



**ARTICLES OF INCORPORATION
AND
BYLAWS**

With Amendments through March 4, 2009

***Sunsweet Growers Inc.*
901 North Walton Avenue
Yuba City, California 95993
530-674-5010**

ARTICLES OF INCORPORATION AND BYLAWS

OF

SUNSWEEP GROWERS INC.

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ARTICLES OF INCORPORATION

OF

SUNSWEEP GROWERS INC.

I

The name of this Association is SUNSWEEP GROWERS INC. The Association is hereinafter referred to as "Sunsweet."

II

The primary purpose for which Sunsweet is formed is to process and market dried fruits and other agricultural products produced or delivered to it by its members, and to return to said members the proceeds of sales, less expenses, on the basis of the quantity or value of such products marketed for such members.

In carrying out said primary purpose, and as further incidental purposes, Sunsweet shall have every power, privilege, right and immunity now or hereafter authorized or permitted by law to a corporation organized or existing pursuant to the provisions of Chapter 1, Division 20, of the Agricultural Code of the State of California and all amendments thereto and all substitutions therefore and all continuances thereof. Nothing herein contained shall be deemed to limit the right or power of Sunsweet to do any lawful act that the Board of Directors shall determine.

III

The principal office for the transaction of business of Sunsweet is to be located in Sutter County, California.

(Amended June 19, 1980 and February 16, 1989.)

IV

The number of directors of Sunsweet shall be twenty-five (25). There were originally fifteen (15) directors, and the names and residences of the first directors, all of whom were engaged in the production of agricultural products on the date of incorporation, are as follows:

W. A. Yerxa
Loyd Wilbur
Henry Wheatley
M. L. McDonald, Jr.
George C. Alexander
T. S. Montgomery
H. G. Coykendall
J. O. Hayes
C. D. Cavallaro
A. Kammerer
H. C. Dunlap
W. G. Alexander
W. R. Kingston
C. G. Hamilton
Arthur Swall

Princeton, California
Yuba City, California
Napa, California
Santa Rosa, California
Healdsburg, California
San Jose, California
Cupertino, California
San Jose, California
San Jose, California
San Jose, California
San Jose, California
San Jose, California
San Jose, California
Ventura, California
Hemet, California
Tulare, California

V

Sunsweet is organized and exists as a nonprofit cooperative association, without capital stock pursuant to the provisions of Chapter 1 of Division 20 of the Agricultural Code of the State of California.

VI

The voting power of the members of Sunsweet shall be unequal. Each member shall have one (1) vote plus additional votes based on the volume of agricultural products marketed by him through the Association during the preceding year, as follows: One additional vote for each three (3) tons of dried apricots or majority fraction thereof, each five (5) tons of dried peaches, pears, apples, nectarines, or majority fraction thereof, each ten (10) tons of dried prunes or other dried fruit or majority fraction thereof, and such quantity of each other agricultural product not specifically mentioned herein as the Board of Directors shall determine is the approximate equivalent in dollar value of the then dollar value of ten (10) tons of dried prunes. The Bylaws may provide for the annual determination of the voting power of the members in a manner not inconsistent with the provisions of this Article.

VII

The property rights and interests of the members shall be unequal and shall be determined and fixed as provided in the Bylaws in accordance with the following general rules:

(a) The property rights and interests of each member of Sunsweet at any time shall be such proportion of the entire property rights and interests as the amount of capital contributions by such member to the revolving fund during the preceding period specified in the Bylaws bears to the total amount of capital contributions during such period by all persons who are members at such time.

(b) Upon termination of the membership of any member for any reason, all property rights and interests of such member shall cease, and the former member shall be entitled only to receive payment of any revolving fund or other allocated credit at the same time or times

when such sums would have been paid if his membership had continued.

(c) In the event of dissolution or liquidation, any residue that may remain after payment in full of all indebtedness and all revolving fund credits and other allocated reserves shall be distributed to those persons who were members at the time the members elected to dissolve or liquidate in proportion to the property rights and interests of each member at the time of such election.

VIII

To provide funds for corporate purposes, revolving funds and other allocated reserves may be established by the Board of Directors in the manner provided by the Bylaws by retain from proceeds otherwise payable to the members or by other method of collection. Such revolving fund or allocated reserve credits shall not be deemed to evidence, create or establish any present property rights or interests, as such terms are herein used. Such credits shall be payable at the times and in the manner determined and provided in the Bylaws.

IX

Sunsweet is to have perpetual existence.

X

The liability of the directors of Sunsweet for monetary damages shall be eliminated to the fullest extent permissible under California law.

(Added May 24, 1989.)

XI

Sunsweet is authorized to provide by bylaw, agreement, resolution or otherwise, for indemnification of any director, officer or other agent (as defined in Section 317 of the California Corporations Code) in excess of that expressly permitted by Section 317 of the California Corporations Code for breach of duty to Sunsweet and its members, subject to the limitations on indemnification set forth in Section 204(a)(11) of the California Corporations Code.

(Added May 24, 1989.)

BYLAWS
OF
SUNSWEEP GROWERS INC.

ARTICLE I. GENERAL

Section 1.01 - Purposes and Powers

Sunsweet Growers Inc. ("Sunsweet") is a non-profit cooperative association. Sunsweet is not organized to make profit for itself or for its members as such, but only for its members as producers. As stated in the Articles of Incorporation, the primary purpose of Sunsweet is to process and market the dried fruits and agricultural products produced or delivered to it by its members. Sunsweet also has broad incidental purposes and powers, which include but are not limited to purposes and powers which enable it to:

- (a) Engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or any activity in connection with purchase, hiring, or use by its members of supplies, machinery or equipment, or in the financing of any such activities.
- (b) Act as the agent or representative of any member or members in any of the above-mentioned activities.
- (c) Levy assessments in the manner and in the amount hereafter provided.
- (d) Use or employ any of its facilities for any purpose, provided the proceeds arising from such use and employment shall go to reduce the cost of operation for its members.
- (e) Do each and everything necessary, suitable or proper for the accomplishment of any of the purposes or conducive to or expedient for the interest or benefit of Sunsweet; and contract accordingly; and, in addition, exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which Sunsweet is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges granted by the laws of California to ordinary corporations, except such as are inconsistent with Chapter 1 of Division 20 of the Food & Agricultural Code of California; and do any such thing anywhere.

Provided, however, that the products handled for or the services, machinery, equipment or supplies or facilities furnished to non-members shall not exceed in value the products handled for or the services, merchandise or facilities supplied to members during the same period.

(Amended January 9, 1997)

ARTICLE II. MEMBERSHIP

Section 2.01 - Eligibility

(a) Any person engaged in the production of prunes or other agricultural products to be processed, marketed, or otherwise handled from time to time by or through Sunsweet is eligible to apply for membership, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent all or part of the crop raised on the leased premises.

(Amended January 9, 1997)

(b) The Board of Directors may establish such additional conditions for membership as it may from time to time deem desirable to promote the efficient and economical conduct of the business of Sunsweet and its members. The Board shall have the right, in its absolute discretion, to refuse membership to any applicant which in its opinion does not meet the conditions so established. The Board shall act on each membership application after it has referred the application to the Local Board affected for recommendation.

Section 2.02 - Admission of Membership

Application for membership shall be in such form as may be adopted by the Board of Directors. Upon acceptance of an application, the Board of Directors shall issue a certificate of membership. Unless otherwise provided, a copy of the completed membership application executed on behalf of Sunsweet to indicate acceptance shall constitute such membership certificate.

Section 2.03 - Membership Fee

There shall be no membership fee.

Section 2.04 - Obligation of Members

Every person upon becoming a member of Sunsweet by such act agrees to be bound and to abide by all of the provisions of the Articles of Incorporation, the Bylaws, any Marketing Agreement to which such member is a party, any Drying Agreement to which such member is a party, and any rules and regulations of Sunsweet, all as in effect at the time of application for membership and as thereafter adopted or amended.

(Amended May 4, 2007)

Section 2.05 - Co-Ownership

Whenever an agricultural enterprise is owned by more than one person, whether as co-tenants, joint tenants, partners, an unincorporated association, community property of husband and wife, or otherwise, all those owning such right may collectively be admitted to membership 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 as their collective name. All such co-owners collectively shall be deemed a single member possessing and enjoying the rights of one member.

Section 2.06 - Payments and Rights of Survivorship of Co-Owners

(a) Whenever any amount is payable from Sunsweet to co-owners, it may be paid to one or more or all of them at Sunsweet's election. In the event of the death of a co-owner any amount which was payable to the co-owners immediately prior to such death shall be payable to one or more or all surviving co-owners at the election of Sunsweet. Payment in accordance with the foregoing shall constitute full satisfaction of the indebtedness of Sunsweet.

(b) Death of one co-owner shall not terminate the membership of the surviving co-owners and the surviving co-owners shall continue as one member unless and until the membership is otherwise terminated as herein provided. The provisions of Section 2.09 below shall not apply in the case of death of less than all of the co-owners.

