income or net loss of any unincorporated entity (including without limitation, limited liability companies and partnerships, whether general or limited) in which it owns an equity interest, patronage dividends distributed by other cooperatives of which this cooperative is a patron and, to the extent prospectively determined by the Board of Directors, its share of the undistributed net income or net loss of any corporation in which this cooperative owns an equity interest.

Each transaction between this cooperative and each member shall be subject to and shall include as a part of its terms each provision of the Articles of Incorporation and Bylaws of this cooperative, whether or not the Articles of Incorporation or the Bylaws are expressly referred to in the transaction or the transactions documentation. Except in the case of emergency and sideline purchases, each person for whom this cooperative markets or procures goods or services shall be entitled to the net income arising out of said transaction as provided in this bylaw.

**Section 6.02. Patrons; Patronage Business; Nonpatronage Business.** As used in this bylaw, the following definitions shall apply:

- (1) The term "patron" shall refer to any member or nonmember with respect to business conducted with this cooperative on a patronage basis.
- (2) The term "patronage business" shall refer to business done by this cooperative with or for patrons, namely acquiring and marketing or processing soybeans.
- (3) The term "nonpatronage business" shall refer to business done by this cooperative that does not constitute "patronage business."

**Section 6.03. Establishment of Allocation Units.** Allocation units may be established by the Board of Directors on a reasonable and equitable basis and they may be functional, divisional, departmental, geographic, or otherwise. Until different allocation units are established by the Board of Directors, the entire business of this cooperative shall be considered one and the only allocation unit. The Board of Directors shall adopt reasonable and equitable accounting procedures as will, in the Board's judgment, equitably allocate among the allocation units this cooperative's income, gains, expenses and losses and, to the extent provided in Section 6.01, patronage dividends received by this cooperative and its share of income, gain, loss and deduction of other entities in which this cooperative owns an interest.

**Section 6.04. Determination of the Patronage Income or Loss of an Allocation Unit.** The net income from patronage business for each fiscal year shall be the sum of (1) the gross revenues directly attributable to goods or services marketed or procured for patrons of the allocation unit, plus (2) an equitably apportioned share of other items of income or gain attributable to this cooperative's patronage business, less (3) all expenses and costs of goods or services directly attributable to goods or services marketed or procured for patrons of the allocation unit, less (4) an equitably apportioned share of all other expenses or losses attributable

to this cooperative's patronage business, dividends on equity capital and distributable net income from patronage business that is credited to the Capital Reserve pursuant to Section 6.08. The foregoing amounts shall be determined in accordance with the accounting treatment used by the cooperative in calculating its taxable income for federal income tax purposes; provided, however, that the Board of Directors may prospectively adopt a reasonable alternative method. Expenses and cost of goods or services shall include without limitation the amounts of depreciation, cost depletion and amortization as may be appropriate, any unit retentions provided in Bylaw 9, amounts incurred for the promotion and encouragement of cooperative organization, and taxes other than federal income taxes. The net income or net loss shall be subject to adjustment as provided in Sections 6.06 and 6.09(2) relating to losses.

**Section 6.05. Allocation of Patronage Income Within Allocation Units.** The net income of an allocation unit from patronage business for each fiscal year, less any amounts that are otherwise allocated in dissolution pursuant to Bylaw 8, shall be allocated among the patrons of the allocation unit in the ratio that the quantity or value of the business done with or for each patron bears to the quantity or value of the business done with or for all patrons of the allocation unit. The Board of Directors shall reasonably and equitably determine whether allocations within any allocation unit shall be made on the basis of quantity or value.

**Section 6.06. Treatment of Patronage Losses of an Allocation Unit.**

(1) Methods of Handling Patronage Losses. If an allocation unit incurs a net loss in any fiscal year from patronage business, this cooperative may take one or more of the following actions:

(a) Offset all or part of the net loss against the net income of other allocation units for the fiscal year to the extent allowed by law.

(b) Establish accounts payable by patrons of the allocation unit that incurs the net loss that may be satisfied out of any future amounts that may become payable by this cooperative to the patron;

(c) Carry all or part of the loss forward to be charged against future net income of the allocation unit that incurs the loss;

(d) Offset all or part of the net loss against the Capital Reserve;

(e) Cancel outstanding Patrons' Equities.

(2) Allocation of Net Loss Among Patrons of Loss Unit. Any cancellation of equities and/or establishment of accounts payable pursuant to this Section 6.06 shall be made among the patrons of an allocation unit in a manner consistent with the allocation of net income of the allocation unit.

(3) Restoration of Net Loss out of Future Net Income. The future net income of an allocation unit that incurs a net loss may be reduced by part or all of the net loss that was offset against the Capital Reserve, Patrons' Equities of patrons of another allocation unit or against the

net income of another allocation unit and may be used to restore the Capital Reserve, restore the Patrons' Equities or to increase the future net income of other allocation units; provided that reasonable notice of the intent to do so is given to the patrons of the loss unit.

