

OPERATING AGREEMENT
(revised 3-29-2014)

OF

ACE ETHANOL, LLC.

a Wisconsin limited liability company

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**OPERATING AGREEMENT
OF
ACE ETHANOL, LLC.
(revised 3-28-2009)**

THIS AGREEMENT originally made as of **June 20, 2001** by and between the undersigned, (collectively, the "Members", and individually, a "Member"), Ace Ethanol, LLC. (the "Company") and Michael V. Salm (the "Organizer"), solely for the purpose of making the acknowledgment at the end of this Agreement. Capitalized terms used in this Agreement without definition shall have the meanings assigned to them in Exhibit A, attached.

RECITALS

The Members have caused the formation of the Company by having the Organizer file with the Wisconsin Department of Financial Institutions Articles of Organization, a copy of which is attached to this Agreement and incorporated by this reference, as provided in the Wisconsin Limited Liability Company Law (the "WLLCL"); and

The parties wish to enter into this Agreement for the purposes of providing the rights, obligations, and restrictions contained in this Agreement and otherwise to govern the operations and management of the Company.

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement, the Members agree as follows:

**ARTICLE 1
General Provisions**

Section 1.1. Name. The name of the Company is **Ace Ethanol, LLC.**

Section 1.2. Registered Office and Agent.

(a) Initial Office and Agent. The principal place of business of the Company and the Company's registered office shall initially be 603 S. Washington, Thorp, Wisconsin, and the Company's registered agent shall be **Michael V. Salm.**

(b) Changes. The Board of Directors shall appoint a new registered agent and change the registered office, if appropriate, if: (i) the then current registered agent resigns or (ii) the board determines to make an appointment or change in the registered agent.

(c) Filing upon Change. Upon the appointment of a new registered agent or the change of the registered office, the Secretary shall file or cause the filing of the document required by section 183.0105 of the WLLCL as appropriate to the circumstances.

Section 1.3. Purpose. The purpose of the Company is to conduct any lawful business permitted under the WLLCL."

ARTICLE 2

Capital Contributions

Section 2.1. Initial Contribution and Membership Units. The Members shall contribute the amounts set forth on Exhibit B attached to this Agreement as their initial capital contributions, which shall entitle them to the Membership Units set forth on Exhibit B, attached to this Agreement. The Membership Units issued shall be divided into thirteen (13) classes, A through M, with each class consisting of an aggregate of at least One Million (\$1,000,000.00) Dollars of initial capital contributions. Membership Units may be subscribed for, and, upon approval of the Board, issued to any person agreeing to be bound by the terms and conditions of this Operating Agreement. The special or relative rights of each Class are set forth in Article 6. The Board of Directors may, in its sole discretion, issue certificates representing the Membership Units. Any such certificates shall be in a form and shall bear a legend in a form as shall be determined by the Board of Directors."

Section 2.2. Additional Capital Contributions. The Members shall not be required to make any additional capital contributions or loans to the Company. If, however, the Board of Directors decides by appropriate resolution to seek additional capital contributions, then each Member and each assignee of Financial Rights shall have the right to make such contribution in proportion to its Percentage Interest in the Company and shall have thirty (30) days to make such contribution, or such longer period as the Board of Directors may determine. If the Members do not elect to make all of the capital contributions requested by the Board of Directors, then the Treasurer may accept contributions from both members and non-members for the amount requested within a period of six months of the expiration of the time within which each Member was given the right to make the new contributions. The additional capital contributions of Members shall be given preference over the contributions of non-members, and the additional capital contributions of Members who wish to maintain their proportional Percentage Interest shall be given preference over all new contributions. The Membership Interests so issued shall hold no voting rights unless and until at least 80% of the Members consent to granting voting rights to such Membership Interests.

Section 2.3. Non-Cash Contributions. No non-cash contribution(s) may be accepted for one or more Membership Units without the approval of two-thirds of the directors.

Section 2.4. Return of Capital. No Member is entitled to withdraw or resign from the Company, to receive a return of any part of the Member's capital contribution, to receive any distribution, or to receive a repayment of any balance in the Member's Capital Account, as defined in Section 3.1, below, except as expressly provided in this Agreement. No Member has the right to demand that distributions be in kind. No Member will be paid interest on any capital contribution or on the Member's Capital Account.

ARTICLE 3

Capital Accounts

Section 3.1. Capital Accounts. There shall be established and maintained with respect to each Member a capital account ("Capital Account") in accordance with the following:

(a) Credits. Each Member's Capital Account shall be increased by (1) the Member's Capital Contributions, (2) the Member's allocable share of Profits pursuant to Article 5, below, and (3) the amount of any debt of the Company that is assumed by the Member or that is secured by any property distributed to the Member.

(b) Debits. Each Member's Capital Account shall be decreased by (1) the amount of cash and the Asset Value of any property distributed to the Member, (2) the Member's allocable share of Losses pursuant to Article 5, below, and (3) the amount of any debt of the Member that is assumed by the Company or secured by any property contributed by the Member to the Company.

(c) Transfers. In the event any Member assigns all or any part of the Member's Membership Units in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent the Capital Account relates to the transferred Membership Units.

Section 3.2. Interpretation. The provisions of Section 3.1, above, and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with section 1.704-1(b) of the Treasury Regulations, the terms and requirements of which are incorporated in this Agreement by reference, and shall be interpreted and applied in a manner consistent with those terms and requirements. If, in the reasonable opinion of the Company's accountants, the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Article should be modified to comply with section 704(b) of the Code and the Regulations thereunder, then notwithstanding anything to the contrary contained in the preceding provisions of this Article 3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

ARTICLE 4

Distributions

Section 4.1. Current Distributions.

(a) Current Tax Distributions. To the extent permitted by law and consistent with the Company's obligations to its creditors as determined by the Board of Directors, the Company shall make Tax Distributions on or before the Tax Distribution Dates. The aggregate amount of the Tax Distribution made with respect to any given Tax Distribution Date shall be the product of (i) the Company's estimated federal taxable income under the provisions of the Internal Revenue Code (the "Code"), for the Fiscal Period ending on the last day of the calendar month immediately preceding the Tax Distribution Date and commencing on the first day of the

calendar month that includes the immediately previous Tax Distribution Date, multiplied by (ii) the applicable Tax Rate. Notwithstanding the foregoing, to the extent the Company has had an estimated federal taxable Loss for any prior Fiscal Period in that Fiscal Year, the amount in clause (i), above, shall be reduced by that portion of the Loss remaining after reducing taxable income for prior Fiscal Periods in the Fiscal Year for the loss. Each Member shall receive a Tax Distribution proportional to the amount of federal taxable income to be allocated to the Member pursuant to Article 5, below.

(b) Additional Tax Distributions. In the event any income tax return of the Company, as a result of an audit or otherwise, reflects items of income, gain, loss, or deduction that are different from the amounts estimated pursuant to Section 4.1(a), above, with respect to a Fiscal Year in a manner that results in additional income or gain of the Company being allocated to the Members' Capital Accounts, an additional Tax Distribution shall be made under the principles of Section 4.1(a), above, to the Members (or former Members) who are allocated the additional income or gain, except that (i) the last day of the calendar month in which the adjustment occurs shall be treated as a Tax Distribution Date, (ii) the amount of the additional income or gain shall be treated as the Company's federal taxable income, and (iii) the applicable Tax Rate shall be that which applied for the Fiscal Period to which the additional income or gain relates.

