

PRUNE BARGAINING ASSOCIATION

RESTATED BYLAWS

ARTICLE I Organization

Section 1. **Name.** The name of this association is the PRUNE BARGAINING ASSOCIATION. This association is referred to in these bylaws as the "Association."

Section 2. **Authorization.** The Association is organized pursuant to Division 20 of the Food and Agricultural Code of the State of California as a nonprofit, agricultural cooperative association without capital stock. It is not conducted for profit.

ARTICLE II Purposes

The purposes for which this Association is formed and the powers which it may exercise are set forth in the Association's articles of incorporation.

ARTICLE III Members

Section 1. **Membership a Privilege.** Membership in the Association is and at all times shall be considered to be a privilege and not a right.

Section 2. **Qualification for Membership.** Any person, partnership, cooperative, association or corporation presently engaged in the production of green and/or dried fruit intended for sale or use as dried prunes or the products thereof ("Products"), including lessees, tenants and croppers of land used for growing Products and lessors receiving as rent all or a part of the crop raised on such leased premises, shall be eligible for membership.

Section 3. **Representative Membership.** Any member may be represented, and the right of voting and assenting exercised, by any associate, officer, manager, partner or other designated agent authorized so to act in a writing filed with the Association, and in the absence of such written authorization on file with the Association, by any one natural person with any ownership or equity interest in such member. Any such person, while so acting in such representative capacity, shall be entitled to have and to exercise all rights, privileges and authority of membership in the Association, including the right to hold office, including that of director.

Section 4. **Joint Owners.** Whenever the premises upon which Products are grown, or whenever the Products themselves, are owned or held by more than one person, whether as co-tenants, joint tenants, partners, an unincorporated association or otherwise, all those owning the right to dispose of such Products may be admitted to membership collectively, and a membership certificate may be issued in the names of all of them or in such name, fictitious or otherwise, as they may have adopted or desire for the transaction of their business, or in their collective names. In such instances, the persons collectively admitted shall be deemed to be a single member and to possess and enjoy the rights of one member.

Section 5. **Application for Membership.** Any person eligible for and desiring admission to membership shall file a written application for admission in such form and containing such information as the board of directors shall prescribe, provided that the making or filing of such application may be waived by the board of directors or by any officers to whom the board of directors has delegated power to accept applications and admit members.

Section 6. **Acceptance of Application.** The board of directors shall consider and act upon applications for membership and by a majority vote deny or accept the same for reasons satisfactory to it. The board of directors may delegate to any officers or directors power to act upon and accept applications and to admit members and issue membership certificates.

Section 7. **Dues and Assessments.** All members shall pay such dues and assessments as the board of directors may fix and assess from time to time. The right is hereby conferred upon the board to fix, assess and collect dues and assessments from members to maintain the Association and to carry out the purposes of the Association.

Section 8. **Membership Certificate.** The Association shall issue a certificate of membership to each member upon admission to membership in such form and containing such provisions as the board of directors may determine.

Section 9. **Membership Agreement.** Each member shall sign a membership agreement and shall agree to abide and be bound by the terms and provisions of said membership agreement, by all the terms and provisions of these bylaws as they now read and as they hereafter may be amended, by all the terms and provisions of the articles of incorporation of the Association as they now read and as they hereafter may be amended and by all rules and regulations of the Association. Such membership agreement may be combined with and incorporated in the application for membership, and in such case execution of the application by the member shall be deemed approval of the membership agreement by the member. The membership agreement shall not be effective unless and until it has been approved by the Association's board of directors and executed by the Association. The duly executed membership agreement shall be member's certificate of membership.

Section 10. **Transfer of Membership.** Membership in this Association shall not be transferable, nor shall the certificate of membership be transferred by any member, whether voluntarily or by operation of law or otherwise, without the express written consent of the board of directors of the Association. The board of directors of the Association may consent in writing to a transfer of membership and accept the transferee as a member of the Association, provided that the board shall not permit or consent to any transfer of any certificate of membership to any person not qualified to be a member of the Association.

Section 11. **Termination of Membership.** A membership shall terminate upon the happening of any of the following:

- (a) The member ceases to be a producer of Products or otherwise be eligible for membership;
- (b) The membership agreement between the Association and the member expires or is terminated by either party thereto in accordance with its terms, provided that the member may not terminate the membership agreement while indebted to the Association;
- (c) The death of a member, provided that the membership may remain in force until the completion of the probate of the member's estate or until the executor withdraws the membership; or
- (d) The member is expelled for failure to comply with the articles of incorporation, these bylaws, the membership agreement, or the rules and regulations of the Association, for conduct detrimental to the best interests of the Association or for any other cause which the board of directors in its discretion deems sufficient; provided that member is given a fair hearing by the Board. The determination of expulsion shall vest exclusively with the board of directors and its decision shall be final. Written notice of hearing shall be given not less than five (5) days prior to the hearing. All rights of an expelled member shall cease upon expulsion.

