

CROP AGENCY AGREEMENT

THIS AGREEMENT is made between Blue Diamond Growers ("Blue Diamond") and the undersigned member of Blue Diamond ("Member").

1. **Term.** The term of this Agreement shall be for a period of five (5) years commencing on April 1, 2007. The term of this Agreement shall automatically renew for successive five (5) year periods unless either Member or Blue Diamond terminates the Agreement by written notice to the other party on or before December 31 of the final crop year of the original term or the applicable successive renewal term.
2. **Member's Acreage.** This Agreement shall be applicable to all of the following acreage ("Acreage") on which almonds are produced (including acreage identified on the Crop Agency Agreement Supplement): (a) acreage now or hereafter owned by Member; (b) acreage now or hereafter leased by Member; (c) acreage now or hereafter operated by Member; and (d) acreage on which Member now or hereafter controls the production of almonds. The Initial Acreage is more particularly described in Exhibit A attached hereto and made a part hereof.
3. **Member's Production and Delivery Obligation.** Member shall, annually during the term, harvest, hull and, at Member's election shell, and shall dry, clean and deliver to Blue Diamond at its nearest receiving station as soon as Member's almonds can be harvested and prepared for delivery, all almonds produced on the Acreage in accordance with (a) the Bylaws of Blue Diamond as such Bylaws may hereafter be amended or superseded from time to time; and (b) any and all rules now and hereafter adopted from time to time by the Board of Directors of Blue Diamond.
4. **Blue Diamond's Marketing Obligation.** Blue Diamond shall prepare for sale and market and sell Member's almonds as agent for Member.
5. **Blue Diamond Bylaws.** The Bylaws of Blue Diamond shall constitute a part of this Agreement and the rights and obligations of Member and Blue Diamond under this Agreement shall be subject to the provisions of the Bylaws of Blue Diamond as such Bylaws hereafter may be amended or superseded from time to time. The Bylaws posted online by Blue Diamond from time to time at <http://bluediamondgrowers.com/grower-forms/> are hereby expressly incorporated into this Agreement for this purpose.
6. **Return of Net Proceeds to Member.** Member understands and agrees that Blue Diamond shall return to Member the net proceeds from the sale of Member's almonds at such times as the Board of Directors of Blue Diamond shall determine.
7. **Tax Consent.** Member acknowledges that Member understands that the Blue Diamond Bylaws include section 7, Article III, entitled "Consent of Members Under Revenue Act of 1962." The significance of this section is that by becoming or remaining a member of Blue Diamond, Member agrees to include both patronage dividends and per-unit retains allocated to Member by Blue Diamond as "qualified written notices of allocation" or "qualified per-unit retain certificates" in Member's income at the stated dollar amount of such allocations in the taxable year of Member when Member is issued a written notice of such allocations by Blue Diamond, even though such allocations are not paid or redeemed in cash until a later date.
8. **Member Warranties.** Member warrants and represents that Member is not a party to any Agreement which is in any way inconsistent with Member's obligations under this Agreement and the Bylaws of Blue Diamond, including Member's obligation to harvest and deliver Member's almond crops to Blue Diamond during the term of this Agreement, and that Member has the legal right and authority to commit the almond crops grown on the Acreage described in Section 2 above for delivery to, and marketing by, Blue Diamond during the term of this Agreement, even though Member may not be the owner of the Acreage.
9. **Cessation of Right to Dispose of Almonds.** Member expressly acknowledges Member's understanding that under section 10(a)(4) of Article III of the Blue Diamond Bylaws, the cessation of Member's right to dispose of the almonds from all or a portion of Member's Acreage resulting from a bona fide sale, alienation or other termination of Member's interest in such Acreage on or before June 1 of any year shall terminate Member's obligations under this Agreement with respect to such Acreage effective upon Member's giving written notice thereof to Blue Diamond on or before June 30 of such year.
10. **Authority to Sign Agreement.** Any person signing this Agreement on behalf of Member and such Member each warrants

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and represents that such person is authorized to sign this Agreement on behalf of the Member and that this Agreement will be enforceable against the Member in accordance with its terms.

11. **Notices.** Any notice, request, consent demand or other communication permitted or required to be given may be provided as detailed below and will be deemed given (a) on the date of delivery (if delivered by messenger or other form of hand-delivery); (b) on the date of transmission (if delivered and confirmed by email or facsimile, provided copies of such email or facsimile are sent by first-class mail in accordance with the terms of this Section 11); (c) three (3) business days following mailing by recognized international overnight carrier; or (d) ten (10) business days after deposit in the mail, certified return receipt requested, with postage prepaid and duly addressed to Blue Diamond Growers at 4800 Sisk Road, Modesto, California 95356, Attn: Director, Member Relations, and to Grower at the addresses provided in the signature block to this Agreement. Either party may change its address by providing notice as provided herein.
12. **Miscellaneous.** This Agreement will be governed by and construed under the laws of the State of California without regard to California conflict of law provisions. Each party hereby consents to the jurisdiction of any state or federal court located within the County of Sacramento, State of California and irrevocably agrees that the exclusive venue for all actions or proceedings arising out of or relating to this Agreement shall be litigated in such courts. No waiver of any rights under this Agreement will be valid unless in writing and signed by the party to be charged with such waiver. No waiver of any term or condition contained in this Agreement will be deemed or construed as a further or continuing waiver of that term or condition, unless the waiver specifically provides otherwise. If any provision of this Agreement is for any reason unenforceable or void as set forth herein, such provision will be deemed modified and severed from the balance of this Agreement to the extent required to eliminate only such portions or applications as are either unenforceable or void, but otherwise will remain in full force and effect in all respects. This Agreement may be executed by the parties hereto in counterparts, each of which will be deemed to be an original. This Agreement will be binding on and inure to the benefit of the successors, heirs and permitted assigns of each party to this Agreement and/or the Acreage. This agreement constitutes the entire agreement of the parties with respect to the subject matter thereof and no statements, representations or understandings, whether oral or written, shall be of any force or effect unless set forth herein.

IN WITNESS WHEREOF, the parties have entered into this Agreement at Sacramento, California, effective as of the date indicated in Section 1 above.

BLUE DIAMOND GROWERS

By: [Signature]
 Title: CEO
 Date: 03/05/25

Member's Name: Davinder K. Dhami

Member's Address: 3146 Santa Inez Ct.
Union City CA
94587

Members Signature(s) Witnessed By: [Signature]
 Witnessed on 11/10/24
 At Yuba City, California

(Member's Signature) Davinder K. Dhami

- ☒ Individual(s)
☐ Partnership
☐ Limited Liability Company
☐ "S" Corporation
☐ "C" Corporation
☐ Irrevocable Trust
☐ Revocable Trust
☐ Other

[Check applicable box.]

(Member's Printed Name & Title)

Davinder K. Dhami

Date: 11/10/24

Membership
Certificate

36008

Certificate of Membership in
Blue Diamond Growers

Incorporated under the laws of the State of California, May 7, 1910

DAVINDER K DHAMI

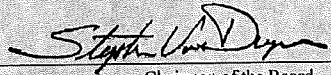
This is to Certify that _____

is a member of **Blue Diamond Growers**, a non-profit cooperative association organized under the laws of the state of California, and, as such, assents to the Bylaws of said Association, assumes the obligations and is entitled to the rights and privileges, pertaining to membership according to the provisions of said Bylaws.

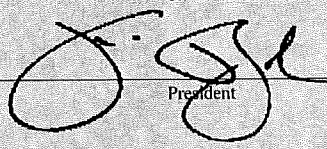
This certificate is not transferable.

Dated at Sacramento, California, this 9th day of, May, 20 25**Blue Diamond Growers**

By _____


Chairman of the Board

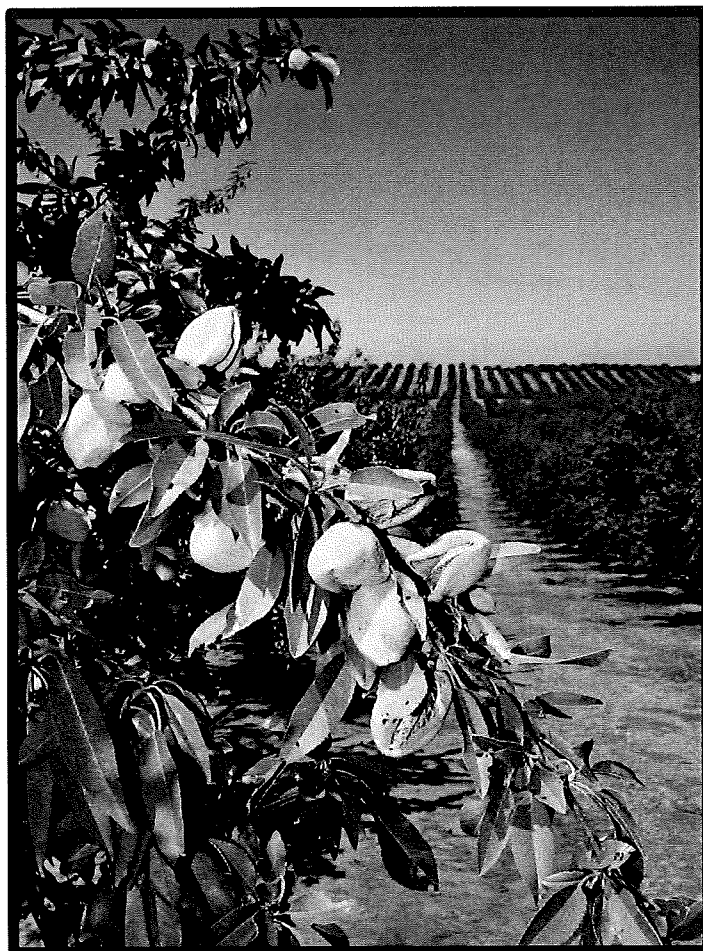
Attest: _____


President



Power in Partnership

ARTICLES OF INCORPORATION
AND
BYLAWS
OF
BLUE DIAMOND GROWERS



Power in Partnership

AMENDED AS OF JUNE 2, 2022

ARTICLES OF INCORPORATION
AND
BYLAWS
OF
BLUE DIAMOND GROWERS

FOREWORD

Created by a group of enterprising almond growers as the California Almond Growers Exchange, Blue Diamond Growers has led the California almond industry since its inception in 1910.

For more than one hundred years, Blue Diamond has led the industry as the world's largest tree nut marketer and processor. Blue Diamond also holds a preeminent role in developing new almond products and markets worldwide.

Blue Diamond provides growers with an unequalled level of security, flexibility, and top industry returns, while proactively working to attain fair market value for its growers.

Our heritage is based on returning the highest possible returns to our members/growers and providing our customers with the highest quality products. For over a century, Blue Diamond Growers has been committed to the growth and prosperity of the California almond industry.

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ARTICLES OF INCORPORATION OF OF BLUE DIAMOND GROWERS

ARTICLE I NAME

The name of this corporation is BLUE DIAMOND GROWERS (hereinafter called "Blue Diamond").

ARTICLE II NONPROFIT COOPERATIVE ASSOCIATION

Blue Diamond is organized and exists as a nonprofit cooperative association without shares of capital stock pursuant to the provisions of Chapter 1, Division 20 of the California Food and Agricultural Code as such provisions now exist or may hereafter be superseded or amended.

ARTICLE III PURPOSES AND POWERS

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business or the practice of a profession permitted to be incorporated by the California Corporations Code.

Notwithstanding the foregoing, the specific purposes for which Blue Diamond is formed are to engage in any activity in connection with acquiring, producing, processing, marketing, selling or other disposition of almonds and other agricultural products produced in whole or in part from such products, and any by-products thereof.

