

WRITTEN CONSENT OF THE  
PARTNERS OF NORTHERN BEEF PACKERS  
LIMITED PARTNERSHIP

The undersigned, being the General Partner and sixty (60) of the sixty-nine (69) Limited Partners (collectively, the "Partners") of Northern Beef Packers Limited Partnership, a South Dakota limited partnership ("NBP"), acting pursuant to the authority contained in NBP's limited partnership agreement, do hereby vote for, consent to, authorize and adopt the following resolutions and waive all notice required to be given in connection therewith.

**RESOLVED:** That limited partnership agreement of NBP be amended and restated in the form of the Second Amended and Restated Northern Beef Packers Limited Partnership Agreement of Limited Partnership, a copy of which is attached hereto as Exhibit A; and

**FURTHER RESOLVED:** That the operating agreement of the General Partner of NBP be amended and restated in the form of the Amended and Restated Operating Agreement for Northern Beef Packers Management, LLC, a copy of which is attached hereto as Exhibit B.

In witness whereof, the undersigned have executed this written consent as of the 20 day of July, 2010.

GENERAL PARTNER

NORTHERN BEEF PACKERS  
MANAGEMENT LLC

By: 

Oshik Song  
Sole Member


LIMITED PARTNERS

Mi Kyung Ahn  
Jong Won Bae  
Sang Hoon Baek  
Hee Kyeong Baik  
Yong Ho Cha  
Hyun Joo Cho  
Jae Kyung Cho  
Sung Goo Cho  
Hana Choi  
Jong Noyo Choi  
Jung Woo Choi  
Min Ja Cho  
Yoon Ae Choi

Sin Yeun Chun  
Byung Yang Chung  
Woo Cheol Chung  
Kyung Dong Lee  
Chang Suk Han  
Young Ji Han  
Li Hua Guo  
Jin Hur  
Tae Hyung Kim  
Kang Ho Jhe  
Yong Hee Joo  
Tae Rim Ju  
Hye Weon Jung  
Hee Ryeong Kang  
Joo Wan Kang  
Kyung Ho Kang  
Chi Young Kim  
Hong Soon Kim  
Sang Woo Kim  
Young H. Kim  
Young Joo Kim  
Hyun Sook Lee  
Hyun Suk Lee  
Hyung Joo Lee  
Jeansue Lee  
Keun Soo Lee  
Myeong Jin Lee  
Soo Im Lee  
Sun Young Lee  
Mi Jung Lim  
Young Mee Kang  
Won Kyung Min  
Alex Monu  
Min Woo Nam  
Chan Gu Park  
Chan Kyu Park  
Hye Lee Park  
Un Joo Park Lee  
Xiao Ping Zou  
Hwang Shim  
Jean Myung Sohn

Oshik Song  
Young Eun Wang  
Xiao Wen Song  
Ju Il Yoo  
Hye Young Youn  
Yue Tian

By:

  
\_\_\_\_\_  
James J. Park  
Attorney-in-Fact

**SECOND AMENDED AND RESTATED  
NORTHERN BEEF PACKERS LIMITED PARTNERSHIP AGREEMENT OF  
LIMITED PARTNERSHIP**

THIS SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP (this "Agreement") of Northern Beef Packers Limited Partnership (the "Partnership") is made as of \_\_\_\_\_, 2010 among Northern Beef Packers Management, LLC, a South Dakota limited liability company, as General Partner, and the sixty-nine (69) EB-5 Investors listed on Exhibit 1 attached hereto, as Limited Partners.

WHEREAS, the Partnership was formed on April 16, 2008 as a limited partnership pursuant to the South Dakota Uniform Limited Partnership Act by the filing of a Certificate of Limited Partnership with the South Dakota Secretary of State; and

WHEREAS, the General Partner and the Limited Partners entered into an Agreement of Limited Partnership dated April 10, 2007, and amended and restated the Agreement of Limited Partnership by entering into an Amended Agreement of Limited Partnership dated as of October 3, 2008 (as amended and in effect on the date hereof, the "Original Agreement");

WHEREAS, the General Partner and the Limited Partners wish to amend and restate the Original Agreement in its entirety;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the General Partner and the Limited Partners hereby agree that the Original Operating Agreement is amended and restated in its entirety to read as follows:

**ARTICLE 1  
FORMATION; NAME; PURPOSES; TITLE TO PROPERTY;  
ADDRESS OF OFFICE AND AGENT**

**1.1. Formation of Partnership.** The Partnership has been formed as a limited partnership pursuant to the South Dakota Uniform Limited Partnership Act, as amended. The rights and obligations of the partners shall be as provided in that Act, except as otherwise expressly provided herein.

The General Partner shall, if legally required to do so, promptly prepare, execute, file, and record with the South Dakota Secretary of State an Amended and Restated Certificate of Limited Partnership and shall do all other things required for the perfection and continuing maintenance of the Partnership as a limited partnership and to authorize

the conduct of its business under an assumed name, pursuant to South Dakota law and to register to do business in South Dakota, as required by South Dakota law.

**1.2. Partnership Name.** The name of the Partnership shall continue to be "Northern Beef Packers Limited Partnership", and the business of the Partnership shall be conducted under such name.

**1.3. Purposes and Business of the Partnership.** The Purpose and general character of the business of the Partnership is to own and operate the Project and to hold, develop and operate it as an income-producing property, and to engage in any other commercial enterprise related to the ownership, construction and operation of the Project not prohibited to limited partnerships under the Act.

Subject to the provisions of this Agreement, the Partnership shall have the authority to carry out any and all activities not prohibited to limited partnerships under the Act, including but not limited to, the following purposes:

- (a) To acquire, own, develop, lease, hold and sell the Project;
- (b) To acquire any property, real or personal, in fee or under lease, or any rights therein or appurtenant thereto necessary for the operation of the Partnership's business;
- (c) To enter into, perform and carry out contracts, agreements, commitments, financing or borrowing arrangements of any kind necessary to accomplish the purpose of the Partnership, including without limitation, construction contracts, management contracts, lease contracts, as well as contracts relating to the refinancing, sale or other disposition of the Project and other Partnership assets; and
- (d) To make any expenditures and to take any and all action and to engage in any and all activities which are incidental or reasonably related to any purposes of the Partnership, as described herein.

The Partnership shall participate in no other business unless authorized by this Agreement or in a separate writing, executed by all of the Partners. Individual partners, however, may be involved in any and all other business ventures in which they may choose to participate other than the Project.

**1.4 Title to Partnership Property.** Title to Partnership property shall be held in the name of the Partnership or its nominee.

**1.5 Address of Office and Agent.** The office of the Partnership shall be at 38749 135th Street, Aberdeen, South Dakota 57401, and at such other places as the General Partner may designate in writing to the Limited Partners. In addition, the Partnership may maintain such other offices as the General Partner may deem advisable at any other place or places. The agent of the Partnership for the purpose of service of process and at the address of the office of the Partnership is David Palmer.