(4) Board Discretion. The provisions of this Section 6.06 shall be implemented by the Board of Directors, having due consideration for all of the circumstances which caused the net loss, in a manner that it determines is both equitable and in the overall best interest of this cooperative.

(5) No Assessments against Members or Nonmember Patrons. There is no right of assessment against members or nonmembers patrons for the purpose of restoring impairments to capital caused by net losses.

### **Section 6.07. Distribution of Net Income.**

(1) Patronage Refunds. The net income allocated to a patron pursuant to Sections 6.05 and 6.09 shall be distributed annually or more often to the patron as a patronage refund; provided, however, that no distribution need be made where the amount otherwise to be distributed to a patron is less than a de minimus amount that may be established from time to time by the Board of Directors.

(2) Form of Patronage Refunds. Patronage refunds shall be distributed in cash, capital stock, allocated patronage equities, revolving fund certificates, securities of this cooperative, other securities, or any combination thereof designated by the Board of Directors (all patronage refunds referred to collectively in these bylaws as "Patrons" Equities), including, without limitation, the following instruments:

(a) Equity Certificates in one or more than one class or series, in the designations or denominations, and with the relative rights, preferences, privileges and limitations as may be fixed by the Board of Directors, and bearing no interest, dividend or other annual payment.

(b) Debt Certificates in one or more than one class or series, in the designations or denominations, and with the relative rights, preferences, privileges and limitations as may be fixed by the Board of Directors, and bearing the maturity and rate of interest, if any, as may be fixed by the Board of Directors. Debt certificates shall be callable for payment in cash or other assets at times as may be determined by the Board of Directors.

(c) Non-Patronage Earnings Certificates in one or more than one class or series, in the designations or denominations, and with relative rights, preferences, privileges and limitations as may be fixed by the Board of Directors, with no maturity date, and bearing no interest, dividend or other annual payment. Non-Patronage Earnings Certificates may be distributed only to members and to nonmember patrons as part of the allocation and distribution of nonpatronage income. The certificates shall be callable for payment in cash or other assets at the times as may be determined by the Board of Directors.

(3) Written Notice of Allocation. The noncash portion of a patronage refund distribution that is attributable to patronage business shall constitute a written notice of allocation as defined in 26 U.S.C. Section 1388 which shall be designated by the Board of Directors as a qualified written notice of allocation, as a nonqualified written notice of allocation or any combination thereof as provided in that section.

(4) No Voting Rights. Patrons' Equities shall not entitle the holders to any voting or other rights to participate in the affairs of this cooperative (which rights are reserved solely for the members of this cooperative).

(5) Transfer Restriction. Patrons' Equities may only be transferred with the consent and approval of the Board of Directors, and by an instrument of transfer as may be required or approved by the Board of Directors.

(6) Board Authority to Allow Conversion. The Board of Directors of this cooperative also shall have the authority to allow conversion of Patrons' Equities into other debt and/or equity instruments of this cooperative on the terms as shall be established by the Board of Directors.

(7) Redemption Discretionary. No person or entity shall have any right whatsoever to require the retirement or redemption of any Patrons' Equities except in accordance with their term, or of any allocated capital reserve. The redemption or retirement is solely within the discretion and on the terms as described from time to time by the Board of Directors of this cooperative.

**Section 6.08. Capital Reserve.** The Board of Directors shall cause to be created a Capital Reserve and, except as otherwise provided in Section 6.09, shall annually add to the Capital Reserve the sum of the following amounts:

- (1) The annual net income of this cooperative attributable to nonpatronage business;
- (2) Annual net income from patrons who are unidentified or to whom the amount otherwise to be distributed is less than the de minimus amount provided in Section 6.07(1); and
- (3) An amount not to exceed 10% of the distributable net income from patronage business. The discretion to credit patronage income to a Capital Reserve shall be reduced or eliminated with respect to the net income of any period following the adoption of a Board of Directors resolution that irrevocably provides for the reduction or elimination with respect to such period.

Federal income taxes shall be charged to the Capital Reserve.

**Section 6.09. Allocation and Distribution of Nonpatronage Income and Loss.**

(1) Nonpatronage Income. The Board of Directors shall have the discretion to allocate to allocation units amounts that are otherwise to be added to the Capital Reserve pursuant to Section 6.08(1). The allocation may be made on the basis of any reasonable and equitable method. Amounts so allocated to allocation units shall be further allocated among the patrons of the allocation units on a patronage basis using a method that the Board of Directors determines to be reasonable and equitable. Amounts so allocated shall be distributed to those patrons in the form of cash, property, Non-Patronage Earnings Certificates, or any combination thereof designated by the Board of Directors.