(c) Cash Available for Distribution. When and as approved by the Board of Directors, Cash Available for Distribution shall be distributed to the Members in proportion to their Percentage Interests during the Fiscal Period to which the distribution relates.

Section 4.2. Liquidating Distributions. If the Company is liquidated pursuant to Article 12, below, the assets to be distributed pursuant to Section 12.5(d)(iii), below, shall be distributed to the Members in proportion to their Percentage Interests.

ARTICLE 5

Allocation of Profits and Losses

Section 5.1. Allocation of Profits and Losses. Except as provided in Sections 5.2, 5.3, and 5.4, below, Profits and Losses shall be allocated among the Members in proportion to their Percentage Interests for the Fiscal Period.

Section 5.2. Regulatory Allocations. This Agreement shall be deemed to contain provisions relating to "minimum gain chargeback," "nonrecourse deductions," "qualified income offset," "gross income allocations," and any other provision required to be contained in this Agreement pursuant to the Treasury Regulations promulgated under section 704(b) of the Code (the "Regulatory Allocations"), other than any requirement that a Member be required to contribute to the Company an amount equal to any deficit in the Member's capital account.

No allocation of Loss shall be made to a Member if the allocation would result in a negative balance in the Member's Capital Account in excess of (a) the amount the Member has loaned to the Company or (b) the amount of the Company's debt that the Member has guaranteed. In the event there is a negative balance in the Member's Capital Account in excess of the amount(s) set

forth above, the Member shall be allocated income and gain in the amount of that excess as quickly as possible. Any Loss that cannot be allocated to a Member pursuant to the restrictions contained in this paragraph shall be allocated to other Members.

The Regulatory Allocations are intended to comply with the Treasury Regulations promulgated under section 704(b) of the Code. The other provisions of this Article 5 notwithstanding, the Regulatory Allocations shall be taken into account in allocating other Profits, Losses, and items of income, gain, and deduction among the Members so that, to the extent possible, the net amount of the allocations of other Profits, Losses, and other items and the Regulatory Allocations to each Member shall equal the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred.

Section 5.3. Other Allocation Rules.

(a) Transfer of Membership Units. If a Member transfers all or any portion of the Member's Membership Units pursuant to this Agreement during any Fiscal Period, the Profits (or Losses) allocated to the Members for each such Fiscal Period shall be allocated among the Members in proportion to their respective Percentage Interests from time to time during the Fiscal Period, in accordance with section 706 of the Code, using any convention permitted by law and selected by the Board of Directors.

(b) Determination of Allocable Amounts. The Profits, Losses, or any other items allocable to any Fiscal Period shall be determined on a daily, monthly, or other basis, as determined by the Board of Directors, using any permissible method under section 706 of the Code and the Treasury Regulations under that section.

Section 5.4. Tax Allocations.

(a) Capital Contributions. In accordance with section 704(c) of the Code and the Treasury Regulations under that section, income, gain, loss, and deduction with respect to any contribution to the Company's capital shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the property's adjusted basis to the Company for federal income tax purposes and its initial Asset Value.

(b) Adjustment of Asset Value. If the Asset Value of any Company asset is adjusted, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the asset's adjusted basis for federal income tax purposes and its Asset Value as so adjusted in the same manner as under section 704(c) of the Code and the Treasury Regulations under that section.

(c) Elections. Any elections or other decisions relating to the allocations shall be made by the Board of Directors in any manner that reasonably reflects the purpose and intent of this Agreement.

(d) Imputed Interest. To the extent the Company has interest income or deductions with respect to any obligation of or to a Member pursuant to section 483, sections 1271-1288, or

section 7872 of the Code, the interest income or deductions shall be specially allocated to the Member to whom the obligation relates.

Section 5.5. Withholding. If the Company is required pursuant to the Code or any other provision of law to withhold (or otherwise remit to a government agency) any amount based on amounts otherwise distributable or allocable to any Member, the Company shall withhold the amounts as required by law and any amounts so withheld shall be deemed to have been distributed to such Member under this Agreement. If any sums are withheld pursuant to this provision, the Company shall remit the sums so withheld to, and file the required forms with, the Internal Revenue Service or other applicable government agency. In the event of any claimed overwithholding, a Member shall be limited to an action against the Internal Revenue Service or other applicable government agency for refund and each Member hereby waives any claim or right of action against the Company on account of such withholding. Furthermore, if the amount required to be withheld exceeds the amount that would otherwise have been distributed to such Member, such Member shall remit any deficiency to the Company within ten (10) days after notice, and such amount shall not be considered capital contributions by such Member nor shall the Company otherwise be obligated to return to such Member any such amount unless such amount is refunded to the Company by the applicable withholding agency. If such deficiency is not remitted within such time, any non-remitted amount shall be considered a demand loan from the Company to such Member, with interest at a rate equal to the lesser of twelve percent (12%), or the highest rate permitted by law, which interest shall be treated as an item of the Company's income, until discharged by such Member, upon repayment. Such demand loan shall be repaid, without prejudice to other remedies at law or in equity that the Company may have, out of distributions to which the debtor Member would otherwise be entitled under this Agreement.

ARTICLE 6

Management of the Company

Section 6.1. Management. Except as otherwise provided herein, management of the Company is vested in its Managers, who shall be referred to collectively as "Directors", the "Board" or the "Board of Directors".

Section 6.2. Election of Directors. With respect to the election of directors to the Board of Directors:

(a) The holders of each Class of Membership Units, voting as a separate class, shall be entitled to elect one of their Members as a director to sit on the Board of Directors of the Company.

(b) The holders of each Class of Membership Units, voting as a separate class, shall be entitled to vote, on the removal, with or without cause, of any director elected by that Class of Membership Units.

(c) Any vacancy in the office of a director elected by the holders of a Class of Membership Units may be filled by a vote of these holders, voting as a separate class, and, in the absence of such a vote, in the case of a vacancy in the office of a director elected by a Class, the vacancy may be filled by the remaining directors. Any director elected by the other directors to

fill a vacancy shall serve until the next annual meeting of the Members and until his or her successor has been chosen and has qualified.

(d) The holders of each Class of Membership Units shall be entitled to vote as separate classes on any other matters as required by law or in this Agreement.

(e) Notwithstanding any provision herein to the contrary, Members holding Class P Membership Units shall not be entitled to vote, either as separate class or as part of the single class, and shall not be entitled to elect a director.

Section 6.3. Voting as Single Class. The Members shall, in all matters not specified in the preceding paragraph of this Section, vote together as a single class.

Section 6.4. Actions by Members. Any actions of the Members shall be taken in the manner set forth below. For the purposes of this Section, Membership Units without voting rights shall be ignored for the purpose of determining whether or not a quorum or Majority Consent exists. No prior notice shall be required for any action taken by unanimous written consent.

(a) **Manner of Acting.** Except as otherwise provided in this Agreement, the consent of the Members to any act or failure to act may be given by Majority Consent at a meeting in which a quorum of the Members participate in person, by proxy, by telephone or by other electronic means. Members holding sufficient Membership Units to give Majority Consent to the action taken at any meeting shall constitute a quorum of the Members at the meeting. Alternatively, the Members may act, either as a separate class or together as a single class, by unanimous written consent without the need for a meeting.

(b) **Meetings.** Meetings of the Members may be called as provided in Section 6.6. Meetings not held by electronic means shall be held at the Company's principal place of business or at such other place as may be designated by Majority Consent of the Members.

(c) **Voting.** Each Member shall vote all of the Member's Membership Units in the same manner as to any given matter submitted for consent.