## **ARTICLE 2 DEFINITIONS**

When used in this Agreement the following terms shall have the meanings set forth below:

**2.1 Act** means the Uniform Limited Partnership Act as enacted in the State of South Dakota, and as amended and in effect from time to time.

**2.2. Agreement** means this Second Amended and Restated Agreement of Limited Partnership, as from time to time amended.

**2.3. Bankruptcy** with respect to a Person shall be deemed to occur when such Person files a petition in bankruptcy, voluntarily takes any advantage of any bankruptcy or insolvency laws, or is adjudicated a bankrupt, or, if a petition or an answer is filed proposing the adjudication of such Person as bankrupt, when such Person shall consent to the filing thereof or 60 days after the filing thereof unless the same shall have been discharged or denied prior thereto.

**2.4. Capital Account** as to any Partner, means such Partner's Capital Contribution, including the fair market value of any property contributed to the Partnership net of liabilities secured by such contributed property which the Partnership assumes or takes subject to, plus his share of net income and gain (including income and gain exempt from tax) and reduced by the amount of money distributed to him by the Partnership, the fair market value of property distributed to him by the Partnership, the fair market value of property distributed to him by the Partnership (net of liabilities secured by such distributed property that the Partner is considered to assume or take subject to), allocations of expenditures of the Partnership not deductible in computing its taxable income and allocations of Partnership loss and deduction. It is intended that the Capital Accounts of the Partnership be maintained in accordance with Treasury Regulations Section 1.704-1 (a) and (b). To the extent that there are any other items allocated to a partner under the Partnership Agreement, such items shall be in addition to or reduction in the Capital Account of a Partner to the extent required under Treasury Regulation Section 1.704-1(b) including Section 1.704-1(b)(2)(iv).

**2.5. Capital Contribution** means the amount contributed to the capital of the Partnership by a Partner or by his predecessor in interest.

**2.6. Capital Transaction** means a sale, exchange, or other disposition of Partnership property for value, other than in the ordinary course of the Partnership business, including an involuntary conversion by condemnation, casualty or otherwise, on which gain or loss is recognized by the Partners for federal income tax purposes or by a refinancing of Partnership property.

**2.7 Capital Transaction Proceeds** means all cash received by the Partnership from a Capital Transaction (including any interest on cash to be received) less the sum of (i) all expenses paid or incurred by the Partnership in connection with such Capital Transaction, (ii) amounts applied to repayment of indebtedness, (iii) capital expenditures made from the proceeds of such Capital Transaction, and (iv) such additions to reserves for capital expenditures as the General Partner may determine to be necessary. All amounts released from such capital expenditures reserves shall be deemed to be Capital Transaction Proceeds.

**2.8. Code** shall mean the Internal Revenue Code of 1986, as amended from time to time, together with Treasury Regulations issued thereunder from time to time, or any successor statute or regulations.

**2.9. Entity** means any general partnership, limited partnership, corporation, joint venture or association.

**2.10. General Partner** means Northern Beef Packers Management, LLC, a South Dakota limited liability company, the address of which is 38749 135<sup>th</sup> Street Aberdeen, South Dakota 57401, its successors and assigns, and any person who becomes a substitute General Partner as provided in this Agreement and any person admitted to the Partnership as a General Partner. Actions on behalf of the General Partner shall be evidenced by the signature of the General Partner.

**2.11. Interest** of a Partner means such Partner's Capital Account and right to receive Operating Proceeds and Capital Transaction Proceeds, including proceeds of liquidation, and such Partner's allocable share of net income and loss of the Partnership, including gain or loss on Capital Transactions.

**2.12. Limited Partners** means, as of any particular time, all of the persons who are, at such time, the Limited Partners of the Partnership.

**2.13. Lender** means Epoch Star Limited, a company organized under the laws of the British Virgin Islands, its successors and assigns.

**2.13. Operating Proceeds** means all cash received by the Partnership in the ordinary course of its business (exclusive of loan proceeds and Capital Contributions of the Partners) less the sum of (i) all expenses paid or incurred by the Partnership, exclusive of depreciation and other non-cash expenses and distributions to Partners, (ii) amortization of principal of indebtedness (including the repayment of principal of working capital advances from the General Partner), and (iii) amounts paid for capital improvements to the Project exclusive of improvements paid from Capital Transaction Proceeds. Operating Proceeds shall not include Capital Transaction Proceeds nor be reduced by expenses incurred in connection with Capital Transactions.

**2.14. Ordinary Resolution** means:

- (a) A resolution of Limited Partners approved by more than 50% of the votes cast by Limited Partners, in person or by proxy, at a meeting of the partners called in accordance with this Agreement; or
- (b) A written resolution signed by Limited Partners holding more than 50% of the votes attached to all of the Units that would have been entitled to vote on such resolution at a meeting of the partners called in accordance with this Agreement.

**2.15. Partner** means a General Partner or Limited Partner of the Partnership.

**2.16. Partnership** means the limited partnership formed by this Agreement.

**2.17. Partnership Property** means all property, real or personal, tangible or intangible, owned of record or beneficially by the Partnership.

**2.18. Partnership Unit, Limited Partnership Unit** shall mean a limited partnership unit of the Partnership.

**2.19. Project** means a beef production and processing facility, encompassing all aspects of beef production and processing and sale of beef products, located in the State of South Dakota with a projected plan to employ three hundred (300) or more individuals.

**2.20. Person** means any natural person or any Entity.

**2.21. Successor Entity** shall have the meaning set forth in Section 10.3.

**2.22. Tax Matters Partner** shall mean Oshik Song, who is designated as such pursuant to Code Section 6231(a)(7)A.



**2.23. Unit** means a unit of Interest in the Partnership.

**2.24. Unanimous Resolution** means:

- (a) A resolution of Limited Partners approved by 100% of the votes cast by Limited Partners, in person or by proxy, at a meeting of the partners called in accordance with this Agreement; or
- (b) A written resolution signed by Limited Partners holding 100% of the votes attached to all of the Units that would have been entitled to vote on such resolution at a meeting of the partners called in accordance with this Agreement.

**2.25 Loan Agreement** means that certain Construction Loan Agreement dated as of March 18, 2010 by and between Lender and the Partnership, as amended and in effect from time to time.

### **ARTICLE 3 TERM OF PARTNERSHIP**

The Partnership commenced its existence upon the filing of a Certificate of Limited Partnership in the Office of the Secretary of State of the State of South Dakota. Unless sooner terminated or dissolved pursuant to Article 10 of this Agreement, the Partnership shall continue in existence perpetually.