Section 12. **Dealings with Member Directors and Officers.** The Association may enter into contracts with its members who are also directors and/or officers, including without limitation contracts for the loaning of money or the making of advances to such persons, or otherwise deal with such persons, on terms that fall within the guidelines established by the Association from time to time for entering into contracts or dealing with its other members, and in such an event no approval by the other directors or members of any such contracts or dealings shall be required. In the event that the Association desires to enter into a contract or otherwise deal with a member who is also a director and/or officer in a transaction for which the Association has not established the foregoing guidelines, or in a transaction which does not fall within the terms of such guidelines, then such transaction shall be approved by (i) a majority of the Board of Directors in attendance at any meeting at which a quorum is present (with the interested director not entitled to vote thereon but the presence of such director counting toward a quorum), (ii) written consent of the Board of Directors, or (iii) the members by a mail vote or by a majority of the members present or represented at a duly called or held meeting at which a quorum is present (with the interested director not entitled to vote thereon and the presence of such director not counting toward quorum).

ARTICLE IV

Voting Privileges

Section 1. Voting Power. Each member shall have one vote, plus an additional vote for each one hundred (100) tons of Products on which the member has paid Member Assessments; provided, however, that no member shall have or exercise any fractional vote; and provided, further, that in no event shall any member have or exercise in excess of ten votes. The respective voting privileges of the members shall be fixed and determined annually by the Board of Directors of the Association, and when so fixed and made of record shall be conclusive as to the voting power to be exercised by the respective members. Until and unless otherwise determined by the Board of Directors, each member shall have and exercise but one vote.

Section 2. Cumulative Voting and Voting by Proxy. Members may neither cumulate their votes nor vote by proxy.

Section 3. Voting by Mail.

(a) 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 taken at a meeting duly called and convened. The right of the members to vote by mail for the election of directors is hereby expressly confirmed.

(b) Any question to be submitted to the members by mail vote shall be reduced to concise written form by the secretary of the Association and mailed to each member in accordance with the provisions of Article XIII, Section 5 of these bylaws. Such questions shall be in ballot form to enable the member to express his vote. The secretary of the Association 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 (15) days from the date of mailing, and instructing the member to return the ballot by mail in a plain, sealed envelope addressed to the Association but with an 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 of the Association shall open, count and register the votes in the presence of any and all members and directors in attendance, and thereupon announce and record the result.

Section 4. Partnership or Corporation Voting. A partnership or corporation or cooperative which is a member of the Association shall have one vote, plus such additional votes to which the member is entitled by virtue of its patronage as determined under Section 1, Article IV of these bylaws, regardless of the number of partners or shareholders or members.

ARTICLE V

Property Rights of Members and Association Capital

Section 1. Operation At Cost. In rendering service to members such as marketing, selling, otherwise handling Products, or otherwise making facilities or services available to members within the limitations of the Food and Agricultural Code, the Association shall at all times be operated on a non-profit cooperative basis for the benefit of its members as producers of Products. The Association is and shall be obligated to account on a patronage basis to all of its members for all amounts received on account of the rendition of services. The obligation of the Association to account to members as aforesaid shall be to pay members all amounts over and above the specific operating expenses of the Association in handling Products and in furnishing services to members and a fair share of the general operating costs and expenses of the Association including among other things, depreciation on property, losses, salaries, wages, insurance, taxes and interest on moneys owing from the Association. With respect to amounts withheld or collected from the members for the Revolving Fund (as hereinafter provided), the obligation herein of the Association to account for and pay to members all amounts over and above operating expenses on a patronage basis is such that such amounts withheld or collected shall be contributions of capital to the Association. Any amounts credited to such Revolving Fund out of amounts which would otherwise be payable to members in cash shall have the same status as though they had been paid in cash in pursuance of a legal obligation to do so and the members had furnished corresponding amounts for capital of the Association.

Section 2. Membership Capital. Funds for carrying on the business of the Association shall be obtained by retaining from income of the Association derived from marketing the Products of its members, from the collection of dues or assessments based on patronage, from service charges collected from processors and from other income derived

from patronage or by collecting from members for the Association's use such amounts (called "Retains"), as shall be determined by the Board in its discretion from time to time. Amounts so retained or collected from members shall be credited to a capital fund (called the "Revolving Fund"). The Revolving Fund shall constitute, together with such other funds as shall be established by the Association, the membership capital of the Association. The members shall be credited on the books of the Association with the amounts retained or collected from them respectively (called "Revolving Fund Credits").