(d) **Notice.** Notice shall be given not less than 5 business days before the meeting being noticed, or 7 business days before the meeting being noticed if the notice is given by mail or private carrier. No matter shall be voted upon at a meeting of Members unless the appropriate notice of the matter to be voted on is given or such notice is waived by any Member not receiving it. A Member shall be deemed to have waived notice of any matter acted upon at any meeting that the Member attends or in which the Member participates unless at the beginning of the meeting or promptly upon commencement of the Member's participation in the meeting the Member objects to the consideration of the matter because of lack of proper notice. No prior notice shall be required for any action taken by written consent.

(e) **Proxies.** A Member entitled to vote may vote in person or by proxy appointed in writing by the Member or by his or her duly authorized attorney-in-fact. No person who does not

meet the qualifications to be a Member of the Company may hold or vote a Member's proxy. A proxy appointment shall become effective when received by the secretary or other officer or agent of the Company authorized to tabulate votes. Unless otherwise provided in the appointment form, a proxy appointment may be revoked at any time before it is voted, either by written notice filed with the secretary or other officer or agent of the Company authorized to tabulate votes, or by oral notice given by the Member during the meeting. The presence of a Member who has filed his or her proxy appointment shall not of itself constitute a revocation. A proxy appointment shall be valid for 11 months from the date of its execution, unless otherwise provided in the appointment form. The board of directors shall have the power and authority to make rules establishing presumptions as to the validity and sufficiency of proxy appointments.

Section 6.5. Annual Meeting. The annual members' meeting shall be held on the **Seventh Day of the Second Week of March** each year at **1 o'clock p.m.**, or at such other date and time within 30 days before or after this date as may be fixed by or under the authority of the Board of Directors, for the purpose of electing directors and transacting such other business as may come before the meeting. If the day fixed for the annual meeting is a legal holiday in Wisconsin, the meeting shall be held on the next succeeding business day.

Section 6.6. Special Meetings. Special members' meetings may be called (1) by the President, or (2) by the Board of Directors, or (3) shall be called by the President upon the written request of members holding a Percentage Interest of at least 10% of all the votes entitled to be cast upon the matter(s) set forth as the purpose of the meeting in the written request. Upon delivery to the President of a written request pursuant to (3), above, stating the purpose(s) of the requested meeting, dated and signed by the person(s) entitled to request such a meeting, it shall be the duty of the Secretary to give, within 30 days of such delivery, notice of the meeting. Only business within the purpose described in the special meeting notice shall be conducted at a special members' meeting.

Section 6.7. Place of Meeting. The Board of Directors may designate any place, either within or outside the state of Wisconsin, as the place of meeting for any annual or special members' meeting or any adjourned meeting. If no designation is made by the Board of Directors, the place of meeting shall be the Company's principal office.

Section 6.8. Restrictions on Authority of Board of Directors.

(a) Absolute Restrictions. The Board of Directors shall not have the authority to:

(i) Do any act that is in contravention of applicable law or this Agreement or that would make it impossible to carry on the ordinary business of the Company;

(ii) Possess property of the Company or its Controlled Affiliates, or assign rights in or to such property, other than in furtherance of the Company's business or interests;
or

(iii) Perform any act that would subject the Members to liability in any jurisdiction except as expressly provided in this Agreement.

(iv) Amend the Articles of Organization or this Operating Agreement.

(b) Restriction Without Majority Consent. Without Majority Consent, the Board of Directors, shall not have the authority and shall take no action, either directly or indirectly through a Controlled Affiliate, to:

(i) Consummate a transaction or planned series of transactions resulting in a Change of Control;

(ii) Purchase any asset outside the ordinary course of business; or purchase one or more Capital Assets having an aggregate cost exceeding the Annual Limit, whether in a single transaction, or a planned series of transactions within the same calendar year;

(iii) Dispose of any asset outside the ordinary course of business; or dispose of one or more Capital Assets having an aggregate fair market value exceeding the Annual Limit, whether in a single transaction, or a planned series of transactions within the same calendar year;

(iv) Borrow or obtain credit which would result in outstanding debt in excess of the Annual Limit, whether in a single transaction or a planned series of transactions; with the caveat that the Board may refinance, renew, extend or renegotiate the terms of an outstanding debt instrument previously approved by members unless the underlying note has been fully paid, satisfied and cancelled; and

(v) Acquire an interest in another legal entity, other than a Controlled Affiliate.

(c) Restriction Without Two-Thirds Majority Consent. Without Two-Thirds Majority Consent, the Board of Directors shall not have the authority to:

(i) Wind up, dissolve or liquidate the Company;

(ii) Make changes in the tax or accounting policies that would have a material effect on distributions; or

(iii) File for protection under the bankruptcy laws of the United States.

Section 6.9. Authority to Amend. The Members shall have the authority to amend the Articles of Organization and the Operating Agreement upon Two-Thirds Majority Consent except that in no case may the Articles of Organization or this Operating Agreement be altered in a way that would diminish the rights or value of the membership interest of any specific Member, or alter this Agreement in a way that would alter the rights of any specific Member, in a way that did not apply to Members generally, without that Member's consent.

Section 6.10. Authority to Alter Membership in Classes. Once the membership in a Class has been established and a director for that Class elected, then new voting Members may not be added to that Class without the 80% Majority Consent of the Members of the Class affected.

ARTICLE 7
Board of Directors

Section 7.1. Authority and Powers of Board of Directors. Except as otherwise required in this Agreement, the Board of Directors is authorized and responsible for the overall operations of the Company's business, including, but not limited to, the right to:

(a) Establish an annual budget, borrow money and procure temporary, permanent, conventional, or other financing or refinancing on such terms and conditions, at such rates of interest, and from such parties as are approved, and, if security is required for the loan, to mortgage or subject to another security interest the Company assets;

(b) Insure the Company's activities and property;

(c) Perform all other acts or activities customary or incident to the overall operation of a business such as that conducted by the Company;

(d) Elect officers, and authorize and appoint such other officers as the Board determines from time to time are necessary, and appoint the registered agent and/or change the registered office pursuant to Section 1.2, above;

(e) Retain attorneys, accountants, and other professionals;

(f) Establish reserves and thereafter maintain the reserves in such amounts as the Board may deem appropriate; and

(g) Establish bank and money market accounts for the Company's benefit.

Section 7.2. Election. Directors shall be elected by the Members as provided in Article 6 at each annual Members' meeting.

Section 7.3. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice immediately after the annual Members' meeting. The place of the regular Board of Directors' meeting shall be the same as the place of the Members' meeting that precedes it, or such other suitable place as may be announced at the Members' meeting. The Board of Directors may provide, by resolution, the time and place, either within or outside the state of Wisconsin, for the holding of additional regular meetings.

Section 7.4. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the chairperson of the board, if any, the President or any two directors. The person or persons authorized to call special Board of Directors' meetings may fix any place, either within or outside the state of Wisconsin, as the place for holding any special board meeting called by them, and if no other place is fixed, the meeting place shall be the Company's principal office in the state of Wisconsin, but any meeting may be adjourned to reconvene at any place designated by vote of a majority of the directors in attendance at the meeting.

Section 7.5. Meetings by Electronic Means of Communication. The Board of Directors may, in addition to conducting meetings in which each director participates in person, and notwithstanding any place set forth in the notice of the meeting or this Agreement, conduct any regular or special meeting by the use of any electronic means of communication, provided (1) all participating directors may simultaneously hear each other during the meeting, or (2) all communication during the meeting is immediately transmitted to each participating director, and each participating director is able to immediately send messages to all other participating directors. Before the commencement of any business at a meeting at which any directors do not participate in person, all participating directors shall be informed that a meeting is taking place at which official business may be transacted.