### **ARTICLE 4 CAPITAL CONTRIBUTIONS**

**4.1. Contributions and Advances of the General Partner.** The General Partner has made an initial capital contribution to the Partnership consisting of cash, materials, equipment and/or other items of value, including certain contract rights and intangibles, including the contract rights to the Tax Incremental Financing and the South Dakota Redi-fund Loan for the Project, and make the arrangements for acquisition of land for, and the construction and organization of the Project (with any funds expended therefore to be reimbursed by the Partnership, but with no remuneration to be paid to the General Partner for its services relative to said purchase, organization and construction).

**4.2. Capital contributions of Limited Partners.**

- (a) The total capital contributed by the Limited Partners to the Partnership is Five Hundred Thousand Dollars (\$500,000) each. No Limited Partner shall be required to contribute any additional capital to the Partnership. No Limited Partner shall be entitled to withdraw all or any portion of his

Capital Contribution; and,

- (b) The Capital Contribution for each Limited Partnership Unit was paid in cash upon admission to the Partnership.

**4.3. Capital Account.**

- (a) There has been established for each partner on the books of account of the Partnership a capital account, which has been credited with each Partner's Capital Contributions. The General Partner shall also credit to the capital account of each partner the amount of all income of the Partnership allocated to such Partner and shall debit the capital account of such Partner the amount of any funds or the Fair Market Value of any property (determined on the date of distribution, net of liabilities assumed by such partner and the Liabilities to which such properties are subject) distributed from time to time by the Partnership to the Partner.
- (b) It is intended that the Capital Accounts of the Partnership be maintained in accordance with Treasury Regulations Section 1. 704-1 (a) and (b). To the extent that there are any other items allocated to a Partner under the Partnership Agreement, such items shall be in addition to or reduction in the Capital Account of a Partner to the extent required under Treasury Regulations Section 1. 704-1(b) including Section 1. 704-1(b)(2)(iv).
- (c) No interest shall be paid to any Partner on any amount in that Partner's capital account.

**4.4. Partnership Unit Percentages.** For their contributions, the Partnership Units shall be allocated as follows: **General Partner shall receive Forty Percent (40%) of the Partnership Units and Limited Partners shall collectively receive Sixty Percent (60%) of the Partnership Units**, whereby each Limited Partner shall receive a pro-rate share of the Limited Partnership Units available.

**4.5. Confidentiality.** Each Limited Partner agrees that the terms and conditions of this Agreement of Limited Partnership, and matters related thereto, shall be kept in strictest confidence and shall not be disclosed to any third parties, except for the accountants or attorneys of the Limited Partners, or as may be required by law.

**ARTICLE 5  
BOOKS AND RECORDS; PARTNERSHIP BOOKS**

**5.1. Tax Matters Partner,** The Tax Matters Partner shall manage administrative tax proceedings conducted at the partnership level by the Internal

Revenue Service with respect to Partnership matters. Expenses of any administrative proceedings undertaken by the Tax Matters Partner will be paid out of Partnership assets.

**5.2. Fiscal Year; Partnership Books.** The Partnership, for accounting and income tax purposes, shall operate on a calendar year, beginning on the 1<sup>st</sup> day of January each year and ending on the 31<sup>st</sup> day of December each year. Profit and loss of the Partnership for book purposes shall be determined in accordance with generally accepted accounting principles. The books of the Partnership shall be kept on the accrual basis of accounting.

The General Partner shall determine the accounting methods used for tax purposes.

The Partnership's books and records and the certificate of limited partnership and Agreement shall be maintained at the principal place of business of the Partnership.

The records and books are confidential Partnership information. Neither a Partner nor his attorney shall disclose any confidential Partnership information to anyone other than an attorney, accountant, or banker of the Partner as required to assist with the Partner's individual financial needs.

Each Limited Partner shall have access thereto at all reasonable times. Any Partner shall further have the right to a private audit, provided that it shall be made at the expense of the Partner desiring it and that it be made at reasonable times after notice.

**5.3. Partnership Financial Statements.** At the end of each year, the General Partner shall prepare un-audited financial statements as of the close of each year, including, but not limited to, a statement of financial condition and a statement of profit and loss. Copies of the financial statements prepared by the General Partner shall be delivered to the Limited Partners no later than 120 days from the end of the previous year.

A Partnership Tax Return (IRS Form 1065) shall be prepared on a calendar year basis and delivered to the Limited Partners within 75 days after the end of the previous year or such other time as allowed by law, or by an approved extension, together with the applicable schedule K-1 showing the amount of profit or loss allocated to the Partner for use in preparing the Partner's income tax return.

## ARTICLE 6

### EXPENSES OF PARTNERSHIP; COMPENSATION OF GENERAL PARTNER

#### **6.1. Expenses of Partnership.**

(a) Expenses of Organization. The General Partner shall cause the Partnership

to pay all reasonable expenses relating to the organization of the Partnership, including, but not necessarily limited to, travel expenses, legal and accounting fees, filing and recording fees.

- (b) Ongoing Expenses. The Partnership shall pay all of its own expenses, including legal, accounting and other professional fees and expenses. The General Partner shall be entitled to reimbursement for reasonable out-of-pocket expenses, including travel expenses incurred in connection with the business of the Partnership.

**6.2. Compensation to General Partner.** In addition to any other allocations of the profits, gains, losses or distributions of cash to be made to the General Partner pursuant hereto, and the reimbursement of expenses, the General Partner shall not be paid any additional compensation or remuneration.

## **ARTICLE 7 ALLOCATIONS OF GAINS, PROFITS AND LOSSES; DISTRIBUTIONS OF CASH**

**7.1. Allocation of Profit.** Profit for any taxable year shall be allocated among the Partners in the following order or priority:

- (a) First, to the Partners (in proportions set forth in Section 7.4) in proportion to the amounts of cash distributed to them pursuant to Section 7.7 until the cumulative income allocated under this Section 7.1 (a) for the current and all prior taxable years is equal to the cumulative distribution of cash to the Partners pursuant to Section 7.1 on or before the last day of the first month of the next taxable year; and,
- (b) Second, to the Partners (in proportion set forth in Section 7.4), until the sum of the cumulative income allocated pursuant to this Section 7.1(b) for all current and prior taxable years is equal to the sum of the cumulative losses allocated for the current and all prior taxable years.

**7.2. Allocation of Losses.**

- (a) Except as provided in Section 7.2(b), losses shall be allocated to Partners (in proportions set forth in Section 7.4); and,
- (b) To the extent income has been allocated to the Partners pursuant to Section 7.1 for any prior year, losses shall be allocated to offset income allocated pursuant to Section 7.1(b). To the extent any allocations of income are offset pursuant to this Section 7.2(b), such allocations shall be disregarded

for purposes of computing subsequent income allocations pursuant to this Article VII.