Section 3. Credits Represent Association Indebtedness. Revolving Fund Credits shall be deemed to evidence indebtedness of the Association to the respective persons to whom credited, as aforesaid, to be paid solely and exclusively upon the conditions and at the time or times herein provided. No interest shall be payable on or in respect of the Revolving Fund Credits.

Section 4. Revolving Fund Statements. As soon after conclusion of each season as may be conveniently done, there shall be mailed or delivered to each member a statement showing the amount retained or collected from and credited to such member during such season for the Revolving Fund, and being in such form and containing such other information as the Board shall prescribe.

Section 5. No Segregation Of Funds. The moneys retained or collected for the Revolving Fund may be commingled with and used for Association purposes, as other moneys belonging or coming to the Association, and nothing herein contained shall be deemed to require that any specific moneys or funds be physically segregated, or designated, or marked, or set apart, or held for the Revolving Fund, nor shall the Revolving Fund be deemed a trust fund held for the owners of the Revolving Fund Credits. The liability represented by Revolving Fund Credits shall at all times be junior and subordinate to all other obligations and indebtedness of the Association.

Section 6. Funds Subject to Rights of Creditors. Without regard to any other provision of these bylaws and without regard to how created, evidenced or certified, all property and assets standing to the credit of any Revolving Funds or other special 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 general property and assets, and shall be subject to distribution in whole or in part only as and whenever determined by the board of directors in its discretion. No certification shall ever be made of any right, title, interest or participation in any fund which does not contain an appropriate saving clause through reference to this section of the bylaws and a statement that the interests of the certificate holders shall be subject to the prior rights of the creditors of the Association.

Section 7. Members' Rights Upon Termination of Membership.

(a) In the event of termination of membership prior to the dissolution of the Association, regardless of how terminated and whether by expulsion or otherwise, the Association shall not be or become liable for the payment of any amount whatsoever as or for the value of property rights and interests 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 to that effect, and upon the condition that, the value of the property rights and interest of each member in the property and assets of the Association (prior to the dissolution of the Association) is nothing, and in the event of termination prior to dissolution of the Association, regardless of how terminated and whether by expulsion or otherwise, such member shall not be entitled to anything as or for the value of such property rights and interests.

(b) In the event of the termination of a membership in the Association, the Association shall pay to the member, or the member's executors, administrators or permitted assigns, the amounts, if any, due from the Association to such member, as the holder, if he be a holder, of any certificate or other evidence of interest in any Revolving Fund or other special fund at the same time, in the same order and in the same amounts as would have been paid had the membership not been terminated.

(c) 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 shall have any intrinsic value. It is intended that the Association shall conduct its business with annual dues, assessments, moneys withheld or invested in funds created pursuant to these bylaws, and said withheld or invested moneys shall be repayable in accordance with the provisions herein, regardless of the termination of membership.

Section 8. Lien. The Association shall have a first lien upon and security interest in all property held by

the Association and upon all property rights and interests in the Association, however evidenced or certified, and upon any amounts payable to the member to the extent of any amount that the member may be indebted or obligated to the Association on any accounts or claims whatsoever, liquidated or otherwise. The lien and security interest may be enforced through the immediate application of such property to such debt or obligation or by the sale of such property or the member's property rights and interests in the Association after five (5) days' notice in writing served upon the member. All such sales shall be made at the Association's principal office for the transaction of business by the secretary of the Association 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 9. **Setoff.** The Association shall have the right to offset all or any part of a member's debts or 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 any special funds (whether or not the interests of other members in such funds are being redeemed at the time of offset) or other property of such member held by the Association, but the Association shall not be required to exercise such right of offset.

Section 10. **Payment of Credits.** From time to time the Board shall, by resolution, determine the amount of moneys which is not then needed and will not be needed for the use of the Association and which is available for payment of Revolving Fund Credits. The amount so determined not to be needed shall then be used for payment of the oldest (unpaid) Revolving Fund Credits; and, as soon as practicable, the oldest Revolving Fund Credits shall be paid to the extent of the moneys available. In determining the oldest credits, all credits for the same season shall have the same priority. If there are not sufficient moneys available for the payment of all credits of any season, the same proportionate part of the credits of such season shall be paid.

Section 11. **Association Relies Upon Own Records.** In making payment of any Revolving Fund Credits, the Association may rely absolutely upon its own records, and shall not be liable to any person other than the person appearing by its record to be the owner thereof or entitled to payment.

Section 12. **Evidence Of Assignment.** No assignment or transfer of any Revolving Fund Credit whether voluntary or involuntary shall be of any effect as against Association or entitle the assignee or transferee to be paid or to receive any moneys from Association unless and until evidence satisfactory to Association has been submitted of such assignment or transfer.