Section 7.6. Notice of Meetings; Waiver of Notice. Notice of each Board of Directors' meeting, except meetings pursuant to Section 7.3 of this Agreement, shall be delivered to each director at his or her business address or at such other address as the director shall have designated in writing and filed with the secretary. Notice may be given orally or communicated in person, by telephone, telegraph, teletype, facsimile, other form of wire or wireless communication, private carrier, or in any other manner provided by statute. Notice shall be given not less than 5 business days before the meeting being noticed, or 7 business days before the meeting being noticed if the notice is given by mail or private carrier. Written notice shall be deemed given at the earlier of the time it is received or at the time it is deposited with postage prepaid in the United States mail or delivered to the private carrier. Oral notice is effective when communicated. A director may waive notice required under this section or by law at any time, whether before or after the time of the meeting. The waiver must be in writing, signed by the director, and retained in the corporate record book. The director's attendance at or participation in a meeting shall constitute a waiver of notice of the meeting, unless the director at the beginning of the meeting or promptly upon his or her arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting. Neither the business to be transacted at nor the purpose of any regular or special Board of Directors' meeting need be specified in the notice or waiver of notice of the meeting. Each director shall have the right to be present at any Board of Directors' meeting by proxy, upon presentation of his written notice of proxy made at such meeting, and to participate at any Board of Directors' meeting by telephone if he gives at least one day's notice of his intent to do so.

Section 7.7. Quorum Requirement. A majority of the number of directors shall constitute a quorum for the transaction of business at any Board of Directors' meeting. These provisions shall not, however, apply to the determination of a quorum for actions taken pursuant to Article 7 of this Agreement or actions taken under any other provisions of this Agreement that fix different quorum requirements.

Section 7.8. Voting Requirement. The affirmative vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. In the event that the vote of the directors on any matter brought before the Board results in a tie, the President shall be entitled to vote on the matter, acting as a director. These provisions shall not, however, apply to any action taken by the Board of Directors pursuant to Section 7.11.

Section 7.9. Conduct of Meetings. The chairperson of the Board of Directors, and in his or her absence, the President, and in their absence, any director chosen by the directors present, shall call Board of Directors' meetings to order and shall act as chairperson of the meeting. The presiding officer may appoint any director, or other person present to act as secretary of the meeting. The chairperson of the meeting shall determine if minutes of the meeting are to be prepared, and if minutes are to be prepared, shall assign a person to do so.

Section 7.10. Directors' Assent. A director of the Company who is present and is announced as present at a meeting of the Board of Directors, at which meeting action on any corporate matter is taken, shall be deemed to have assented to the action taken unless (1) the director objects at the beginning of the meeting (or promptly upon his or her arrival) to holding the meeting or transacting business at the meeting; (2) the director dissents or abstains from an action taken and minutes of the meeting are prepared that show the director's dissent to or abstention from the action taken; or (3) the director delivers written notice of his or her dissent or abstention to the presiding officer of the meeting before the meeting's adjournment or to the Company immediately after the adjournment; (4) the director dissents or abstains from an action taken, minutes of the meeting are prepared that fail to show the director's dissent or abstention, and the director delivers to the Company a written notice of that failure promptly after receiving the minutes. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 7.11. Action Without a Meeting. Any action required or permitted by this Agreement to be taken by the Board of Directors at a board meeting may be taken without a meeting if one or more written consents, setting forth the action so taken, shall be signed by all of the directors entitled to vote on the subject matter of the action and retained in the corporate records. Action taken pursuant to written consent shall be effective when the last director signs the consent or upon such other effective date as is specified in the consent.

ARTICLE 8

Officers

Section 8.1. Officers. The Company shall have one or more natural persons exercising the functions, however designated, of the Chairman of the Board, Vice Chairman of the Board, President, Secretary and Treasurer. The Board of Directors may appoint any other officers, assistant officers or agents the Board of Directors deem necessary or appropriate for the operation and management of the Company, each of whom shall have the powers, rights, duties, responsibilities and terms in office determined by the Board of Directors from time to time.

Such officers shall hold their offices until their successors are elected and have qualified; provided, however, that any officer may be removed at any time by the Board of Directors.

Section 8.2. Roles of Officers. Unless a resolution adopted by the Board of Directors provides otherwise, the officers shall fill the roles set forth in this Section 8.2. The Chairman of the Board of Managers shall preside at all meetings of the Board of Managers. The Vice Chairman, in the absence or disability of the Chairman, shall perform the duties of the Chairman

in the order determined by the Board of Managers. The President shall have responsibility for the active management of the business of the Company and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall not sign and deliver in the name of the Company any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the Company, except in cases in which the authority to sign and deliver is expressly delegated by the Board of Directors. The President shall, in general, perform all duties usually incident to the position of President and such other duties as may from time to time be prescribed by the Board of Directors. The Secretary shall have the duties specified in this Section. The Secretary shall take or cause to be taken minutes of a proceeding of the Board of Directors in a book kept for the purpose; shall give or cause to be given all notices required by law, or this Operating Agreement, shall certify all proceedings of the Board of Directors and of the Members; and shall perform such additional duties as are prescribed by the Board of Directors. The Treasurer shall have the duties specified in this section. The Treasurer shall cause to be kept accurate financial records of the Company; shall cause to be made deposits of all money, drafts and checks in the name of and to the credit of the, Company in the banks and depositories designated by the Board of Directors; shall cause to be endorsed for deposit all notes, checks and drafts received by the Company as ordered by the Board of Directors, causing to be made proper vouchers therefor, except to the extent that some other person or persons may be specifically authorized by the Board of Directors to do so; shall cause to be disbursed funds of the Company and cause the issuance of checks and drafts in the name of the Company, as authorized by the Board of Directors; cause to be rendered to the Chairman of the Board of Directors whenever requested, an account of all transactions by the Treasurer and of the financial condition of the Company; and shall perform such other duties as may be prescribed by the Board of Managers or the Chairman from time to time.

Section 8.3. Multiple Officer Positions. Any number of Officer positions or functions of those positions may be held or exercised by the same person, except that the Chairman of the Board and Secretary may not be the same person. If a document must be signed by persons holding different positions or functions and a person holds or exercises more than one of those positions or functions, that person may sign the document in more than one capacity, but only if the document indicates each capacity in which the person signs.

Section 8.4. Contract Rights. The election or appointment of a person as an officer or agent of the Company shall not, of itself, create contract rights. The Company may enter into an employment contract with an officer or agent for a period of time if, in the judgment of the Board of Directors, the contract would be in the best interests of the Company. The fact that the contract may be for a term longer than the terms of the directors who authorized or approved the contract shall not make the contract void or voidable.

Section 8.5. Compensation of Officers. The salaries of all officers of the Company shall be fixed from time to time by the Board of Directors.

Section 8.6. Resignation and Removal. An officer may resign at any time by giving written notice to the Company at its principal executive office. The resignation is effective without acceptance when the notice is given to the Company, unless a later effective date is specified in the notice. Any such resignation shall be without prejudice to any rights of the

Company against the officer under his or her contract. An officer may be removed at any time by the Board of Directors.