In carrying out such purposes, Blue Diamond shall have and may exercise and enjoy each and every power, privilege, right and immunity now or hereafter authorized or permitted to a corporation organized and existing pursuant to Chapter 1, Division 20 of the California Food and Agricultural Code such as provisions now exist or may hereafter be superseded or amended.

ARTICLE IV PRINCIPAL OFFICE

The principal office for the transaction of business of Blue Diamond is to be located in the County of Sacramento, State of California, or such other county within the State of California as shall be determined and fixed by the Board of Directors of Blue Diamond.

ARTICLE V PERPETUAL EXISTENCE

This corporation shall have perpetual existence.

ARTICLE VI BOARD OF DIRECTORS

The number of directors of Blue Diamond shall be not less than nine (9) and no more than eleven (11).

ARTICLE VII CAPITAL

To provide for its capital for its corporate purposes, Blue Diamond shall retain from crop proceeds that would otherwise be payable currently to the members and nonmembers who market almonds or other agricultural products through Blue Diamond on a patronage basis (hereinafter called "nonmember patrons"), or from other proceeds whether or not derived from member or nonmember patronage, a portion of such proceeds, in such amounts, and for such periods of time as the Board of Directors, in its discretion, shall from time to time determine in accordance with such provisions as may be provided in the Bylaws of Blue Diamond. The aggregate of the amounts so retained (and which have not subsequently been retired) shall be called "Allocated Equity." Pursuant to

appropriate provisions of the Bylaws, such Allocated Equity shall be allocated to the credit of the respective members and nonmember patrons from whom collected or retained, and each member and nonmember patron shall be entitled to a credit for such allocations for the amounts so collected or retained to be called "Equity Allocations." Equity Allocations shall be repayable from amounts of Allocated Equity not required for use of Blue Diamond, at the time or times, with the priorities, and upon the terms and conditions provided in the Bylaws of Blue Diamond. Equity Allocations shall be deemed to evidence capital contributions to Blue Diamond of the respective members and nonmember patrons to whom credited and allocated.

ARTICLE VIII VOTING POWER

The voting power of each member shall be equal and each member shall be entitled to exercise one (1) vote.

ARTICLE IX PROPERTY RIGHTS

The property rights and interests of each member 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 at any time shall be such proportion of the entire property rights and interests of all members as the volume of deliveries of almonds and other agricultural products of each such member during the preceding period as specified in the Bylaws bears to the total volume of deliveries of almonds and other agricultural products of all members during such preceding period as specified in the Bylaws determined as of such time. For the purpose of such determination, only those members who are in good standing as of the time of such determination shall have property and interests and the deliveries of only such members shall be included in making the determination of property rights and interests of all members.
- (b) Upon termination of membership of a 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 Equity Allocations at the same time or times when such amounts would have been paid if the membership had continued.
- (c) In the event of dissolution of Blue Diamond, any net

assets that may remain after payment and redemption in full in the following order of priority of all indebtedness of Blue Diamond and all Allocated Equity shall be distributed to those persons who are members of Blue Diamond in good standing at the time the members elected to dissolve in proportion to the property rights and interests of each such member in good standing at the time of such election.

- (d) In the event of any merger, reorganization or consolidation of Blue Diamond or to which Blue Diamond is a party, the property rights and interests of members of Blue Diamond in good standing shall be recognized and preserved in an equitable manner.
- (e) Nonmember patrons shall have no property rights and interests except as expressly provided in these Articles of Incorporation and the Bylaws of Blue Diamond.

ARTICLE X DIRECTOR LIABILITY

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

ARTICLE XI INDEMNIFICATION

Blue Diamond is authorized to provide by bylaw, agreement, and resolution or otherwise, for indemnification of any director, officer or other agent to the fullest extent permissible under California law.

The foregoing Articles of Incorporation, as amended and restated, were certified and filed with the California Secretary of State on November 30, 2006.

BYLAWS OF BLUE DIAMOND GROWERS

ARTICLE I ORGANIZATION

SECTION 1. NAME. The name of this corporation is BLUE DIAMOND GROWERS, referred to in these Bylaws as "Blue Diamond."

SECTION 2. AUTHORIZATION. Blue Diamond is organized pursuant to the provisions of Chapter 1, Division 20 of the Food and Agricultural Code of the State of California as an incorporated nonprofit cooperative association without capital stock.

SECTION 3. PRINCIPAL OFFICES. The principal office for the transaction of business of Blue Diamond is to be located in the County of Sacramento, State of California or such other county within the State of California as shall be determined and fixed by the Board of Directors. The principal executive office of Blue Diamond shall be at 1802 C Street, Sacramento, California, or such other location within the State of California as shall be determined and fixed by the Board of Directors.

ARTICLE II PURPOSE

The purposes for which Blue Diamond is formed are to engage in any activity in connection with the acquiring, producing, processing, marketing, selling or other disposition of almonds and other agricultural products, including any products produced in whole or in part from such products, and any by-products thereof.

In carrying out such purposes, Blue Diamond shall have and may exercise and enjoy each and every power, privilege, right and

immunity now or hereafter authorized or permitted to a corporation organized and existing pursuant to Chapter 1, Division 20 of the California Food and Agricultural Code as such provisions now exist or may hereafter be superseded or amended.

ARTICLE III MEMBERSHIP

SECTION 1. QUALIFICATIONS FOR MEMBERSHIP. Only persons, partnerships, corporations, limited liability companies, associations, trusts and other entities (including other agricultural cooperative associations) engaged in the growing of almonds and other agricultural products, including lessees and tenants of land used for growing such crops, and lessors receiving as rent all or part of such crops raised on any leased premises, shall be eligible for membership in Blue Diamond. Only persons, partnerships, corporations, limited liability companies, associations, trusts and other entities (including other agricultural cooperative associations) engaged in the growing of almonds or other agricultural products whose almonds or other agricultural products meet the grades and standards and who otherwise meet the qualifications for membership established by the Board shall be eligible to become, or qualified to remain, members.

SECTION 2. REPRESENTATIVE MEMBERSHIP. A member other than a natural person may be represented by such natural person as hereinafter set forth as a duly designated agent for such member under such written authorization as may be prescribed by, and filed with, Blue Diamond. 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 Blue Diamond, including the right to hold office as a director. Such representative person shall be an officer, director, partner, member, associate or manager of such member other than a natural person.

SECTION 3. JOINT OWNERS. Whenever the lands upon which almonds or other agricultural products are grown or the almonds or other agricultural products grown upon such lands 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 almonds or other agricultural products may be admitted to membership collectively, and a membership certificate may be issued in the name of all of them or in such name, fictitious or otherwise, as they may adopt or desire for the transaction of their business, or in their collective names. In such instances, those collectively admitted to membership shall be deemed to be a single member and to possess and enjoy the rights of one member. Such membership may be represented and the right of voting and assenting exercised by any one of such persons collectively admitted to membership duly authorized to do so in such writing as may be prescribed by, and filed with, Blue Diamond on behalf of such collective membership. In the absence of such written authorization so filed with Blue Diamond, such right of voting or assenting may be exercised by no more than one of such persons, and where more than one of such persons assert such right, the determination by Blue Diamond as to which of such persons shall be so entitled to vote or assent shall be conclusive. Any one, but no more than one, of such persons shall be eligible to serve as a director at any time.

SECTION 4. MEMBERSHIP FEE PROHIBITED. No membership fee shall be charged or collected as a condition of membership in Blue Diamond.

SECTION 5. MEMBERSHIP (CROP AGENCY) AGREEMENT; ENFORCEABILITY. Any person, partnership, corporation, limited liability company, association, trust or other entity eligible for membership as provided in these Bylaws shall become a member upon acceptance for membership by Blue Diamond and upon execution and delivery of a Crop Agency Agreement in such form as may from time to time be approved and adopted by the Board of Directors of Blue Diamond and as may

be the then so approved and adopted form at the date of execution thereof. Each member severally shall agree to be bound and abide by all the terms, covenants and conditions of such agreement, by all the terms and provisions of the Bylaws and Articles of Incorporation of Blue Diamond as they now exist and may be amended hereafter, and by all the rules and regulations of Blue Diamond as they now exist and may be amended hereafter. No action of the Board of Directors taken for such cause and in the interests of Blue Diamond, as the Board of Directors in its discretion shall determine, in rejecting or releasing any member's crop, or any portion thereof, agreed to be delivered to Blue Diamond pursuant to any such Crop Agency Agreement, in terminating or permitting the termination of any membership, in canceling or permitting the cancellation of any member's Crop Agency Agreement, in rejecting any applicant for membership, in waiving or releasing any lien on any land subject to a Crop Agency Agreement, in revoking or altering any of the aforesaid actions which may have previously been taken, in exercising or failing to exercise any rights of Blue Diamond under any Crop Agency Agreement, or in modifying the form of Crop Agency Agreement for use with new members shall operate to release or discharge in whole or in part in any manner whatsoever the obligations of any member under any other Crop Agency Agreement.

SECTION 6. MEMBERSHIP CERTIFICATE; NON-TRANSFERABILITY OF MEMBERSHIP AND MEMBERSHIP CERTIFICATE. Blue Diamond shall issue to each member, upon execution of such Crop Agency Agreement and such member's agreement to be bound and abide by the Bylaws, Articles of Incorporation, and rules and regulations of Blue Diamond as herein provided, a membership certificate in such form as the Board of Directors shall from time to time determine. No such membership certificate, nor any membership, shall be assigned, transferred, alienated or encumbered in any manner or by any means whatsoever, either voluntarily, by operation of law or otherwise. Any such purported or attempted assignment, transfer, alienation or encumbrance shall be wholly void and confer no rights upon the purported assignee, transferee or claimant.

SECTION 7. CONSENT OF MEMBERS UNDER REV-ENUE ACT OF 1962. Each person, partnership, corporation, limited liability company, association, trust or other entity who

hereafter applies for and is accepted to membership in Blue Diamond and each member of Blue Diamond on the effective date of this Bylaw who continues as a member after such date shall, by such act alone, consent that the amount of any distributions with respect to such member's patronage, which distributions are made in written notices of allocation other than written notices of allocation designated by the Board of Directors as nonqualified written notices of allocation and per-unit retain certificates other than per-unit retain certificates designated by the Board of Directors as non-qualified per-unit retain certificates (as such terms are defined in 26 U.S.C. 1388) and which are received by such member from Blue Diamond, will be taken into account by the member at their stated dollar amounts in the manner provided in 26 U.S.C. 1385(a) in the taxable year in which such written notices of allocation and per-unit retain certificates are received by the member.

SECTION 8. TERMINATION OF MEMBERSHIP. A membership shall terminate upon the happening of any of the following:

(a) In the event a member dies, upon final settlement of such deceased member's estate;

(b) The member ceases to be eligible for membership under Section 54231 of the Food and Agricultural Code of the State of California, ceases to be a member pursuant to any provision of the Articles of Incorporation or Bylaws of Blue Diamond, or ceases to be a "producer" within the meaning of the Capper Volstead Act;

(c) The Crop Agency Agreement between Blue Diamond and the member is terminated in accordance with the terms of the Crop Agency Agreement; or

(d) After due notice and an opportunity for hearing, the member is expelled for failure to comply with the Articles of Incorporation, Bylaws, the terms of the Crop Agency Agreement, the rules and regulations of Blue Diamond, or for any other cause which the Board of Directors in its discretion deems sufficient.

SECTION 9. MEMBERS' RIGHTS UPON TERMINATION OF MEMBERSHIP.