**7.3. Special Compliance Rules.**

- (a) In the event any Partners unexpectedly receive any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4)(5) or (6) of the Treasury Regulations, items of company income and gain shall be allocated to such Partners in any amount and manner sufficient to eliminate the deficit balances in their capital accounts as quickly as possible;
- (b) No losses or item thereof shall be allocated to any Partner if, or to the extent that, such allocation would create or increase a deficit balance in the capital account of such Partner, unless such allocation is attributable to company "nonrecourse deductions" within the meaning of Treasury Regulations Section 1.704-1(b)(4)(iv) ("the Regulations"). In the event that an allocation of nonrecourse deductions is made to a Partner pursuant to this Section 7.3(b), then, commencing with the first year during which the Partnership has nonrecourse deductions and for all taxable years thereafter, if there is a net decrease in company "minimum gain" (as defined in the Regulations), during any taxable year, all Partners with a deficit capital account balance (as specially determined in accordance with the Regulations) at the end of such taxable year shall be allocated, prior to any other allocations for such year, items of company income and gain for such year (and, if necessary, subsequent years) in the amounts and in the proportions necessary to eliminate such deficits as quickly as possible. Any allocations of losses or item thereof to a Partner, which is disallowed by virtue of this Section 7.3(b), shall be allocated to the other Partners; and,
- (c) In the event any allocations of items of Partnership income or gain are made pursuant to this Section 7.3, such allocations shall be taken into account in computing subsequent allocations of income pursuant to Section 7.1 hereof, so that the sum of the items allocated to each Partner pursuant to this Section and the income allocated to such person pursuant to Section 7.1 hereof shall, to the extent possible, be equal to the income that would have been allocated to such person pursuant to Section 7.1 hereof if no items had ever been allocated pursuant to Section 7.3.

**7.4. Allocations Among Partners.** All income and losses shall be allocated as follows: Forty Percent (40%) to the General Partner and Sixty Percent (60%) to the Limited Partners as a class. Income and losses shall be allocated among

Limited Partners pro rata based on the number of Limited Partners and taking into account their varying interests during the year in accordance with IRC Section 706(d), utilizing any conventions permitted by law and selected by General Partner.

**7.5. Allocation in Respect to Transferred Units.** If any Partnership Units are transferred during any taxable year, income, losses, each item thereof and all other items attributable to such Partnership Units for such year shall be allocated between the transferor and the transferee by taking into account their varying interests during the year in accordance with IRC Section 706(d), utilizing any conventions permitted by law and selected by General Partner.

**7.6. Code Section 704(c) Allocations.** In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial gross asset value.

In the event the gross asset value of any Partnership asset is adjusted as provided herein, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its gross asset value in the same manner as under Code Section 704(c) and the Treasury Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purposes and intention of this Agreement. Not all allocations pursuant to this Section 7.6 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any person's Capital Account or share of profits and losses or distributions under this Agreement.

**7.7. Distributions of Available Cash.** Cash shall be distributed to the Partners as cash payments.

**7.8. Distributions of Sale or Refinancing Proceeds.** Sale or refinancing proceeds shall be promptly distributed to the Partners in cash, except to the extent that such proceeds are required for purposes of working capital or capital improvements relating to the Partnership Property; and, sale or refinancing proceeds shall be allocated and paid to the Partners according to Section 7.4 above.

**7.9. Allocation Among Partners.** All distributions of cash made to the Partners shall be apportioned among Partners according to Section 7.4 above. Sale or refinancing proceeds made to the Partners shall be apportioned among them according to Section 7.4

above.

**7.10. Allocation on Liquidation.** Notwithstanding the provisions of Section 7.9 hereof, all distributions made pursuant to this Article VII upon a liquidation of the Partnership within the meaning of Treasury Regulations Section 1.704-1(b)(2)(g) shall be distributed to the Partners in accordance with the provisions of Section 7.9 hereof, but limited as to each Partner to the positive balance of his Capital Account determined as of the date of distributions and after taking into account all contributions, distributions and allocations from the date of formation of the Partnership through date of distribution in liquidation.

## **ARTICLE 8 RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS; ASSIGNMENT**

**8.1. Rights and Obligations of Limited Partners.** The Limited Partners shall have the right, together with the General Partner, to vote on and determine Material Policy Matters affecting the Partnership. Such decisions with respect to Material Policy Matters shall be determined by a majority vote collectively of the Partnership Units owned by both the General Partner and the Limited Partners, except as expressly provided herein to the contrary. For the purpose of this Section 8.1, Material Policy Matters shall include only those matters expressly required by the South Dakota Uniform Limited Partnership Act to be collectively decided by the general partner(s) and the limited partners of a limited partnership organized under the South Dakota Uniform Limited Partnership Act.

**8.2. Assignment by Limited Partners.**

- (a) **Requirements.** Except as otherwise specifically permitted by Section 8.2(e), no assignment, whether or not for value, by operation of law, or otherwise, by a Limited Partner of his Interest in the Partnership shall be effective unless all of the following conditions are met:
  - (i) Such assignment shall be made by means of an assignment in such form as shall be satisfactory to the General Partner and its counsel;
  - (ii) The General Partner shall have consented in writing to such assignment, which consent shall not be unreasonably withheld;
  - (iii) Such assignment shall not result in the termination of the Partnership under Section 708 of the Code;
  - (iv) The Partnership shall have received an opinion of counsel,

satisfactory to the General Partner, that the proposed assignment is permissible under the Securities Act of 1933, as amended, the rules and regulations of the Securities and Exchange Commission thereunder and applicable South Dakota law and does not adversely affect the tax status of the Partnership and would not violate the Regulations;

- (v) The assignor and assignee, and, if deemed necessary by the General Partner, all Limited Partners, shall have executed all such certificates and other documents and performed all such acts as the General Partner deems necessary or appropriate to effect a valid transfer and to preserve the rights, status and existence of the Partnership.
  
- (b) **Effective Date.** Except as otherwise specifically provided by Section 8.2(e) the effective date of any assignment, whether or not for value, by operation of law, or otherwise, shall be the first day of the month next following the date on which an assignment in the required form has been duly executed by the assignor and assignee and all other conditions set forth in or contemplated by Section 8.2(e) have been complied with to the satisfaction of the General Partner and its counsel; provided, however, that if such date shall fall on the first day of a month such date shall be the effective date of the assignment.
  
- (c) **Payment of Distribution.** The Partnership shall, after the effective date of any assignment pursuant to the provisions of this Section 8.2, pay all distributions on account of the Interest so assigned, to the assignee.
  
- (d) **Continuing Obligation.** Any Limited Partner who assigns his entire Interest in the Partnership shall, upon the effective date of such assignment, cease to be a Limited Partner for all purposes, except that no assignment of all or any portion of his Interest in the Partnership shall relieve the assignor of his obligations under this Agreement whether arising prior to or subsequent to such assignment.
  