Section 13. **No Assignment While Indebted To Association.** No assignment or transfer of any Revolving Fund Credit, whether voluntary or involuntary, by act of law or otherwise, can be made, nor will any purported assignment or transfer be of any effect against Association or affect its right of setoff as long as the party whose interest is to be assigned or transferred is indebted to Association in any manner or for any thing, whether such indebtedness be liquidated or unliquidated, due or not due; and Association may withhold consent to and refuse to recognize or be bound by any assignment or transfer (whether voluntary or involuntary) as long as any indebtedness or liability exists, whether due or not due, liquidated or unliquidated.

Section 14. **Dissolution.** In the event of dissolution or winding up of the affairs of the Association, all the indebtedness represented by the Revolving Fund Credits shall be deemed due, but shall not be paid in any part until all other indebtedness of the Association has been paid, or its payment is adequately provided for. Thereafter, the Revolving Fund Credits shall be paid (to the extent of available funds) without regard to the time (or season) retained, or to the priorities applicable in the case of revolution of the Revolving Fund. Any residue remaining after payment in full of all Revolving Fund Credits shall be distributed to holders of Revolving Fund Credits in proportion to such Credits held at such time.

Section 15. **Compromising And Discounting Credits.** Notwithstanding any provision elsewhere in these Bylaws contained, the Board shall have power from time to time, and at any time, to pay off or secure a release or satisfaction of one or more of any Revolving Fund Credits in either instance as follows:

- (a) To compromise or settle a dispute in respect of the Credit or a dispute with the holder thereof;
- (b) To obtain for the Association a discount for prior payment that the Board deems substantial.

Section 16. **Nonpatronage Income.** In the event that the Association should receive or realize income other

than income derived from patronage, the Board of Directors of the Association shall, in its discretion and subject to limitations of the laws of the State of California and the United States, employ such funds for expenses of the Association, for capital expenditures, and for the establishment of reasonable reserves for whatever purpose the Board deems to be in the best interests of the Association. Such capital expenditures and reasonable reserves may be invested in real property, personal property, bonds, stocks, securities, mortgages, deeds of trust and such other investments as the Board may deem advisable in its sole discretion. Such funds shall not be part of the Revolving Fund herein referred to, and the Board of Directors shall have the authority hereunder to have the Association pay any corporate income or franchise taxes thereon and retain the same without allocation thereof to members. However, upon dissolution of the Association, such funds shall be allocated and distributed to the holders of Revolving Fund Credits in proportion to their aggregate holdings of Revolving Fund Credits on the date of dissolution.

Section 17. Losses. In the event of a substantial loss to the Association from any cause whatsoever, the Board may, in its discretion, charge all or any part of such loss to current operating expenses, and any part of such loss not charged to current operating expenses (up to the whole thereof) may be charged ratably and proportionately against Revolving Fund Credits for the season or seasons during which the loss occurred (as determined by the Board); or at the discretion of the Board may be charged ratably and proportionately against all credits in any or all Revolving Funds (for all seasons). In the event any loss is charged against Revolving Fund Credits, each Credit shall be reduced by its proportionate part of the loss, and the records pertaining to the Revolving Fund changed accordingly; and, notwithstanding anything to the contrary in these Bylaws, there shall be payable in respect of any Credit against which a loss has been charged only the difference between the amount of the Credit as originally entered and the portion of the loss charged thereto. The Board shall have the power to determine when a substantial loss has occurred, and its determination shall be conclusive; without limiting the generality of the foregoing, in making such a determination, the Board may consider losses from bank suspensions, uncollected accounts, fire, explosion, accident or other calamity, excessive operating or overhead costs, inadequate depreciation charges and unusual or unforeseen expenses, including taxes, assessments, fines, penalties and claims arising under any present or future law, and over advances made against or payments made for the products of members whether such products are sold or otherwise disposed of, including specifically, advances or payments made to a member or members in connection with a pooling operation.

ARTICLE VI Directors

Section 1. Number and Eligibility. The corporate powers, business and property of the Association shall be exercised, conducted and controlled by a Board of Directors. At the time of the adoption of these bylaws, the Board of Directors shall have twenty-four directors, with three directors to be elected from each of the Association's seven existing districts and three directors to be elected at large by the Board of Directors. The number of directors shall not be less than thirteen nor more than twenty-five, with the exact number to be fixed from time to time by the Board of Directors or the membership. All of the directors of the Board of Directors shall be members of the Association in good standing or officers, associates, managers or other agents of members in good standing which are not natural persons. No person who serves as a director of Sunsweet Growers, Inc. may concurrently serve as a director of the Association. The authorized number of directors and the qualifications of those eligible to serve as directors may be changed by amendment to these bylaws or otherwise as provided by law.

