

**BY-LAWS
WALNUT BARGAINING ASSOCIATION**

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, collectively constituting and being all of the incorporators, directors and members of WALNUT BARGAINING ASSOCIATION, do hereby adopt the following Code of By-Laws as and for the By-Laws of said Association, all in harmony with the provisions of the Food and Agricultural Code of the State of California.

ARTICLE I.

Organization

Section 1. **Name.** The Association adopting these By-Laws, and for the conduct and control of whose business and affairs these By-Laws are made, is WALNUT BARGAINING ASSOCIATION, organized and existing under Chapter 1, Division 20 of the Food and Agricultural Code of the State of California, as a non-profit, cooperative marketing association without capital stock, its original Articles of Incorporation having been filed in the office of the Secretary of State of California, the City and County of Sacramento, State of California, being the original place where the principal office for the transaction of the business of the Association is to be located.

ARTICLE II.

Principal Purposes

Section 1. **Marketing and Service.** The Association was organized for mutual help in the interests of the producing and consuming public, for the purposes of creating a central agency to foster and standardize the production of ranch and farm, with particular reference to the walnut industry; and, through the extension of markets, a more equitable distribution, a centralized purchasing power, and the elimination of speculation and waste, to enable the Producer to purchase his requirements, and obtain for his products a reasonable price while at the same time assuring to the Consumer a constant supply of standard quality at a fair market price, uninfluenced by artificial fluctuation or speculative control.

Section 2. **Limitation.** The Association shall focus its operations primarily to the collection, preparation for market, distribution, and marketing of agricultural products and by-products; to the purchase, preparation for use, and merchandising of fertilizer supplies and other requirements of those engaged in agricultural pursuits; to the rendition of such further service for its Members and Producers generally as may come within the legitimate scope of its objects and purposes as stated in its Articles of Incorporation, and to the conduct of such other business and affairs as may be incidental to the accomplishment of its primary purposes or tend to promote the welfare of Producers, all as determined by its Board of Directors.

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Section 3. Non-Profit Character. Irrespective as to any other provision herein, or in its Articles of Incorporation, or elsewhere contained, the business of the Association shall be conducted without profit to the Association, as such, and upon a non-profit cooperative basis for the benefit of its Members, the Producers in ultimate interest.

ARTICLE III.

Membership.

Section 1. Eligibility and Character. Membership in the Association shall be limited to such persons, firms, associations or corporations as are engaged in the production of walnuts, or other agricultural products, within the meaning of the Capper-Volstead Act of 1922 and the Food and Agricultural Code of the State of California.

Section 2. Representative Membership. If a Member of the Association be other than a natural person, such Member may be represented, from time to time, by any associate, officer, or manager or other designated agent, duly authorized in writing so to act, who, while so acting in such representative capacity, shall be entitled to have and exercise all rights, privileges and authority of membership in the Association, including the right to hold any office, including that of Director.

Section 3. Admission to Membership. Application for membership shall be in writing signed by the applicant, and in such form as may be adopted and approved by the Board of Directors of the Association, and a Member shall be admitted to the Association only upon full compliance with all of the terms and conditions imposed by the Association as a condition of membership, and may remain a Member of the Association only so long as qualified for membership under the provisions of the Food and Agricultural Code of the State of California. The Membership/Marketing Agreement shall not be effective unless and until approved by the Board of Directors and executed by the Association.

Section 4. Obligation of Members. All Members, irrespective as to whether or not any specific obligation be assumed at the time of the acquisition of Membership, by applying for and accepting membership, shall thereby undertake and agree to be bound and abide by, and comply with, the Articles of Incorporations, the Membership/Marketing Agreement, and these By-Laws of the Association, and all rules and regulations as, from time to time, may be adopted in accordance therewith or pursuant thereto.

Section 5. Membership Certificate and Transfer. The Association shall issue a membership certificate to each member, upon admission to membership, in such form and containing such provisions as its Board of Directors, from time to time, may determine, but neither membership, nor any certificate thereof, nor any interest of any member in the Association or in any property rights, or funds held by it, shall be transferable, nor shall the assignee or transferee, whether by voluntary assignment, operation of law, or otherwise, acquire or have any interest therein or thereunder. The Board of Directors of the Association, however, may consent to, or authorize, the transfer of membership or interest, and may fix and determine the terms and conditions upon which such transfer will be permitted and recognized. In the event of the termination of membership, and failure, neglect, or refusal to surrender the membership certificate, or in case of lost or destroyed certificate, then the Association, upon such terms and conditions as it may impose, may issue another membership certificate in lieu and in place of the outstanding, or lost, or destroyed membership certificate.

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Section 6. Termination of Membership. Membership in the Association may be terminated: (a) as and whenever the Member ceases to be eligible for membership under the provisions of the Food and Agricultural Code of the State of California, or the Articles of Incorporation and By-Laws of the Association; (b) by withdrawal; (c) by expulsion.

(a) In the event a Member at any time ceases to be eligible for membership as herein required, the membership theretofore held shall automatically terminate.

(b) Any member shall be entitled to withdraw from membership upon filing an appropriate notice with the Association, in accordance with the provisions of the Membership/Marketing Agreement, and upon payment of all membership obligations or other indebtedness to the Association.

(c) The Board of Directors, after due notice, and an opportunity to be heard has been given to the Member, may expel from membership any Member whose retention is decided by a majority vote of a quorum of the Board of Directors to be undesirable from the standpoint of the Association as a whole, and upon compliance with the provisions of law and these By-Laws.

Section 7. Rights on Termination of Membership. Persons whose membership in the Association has terminated for any reason shall be entitled to no payment on account of their interest in the money and property of the Association except they shall receive payment on account of investment, allocation and other certificate of credit held by them at such times and in such order and manner as though they continued to be members, less an administrative fee of not more than ten-percent (10%) of the value of such funds as may be determined by the Board of Directors. In the event of termination of membership, regardless of how terminated, the Association shall not become or be, liable for the payment of any amount whatsoever because of the value of the property interest in the Association of the Member whose membership is terminated. Each Member is received into membership upon the express agreement on the part of such Member, and upon the condition that the value of the property interest of such Member in the Association, prior to the dissolution of the Association whether by expulsion or otherwise, such Member shall not be entitled to be paid anything as or for the value of the property interest of such Member.