- (e) **Death, Bankruptcy, or Incompetency of Limited Partner.** In the event a Limited Partner dies or is adjudged bankrupt or incompetent, his duly appointed and qualified legal representative shall succeed to the Interest of such Limited Partner upon furnishing to the General Partner evidence, satisfactory to the General Partner and its counsel of such representative's appointment and authority and may further assign the Interest of such deceased, bankrupt, or incompetent Limited Partner only as permitted by this Section 8.2. The provisions of this subsection



(e) shall apply to any assignment or distribution by any legal representative to the beneficiaries under the Will of, or the heirs at law of, any deceased Limited Partner. The death, bankruptcy, or adjudication of incompetency of a Limited Partner shall not cause the termination or dissolution of the Partnership and the business of the Partnership shall continue.

- (f) **Substitute Limited Partners.** No assignee shall have the right to become a substitute or additional Limited Partner unless the General Partner shall have consented in duly executed form and filed in the appropriate public offices and the assignee shall have paid to the Partnership the estimated costs and expenses (including attorneys' fees and filing costs) incurred in effecting the substitution or addition. Such substitute or additional Limited Partner shall reimburse the Partnership for any excess of the actual costs and expenses so incurred over the amount of such estimate. If the estimated costs and expenses initially paid shall exceed the actual costs and expenses so incurred, such excess shall be refunded to such substitute or additional Limited Partner. By execution of this Agreement or a counterpart hereof, or by authorizing such execution on his behalf, each Limited Partner consents and agrees that any assignee may be admitted as a substitute or additional Limited Partner by the General Partner through the exercise of the Power of Attorney granted under Section 12.4 hereof, without the necessity of any further action by, or consent of, the Limited Partners.

**8.3. Withdrawal of Limited Partners Prohibited.** No Limited Partner shall have the right to withdraw from or transfer or alter in any way his/her ownership percentage in the Partnership unless consented to by all Partners in writing.

**8.4 Sale, Dissolution or Termination of Project Prohibited.** All Limited Partners irrevocably agree that no Limited Partner individually or all Limited Partners, as a collective body, shall sell, dissolve, terminate or alter operation of the Partnership without the written consent of the General Partner and Unanimous Resolution.

## **ARTICLE 9 RIGHTS, POWERS AND DUTIES OF THE GENERAL PARTNER**

**9.1. General Authority of General Partner.** The General Partner shall have full and complete discretion in the management and control of the business and affairs of the Partnership and shall have, in addition to those powers and rights expressly granted in this Agreement, all the powers and rights of a general partner of a limited partnership organized under the South Dakota Uniform Limited Partnership Act, except as such discretion, powers and rights are expressly limited or denied in this Agreement. No General Partner shall be entitled to a fee for acting as a General Partner, except those fees and moneys to be paid pursuant to Article 6.

Furthermore, the General Partner may not sell, assign, transfer or otherwise dispose of its Interest, and the General Partner shall not have the right to withdraw from the Partnership except as provided in Section 9.9 and Section 9.10.

**9.2. Particular Authority of General Partner.** Without limiting the generality of the provisions of Section 9.1. in connection with managing and controlling the business and affairs of the Partnership, the General Partner shall have authority on behalf of the Partnership and without limitation:

- (a) To purchase liability and other insurance to protect the Partnership's assets and business operations, and determine whether and to what extent to insure against risks customarily insured against in the Partnership's business and whether or not the Partnership shall be partially or wholly self-insured with respect to such risks;
- (b) To enter into, execute and carry out contracts and agreements customarily employed by the Partnership's business; to execute any and all documents reasonably required to finance, construct, and operate the Project;
- (c) To execute notes and mortgages in order to secure any Project loan and to execute any loan agreement and other documents required by a lender; provided nothing herein shall be construed either as creating any personal liability to any Partner or which results in any personal liability in any Limited Partner in excess of his Capital Contribution;
- (d) To construct the Project and any other necessary structure pertinent thereto; to acquire the real estate upon which the Project is to be constructed by purchase, lease, gift, devise, or otherwise; to obtain all necessary licenses and permits required by any governmental authority for the construction, maintenance and operation of the Project; to execute any and all documents reasonably required to finance, construct and operate the Project;
- (e) Sell, lease, assign, convey or otherwise transfer title to any portion of the Partnership's real and personal property, including any interest in any mortgage (embracing for the purposes of this Agreement, deeds of trust, security agreements, and financing statements);
- (f) To loan money to the Partnership and charge interest thereon, to borrow money or otherwise obtain financing from any source for Partnership purposes, including financing for a term of years which may exceed the life of the Partnership, to pledge, mortgage, grant security interests in or

otherwise encumber all or any part of the assets (including undistributed income) of the Partnership as security for such borrowings or financing arrangements, and to guaranty, on behalf of the Partnership, the repayment of such borrowings;

- (g) To admit at any time any assignee as a substitute or additional Partner in accordance of the provisions of this Agreement;
- (h) To hire, employ, retain or otherwise secure employees, attorneys, accountants and other independent contractors or personnel necessary or appropriate to carry out the purposes of the Partnership upon such terms as the General Partner may determine;
- (i) To sue and be sued, and complain and defend, in the name of and on behalf of the Partnership, and to settle, adjust, submit to arbitration and compromise all actions, suits, accounts, claims and demands whatsoever now or hereafter pending between the Partnership and any other party (other than a General Partner);
- (j) To pay out of Partnership funds any and all Partnership costs and expenses;
- (k) To make or revoke such elections as the General Partner may deem appropriate under the tax laws of the United States and the State of South Dakota, as to the treatment of items of Partnership income, gain, loss, deduction and credit. Without limiting the generality of the foregoing, the General Partner in its sole discretion may cause the Partnership to make or revoke the election referred to in Section 754 of the Code;
- (l) To take all other actions, to enter into all other agreements and transactions with any other parties (including, within the limitations of Section 9.3, the General Partner, regardless of whether the General Partner shall profit therefrom) and to execute all other documents and instruments of any kind, which the General Partner may deem necessary or appropriate in carrying out the purposes of the Partnership; and
- (m) The General Partner may delegate all or any of their powers, rights and obligations hereunder, and in furtherance of any such delegation may elect, employ, contract or deal with any person for the transaction of the business of the Partnership, which persons may, under the supervision of the General Partner, perform any acts or services for the Partnership as the General Partner may approve, provided that the General Partner shall continue to be primarily responsible for the performance of all such obligations. The expenses arising out of such delegation, including salaries and wages, shall

be the direct expenses of the Partnership.