(a) General Property Rights and Interests Have No Value.

In the event of termination of membership prior to the dissolution or the merger, reorganization or consolidation of Blue Diamond or to which Blue Diamond is a party, irrespective of how terminated, Blue Diamond shall not become liable for the payment of any amount whatsoever as or for the value of any general property rights and interests in Blue Diamond of the member whose membership is terminated. Each member is received into membership upon the express agreement on the part of the member to that effect and upon the express conditions that the value of the property rights and interests of each member in the general property of Blue Diamond (prior to dissolution or such merger, reorganization or consolidation) is nothing, and in the event of termination of membership prior to dissolution or such merger, reorganization or consolidation, irrespective of how terminated, such member shall not be entitled to anything as or for the value of such property rights and interests.

(b) Rights to Crop Payments and Equity Allocations. Except as otherwise provided in the Crop Agency Agreement, in the event of termination of membership in Blue Diamond, Blue Diamond shall pay to the member whose membership is terminated, or his executors, administrators or permitted assigns, the amounts if any due such member as crop proceeds and Equity Allocations, but only on the same basis, at the same time, and in the same manner, as members whose memberships have not terminated.

SECTION 10. MARKETING (ALMONDS).

(a) Delivery of Almond Crops. Each member annually shall harvest, hull and, at member's election shell, and shall dry, clean and deliver to Blue Diamond at its nearest receiving station as soon as member's almonds can be harvested and prepared for delivery, all of member's almonds grown on acreage committed under a Crop Agency Agreement with Blue Diamond.

(b) Appointment of Blue Diamond as Agent.

(1) Exclusive Agency. Each member appoints Blue Di-

almond as sole and exclusive agent for member to process, market and sell member's almonds in the name of Blue Diamond.

(2) **Authority of Blue Diamond as Agent.** The authority granted to Blue Diamond hereunder includes the authority to:

(A) **Pooling.** Pool each member's almonds with those of other members for processing, marketing and sale; and

(B) **Use of Member's Almonds to Secure Debt.** Use the almonds of members as security for the borrowing of any funds for any corporate purpose of Blue Diamond.

(c) **Blue Diamond's Obligations.** Blue Diamond shall:

(1) **Prepare for Sale, Market and Sell.** Prepare for sale and market and sell member's almonds as agent for member.

(2) **Return Net Proceeds.** Return to each member the net proceeds of sale of member's almonds at the same rate per pound for like variety, grade, quantity and quality of almonds as is returned to other members.

(d) **Member's Breach; Blue Diamond Remedies.**

(1) **Liquidated Damages.** When a member fails to promptly deliver such member's almonds to Blue Diamond for sale and marketing as required, it would be impractical or extremely difficult to fix Blue Diamond's actual damages. Accordingly, in the event of such default by a member, the member shall pay to Blue Diamond as liquidated damages a sum equal to twenty-five percent (25%) of the total payments (whether in cash or otherwise) which Blue Diamond would have paid to the member for the almonds which the member has failed to deliver to Blue Diamond, which in no event shall be less than thirty cents (30¢) per meat pound.

(2) **Setoff Right; Security Interest.** Blue Diamond shall have the right to recover such liquidated damages by setoff against all crop proceeds and proceeds from redemption or retirement of all Equity Allocations of the member as the payment of such proceeds become due and as such Equity Allocations are re-

deemed or retired, and each member grants to Blue Diamond as security for the payment of such liquidated damages, a security interest in all such proceeds and proceeds from the redemption or retirement of such Equity Allocations.

(3) **Specific Performance.** In the event a member shall fail to deliver or threaten to fail to deliver the member's almonds to Blue Diamond as required, Blue Diamond shall be entitled to obtain injunctive relief or a decree of specific performance from a court of competent jurisdiction to prevent such breach or further breach.

(4) **Almonds Not Meeting Quality Standards.** In the event a member shall deliver to Blue Diamond almonds which are improperly harvested, hulled, dried or cleaned, or which are in a deteriorated condition or of inferior quality, or which are otherwise unfit to be pooled with the almonds of other members, Blue Diamond may:

(A) **Take Action to Make Almonds Saleable.** At the member's expense, do whatever is necessary to make such almonds acceptable for pooling, marketing and sale with the almonds of other members;

(B) **Decline Delivery.** Decline to accept the delivery of such almonds; or

(C) **Return or Dispose of Almonds.** If already delivered, return such almonds to the member or otherwise dispose of such almonds as the member shall direct at the member's expense.

(5) **Lien on Acreage.** Each member, upon becoming a member of, and by entering into a Crop Agency Agreement with, Blue Diamond, grants to Blue Diamond a lien, and a lien is thereby created, in the member's interest in the almond acreage described in such Crop Agency Agreement as security for the payment of all amounts and the performance of all obligations by the member under these Bylaws and such Crop Agency Agreement. Blue Diamond shall have the right to enforce such lien in any manner authorized by law for the enforcement of liens in real property.

(6) **Attorneys' Fees.** In any legal action or proceeding

brought by either Blue Diamond or any member for the enforcement of, or because of, an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of a Crop Agency Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which such party may be entitled.

(e) Termination of Delivery and Marketing Obligations.

(1) Right to Terminate at End of Term. Blue Diamond and a member each shall have the right to terminate the delivery and marketing obligations as of the end of any current term of a Crop Agency Agreement by giving the other written notice of such termination on or before December 31 of the calendar year immediately preceding the end of such current term.

(2) Member Right to Terminate Prior to End of Term. A member, during any term of a five (5)-year Crop Agency Agreement, may terminate the delivery and marketing obligations as of the April 1 commencement date of either the third (3rd) or fourth (4th) years of such Crop Agency Agreement, subject to the following conditions:

(A) Notice. The member shall give Blue Diamond written notice of such termination on or before December 31 of the calendar year immediately preceding such April 1 date.

(B) Waiver of Equity Allocations. The member shall execute a waiver of all rights to payment, redemption or retirement of all Equity Allocations of the member relating to such current five (5)-year term; provided that if any such Equity Allocations have been made subject to an assignment by the member, the member shall either pay Blue Diamond the amount of such Equity Allocations so assigned, or, in the alternative, the member shall provide Blue Diamond evidence satisfactory to Blue Diamond that such Equity Allocations have been reassigned to the member.

(3) Payment of Blue Diamond Claims. No termination by a member of the member's delivery and marketing obligations shall be effective unless the member first shall pay to Blue Diamond the full amount of all just claims and demands

which the Blue Diamond shall have against the member.

(4) Cessation of Member's Right to Dispose of Almonds. The cessation of a member's right to dispose of the almonds from all or a portion of the member's acreage subject to the provisions of a Crop Agency Agreement resulting from a bona fide sale, alienation or other termination of the member's interest in all or a part of such acreage on or before June 1 of any year shall terminate the member's obligations under this agreement with respect to all or a part of such acreage, as the case may be, effective upon the member's giving Blue Diamond written notice thereof on or before June 30 of such year.

(f) Termination of Membership. Any termination of the delivery and marketing obligations shall constitute a termination of the member's membership in Blue Diamond.

(g) Notice. Any notice of termination of the delivery and marketing obligations shall be in writing and distributed by first class mail, registered or certified, return receipt requested, and shall be deemed given on the date of receipt.

SECTION 11. MARKETING (OTHER AGRICULTURAL PRODUCTS). The Board of Directors shall have power and authority to adopt a form of Crop Agency Agreement and amendments to these Bylaws applicable to members of Blue Diamond marketing agricultural products other than almonds through Blue Diamond.

SECTION 12. NONMEMBER BUSINESS. Blue Diamond may accept for marketing and sale and sell almonds and other agricultural products under such agreements with nonmembers as the Board of Directors in its discretion shall authorize or approve. In no event, however, shall Blue Diamond market and sell nonmember almonds and other agricultural products in an amount greater in value than the value of almonds and other agricultural products of Blue Diamond members.

ARTICLE IV

MEMBERSHIP MEETINGS AND VOTING

SECTION 1. ANNUAL MEETING. The annual meeting of the members of Blue Diamond shall be held on the second

Friday in November of each year, or within thirty (30) days prior thereto or ninety (90) days thereafter, at the principal executive office of Blue Diamond, or at such other place as may be fixed by the Board of Directors. Notwithstanding the above, the Board of Directors may elect to hold the annual meeting via an electronic or virtual forum in circumstances where holding an in person meeting is prohibited by law, regulation or order, discouraged by state or local government officials or otherwise poses a threat to the health or well-being of Blue Diamond members or the general public.

SECTION 2. SPECIAL MEETINGS. Special meetings of the members, for any purpose whatsoever, may be held only upon call by the Chairman of the Board of Directors or any seven (7) members of the Board of Directors. Each call for a special meeting shall specify the time, place and purpose of the meeting. Only such business as is specified in the notice of a special meeting shall be transacted at such meeting.

SECTION 3. NOTICE OF MEETINGS. Written notice of all meetings of members, whether annual or special, shall specify the place or medium (including virtual or other electronic means), day and hour of the meeting and the nature of the business to be transacted at the meeting. Such notice shall be distributed to all members at least ten (10) days prior to the meeting addressed to each member at the address of each such member appearing on the membership records of Blue Diamond. Such notice shall be given only to those who appear from the records of Blue Diamond as members at 5:00 P.M. on the day immediately preceding the day of mailing which shall be the record date and the time for the determination of members entitled to notice of the meeting.

SECTION 4. QUORUM. The presence in person (including a virtual presence) or by proxy of one-sixth (1/6) or more of the members of Blue Diamond at any annual or special meeting of members shall constitute a quorum for the transaction of all business at such meeting, unless otherwise required by law.

SECTION 5. VOTING POWER. The voting power of each member shall be equal and each member shall be entitled to exercise one (1) vote.

SECTION 6. PROXY VOTING. Every member entitled to vote or execute a consent shall have the right to do so either in person (including a virtual presence) or by such agent as permitted herein authorized by written proxy, executed by the member or the duly designated representative of a member other than a natural person, and filed with the Corporate Secretary of Blue Diamond. A proxy may be voted only by a member of Blue Diamond, or a duly designated representative of a member other than a natural person.

SECTION 7. CUMULATIVE VOTING PROHIBITED. Cumulative voting of members is expressly prohibited.

SECTION 8. VOTING .

(a) Upon order of the Board of Directors, a vote of the members upon any question may be taken by mail, telephonically or electronically (including a virtual medium) with the same effect as if taken at a meeting duly called and convened. The right of the members to vote by mail, telephonically or electronically via the internet for the election of directors is hereby expressly confirmed.

(b) Any question to be submitted to the members for vote shall be reduced to concise written form by the Corporate Secretary of Blue Diamond and distributed to each member otherwise in accordance with the provisions in these Bylaws relating to giving notice of meetings of members. Such questions shall be in ballot form to enable the member to express such member's vote. Members may indicate their vote via paper ballot, telephonically or electronically via the internet in accordance with the directions in the notice of the election. The Corporate Secretary of Blue Diamond shall state in a notice of election, accompanying the ballot, the date on which all ballots shall be returned to the address indicated in the notice or otherwise completed telephonically or electronically via the internet, which date shall not be less than thirty (30) days from the date of the distribution of ballots to the members. Only those ballots postmarked via USPS or otherwise completed electronically or via the internet on or before the date so specified shall be counted. The Corporate Secretary of Blue Diamond, at the direction of the Board of Directors, shall thereafter open, cause the ballots to be counted and recorded and will

announce the results by a general mailing thereof to all members at the physical and/or email addresses of the members appearing on the membership records of Blue Diamond or by announcement at the annual meeting of members as otherwise provided in these Bylaws. Announcement of such results in any publication of Blue Diamond distributed to each member as provided above shall constitute such announcement by a general mailing.