(c) The provisions of this Section and Section 2.05 apply and control the rights and liabilities of Sunsweet to co-owners who are members, but are not intended to affect or establish any rights, liabilities or relations of co-owners as between themselves.

Section 2.07 - Representation

If a member is other than a single natural individual, such membership may be represented and the right of voting and assenting may be exercised by any individual, associate, officer or manager or member thereof duly authorized in writing filed with Sunsweet. In the absence of such written authorization, acceptance of membership shall constitute authorization for any one of co-owners who constitute a single member, or any officer or manager of a corporation to represent such membership.

Section 2.08 - Transfer of Membership

No membership nor any membership right shall be assigned, transferred, alienated or encumbered, either voluntarily or involuntarily or by operation of law or otherwise without the consent of the Board of Directors. The Board of Directors may establish reasonable conditions for the acceptance of a transferee. Provided, however, that in the event of the death or legal incapacity of a member, the membership shall be deemed transferred to the personal representative of such member and the personal representative shall continue to be bound by the deceased member's obligations, including the obligation of the member to deliver fruit to Sunsweet, and shall be entitled to represent the estate or the incapacitated member as a member.

Section 2.09 - Termination of Membership

Membership shall terminate upon occurrence of any of the following events:

(a) Submission by the member to Sunsweet or by Sunsweet to member between February 15 and February 28 of any year of a notice of termination of membership. The notice does not need to include a stated reason for termination. Such termination of membership shall be effective as of March 15 of the year in which said notice is delivered. In the event of submission of such notice by the member to Sunsweet by mail, the written notice of termination of membership shall be sent by registered or certified mail, return receipt requested. Written notice is deemed delivered five days after mailing. In cases where the privilege of termination

has been waived in the membership application or otherwise, voluntary termination of membership shall be effective in such manner and at such time as may be provided in the agreement waiving such privilege.

(b) Dissolution of the member, except as otherwise provided pursuant to Sections 2.06 and 2.08 above.

(c) By a finding of the Board of Directors incorporated in a resolution duly adopted after reasonable notice and opportunity to be heard that the membership should be terminated for any one or more of the following reasons:

(i) That the member has ceased to be engaged in the production of agricultural products handled by Sunsweet; or

(ii) That the member has failed to comply with the terms of these Bylaws, or any Marketing Agreement or any Drying Agreement, or any rules and regulations of Sunsweet, including but not limited to rules and regulations requiring maintenance of commercial quantity or quality of production.

(iii) That the member has engaged in activities in violation of federal, state or local law or in conflict with the interests of Sunsweet that may, in the exclusive business judgment of the Board, damage the reputation or adversely affect business opportunities of Sunsweet.

Notice of the termination under Subsection (c) shall be sent by registered or certified mail, return receipt requested, which will be deemed delivered five days after mailing. The notice shall include the effective date of the termination of membership and any Marketing Agreement. Delay in exercising the right to terminate under this Subsection (c) will not be deemed a waiver of the right to terminate.

(Amended January 9, 1997, May 20, 1999, May 22, 2003, and May 4, 2007)

Section 2.10 - Rights on Termination

Upon termination of membership for any cause, all voting, property and other membership rights shall cease and terminate; provided, that such member shall be entitled to receive payment of any outstanding revolving fund, other allocated reserve credits and any certificates of indebtedness (allocated loans) of the same class and priority (including any of the foregoing converted from prior Sunsweet Dryers' revolving fund and other reserve credits and certificates of indebtedness). The foregoing provisions are not intended to penalize any person whose membership is terminated, but reflect the intention that Sunsweet shall conduct its business without profit, that membership will not have any intrinsic value apart from the right to use the facilities and services of Sunsweet, and that the right of members which does have intrinsic value is recognized by the provision and payment of marketing and drying revolving fund and other allocated reserve credits in the same manner as if membership had continued.

(Amended April 19, 1979, and May 4, 2007)

Section 2.11 - Property Rights

(a) The property rights and interests of each member of Sunsweet at any time shall be such

proportion of the entire property rights and interests as the amount of capital contributions by such member to the revolving fund during the preceding period specified hereafter bears to the total amount of capital contributions to the revolving fund during such preceding period by all persons who are members at such time. Capital contributions by members to Sunsweet Dryers which have been converted to revolving funds or allocated reserve credits shall not be included in this determination.

(b) The term “preceding period” as used in this Section 2.11 shall mean the period preceding the occasion for determination of property rights commencing with the earliest year as to which any unpaid revolving fund credits arose, but in no event less than a period of six (6) years. Thus, the dollar amount of unrefunded revolving fund credits shall be used as a measure of property rights if the unrefunded revolving fund credits relate to patronage over a period of not less than six (6) years. Otherwise, property rights shall be measured by the dollar amount of capital contributions to the revolving fund (whether refunded or not) by the members in question during the six (6) years preceding the occasion for determination of property rights.

(c) The Board of Directors may establish reasonable rules for determining property rights and interests consistent with the provisions of Article VII of the Articles of Incorporation and these Bylaws.

(Amended May 4, 2007)

ARTICLE III. MEMBERSHIP MEETINGS AND VOTING

Section 3.01 - Voting Power of Members

Voting power shall be determined by the Board of Directors from the records of Sunsweet once each year, no later than March 16, in accordance with the rule expressed in Article VI of the Articles of Incorporation. When so determined and made of record, the voting power shall be conclusive and remain constant until the next such determination by the Board of Directors. Members shall be entitled to cumulate their votes in any election of directors and representatives where more than one director or representative is to be elected from a district or more than one director or representative is to be elected from a local.

(Amended May 20, 1999)

Section 3.02 - Annual Meeting of All Members

An annual meeting of members shall be held in July of each year. Such meeting shall be held on such date in July and at such time and location as the Board of Directors from time to time establishes.

At such meeting the election of the directors shall be ratified by the members and any other business generally described in the notice of meeting may be transacted.

(Amended February 16, 1972, May 7, 1975, February 16, 1977, June 19, 1980, April 23, 1986 and May 19, 1988)

Section 3.03 - Special Meetings of All Members

Special Meetings of members may be called by the Chairman of the Board of Directors, the President of Sunsweet, by a majority of the Board of Directors, or by the written request of one-tenth of the membership. Each such call shall be in writing and shall state the time, place and purpose of such meetings.

Section 3.04 - Local Meetings

The Board of Directors, the Chairman of a Local Board, a majority of the representatives on a Local Board, or one-tenth of the members entitled to vote in a Local may call a Local meeting of members. Local meetings shall be held at least once annually. Joint meetings may be held for the members of more than one Local. Action taken or authorized by members at Local meetings of all Locals shall be as valid as though taken or approved at a single meeting of all members.

Section 3.05 - Notice of Meetings

Notice of any meeting of members shall be mailed via first class mail at least ten (10) days but not more than 60 days in advance to all members entitled to vote at such meeting at the address appearing upon the books of Sunsweet. Such notices shall generally describe the business to be transacted at the meeting. Notice of the annual meeting of all members may be given in any publication regularly published by Sunsweet and mailed to each member entitled to vote.

(Amended May 20, 1999)

Section 3.06 - Quorum

(a) Those members present in person or by proxy at the annual meeting shall constitute a quorum for the limited purpose of ratifying the election of directors. For the transacting of any other business, members possessing a majority of the voting power of Sunsweet shall constitute a quorum at the annual meeting or any special meeting of all members of Sunsweet.

(b) Those members voting in any election of directors or representatives shall constitute a quorum for the purpose of such business.

(c) Those members possessing a majority of the voting power of a Local shall constitute a quorum for any purpose other than election of directors or representatives.

(d) Except as otherwise required by law, the Articles of Incorporation, or the Bylaws, the affirmative vote of a majority of the voting power which votes at a meeting in which a quorum has been determined is the act of the members.

(Amended May 20, 1999)

Section 3.07 - Voting by Mail

Whenever authorized by these By-laws or by the Board of Directors, a membership vote may

be conducted by mail without the necessity of a meeting. A written consent requires the affirmative vote of a majority of all of the voting power.

(Amended May 20, 1999)

Section 3.08 - Proxy Voting

Each member shall have the right to vote at a membership meeting in person or by proxy, which proxy shall be in writing executed by the member or his duly designated representative and filed with the Secretary of Sunsweet.

(Amended January 9, 1997)

Section 3.09 - Rules for Elections and Voting

The Board of Directors may make and from time to time change rules and regulations for conducting voting and elections consistent with the provisions of these Bylaws and the Articles of Incorporation.

ARTICLE IV. BOARD OF DIRECTORS

Section 4.01 - Number, Qualifications and Term of Office

(a) Number

(i) The authorized number of member directors of Sunsweet shall be not less than nine (9) nor more than twelve (12). No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

(ii) In addition to the directors described in Section 4.01(a)(i), the Board of Directors may appoint up to three (3) additional directors-at-large, one of which may be filled by an individual who is not or does not represent a member of Sunsweet ("Nonmember Director"). The director-at-large position shall require an affirmative vote of at least two-thirds (2/3rds) of the authorized number of directors under Section 4.01(a)(i). Except for any such Nonmember Director, all directors-at-large shall meet the qualification requirements under Section 4(b) below.