(2) Nonpatronage Loss. If the cooperative incurs a net loss on its nonpatronage business or if a net loss is incurred with respect to the nonpatronage business of an allocation unit, the net loss generally shall be chargeable against Capital Reserve unless and to the extent the Board of Directors, having due consideration for the circumstances giving rise to the net loss, determines that it is reasonable and equitable to allocate all or part of the net loss among one or more allocation units and shall reduce the unit's net income from patronage business to the extent of the allocated loss and the excess, if any, shall be treated generally in accordance with Sections 6.06(2)(a), (b), and (c).

## BYLAW 7 CONSENT

**Section 7.01. Consent.** Each individual or entity that hereafter applies for and is accepted to membership, including Associate Producer Membership, in this cooperative and each member, including associate producer members, of this cooperative as of the effective date of this bylaw who continues as a member after the effective date shall, by the act alone, consent that the amount of any distributions with respect to its patronage which are made in written notices of allocation (as defined in 26 U.S.C. § 1388), and which are received by the member from this cooperative, will be taken into account by the member at their stated dollar amounts in the manner provided in 26 U.S.C. § 1385(a) in the taxable year in which the written notices of allocation are received by the member.

**Section 7.02. Consent Notification to Members and Prospective Members.** Written notification of the adoption of this Bylaw, a statement of its significance and a copy of the provision shall be given separately to each member and prospective member before becoming a member of this cooperative.

**Section 7.03. Consent of Nonmember Patrons.** If this cooperative obligates itself to do business with a nonmember on a patronage basis, the nonmember must either: (a) agree in writing, prior to any transaction to be conducted on a patronage basis, that the amount of any distributions with respect to patronage which are made in written notices of allocation (as defined in 26 U.S.C. § 1388), and which are received by the nonmember patron from this cooperative, will be taken into account by the nonmember patron at their stated dollar amounts in the manner provided in 26 U.S.C. § 1395(a) in the taxable year in which the written notices of allocation are received by the nonmember patron and further, that any revocation of the agreement will terminate this cooperative's obligation to distribute patronage with respect to

transactions with nonmember that occur after the close of this cooperative's fiscal year in which the revocation is received; or (b) consent to take the stated dollar amount of any written notice of allocation into account in the manner provided in 26 U.S.C. § 1385 by endorsing and cashing a qualified check as defined in and within the time provided in 26 U.S.C. § 1388(c)(2)(C); provided that failure to so consent shall cause the written notice of allocation that accompanies said check to be canceled with no further action on the part of this cooperative.

**Section 7.04. Cash Payment of Patronage.** The Board of Directors shall only make a cash contribution of patronage such that the distributions of patronage made in qualified written notices of allocation are paid in cash at their stated amount.

## **BYLAW 8 MERGER OR CONSOLIDATION; DISSOLUTION**

**Section 8.01. Merger or Consolidation.** If the terms of a merger or consolidation of which this cooperative is a party do not provide the members and nonmember patrons of this cooperative with an economic interest in the surviving entity that is substantially similar to the economic interest possessed by members and nonmember patrons in this cooperative immediately before the merger or consolidation, the value of the consideration received shall be divided among them in the same manner as a comparable amount of net liquidation proceeds would distributed pursuant to Section 8.02. This shall not be construed to prevent issuance of differing forms of consideration to different groups of members and nonmember patrons to the extent allowed by law.

**Section 8.02. Liquidation, Dissolution and Winding-Up.** Subject to the Articles of Incorporation, in the event of any liquidation, dissolution or winding up of the affairs of this cooperative, whether voluntary or involuntary, and after providing for the redemption, conversion or exchange of non-voting preferred interests with the interests of a successor entity, if any, the remaining assets attributable to the production of lecithin shall be paid or distributed to Series 1 Preferred Shareholders for their Series 1 Preferred and Common stock, their Equity Certificates, and other outstanding equities, including Non-Patronage Earnings Certificates, and the remaining assets attributable to the production of biodiesel shall be paid or distributed to Series 2 Preferred Shareholders for their Series 2 Preferred and Common stock, their Equity Certificates, and other outstanding equities, including Non-Patronage Earnings Certificates. Any assets remaining after the foregoing payments or distributions have been made shall be allocated between Series 1 Preferred Shareholders and Series 2 Preferred Shareholders in the manner as the Board of Directors, having taken into consideration the origin of the amounts as between lecithin or biodiesel, shall determine to be reasonable and equitable.'