Section 2. Directors at Large. At its meeting in conjunction with the Association's annual meeting, the Board of Directors shall receive nominations from any director for any expired term or vacant position of director at large and elect at that meeting the directors at large required to fill any such vacancy.

Section 3. Alternate Directors. The members from each district may also elect one alternate director for each district who, in the event of the disqualification, resignation, removal, or death of a director from that district, shall replace such director until a successor is elected and qualified. No person may serve as an alternate director unless qualified in all respects to serve as a director from the district that elects him.

Section 4. Term of Office. The term of office of a director or alternate director, or a director at large, shall begin immediately upon his election, and each director so elected shall hold office until his successor is elected, or until he resigns, or becomes disqualified, or is removed from office, whichever shall first occur. The term of office of each

director or alternate director shall be two years and until the election and qualification of his successor; provided, however, that the term of office of the directors in office at the time of the adoption of these bylaws shall continue until their successors are elected. The Board of Directors may, in its discretion, schedule the election of the new directors to achieve staggered terms of office.

Section 5. Manner of Elections.

(a) In any election of directors, a majority of all votes cast shall not be required to elect directors, but the requisite number of persons receiving the highest number of votes shall be declared elected. In the case of ties that require breaking, a run-off election shall be held among those receiving the tie vote.

(b) The Board of Directors may make, and from time to time, change rules and regulations for the conduct of elections, or any election, and for voting upon or with respect to any question or matter submitted to the members for vote, consent or assent provided such rules and regulations do not conflict with the provisions of the bylaws.

Section 6. Nomination and Election of District Directors. The membership of the Association is divided into seven districts, as follows:

- District #1 That portion of Sutter County north of a line extending along Clark Road easterly to the Yuba County line and westerly to the Colusa County line.
- District #2 All of Colusa County and that portion of Sutter County north of a line extending along Oswald Road excluding that portion of Sutter County described as District 1.
- District #3 All of Yolo County and that portion of Sutter County not included in Districts 1 and 2.
- District #4 The Counties of Fresno, Kern, Lake, Mendocino, Merced, Napa, San Benito, San Joaquin, Sacramento, Santa Clara, Solano, Sonoma, Stanislaus, Tulare, and all other counties not included in Districts 1, 2, 3, 5, 6, and 7.
- District #5 Butte County.
- District #6 Yuba County.
- District #7 The Counties of Glenn, Shasta, and Tehama.

Three directors shall be elected from each district, and one alternate director may be elected from each district. Any person elected as a director or alternate director from any district must be a member who produces Products in that district and has declared himself a member from that district. The Board of Directors may reapportion the directors among the seven districts, or redistrict the territories covered, in accordance with such factors as the Board of Directors, in its discretion, determines will promote a fair and reasonable representation of the membership.

(a) A nomination meeting of members shall be called by the Board in each district no later than thirty (30) days prior to the annual meeting for the purpose of nominating a member or members for the position of director or alternate director to represent the district.

(b) All members shall be informed, by mail, of the time, place and purpose of the district meetings called. Such notice shall be made by the Secretary not less than seven calendar days prior to the date of the meeting. A member may vote in a district nomination meeting only if such member declares his membership in such district. No member shall be authorized to vote on any matter or nominee in more than one district even though such member may produce prunes in more than one district.

(c) Nomination of candidates for each district shall be considered valid by nomination of any member present and voting at such district meeting.

(d) The directors representing each district shall notify the Secretary of the Association of the nominations made by the district within four days after the district meeting.

(e) At the conclusion of the district nomination meetings the Secretary of the Association shall prepare a ballot for each district identifying the district and listing thereon the nominee or nominees selected at the district meeting. Such ballot shall also provide space for a write-in candidate from the district.

(f) The Secretary of the Association shall mail a ballot to each member of the Association no later than twenty-five (25) days prior to the annual meeting.

(g) No ballot shall be counted as valid unless such ballot shall have been received by the Secretary of the Association no later than seven (7) days prior to the annual meeting. All ballots shall be counted promptly, the results shall be announced at the annual meeting, and the members of the Association shall promptly be notified by mail of the

election results.

(h) All ballots shall be counted by the Secretary of the Association or such other person or persons as may be designated by the Board and shall be kept in his or their custody for at least ninety days after the Annual Meeting during which time they shall be subject to inspection at reasonable times by any member or members of the Association.

Section 7. Vacancies. Any vacancy on the Board of Directors arising other than by expiration of the term of office, and which is not filled by an alternate director, shall be filled by a majority vote of the remaining directors or by the sole remaining director; provided, however, that any director so elected must be a member from the district in which the vacancy occurred.