The foregoing provisions are not for the purpose of penalizing any person whose membership shall become forfeited or otherwise terminated, but rather, because no membership will have any intrinsic value. It is intended that the Association shall conduct its business with moneys withheld for or invested in revolving funds or other fund or funds, and said funds shall be repayable in accordance with provisions hereof, regardless of termination of membership.

ARTICLE IV.

Voting Privileges

Section 1. Voting Right and Powers. The voting power of the Members shall be unequal and determined as follows:

Each member shall have and may exercise a minimum of one (1) vote with an additional vote for each twenty-five (25) tons of walnuts delivered to the Association in any one crop year, as determined by or under the authorization of its Board of Directors and made of record on its books. No Member, however, shall have or exercise in excess of one hundred (100) votes in all and there shall be no fractional votes. The respective voting privileges of the Members shall be fixed and determined annually by the Board of Directors, or under its authorization, on or before June 30th and when so fixed and made of record shall be conclusive as to the voting power to be exercised by the respective Members at the ensuing annual meeting and election of Directors. Until and unless otherwise determined, fixed and made of record by, or under the authorization of the Board of Directors, each Member shall have and

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exercise a single and but one vote. The additional voting right and privilege to be conferred pursuant hereto need not be considered in the determination of any question submitted to the vote of the Members or for any purpose unless demand for its exercise be made by the Member, in which event the vote shall be taken by roll call or ballot.

Section 2. **Limitations on Cumulative Voting.** No Member shall have the right to cumulate his votes for the election of Directors, or otherwise, or for any other purpose except in such instances as the right to exercise a cumulative voting privilege be specifically granted or reserved by law.

Section 3. **Voting by Proxy.** Each Member is hereby given the full, unrestricted right to vote or act by proxy.

Section 4. **Voting by Mail.** Upon the order of the Board of Directors, the Executive Committee, or the President of the Association, a vote of the Members may be taken by mail upon any question with the same effect as if at a meeting duly called and convened, and the right of the Members to vote by mail for the election of Directors is hereby expressly confirmed.

Any question or questions to be submitted to the Members by mail vote shall be reduced to concise written form by the Secretary and mailed to each Member in accordance with the requirements imposed for the mailing of notice of special meetings of the Members, which such question or questions shall be in ballot form to enable the Member to express his vote. The Secretary shall enclose therewith a notice fixing the date and time at which all ballots will be opened and counted at the office of the Association, which date must not be less than fifteen days from date of mailing, and instructing the member to return his ballot by mail in a plain, sealed envelope, addressed to the Association, but with the appropriate notation to identify it as a vote by mail without violating the secrecy of the ballot. At the time and date fixed, the Secretary shall open, count and register the votes, in the presence of any and all Members in attendance, and thereupon announce and record the result.

Section 5. **Business Entity.** A partnership, Corporation, or non-profit agricultural cooperative becoming a member of the Association shall have but one vote regardless of the number of partners, shareholders, or members plus additional votes for tonnage delivered in the preceding season, as defined in Section 1 of this Article.

ARTICLE V.

Property Right and Interests

Section 1. **General Property Rights and Interests of Members.** The property rights and interests of each Member of the Association in its general property and assets not credited or set aside to a revolving or special fund as in these By-Laws provided, shall be equal, and each and every Member of the Association, irrespective as to the date of admission to membership, shall have but one kind of interest therein, based upon the tonnage of walnuts annually delivered to the Association.

Section 2. **Revolving and Special Funds.** The Board of Directors of the Association through appropriate resolution, may create and maintain, or provide for the creation and maintenance of, a revolving fund, special fund or funds, for such specific use or purpose as may be deemed appropriate, through advances, contributions, deductions from marketing returns, the imposition of an additional Association charge, or through any other source that may be made available and specified by resolution of the Board. No Member of the Association, merely as an incident of membership, shall have or possess any property right or interest in any such fund created, the respective and proportional rights and interests therein to be as limited and specified by the resolution creating the fund or as set forth and declared in such

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certificates as may be issued by, or under the authorization of the Board of Directors to certify or evidence the same.

Section 3. **Funds Subject to Right of Creditors.** Irrespective as to any other provision herein contained, or as to how created, evidenced, or certified, all money property and assets standing to the credit of any fund or funds created pursuant hereto while held and retained by the Association shall be subject to the rights and claims of its creditors, and to the payment of its debts, liabilities, and obligations, and may be hypothecated, mortgaged, or pledged, all in the same manner and to the same extent as its unallocated funds or properties, and shall be subject to distribution in whole or in part only as and whenever determined in the absolute discretion of its Board of Directors, and no certification shall ever be made of any right, title, interest or participation in any such fund or funds, without containing an appropriate saving clause through reference to this section of the By-Laws, and a statement that the interests of the said certificate holder shall be subject to the prior rights of the creditors of the Association.

Section 4. **Interest on Revolving Fund.** In the event a revolving fund is established, the Association may, in the discretion of the Board of Directors, pay an annual dividend equal to the net interest earned each year by such revolving fund to the contributors to the fund in the same proportion as their contributions bear to the total contributions to the fund; provided, that no dividend shall be paid in an amount which would exceed the rate allowed to exempt cooperatives under the Internal Revenue Code or under applicable state laws. As used herein, net interest means the interest income earned by such revolving fund after deduction of annual expenses associated with the administration and management of the fund.

Section 5. **Inability to Locate Patron.** Whenever a Member shall be entitled to receive any payment or allocation from the Association, and the Association, after making reasonable efforts to do so, is unable to locate such person, or his duly authorized representative, the Board of Directors may, after the expiration of the applicable statute of limitations, transfer any amounts involved to the general funds of the Association for the account and benefit of all Members; provided, however, that the Board of Directors may thereafter pay or satisfy any claim for payment or allocation asserted by any person who the Board reasonably believes was entitled thereto prior to any such transfer in the manner and upon the terms provided in these By-Laws.