(Amended May 4, 2007)

(b) Qualifications

(i) No person shall be a director unless he or she is a member of Sunsweet and a bona fide producer of dried fruit or other agricultural products marketed through Sunsweet. A bona fide producer is a member who has delivered fruit to Sunsweet in each of the three previous years.

(ii) No person shall be a director if he or she is an owner, director, officer, or similar participant in any other organization engaged in marketing dried fruit in such volume as to be materially competitive with Sunsweet.

(iii) No person shall be eligible to be a director unless 100 percent of the bearing prune acreage owned, controlled, and/or managed by the director shall be membership acreage.

(iv) No person shall be a director who within the previous three years has left Sunsweet's employment.

(v) No person shall be a director who is married to a current Sunsweet employee.

(vi) The Board of Directors may establish a qualifications committee of Board Members and the Company President to evaluate and establish standards and advanced training requirements appropriate for directorship roles, and may require future candidates to meet such standards before consideration as director nominees.

(Amended May 22, 2003, January 27, 2005, and March 4, 2009)

(c) Term of Office. The term of office of each director shall be three (3) years from the effective date of his or her election and until his or her successor shall have been elected and shall have accepted office; except that:

(i) in the event a Local or District geographical area is altered by reapportionment, then the term for the director representing such Local or District shall cease as of the next annual meeting and the term for the director to be elected in his or her place shall be initially for the balance of any term that would have been remaining for such office; and

(ii) in the event there is a change in the Local having the greatest voting power, then the term for both directors from this Local shall cease as of the next annual meeting and the terms for the two directors to be elected shall be initially for the balance of any term that would have been remaining for such office.

(d) Directors per Local. The members of each Local shall elect one (1) director except that the Local having the greatest total voting power shall be eligible to elect two (2) directors.

(e) Reapportionment of Districts. Reapportionment means to change the number of directors elected from each District.

(i) The number of directors elected by members of each District shall be reapportioned in the fall of every third year for the election of directors in the spring of the following year. For example: If the calculation for reapportionment is done in the fall of 1998, it should be presented to the Board for adoption prior to the end of 1998. If the reapportionment is adopted prior to the end of 1998, it will govern the election to occur in the spring of 1999. The next reapportionment would then occur in the fall of 2001, to be effective for the election of directors in the spring of 2002.

(ii) The reapportionment shall determine the number of Directors to be elected per District according to the following formula:

$$\text{Director/District} = \frac{\text{(Avg. Voting Power/District for Past 3 Years)}}{\text{(Avg. Voting Power-all members of Sunsweet-Past 3 Years)}} \times \text{(Total Directors to be Elected)}$$

The following principles shall apply to reapportionment:

(1) Reapportionment shall neither increase nor decrease the total number of directors of Sunsweet;

(2) Reapportionment shall be determined after mandatory redistricting to eliminate small Locals as provided in Section 5.12 below;

(3) If the Board determines that the members of a District are entitled to elect fewer directors than previously, the Board shall redistrict such District in the manner described in Section 5.11 to decrease the number of Locals within such District to a number equal to the revised number of directors to be elected by that District;

(4) If the Board determines that the members of a District are entitled to elect more directors than the number of Locals in the District, such excess number of directors shall be elected by vote of all members within a District;

(5) If the Board determines that the members in the District, which had previously elected one or more directors by vote of all members within a District, are entitled to elect fewer directors than previously, such decrease shall first be applied to reduce or eliminate directors to be elected by vote of all members in the District before the Board redistricts such District as provided for in paragraph (3) above.

(f) **Change of Number of Locals Due to Redistricting.** A decrease or increase of Locals within a District as a result of voluntary redistricting pursuant to Section 5.11 not related to reapportionment or mandatory elimination of small Locals shall not change the number of directors to be elected by the members of such District. Provided, however, the number of directors to be elected equal to any such decrease in the number of Locals within the District shall be elected by vote of all members of the district at the next election. Provided, further, the number of directors elected by vote of all of the members of the District shall be decreased by a number equal to any such increase of the number of Locals within the District.

(Amended March 10, 1971, January 18, 1978, January 21, 1982, January 9, 1997, July 16, 1998, May 20, 1999, and July 18, 2002)

Section 4.02 - Nomination of Directors

(a) Candidates for the position of director to be elected by Local or District members may be nominated in the following ways:

(i) The outgoing Local Board of each Local shall select a nominating committee, whose duty it shall be to nominate at least one candidate from among the members entitled to vote in the Local;

(ii) In the case of any District entitled to elect one or more directors by vote of all members within the District, all of the Local Boards in such District shall select a nominating committee to nominate from among the members entitled to vote in such District candidates at least equal to the number of directors to be so elected;

(iii) Additional candidates may be nominated by petition signed by five (5) or more members entitled to vote in the Local or District, as the case may be, or by members possessing not less than ten per cent (10%) of the votes entitled to vote in the Local or

District, as the case may be.

All nominations shall be filed with the Secretary of Sunsweet no later than April 1 of each year.

(b) Whenever any member shall have been nominated for election to more than one directorship, such member shall, in the manner prescribed by rules and regulations duly promulgated by the Board of Directors, decline all such nominations except one.

Section 4.03 - Election of Directors

(a) On or before May 1 of each year the Secretary of Sunsweet shall forward to each member a ballot listing all the nominees for the office of director to be elected by the Local or District in which the member is entitled to vote, which ballot shall inform the member of the total number of votes he is entitled to cast and instruct the member as to the time and manner of casting his vote. Only votes for duly nominated candidates listed on said ballot shall be valid. Except as otherwise provided by the Board of Directors, ballots shall be returned to the Secretary of Sunsweet no later than fifteen (15) days after mailing thereof to the members. Ballots received by the Secretary after such date, or such other closing date as the Board of Directors may prescribe, shall be invalid. Immediately after the closing date, the Secretary of Sunsweet or such other person or persons as the Board of Directors may designate, shall count and register the ballots and certify the results to the Board of Directors.

(b) The number of persons equal to the number of directors to be elected by the members of the Local or District receiving the highest vote from members entitled to vote in that Local or District shall be elected to the position of director.

(Amended June 17, 1970)

Section 4.04 - Vacancies

(a) Vacancies in the Board of Directors shall be filled by vote of a majority of the remaining directors, though less than a quorum, from persons nominated by the Local Board or Boards of the Local or District which elected the director whose seat is vacant, or, in the case of a director-at-large, from persons nominated by the remaining directors. Such persons shall hold office until their successors shall have been elected and shall have accepted office.

(b) Any director may be removed in the manner provided for by law.

(c) Any director who ceases to be a member, or who violates any contract with Sunsweet in any particular, or who ceases to meet the requirement for eligibility of a director in any particular, shall cease to be a director as soon as the Board of Directors, by vote of two-thirds (2/3) of the authorized number of directors, makes such finding by resolution adopted after reasonable notice and opportunity to be heard.

(Amended May 20, 1999)

(d) The Board of Directors, by a vote of three-fourths (3/4) of the authorized number of directors, may suspend or remove any director that the Board of Directors finds, in its exclusive business judgment, has an irreconcilable conflict with Sunsweet's Board of Directors or Management, or has acted in a manner contrary to prior resolutions of the Board

or damaging to Sunsweet. Any vacancy created thereby shall be filled pursuant to these Bylaws.

(Amended May 22, 2003)

Section 4.05 - Organizational Meeting

A meeting of the Board of Directors shall be held at such time as the Board of Directors determines after the Annual Meeting of the membership but not later than the end of July of such year, for the purpose of organization of the Board of Directors, election of officers of Sunsweet and the transaction of any other business.

(Amended August 10, 1981)

Section 4.06 - Regular Meetings

Regular meetings, at least quarterly, of the Board of Directors shall be held at such times as the Board of Directors may, from time to time, fix by resolution thereof.

(Amended August 10, 1981)

Section 4.07 - Special Meetings

A special meeting of the Board of Directors shall be held whenever called by the Chairman of the Board, the President, or by any five of the directors, or by action of the Board at a previous duly called meeting. Any and all business may be transacted at a special meeting. Except when called by action of the Board at a previous duly called meeting, all calls shall be in writing, signed by the persons making the call, setting forth the date, time and place of the meeting, and addressed and delivered to the Secretary of Sunsweet.

Section 4.08 - Notice of Meetings

Notice of meetings may be given by mailing a copy of such notice to a director, at his last-known address, at least four (4) days prior to the time of the meeting. Notice may also be given at least forty-eight (48) hours before the time set for the meeting by personal delivery, telephone (including voice messaging systems), telegraph, facsimile, electronic mail, or other electronic means. Notice shall contain a statement of the date, time and place of the meeting and may be delivered in like manner to all directors, or individual directors may be notified in some or any of the methods provided for herein.