ARTICLE VII Powers, Duties and Compensation of Directors

Section 1. Powers. In addition to all other powers granted to it by law or these bylaws, the Board of Directors shall have the power:

(a) To call special meetings of the members whenever the board deems it necessary;

(b) To prescribe and pass upon the requirements and qualifications for membership and to consent to or restrict the transfer of membership and other property rights and interests in the Association or the property held by it; provided that such actions may be taken by any officers or directors so authorized by the Board of Directors, and provided further that the board shall not permit or consent to any transfer of any certificate of membership to any person not qualified to be a member of the Association;

(c) To conduct, manage and control all of the business and affairs of the Association and to take such action and incur such expenditures as the board in its discretion decides will best accomplish the purposes of the Association;

(d) To select, appoint and remove at pleasure all officers, agents or employees of the Association; to assign such duties and delegate such power to them as is not inconsistent with the articles of incorporation, these bylaws and applicable law; and to fix their compensation, if any, and require security for faithful service; provided, however, that no director shall be compensated for services except as authorized by the board;

(e) To prescribe, adopt and amend, from time to time, such rules and regulations and such adequate penalties for the breach thereof as the board in its discretion may deem essential or convenient for the conduct of the business and affairs of the Association and the guidance and control of its officers and members;

(f) To establish departments; to determine such Association charge as is to be made for services rendered; and to determine 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 the 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 obligations, liabilities or debts, the promissory note, bond, bill, mortgage or trust deed of the Association; and to 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 any property or assets allocated to or set aside for special funds;

(h) To designate by resolution from time to time such officers or agents as shall have power and authority, for and on behalf of the Association, to execute 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 and to perform any and all other acts of every kind and nature that may be so delegated; and

(i) To prescribe the forms of membership and other certificates; and to alter the form of such certificates from time to time.

Section 2. Duties. It shall be the duty of the directors, in addition to all other duties imposed by law or these bylaws:

(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 property rights or interests in the Association or in any special funds created, and to determine 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 of the proceedings of its meetings, and to present a full

statement at the regular annual meeting of the members showing in detail the condition of the affairs 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 services rendered, the amount required to cover the cost of such services, interest charges, losses and expenses, and the amount required for working capital or special funds; and

(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; to allocate and apportion the surplus or deficiency in accord with the provisions contained in these bylaws; to determine the amount of surplus, if any, to be retained as working capital or set aside for reserves or the amount of deficiency, if any, to be charged to the general or special funds of the Association; and to issue appropriate certificates evidencing the interest of each of the parties therein, which certificates 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.** In addition to the powers specifically imposed upon the Board of Directors by these bylaws, the board shall have the power generally to do and perform every act or thing whatsoever lawfully devolving upon a board of directors, unless these bylaws shall specifically otherwise provide.

ARTICLE VIII Executive and Other Committees

Section 1. **Appointment.** The Board of Directors may appoint an executive committee to consist of as many of its members as it may designate. If appointed, the executive committee may be authorized by the board to 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 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.

Section 5. **Other Committees.** The Board of Directors may appoint other standing or special committees as in its sole discretion it deems expedient to assist in conducting the business and affairs of the Association. The board may refer to such committees any matter with full power to act. Such committees shall consider matters which the board of directors assigns.

ARTICLE IX
Offices

The principal office for the transaction of the business of the Association shall be in the State of California at such place as the board of directors may designate. Branch offices may be established elsewhere.

ARTICLE X
Officers

Section 1. Terms and Designations. All of the officers of the Board of Directors and 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 and treasurer. The officers of the Association shall be a president, vice-president and such additional officers as may be provided by resolution of the board. The same person may hold one or more offices, except that the same person may not serve as president and secretary simultaneously.

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 assistant, 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
Officers of the Board of Directors

Section 1. Chairman. The Board of Directors shall elect one of its members to be chairman of the board. The 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 and control of the Board of Directors, to direct and control the affairs of the Association;
- (c) To call or provide for the calling of special meetings of the members and 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 herein 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; and
- (e) To discharge such other duties as may be required of him by these bylaws or by the Board of Directors.

Section 2. Vice Chairman. In the absence or disability of the chairman, the vice-chairman shall perform all of the duties of the chairman and when so acting shall have all the powers of and be subject to all of the restrictions upon the chairman. The vice-chairman shall have such other powers and perform such other duties as from time to time may be prescribed by these bylaws or the Board of Directors.

Section 3. Secretary. 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 delegated by or 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 and of the Board of Directors;
- (b) To keep books of blank certificates of membership and of property rights and interests; to complete and sign all certificates issued when so directed by the board; and 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;
- (c) To keep or cause to be kept proper account books;
- (d) To serve or cause to be served all notices, and to make or cause to be made all publications required either

by law or these bylaws or that may be necessary and proper without other or further authorization therefor; and

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

Section 4. Treasurer. The Board of Directors shall appoint a treasurer, who may be one of its members. The treasurer shall receive and keep all funds of the Association and deposit the same in such banks as may be designated by the Board of Directors. Such funds shall be paid out only on the check of the Association bearing the signature of an officer or employee authorized by the Board of Directors to sign checks. A corporation may be named a treasurer.