ARTICLE VI. Board of Directors

Section 1. **Corporate Powers.** The corporate powers of the Association shall be vested in, exercised and controlled by a Board of Directors having eighteen (18) members. The Directors, by two-thirds (2/3) majority vote, or the Members as provided by law, may amend this By-law to provide for a different number of Directors and the manner and method of election of District Directors; provided, however, that the Board of Directors shall have no less than twelve (12) and no more than twenty-three (23) members.

Section 2. **Quorum.** A majority of the Board of Directors shall constitute a quorum for the transaction of all business.

Section 3. **Term of Directors.** The incorporating Directors shall be the first directors, and their terms shall expire upon the election of their successors in accordance with these By-Laws. The term of office of the Directors of the Association shall be two (2) years except for the initial election of the District Directors, in which case, ten (10) District Directors, two (2) from each district, shall be elected for a two (2) year term and five (5) District Directors, one (1) from each district, shall be

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elected for a one (1) year term in order to provide for staggered terms. In the initial election of District Directors, those Directors receiving the highest number of votes cast shall be elected for a two (2) year term, and those Directors receiving the next highest number of votes cast shall be elected for a one (1) year term. All Directors shall hold office until their successors are duly elected and qualified. The fifteen (15) elected District Directors shall be elected from districts as hereinafter specified in Section 5 of this Article VI, and three (3) Directors shall be appointed at large without regard to residential qualifications as hereinafter specified in Section 6 of this Article VI.

Section 4. Qualifications of District Directors. Each District Director shall be a duly qualified Member of the Association or an authorized representative of a Member who is not a natural person.

Section 5. Manner of Election of District Directors.

(a) The membership of the Association is hereby divided into five (5) districts, as follows:

District 1. Butte, Glenn, Tehama, Lake, Mendocino, Plumas, Lassen, Shasta, Trinity, Humboldt, Del Norte, Siskiyou, and Modoc counties.

District 2. Colusa, Sutter, Yuba, Sierra, Nevada, Placer, El Dorado, Sacramento, Solano, Yolo, Napa, Sonoma, and Marin counties.

District 3. San Joaquin, Amador, Calaveras, Alpine, Alameda, San Francisco, Contra Costa, and San Mateo counties.

District 4. Stanislaus, Merced, Santa Clara, Santa Cruz, San Benito, Monterey, Mariposa, Tuolumne, and Mono counties.

District 5. Madera, Fresno, Kings, Tulare, Kern, San Luis Obispo, Inyo, San Bernadino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial counties.

(b) Any person elected as a District Director from any district must be a Member delivering his principal tonnage from that district and there shall be three (3) District Directors elected from each district. The Board of Directors, as hereinafter specified in Section 1 of Article VII, may reapportion the District Directors among the five (5) districts in accordance with the tonnage delivered from each district.

(c) In each of said districts where an election of District Directors is required, a membership meeting shall be held, at least sixty (60) days prior to the annual meeting, for the purpose of nominating candidates from the respective districts for the position of District Director from the said districts. The names of said nominees shall be delivered to the Secretary of this Association and as soon as nominations for District Directors have been received, the Secretary shall prepare ballots for each district, bearing the names of all candidates nominated from that district, together with as many blank spaces as there are District Directors to be elected from that district, and shall mail as many ballots to each member as he is entitled to vote, together with a notice that such ballots must be received at the Association's head office not later than ten (10) days prior to the Annual Meeting. A majority of all votes cast by any one district shall not be required to elect District Directors, but the person or persons (depending on the number of District Directors allotted to the district) receiving the highest number of votes shall be declared elected. Immediately preceding or following the Annual Meeting the newly elected District Directors shall meet and organize by

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electing officers in accordance with the provisions of these By-Laws who shall thereafter hold office until the election and qualification of their successors. The Board of Directors for the first year shall be the Incorporators and shall hold office until the election and qualification of their successors in March of 1992 as hereinafter provided.

(d) Immediately preceding or following said Annual Meeting or at any subsequent meeting of the Board of Directors, three (3) or less Directors-at-Large may be appointed who, upon taking office, shall hold such office until the due qualification of their successors.

Section 6. Manner of Appointment of Directors-at-Large. The Directors-at-Large referred to in Section 3 hereinabove shall be appointed by majority of the elected District Directors at any regular or special meeting following the Annual Meeting and shall be appointed to hold office for the specified term of two (2) years and until the due appointment and qualification of their successors. Such Directors-at-Large need not be Members of the Association or officers, associates, managers or other agents of a member not a natural person.

Section 7. Vacancies.

(a) A vacancy on the Board of Directors arising other than by expiration of the term of office may be filled by the remaining Directors in office through the selection of a person having the same qualifications and from the same district as that of the retiring or deceased Director, or the Board of Directors may call a special meeting of the Members in that district to fill the vacancy, and the person so selected shall hold office until the next regular election or appointment of Directors, at which time his successor shall be elected for the unexpired term of the former Director in the event that such term be not then terminated.

(b) The office of any Director who shall fail to attend three (3) consecutive meetings of the Board of Directors of the Association, unless such attendance be prevented by illness or excused by resolution of the Board for a good and sufficient reason which shall be noted in such resolution, shall be ipso facto vacated and may be filled as other vacancies in office.

ARTICLE VII.

Powers, Duties and Compensation of Directors

Section 1. Powers. The Board of Directors shall have the power, in addition to all other powers granted to them by law or these By-Laws.

(a) To call special meetings of the Members whenever they deem it necessary.

(b) To prescribe and pass upon the qualifications and requirements for membership; to consent to, or restrict, the transfer or assignment of membership and other interests in the association or the funds held by it; provided however, that action in the premises may be taken by any committee or office authorized so to do by the Board of Directors.

(c) To conduct, manage and control all of the business and affairs of the Association, and in that connection to take such action and incur such expenditures as, in the judgment of the Board, will best accomplish the primary purposes of organization as stated in its Articles of Incorporation or these By-Laws.

(d) To select, appoint, and remove, at pleasure, all officers, agents or employees of the Association, prescribe such duties and delegate such power as may not be inconsistent with these By-Laws, fix their compensation and require security for faithful service.