SECTION 9. CONDUCT OF MEETINGS. All meetings of members, the Board of Directors, any Committee of the Board of Directors and the Growers Liaison Committee will be conducted in accordance with the provisions of the latest edition of Roberts Rules of Order published at the time of a particular meeting except as expressly provided otherwise by law, by action of the Board of Directors or by these Bylaws.

ARTICLE V

NONPROFIT COOPERATIVE OPERATIONS

SECTION 1. OPERATION AT COST. In rendering service to members including the marketing of almonds and other agricultural products, or otherwise making facilities or services available to members, Blue Diamond shall at all times be operated on a nonprofit cooperative basis for the benefit of its members as producers. Blue Diamond 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 such services to members. The obligation of Blue Diamond to all members as provided herein shall be to pay members on a patronage basis all amounts in excess of specific operating expenses of Blue Diamond in handling almonds and other agricultural products and in furnishing services to members and the general operating costs and expenses of Blue Diamond including, among others, depreciation, bad debt and other reserves, losses (unless the Board of Directors shall otherwise determine as provided in these Bylaws), salaries, wages, insurance, taxes, and interest on debts owed by Blue Diamond. All such expenses shall be determined in accordance with generally accepted accounting principles irrespective of the determination of the amounts of such expenses as permitted for purposes of federal income tax deductions under the Internal Revenue Code of 1986.

Notwithstanding the foregoing, (a) the obligation of Blue Di-

amond to account for and pay to members all amounts in excess of operating expenses on a patronage basis is such that amounts withheld or collected as Allocated Equity (as hereinafter provided) shall be contributions of capital to Blue Diamond and any amounts allocated to such Allocated Equity out of amounts which would otherwise be payable to members in cash shall have the same status as though such allocations had been paid in cash pursuant to a legal obligation to do so and the members had furnished corresponding amounts of capital to Blue Diamond; and (b) Blue Diamond shall retain from amounts received on account of the rendition of services to members a reasonable reserve, without allocation thereof to members, such amounts as are set forth in Article VI, Section 8, of these Bylaws.

The foregoing provisions shall be applicable in the same manner to nonmembers who market almonds or other agricultural products through Blue Diamond on a patronage basis (hereinafter called "nonmember patrons").

SECTION 2. POOLING; CROP PAYMENT RATES; TIME OF SETTLEMENT. Blue Diamond may commingle and pool almonds and other agricultural products in one or more pools or separate classifications within any pool in such manner as the Board of Directors, in its discretion, determines reasonable, and fair and equitable to the respective members and nonmember patrons in interest. In establishing such pools and classifications, the Board of Directors may take into consideration, among other factors, variety, size, grade, quality, quantity delivered and utilization of almonds and other agricultural products. The Board of Directors of Blue Diamond shall, in its discretion, and in such manner as it determines reasonable, and fair and equitable to the members and nonmember patrons in interest, determine the crop payment rates for such pools and classifications, and in its further discretion, shall determine when the net proceeds from marketed almonds and other agricultural products shall be paid.

ARTICLE VI

MEMBERS' EQUITY

SECTION 1. ALLOCATED EQUITY. To provide capital for its corporate purposes, Blue Diamond shall retain from crop proceeds that would otherwise be payable currently to the mem-

bers and nonmembers who market almonds or other agricultural products through Blue Diamond on a patronage basis (hereinafter called "nonmember patrons"), or from other proceeds whether or not derived from member or nonmember patronage, a portion of such proceeds, in such amounts, and for such periods of time as the Board of Directors, in its discretion, shall from time to time determine. Such amounts so determined by the Board of Directors may be retained in one or more classifications of reserves from time to time designated by the Board of Directors. The aggregate of the amounts so retained (and which have not subsequently been retired) is referred to and defined herein as "Allocated Equity." Without limiting the foregoing, Allocated Equity shall also refer to and include all amounts heretofore retained by Blue Diamond in reserves designated as Revolving Reserves and Reserve Fund for Inventory Contingencies. The members and nonmember patrons shall be credited on the books of Blue Diamond with the amounts so retained or collected from them respectively. Such credits or allocations are referred to and defined herein as "Equity Allocations." The Board of Directors may designate classifications of reserves on any reasonable basis, including on the basis of whether or not nonqualified written notices of allocation or nonqualified per-unit retain certificates (as such terms are defined in 26 U.S.C. 1388) are issued with respect to such reserves, whether or not the reserves are retained from members or nonmember patrons, and whether or not the reserves are retained from the proceeds of marketing of almonds or other agricultural products.

SECTION 2. ALLOCATIONS REPRESENT BLUE DIAMOND CAPITAL. Equity Allocations shall be deemed to evidence capital contributions to Blue Diamond of the respective members and nonmember patrons to whom credited and allocated to be paid solely and exclusively upon the conditions and at the time or times herein provided. No interest or dividends shall be payable on or in respect of Equity Allocations.

SECTION 3. WRITTEN NOTIFICATION OF EQUITY ALLOCATIONS. On or before the 15th day of the 9th month following the close of each fiscal year, there shall be distributed or delivered to each member and nonmember patron written notification of the amount retained or collected from and allocated to such member and nonmember patron as Equity Allocations for such fiscal year, such written notification to be in such form and

containing such other information as the Board of Directors shall prescribe; provided, however, the Board of Directors shall designate as to each such written notification whether or not it shall constitute a nonqualified written notice of allocation or nonqualified per-unit retain certificate (as such terms are defined in 26 U.S.C. 1388).

SECTION 4. RETIREMENT OF EQUITY ALLOCATIONS.

(a) From time to time the Board of Directors shall by resolution determine the amount of Allocated Equity which is not then needed and will not be needed for use of Blue Diamond and which is available for retirement of Equity Allocations. The amount so determined shall then be used for retirement of Equity Allocations of any one or more designated classifications of reserves to the extent such amount so determined is sufficient, provided that payments made in retirement of Equity Allocations of any particular classification of reserve shall be made in retirement of the oldest Equity Allocations of such classification of reserve. In determining the oldest such Equity Allocations, all allocations of any such designated classification of reserve for the same fiscal year shall have the same priority. If the amount so determined shall be insufficient for the payment of all such Equity Allocations of the same priority, the same proportionate part of such Equity Allocations of such priority shall be paid.

(b) Members and nonmember patrons holding Equity Allocations for any particular classification or classifications of reserve, irrespective of when retained or collected, may be offered, at the discretion of the Board of Directors, an election to have such Equity Allocations retired by Blue Diamond prior to the date such Equity Allocations would otherwise be retired as hereinabove provided. Any such retirement of Equity Allocations shall be at a discount from the stated dollar amount of such Equity Allocations. The determination of whether such election shall be offered to members or nonmember patrons or both, the amount of such discount, the total amount of Blue Diamond funds to be committed for any particular such retirement of Equity Allocations, and all other terms and conditions of such retirement of Equity Allocations shall be in the discretion of, and pursuant to resolutions duly adopted by the Board of Directors.

SECTION 5. ASSIGNMENT OF EQUITY ALLOCATIONS.

(a) **No Assignment While Indebted to Blue Diamond.** No assignment or transfer of any Equity Allocation, whether voluntary and involuntary, by act of law or otherwise, can be made, nor will any purported assignment or transfer be of any legal effect against Blue Diamond or affect its right of set-off under these Bylaws and the Crop Agency Agreement while the party whose interest is to be assigned or transferred is indebted to Blue Diamond in any manner or for any reason, whether such indebtedness be liquidated or unliquidated, due or not due; and Blue Diamond shall have and is given a prior lien upon and against Equity Allocations of any member, nonmember patron or other person to secure any indebtedness or liability to Blue Diamond of such member, nonmember patron or other person with the right to set off the same against any amounts becoming payable in respect of said allocations. Blue Diamond may at any time set off against any of the Equity Allocations of such member, nonmember patron or other person an equal amount of indebtedness of such member, nonmember patron or other person to Blue Diamond, for which Blue Diamond is given a lien, as provided herein, whether such indebtedness is due or not due, and such amount of indebtedness shall be deemed cancelled and satisfied to the extent of such Equity Allocations.

(b) **Restricted Assignment While Not Indebted to Blue Diamond.** Where a member, nonmember patron or other person whose interest in an Equity Allocation is to be assigned or transferred is not indebted to Blue Diamond as hereinabove set forth, such interest in an Equity Allocation may be assigned or transferred, but only (1) by bequest or intestate succession at death of such member, nonmember patron or other person, (2) between joint owners or holders of the lands upon which almonds or other agricultural products are grown or of the almonds or other agricultural products grown upon such lands which are subject to a Crop Agency Agreement or corresponding nonmember patron agreement for which such Equity Allocation has been made, (3) by a member or nonmember patron to a transferee of such member's or nonmember patron's lands which are subject to a Crop Agency Agreement or corresponding nonmember patron agreement for which such Equity Allocation has been made when such transferee

is, or immediately thereafter becomes, a member or nonmember patron, as the case may be, of Blue Diamond, or (4) by a member or nonmember patron as security for indebtedness incurred by the member or nonmember patron; provided such indebtedness shall at all times be junior and subordinate to and subject to Blue Diamond's right of set-off and prior lien as provided in subsection (a) of this Section 5. above. No such permitted assignment or transfer of an Equity Allocation shall be of any effect as against Blue Diamond or entitle the legatee, heir, transferee or creditor to be paid or receive any amounts from Blue Diamond in respect of such Equity Allocation until evidence satisfactory to Blue Diamond has been submitted of such assignment or transfer so permitted herein.

SECTION 6. RELIANCE UPON BLUE DIAMOND RECORDS. In making payment of amounts represented by any Equity Allocation, Blue Diamond may rely absolutely upon its own records, and shall not be liable to any person other than the person appearing from the records of Blue Diamond entitled to such payment.

SECTION 7. NO SEGREGATION OF FUNDS. The amounts retained as Allocated Equity may be commingled with and used for corporate purposes, as other amounts belonging or coming to Blue Diamond, and nothing herein contained shall be deemed to require any physical segregation of the Allocated Equity, or any portion thereof, nor shall the Allocated Equity be deemed a trust fund held for the owners of the Equity Allocations.

SECTION 8. UNALLOCATED EQUITY (RETAINED EARNINGS). Blue Diamond shall retain or collect (a) from crop proceeds otherwise payable to members and nonmember patrons from patronage occurring on or after September 1, 2006, an amount equal to one percent (1%) of the amount which Blue Diamond is otherwise obligated to account for and pay to members and nonmember patrons on a patronage basis under Section 1, Article V of these Bylaws, and a comparable amount in the case of deliveries of other agricultural products by its member and nonmember patrons, (b) all net gain determined annually on the disposition of capital assets (other than tangible personal property) and (c) any income realized from sources other than from the retention of crop proceeds or other patronage sources, for use by Blue Diamond in accomplishing its corporate purposes, without

allocation thereof to members and nonmember patrons, subject to the limitations of the laws of the State of California and of the United States, and after payment of any applicable state or federal corporate income or franchise taxes thereon.

SECTION 9. RIGHTS OF CREDITORS.

(a) The rights of owners of Equity Allocations shall at all times be subject to the rights and claims of the creditors of Blue Diamond and junior and subordinate to the payment of all debts, liabilities, and obligations of Blue Diamond. All property and assets of Blue Diamond represented by Allocated Equity shall be subject to such rights and claims of the creditors of Blue Diamond and the payment of all debts, liabilities, and obligations of Blue Diamond and may be hypothecated, mortgaged, pledged or otherwise alienated as security therefor, all in the same manner as Unallocated Equity of Blue Diamond.