ARTICLE XII Officers of the Association

Section 1. President. The president shall be the chief executive officer of the Association. He shall have the power, and it shall be his duty:

- (a) Subject to the advice and control of the board of directors, to direct and control the affairs of the Association;
- (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; and
- (c) To discharge such other duties as may be required of him by these bylaws or the Board of Directors.

Section 2. Vice-President. 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 of the 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 these bylaws or the Board of Directors.

Section 3. Additional Officers. Additional officers may be provided for from time to time by the board.

ARTICLE XIII Meetings

Section 1. Meetings of Members.

- (a) **Regular Meetings.** The annual meeting of the Association shall be held at the time and place within the State of California fixed and designated by a majority vote of the Board of Directors.
- (b) **Special Meetings.** A special meeting of the members may be called at any time by the Board of Directors, the chairman, the president, any two (2) directors, or by no less than ten percent (10%) 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 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 to the board.
- (c) **Notice of Annual Meeting.** The notice of the annual meeting of the members shall state the time and place of the meeting and the purposes for which it is called. A copy thereof shall be mailed to each of the members of the Association at least twenty-one (21) days before the meeting.
- (d) **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. A copy thereof shall be mailed to each of the members of the Association at least twenty-one (21) days before the meeting.
- (e) **Quorum.** Members present in person at any membership meeting and having at least ten percent (10%) of the voting power of the Association shall constitute a quorum for the transaction of all business, unless otherwise required by these bylaws or by law. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.
- (f) **Presiding Officers.** The chairman and the secretary to the board shall act as chairman and secretary, respectively, of each meeting of members or of the Board of Directors, unless the meeting shall otherwise decide.
- (g) **Adjourned Meetings and Notice Thereof.** Any meeting of members, annual or special, whether or not a

quorum is present, may be adjourned from time to time by the vote of a majority of the members present; but in the absence of a quorum, no other business may be transacted at such meeting. No notice of an adjourned meeting or of the business to be transacted at an adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

(h) Entry of Notice. Whenever a member entitled to vote has been absent from any meeting of members, whether annual or special, an entry in the minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that due notice of such meeting was given to such member as required by law and the bylaws of the Association.

Section 2. Directors.

(a) Regular Meetings. A regular meeting of the Board of Directors shall be held in conjunction with each annual meeting of the members at such time and at such place as the Board of Directors in its discretion shall designate. At this meeting, the officers of the Association shall be elected, 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 place for a meeting of the Board of Directors at which said election of officers shall be held.

(b) Special Meetings. The chairman or not less than one-fifth of the Board of Directors (but in no event less than two 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. The chairman or not less than a majority of the members of the executive committee may, at any time, call a special meeting of the executive committee to be held at the principal office of the Association 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 notices 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 to be given by mail, a copy thereof shall be mailed to each member of the board at least three (3) days before the meeting; if by personal service, then a copy thereof shall be delivered to each director at least forty-eight (48) hours before the meeting.

(d) Quorum. A majority of all directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum shall not be present at the time for holding any such meeting, the directors present shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At any such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally noticed.

(e) Entry of Notice. Whenever any director has been absent from any special meeting of the Board of Directors, any entry in the minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that the notice of such special meeting was given to such director as required by law and the bylaws of the Association.

(f) Action By Written Consent. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the board consent in writing thereto.

Section 3. Executive and Other Committee Meetings. By resolution duly adopted, the Board of Directors may fix and determine the time, place and manner of calling and holding executive and other committee meetings; may specify the notice thereof to be given or dispense with any necessity for notice; and specify 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 executive committee 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. Unless a greater number is otherwise expressly required by applicable law, the articles of incorporation, or these bylaws, every act or decision done or made by a majority of the directors present at a meeting duly held, at which a quorum is present, shall be regarded as an act of the board of directors.

Section 5. Service of Notice. Whenever under these bylaws 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 his residence or place of business does not appear upon the books of the Association and his post office address is unknown, the notice shall be addressed to such person at the principal office for the transaction of business of the Association. All notices shall be mailed by the secretary to the board or under his direction either at the Association's principal office for the transaction of business, or at the place where the secretary may reside if within the State of California. 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 complete for all purposes upon mailing or personal 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 bylaws, whether of meetings or otherwise, may be waived. 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.

ARTICLE XIV Holidays 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 regular or special meeting of the members or of the Board of Directors or of the executive committee, 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 without other or further notice than that contained in the order of adjournment as recorded in the minute book of the Association.