(Amended January 9, 1997 and May 20, 1999)

Section 4.09 - Quorum and Action

A majority of the authorized number of directors shall constitute a quorum of the Board at all meetings. The affirmative vote of at least a majority of the directors present or two-thirds (2/3) of a quorum, whichever is greater, shall be necessary to pass any resolution or authorize any corporate act.

Section 4.10 - Waiver of Notice

When a quorum is present at a meeting of the Board of Directors, regardless of how called and noticed, such meeting shall be considered for all purposes as a meeting of the Board duly held after regular call and notice; provided, however, that every member of the Board not present shall sign a written waiver of notice, consent to the holding of such meeting, or an approval of the minutes thereof. Such waiver, consent, or approval shall be made a part of the records of that meeting.

Section 4.11 - Action Without a Meeting

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 of Directors shall individually or collectively consent in writing to such action; provided, however, that such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 4.12 - Compensation of Directors

(a) The directors shall receive no compensation for their services other than reimbursement for necessary traveling expenses and a per diem to be established by the Board of Directors from time to time for each day necessary for traveling to and from and for attendance at meetings.

(b) The Board of Directors may, in their discretion, provide reasonable additional compensation for the members of the Executive Committee of the Board.

(Amended May 22, 1973)

(c) The Board of Directors may, in their discretion, provide reasonable additional compensation for member and non-member directors of the board they appoint.

(Amended May 22, 2003)

Section 4.13 - Recall of Directors

Members may cause the directors elected from their Local or District to stand for re-election at the yearly election of directors (if he will have remaining at the end of the current Board year one or two years of his term of office) by filing a petition with the Secretary (and a copy with the secretaries of any Locals involved) not later than March 1 of such year:

(a) Stating that the members believe the director has not acted in the best interests of the association, and

(b) Signed by members representing 30% of the voting power of the Local or District.

The director shall then stand for re-election at the yearly election of directors pursuant to Section 4.03 with other candidates to be nominated pursuant to Section 4.02.

(Added January 21, 1982)

Section 4.14 – Participation by Telephone

Members of the Board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participating in a meeting pursuant to this section constitutes presence in person at such meeting.

(Added January 9, 1997)

ARTICLE V. DISTRICTS AND LOCALS

Section 5.01 - Districts and Locals Defined

(a) For the purpose of electing directors and for such additional purposes as the Board of Directors may prescribe, the members served by Sunsweet shall be divided into five (5) Districts.

(b) In addition, such Districts shall be composed of one or more Locals.

(c) The geographic location of Districts and Locals shall be evidenced by an official map or maps, duly adopted by the Board of Directors from time to time, on file at the principal office of the Association.

(d) A member producing agricultural products marketed through Sunsweet in more than one Local shall be entitled to vote in both Locals, but such member's total vote shall be apportioned to the nearest whole vote between the Locals in proportion to the volume of fruit produced in each Local pursuant to such rules and regulations governing apportionment as the Board of Directors shall establish. The decision of the Board of Directors placing the location of a member in District and Local shall be conclusive.

(e) Until such time as the Board of Directors shall have first reapportioned and redistricted in the manner prescribed in Sections 4.01 (b) and 5.12, members as of the effective date of these bylaws shall be considered as producing fruit only in the Local or Locals corresponding by name to the local association or associations to which such member belonged immediately preceding such effective date. Thereafter, such members shall vote only in Locals in which they actually produce fruit. However, such reapportionment and redistricting shall be effected on the basis of average voting power of the members of each Local or District computed as if all members have voted only in Locals in which they have actually produced fruit.

(Amended January 18, 1984)

Section 5.02 - Local Board

(a) Each local shall have a local board of representatives who will be members entitled to vote in the local, to be elected annually by the members entitled to vote in the local. Any member of the Sunsweet Board of Directors shall be an additional representative of the local board or boards of the local or locals which participated in his election if not otherwise elected thereto. Each local will elect a minimum of 7 representatives and will each determine the

maximum number of representatives that may serve on their respective boards during any calendar year.

(b) The Local Boards shall perform the following functions:

- (i) Participate in the nomination and election of directors of Sunsweet and representatives to serve on the Local Boards;
- (ii) Consider and make recommendations on any proposed admission to membership, termination of membership or disciplinary action affecting growers producing in the area served by the Local;
- (iii) Plan and conduct meetings of the Local;
- (iv) Consult with the Board of Sunsweet on redistricting and other matters affecting members producing in the area served by the Local;
- (v) Any other functions determined by the Board of Sunsweet after consultation with the Local Board.

(Amended February 12, 1969, March 10, 1971, March 20, 1974, April 17, 1974, April 18, 1984, October 16, 1985, January 27, 2000, and May 10, 2006)

Section 5.03 - Nomination and Election of Representatives

(a) Nomination and election of representatives shall be in the same manner as provided for the nomination and election of directors in Sections 4.02 and 4.03 of these bylaws except that:

(i) The nominating committee shall nominate for the office candidates in no case less than the number equal to the number of representatives authorized for such Local Board;

(ii) Members nominated for the position of director in accordance with Section 4.02 of these bylaws shall, by virtue of such nomination, also be nominated for the office of representative on the Local Board or Boards of the Local or Locals which participated in his nomination as a director. For the purpose of this subparagraph, a member shall be considered as not having been nominated for directorships, the nomination for which has been declined pursuant to paragraph 4.02 (b).

(iii) The ballot to be forwarded by the Secretary of Sunsweet to each member pursuant to Section 4.02 shall list all the nominees for the office of representative of the Local in which the member is entitled to vote and shall inform the member of the total number of votes he is entitled to cast for representatives. Only votes for duly nominated candidates listed on said ballot shall be valid.

(b) The number of persons equal to the number of representatives to be elected in a Local receiving the highest vote from members entitled to vote in that Local shall be elected to the position of representative for that Local. Each Local Board shall serve from the organization meeting as provided in Section 5.05 until the successor Board is elected and has held its organization meeting.

(Amended February 12, 1969 and June 16, 1971)

(c) Candidates for Local Representative must meet the Director Qualifications requirements set forth in Section 4.01(b) (iii).

(Amended May 22, 2003)

Section 5.04 - Notice to Representatives

On or before ten (10) days following the May meeting, the Board of Directors shall advise each newly elected representative in writing of the names and addresses of the newly elected representatives for such Local, and the date, time and place of the organizational meeting of the newly elected Local Board.

(Amended May 17, 1972)

Section 5.05 - Organization Meeting of the Local Board

Pursuant to the notice prescribed by Section 5.04 of this Article, each newly elected Local Board shall meet during the month of June. A representative may vote at such meeting in person or by proxy. At such meeting, the representatives shall select from their number a Chairman for the year by a majority of those voting. The representatives shall also select a Secretary for the year by a majority of those voting.

(Amended February 12, 1969)

Section 5.06 - Other Meetings of Local Boards

Additional meetings of the Local Board may be held whenever called by the Chairman of the Board of Directors, the President of Sunsweet, the Chairman of the Local Board, by three (3) representatives, or by action of the Local Board at a previous duly held meeting, for the purpose of conducting any and all business as may come before such a meeting.

Section 5.07 - Notice of Other Meetings

Notice of additional meetings of a Local Board shall be given each representative in the manner provided for notice of meetings of the Board of Directors.

Section 5.08 - Quorum and Action of Local Boards

A majority of the authorized number of representatives shall constitute a quorum for the transaction of business; provided, however, that in the absence of a quorum a majority of the representatives present may adjourn from time to time until the next meeting of a Local Board. If a quorum is unavailable due to public disaster, war, act of God or similar emergency, a majority of the representatives reasonably able to attend shall constitute a quorum. Any action by a majority of the representatives present at a meeting at which a quorum is present shall constitute the action of the Local Board.

Section 5.09 - Waiver of Notice and Action Without a Meeting

Any action required or permitted to be taken by a Local Board may be taken without limitation in the manner permitted for action by the Board of Directors in Sections 4.10 and 4.11 of these bylaws.

Section 5.10 - Vacancy on Local Board

Vacancies on the Local Board may be filled by a majority of the remaining representatives. However, if the remaining representatives are less in number than required to constitute a quorum of the Local Board, then vacancies existing shall be filled by a Special Local Election to be conducted in accordance with rules and regulations of the Board of Directors.

Section 5.11 - Voluntary Redistricting

(a) The Board of Directors may, at the request of or after prior consultation with affected Local Boards, change the boundaries or the number of Locals. The changes may be made by redefining the boundaries between Locals, adding new territory or excluding existing territory, dividing a Local, combining Locals, discontinuing a Local, or any other means.

(b) If the Board combines Locals between elections of representatives, the Local Board of the combined Local will be expanded to include the incumbent representatives of the constituent Local Boards until the next election.

