

THIS AMALGAMATION AGREEMENT made as of the _____ day of _____, 20_____.

BY AND BETWEEN:

MANITOBA _____ GROWERS ASSOCIATION INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Growers’ Association**”)

- and -

MANITOBA CORN GROWERS ASSOCIATION INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Corn Association**”)

- and -

MANITOBA FLAX GROWERS ASSOCIATION INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Flax Association**”)

- and -

THE NATIONAL SUNFLOWER ASSOCIATION OF CANADA INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Sunflower Association**”)

- and -

MANITOBA WHEAT AND BARLEY GROWERS ASSOCIATION INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Wheat and Barley Association**”)

- and -

WINTER CEREALS MANITOBA INC.,
a corporation incorporated pursuant to the
provisions of *The Corporations Act* (Manitoba)

(hereinafter called the “**Cereals Association**”)

WHEREAS the Growers’ Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated [REDACTED], 2019;

AND WHEREAS the Corn Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated December 27, 1979, as amended by Articles of Amendment dated July 23, 1981 and November 12, 1981;

AND WHEREAS the Flax Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated December 15, 1999;

AND WHEREAS the Sunflower Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated March 1, 1999;

AND WHEREAS the Wheat and Barley Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated June 5, 2013;

AND WHEREAS Cereals Association was incorporated under the laws of the Province of Manitoba by Articles of Incorporation dated April 25, 2006;

AND WHEREAS the parties hereto acting under the authority contained in *The Corporations Act* (Manitoba) (the “**Act**”) have agreed to amalgamate upon the terms and conditions hereinafter set out;

AND WHEREAS the parties hereto have each made full disclosure, each to the other, of all of their respective assets and liabilities;

AND WHEREAS, it is desirable that the said amalgamation should be effected;

NOW THEREFORE in consideration of the premises and mutual covenants herein contained the parties hereto have agreed as follows:

1. In this Agreement the expression “Amalgamated Corporation” means the corporation continued from the amalgamation of the Growers’ Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association.

2. Subject to Section 3 of this Agreement, the Growers’ Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association (each an “**Amalgamating Association**” and together being, the “**Amalgamating Associations**”) hereto do agree to amalgamate and do hereby amalgamate effective as at August 1, 2020 or the date that is 10 calendar days after the date that the Designation (as defined below) is made by the Lieutenant-Governor in Council, whichever is later (the “**Date of Amalgamation**”), under the provisions of the Act, and thereafter agree to continue as one corporation upon and subject to the terms and conditions hereinafter set out.

3. The parties hereto agree to amalgamate effective as at the Date of Amalgamation, provided that:

(a) From the date of execution of this Agreement by the Amalgamating Associations and until March 16, 2020, each of the Amalgamating Associations shall be entitled, at their option and sole cost, to have an audit or other review conducted of any of the books and records of the other Amalgamating Associations and, in such event, each such association agrees to fully cooperate with the said audit or other review so conducted and to promptly provide any and all statements, agreements, documents, and/or information as is required to enable the preparation of a report on its contractual commitments and financial condition.

(b) Pursuant to Part 4 of *The Agricultural Producers' Organization Funding Act*, C.C.S.M. c. A18, the Lieutenant-Governor in Council makes a regulation, effective on or before July 31, 2021 which shall designate the Amalgamated Corporation as an organization of producers (the “**Designation**”) for the agricultural products of each of the Amalgamating Associations, as specified in the *Manitoba Corn Growers Association Designation Regulation*, M.R. 137/98, *Manitoba Flax Growers Association Designation Regulation*, M.R. 119/2008, *National Sunflower Association of Canada Designation Regulation*, M.R. 160/2003, *Manitoba Wheat and Barley Growers Association Designation Regulation*, M.R. 188/2013, and *Winter Cereals Manitoba Designation Regulation*, M.R. 117/2008 (each a “**Designated Regulation**” and collectively, the “**Designated Regulations**”). Failing the making of such Designation on or before July 31, 2021, the Amalgamating Associations agree that this Agreement shall then immediately be null and void and of no further force and effect.

4. As of March 1, 2020, each of the Amalgamating Associations agree that it shall not enter into any new or extend any existing contractual commitments, other than in the ordinary course of business, which may run past July 31, 2020, make any new grants, or support any new projects, without the prior written approval of each of the other Amalgamating Associations.

5. The name of the Amalgamated Corporation shall be MANITOBA [REDACTED] GROWERS ASSOCIATION INC.

6. The registered office of the Amalgamated Corporation shall be:

30th Floor - 360 Main Street
Winnipeg, MB R3C 4G1

7. The Amalgamated Corporation shall have no authorized capital and shall be carried on without pecuniary gain to its members, and any profits or other accretions to the Amalgamated Corporation shall be used in furthering its undertaking.

8. The business which the Amalgamated Corporation is authorized to carry on shall be restricted to representing the interests of producers of corn, flax seed, flax straw, sunflower, barley, spring wheat, and winter wheat in Manitoba; to promote and support corn, flax seed, flax straw, sunflower, barley, spring wheat, and winter wheat through education, research and marketing development and expansion, and other initiatives.

9. The by-laws of the Amalgamated Corporation shall be in the form attached hereto as Schedule I and may, after the amalgamation, be amended from time to time or repealed in accordance with the provisions of the Act.

10. The membership and types of membership of the Amalgamated Corporation on the effective date of the amalgamation shall be those as set forth in the form of by-laws of the Amalgamated Corporation attached hereto as Schedule I to this Agreement.

11. On the effective date of the amalgamation, the members of each of the Amalgamating Associations shall become members of the Amalgamated Corporation.

12. The number of directors of the Amalgamated Corporation shall be determined in accordance with the form of by-laws of the Amalgamated Corporation attached hereto as Schedule I to this Agreement.