**9.3. Certain Limitations of General Partner's Authority.** The General Partner may enter into contracts on behalf of the Partnership with the General Partner or with persons affiliated with the General Partner provided that any such contract shall be on terms and conditions which the General Partner believes to be as favorable to the Partnership as could be obtained from unaffiliated parties. In addition to the other acts expressly prohibited by this Agreement or by law, the General Partner shall not have authority to:

- (a) Do any act in contravention of this Agreement, or of any loan agreement, or of any other agreement by which the Partnership is bound;
- (b) Do any act which makes it impossible to carry on the ordinary business of the Partnership;
- (c) Confess a judgment against the Partnership;
- (d) Possess Partnership Property or assign the rights of the Partnership in specific property for other than a Partnership purpose; and,
- (e) Admit a person as a General Partner or Limited Partner except as otherwise provided in this Agreement or in any loan agreement.

**9.4. Certain Obligations of General Partner.** Without compensation, other than as provided herein, the General Partner shall:

- (a) Arrange for Partnership records and books of account to be maintained in which shall be entered fully and accurately all transactions and other matters relative to the Partnership business as are usually entered in records maintained by persons engaged in business of a like character;
- (b) Cause to be maintained adequate records and accounts of all Partnership operations and expenditures and furnish the Limited Partners with the financial and tax information required by Section 5.3;
- (c) Make available to any Limited Partner, at his own expense, during normal business hours and at the principal place of business of the Partnership, all books and records of the Partnership required to be maintained pursuant to Article V;
- (d) Use its best efforts to manage the business and affairs of the Partnership and devote such part of its time as may be reasonably necessary to

manage the operations of the Partnership as contemplated under this Agreement. The General Partner may engage in business, for its own account or otherwise, which is the same as or similar to the business of the Partnership, irrespective of whether such business is competitive with the Partnership. Neither this Agreement nor any activity undertaken pursuant hereto shall prevent the General Partner from acting as aforesaid or require the General Partner to permit the Partnership or any Limited Partner to participate in any such business. As a material part of the consideration for the General Partner's execution hereof, all Limited Partners hereby authorize General Partner to engage in any such other business;

- (e) Use its best efforts, upon commencement of operation, to create and maintain minimum of Three Hundred (300) new employees on a full-time basis (based on 35 hours worked per week) who are either lawful permanent residents or are citizens of the United States as proven by appropriate documentation (including but are not limited to US immigration form I-9). General Partner may consult, at the expense of the Partnership, legal counsel in performing the duty specified in this Section; and
- (f) Make available to any Limited Partner as soon as practicable following his written request a list of the names and addresses of all Limited Partners showing the Interest of each Limited Partner in the Partnership.

**9.5. Inquiry as to the Authority of General Partner.** No person or entity dealing with the Partnership shall be required to inquire as to the authority of the General Partner to take any action or make any decision on behalf of the Partnership. As between the Partnership and any person or entity lending money or otherwise extending credit to the Partnership, it shall be conclusively presumed that the proceeds of such loan or other credit arrangement are to be and will be used exclusively for the purposes authorized under this Agreement, and no such person or entity shall be required to inquire as to the purposes for which such loan or other credit arrangement is sought.

**9.6. Liability of General Partner for Certain Acts or Omissions.** The doing of any act or the failure to do any act by the General Partner, the effect of which may cause or result in loss or damage to the Partnership, shall not subject the General Partner to any liability to the Limited Partners if the General Partner, in good faith, determined that any act or the failure to do any act was in the best interests of the Partnership, provided, however, that such act or the failure to do any act did not constitute gross negligence on the part of the General Partner.

**9.7. Indemnification.** The Partnership shall indemnify any person, including

the General Partner, who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Partnership) by reason of any acts, omissions or alleged acts or omissions of such person in connection with the Partnership, against amounts and expenses for which such person has not otherwise been reimbursed (including attorneys' fees, judgments, fines and amounts paid in settlement), without payment being made by the General Partner, so long as such act or omission was not done fraudulently or in bad faith or as a result of gross negligence or, with respect to any criminal action or proceeding, such person had reasonable cause to believe his conduct was not unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the act or omission was done fraudulently or in bad faith or as a result of gross negligence or, with respect to any criminal action or proceeding, that the person had reasonable cause to believe that his conduct was unlawful.

**9.8. General Partner as Limited Partners.** The General Partner may invest in the Partnership as a Limited Partner and, to the extent of its Interest as a Limited Partner, shall acquire the same rights and obligations as other Limited Partners.

**9.9. Withdrawal by General Partner.**

(a) **Withdrawal.** No General Partner shall voluntarily withdraw from the Partnership without the prior written consent of Lender, if required under the Loan Agreement, and Unanimous Resolution of the Limited Partners.

(b) **Replacement of a General Partner.** In the event of the withdrawal of a General Partner in accordance with Section 9.9(a), the business of the Partnership shall continue and Limited Partners owning collectively twenty percent (20%) may call a special meeting of the Partnership for the purpose of replacing the withdrawn General Partner. At least ten (10) days' written notice of such meeting shall be given to all Partners. At such meeting, a General Partner may be replaced. A substitute General Partner, immediately upon his admission as a General Partner, shall become the owner of the Interest in the Partnership of the withdrawn General Partner.

(c) **Failure to Admit a Substitute General Partner.** In the event that the withdrawn General Partner (withdrawn in accordance with Section 9.9(a)) is the sole General Partner of the Partnership, and a substitute General Partner has not been appointed and admitted, within a reasonable time after the special meeting called pursuant to Section 9.9(b), the Partnership shall be dissolved and terminated as of such date.

**9.10. Substitute General Partner.** Notwithstanding the foregoing provisions of

this Article 9 and any other provisions of this Agreement, the General Partner may sell, assign, transfer or otherwise dispose of its Interest in the Partnership to Lender or to any purchaser of such Interest at a foreclosure sale of the security interest therein granted by the General Partner to Lender, and Lender or such purchaser of the General Partner's entire Interest in the Partnership shall have the right to be admitted to the Partnership as a substitute General Partner without any further action on the part of the Partnership or the Limited Partners by giving written notice to the Partnership of its election to become a substitute General Partner, in which event the Partnership shall continue without dissolution or termination.

## **ARTICLE 10 TERMINATION AND DISSOLUTION**

**10.1. Termination and Dissolution of Partnership.** The Partnership shall be dissolved and liquidated and its affairs wound up upon:

- (a) The sale or other disposition of all or substantially all of its assets;
- (b) The withdrawal of a General Partner pursuant to Section 9.9(a) and no substitute General Partner has been timely admitted;
- (c) The transfer of the assets and liabilities of the Partnership to a Successor Entity pursuant to Section 10.3 of this Agreement; or,
- (d) Notwithstanding the terms of this Agreement, the occurrence of any event which, under the laws of the State of South Dakota, would dissolve the Partnership and require its affairs to be wound up.

**10.2. Cancellation of Certificate.** Upon the liquidation of the Partnership, the certificate of limited partnership of the Partnership shall be canceled in accordance with the provisions of applicable law, and the General Partner, or the person or persons required by law to carry out the winding up of its affairs, shall promptly notify all the Partners of such liquidation.