(e) To prescribe, adopt and amend, from time to time, such equitable and uniform rules and regulations as, in their absolute discretion, may be

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deemed essential or convenient, for the conduct of the business and affairs of the Association, the guidance and control of its offices and members, and to prescribe adequate penalties for the breach thereof.

(f) To establish such departments as may be deemed advisable or essential, and to determine such Association charge as is to be made for service rendered and the terms and conditions to govern the rendition thereof.

(g) To borrow and loan money, incur indebtedness, and guarantee performance or payment of obligations for this Association, or others, the terms, conditions and amount thereof, to be entered on the minute book of the Association; to cause to be executed and delivered as evidence of trust deed of the Association, and cause to be hypothecated, mortgaged, or pledged as security for any of its obligations, liabilities or debts any and all of the property, property rights and interests of the Association, both real and personal, and in addition, any commodities that the Association may undertake to handle or market for others, or the proceeds of the sale thereof, and any property or assets allocated to, or set aside for, a special fund in its possession.

(h) To designate by resolution from time to time such officers or agents as shall have power and authority to execute, for and in behalf of the Association, all necessary instruments in writing of every kind and nature; to sign checks and drafts of the Association and to endorse checks and drafts payable to the order of the Association; or to perform, for and in behalf of the Association, any and all acts of every kind and nature that may be so delegated.

(i) To adopt, make and regulate the use of a corporate seal, and to prescribe the forms of membership and other certificates and to alter the form of such seal and such certificates from time to time, as in its judgment may be deemed best.

(j) To reapportion directors among the various districts in accordance with the tonnage delivered from each district.

(k) To re-district the territory covered by the Association when the same shall, in their judgment, become necessary.

(l) To assent in writing or to vote for or against any marketing agreement, marketing order, marketing program or amendments thereto or proposals thereunder on behalf of the Members of the Association pursuant to any law or statute including but not limited to the California Marketing Act of 1937, as amended, and the Agricultural Producers Marketing Law, as amended.

Section 2. Duties. It shall be the duty of the Directors, in addition to all other duties imposed by these By-Laws or by law:

(a) To cause to be issued to Members, from time to time, and to those entitled thereto, membership and other certificates certifying or evidencing membership or other rights or property interests in the Association, or in ny special fund created, and to determined the form and contents of such certificates.

(b) To install such system of auditing and accounting as will enable a complete determination to be made of the financial condition of the Association and the property rights and interests of the Members.

(c) To keep a complete record of all its acts and the proceedings of its meetings, and to present a full statement at the regular annual meeting of the Members showing the condition of the Association.

(d) To cause to be fixed and determined, from time to time, the amount to be charged and retained or collected for service rendered, or required to cover the cost of service, interest charges, loss and expense, or the requirements for working capital or special funds created.

(e) To cause to be ascertained and determined annually, as soon after the end of the current calendar or fiscal year as may conveniently be done, the amount of the surplus or deficiency accruing, and to allocate and apportion the same in accord with the provisions contained in these By-Laws, or any marketing agreement entered into pursuant hereto; to determine the amount of surplus, if any, to be retained as working capital or set aside for reserves, and to issue appropriate certificates certifying or evidencing the

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interest of each of the parties entitled, which, when so issued, shall be conclusive, the intent hereof being to vest in the Board of Directors absolute discretionary power in the making of all allocations and apportionments of expense, surplus and deficiencies in the expectation that the same will be exercised for the best interest of the Association as a whole.

Section 3. **General Powers and Duties.** In addition to the power specifically imposed upon the Board of Directors by these By-Laws, the Board shall have the power and duty generally to do and perform every act or thing whatsoever, lawfully devolving upon a Board of Directors, unless these By-Laws shall specifically otherwise provide.

Section 4. **Compensation of Directors.** The Directors of the Association shall be paid such sum as the Board may determine for each day's attendance at any meeting of the Board of Directors and shall be reimbursed for all actual travel expenses reasonably incurred by them in travelling to and returning from such Board meeting upon presentation of vouchers in such form as the Board of Directors may from time to time prescribe.

Any member or members of the Board of Directors, when authorized by resolution duly adopted by the Board of Directors to represent the Board or the Association in the capacity set forth in such resolution, shall be paid the same sum per day and be reimbursed for actual expenses as provided for attendance at meetings of the Board of Directors.

ARTICLE VIII.

Executive Committee

Section 1. **Appointment.** The Board of Directors may appoint, or provide for the appointment of an Executive Committee to consist of as many of its Members as it may designate. The Executive Committee shall conduct the business and affairs of the Association during the interim between Board meetings but subject to the general control of the Board of Directors.

Section 2. **Minutes and Records.** It shall be the duty of the Executive Committee to keep full minutes and records of all of its acts and proceedings and submit the same to the Board of Directors for approval at the next succeeding Board meeting.

Section 3. **Powers Granted.** The Executive Committee may perform any of the duties or functions, and exercise any of the powers or authority of the Board of Directors during the interims between meetings of the Board, except such as may be reserved to the Board by resolution thereof, or when otherwise provided by law. The Executive Committee shall organize as it sees fit.

Section 4. **Vacancies.** Vacancies in the Executive Committee shall be filled by the Board of Directors.

ARTICLE IX.

Offices.

The offices of the principal place of business of the Association shall be in the County of Sacramento, State of California, at such place as the Board of Directors may designate. Branch offices may, however, be established elsewhere as the business of the Association may require.

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ARTICLE X.

Officers.

Section 1. Terms and Designations. All of the officers of the Association shall be elected or appointed by, and shall hold office at, the pleasure of the Board of Directors. The officers of the Board of Directors shall be a Chairman, Vice-Chairman, Secretary to the Board of Directors, and Treasurer. The officers of the Association shall be a President, a Vice-President, a Secretary, and such additional officers as may be provided by resolution of the Board. The same person may hold one or more offices, provided that at no time shall the same person simultaneously hold the offices of President and Secretary.

Section 2. Alternative Provisions. In case of the absence or inability to act of a principal officer, or when otherwise so authorized by the Board, a secondary officer, or other person, may take the place of the principal officer and perform his duties with the same power and authority.

Section 3. Qualifications. The Chairman and Vice-Chairman only need be members of the Board of Directors.