ARTICLE XV Books and Papers

The books of the Association and such papers or instruments as may be placed on file by vote of the members, directors or executive committee shall at all times during business hours be subject to the inspection of any member.

ARTICLE XVI 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, these bylaws or otherwise, shall be addressed to such member or director at the address so given.

ARTICLE XVII Elimination of Liability and Indemnification

The liability of the directors of the Association for monetary damages shall be eliminated to the fullest extent permissible under California law, including without limitation to the extent authorized by Sections 204(10) and 309(c) of the Corporations Code. The Association shall indemnify any person who is or was a party or is threatened to be made a party to any proceeding, by reason of the fact that such person is or was an agent of the Association, to the fullest extent permitted by Section 317 of the Corporations Code, as amended from time to time. The terms "proceeding" and "agent"

in the foregoing sentence shall have the respective meanings given to them in Section 317 of the Corporations Code, as amended from time to time.

ARTICLE XVIII

Amendments

Section 1. Amendments by the Members. These bylaws may be repealed or amended at any time and from time to time only by a majority vote of one hundred (100) percent of the voting power of the membership at any regular or special meeting thereof or by mail vote. If such action is to be considered at a regular meeting or at any other meeting held by consent or under a waiver of notice, only such notice thereof need be given as is given at the meeting. If such action is to be considered at a special meeting not held by consent or under waiver of notice, then such action may be considered only if notice thereof is included in the notice of the meeting. Such notice shall be included whenever so requested by a member of the Association. If such action is to be considered and voted upon by mail ballot, no other or further notice thereof need be given than that required for submission of a question for a mail vote as specified in Section 3 of Article IV of these bylaws. If the question is included in the call for any special meeting but is not finally acted upon, it may be considered and determined at the next regular or special meeting without other or further notice.

Section 2. Applicability to Members. Each member agrees to abide and be bound by any and all duly adopted amendments to these bylaws and the articles of incorporation.

ARTICLE XIX

Tax Consents

Section 1. Tax Consent for Qualified Written Notices of Allocations. Each person who hereafter applies for and is accepted to membership in the Association, and each member of the Association on the effective date of this Section of these by-laws who continues as a member after such date shall, by such act alone, consent that the amount of any distribution with respect to such person's patronage, which is made in the form of a qualified written notice of allocation (as defined in Section 1388(c) of the Internal Revenue Code of 1986, as amended (the "Code")) and which is received by such person from the Association, will be taken into account by such person at its stated dollar amount in the manner provided in Section 1385(a) of the Code in the taxable year in which such qualified written notice of allocation is received by such person.

Section 2. Tax Consent for Qualified Per-Unit Retain Certificates. Each person who hereafter applies for and is accepted to membership in the Association and each member of the Association on the effective date of this Section of these by-laws, who continues as a member after such date shall, by such act alone, consent that the stated dollar amount of any qualified per-unit retain certificate (as defined in Section 1388(h) of the Code) issued to such person by the Association will be taken into account by such person at such stated dollar amount in the manner provided in Section 1385(a) of the Code in the taxable year in which such per unit retain certificate is received by such person.

Section 3. Issuance of Nonqualified Written Notices of Allocation and Nonqualified Per-Unit Retains. Each member upon the Effective Date of this Section of these by-laws consents and agrees that the Board of Directors, in its sole discretion, may issue nonqualified written notices of allocation and/or nonqualified per-unit retains in accordance with the provisions of Sections 1388(d) and 1388(i) of the Code and the regulations pertaining thereto. Further, the Board of Directors may issue both qualified and nonqualified notices and retains for the same year in any proportion deemed appropriate and as permitted by the Code and the related regulations.

CERTIFICATE OF ADOPTION OF RESTATED BYLAWS

We, the undersigned directors of the PRUNE BARGAINING ASSOCIATION, do hereby certify that the above and the foregoing restated bylaws do now constitute the bylaws of the Association as the same were adopted

by the vote of more than a majority of the voting power of the Association by ballot mailed to members on April 10, 1992.

IN WITNESS WHEREOF, we have hereunto set our hands this 25th day of June, 1992.

**GULZAR BAINS
JASWANT BAINS
JOGINDER BAINS
FRED CANNELL
AL CARVO
M.J. CASSADY, JR.
RICHARD CONTE
STEVE DUFFEL
KHAN A. KHAN
KEN LINDAUER
GARY LITTLE
LOUIS MARTINEZ**

**BILL MCCUTCHAN
CHUCK MESSICK
JOHN MINAGLIA
JAN MIRASSOU
NEILL MITCHELL
WALTER NOCK
GURNAM PAMMA
ED SOUSA
TOM SOUTHAM
WALT STILE
JIM THOMAS
VERNON VERESCHAGIN**