(b) Notwithstanding the provisions of the Articles of Incorporation, or of any Crop Agency Agreement or corresponding nonmember patron agreement to which Blue Diamond is a party, or of any other provisions in these Bylaws, Blue Diamond shall not make any distributions of crop proceeds or other payments to members or nonmember patrons arising from the marketing of almonds or other agricultural products delivered by such members and nonmember patrons, or make any advances upon such distributions, if such distribution or advance would cause Blue Diamond to fail to make timely payments of any monies due under the terms of any loan agreement with any bank or under the terms of any negotiable promissory note issued by Blue Diamond.

SECTION 10. DISSOLUTION, MERGER, REORGANIZATION AND CONSOLIDATION. In the event of dissolution, all Equity Allocations shall be deemed due, but shall not be paid in any part until all debts, liabilities and obligations of Blue Diamond have been paid, or payment thereof provided for adequately. Thereafter, Equity Allocations shall be paid (to the extent of available assets) without regard to time retained, classification or the priorities applicable in the case of retirement of Equity Allocations.

Any net assets remaining after the payment in full of all in-

debtedness of Blue Diamond and all Equity Allocations shall be distributed to those members of Blue Diamond in good standing at the time the members elected to dissolve and who are otherwise entitled to receive distribution of such net assets in the proportion to the property rights and interests of such members. No member shall be entitled to receive distribution of any such net assets who shall not have been a member of Blue Diamond for at least twelve (12) months prior to the date of adoption of a plan of dissolution by resolutions of the Board of Directors of Blue Diamond.

In the event of any merger, reorganization or consolidation of Blue Diamond or to which Blue Diamond is a party, the property rights and interests of members of Blue Diamond in good standing shall be recognized and preserved in an equitable manner which corresponds in general to the property rights and interests of members recognized on dissolution of Blue Diamond.

The property rights and interests of each member at any time shall be such portion of the entire property rights and interests of all members as the volume of almond deliveries during the immediately preceding ten (10) complete crop years of each such member bears to the total volume of almond deliveries of all members during the immediately preceding ten (10) complete crop years. For the purpose of such determination, only those members who are in good standing as of the time of such determination shall be property rights and interests and the deliveries of only such members shall be included in making the determination of property rights and interests of all members. The volume of deliveries shall be determined on the basis of good meat (shelled) pounds of almonds. If a nonmember patron shall have become a member of Blue Diamond at least twelve (12) months prior to the date of adoption of a plan of dissolution by resolutions of the Board of Directors of Blue Diamond, only the volume of such nonmember patron's deliveries after becoming a member during the preceding ten (10) complete crop years shall be included in the computation of property rights and interests.

SECTION 11. LOSSES AND EXTRAORDINARY EXPENSES. In the event Blue Diamond, or any pooled or segregated activity of Blue Diamond, incurs a loss or extraordinary expense in any fiscal year, the Board of Directors shall have the authority and discretion to determine the method of disposition of

such loss or extraordinary expense for accounting and income tax purposes to the maximum extent permissible under state or federal law, whether income tax laws or otherwise, and such authority and discretion shall include, but shall not be limited to, use by Blue Diamond of any available net operating loss carrybacks and carryforwards to the maximum extent permissible under such laws. The meaning of the term "accounting purposes" as used herein shall include, but shall not be limited to, the manner in which any such loss or expense shall be charged to Allocated Equity or any classification thereof, or to Unallocated Equity, or among pooled or segregated activities of Blue Diamond.

ARTICLE VII

BOARD OF DIRECTORS

SECTION 1. NUMBER AND ELIGIBILITY.

(a) **Number.** The corporate powers, business affairs and property of Blue Diamond shall be exercised, conducted and controlled by a Board of Directors consisting of not less than nine (9) nor more than eleven (11) directors. Nine (9) directors shall be elected by the members from directorial districts as hereinafter provided ("District Directors"). The District Directors, by majority vote of the then acting District Directors, may appoint no more than two (2) additional directors ("Directors-at-Large").

(b) **Qualifications for District Directors.** Each almond producing member (including any joint owner of a joint owner membership) of Blue Diamond, including a duly designated representative of an almond producing member that is not a natural person, shall be qualified to serve as a District Director provided he or she meets each of the following qualifications, if applicable:

(1) The almonds produced on all almond-producing acreage which is owned, leased, operated or controlled by the member is committed to marketing through Blue Diamond under a Crop Agency Agreement.

(2) The member is in good standing.

(3) In the case of such duly designated representative, such person qualifies to act as such under the provisions of Section 2 of Article III of these Bylaws.

(4) In the case of a joint owner membership, such individual is a joint owner.

(5) Such member who is an individual (including a joint owner in the case of a joint owner membership) including a person acting as such duly designated representative of a member that is other than a natural person (A) is eligible to serve under any director code of conduct, conflict of interest and confidentiality policy as may be adopted and published by the Board of Directors; (B) is eligible to serve under any standards and advanced training requirements appropriate for the office of District Director as may be established and published by the Board of Directors; and (C) has not been a Blue Diamond employee within three (3) years immediately preceding the date of the annual meeting of the Blue Diamond members held in the same year as the election year of District Directors in which such individual is a candidate.

(c) **Disqualification and Removal of District Directors.** A District Director shall become disqualified and subject to removal from office as a District Director on the occurrence of any event or circumstances which would cause the District Director to be ineligible to serve as a District Director under subsection (b) of this Section 1 above upon such finding by resolution duly adopted by a majority vote of the total number of the then acting directors (both District Directors and Directors-at-Large) after reasonable notice and opportunity to be heard. A District Director also shall become disqualified and subject to removal from office as a District Director by similar resolution adopted by the same vote of the then acting directors for failure to attend more than one-half (1/2) the meetings of the Board of Directors (whether designated regular, special or organization meetings) within any consecutive twelve (12) month period or more than three (3) consecutive meetings of the Board of Directors. No director shall become disqualified to serve as a District Director for his or her remaining term from the directorial district from which such District Director is elected merely because of changes in circumstances which would make such District Director otherwise ineligible to serve as District Director from such district, provided such District Director is otherwise eligible to serve as a District Director as provided in these Bylaws.

(d) **Directors-at-Large.** A Director-at-Large shall be an

individual whose business acumen or expertise will contribute to the sound exercise, conduct and control by the Board of Directors of the corporate powers, business affairs and the property of Blue Diamond. Directors-at-Large shall have the same right to participate as a member of the Board of Directors as District Directors, including the right to vote, and shall have the same duties and responsibilities as District Directors, except that a Director-at-Large may not serve as Chairman or Vice Chairman. A Director-at-Large shall serve a six-year term, which may be extended with Board approval for up to three additional one-year terms. Directors-at-Large serve at the pleasure of the Board and may be removed at any time.

(e) **Eligibility Disputes.** Any dispute as to the qualification of a member to serve as a District Director, or a District Director's disqualification, shall be resolved by a majority vote of the Board of Directors.

SECTION 2. DISTRICT DIRECTORS

(a) **Districts.** The Board of Directors, prior to July 1 of each year, shall define the directorial districts into which the territory in which Blue Diamond has members is to be divided, for purposes of the election of District Director next thereafter to be held. The Board of Directors shall define the directorial districts to provide fair and equitable representation of the almond producing members taking into consideration past almond tonnage, almond acreage (including non-bearing acreage), residence of such members and the interests of such members common to the locality in which they reside. Each such member shall receive a written statement of the directorial districts on or before August 1 of each year distributed at each such member's address appearing on the membership records of Blue Diamond. A statement of such directorial districts contained in any publication of Blue Diamond distributed to such member as provided shall constitute such written statement.

(b) **Membership In Districts.** Each almond producing member, for purposes of the election of District Directors, shall be included in the directorial district within which is located the producing acreage of almonds of such member subject to a Crop Agency Agreement. If such producing acreage is located in more

than one (1) directorial district, such member shall be included for purposes of such election in any one (1), but no more than one (1), of such directorial districts as such member shall designate by such written designation as may be prescribed by, and filed with, Blue Diamond.

(c) District Eligibility, Nominations, And Candidates' Statements.

(1) **District Eligibility.** Any member or a duly designated representative of a member (including a joint owner in the case of a joint owner membership) who is qualified to serve as Director pursuant to the requirements established in Article VII Section 1(b) of these Bylaws shall be eligible for election as a District Director from the directorial district in which such member is included for the purposes of election of District Directors under Section 2(b) of this Article VII above. No such person shall be a candidate for election as a District Director from more than one (1) such directorial district in any election nor shall any person serve as a District Director from more than one (1) directorial district at any time.

(2) **Nominations.** Nomination of District Directors shall be by petition signed by at least fifteen (15) almond producing members included in the nominee's directorial district and filed, together with the nominee's written acceptance thereof, with the Corporate Secretary of Blue Diamond on or before the close of business on August 1st of the year in which the election is to be held. Each incumbent District Director, by virtue of such District Director's incumbency and without other nomination, shall automatically stand nominated to succeed himself or herself unless such District Director no longer remains eligible to serve as District Director from such District Director's district, or such District Director shall have filed a written renunciation of candidacy with the Corporate Secretary of Blue Diamond on or before June 1 of such election year.

(3) **Candidate's Statement.** Each nominee, or his or her sponsors with his or her consent, shall have the right to file with the Corporate Secretary on or before August 1st of such election year, a statement of not more than 500 words in support of such nominee's candidacy. Such statement as submitted shall be

distributed with the ballot to all members included in such nominee's directorial district in the event a primary election is held in such district pursuant to the Bylaws, and with the ballot to all members in the event such nominee is a candidate in the general election as provided by these Bylaws. In no event shall a statement containing more than 500 words be so distributed in connection with any such election of District Directors.

(d) Primary Election.

(1) When Required. There shall be no more than two (2) candidates for election of a District Director from any directorial district in the general election. If no more than one (1) candidate is nominated from any directorial district, including any incumbent District Director automatically nominated as hereinabove provided, such candidate shall be the sole candidate for election of District Director from such district in the general election without primary election. If more than one (1) such candidate is so nominated from any directorial district, only two (2) of such candidates shall be presented for election as District Director from any such district at the general election, which two (2) candidates shall be determined at a primary election held by the members included in such district as herein provided.

(2) Procedure. On or before the third Friday of August of the year in which the election is to be held, the Corporate Secretary of Blue Diamond shall distribute to each member included in each directorial district in which a primary election is to be held, (A) a ballot containing the names of all nominees for District Director from such district, (B) copies of the statements, if any, filed by or on behalf of such nominees as provided in these Bylaws, and (C) a notice fixing the date on which all ballots shall be returned to the address indicated in the notice or otherwise completed telephonically or electronically. Each member shall be entitled to vote in the primary for the election of only one such nominee for District Director from the directorial district in which such member is included. Only those ballots received on or before the date so specified shall be counted. The Corporate Secretary of Blue Diamond, at the direction of the Board of Directors, shall thereafter cause each vote to be counted and recorded and announce the results of each such primary election by distributing a copy of the tabulation of the results thereof to the members included in each

such district prior to the general election. The two (2) nominees from each such district receiving respectively the highest and next highest number of votes shall be the candidates for election of District Director from such districts during the general election.

(e) General Election.