Section 8.7. Other Business Activities. The Members and their respective officers, directors, shareholders, partners, and affiliates may engage independently or with others in other business ventures of every nature and description, including without limitation business ventures that are competitive with the Company. Neither the Company nor any Member shall have any right by virtue of this Agreement, or the relationship created by this Agreement, in or to such other ventures or activities or to the income or proceeds derived from such other ventures or activities, and the pursuit of such ventures shall not be deemed wrongful or improper. Notwithstanding the foregoing, no Member (or their respective officers, directors, shareholders, partners, and affiliates) may engage, directly or indirectly, in the development or construction of an ethanol plant within 100 miles of Stanley, Wisconsin until the ethanol plant to be owned by the Company is completed, and Delta-T may not engage, directly or indirectly, in the development or construction of any ethanol plant within a 60 mile radius of such location unless it first offers to sell its membership interest in the Company for a price equal to the book value of its membership interest, payable in cash within 30 days of the Company's acceptance of the offer, and gives the Company at least 30 days to accept such offer. Such notice shall be deemed a Notice of Transfer under Section 10.3 (a) below. Each member who is not a natural person shall be deemed to represent upon signature of this Agreement that it has, or will promptly upon signature of this Agreement, entered into binding and enforceable agreements with its officers, directors, shareholders, partners and affiliates sufficient to bind them to comply with this Agreement. Nothing in this Agreement shall be deemed to prohibit the Members or their respective officers, directors, shareholders, partners, and affiliates from dealing with the Company, provided that each such transaction is approved by a majority of the Board, exclusive of directors who are officers, directors or employees of the Member(s) involved, and provided further that such transaction is determined by the voting Directors to be in the best interest of the Company.

ARTICLE 9 Indemnification

Section 9.1. Liability of Officers, Directors and Members. No officer, Director or Member shall be liable to the Company for any loss or damage suffered by the Company on account of any action taken or omitted to be taken by the officer, Director or Member, that the officer, Director or Member in good faith believed to be in or not opposed to the Company's best interests, and with respect to any criminal action or proceeding, that the officer, Director or Member had no reasonable cause to believe was unlawful. In addition, no officer, Director or Member shall be liable to the Company for any loss or damage suffered by the Company on account of any action taken or omitted to be taken in reliance upon advice of counsel for the Company or upon statements made or information furnished by officers or employees of the Company that the officer, Director or Member had reasonable grounds to believe to be true. The foregoing shall not be exclusive of other rights and defenses to which the officer, Director or Member may be entitled as a matter of law.

Section 9.2. Successful Defense. The Company shall indemnify the officer, Director and Members to the extent the officer, director or any Member has been successful on the merits or otherwise in the defense of a claim, action, dispute, or issue such that the Person has no liability for all Expenses incurred in connection with the claim, action, dispute, or issue, if the Person was a party due to the Person's role as officer, Director or Member. Indemnification under this Section 9.2 shall be made within 10 days of receipt by the Company of a written demand for indemnification.

Section 9.3. Other Cases. In cases not included under Section 9.2, above, the Company shall indemnify the officer, Director or any Member against Liability and Expenses incurred by the Person in connection with a claim, action, dispute, or issue, if the Person was a party due to the Person's role as officer, director or Member, unless it shall have been concluded that the Person breached or failed to perform a duty owed to the Company (using the procedure set out in Section 9.4, below), which breach or failure constitutes:

(a) A willful failure to deal fairly with the Company in connection with a matter in which the Person has a material conflict of interest;

(b) A violation of criminal law, unless the Person had reasonable cause to believe the Person's conduct was lawful or no reasonable cause to believe the conduct was unlawful;

(c) A transaction from which the Person derived an improper personal profit; or

(d) Willful misconduct.

Indemnification required under this section 9.3 shall be made upon the last to occur of (1) 30 days after the Company's receipt of a written demand for indemnification or (2) the determination set forth in Section 9.4, below.

Section 9.4. Means of Determining Whether Indemnification Is Required. Unless otherwise provided by a written agreement between the officer, Director or Member and the Company, the right to indemnification under Section 9.3, above, shall be determined by Majority Consent with the Membership Units of a Member seeking indemnification excluded from voting for this purpose unless all Members are seeking indemnification. If the Members determine that a Person seeking indemnification under Section 9.3, above, is not entitled to indemnification, and the Person does not agree with that determination, the matter shall be determined by arbitration pursuant to Section 14.7, below.

Section 9.5. Effect of Termination of Proceeding. The termination of a claim, action, dispute, or issue by judgment, order, settlement, or conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create a presumption that indemnification of the officer, Director or Member is not required under this Article.

Section 9.6. Request for Indemnification and Assignment of Claims Required. To seek indemnification, the officer, Director or Member shall make a written request to the Company. As a further precondition to any right to receive indemnification, the writing shall contain a

declaration that the Company shall have the right to exercise all rights and remedies available to the officer, Director or Member against any other Person, arising out of, or related to, the claim, action, dispute, or issue that resulted in the Liability and Expenses for which the officer, Director or Member seeks indemnification, and that the officer, Director or Member is deemed to have assigned to the Company all such rights and remedies.

Section 9.7. Allowance of Expenses as Incurred. Upon written request by the officer, Director or Member, the Company shall pay or reimburse that Person's reasonable expenses incurred as a party to a claim, action, dispute, or issue if the Person provides the Company with all of the following:

(a) A written affirmation of the Person's good faith belief that the Person has not breached or failed to perform the Person's duties to the Company; and

(b) A written undertaking, executed personally or on the Person's behalf, to repay the allowance without interest to the extent that it is ultimately determined in accordance with Section 9.4, above, that indemnification under this Article is prohibited.

The undertaking under this section shall be accepted without reference to the officer's, Director's or Member's ability to repay the allowance. The undertaking shall be unsecured.

Section 9.8. Insurance. The Company may purchase and maintain insurance on behalf of any Person who is the officer, Director or Member against any Liability asserted against or incurred by the Person in any such capacity or arising out of the Person's status as such, regardless of whether the Company is required or authorized to indemnify or allow Expenses to the officer, Director or Member under this Article.

Section 9.9. Severability. If this Article or any portion of this Article is invalidated on any ground by any court of competent jurisdiction, the Company shall indemnify the officer, Director or Member as to Liabilities and Expenses to the full extent permitted by (i) any applicable portion of this Article that is not invalidated or (ii) applicable law.

Section 9.10. Continuation of Indemnification. The indemnification provided by this Article shall be the exclusive indemnification available from the Company to its officer, Directors and Members, and shall continue as to a Person who has ceased to be a officer, Director or Member, and shall inure to the benefit of the heirs, successors, executors, and administrators of any such Person.

ARTICLE 10

General Restrictions on Transfers

Except in accordance with the terms and requirements of the Company's unit transfer policy approved by the Board of Directors, no Member may Transfer all or any portion of the Member's Membership Units and no transferee of such Membership Units (who is not already a

Member) may be admitted as a new Member. Until the admission as a substituted Member of its transferee, a transferor of Membership Units shall not be released from any obligations under this Agreement.

ARTICLE 11

Absolute Restrictions on Transfers

No Transfer of any Membership Units may be made if, in the opinion of the Company's legal counsel, the transfer or assignment will violate any applicable federal or state securities laws. Before making any Transfer of any Membership Units, the Transferor must notify the Company in writing, and the President shall, if the President believes there is a material risk of violating this Article, obtain an opinion from the Company's legal counsel confirming whether the proposed Transfer will cause such a violation of securities laws. Legal fees shall be the Transferor's responsibility.