**10.3. Successor Entity.**

- (a) The General Partner, or Limited Partners if there shall be no General Partner, may transfer all the assets of the Partnership in kind to any Entity designated for that purpose (the "Successor Entity") subject to the provisions of the Loan Agreement if:
  - (i) Dissolution shall occur by reason of there being no remaining General Partner and all of the Limited Partners request such transfer

and designate the Successor Entity; and

- (ii) The General Partner at any time determines to make such transfer to a Successor Entity designated by it, and obtains the prior consent to such transfer by all Limited Partners.
- (b) The assets of the Partnership shall be transferred to such Successor Entity subject to the liabilities of the Partnership and subject to liabilities to the withdrawing Partners provided for herein, and such Successor Entity shall assume such liabilities and shall hold the Partnership and the Partners, as such, harmless therefrom.
- (c) After any transfer to a Successor Entity pursuant to this Section, the rights and obligations of the Partners shall be as owners or members of such Successor Entity, which shall assume such liabilities and shall hold the Partnership and the Partner, as such, harmless therefrom.
- (d) After any transfer to a Successor Entity pursuant to this Section, the rights and obligations of the Partners shall be as owners or members of such Successor Entity, and such rights and obligations shall be governed by the relevant documents of such Successor Entity and the laws applicable to such Successor Entity rather than this Agreement. Each Partner agrees that the relevant documents of any such Successor Entity shall contain provisions, which preserve for the respective owners or members of such Successor Entity, to the extent practicable, the rights and obligations of the respective Partners provided for in this Agreement.

**10.4. Final Accounting.** Upon liquidation of the Partnership, an accounting shall be made of the accounts of each Partner and of the Partnership's assets, liabilities and operations, from the date of the last previous accounting to the date of such dissolution.

**10.5. Liquidation; Distribution.** In the event of the liquidation of the Partnership, unless the assets and liabilities of the Partnership are transferred to a Successor Entity pursuant to Section 10.3, the General Partner shall act as liquidating trustee and, in an orderly manner, shall wind up the affairs of the Partnership, and, after paying all debts and liabilities of the Partnership (other than loans or advances which may have been made by any of the Partners), including all costs of dissolution, and shall distribute the remaining assets in the following order of priority:

- (a) To the payment of debts and liabilities of the Partnership (other than advances by the General Partner to the Partnership evidenced by promissory notes) and the expenses of liquidation;



- (b) To the repayment of the Partners in an amount equal to their Capital Contributions;
- (c) To the setting up of such reserves as may be reasonably necessary for any contingent liabilities or obligations of the Partnership;
- (d) To the General Partner in amounts necessary for repayment of loans made by the General Partner to the Partnership.

**10.6. Termination.** A reasonable time shall be allowed for the orderly liquidation of the assets of the Partnership and the discharge of liabilities to creditors so as to enable the General Partner to minimize the normal losses attendant upon a liquidation. Each of the Partners shall be furnished with a statement prepared by the Partnership's then certified public accountant which shall set forth the assets and liabilities of the Partnership as at the date of completion of liquidation. Upon compliance with the distribution plan set forth in Section 10.5 hereof, the Limited Partners shall cease to be such, and the General Partner, as the sole remaining Partner of the Partnership, or the liquidating trustee, shall execute, acknowledge, and cause to be filed a certificate of cancellation of the Partnership. Upon completion of the liquidation, winding up, liquidating and distribution of the liquidation proceeds, the Partnership shall terminate.

**10.7. Right of First Refusal.** The General Partner shall have the right of first refusal (the right to match any offers) to purchase Partnership Units from Limited Partners upon sale, dissolution or termination of Partnership to the fullest extent authorized by the laws of the State of South Dakota.

**10.8. Option.** The General Partner shall have the option to purchase all (but not less than all) of the Partnership Units of the Limited Partners by providing notice to be forwarded in accordance with Section 12.1 hereof.

The purchase price shall be determined as follows: The parties shall have thirty (30) days after the Notice to negotiate a purchase price, which is to be the "fair market value" of the Limited Partners' Units. If the parties have not agreed upon the fair market value within the thirty (30) day period, the Limited Partners shall collectively appoint an appraiser at the Limited Partners' expense, and the General Partner shall appoint an appraiser at the General Partner's expense. The two appraisers shall appoint a third appraiser with the expense to be shared equally among the Limited Partners and General Partner. The first two appointments shall be completed within forty (40) days of the termination of the initial thirty (30) day period, and the two appraisers shall have an additional ten (10) days, which is a total of fifty (50) days from the expiration of the initial (30) day period, to appoint the third appraiser. The appraisers then shall have

fifteen (15) days to determine the fair market value of the Limited Partnership Units with the decision of the majority of the appraisers binding on all parties. Closing shall occur within thirty (30) days of the receipt of the decision of the appraisers

**10.9. No Return of Capital.** No Limited Partner is entitled to any reimbursement of his/her contribution to the capital of the Partnership except as funds or other properties are available for distribution pursuant to Article 7 and Article 10.

## **ARTICLE 11 MEETINGS**

### **11.1. Meetings of Partners.**

- (a) The General Partner may at any time and from time to time call a meeting of the Partners for the purpose of considering any business set out in a Meeting Notice; and
- (b) Upon receipt of a request (a "Meeting Request") for a meeting of the Partners, the General Partner shall call such a meeting, provided that the Meeting Request:
  - (1) is made by Limited Partners holding in the aggregate not less than 20% of the issued and outstanding Units; and
  - (2) contains sufficient detail of the business to be considered at the meeting to permit the General Partner to distribute a Meeting Notice in accordance with Section 11.3 and Section 11.4.

**11.2. Requisitioned Meetings.** If the General Partner fails to call a meeting of Partners within 20 business days of receipt of a valid Meeting Request, any Limited Partners holding in the aggregate not less than 20% of the issued and outstanding Units may call such a meeting to consider any matter of business set out in the Meeting Request.

**11.3. Delivery of Notice.** For each meeting of the Partners, a notice (a "Meeting Notice") of such meeting shall be sent to each of the Partners not less than 21 and not more than 50 days prior to the date of the meeting.

**11.4. Contents of Notice.** A Meeting Notice shall include the date and time of the meeting, the place of the meeting, and sufficient information to enable each Partner to make a reasoned judgment on each matter of business to be considered at the meeting.

**11.5. Place of Meetings.** A Meeting of the Partners shall be held at a location in South Dakota that is selected by the person that called the meeting.

**11.6. Quorum.** Partners holding more than Fifty Percent (50%) of the Partnership Units, present in person or by proxy, shall constitute a quorum for the transaction of any business at a meeting of the Partners. If no quorum is formed within 60 minutes of the date and time the meeting was to commence it shall be adjourned for lack of quorum.