(c) If the Board divides a Local between annual elections of representatives, then the Board shall hold a special election for the purpose of electing Local Boards of the newly-formed Locals.

(d) If the territory of a Local is assigned to more than one adjacent Local as a result of redistricting between elections, then representatives of the eliminated Local will automatically become representatives in the Local in which they produce fruit until the next election of representatives.

(Amended July 16, 1998)

Section 5.12 - Mandatory Redistricting

Every third year, in conjunction with, and according to the same time frame as the reapportionment in Section 4.01(e), the Board of Directors shall compute:

(a) The average of the aggregate votes of members of each Local for the three years next preceding ("Local Voting Power"), and

(b) The average Local Voting Power of all Locals for said period ("Average Voting Power").

If the Board shall determine that the Local Voting Power for any Local is less than fifty per cent (50%) of Average Voting Power, then the Board shall consolidate such Local with one or more Locals in the manner described in Section 5.11, above. The Board may elect to combine

contiguous Locals only if the combined Local Voting Power of the Locals to be combined will be greater than fifty per cent (50%) of the Average Voting Power.

(Amended February 12, 1969, June 16, 1971 and July 16, 1998)

ARTICLE VI. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.01 - General

Subject to the limitations of statutes of California, the Articles of Incorporation and of the Bylaws relating to action which shall be authorized or approved by the membership, all corporate powers shall be exercised by or under the authority of the Board of Directors. Without limiting such general power or powers expressly or impliedly vested in the Board of Directors by law or by provisions of the Articles of Incorporation and Bylaws, it is hereby expressly provided that the Board shall have the following powers:

- (a) To conduct, manage and control the affairs and business of Sunsweet; and to make rules and regulations not inconsistent with the laws of California, the Articles of Incorporation and these Bylaws for the guidance of the officers in the management of its affairs;
- (b) To install a system of bookkeeping and auditing for the purpose of fully advising the membership from time to time, but at least annually, concerning the receipts and disbursements and financial condition of Sunsweet;
- (c) To invest accumulated funds of Sunsweet in United States bonds and treasury certificates, bonds of the State of California and of any County, City or District in California, certificates of deposit in banks insured by the Federal Deposit Insurance Corporation, commercial paper, corporate bonds and debentures, and in stock, bonds or other obligations of any corporation or association engaged in any related activity or in the processing or marketing of any of the products handled by Sunsweet;
- (d) To prescribe and pass upon the qualifications, conditions and requirements for membership; and to consent to or restrict the transfer or assignment of membership and other interests in Sunsweet or the funds held by it;
- (e) To fix and determine the method, amount, manner and time of all assessments or deductions to cover all charges and expenses of Sunsweet; and to fix and determine the amount of assessments or retentions required of each patron for the capital required to operate Sunsweet and the method, manner and time of such assessment or retention and the repayment thereof;
- (f) To bind and remove at pleasure all officers, agents and employees of Sunsweet, prescribe their duties, fix their compensation, and require from them security for faithful service;
- (g) To borrow money and incur indebtedness, and to issue notes, deeds of trust, mortgages, pledges and other evidence of indebtedness and securities therefore, and to do everything necessary to effectuate the same;
- (h) To enter into, observe, comply with and assent to on behalf of the members of Sunsweet any pro rate or marketing order or agreement, stabilization plan, allotment, or code

relating to the growing, processing, or marketing of any agricultural products marketed by Sunsweet and to bind all members thereto.

(Amended April 19, 1979)

Section 6.02 - Executive Committee

(a) There shall be an Executive Committee consisting of the Chairman and such other members as the Board of Directors selects from the members of the Board of Directors.

(b) The Executive Committee shall have such duties and powers as may from time to time be prescribed by the Board of Directors and, except as otherwise provided by law, their duties and powers may be all of the duties and powers of the Board of Directors.

(Amended June 15, 1981)

ARTICLE VII. OFFICERS AND MANAGEMENT

Section 7.01 - Corporate Officers

(a) The officers of Sunsweet shall be a Chairman of the Board and a President, one or more Vice Presidents, a Secretary, and a Treasurer. The Board of Directors may also appoint Assistant Secretaries, Assistant Treasurers, and such other officers as the Board of Directors may see fit in its discretion to designate. Any one or more of the above offices may be occupied by one person except for the offices of President and Secretary. The Chairman of the Board, or if there is no Chairman of the Board, then the President, shall be a member of the Board of Directors elected by the membership of a Local or District.

(b) The Chairman of the Board shall be elected for a term of three (3) years, provided that upon completion of six (6) successive years as Chairman, election for continuing service as Chairman shall be for successive one (1) year terms. Notwithstanding the foregoing, the term shall expire earlier in the event and as of the date such member ceases to be a director.

(Amended January 9, 199, January 28, 1999, and May 17, 2007)

Section 7.02 - Powers and Duties

Subject at all times to the control and direction of the Board of Directors, each officer shall have and exercise the powers and duties usual to his office.

(Section 7.03 Deleted January 9, 1997)

ARTICLE VIII. MARKETING AGREEMENT

Section 8.01 - Introduction

This Article expresses terms of an agreement between each member as a patron and Sunsweet relating to the fruit designated by supplemental agreement which the member agrees to market through Sunsweet. Each member agrees by application for membership and Sunsweet agrees by

acceptance of such application to be bound by these terms, as amended from time to time. The provisions of this Article, together with all other relevant terms of the Articles of Incorporation, the Bylaws, rules and regulations of the Board of Directors, and any supplemental agreement or agreements, all as amended from time to time, shall together constitute the terms of a Marketing Agreement.

Section 8.02 - Delivery for Consignment Marketing

(a) The member agrees to deliver to Sunsweet for marketing, all fruit of the kind specifically designated in a supplemental agreement or agreements which is produced by the member during the term specified hereafter, and is produced from the acreage described in the Supplemental Marketing Agreement and Membership Application, and to deliver no fruit which is acquired from others. If prunes are designated in such a supplemental agreement, no fruit produced by the member which is or could become dried or dehydrated into prunes, shall be retained or sold or delivered by the member to any third party, except (1) where said fruit is thereafter dried or dehydrated and delivered to Sunsweet, or (2) is used solely for human consumption in the fresh state and not for manufacturing into juice or any other manufactured product unless such fruit is undersize, as determined pursuant to a screen size standard approved by the Board of Directors, subject to amendment annually. No such undersize fruit shall be sold to any third party for manufacturing unless it has been first offered to Sunsweet at the price offered by said third party, and Sunsweet has declined the offer. As to any fruit other than prunes designated in such a supplemental agreement, except as hereinafter set forth, the member shall have the right to retain and sell all or part of all such other fruit fresh for fresh use, fresh canning, or fresh freezing only, but must deliver to Sunsweet such fruit if it later becomes dried. The member shall, upon the request of Sunsweet, submit to Sunsweet evidence satisfactory to Sunsweet that fruit sold or delivered other than to Sunsweet was sold or delivered for consumption in the fresh state in the case of prunes or for fresh use, fresh canning, and fresh freezing in the case of all other fruits. Failure to submit such evidence shall constitute a breach of the Marketing Agreement, and shall entitle Sunsweet to enforce Subsection 8.07(a) hereof as to all fruit marketed without submission of such satisfactory evidence.

(b) The member agrees that title to said fruit passes absolutely to Sunsweet upon delivery thereof to Sunsweet. Sunsweet may exercise all rights of ownership over the same without limitation, including, but not limited to, the power and authority to borrow money and to incur indebtedness in its name and on its own account for any purpose on the fruit delivered to it.

(c) If the member surrenders actual control of production of all or any portion of the fruit designated in a supplemental agreement or agreements by virtue of a bona fide sale of an orchard or orchards prior to commencement of harvest, the member shall be released from the future obligation to market fruit produced on the property which has been sold, provided the member notifies the Board of Directors as to any such sale in advance or within thirty (30) days after entering into such sale and furnishes evidence satisfactory to the Board of a bona fide transaction which is not intended to evade the obligation of this Marketing Agreement. Except as so released, a member shall continue to be bound by this Marketing Agreement.

(Amended June 17, 1970, August 8, 1973, April 9, 1975, June 2, 1987, February 18, 1988, April 21, 1994, January 9, 1997, May 20, 1999, September 30, 2004, and May 4, 2007)

Section 8.03 - Marketing

(a) Sunsweet agrees to market such fruit, together with fruit delivered by other members, at

such prices and at such times as in its judgment and discretion it deems best for the interest of all members. Sunsweet shall pay over the net proceeds received therefrom as payment in full to the members according to the quantity or value or both, of fruit delivered by each of them. Net proceeds shall be determined by the Board of Directors by deducting from the gross proceeds the costs of receiving, processing, manufacturing, handling, storing, transporting, advertising, and all other expenses of marketing. Expenses shall include, but not be limited to, all costs of administration, reasonable allowances for depreciation and bad debts, interest, and losses (to the extent hereafter provided). Sunsweet may also retain amounts from such net proceeds for reserves, revolving capital funds, or operating loan funds created as hereafter provided, and for reasonable unallocated reserves.