(1) Procedure. The Corporate Secretary of Blue Diamond, not less than twenty (20) days prior to the annual meeting date in the year of the election, shall distribute to each member (A) a ballot containing the names of the candidate or candidates from each of the directorial districts from which District Directors are to be elected, (B) copies of the statements, if any, filed by or on behalf of such candidates as provided in these Bylaws, (C) a tabulation of the results of any primary elections indicating by district the number of votes received by the candidates receiving the highest and next highest number of votes, or advising that only the one candidate named was nominated from the district, as the case may be, and (D) a notice fixing the date on which all ballots shall be returned to the address indicated on the notice or otherwise telephonically or electronically. Each member shall be entitled to vote for the election of only one candidate for District Director from each district from which District Directors are to be elected. Only those ballots received on or before the date so specified shall be counted. The Corporate Secretary of Blue Diamond, at the direction of the Board of Directors, shall thereafter cause the votes to be counted and recorded and announce the results of the election at the annual meeting of the members. The candidate from each such directorial district receiving the highest number of votes shall be elected District Director from such district.

(f) Use of Blue Diamond Facilities and Mailing List. The facilities of Blue Diamond and the mailing list of its members shall not be employed in connection with the elections of District Directors or the submission of any matters to the members for voting by mail, except as provided in these Bylaws, without the specific authorization of the Board of Directors.

(g) Rules For Conduct Of Election And Membership Voting. The Board of Directors shall prescribe appropriate rules and regulations not inconsistent with these Bylaws for the conduct of the elections of District Directors and the submission of any mat-

ters to the members for voting.

(h) **Vacancies.** Any vacancy in the office of District Director arising other than by expiration of term of office shall be filled, as the Board of Directors shall determine, either (1) by a majority vote of the remaining then acting directors (both District Directors and Directors-at-Large), though less than a quorum, or (2) by a special election by the members of Blue Diamond held in a manner to conform as nearly as practicable with the procedures and requirements otherwise provided for the nomination and election of directors in these Bylaws and any rules and regulations adopted by the Board of Directors for the nomination of directors and for the conduct of elections and voting by members. Each vacancy shall be filled only by a person eligible as provided in these Bylaws for election as a District Director from the directorial district in which such vacancy occurs. The person so selected shall serve the unexpired term of such person's predecessor.

(i) **Term of Office.** The term of office of District Directors shall be three (3) years. One-third (1/3) of the authorized number of District Directors shall be elected each year as otherwise provided in these Bylaws. The term of office of a District Director shall begin immediately upon conclusion of the annual meeting of members, and each District Director shall hold office thereafter until his or her successor is elected, or until he or she resigns, becomes disqualified to serve, or is removed from office, whichever occurs first.

SECTION 3. DIRECTORS-AT-LARGE. Directors-at-Large shall serve a six-year term, which may be extended with Board approval for up to three additional one-year terms. Directors-at-Large serve at the pleasure of the Board and may be removed from office, at any time, pursuant to these bylaws. The appointment (including appointment for successive terms) and removal of Directors-at-Large shall require a majority vote of the then acting District Directors.

ARTICLE VIII

BOARD OF DIRECTORS MEETINGS

SECTION 1. ORGANIZATION MEETING. Immediately following each annual meeting of members, the Board of Directors shall hold a regular meeting (to be known as the "Orga-

nization Meeting"), for the purpose of organization, the election of the Chairman and Vice Chairman of the Board of Directors, the appointment of Directors-at-Large, if any, and the transaction of any other business. Such Organization Meeting may be held without notice.

SECTION 2. OTHER REGULAR MEETINGS. Other regular meetings of the Board of Directors for any purpose or purposes shall be held without call at such time as shall from time to time be fixed by the Board of Directors. There shall be no less than five (5) such other regular meetings each year. Such regular meetings may be held without notice.

SECTION 3. SPECIAL MEETINGS. Special meetings of the Board of Directors for any purpose or purposes may be held from time to time upon call of the Chairman of the Board of Directors, or if he be absent or be unable or refuse to act, by the Vice Chairman of the Board of Directors, or by one-third (1/3) of the members of the Board of Directors.

SECTION 4. NOTICE OF MEETINGS. The Board of Directors may dispense with any and all notices of regular meetings thereof. Otherwise, the same notice of meetings shall be given as required for special meetings. Notice of the time and place of special meetings may be delivered by physical or electronic mail and/or the online portal. If the notice is by physical mail, it shall be deposited in the United States mail at least seven (7) days before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting nor the place if the meeting is to be held at the principal executive office of Blue Diamond.

SECTION 5. PLACE AND METHOD OF HOLDING MEETINGS. Regular meetings of the Board of Directors may be held at any place, including telephonic or electronic (including virtual meetings) as shall from time to time be designated by the Board of Directors. In the absence of such a designation, regular meetings shall be held at the principal executive office of Blue Diamond. Special meetings of the Board of Directors shall be held

at any place designated in the notice of the meeting, and in the absence of such designation, at the principal executive office of Blue Diamond. Any Board or Director meeting, regular or special, may be held by conference telephone, electronic video screen communication or similar communication equipment, provided all directors participating in the meeting can hear one another, and all such directors shall be deemed to be present in person at the meeting.

SECTION 6. QUORUM. A majority of the total number of acting directors (both District Directors and Directors-as-Large) shall constitute a quorum for the transaction of business, except to adjourn as otherwise provided in these Bylaws. Except as otherwise provided by law, 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 the act of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

SECTION 7. WAIVER OF NOTICE. The actions taken at any meeting of the Board of Directors, however called and noticed of wherever held, shall be valid as though taken at a meeting duly held after regular call and notice if a quorum is present and if, either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. All such waivers, consents and approvals shall be made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting the lack of notice to such director either prior thereto or at the commencement of the meeting.

SECTION 8. ADJOURNMENT; NOTICE OF ADJOURNMENT. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case notice of the time and place shall be given before the time of the adjourned meeting, in the manner specified for special meetings,

to the directors who were not present at the time of adjournment.

SECTION 9. ACTION WITHOUT MEETING. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Email, online portal and/or any other electronic means designated by the Chairman may be used to seek and document the unanimous written consent of any matter by the Board of Directors. Any action approved by unanimous written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consents shall be filed with the minutes of the proceedings of the Board of Directors.

ARTICLE IX POWERS, DUTIES AND COMPENSATION OF DIRECTORS

SECTION 1. POWERS. The Board of Directors, subject to any restrictions of law, the Articles of Incorporation, and these Bylaws, shall exercise all of the powers of Blue Diamond. Without limitation of these general powers, the Board of Directors shall have the power and authority to do the following:

(a) **Special Meetings.** To call special meetings of the members whenever the Board of Directors deems it necessary.

(b) **Membership Qualifications.** To prescribe and to pass upon the requirements and qualifications for membership; provided that such actions may be taken by any officers or directors authorized to do so by the Board of Directors.

(c) **Conduct of Business.** To conduct, manage and control all business and affairs of Blue Diamond and in that connection to take such action and to incur such expenditures as the Board of Directors in its discretion determines will best accomplish the corporate purposes of Blue Diamond.

(d) **Appoint Officers.** To appoint and remove at pleasure all officers of Blue Diamond, prescribe their duties, fix their compensation, and require such security for faithful service as the Board of Directors determines necessary or advisable.

(e) **Rules and Regulations.** To adopt, amend and repeal from time to time, and enforce all rules and regulations not inconsistent with law, or the Articles of Incorporation, or these Bylaws, which the Board of Directors in its discretion determines necessary or convenient for the conduct of the business and affairs of Blue Diamond and the direction and control of its officers, employees and members.

(f) **Grades and Standards.** To establish from time to time grades of almonds and other agricultural products as a basis for the marketing of such products by Blue Diamond, accepting or not accepting deliveries of such products by its members, and determining membership eligibility, and to do all things necessary for maintaining the standards of such grades.

(g) **Membership Contracts.** To adopt a form of contract to be entered into between Blue Diamond and its members for receiving, processing and marketing the almonds and other agricultural products of such members, and to adopt such revisions and amendments thereof, and modifications thereof, from time to time as the Board of Directors in its discretion determines will best accomplish the purposes of Blue Diamond.

(h) **Borrowing Money.** To borrow money, incur indebtedness, and guarantee performance or payment of obligations of others to accomplish the purposes of Blue Diamond; to cause to be executed and delivered promissory notes, bonds, bills, other negotiable instruments or evidences of indebtedness, mortgages and deeds of trust of Blue Diamond as evidence of such obligations, liabilities, or debts; to cause to be hypothecated, mortgaged, pledged or otherwise alienated as security for any such obligations, liabilities or debts any and all of the property, property rights and property interests of Blue Diamond, including any and all almonds and other agricultural products received for marketing or other disposition by Blue Diamond.

(i) **Purchase Property.** To purchase or otherwise acquire for Blue Diamond, and to dispose of, any property, rights, or privileges as may be necessary to accomplish the purposes of Blue Diamond on such terms as the Board of Directors in its discretion shall determine.

(j) **Delegation.** To designate by resolution from time to time such officers or agents as shall have authority, for and on behalf of Blue Diamond to execute all necessary instruments in writing of every kind and nature, to sign checks and drafts of Blue Diamond and to endorse checks and drafts payable to the order of Blue Diamond, and to perform any and all other acts of every kind and nature to be taken pursuant to the powers of the Board of Directors as provided herein that may be so delegated.

(k) **Seal; Membership Certificate.** To adopt, make and regulate the use of a corporate seal and to alter the form of such seal from time to time; provided that such seal shall set forth the name of Blue Diamond and the state and date of incorporation; to prescribe the form of membership certificate and to alter the form of such membership certificate from time to time.

(l) **Directorial Districts.** To define and redistrict from time to time as necessary the directorial districts of Blue Diamond in accordance with the provisions of law and these Bylaws.

(m) **Fiscal Year.** To fix, and from time to time change, the fiscal year of Blue Diamond.

(n) **Assent to Marketing Orders.** To assent to or vote for or against, on behalf of the members of Blue Diamond and all producers of almonds and other agricultural products marketed or to be marketed by Blue Diamond to the extent permitted by law, any marketing agreement, marketing order, marketing program, or amendments thereto, or rules, regulations or proposals thereunder pertaining to and regulating, directly or indirectly, the marketing of almonds and other agricultural products pursuant to any state or federal law or statute.

(o) **Advances to Members.** To make advances available to all members (whether directors, officers, or others), and to make such advances upon adequate security of such members, including the almonds or other agricultural products of such members to be marketed by Blue Diamond, or the proceeds thereof, pursuant to such supplemental agreements with such members and upon such other terms and conditions as the Board of Directors shall determine.

(p) **Deferred and Accelerated Payment.** To enter into supplemental agreements with any and all members to provide for the deferral and acceleration of payments due such members from such members' crops; provided that the opportunity to enter into such supplemental agreements is made available to all members.

(q) **Pooling; Crop Payment Rates; Time of Settlement.** To determine the pools and classifications within any pool for almonds and other agricultural products, to determine the crop payment rates for such pools and classifications, and to determine when the net proceeds from marketed crops shall be paid, as otherwise provided in these Bylaws.

(r) **Settlement of Disputes.** To pay, satisfy, compromise or settle any dispute, lawsuit, claim or demand of any nature involving Blue Diamond in any manner whatsoever in the discretion of the Board of Directors, including, but not limited to, such payment, satisfaction, compromise or settlement of one or more Equity Allocations in compromise or settlement in respect of such allocations or a dispute with the owner or owners thereof.