ARTICLE 12

Dissociation, Dissolution, and Liquidation

Section 12.1. Effect of Dissociation. The dissociation of a Member pursuant to section 183.0802 of the WLLCL will not entitle a Member to a distribution in redemption of the Member's Membership Units. An event of dissociation under section 183.0802(1)(d)-(k) of the WLLCL will be treated as an Involuntary Transfer pursuant to Section 10.4 of this Agreement.

Section 12.2. Events Causing Dissolution. The Company shall be dissolved upon (a) the approval of the dissolution by the Members by 70% Majority Consent, or (b) the entry of a decree of judicial dissolution pursuant to section 183.0902 of the WLLCL. The Company shall not be dissolved upon the occurrence of any other event, including the dissociation of a Member under the WLLCL.

Section 12.3. Filing and Notice. Upon dissolution of the Company under Section 12.2, above, the President or Liquidating Trustee (as set forth in Section 12.5(a), below) shall promptly, upon appointment, execute and file on the Company's behalf Articles of Dissolution as provided in section 183.0906 of the WLLCL. The President or Liquidating Trustee shall also notify the Company's known claimants as provided in section 183.0907 of the WLLCL and publish a notice of the Company's dissolution as provided in section 183.0908 of the WLLCL, except as otherwise determined by Majority Consent.

Section 12.4. Termination. Dissolution of the Company shall be effective on the date on which the event under Section 12.2, above, occurs, but the Company shall not terminate until Articles of Dissolution have been duly filed under the WLLCL, the Company's affairs have been wound up, and the Company's assets have been distributed as provided in Section 12.5, below. Notwithstanding the dissolution of the Company, prior to the liquidation and termination of the Company, the business of the Company and the affairs of its Members, as such, shall continue to be governed by this Agreement.

Section 12.5. Distribution of Assets Upon Termination.

(a) Upon the dissolution of the Company pursuant to Section 12.2, above, the President (or if there is no President or the President refuses to serve, a Person approved by the Board as the liquidating trustee of the Company (the "Liquidating Trustee")) shall proceed diligently to wind up the Company's affairs and distribute its assets in accordance with the provisions of Section 12.5(d), below.

(b) All salable assets of the Company may be sold in connection with any dissolution at public or private sale or at such price and upon such terms as the President or the Liquidating Trustee, as the case may be, may deem advisable. A Member or any entity in which a Member is in any way interested may purchase assets at the sale. The President or the Liquidating Trustee, as the case may be, in that Person's sole and absolute discretion, may in accordance with Section 12.5(d), below, distribute the Company's assets in kind based on their fair market value.

(c) The Company's Profits and Losses shall be determined as of the end of the period of winding up in accordance with the provisions of this Agreement and shall be credited or charged to the Members' respective Capital Accounts.

(d) Upon the dissolution and winding up of the Company, the Company's assets shall be distributed in the following order of priority to the extent available:

(i) First, to creditors of the Company in satisfaction of any debts and liabilities of the Company (except for any loans made by Members), whether by payment or by the establishment of any reserve that the President or the Liquidating Trustee deems, in that Person's sole discretion, necessary (with the balance remaining in any such reserve, after the expiration of such period of time as the President or the Liquidating Trustee, as the case may be, deems advisable, and after payment of any such liabilities and obligations, to be distributed in the manner set forth in this Section 12.5(d));

(ii) Second, to the Members who have made loans to the Company, on a pro rata basis (in accordance with the amount of loan principal then outstanding) until each shall have received the outstanding principal of, and accrued and unpaid interest on, those loans; and

(iii) Third, to the Members, in accordance with Section 4.2, above.

All distributions pursuant to this Section 12.5(d) shall be made no later than the latter of (i) the end of the Fiscal Year during which the liquidation of the Company occurs or (ii) 90 days after the date of that liquidation.

Section 12.6. Limitation on Liability. Each Member shall look solely to the Company's assets for all distributions from the Company and the return of the Member's Capital Contribution to the Company and shall have no recourse (upon dissolution or otherwise) against the President, any other Members, or any of their affiliates.

Section 12.7. Waiver of Right to Object. To the fullest extent permitted by the WLLCL, each Member hereby disclaims, waives and agrees not to assert any rights pursuant to Section 183.1206 of the WLLCL.

ARTICLE 13

Books and Records

Section 13.1. Books and Records. The Company's books and records shall be maintained at the Company's principal office or at any other place designated by the Board and shall be available for inspection and copying by any Member or any Member's duly authorized representative (s), at the Member's own expense, during normal business hours.

Section 13.2. Company Funds. The Company's funds may be deposited in such banking institutions as the Board determines, and withdrawals shall be made only in the regular course of the Company's business on such signature or signatures as the Members determine by Majority Consent. All deposits and other funds not needed in the operation of the business may be invested in certificates of deposit, short-term money market instruments, money market funds, government securities, or similar investments as the Board determines.

Section 13.3. Availability of Information. The Company shall keep at its principal office and place of business, or at any other place designated by the Board, and each Member shall have the right to inspect and copy, all of the following: (a) a current list of the full name and last-known business address of each Member or former Member set forth in alphabetical order, the date on which each Member or former Member became a Member, and, if applicable, the date on which any former Member ceased to be a Member; (b) a copy of the Articles of Organization and all amendments to the Articles; (c) copies of the Company's federal, state, and local income tax returns and financial statements, if any, for its four most recent years; and (d) copies of this Agreement and any effective written amendments to this Agreement.

Section 13.4. Tax Returns. The Treasurer shall prepare or cause to be prepared and shall file on or before the due date (or any extension of the due date) any federal, state, or local tax returns required to be filed by the Company. The Treasurer shall cause the Company to pay any taxes payable by the Company out of Company funds. The Treasurer shall serve as the Company's "tax matters partner" as defined for purposes of the Code.

Section 13.5. Reports. Within 75 days after the end of each Fiscal Year, the Secretary shall send to each Person who was a Member at any time during the Fiscal Year then ended (a) a balance sheet as of the end of the Fiscal Year, (b) statements of income, Members' equity, changes in financial position, and a cash flow statement for the Fiscal Year then ended, and (c) such tax information as is necessary or appropriate for the preparation by the Members of their individual federal and state income tax returns.

ARTICLE 14

Default and Remedies

Section 14.1. Default.

(a) Defaulting Members. If any Member materially breaches or violates this Agreement or fails to perform any of its respective obligations hereunder (a “Default”), the Board of Directors shall have the right to give such Member (the “Defaulting Member”) a notice of default (a “Notice of Default”). The Notice of Default shall set forth the nature of the Default and a copy thereof shall be given to the Board.

(b) Non-Monetary Default. If such Default is not a failure to pay money, and if within the thirty (30) day period following receipt of the Notice of Default, the Defaulting Member in good faith commences to perform such obligation and cure such Default and thereafter prosecutes to completion with diligence and continuity the curing thereof and cures such Default within a reasonable time, it shall be deemed that the Notice of Default was not given and the Defaulting Member shall lose no rights hereunder. If, within such thirty (30) day period, the Defaulting Member does not commence in good faith the curing of such breach or violation or default or does not thereafter prosecute to completion with diligence and continuity the curing thereof, the Company shall have the rights set forth in Section 14.2.

(c) Monetary Default. If such Default is or results from a failure to pay money, and if such sums of money shall be paid within fifteen (15) days after receipt of the Notice of Default with respect thereto, it shall be deemed that such Notice of Default was not given and the Defaulting Member shall lose no rights hereunder. If such sums are not so paid within such fifteen (15) day period, the Company shall have the rights set forth in Section 14.2.