ARTICLE XI.

Powers and Duties of Officers.

Section 1. Chairman and Vice-Chairman of the Board. The Board of Directors shall elect one of its members to be Chairman and one of its members to be Vice-Chairman of the Board. The Chairman, or in his absence, the Vice-Chairman, shall have the power, and it shall be his duty:

(a) To preside over all meetings, regular and special, of the Members, and of the Board of Directors.

(b) Subject to the advice of Directors, to assist the President in directing and controlling the affairs of the Association.

(c) To call, or provide for the calling of, special meetings of the Members, and also of the Board of Directors, to be held at such time or times as he shall deem necessary, and he shall call such meetings when so requested, as hereinafter provided.

(d) To subscribe the name of the Association to all deeds, conveyances, mortgages, leases, promissory notes, contracts, obligations, certificates and other papers and instruments in writing that may require his signature, when required or authorized to do so.

(e) To discharge such other duties as may be required of him by these By-Laws, or the Board of Directors.

Section 2. Secretary of the Board. The Board of Directors shall appoint a Secretary, who may be one of its members. The Secretary shall have the power and it shall be his duty to be the custodian and have charge of all books, papers, instruments and records of the Association, and, unless otherwise ordered by the Board, it shall be his duty:

(a) To keep, or cause to be kept, a full and complete record of the proceedings of the meetings of the members, of the Board of Directors, and of the Executive Committee.

(b) To keep the seal of the Association and to affix the same to all instruments designated by the Board of Directors, or the Executive Committee, and to such other instruments and papers executed in the regular course of business as require the affixing of the seal.

(c) To keep the books of certificates of membership and interest; to attach the corporate seal thereto; to transfer or cause to be transferred, upon the books of the Association, any and all membership certificates and certificates of interest, but only as expressly authorized by the Board of Directors.

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(d) To serve, or cause to be served, all notices, and make, or cause to be made, all publications required either by law or by the By-Laws of the Association, or that may be necessary and proper, without other or further authorization therefor.

(e) To discharge such other duties as may be required of him by these By-Laws, or the Board of Directors.

Section 3. **Treasurer of the Board.** The Board of Directors shall appoint a Treasurer, who may be one of its members. The Treasurer shall be the Chief Financial Officer of the Association and shall receive and keep all funds of the Association, deposit the same in such bank or banks as may be designated by the Board of Directors, and keep, or cause to be kept, proper account books. A corporation may be named a Treasurer.

Section 4. **President of the Association.** The President shall be the Chief Executive Officer of the Association and he shall have the power, and it shall be his duty:

(a) Subject to the advice of the Directors, to direct and control the affairs of the Association and to enforce its policies.

(b) To subscribe the name of the Association to all deeds, conveyances, mortgages, leases, promissory notes, contracts, obligations, certificates and other papers and instruments in writing that may require his signature, when required or authorized to do so.

(c) To discharge such duties as may be required of him by these By-Laws, or the Board of Directors.

Section 5. **Vice-President of the Association.** In the absence or disability of the President, the Vice-President shall perform all of the duties of the President, and when so acting shall have all the powers of, and be subject to all restrictions upon, the President. The Vice-President shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or by the By-Laws.

Section 6. **Secretary of the Association.** The Secretary shall act as an assistant to the Secretary to the Board of Directors and, in the absence or disability of the Secretary to the Board of Directors, shall perform the duties of the Secretary to the Board of Directors. The Secretary shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or by the By-Laws.

ARTICLE XII.

Meetings.

Section 1. Meetings of Members.

(a) **Annual Meeting.** The annual meeting of the Association shall be held at the time and place, within the State of California, fixed and designated by the majority vote of the Board of Directors. Said action fixing said time and place may be taken by the Directors prior to the second Friday in December following the close of a harvest season or at such other time as the Board of Directors, in its discretion, deems appropriate.

The first annual meeting of the Association shall be held on March 11, 1992.

(b) **Annual District Meetings.** An annual meeting of the Members where an election of Directors is required of the Association shall be held within each such district at such place and time (prior to the annual meeting of the Members) as the Board of Directors may designate.

(c) **Special Meetings.** A special meeting of the Members may be called at any time by the Chairman or any three Directors, or by ten per cent of the Members. Each call for a special meeting of the members shall state the time, place and the purpose of such meeting. If made by the Board of Directors, it

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shall be by resolution duly adopted and entered in the minutes; if made by the Chairman or by individual Directors or by the Members, it shall be in writing and signed by the person or persons making the call, and delivered to the Secretary.

(d) **Notice of Annual Meetings.** The notice of the annual meeting and annual district meetings of the Members shall state the time and place of the meeting and the purposes for which called, and a copy thereof shall be mailed to each of the Members of the Association at least ten days before the meeting.

(e) **Notice of Special Meeting.** Notice of special meetings of the Members shall state the time and place of the meeting and the purposes for which it is called, and a copy thereof shall be mailed to each of the members of the Association at least ten days before the meeting.

(f) **Quorum.** A majority of the Members present in person or by proxy at any membership meeting of the Association shall constitute a quorum for the transaction of all business, unless otherwise required by law.

(g) **Presiding Officers.** The Chairman (or, in his absence, the Vice-Chairman) and the Secretary shall act as Chairman and Secretary, respectively, of each meeting of Members or Board of Directors, unless the meeting shall otherwise decide.

Section 2. Directors.

(a) **Regular Meetings.** A regular meeting of the Board of Directors shall be held preceding or following each Annual Meeting of the members, and at such time and place as the Board of Directors, in its discretion, shall designate. At this meeting, the officers of the Association shall be elected for the ensuing year, unless the Board of Directors determines that said elections should be held at a subsequent time, in which case the Board shall designate a time and a place for a meeting of the Board of Directors at which said election of officers shall be held.

(b) **Special Meetings.** The Chairman, or one-third of the Members of the Board of Directors may, at any time, call a special meeting of the Board to be held at the principal office of the Association, unless the Board of Directors shall authorize the holding of special meetings at other places, at the time specified in said call. The Chairman, or one-third of the members of the Executive Committee, may, at any time, call a special meeting of the Committee to be held at the said office or such other place as may be designated by the Chairman and set forth in the notice of meeting.