(b) Sunsweet agrees to pay a substantial advance payment on all fruit as market and financial conditions will permit, as determined by the Board of Directors in each season, and such payments shall be made as soon as practicable after delivery of the fruit to it. Such advance payments may be made proportionately higher for fruit classified in more desirable grades or sizes from the standpoint of value. The balance of the net proceeds less advances and authorized retains shall be credited and paid as promptly as the financial condition of Sunsweet will in the opinion of the Board of Directors permit.

(c) Notwithstanding the provisions of the Articles of Incorporation of Sunsweet, of any other Bylaw of Sunsweet, or of any Marketing Agreement to which Sunsweet is a party, Sunsweet shall not make any distributions to patrons arising from the marketing of agricultural products delivered by such patrons, or make any advances upon such distributions, (i) if such distributions or advances would cause Sunsweet to fail to make timely payments of any monies due under the terms of any promissory note or other indebtedness for money loaned to Sunsweet or (ii) if such distributions or advances would cause Sunsweet to fail to perform in a timely manner its obligations under any guaranty given by Sunsweet of the indebtedness or other obligations of any other person or entity. In the event of a dissolution or liquidation of Sunsweet, the liabilities associated with distributions to patrons for the marketing of agricultural products delivered by such patrons shall be subordinate to (i) all indebtedness for money loaned to Sunsweet and (ii) Sunsweet's obligations under all guaranties given by it of the indebtedness and other obligations of other persons and entities.

(Amended August 8, 1973, April 19, 1979, January 17, 1980, July 27, 1982, February 18, 1988 and August 6, 1998)

Section 8.04 - Pools and Classifications

(a) Any fruit delivered may be pooled or mingled with fruit delivered by other members or otherwise acquired and may be classified and/or pooled by size, quality, variety, time of delivery, or other standards, or without regard to any one or all of such standards, but pursuant to such rules and regulations as the Board of Directors may determine whenever it may deem pooling and/or classification to be advisable. Any unsold inventory of any pool products may be transferred to the next succeeding pool at fair values conclusively established by the Board of Directors.

(b) The Board of Directors is hereby given full power from time to time to amend or modify said classifications or pools, to establish additional pools, to determine in which pool any fruit shall be included, and to adopt and amend rules and regulations with respect to such pools.

(c) Any loss in fruit arising out of the failure of the member to properly handle or care for such products or on account of delivery to Sunsweet of fruit of inferior grade, quality or

condition shall be charged to the member causing the same or delivering such fruit.

Section 8.05 - Special Provisions for Delivery of Fruit

Sunsweet may make rules and regulations regarding handling and delivering of fruit and provide inspectors and graders to standardize, grade and classify the fruit so delivered. The member agrees to observe and perform any such rules and regulations, to accept the grading and standards established by Sunsweet, and to deliver fruit at such reasonable delivery dates as the Board of Directors may from time to time prescribe by such rules or regulations. The determination of Sunsweet as to grade, standard and classification and differentials in prices, shall be conclusive.

Section 8.06 - Termination of Marketing Agreement

(a) Except as otherwise expressly provided, the Marketing Agreement may be terminated at any time during any year as to any specific kind of prunes or other agricultural products by Sunsweet or the member by submission to Sunsweet or the member, as the case may be, between February 15 and February 28 of any year of a notice of termination of the Marketing Agreement as to such kind of fruit. As to fruit not covered by such notice of termination, the Marketing Agreement shall remain in full force and effect as if no such notice had been given. Termination of the Marketing Agreement in the manner and to the extent herein provided for shall be effective as of March 15 of the year in which said notice is delivered.

(b) Termination of membership in the manner provided for in Section 2.09 (b) of these Bylaws shall not result in the immediate termination of the obligation to deliver fruit to Sunsweet as provided for herein (unless drying services generally provided to the membership have been terminated by Sunsweet), but such obligation shall terminate as of the March 15 next following such termination of membership.

(c) Termination of membership in the manner provided for in Section 2.09(c) of these bylaws shall result in termination of any Marketing Agreement as set forth in the notice of termination.

(Amended January 9, 1997, May 20, 1999, and May 4, 2007)

Section 8.07 - Remedies for Member's Breach

(a) The failure to deliver fruit as required herein or the delivery of fruit acquired from others will result in injury to Sunsweet, and it would be extremely difficult and impracticable to fix the amount of damages which Sunsweet or its members would suffer. Therefore, each member expressly agrees to pay to Sunsweet as liquidated damages, upon demand of Sunsweet, twenty per cent (20%) of the total market value of any fruit so withheld, delivered, sold, consigned, acquired from others, or marketed by or for said member other than in accordance with the terms of the member's Marketing Agreement with Sunsweet. Said market value shall be deemed to be as delivered if delivered to Sunsweet, or if not delivered to Sunsweet, to be either the market value of said fruit as if it had been delivered to Sunsweet or, if said fruit has been sold by the member, the price for which said fruit shall have been sold, whichever is higher.

(b) If Sunsweet prevails in any action brought by Sunsweet against the member to enforce any provisions of the Marketing Agreement or to secure specific performance or to collect

damages of any kind for any breach thereof, the member agrees to pay to Sunsweet all costs of court, costs for bonds and all other expenses arising out of or caused by the litigation, including a reasonable attorney's fee expended or incurred by Sunsweet in any such proceeding, and all costs and expenses may be included in the judgment obtained in said action.

(c) The foregoing right to recover liquidated damages shall be in addition to all other remedies now or hereafter available by law, but not limited to, the right to obtain an injunction, and said remedies shall be deemed cumulative and not exclusive.

(Amended June 2, 1987)

Section 8.08 – Reimbursement or Revocation for Claims and Litigation

(a) Any third-party costs incurred by Sunsweet related to any legal, accounting or administrative claim or procedure (i) brought by a member against Sunsweet or (ii) brought by any other party against a member that results in joinder or other formal involvement of Sunsweet, (including legal and professional fees, court costs, or other service or service-provider fees) shall be the responsibility of such member, and charged solely to such member's Sunsweet account on a priority basis, unless Sunsweet is found to have acted improperly or negligently by final court or administrative order in the subject proceeding.

(b) If (i) any action or proceeding is commenced against Sunsweet by a member and such action or proceeding is dismissed or denied as wrongful, improper or brought in bad faith, or (ii) any course of dealing by any member results in multiple legal claims or actions involving Sunsweet, and Sunsweet is not responsible for such claims or actions or is not found to have acted improperly or wrongfully, then any such events shall, at the sole discretion of the majority of the Board of Directors, be considered an appropriate basis for Board action revoking all membership and, marketing agreement rights and drying agreement rights of the offending member.

(Amended September 21, 2000, March 11, 2002, and May 4, 2007)

ARTICLE IX. CAPITAL FUNDS

Section 9.01 - Purpose

Sunsweet shall create and maintain a Capital Revolving Fund for the purpose of having members furnish capital on an equitable patronage basis to effectuate the purposes of Sunsweet. It may also, from time to time, create one or more additional allocated reserves or operating loan funds for the same purposes. The Capital Revolving Fund shall be revolved and other allocated reserves and operating loan funds shall be redeemed or repaid in such manner and at such time as the Board of Directors deems advisable. Interest shall not be paid on the Capital Revolving Fund or other allocated reserves. Interest may be paid on operating loan funds evidenced by certificates of indebtedness (allocated loans).

(Amended April 9, 1969, May 7, 1975 and April 19, 1979)

Section 9.02 - Additions to Capital Funds, Allocated Reserves and Operating Loan Funds

Additions to said Capital Revolving Fund, allocated reserves, and operating loan funds may be made by assessments or deductions from the net proceeds otherwise payable on agricultural products marketed by Sunsweet, or from income from sources other than patronage, as determined by the Board of Directors from time to time. Said assessments or deductions shall be apportioned among the patrons on the basis of quantity or value or both of patronage, or alternatively, in the case of income from sources other than patronage, on the basis of property rights and interests.

(Amended May 7, 1975, April 19, 1979, July 16, 1998, and May 4, 2007)

Section 9.03 - Notice of Credits

Within eight and one-half (8-1/2) months after the close of each fiscal year, certificates or other written notice (including certificates of indebtedness) shall be issued to advise each member of the amount of credits in said funds retained or contributed during such fiscal year and credited on the books of Sunsweet to such member from the net proceeds otherwise payable on agricultural products marketed by Sunsweet. Additions to said funds from income from sources other than patronage may be made on a notified or non-notified basis as determined by the Board of Directors.

(Amended May 7, 1975, April 19, 1979 and July 16, 1998)

Section 9.04 - Repayment

(a) At least once each year the Board of Directors shall determine the amount of monies which are available for repayment of Capital Revolving Fund credits. The amount so determined to be available shall be applied to payment of outstanding Revolving Fund credits beginning with the oldest unpaid Revolving Fund credits, except as hereafter provided. All credits arising from patronage of the same fiscal year shall have the same priority, except as provided below; and, if available funds are insufficient to pay such credits for a given fiscal year, a pro rata payment may be made against all credits for that year.