(d) Indemnification. Any Defaulting Member hereby indemnifies each of the other Members (the “Nondefaulting Members”) and the Company and holds each of them harmless from and against all loss, damage or liability occasioned by such Default including, without limitation, any liability to creditors of the Company. A failure by a Defaulting Member to perform upon this indemnity with respect to the Company and/or any one or more of the Nondefaulting Members within thirty (30) days after receipt of a written demand therefor made by the Board of Directors or any one or more of the Nondefaulting Members upon such Defaulting Member itself shall be deemed to be a failure to pay money and, without further notice, demand or time to cure, the Company shall have the rights set forth in Section 14.2.

Section 14.2. Remedies.

(a) Participation. If any Default shall occur and continue beyond the expiration of any applicable cure period set forth in Section 14.1, until the curing of such Default to the reasonable satisfaction of the Board of Directors, the Company may prohibit such Defaulting Member shall from (i) participating at meetings of the Members, or (ii) participating in any vote or decision with respect of the Company’s business (including, without limitation, any Member vote or approval pursuant to Article 6 or any Member vote otherwise required or permitted in this Agreement).

(b) Distributions. The Company may withhold from any Defaulting Member any distributions payable on account of the Membership Units of the Defaulting Member to the extent of and may apply such distributions against, (i) any indebtedness to the Company of the Defaulting Member or (ii) the costs incurred by the Company in curing such Default. Any such amount withheld pursuant to the preceding sentence shall be deemed to have been distributed to such Defaulting Member under this Agreement and then paid by the Defaulting Member to the Company. Any such distributions withheld by the Company pursuant to this Section 14.2 shall be remitted to the Defaulting Member if the Defaulting Member timely cures such Default in accordance with the requirements of this Article 14. Any such amount remitted pursuant to the preceding sentence shall not be treated as a distribution to the Defaulting Member to the extent the Defaulting Member's Capital Account had already been reduced by the amount initially withheld.

(c) Remedies and Damages. In addition to all other remedies as provided by law, the Company and/or each Nondefaulting Member may sue for and collect from any Defaulting Member any amounts due to, or damages sustained by, the Company or such Nondefaulting Member as a result of the Default.

ARTICLE 14

Miscellaneous

Section 15.1. Integration. This Agreement supersedes all prior oral or written agreements or understandings between the parties to this Agreement regarding the subject matter of this Agreement.

Section 15.2. Binding Provisions. The agreements and covenants contained in this Agreement inure solely to the benefit of the parties to this Agreement. The agreements and covenants contained in this Agreement shall be binding on the heirs, executors, administrators, personal representatives, successors, and assigns of the respective parties to this Agreement.

Section 15.3. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Wisconsin, without giving effect to the principles of conflicts of laws.

Section 15.4. Separability of Provisions. Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions of this Agreement are determined to be invalid or contrary to any existing or future law, the invalidity shall not affect or impair the operation of those portions of this Agreement that are valid.

Section 15.5. Dispute Resolution.

(a) Mediation. In the event of any controversy or claim arising out of or related to this Agreement, or the interpretation, termination or breach of either of them the Members and the Company shall, upon the written request of any of them, attempt to resolve the matter by agreement of the representatives of the parties involved. Such representatives shall meet in person or by telephone or teleconference at least once, and shall attempt to resolve any matter raised by any of them by the written

notice requesting such resolution for a period of at least 30 days. In the event that the parties are unable to resolve the dispute by agreement of such representatives within such 30 day period, then at the written request of any of them, they shall submit the matter to mediation under the then current rules of mediation and conciliation of the American Arbitration Association. The parties shall attempt to resolve any matter submitted to mediation under this Section 15 within 30 days after the date of delivery of the written request for mediation.

(b) Arbitration. Any controversy or claim that cannot be resolved as provided at Section 15.7(a) above, shall be submitted to arbitration at Eau Claire, Wisconsin, or such other location the location as the parties may agree in accordance with the Arbitration Rules of the CPR Institute for Dispute Resolutions. No party shall submit any such matter to arbitration unless the parties have been unable to resolve it by mediation for a period of at least thirty days after the date of request for mediation. Any party who files a notice of demand for arbitration must assert in the demand all claims then known to that party against the other. Judgment upon any award rendered by an arbitrator or arbitrators under this Contract may be entered upon it in accordance with applicable law in any court having jurisdiction thereof, but either party hereto shall have the right to contest such award on the grounds that it is contrary to applicable law.

(c) Costs. In any proceeding with respect to any dispute arising under or to collect any benefits due under this Agreement, the prevailing party in the proceeding shall be entitled to recover the costs of the proceeding and reasonable attorney fees from the other party. If the Company is the prevailing party, the Company may offset any amounts owed by the Company to the Person (including distributions pursuant to Article 4 of this Agreement) by amounts that that Person owes to the Company by reason of this Section 15.7(b).

Section 15.6. Notice. Any notice required or permitted to be given pursuant to this Agreement shall be valid only if in writing and shall be deemed to have been duly given (a) when personally delivered, (b) when transmitted by fax if confirmation of receipt is printed on the sending fax machine, or (c) three days after being mailed by certified mail, postage prepaid, addressed to the Person receiving; notice at the address contained in the Company's records, unless that Person otherwise notifies the Company in accordance with this Section 15.6 of a change of address.

Section 15.7. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute the same agreement.

EXHIBIT A DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below and any derivatives of the terms shall have correlative meanings:

Agreement means this operating agreement of the Company.

Annual Limit is the product of the following equation: 6.5¢ multiplied by the estimated total gallons of ethanol to be produced by the Consolidated Company during the calendar year under consideration. The Annual Limit applies to the Consolidated Company as a whole.

Asset Value means as of any date, with respect to any asset, the asset's adjusted basis for federal income tax purposes as of that date, except as follows:

- (1) The initial Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of the asset, as reasonably determined by Majority Consent;
- (2) The Asset Values of all assets of the Company shall be adjusted to equal their respective gross fair market values, as reasonably determined by Majority Consent, as of the following times: (a) the acquisition of additional Membership Units by any new or existing Member in exchange for more than a de minimis Capital Contribution; (b) the distribution by the Company to a Member of more than a de minimis amount of the Company's property as consideration for Membership Units if the President reasonably determines that the adjustment is necessary or appropriate to reflect the relative economic interests of the Members; and (c) the liquidation of the Company within the meaning of section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations;
- (3) The Asset Value of any Company asset distributed to any Member shall be the gross fair market value of the asset on the date of distribution reasonably determined by Majority Consent;
- (4) The Asset Value of the Company's assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of the assets pursuant to section 734(b) or section 743(b) of the Code, but only to the extent required by section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations; provided, however, that Asset Values shall not be adjusted pursuant to this clause (4) to the extent the President reasonably determines that an adjustment pursuant to clause (2), above, is necessary or appropriate in connection with a transaction that otherwise would result in an adjustment pursuant to this clause (4); and
- (5) If the Asset Value of an asset has been determined or adjusted pursuant to clause (1), (2), or (4), above, the Asset Value shall thereafter be adjusted by the depreciation taken into account with respect to that asset for purposes of computing Profits and Losses.

Capital Assets means intellectual property and fixed assets, including real estate, land improvements, buildings, machinery and equipment.

Cash Available for Distribution means Cash Flow less Tax Distributions.

Cash Flow means cash funds provided from the operation of the Company's business, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements, and amounts set aside for the restoration or creation of reserves by the President.