(c) **Notice of Meetings.** The Board of Directors, by resolution duly adopted, may dispense with any and all notice of regular meetings thereof, otherwise the same notice of regular meetings shall be given as required for special meetings. Notice of special meetings of the Board of Directors shall state the time and place of meeting and the purpose for which it is called and may be served by mail or by personal delivery. If the notice is given by mail, a copy thereof shall be mailed to each member of the Board at least five days before the meeting; if by personal service, then a copy thereof shall be delivered to each Director at least forty-eight hours before the meeting.

Section 3. Executive and Other Committee Meetings. The Board of Directors by resolution duly adopted may fix and determine the time, place and manner of calling and holding Executive and other committee meetings and may specify the notice thereof to be given, or dispense with any necessity for notice, and, likewise, the business to be transacted by any committee either with or without notice of meeting.

Section 4. Business. Any and all business presented may be transacted at any regular meeting of the Members or Board of Directors or at any adjournment thereof, or at any meeting held by written consent or for which a waiver of notice has been attained. Only such business may be transacted at a special meeting as is specified in the notice thereof, unless a written waiver of notice or a written consent to the holding of said meeting be signed. A

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majority of those in attendance at any meeting at which a quorum is represented shall be sufficient for the adoption of any resolution and transaction of any and all business, unless otherwise required by law or these By-Laws.

Section 5. Service of Notice. Whenever under these By-Laws notice is required to be given, whether such notice be a notice of meeting or otherwise, such notice may be given by depositing a copy thereof in the United States Mail in a sealed envelope, addressed to the person to whom notice is to be given, either at his residence or place of business as the same shall appear on the books of the Association. If the notice is to be given by personal service, then a copy thereof shall be delivered personally to the person to be served. The service or delivery shall be deemed conclusive for all purposes upon the mailing or delivery and shall be proven by affidavit of the person mailing or serving the same.

Section 6. Waiver of Notice and Consent. Unless otherwise prohibited by law, any notice required to be given under these By-Laws, whether of meetings or otherwise, may be waived and upon such waiver being made in writing and made of record on the records of the Association, such waiver shall have the same force and effect as if due notice had been given. By mutual consent in writing, a meeting may be held at any time or place without other or further notice, and any and all business may be transacted at such meeting.

Section 7. Voting Rights. The voting power of each of the Directors shall be equal. Each member of the Board of Directors shall have one (1) vote.

ARTICLE XIII.

Holiday and Adjournments.

Section 1. Holidays. In the event that any day fixed for a regular or special meeting of the members or of the Board of Directors or of the Executive Committee falls upon a legal holiday, such meeting shall be held at the same time of day and at the same place upon the next legal business day thereafter, without other or further notice.

Section 2. Adjournments. If a quorum is not represented at any meeting of the Members, or at any meeting of the Board of Directors, or at any meeting of the Executive Committee, regular or special, or if for any cause a meeting is not held on the date fixed therefor, or if the business before said meeting is not completed, those in attendance may adjourn from day to day, or from time to time, to reconvene at the same place at the time appointed in the order of adjournment, and may at such adjourned meeting, transact all business that could have been transacted at the original meeting, and without other or

further notice than contained in the order of adjournment, as recorded in the Minute Book of the Association.

ARTICLE XIV.

Committees.

The Board of Directors, or Executive Committee, from time to time, may appoint such standing or special committees as may, in their judgment, be deemed expedient and refer to such committee or committees any corporate matter, with full power to act.

ARTICLE XV.

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Marketing and Service.

Section 1. **Marketing and Other Service.** The Association shall furnish all of its facilities to the Members for the marketing of their products, and may process, purchase or sell commodities and supplies upon such terms and conditions as from time to time may be fixed by its Board of Directors, with all of which each Member using the facilities of the Association agrees to comply.

Section 2. **Commodity Marketing and Service.** Insofar as it is practicable, all marketing and other operations will be conducted on a commodity basis and expense and receipts apportioned accordingly, except as to such operations as may be conducted for the general interest or benefit of all, regardless of particular commodity interest, in which event the expense and receipts shall be otherwise and equitably apportioned, all as determined and declared by or under the authority of the Board of Directors in the exercise of an absolute discretionary power.

Section 3. **Allocation and Apportionment.** All receipts, expense and losses, including the general overhead expense of maintaining the Association, and all interest charges and credits, are to be allocated and charged or credited, from time to time, to the various commodities handled or marketed, on a unit or value basis, as determined by the Board of Directors of the Association, except as otherwise authorized under these By-Laws, and shall be so apportioned that each commodity will ultimately be credited or charged with a fair and equitable share of the total. Such allocation and apportionment, when made of record and approved by or under the authority of the Board of Directors, shall be final and conclusive.

Section 4. **Pooling.** Any particular commodity or commodities, may be pooled under such rules and regulations as may be adopted by, or under the authority of the Board of Directors whenever such pooling is deemed advisable to enable the commodity to be marketed and handled to better advantage or will tend to give a better assurance of fair and equitable charge and credits to the respective Members in interest.

Without limiting the generality hereof, the Board of Directors is authorized to establish one or more pools of any particular commodity or commodities for the purpose of supplying such commodity or commodities to any other cooperative association or commercial handler for processing or marketing as the Board may determine. The Board is authorized further to adopt rules and regulations for the handling of Members' commodities in any such pool, including the allocation of net proceeds from the pool to the Members participating therein.

Section 5. **Contracts.** The Board of Directors of the Association may, but shall not be required to, limit the use of the marketing and other facilities of the Association to be extended to Members, to such thereof as may enter into a marketing or other agreement with the Association for the use of its facilities, and may refuse to extend its facilities to, or serve any Member who refuses to enter into such agreement or fails to comply therewith. The Board of Directors of the Association is hereby vested with full and unlimited discretionary power to fix and determine the basis upon which service is to be rendered by the Association or its facilities made available to Members and others.