(b) At least once each year the Board of Directors shall determine the amount of monies, if any, which are available for repayment of each other allocated reserve. The amount so determined to be available shall be applied to payment of all credits in any such allocated reserve pro rata as to all such allocated credits without regard to the year of patronage on which such allocation is based, or to pay credits allocated on the basis of patronage in earlier years prior to payment of credit allocated on the basis of patronage in later years, as the Board of Directors may determine to be reasonable in relation to the source and any special purposes of such allocated reserve.

(c) Repayment of certificates of indebtedness shall be made according to the terms of such certificates, which terms shall be as established by the Board of Directors.

(d) Credits or allocations which are considered nonqualified under the provisions of the Internal Revenue Code and Section 10.02 of these bylaws may, at the discretion of the Board of Directors, be revolved and redeemed at different times and at different rates than qualified notices so long as all nonqualified credits for a given fiscal year are redeemed on a pro rata basis.

(e) The Board of Directors may accelerate the retirement of any outstanding credits (including certificates of indebtedness) in compromise of any bona fide dispute between

Sunsweet and the holder of such credits, or to secure for Sunsweet a discount for prior payments that the Board deems substantial.

(Amended May 7, 1975, April 19, 1979 and August 10, 1981)

Section 9.05 - Use of Revolving Funds

Monies retained or assessed for the Revolving Fund or any allocated reserve or any operating loan fund may be commingled with and used for corporate purposes as all other monies of Sunsweet are used. Nothing herein contained shall be deemed to require that any specific monies or funds be segregated or set apart, nor shall any such fund be deemed a trust fund held for the owners of credits in such fund.

(Amended May 7, 1975 and April 19, 1979)

Section 9.06 - Losses

In the event of a loss to Sunsweet from any cause whatever, the Board of Directors may, if it finds such loss to be a substantial loss, in its sole discretion charge all or any part of said loss to any one or more of the following:

- (a) Corporate operating expenses;
- (b) Revolving fund and/or other allocated reserve credits for the fiscal year or years in which such loss was incurred, or to which it is attributable;
- (c) All revolving fund and/or other allocated reserve credits for all years;
- (d) Any unallocated reserves.

The term "loss" shall include, but not be limited to, expenses, liabilities, or charges incurred by Sunsweet in any fiscal year which the Board of Directors finds to be extraordinary and not reasonably related to the expenses of operation in that year.

(Amended May 7, 1975 and August 10, 1981)

Section 9.07 - Priority of Credit Holders

(a) The holders of credit in said Capital Revolving Fund or allocated reserve or any interest therein as to the liability represented thereby shall be subordinate to all creditors of Sunsweet (including, without limitation, holders of obligations guaranteed by Sunsweet), and liability represented thereby shall be subordinate to (i) all indebtedness of Sunsweet and (ii) Sunsweet's obligations under all guaranties given by it of the indebtedness and other obligations of other persons and entities.

(b) The holders of credits in operating loan funds evidenced by certificates of indebtedness shall have equal priority with all unsecured trade creditors of Sunsweet (i.e., creditors who

have supplied goods or services). The liability represented by the credits in operating loan funds evidenced by certificates of indebtedness shall be subordinate to (i) all indebtedness for

money loaned to Sunsweet and (ii) Sunsweet's obligations under all guaranties given by it of the indebtedness and other obligations of other persons and entities.

(Amended May 7, 1975, April 19, 1979 and August 6, 1998)

Section 9.08 - Transfer

No assignment or transfer of any such credit (including certificates of indebtedness) whether voluntary or by operation of law or otherwise, shall bind Sunsweet unless Sunsweet consents in writing thereto.

(Amended April 19, 1979)

Section 9.09 - Dissolution

(a) In the event of dissolution or liquidation, all unpaid capital revolving fund credits and other allocated reserves (including any of the foregoing converted from prior Sunsweet Dryers' capital revolving fund credits and other allocated reserves) shall be deemed due without regard to year of origin, subject to the priority of all creditors of Sunsweet (including holders of certificates of indebtedness), and any residue that may remain after payment in full of all indebtedness (including certificates of indebtedness) and all such revolving fund credits and other allocated reserves shall be distributed to those persons who were members at the time the members elected to dissolve or liquidate in proportion to the property rights and interests of each member at the time of such election. In the event there are insufficient funds with which to redeem all such revolving fund credits and allocated reserves, payment thereof shall be on a pro rata basis without regard to the date of origin.

(b) In the event Sunsweet shall at any time determine to transfer the property and assets of Sunsweet to a successor association and shall designate such association as the successor of Sunsweet, then the transfer of said property and assets by Sunsweet to such successor association shall not be considered a dissolution or liquidation within the meaning of the foregoing paragraph. Such successor association may be formed or exist under state or federal laws provided only that it shall be in substance a farmers' non-profit cooperative marketing association formed or recognized for such purpose. Such successor association may be an association formed or recognized for such purpose or it may be formed by merger, consolidation or any corporate reorganization. Property rights and interests of the members of Sunsweet shall be recognized and preserved in an equitable manner in such successor association.

(Amended April 19, 1979, and May 4, 2007)

ARTICLE X. MISCELLANEOUS

Section 10.01 – Amendments

These bylaws may be amended by a vote or written assent of members representing two-thirds

(2/3) of the votes of all the members, or by the Board of Directors at any meeting of the Board by an affirmative vote of two-thirds (2/3) of the members of the Board.

Section 10.02 - Consent of Members to Take Allocations Into Income

Each member of Sunsweet on the effective date of this Section who continues as a member after such date and each person who hereafter applies for and is accepted to membership in Sunsweet shall, by such act alone, consent that the amount of any distributions or allocations which are made in qualified written notices of allocations or qualified per-unit retain certificates (as defined in 26 U.S. Code 1388) and which are received by him from Sunsweet and which are not designated by Sunsweet as being "nonqualified", will be taken into account by him at their stated dollar amounts in the manner provided in 26 U.S. Code 1385(a) in the taxable year in which such qualified written notices of allocation or qualified per-unit retain certificates are received by him. Redemptions of written notices of allocations or per-unit retain certificates which, when issued, were designated by Sunsweet as "nonqualified" shall be taken into account in the year such redemptions are made by Sunsweet.

(Amended April 27, 1982)

Section 10.03 - Disposition of Unclaimed Property

(a) If, when any capital revolving fund, equity or patronage refund is being retired, or membership fee or other sums of money are being paid (all of which are hereafter referred to as "monies due") by Sunsweet to members or other persons, Sunsweet is unable to locate the person to whom such monies are payable or the one entitled to payment, within three (3) years after the same became payable, the Board of Directors may charge off the same as a liability on its books, the claim of any such person to any such monies shall thereby be extinguished, and thereupon Sunsweet shall treat the amount of all such monies so charged off as incidental income to Sunsweet in the year during which such monies are so charged off. In the event such monies have not been paid prior to the running of the statute of limitations of the State of California against any such claim, then such amounts shall, without further action by the Board of Directors, cease to be a liability of Sunsweet and shall be treated as incidental income received during the year said statute of limitations shall have run.

(b) No such charge-off or termination of liability as herein provided shall occur, however, unless notice of monies due shall have been sent by Certified or Registered U.S. Mail, postage prepaid, with return receipt requested, in the case of monies due in excess of \$50.00, and by registered, certified, or ordinary mail in all other cases, to the person appearing from the books of Sunsweet to be entitled to payment of such monies at least thirty (30) days prior to such charge-off or termination.

Section 10.04 - Lien and Right of Offset

Sunsweet shall have a prior lien against any net proceeds or credits standing on the books of Sunsweet, with the right to offset any indebtedness to Sunsweet by such person against such proceeds or credits at any time. Such right of offset shall not be barred by the running of any statute of limitation against the indebtedness to be offset. Such right of Sunsweet may be subordinated by appropriate written instrument when authorized by the Board of Directors.

Section 10.05 - No Vested Right in Bylaws

Any or all provisions of these bylaws, whether originally or subsequently adopted, regardless of their nature, whether regulatory or contractual, including those relating to the marketing of products and the Revolving Fund, may, from time to time, be amended or repealed, and new or other provisions adopted, and each member becomes such with knowledge of and consent to the reserved right of amendment or repeal, and the exercise thereof; and no member shall or does have any vested right in or to any provision hereof, or the continuance thereof, and each member agrees that provisions of the general or like nature or effect of those contained in the bylaws, are appropriate and necessary for the efficient regulation of the business and the government and conduct of a non-profit cooperative association of the nature of Sunsweet.