**11.7. Chairman and Voting Rights.** The General Partner shall appoint the chairman of the meeting. On each question submitted to a meeting of Partners, except as expressly provided herein to the contrary, each Limited Partner present in person or by proxy shall be entitled to the Partnership Unit that he holds.

**11.8. Proxies.** Each person entitled to vote at a meeting of the Partners may vote by way of proxy, provided that the proxy is received by the General Partner prior to the commencement of the applicable meeting for the purpose of verification. Any individual may be appointed as a proxy-holder, whether or not such individual is a Partner, provided that the proxy shall be in a form acceptable to the General Partner or the chairman of the meeting, both acting reasonably.

**11.9. Conduct of Meeting.** To the extent that the rules and procedures for the conduct of a meeting of the Partners are not prescribed in this Agreement, such rules and procedures shall be determined by the chairman of the meeting, acting reasonably.

**11.10. Effect of Resolutions.** A resolution approved or consented to in accordance with this Agreement shall be binding upon each of the Partners and their respective heirs, executors, administrators, successors and permitted assigns.

**11.11. Minute Books.** All proceedings at a meeting of the Partners shall be recorded by the General Partner in a minute book, which shall be made available for inspection by each Partner during normal business hours.

**11.12. Resolution in Lieu of Meeting.** A resolution signed by Limited Partners holding more than Fifty Percent (50%) of the Partnership Units is as valid and as effective as if it had been passed at a meeting of the Partners called in accordance with this Agreement.

## **ARTICLE 12 MISCELLANEOUS PROVISIONS**

**12.1. Notices and Addresses.** All notices required to be given under this Agreement shall be in writing and shall be mailed by certified mail-return receipt requested or shall be hand delivered. Such notices as are mailed shall be mailed to the Partners at the addresses set forth on Exhibit 1 or such other address as a Partner may

notify the General Partner of in writing. Any notices to be sent to the Partnership shall be mailed to the office of the Partnership as specified herein or at such other address as the General Partner may specify in a notice sent to all of the Partners.

**12.2. Law Governing.** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota.

**12.3. Amendments.** This Agreement may be amended in writing by the General Partner:

- (a) With the consent of the Limited Partners given by Ordinary Resolution; or
- (b) Without prior notice to or consent from any Limited Partner:
  - (1) For the purpose of adding to the Agreement (or amending existing provisions) any provisions which, in the written opinion of counsel to the Partnership, are for the protection of the Limited Partners, or
  - (2) For the purpose of curing any ambiguity or correcting or supplementing any provisions which, in the written opinion of counsel to the Partnership, are defective or inconsistent with any other provision of the Agreement, provided that, in the written opinion of such counsel, the cure, correction or supplemental provision does not and will not adversely affect the interests of any Limited Partner.

Notwithstanding any provision of this Agreement, no amendment to this Agreement shall be effective without the prior written approval of the General Partner and, in the event that the proposed amendment will, or is likely to, cause a Limited Partner to suffer an adverse economic effect, the written consent of such Limited Partner.

No amendment shall change the Partnership to a general partnership, change the respective liabilities of the General Partner or of the Limited Partners, or change the basis of participation of the parties in the capital, or, in the cash distributions or net income or losses of the Partnership except with the unanimous consent of all Partners.

The General Partner shall notify the Partners of the full details of any amendment to this Agreement within 20 Business Days of the effective date of the amendment.

**12.4. Power of Attorney.** Each Limited Partner, by execution of this Agreement

or a counterpart of this Agreement, or by authorizing such execution on his behalf, does irrevocably constitute and appoint the General Partner (and, in the case of a successor under Section 9.9, the successor of General Partner), as his true and lawful attorneys and agents (with full power of substitution) with full power and authority in his name, place and stead to execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (i) all certificates and other instruments (including counterparts of this Agreement) which such attorney-in-fact deems necessary or appropriate to qualify or continue the Partnership as a limited partnership in the State of South Dakota; (ii) all instruments, which such attorney-in-fact deems necessary or appropriate to effect a change or modification of the Partnership in accordance with the terms of this Agreement; (iii) all conveyances and other instruments which such attorney-in-fact deems necessary or appropriate to effect the dissolution and termination of the Partnership; (iv) all instruments relating to the admission of additional or substitute General Partner and Limited Partners; and (v) any other instruments which may be necessary or desirable to carry out the intention of this Agreement as determined by such attorney-in-fact in its sole and absolute discretion and not in contravention of this Agreement. The foregoing grant of authority: (i) is and shall survive the death, incompetence or termination of existence of any or all of the Limited Partners; (ii) may be exercised by such attorney-in-fact for the Limited Partners together with all of the Limited Partners; (iii) shall bind any person who becomes a substitute or additional Limited Partner pursuant to this Agreement; and (iv) shall continue to bind any Limited Partner who assigns the whole or any portion of his Interest, except that where the assignee of the whole of any Limited Partner's Interest has been approved by the General Partner for admission to the Partnership as a substitute Limited Partner, then, as to such assigning Limited Partner, this Power of Attorney shall survive the delivery of such assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect such substitution. Upon the request of the attorney-in-fact, the Limited Partners shall execute any certificate or other instrument with respect to which the attorney-in-fact could have invoked this Power of Attorney.

**12.5. Successors and Assigns.** This Agreement and all the terms and provisions hereof, shall be binding upon and inure to the benefit of the Partners and their legal representatives, heirs, successors and assigns.

**12.6. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument. Accordingly, this Agreement may be executed by each Partner on separate originals.

**12.7. Modifications To Be in Writing.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and no amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing and adopted in accordance with the provisions of Section

12.3 hereof.

**12.8. Partition Action.** Each of the parties hereto irrevocably waives any right to maintain an action for partition with respect to property of the Partnership.

**12.9. Captions.** The captions herein are inserted for convenience of reference only and shall not affect the construction of this Agreement.

**12.10. Validity and Severability.** If any provision herein shall be held invalid or unenforceable, such decision shall not affect the validity or enforceability of any other provisions hereof, all of which other provisions shall, in such case, remain in full force and effect.

**12.11. Statutory References.** Each reference in this Agreement to a particular statute or regulation, or a provision thereof, shall at any particular time, be deemed to be a reference to such statute or regulation, or provision thereof, or to any similar or superseding statute or regulation, or provision thereof, as at such time in effect.

IN WITNESS WHEREOF, the undersigned have executed this Agreement of Limited Partnership as of the date first above written.

GENERAL PARTNER

Northern Beef Packers Management, LLC,  
a South Dakota limited liability company

By \_\_\_\_\_  
Its \_\_\_\_\_

LIMITED PARTNERS

[List names of limited partners]

By: \_\_\_\_\_  
James J. Park,  
Attorney-in-Fact

Exhibit 1