SECTION 2. DUTIES. It shall be the duty of the Board of Directors, in addition to all other duties imposed by law or these Bylaws:

(a) **Annual Report.** To cause the preparation of the annual report and financial statements of Blue Diamond in accordance with generally accepted accounting principles and the mailing thereof to the members; provided that such annual report and financial statements need not be sent to the members within the time otherwise specified in Section 54204 of the California Food and Agricultural Code and such provision of said Section 54204 is expressly dispensed with. No other reports as provided in said Section 54204 shall be furnished to the members.

(b) **Annual Audit.** To employ an independent certified public accountant to audit the financial statements of Blue Diamond annually and to render an opinion thereon.

(c) **Report to Members.** To present a report of the condition and affairs of Blue Diamond at the annual meeting of the members.

(d) **Minutes.** To cause to be maintained a complete record of all acts and proceedings of meetings of the Board of Directors and all proceedings of meetings of the members.

SECTION 3. GENERAL POWERS AND DUTIES. In addition to the powers and duties specifically imposed upon the Board of Directors by these Bylaws, the Board of Directors shall have the power and duty generally to do and perform every act or thing whatsoever, lawfully devolving upon a Board of Directors, unless these Bylaws specifically provide otherwise.

SECTION 4. COMPENSATION. Each director shall receive a per diem allowance in such amount as may be from time to time determined by the Board of Directors to be proper and in accordance with the generally prevailing per diem allowances of other similar corporations for attendance at each meeting of the Board of Directors, for special attendance for consultation requested by the President and Chief Executive Officer of Blue Diamond, for committee meeting attendance and/or for special attendance when authorized by resolution duly adopted by the Board of Directors to represent the Board of Directors or Blue Diamond as set forth in such resolution. Each director shall also be reimbursed for all actual transportation expenses reasonably incurred in connection with such attendance or, in lieu thereof, mileage reimbursement for use of automobile at the rate then in effect for reimbursement of Blue Diamond employees, plus any additional expenses incident to such attendance.

SECTION 5. COMMITTEES.

(a) **Standing Committees.** The Board of Directors shall maintain three standing committees of the Board: the Audit Committee, the Executive Compensation Committee and the Governance Committee. Committee membership shall be established by the Chairman of the Board of Directors. No committee or any person operating under the auspices of a committee will have the power to bind Blue Diamond to any legal agreement except as may be expressly authorized in their respective charters. Subject to any such expressly authorized powers, all committees shall serve to recommend actions for consideration by the Board of Directors as a whole. The Board of Directors shall approve a charter for each committee that will govern its operations. Subject

to any charter, the general purposes of each of the three designated standing committees are as follows:

(1) **Audit Committee.** The Audit Committee shall assist the Board in fulfilling its responsibility for oversight of the quality and integrity of the accounting, auditing, and reporting practices of Blue Diamond. The Audit Committee's role shall include a particular focus on the qualitative aspects of financial reporting to Blue Diamond's members, on Blue Diamond's processes to manage business and financial risk, and for compliance with significant applicable legal, ethical, and regulatory requirements. The Audit Committee shall be directly responsible for the appointment, compensation, and oversight of the independent auditor engaged to issue an audit report on the financial statements of Blue Diamond, and functionally responsible for the hiring of the Internal Audit Director and oversight of internal audit activities.

(2) **Governance Committee.** The Governance Committee shall oversee matters of corporate governance for the Board of Directors. The Committee shall, among other responsibilities, ensure the integrity of the Director nominating and election processes, assist the Board of Directors in its own performance assessment, monitor compliance with Blue Diamond's Code of Ethics, and recommend amendments to various corporate governance documents and adoption of new ones.

(3) **Executive Compensation Committee.** The Executive Compensation Committee shall be responsible to review and approve Blue Diamond's goals and objectives to be considered in determining the compensation of the Chief Executive Officer and evaluate his or her performance. The Committee shall review and make recommendations to the Board with respect to adoption and approval of, or amendments to, all incentive compensation plans and arrangements of Blue Diamond.

(b) **Other Committees.** The Chairman shall have the power to appoint such other special committees of the Board of Directors or of the members of Blue Diamond as the Board of Directors may from time to time determine.

ARTICLE X OFFICERS

SECTION 1. OFFICERS. The officers of Blue Diamond shall be a Chairman of the Board of Directors, Vice Chairman of the Board of Directors, President and Chief Executive Officer, Corporate Secretary and General Counsel, Chief Financial Officer and such other officers as the Board of Directors may from time to time determine. All such officers shall be elected or appointed by the Board of Directors, and each shall serve at the pleasure of the Board of Directors, subject to the rights, if any, of an officer under any contract of employment or in law or equity. The Chairman and Vice Chairman of the Board of Directors shall be elected annually from among the members of the Board of Directors elected by the members as District Directors and may not be a Director-at-Large. The remaining officers shall be elected from among persons other than members of the Board of Directors. Subject to the foregoing, any two (2) or more offices, except those of Chairman and Vice Chairman of the Board of Directors, and those of President and Chief Executive Officer and Corporate Secretary, may be held by the same person.

SECTION 2. CHAIRMAN AND VICE CHAIRMAN OF THE BOARD OF DIRECTORS. The Chairman of the Board of Directors, or in his or her absence or inability or refusal to act, the Vice Chairman of the Board of Directors, shall:

(a) Preside over all meetings, regular or special, of the members and of the Board of Directors.

(b) Call or provide for the calling of special meetings of the members and of the Board of Directors as provided in these By-laws.

(c) Have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

SECTION 3. PRESIDENT AND CHIEF EXECUTIVE OFFICER. The President and Chief Executive Officer of Blue Diamond, subject to the control of the Board of Directors, shall:

(a) Have general supervision, direction and control of the business affairs and other officers of Blue Diamond.

(b) Have the general powers and duties of management usually vested in the office of chief executive officer of a corporation.

(c) Have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

SECTION 4. CORPORATE SECRETARY, CHIEF FINANCIAL OFFICER AND OTHER OFFICERS. The Corporate Secretary, Chief Financial Officer and such other officers as may be determined by the Board of Directors shall have such powers and duties as may be prescribed from time to time by the Board of Directors or these Bylaws.

ARTICLE XI

GROWER LIAISON COMMITTEES

SECTION 1. PURPOSE. There shall be a Grower Liaison Committee consisting of twelve (12) members (referred to herein as the "Committee" as hereinafter provided for each directorial district. No more than three (3) Non-Member Growers as defined in Article XI Section 2 below may serve on the Committee as representatives of a directorial district at any one time. The primary responsibility of each such Committee shall be to provide communication between the members of each such directorial district and the directors and officers of Blue Diamond.

SECTION 2. ELIGIBILITY FOR COMMITTEE MEMBERSHIP. Committee members shall be a member of Blue Diamond, a person who is a party to an effective two year purchase and sale agreement ("Sale Agreement") with the Company pursuant to Article III Section 12 ("Non-Member Grower") or a duly designated representative of the member or Non-Member Grower that is not a natural person as provided in these Bylaws, and shall be eligible to serve only on the Committee for such directorial district in which such member is included for purposes of the election of District Directors, or in the case of a Non-Member Grower, for the directorial district in which the largest orchard by acreage subject to the Non-Grower Member's Sale Agreement is located.

SECTION 3. SELECTION OF COMMITTEE MEMBERS.

(a) Nine (9) Committee members for each directorial district shall be elected by grower members in that district. These elections shall be held concurrently with the annual election of Directors. Each member may exercise one (1) vote for each open position in a given election. Each member will vote in the directorial district determined in accordance with Article VII, Section 2(b) of these Bylaws. Cumulative voting is expressly prohibited. The three (3) candidates receiving respectively the highest, next highest and third highest number of votes for membership of each such Committee shall be so elected as such members, provided that in the event the number of Non-Member Growers that receive a number of votes sufficient to be elected to serve on the Committee on behalf of a directorial district together with existing Non-Member Grower Committee members from that directorial district exceeds three, the nominee(s) receiving the highest vote total will be elected to serve on the Committee until the maximum has been reached.

(b) Three (3) committee members for each directorial district shall be appointed by the Committee members from that district. In any given year, the eleven (11) Committee members from each directorial district (or fewer in the event of one or more vacancies) shall appoint by majority vote an additional Committee member from their directorial district.

(c) Nominations of Committee members for election may be by petition signed by at least five (5) members of Blue Diamond included within the nominee's directorial district and filed, together with the nominee's written acceptance thereof, with the Corporate Secretary of Blue Diamond on or before September 1 of the year in which the election is to be held. Incumbent members of each Committee shall have the duty of ensuring that there is at least one (1) candidate for each vacancy in the office of elected members of the Committee on which such incumbent members serve.

(d) Elections of Committee members shall otherwise be held in a manner to conform as nearly as practicable with the provisions of these Bylaws relating to the election of District Directors of Blue Diamond.

SECTION 4. TERM OF OFFICE. The term of office of Committee members, whether elected or appointed, shall be three (3) years. One-third (1/3) of the elected Committee members shall be elected each year as otherwise provided herein. The appointed Committee members shall similarly have staggered terms. A Committee member shall hold office until his or her successor is elected or appointed or until he or she resigns, becomes disqualified to serve, or is removed from office, whichever occurs first. A Committee member shall become disqualified to serve and the office of such member become vacant immediately upon the happening of any event which would otherwise disqualify such Committee member from serving as a District Director of Blue Diamond. No Committee member shall succeed himself or herself.

SECTION 5. MEETINGS. Each Committee shall hold regular meetings at least twice each year. Each Committee shall elect a chairman and vice chairman and give reasonable notice of all meetings to the respective members of each such Committee. Each Committee shall extend invitations to all meetings to the District Director for each such district, to any Blue Diamond member from each such district who serves as a member of the Almond Board of California, if any, and to the officers of Blue Diamond. The Committees may meet in executive session at any time, but meetings shall be called only upon such notice and invitation as herein provided.

SECTION 6. VACANCIES. In the event one or more vacancies on the Committee exist in any directorial district, or occur due to the resignation, disqualification, permanent incapacity or death of a Committee member, the remaining Committee members from that directorial district will appoint by majority vote a replacement Committee member to serve the remaining term of the vacant position. For purposes of this Article XI, the termination of the Sale Agreement of any Non-Grower Member for any reason shall disqualify that Non-Grower Member from participation on the Committee as of the date of termination. The Chairman of the Grower Liaison Committee, the District Director, and the Company field staff representative of a particular district will constitute a recruitment team (each, a "Recruitment Team") that will act to ensure the identification of at least one (1) eligible

candidate to fill each Committee vacancy from that District and to insure adequate candidates are identified for annual Committee member elections. The membership mailing list of the Company may be reviewed by any member of a Recruitment Team under the control and supervision of Company's district field staff representative for the limited purpose of identifying qualified candidates to serve on the Committee.

SECTION 7. EFFECT. Nothing in this Article XI shall confer or be deemed to confer any rights of membership in the Company to any Non-Member Grower except with respect to participation on the Committee in accordance with its terms.

ARTICLE XII AMENDMENTS

SECTION 1. AMENDMENT BY DIRECTORS. New Bylaws may be adopted or these Bylaws may be amended or repealed by the vote of a majority of the Board of Directors.

SECTION 2. AMENDMENT BY MEMBERS. New Bylaws may be adopted or these Bylaws may be amended or repealed in accordance with the procedure hereinafter set forth by the vote of a majority of the entire membership entitled to vote.