Change in Control means the consummation of any of the following transactions effecting a change in ownership or control of the Company: (i) a merger, consolidation or reorganization, unless securities representing more than fifty percent (50%) of the total combined voting power of the voting securities of the successor corporation are immediately thereafter beneficially owned, directly or indirectly and in substantially the same proportion, by the persons who beneficially owned the Company's outstanding voting securities immediately prior to such transaction; (ii) any transfer, sale or other disposition of all or substantially all of the Company's assets; or (iii) the acquisition, directly or indirectly by any person or related group of persons (other than the Company or a person that directly or indirectly controls, is controlled by, or is under common control with, the Company), of beneficial ownership (within the meaning of Rule 13d-3 of the Securities Exchange Act of 1934, as amended) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities pursuant to a tender or exchange offer made directly to the Company's beneficial holders. In no event, however, shall a Change in Control be deemed to occur in connection with (i) a merger of the Company, the sole purpose of which is to incorporate or reincorporate the Company, or (ii) any public offering of Common Stock, the primary purpose of which is to raise capital.

Code means the Internal Revenue Code of 1986, as amended (or any corresponding provisions of succeeding law).

Company means **Ace Ethanol, LLC**.

Consolidated Company means the Company and its Controlled Affiliates.

Controlled Affiliate means a business organization or entity (including, without limitation, a corporation, general partnership, limited partnership, or limited liability company) that is in one or more chains of such organizations conducting trades or businesses connected through ownership of a 100 percent ownership interest in which (i) Ace Ethanol, LLC, is the common parent business organization and (ii) a 100 percent ownership interest in each of the organizations, except Ace Ethanol, LLC, is owned directly by one or more of the other organizations, and (iii) Ace Ethanol, LLC owns a 100 percent ownership interest in at least one of the other organizations. For purposes of the above provisions of this definition, "100 percent ownership interest" means, in the case of an organization which is a partnership or

limited liability company, ownership of 100 percent of the profits interest or capital interest of such partnership or limited liability company.

Expenses means fees, costs, charges, disbursements, reasonable attorney fees, and any other reasonable expenses incurred in connection with a proceeding giving rise to a request for indemnification.

Financial Rights means the right to receive distributions pursuant to Article 4 and allocations of profits and losses pursuant to Article 5.

Fiscal Period means a portion of a Fiscal Year.

Fiscal Year means any 12-month period selected by the Company from time to time as its fiscal year, provided that in the year of the formation, sale, or liquidation of the Company, a Fiscal Year may be less than a 12-month period.

Involuntary Transfer and *Involuntary Transferee* shall have the meanings set forth in Section 10.4 of this Agreement.

Liability means the obligation to pay any judgment, settlement, penalty, assessment, forfeiture, or fine whatsoever, including any excise tax assessed with respect to an employee benefit plan.

Majority Consent means the consent, determined in accordance with Section 6.4 of this Agreement, of holders of more than 50% of the Membership Units entitled to vote at the time of the consent, except that if phrase, *Majority Consent*, is preceded by a percentage number or a proportion (e.g. 75% Majority Consent or two-thirds Majority Consent) then the consent required shall be determined by the percentage number or proportion that precedes the phrase. For the purpose of determining the consent required under Article 10 of this Agreement, *Majority Consent* means the consent of the holders of more than 50% of the Membership Units entitled to vote at the time of the consent, excluding the Membership Units that are being transferred, and excluding the Membership Units held by investors who have not been admitted as Members to the Company. For purpose of electing directors under Article 6.2 of this Agreement, *Majority Consent* means the consent of the holders of a majority of the Class of the Membership Units entitled to vote with respect to that director.

Member means any Person listed in the preamble to this Agreement until such time as the Person is no longer a Member in accordance with this Agreement and any additional Person who is admitted as a Member to the Company in accordance with this Agreement.

Membership Units shall have the meaning set forth in Section 2.1 of this Agreement.

Notice of Transfer shall have the meaning set forth in Section 10.3(a) of this Agreement.

Ordinary Course of Business means the usual transactions, customs and practices of the industries within which the Consolidated Company operates.

Percentage Interests shall be the proportion determined by dividing a Member's Membership Units by all the Company's Membership Units that are issued and outstanding.

Permitted Transferee means: (1) in the case of a Member that is an entity, the owners of the Member; (2) the spouse or the issue of a Member or of any individual identified in subsection (1), above; (3) another Member; (4) a trust created for the benefit of a Member and/or any Persons identified in subsections (1)-(3), above; (5) an entity controlled by, controlling, or under common control with a Member or any Persons identified in subsections (2), (3), and (4), above; or (6) the Company.

Person means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

Profits and Losses mean, for each Fiscal Period, an amount equal to the Company's taxable income and loss for the Fiscal Period, determined in accordance with section 703(a) of the Code (for this purpose, all items or income, gain, loss, or deduction required to be stated separately pursuant to section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments:

- (1) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this definition shall be added to the taxable income or loss;
- (2) Any expenditures of the Company described in section 705(a)(2)(B) of the Code or treated as section 705(a)(2)(B) expenditures described in section 1.704-1(b)(2)(iv)(i) of the Treasury Regulations, and not otherwise taken into account in computing Profits and Losses pursuant to this definition, shall be subtracted from the taxable income or loss;
- (3) In the event the Asset Value of any Company asset is adjusted pursuant to the definition of Asset Value, the amount of the adjustment shall be taken into account as gain or loss from the disposition of the asset for purposes of computing Profits and Losses;
- (4) Gain or loss resulting from any disposition of any property by the Company with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Asset Value of the property disposed of, notwithstanding that the property's adjusted tax basis differs from its Asset Value;
- (5) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing the taxable income or loss, there shall be taken into account depreciation for the Fiscal Year or other period; and
- (6) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to section 734(b) or section 743(b) of the Code is required pursuant to section 1.704-1(b)(2)(iv)(m) of the Treasury Regulations to be taken into account in

determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Percentage Interests, the amount of the adjustment shall be treated as an item of gain (if the adjustment increases the asset's basis) or loss (if the adjustment decreases the asset's basis) from the disposition of the asset and shall be taken into account for purposes of computing Profits and Losses.

Tax Distribution means the amount distributed to Members pursuant to Section 4.1 (a) and (b) of this Agreement.

Tax Distribution Dates means, except as provided in Section 4.1 (b) of this Agreement, January 15, April 15, June 15, and September 15 of each Fiscal Year.

Tax Rate means the highest combined marginal income tax rate for federal and Wisconsin purposes for the Fiscal Period at issue applicable to individuals, assuming in determining the tax rate that state taxes are deductible for federal purposes, subject to the maximum applicability of the phaseout of itemized deductions contained in section 68 of the Code. In determining the Tax Rate, a separate Tax Rate shall be determined for ordinary income and long-term capital gains, respectively, if the Company has both types of income.

Transfer means to sell, assign, give, bequeath, pledge, or otherwise encumber, divest, dispose of, or transfer ownership or control of all of, any part of, or any interest in a Percentage Interest to any Person, whether voluntarily or by operation of law, whether inter vivos or upon death.

Transferee means any Person who proposes to acquire any or all of a Transferor's Percentage Interest, or a Person acquiring a Percentage Interest pursuant to the provisions of Article 10 of this Agreement.

Transferor means a Member-who proposes to transfer any or all of the Member's Percentage Interest pursuant to the provisions of Article VII of this Agreement.

Treasury Regulations or *Regulations* means the regulations adopted from time to time by the Department of the Treasury under the Code, and any references to *Partners* or *partnership* in the Regulations shall refer, as appropriate, to Members and the Company, respectively.