Section 6. **Trade Purchases.** The Association, for the purpose of meeting its trade requirements, from time to time and whenever required, may purchase commodities on the open market, which, when so purchased, unless otherwise determined by the Board of Directors, shall be deemed to be purchased for the benefit and account of those marketing or purchasing like commodities through the Association, such transactions in any event to be limited to purchases deemed requisite to enable the Association to properly

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carry on and conduct its business, supply its trade and reduce the cost of operations to the Members and the Producers in interest.

ARTICLE XVI.

Marketing Returns, Advances and Expenses.

Section 1. **Advances.** The Association may advance to those delivering commodities such amount per unit of said commodity or percentage of value as may be deemed advisable, subject, however, to final adjustment at the end of each calendar or fiscal year, at which time additional payments or charges shall be made in order that each Member may ultimately receive or be charged with his fair proportionate share.

Section 2. **Retention and Charges.** The Association may retain out of any funds on hand, whether accruing from marketing operations, the rendition of service, or otherwise, such amounts as, from time to time, may be deemed requisite to meet estimated overhead, operating or other expense and losses; to set up adequate reserves and provide a working capital; to create, build up and maintain any special fund or funds, or for other legitimate purposes of the Association. Upon termination of membership, through withdrawal or otherwise, the former Members shall be entitled to receive ultimately only such proportionate interest as may have heretofore been certified to him, without taking into consideration the value of reserves, if any, such reserves being considered as an expense item.

Section 3. **Lien.** The Association shall have a first lien upon all funds, property, property rights and interests in the Association however evidenced or certified, and upon any amounts payable to the Member for marketing returns or otherwise, to the extent of any amount that the Member may be indebted or obligated to this Association on any account or accounts, claim or claims, whatsoever, liquidated or otherwise. The lien may be enforced through the immediate application of any cash or credit held by the Association for the Member or by sale of interest or membership after five days' notice in writing served upon the Member as provided in these By-Laws for service of notice of meetings. All sales of membership or interest shall be made at the head office of the Association, by the Secretary or other person designated by the President of the Association, without other or further formality or notice. The Association or any Member thereof may be or become a purchaser at such sale.

Section 4. **Set-Off.** The Association shall have the right, but not the obligation, to offset all or any part of a Member's debts as obligations to the Association against all or any part of the Association's debts or obligations to such Member and against the balance of such Member's interest in any revolving fund or special funds (whether or not the interests of other Members in any such funds are being redeemed at the time of offset) or other property of such Member held by the Association.

ARTICLE XVII.

Indebtedness.

Section 1. **Purposes.** The Association may incur indebtedness, and may pledge, mortgage or hypothecate the property and assets of the Association as in these By-Laws elsewhere provided, in such amount as may be deemed essential by its Board of Directors in order to enable it to carry on and conduct its business and accomplish the purposes for which it was organized.

Section 2. **Certification Conclusive.** The Certificate of the President and Secretary or other designated officer, under the corporate name and seal

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of the Association certifying to the adoption of a resolution by the Board of Directors authorizing the borrowing of money or the creation of any indebtedness by the Association as and whenever delivered to the lender, and to the extent to which any advance may be made thereunder, shall be conclusive evidence as against the Association with respect to the authorization, or purported authorization, for the creation of the indebtedness certified, irrespective as to whether or not all of the requirements contained in these By-Laws may have then or theretofore been complied with.

ARTICLE XVIII.

Mailing Address.

Any Member or Director may file a mailing address with the Secretary of the Association; thereafter and until further notice from the Member or Director, all notices and communications from the Association to such person that are to be mailed, whether required by law, by these By-Laws, or otherwise, shall be addressed to the address so given.

ARTICLE XIX.

Amendments.

Section 1. These By-Laws may be repealed, amended or additional By-Laws adopted at any time, and from time to time, by a majority vote of the membership, at any regular or special meeting thereof, or by mail vote. If at a regular meeting, or at any other meeting held by consent or under a waiver of notice, then only such notice need be given as is given at the meeting; if at a special meeting, not held by consent or under waiver of notice, then only in the event the question be included in the notice of meeting and it shall be included by the Secretary whenever requested so to do by a Member of the Association; if by mail ballot, no other or further notice need be given than that required for submission of the question for a mail vote as in Section 4 of Article IV of these By-Laws specified. If the question be included in the call for any special meeting, but not finally then acted upon, it may be considered and determined at the next regular or special meeting without other or further notice.

Section 2. Except as otherwise provided by law, these By-Laws also may be amended by the vote of a two-thirds (2/3) majority of the Board of Directors of this Association.

Section 3. All members shall be bound by any amendment to these By-Laws duly adopted.

ARTICLE XX.

Consent of Members under Revenue Act of 1962 and Tax Reform Act of 1969 and Agreement of Members as to Per Unit Retain Allocations.

Section 1. Each person who hereafter applies for and is accepted to membership in this Association and each Member of this Association on the effective date of these By-Laws who continues as a Member after such date shall, by such act alone, consent that the amount of any distributions with respect to his patronage and that the amount of any distributions of the kind described in 26 U.S.C. Sec. 1382(c)(2)(A), which are made in written notices of allocation (as defined in 26 U.S.C. Sec. 1388) and which are received by him from the Association, will be taken into account by him at the stated dollar amounts in the manner provided in 26 U.S.C. Sec. 1385(a) in the taxable year in which such written notices of allocation are received by him.

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Section 2. Each person who hereafter applies for and is accepted to membership in this Association, and each Member of this Association on the effective date of these By-Laws who continues as a Member after such date, shall, by such act alone, agree that the amount of any per unit retain allocations with respect to any products delivered, which are made in written per unit retain certificates (as defined in 26 U.S.C. Sec. 1388) and which are received by him from the Association, will be taken into account by him at their stated dollar amounts in the manner provided in 26 U.S.C. Sec. 1385(a) in the taxable year in which such written per unit retain certificates are received by him. Redemption by the Association of per unit retains may be made at any time after issuance at the complete discretion of the Board of Directors.

Section 3. Each person or entity who hereafter applies for an is accepted to membership in the Association, and each Member of the Association on the effective date of these By-Laws who continues as a Member after such date shall, by such act alone, consent that, with respect to any products delivered after July 1, 1990, any related payments received in money by way of advances or otherwise, except in redemption of per-unit retain certificates paid in money or for qualified written notices of allocation, will constitute per-unit retain allocation paid in case for purposes of conformance with the provisions of the Tax Reform Act of 1969 and regulations issued pursuant thereto; and that such amounts will be treated as income for the period in which they are received.