SECTION 3. MEMBERSHIP AMENDMENT PROCEDURE. Amendments to the Bylaws may be proposed by any member by filing with the Corporate Secretary of Blue Diamond, not later than August 1st immediately preceding the annual meeting date, the text of the proposed amendment together with the signatures of sixty (60) members sponsoring its adoption; provided, however, not more than twenty-nine (29) such sponsoring members shall be included in any single directorial district as such inclusion is determined for purposes of the election of District Directors. A written statement of not more than 500 words in support thereof shall be filed with the Corporate Secretary of Blue Diamond not later than August 10th immediately preceding the annual meeting date. The Board of Directors may, in its discretion, appoint a committee to consider each proposed amendment to report its findings in a written statement of not more than 500 words. The Corporate Secretary of Blue Diamond, not less than twenty (20) days prior to the annual meeting date, shall distribute to each member (1) a ballot containing a concise written statement of the

proposed amendment, (2) a copy of the statement as submitted in support of such amendment, (3) a copy of the report of the findings of any committee appointed by the Board of Directors, if any, as provided herein, and (4) a notice fixing the date on which all ballots must be returned to the address indicated on the notice or otherwise completed telephonically or electronically. Only those ballots received on or before the date so specified shall be counted. The Corporate Secretary of Blue Diamond, at the direction of the Board of Directors, shall thereafter cause the votes to be counted and recorded and announce the result of the balloting at the annual meeting of the members, at the conclusion of which, such amendment shall become effective if it shall have received the affirmative vote of a majority of the entire membership entitled to vote.

ARTICLE XIII

GENERAL PROVISIONS

SECTION 1. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS; DIRECTOR LIABILITY.

(a) **Indemnification.** Blue Diamond shall, to the fullest extent permitted under California law, indemnify each of its directors, officers and employees against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, whether judicial, administrative, legislative or otherwise, arising by reason that such person is or was a director, officer or employee of Blue Diamond, or is or was serving at the request of Blue Diamond as a director, officer or employee of another corporation, partnership, association, administrative board, or other enterprise. In the case of agents of Blue Diamond other than directors, officers and employees, Blue Diamond may, but need not, so indemnify such agents as provided in the case of directors, officers and employees, except where required to do so under California law, in which event Blue Diamond shall so indemnify such agents where so required. The foregoing right of indemnification shall not be exclusive of other rights to which such director, officer, employee or agent may be entitled as a matter of law.

(b) **Director Liability.** The liability of directors for monetary damages shall be eliminated to the fullest extent permissible under California law.

SECTION 2. 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, may, from time to time, be amended or repealed, and new or other provisions adopted, and each member becomes such member 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 nonprofit cooperative association.

SECTION 3. UNCLAIMED MONEY. A claim shall be deemed payable within the meaning of this section whenever Blue Diamond is ready, able and willing to pay such claims, and has paid or is paying generally claims arising under similar circumstances and payment is not made for the reason Blue Diamond does not know the whereabouts or mail address of the one to whom payable or the one entitled to payment. If any such claim be not actually paid within a period of one (1) year after the same became payable as hereinabove provided, Blue Diamond may charge off the same as a liability on its books, and the amount of the claim shall become the property of Blue Diamond; provided at least sixty (60) days prior thereto Blue Diamond shall have (a) sent, by first-class or certified mail, a written notice thereof, addressed to the person appearing from the records of Blue Diamond to be entitled to payment of such claim at the last known address of such person as shown by such records; and (b) published such notice in a newspaper of general circulation in the county in which such person resides as so shown by the records of Blue Diamond. If any such claim be charged off after giving such notice, the claim shall be deemed extinguished and no suit for its collection can be maintained thereon.

DIRECTORS WHO HAVE SERVED AND THOSE WHO ARE
NOW SERVING ON THE BOARD OF DIRECTORS OF BLUE
DIAMOND GROWERS

	Date Elected	Date Retired		Date Elected	Date Retired
G.E. Lawrence, San Joaquin Co.	May 6, 1910	May 29, 1914	Homer B. Vilas, Jr., Ceres	Nov 8, 1974	Nov 9, 1979
*Geo. W. Pierce, Davis	May 6, 1910	Apr 13, 1923	W.O. Freeman, Jr., Fresno	Nov 14, 1975	Nov 18, 1983
*B.F. Walton, Yuba City	May 6, 1910	Aug 26, 1913	*Wm. F. McFarlane, Clovis	Nov 14, 1975	Nov 12, 1992
J.L. Harkinson, Contra Costa Co.	May 6, 1910	Jan 13, 1911	Ward B. Rumble, Modesto	Nov 1, 1978	Nov 9, 1990
R. Lauppe, Sacramento	May 6, 1910	Apr 11, 1919	Elwood W. Swanson, Turlock	Nov 9, 1979	Nov 15, 1985
John Trembath, Antioch	Jan 13, 1911	May 10, 1917	Bert Van Ryn, Manteca	Nov 13, 1981	Dec 5, 1996
E.A. Boynton, Sutter Co.	Aug 26, 1913	Apr 10, 1914	*Clinton Shick, McFarland	Nov 18, 1983	Nov 16, 2016
E.S. Norton, Sutter Co.	Apr 10, 1914	Apr 11, 1924	Bob Morimoto, Livingston	Nov 9, 1984	Dec 8, 1994
A.S. Lasell, Lodi	May 29, 1914	Jan 8, 1917	Steven B. Vilas, Ceres	Nov 15, 1985	Nov 8, 1991
*C.D. Hamilton, Banning	Jan 19, 1917	Apr 24, 1936	*W. Howard Isom, Chico	Nov 15, 1988	Nov 15, 2006
G.E. Lawrence, San Joaquin Co. ...	May 10, 1917	May 21, 1919	Kenneth Roos, Ripon	Nov 15, 1988	Nov 21, 2003
V.C. Richards, Chico	Apr 11, 1919	Apr 13, 1923	Neil Van Duyn, Modesto	Nov 9, 1990	Nov 16, 2005
A.R. Stephen, San Joaquin Co.	May 24, 1919	Apr 13, 1923	Ronald A. Piazza, Denair	Nov 8, 1991	Nov 30, 2000
James Mills, Hamilton City	Apr 13, 1923	Apr 11, 1924	Gerald A Rominger, Arbuckle	Nov 12, 1992	Nov 30, 2001
C.C. Woodworth, Lodi	Apr 13, 1923	Apr 8, 1932	Aldo Sansoni, Los Banos	Nov 12, 1992	Nov 18, 2010
John Trembath, Antioch	Apr 13, 1923	Apr 12, 1929	David Zollinger, Turlock	Dec 8, 1994	June 4, 2004
Geo. W. Pierce, Davis	May 4, 1923	Apr 11, 1924	Dale Van Groningen, Ripon	Dec 5, 1996	
G.N. Talbot, Paso Robles	May 4, 1923	Apr 12, 1929	Charles Crivelli III, Turlock	Feb 9, 2001	Nov 17, 2021
Harry J. Wood, Modesto	May 4, 1923	Apr 9, 1929	Elaine Rominger, Arbuckle	Nov 30, 2001	Nov 16, 2016
D.S. Nelson, Arbuckle	May 4, 1923	Feb 2, 1933	Kevin Fondse, Ripon	Nov 21, 2003	Nov 17, 2021
R.M. DeWoody, Chico	Apr 11, 1924	Apr 13, 1928	Robert Weimer, Atwater	Nov 18, 2004	Nov 15, 2017
C.B. Phillips, Dixon	Apr 11, 1924	Apr 8, 1932	Stephen Van Duyn, Ripon	Nov 16, 2005	
*H.C. McMahon, Marysville	Apr 11, 1924	Aug 2, 1943	*Dan Cummings, Chico	Nov 15, 2006	
L. Langstroth, Merced	Apr 9, 1926	Apr 8, 1927	Don Yee, Director-at-Large	Nov 19, 2008	Nov 20, 2019
Harry J. Wood, Modesto	Apr 8, 1927	Nov 12, 1937	George Goshgarian, Fresno	Nov 18, 2010	Nov 20, 2019
E.A. Serviss, Chico-Durham	Apr 13, 1928	Aug 16, 1929	Joe Huston, Director-at-Large	Oct 29, 2015	
C.J. Wood, Danville	Apr 12, 1929	Apr 11, 1930	Kent Stenderup, Arvin	Nov 16, 2016	
M.B. Ayers, Paso Robles	Apr 12, 1929	Oct 13, 1938	John Monroe, Arbuckle	Nov 16, 2016	
C.A. Cooley, Chico-Durham	Sep 17, 1929	Apr 11, 1930	Dan Mendenhall, Winton	Nov 15, 2017	
N.C. Jesse, Chico	Apr 11, 1930	Nov 11, 1938	Matthew Efird, Fresno	Nov 20, 2019	
B.L. Norcross, Antioch	Apr 11, 1930	Apr 8, 1932	Kristin Daley, Director-at-Large ...	Jul 29, 2021	
*Chas. Dumars, Winters	Apr 8, 1932	Nov 14, 1947	George A. te Velde, Escalon	Nov 17, 2021	
John H. Willms, Lodi	Apr 8, 1932	Nov 13, 1936	Nick Blom, Modesto	Nov 17, 2021	
A.L. Scofield, Merced	Apr 8, 1932	Nov 11, 1937			
Geo. W. Sturm, Orland	Feb 3, 1933	Nov 10, 1950			
R.H. Coombs, Banning	May 16, 1936	Jul 26, 1940			
W.E. Shipman, Lodi	Nov 13, 1936	Nov 8, 1946			
M.J. Ruddy, Modesto	Nov 12, 1937	Nov 12, 1948			
*Ray Vaughn, Merced	Nov 12, 1937	Jun 14, 1950			
Frank C. Runitz, Paso Robles	Oct 21, 1938	Nov 8, 1957			
R.J. Crow, Chico	Nov 11, 1938	Nov 10, 1944			
Geo. R. Barker, Banning	Aug 15, 1940	Nov 12, 1948			
R.F. Havens, Yuba City	Aug 2, 1943	Apr 6, 1945			
*Delbert V. Birdseye, Chico	Nov 10, 1944	Nov 11, 1960			
B.L. Ballard, Live Oak	Apr 6, 1945	Jun 17, 1949			
*Stanley E. Nunn, Brentwood	Nov 8, 1946	Nov 10, 1961			
*Wm. C. McNeill, Winters	Nov 14, 1947	Nov 9, 1962			
*Hubert W. Scott, Modesto	Nov 12, 1948	Nov 8, 1974			
Joseph A. Godde, Lancaster	Nov 12, 1948	Nov 13, 1964			
Harold S. Edwards, Marysville	Jun 17, 1949	Nov 10, 1961			
Robert Reinhold, Delhi	Jun 14, 1950	Jul 7, 1961			
I.A. Griffin, Arbuckle	Nov 10, 1950	Nov 8, 1968			
Carl D. Clausen, LeGrand	Nov 8, 1957	Dec 29, 1962			
*Frederick S. Montgomery, Chico .	Nov 11, 1960	Nov 15, 1988			
Raymond B. Harcksen, Ballico	Jul 7, 1961	Nov 9, 1984			
Virgil C Swift, Yuba City	Nov 10, 1961	Dec 1, 1978			
Gene Stonebarger, Oakley	Nov 10, 1961	Nov 13, 1981			
Gene S. Davis, Woodland	Nov 9, 1962	Nov 14, 1969			
Richard Parker, LeGrand	Feb 1, 1963	Nov 14, 1975			
William J. Hixon, Reedley	Nov 13, 1964	Nov 14, 1975			
Douglas Mathews, Arbuckle	Nov 8, 1968	Nov 12, 1992			
Arthur J. Weststeyn, Ripon	Nov 14, 1969	Nov 15, 1988			

* Indicates members who served as President or Chairman of the Board of Directors. The title "President" was changed to "Chairman of the Board" on January 13, 1967.