13. The first directors of the Amalgamated Corporation are the individuals whose names and addresses are set out in Schedule II, who shall hold office until the conclusion of the annual meeting of the members of the Amalgamated Corporation in 2020 or until their successors are elected or appointed.

14. (a) The Growers' Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation;

(b) The Corn Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation;

(c) The Flax Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation;

(d) The Sunflower Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation;

(e) The Wheat and Barley Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation; and

(f) The Cereals Association shall contribute to the Amalgamated Corporation all its property and assets, subject to all its liabilities, as of the Date of Amalgamation.

15. The Amalgamated Corporation shall possess all the property, assets, rights, privileges and franchises and shall be subject to all the contracts, liabilities, debts and obligations of each of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association.

16. All rights of creditors against the property, assets, rights, privileges and franchises of each of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association and all liens upon their property,

rights and assets shall be unimpaired by such amalgamation and all debts, contracts, liabilities and duties of each of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association shall thenceforth attach to and may be enforced against the Amalgamated Corporation.

17. No action or proceeding by or against any of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and/or the Cereals Association shall abate or be affected by such amalgamation but, for all purposes of such action or proceeding, the name of the Amalgamated Corporation shall be substituted in such action or proceeding in place of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, or the Cereals Association, as the case may be.

18. A civil, criminal or administrative action or proceeding pending by or against of any of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, or the Cereals Association may continue to be prosecuted by or against the Amalgamated Corporation, and a conviction against, or a ruling, order or judgment in favour of or against of any of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, or the Cereals Association may be enforced by or against the Amalgamated Corporation.

19. Each of the Amalgamating Associations agree that:

- (a) After July 31, 2020, any producer entitled to a refund of deductions paid under a Designated Regulation prior to the Date of Amalgamation may, subject to the provisions set out in the applicable Designated Regulation, apply to the Amalgamated Corporation for a refund of such deductions, as if the Designated Regulation was still in effect;
- (b) After July 31, 2020, subject to the request for a refund complying with the terms of the applicable Designation Regulation, the Amalgamated Corporation shall make the refund to such producer *in lieu* of the applicable Amalgamating Association, as if the Amalgamated Corporation were such Amalgamating Association;
- (c) After the Date of Amalgamation, any existing research agreements entered into with any Amalgamating Association, including, without limiting the generality of the foregoing, any multi-year research agreements, shall be deemed to continue in full force and effect, be binding upon, and honoured by the Amalgamated Corporation, in accordance with the terms of each such agreement;
- (d) As at and after the Date of Amalgamation, deductions paid under a Designated Regulation, and any resulting cash reserves accumulated, prior to the Date of Amalgamation shall be transferred from each Amalgamating Association to the Amalgamated Corporation, with said deductions and cash reserves to then be applied and/or invested by the Amalgamated Corporation into research and/or marketing initiatives relating to the applicable agricultural product for which each deduction was paid and each cash reserve accumulated; and

- (e) After the Date of Amalgamation, the Amalgamated Corporation will undertake reasonable commercial efforts to ensure that research and/or marketing initiatives relating to the applicable agricultural product for which a deduction was paid under a Designated Regulation prior to the Date of Amalgamation be maintained at a comparable level.

20. Subject to the making of the Designation by the Lieutenant-Governor in Council and subject to the members of each of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association respectively approving this agreement in accordance with the provisions of the Act, the parties hereto agree that they shall complete and send Articles of Amalgamation in prescribed form to the Director of the Manitoba Companies Office, thereby providing for the amalgamation of the Growers' Association, the Corn Association, the Flax Association, the Sunflower Association, the Wheat and Barley Association, and the Cereals Association as at the Date of Amalgamation, upon and subject to the terms and conditions of this Agreement.

[Remainder of page left intentionally blank. Signature page follows immediately hereafter.]

IN WITNESS WHEREOF, the parties have executed this Agreement.

**MANITOBA [REDACTED] GROWERS
ASSOCIATION INC.**

**MANITOBA CORN GROWERS
ASSOCIATION INC.**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation.

I/We have the authority to bind the Corporation.

**MANITOBA FLAX GROWERS
ASSOCIATION INC.**

**THE NATIONAL SUNFLOWER
ASSOCIATION OF CANADA INC.**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation.

I/We have the authority to bind the Corporation.

**MANITOBA WHEAT AND BARLEY
GROWERS ASSOCIATION INC.**

WINTER CEREALS MANITOBA INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have the authority to bind the Corporation.

I/We have the authority to bind the Corporation.

SCHEDULE I

TO THE AMALGAMATION AGREEMENT
MADE AS OF THE [REDACTED] DAY OF [REDACTED], 20[REDACTED]
AMONG

MANITOBA [REDACTED] GROWERS ASSOCIATION INC., MANITOBA CORN GROWERS ASSOCIATION INC.,
MANITOBA FLAX GROWERS ASSOCIATION INC., THE NATIONAL SUNFLOWER ASSOCIATION OF CANADA
INC., MANITOBA WHEAT AND BARLEY ASSOCIATION INC., AND WINTER CEREALS MANITOBA INC.

BY-LAWS OF THE AMALGAMATED CORPORATION

[SEE ATTACHED]

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SCHEDULE II
TO THE AMALGAMATION AGREEMENT
MADE AS OF THE [] DAY OF [], 20[]
AMONG

MANITOBA [] GROWERS ASSOCIATION INC., MANITOBA CORN GROWERS ASSOCIATION INC.,
MANITOBA FLAX GROWERS ASSOCIATION INC., THE NATIONAL SUNFLOWER ASSOCIATION OF CANADA
INC., MANITOBA WHEAT AND BARLEY ASSOCIATION INC., AND WINTER CEREALS MANITOBA INC.

Directors

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