Section 4. Issuance of Nonqualified Written Notices of Allocation and Nonqualified Per-Unit Retains. Each member upon the effective date of these By-Laws consents and agrees that the Board of Directors, at its discretion, may issue non-qualified written notices of allocation and/or nonqualified per-unit retains in accordance with the provision of Internal Revenue Code Sections 1388(d) and 1388(i) and the regulations pertaining thereto. Further, the Board may issue both qualified and nonqualified notices and retains for the same year in any proportion deemed appropriate and as permitted by the Internal Revenue Code and the related regulations. Redemption of nonqualified written notices of allocation and/or nonqualified per-unit retains may be made to a patron at a time and in an amount determined by the Board of Directors.

ARTICLE XXI

Agreement.

These By-Laws shall in and of themselves constitute a contract between the Association and each of its Members, and the adoption, amendment or repealing of these By-Laws shall effect a corresponding change in this contract in its future operation. The Association shall have the right to enter into such further, different, or supplemental contracts with its Members or any thereof as its Board of Directors may from time to time see fit.

ARTICLE XXII

Dissolution.

In the event of dissolution of the Association and winding up of its affairs, all the liability represented by any revolving fund or special fund credits shall be deemed accrued and all monies and properties shall be deemed general assets to be distributed and applied as follows:

FIRST: In payment of all debts, liabilities and obligations other than any liability or obligation represented by any revolving fund or special fund credits;

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SECOND: Any residue thereafter remaining shall be used in payment ratably, to the extent of available assets, of outstanding revolving fund or special fund credits; and

THIRD: In the event there remains any residue after payment in full of credits in any revolving or special fund, such residue shall be distributed among those who were Members at the commencement of the proceedings to wind up and dissolve the Association in proportion to the amount of the revolving or special fund credits which they own at such time. No holder of any revolving or special fund credit who was not a Member at the commencement of proceedings to wind up and dissolve the Association shall be entitled to participate in such distribution of residue.

ARTICLE XXIII

Indemnification of Officers, Directors, Agents.

The Association shall indemnify all directors, officers and agents of the Association against all expenses, judgments, fines, settlements and other amounts (including reasonable attorneys' fees) actually and reasonably incurred in connection with the defense of a proceeding to which the person is a party or threatened to be made a party if the person acted in good faith and in a manner the person reasonably believed to be in the best interests of the Association. By this provision, it is the intent of the Association to provide for indemnification and the advance of expenses to the fullest extent permitted by law.

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March 11, 1992

AMENDMENTS TO THE BY-LAWS OF THE WALNUT BARGAINING ASSOCIATION

ADD: **New Section 5, Article XVI, Marketing Returns, Advances and Expenses.**

Section 5. Refund of Net Margins and Patronage Dividends.

Subject to all applicable requirements of the Internal Revenue Code, all net margins, which shall be calculated as the amounts remaining after deducting from gross receipts all advances, costs of goods purchased, and all operating and overhead expenses at the end of each fiscal year, and in accordance with Section 2 above, shall be refunded to members and non-members alike as patronage dividends on a patronage basis in cash and/or by qualified or non-qualified written notices of allocations. Such refunds may be made with respect to all operations of the Association separately calculated or grouped in such a manner as the Board of Directors may determine, and the Board shall have the right to give proper effect to more than one type of patronage. Patronage may be measured by dollar volume or by units as the Board of Directors may determine to be appropriate, and the Board's determination in each case shall be conclusive. This provision of the By-laws shall establish and acknowledge a pre-existing, valid and enforceable written obligation to allocate and pay patronage dividends to all patrons of the Association, subject to and in accordance with all other provisions of these By-laws.

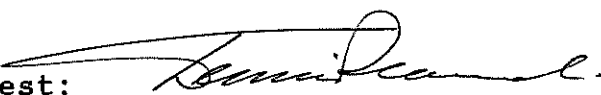
ADD: **New Section 6, Article XVI, Marketing Returns, Advances and Expenses.**

Section 6. Losses.

If in any fiscal year the operations of the Association shall result in a loss, the Board of Directors shall have the right, in its discretion, of carrying all or any part of the same into the succeeding year or years for recovery from operations current in such succeeding year or years, or said Board of Directors, in its discretion, may charge all or any part of such loss to any special fund, or equity reserve, reducing ratably all individual members' interest in such special fund or equity reserve.

Adopted by two-thirds majority vote of the Board of Directors on March 11, 1992.

Attest:



Dennis N. Icardi, Acting Secretary

AUTHORIZATION, CONSENT AND ASSENT
OF MEMBERS TO ADOPTION OF BY-LAWS

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned members of WALNUT BARGAINING ASSOCIATION, as of the date hereinafter specified collectively constituting all the members and all the voting power of said Association, do hereby in writing authorize, consent to and assent to the adoption of the above and foregoing by-laws as and for the by-laws of said Association. We do hereby agree that the written authorization, consent and assent of future members to the by-laws of said Association may be evidenced by the execution and acceptance of the membership agreement between such future members and said Association.

IN WITNESS WHEREOF, we have hereunto set our hands this 22 day of April, 1991.

Alvin D. Long
Walter J. Beardorf
R. O. L. Home

CERTIFICATE OF ADOPTION OF BY-LAWS

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned directors of WALNUT BARGAINING ASSOCIATION, collectively constituting more than a majority of the board of directors of the said Association, do hereby certify that the above and foregoing by-laws do now constitute the by-laws of the said Association as the same were adopted by the vote of more than a majority of the voting power of said Association, to wit, all of the members thereof, have in writing authorized, consented to and assented to the adoption of said by-laws as the same are now in effect, such written authorization, consent and assent being now on file in the office of said Association.

IN WITNESS WHEREOF, we have hereunto set our hands this 22 day of April, 1991.

David G. Fong
Robert J. Neudorff
R. Quinn

Attest: [Signature]
Secretary