Section 10.06 - Indemnification of Officers and Directors

Each present or former Director and officer shall be indemnified by Sunsweet, to the full extent permitted by law, against all liabilities imposed upon and costs and expenses reasonably incurred by him in connection with or arising out of any action, suit or proceeding in which he may become involved or to which he may be made a party because of his being or having been a Director or officer of Sunsweet or of a subsidiary, partnership, limited liability company or other entity at Sunsweet's request (whether or not he continues to be a Director or officer at the time of incurring such liabilities, costs or expenses). The foregoing right of indemnification shall be in addition to and not exclusive of any and all other rights as to which any such Director or officer may be entitled as a matter of law and shall exclude any action, suit or proceeding brought by a Director or officer against Sunsweet other than one brought to collect costs and expenses that Sunsweet has failed to pay in violation of its indemnification obligation.

Sunsweet shall be subrogated to the Director's or officer's rights to the extent of any payment made by Sunsweet to or on behalf of the indemnitee.

Subject to the then conditions and qualifications set forth in the California General Corporation Law, expenses incurred by any such person in defending any action or proceeding referred to above which arises out of events occurring on or after the effective date of this provision shall, upon written request by such person, be advanced by Sunsweet prior to the final disposition of such proceeding upon receipt of a written promise by or on behalf of such person to repay such amount if it shall be determined ultimately that such person is not entitled to be indemnified as set forth herein. Such written undertaking shall be accompanied by such collateral to secure such repayment as the board of directors, in the exercise of its discretion, determines should be required under the circumstances of the case.

(Amended January 1, 1979, July 22, 1986, February 16, 1989, and May 20, 1999)

ARTICLE XI. DRYING AGREEMENT

Section 11.01 – Introduction

Sunsweet agrees to provide drying services to those of its members who desire to avail themselves of these services (hereinafter referred to as “Drying Patrons”) in accordance with the provisions of this Article. Drying Patrons agree to be bound by these terms, as amended from time to time. The provisions of this Article, together with all other relevant terms of the Articles

of Incorporation, the Bylaws, rules and regulations of the Board of Directors, and any supplemental agreement or agreements, all as amended from time to time, shall together constitute the terms of a Drying Agreement.

Section 11.02 – Delivery of Fruit

(a) Each Drying Patron agrees to deliver to Sunsweet for drying during the term specified hereafter all fresh French prune-plums produced by the member and all fresh prune-plums of other varieties at Sunsweet's option, but not to exceed in any crop year the number of tons equivalent to the number of tons drying space which the member is entitled to use as fixed and determined in member's accepted membership application and supplements thereto. With the approval of Sunsweet, the member may also deliver to Sunsweet for drying other fruit or agricultural products produced by the member including a greater quantity of fresh French prune-plums than provided herein, other varieties of fresh prunes, or other agricultural products; provided, however, such additional deliveries shall be only in such quantities and upon such terms and conditions as Sunsweet may specify from time to time.

(b) Each Drying Patron agrees to deliver the aforesaid fruit as and where directed by Sunsweet. Sunsweet may, in its discretion, assume the cost of transportation from the common shipping points designated by Sunsweet to the dehydrator where the fruit is to be dried, but delivery of such fruit shall not be deemed to have been made until such fruit arrives at the dehydrator designated by Sunsweet. The fruit delivered by the Drying Patron shall be of good quality and in the condition necessary to enable Sunsweet properly to dry the fruit for delivery in a properly dried and merchantable condition in conformance with the requirements of the Drying Patron's marketing agreement with Sunsweet. Sunsweet may refuse to accept for dehydration any delivery of fruit, or part thereof, from the Drying Member which Sunsweet determines will not result, after drying, in prunes of good merchantable quality. Such a determination by Sunsweet shall be conclusive, and Sunsweet shall not be liable or responsible to the Drying Patron for any damages or loss to the Drying Patron by reason of any such refusal.

(c) Sunsweet may make rules and regulations regarding the delivery of fruit for drying, including the time, amounts, handling and drying thereof. Sunsweet may standardize, grade, handle and classify the fruit so delivered. Each Drying Patron agrees to observe and perform in accordance with any such rules and regulations and to accept and abide by the grading, standards, handling and classifications established by Sunsweet.

Section 11.03 – Drying at Cost

Sunsweet agrees to dry the fresh prunes delivered by each Drying Patron at the actual cost thereof, including overhead, depreciation and other expenses of Sunsweet relating to the drying of fruit. The determination of such costs by Sunsweet shall be conclusive. When dried,

the fruit shall be delivered to the delivery points at the times and in the amounts determined by Sunsweet. Each Drying Patron agrees that from the proceeds of sale of such prunes, Sunsweet shall first deduct, and is hereby authorized to deduct, the estimated costs and expenses of the drying services chargeable to the fruit delivered by the Drying Patron, including the costs and expenses of drying, maintenance, overhead, depreciation and other expenses. The determination of Sunsweet as to such estimated costs and expenses shall be conclusive. If, at the end of the fiscal year, the sum of such estimated costs and expenses so deducted shall prove to be in excess of, or less than, the actual costs and expenses as determined by Sunsweet, the excess shall be refunded to the Drying Patrons, or the deficiency shall be paid by the Drying Patrons, as the case may be, in proportion to their drying patronage. Sunsweet is hereby authorized to deduct the amount of any such deficiency from any amounts otherwise due to the respective Drying Patrons.

Section 11.04 – Compliance with Applicable Laws

All fruit delivered by the Drying Patron to Sunsweet shall be produced in compliance with the regulations and orders of the United States Department of Labor issued hereunder, and with the requirements of the California Pure Food Act, Federal Insecticide, Fungicide and Rodenticide Act and all other applicable federal and state laws, including all regulations and orders issued thereunder. Each Drying Patron guarantees to Sunsweet that all fruit delivered to Sunsweet by the Drying Patron is as of the date of shipment or delivery, not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act and that such fruit is not an article which, under the provisions of the said Act as the same now exists or may hereafter be amended, may not be introduced into interstate commerce. Each Drying Patron guarantees that all fresh fruit delivered shall have been harvested from properties/orchards listed on Sunsweet membership records, and from no other sources, and shall provide traceability documentation if requested by Sunsweet.

Section 11.05 – Failure to Deliver Fruit

If in any crop year the Drying Patron fails to deliver from Drying Patron's production the quantity of fruit required to be delivered by Drying Patron in accordance with Section 11.02 of these Bylaws, Drying Patron agrees that, from the net proceeds of fruit delivered by or for Drying Patron to Sunsweet or from any other amounts owed Dryers Patron by Sunsweet, Sunsweet shall be and is hereby authorized to deduct a sum of money, determined as herein provided, as the Drying Patron's share of the expenses of upkeep and maintenance of Drying Patron's proportionate share (based on the number of tons of fresh prunes agreed to be delivered by Drying Patron) of the total costs and expenses described in Section 11.03 of these Bylaws for the said year, but excluding therefrom direct labor, fuel, power and other direct expenses actually expended by Sunsweet for the said year in the drying of fruit delivered by Drying Patrons of Sunsweet, as determined by Sunsweet, less the amount of such direct expenses otherwise deducted by Sunsweet with respect to such Drying Patron in accordance with Section 11.03 of these Bylaws. The determination by Sunsweet as to the said proportionate share of the Drying Patron shall be conclusive. If the amount of the said proportionate share of the member is not paid in full by the deduction provided herein, the Drying Patron agrees to pay the said amount of

Drying Patron's proportionate share, or any balance thereof, on demand to Sunsweet.

Section 11.06 – Term of Drying Agreement

The term of each Drying Patron's drying agreement with Sunsweet shall coincide with Drying Patron's membership in Sunsweet. The Drying Patron may terminate the Drying Agreement only by submission of written notice of termination of membership as provided in Section 2.09(a) of these Bylaws. Sunsweet may terminate the Drying Agreement by termination of the Drying Patron's membership in the manner and for any reasons specified in Section 2.09 of these Bylaws. Upon termination of membership, Drying Patron shall not be relieved of any unfulfilled obligations incurred prior to such termination.

Section 11.07 – Drying Services

Drying services shall be allocated and scheduled among members by Sunsweet, taking into account pre-merger priority and general drying rights, dryer location, transportation costs, dryer capacities, and various other considerations. Sunsweet may make and, from time to time, change rules and regulations and procedures related to priority and basic drying rights of membership.

Section 11.08 – Increase, Decrease and Transfer of Drying Rights

Sunsweet may make and, from time to time, change rules and regulations permitting the transfer of drying rights between members of Sunsweet, permitting the increase of drying rights of a member by supplemental application to Sunsweet or by transfer from other members, and permitting the decrease of drying rights of a member by transfer to other members or by surrender of such rights to Sunsweet. Pursuant to such rules and regulations and with the written approval of Sunsweet, the obligation of a Drying Patron to deliver fruit to Sunsweet pursuant to Section 11.02 of these Bylaws may be increased or decreased by transfer of drying rights, by voluntary surrender of drying rights or by application for additional drying rights.”

(Amended May 4, 2007)