## **BYLAW 9 UNIT RETENTIONS**

**Section 9.01. Unit Retain.** This cooperative may require investment in its capital in addition to the investments from retained patronage. These investments shall be direct capital investments from a retain on a per unit basis of the products purchased from its members. The unit retention, 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 annual savings available for patronage. Each member, by continuing to be such, agrees to invest in the capital of this cooperative as prescribed in this Bylaw 9. investments shall be accounted for separately in a unit retention account set up on the books of this cooperative.

**Section 9.02. Income Tax Treatment and Consent to Take Qualified Per Unit Retains Into Income.** The Board of Directors shall have the power to determine whether any unit retain shall be a "qualified per unit retain" or a "non-qualified per unit retain" within the meaning of the Internal Revenue Code. Each organization that hereafter applies for and is accepted for membership in this cooperative and each member of this cooperative on the effective date of this Bylaw who continues as a member after such date shall, by these acts alone, consent that upon a determination of the Board of Directors that a unit retain authorized by this Bylaw 9 is to constitute a "qualified per unit retain," the member will take the per unit retain certificate issued to the member in connection therewith, into account at its stated dollar amount in the manner provided in 26 U.S.C. §1385(a) and will report the amount in the member's income tax returns for the taxable year in which the per unit retain certificate is received.

**Section 9.03 Cash Payment of Unit Retains.** The Board of Directors shall not issue a qualified per unit retain unless the stated dollar amount is paid in cash within the calendar year in which the per unit retain certificate is issued.

## **BYLAW 10**

### **RESTRICTIONS ON TRANSFERS AND ASSIGNMENTS**

**Section 10.01. Consent Required for Transfer or Assignment.** No proposed assignment or transfer of preferred stock, voting rights, membership status, unit retains, or equity credits or patronage equities shall be binding on this cooperative without the consent of its Board of Directors, nor until it shall have been entered in the books of this cooperative. The Board of Directors may withhold its consent to proposed assignments or transfers for any reason whatsoever. The common stock of this cooperative is nontransferable and may not be pledged.

**Section 10.02. Preferred Stock Transfers.** The Board of Directors may, but need not, approve any proposed transfer or assignment of preferred stock only if all of the following criteria are satisfied:

- (1) The transferee is a producer eligible for membership in accordance with Section 1.01 of these Bylaws who resides in the area served by this cooperative;
- (2) The transfer would not in the opinion of the Board of Directors, have a material adverse impact on this cooperative or its operations;

(3) The transferee is of legal age; and

(4) The transferee otherwise meets the eligibility requirements set forth in Section 1.01 of these Bylaws.

The Board of Directors on behalf of this cooperative shall have the first privilege of purchasing any preferred stock offered for sale, as provided in Section 10.03 of these Bylaws. No preferred stock shall be transferred unless any and all indebtedness owed to this cooperative by the holder of the stock shall first be paid.

**Section 10.03. First Right to Purchase Preferred Stock.** If any holder of preferred stock wishes to transfer or assign any or all of its shares of preferred stock (the "Transferring Member") and the proposed transferee is not:

(1) the spouse, parent, child (or spouse of child), brother or sister (or spouse of brother or sister) of the stockholder;

(2) a family farm corporation or other legal entity consisting of the stockholder's family in which the stockholder is a shareholder; or

(3) a partnership in which the stockholder is a partner;

then the stockholder shall first offer to sell to the cooperative the preferred stock proposed to be transferred as provided in this Section 10.03 and procedures accepted by the Board of Directors.

The stockholder shall give the Board of Directors written notice which sets forth the name and address of the proposed transferee, the number of shares of preferred stock to be transferred and all terms and conditions of the proposed transfer. The Board of Directors shall then agree that the cooperative will purchase the shares for that price or an equivalent present value of the price, or that the cooperative will waive the right to purchase the shares. In the event that the Board of Directors decides that the cooperative will waive its right to purchase the shares, the Board of Directors shall vote on whether or not to accept the proposed transferee as a new member at their next meeting or at a Special Meeting duly called for that purpose. If the proposed transferee is so approved by the Board of Directors, the proposed transfer shall be consummated on the terms and conditions stated in the written notice of the proposed transfer within thirty (30) days of such approval, subject to the proposed transferee meeting the eligibility requirements set forth in Section 1.01 of these Bylaws.

#### **BYLAW 11 FISCAL YEAR**

The Board of Directors may by resolution adopt a fiscal year of this cooperative from time to time.

**BYLAW 12  
AMENDMENTS**

Following the members first Annual Meeting, these Bylaws may only be amended by the members at the Annual Meeting, or at any Special Members' Meeting called for that purpose, if approved by a majority of votes cast, provided that the notice of any such meeting contains a summary statement of the proposed amendment.

First Adopted: August 16, 2000 (prior to first Annual Meeting)

First Amended: June 10, 2003 (prior to first Annual Meeting)

Next Amended: February 16, 2006 (at Annual Meeting)

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OF  
SOYMOR**

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