

**HIGHWATER ETHANOL, LLC**  
**CHARTER OF THE NOMINATING COMMITTEE OF THE BOARD OF GOVERNORS**

Pursuant to Section 5.3 of the Amended and Restated Member Control Agreement of Highwater Ethanol, LLC (the "Operating Agreement"), and in accordance with other provisions therein, the Board of Governors ("Board") of Highwater Ethanol, LLC ("Company"), established a Nominating Committee ("Committee") on this \_\_24<sup>th</sup> day of \_November, 2009.

**I. Purpose**

The Committee's role is to recommend candidates for election to the Board and to identify and recommend candidates to fill vacancies occurring between annual member meetings.

**II. Authority**

The Committee shall have the resources and authority necessary to discharge its duties and responsibilities as it deems appropriate in its sole discretion. Additionally, the Committee shall have the authority to retain and terminate any search firm to be used to identify governor candidates, including the authority to approve the search firm's fees and other retention terms.

**III. Composition**

The Committee shall be comprised of at least three (3) members, the majority of whom shall meet the independency qualification requirements set forth in Section V.A of this Charter. The Committee may at any time have members, who are not governors, serving as Committee members. Each Committee member shall be elected by a majority vote of the governors and shall individually meet the requirements as may be set by the Board from time to time. The Board may remove a Committee member, with or without cause, by a majority vote of the governors, provided that the Board at all times assures the Committee maintains the requisite number and composition of Committee members herein provided.

Unless a Chairperson is appointed by the governors, the members of the Committee may designate a Chairperson by a majority vote of the full Committee. The Chairperson shall govern all regular and special sessions of the Committee, be responsible for the scheduling of regular meetings, and set agendas for all such meetings. The Chairperson shall serve until the expiration of his or her term or until his or her resignation, retirement, or removal and a successor has been appointed. If the Chairperson is absent from a meeting, another member of the Committee shall serve as chairperson for the purposes of that meeting.

**IV. Duties and Responsibilities**

The Committee's policies and procedures shall remain flexible in order to best react to changing conditions and to ensure that the nominating process and procedures of the Committee are in accordance with all Company requirements. In carrying out its responsibilities, the Committee will perform the following functions:

1. To identify, recruit, and evaluate candidates for governor's positions on the Board and the committees thereof and to consider the performance of incumbent governors in determining whether to nominate them for re-election;
2. To make recommendations to the Board concerning the composition of the Board, including its size and qualifications for membership;
3. To develop a process to be used by the Committee in identifying and evaluating candidates for membership on the Board and the committees thereof;
  - (i) The Committee may consider potential governor candidates recommended by members, provided that the proposed candidates satisfy any minimum qualifications of the Company for its governors.
  - (ii) The Committee may identify prospective governors from any reasonable source, including, but not limited to, the consultation of third-party governor search services.
4. To evaluate the participation and contribution of each governor coming to the end of his or her term before deciding whether to recommend re-election. The Committee may seek the views of other governors to assist them in this evaluation. The Committee shall periodically review the composition of the Board to determine whether it may be appropriate to add individuals with different backgrounds or skills from those already serving on the Board;
5. To annually present to the Board a list of candidates recommended for election to the Board at the annual meeting of members;
6. To present to the Board, as necessary, candidates for Committee membership and individuals recommended to fill vacancies that may occur on the Board; and
7. To perform any other activities consistent with this Charter, the Company's Articles of Organization (as the same may be amended and/or restated and in effect from time to time), the Company's Operating Agreement, and governing law, as the Committee or the Board deems necessary and appropriate.

## **V. Procedures and Eligibility Requirements**

### **A. Independency Requirements**

The Committee has adopted a policy of maintaining a partially independent nominating committee. For the purpose of carrying out such policy, a nominating committee candidate will NOT be considered independent if such individual:



1. Receives any consulting, advisory, or other compensatory fees from the Company, other than Board or committee fees and fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the Company (provided that such compensation is not contingent in any way upon continued service);
2. Is an “affiliated person” of the Company, as herein defined;

The term *affiliate* means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the Company.

- (i) A person will be deemed not to be in control of the Company for purposes of this section if such person or entity:
  - Is not a beneficial owner, directly or indirectly, of more than 10% of any class of voting equity securities of the Company;
  - Is not an executive officer of the Company.
- (ii) The ownership requirement set forth in the previous subparagraph (i) does not create a presumption in any way that a person holding more than 10% of any class of the Company’s voting equity securities controls or is otherwise an affiliate of the Company.

The following will also be deemed affiliates:

- (i) An executive officer of an affiliate;
  - (ii) A governor who is also an employee of an affiliate;
  - (iii) A general partner of an affiliate; and
  - (iv) A managing member of an affiliate.
3. Is an employee of the Company or any current subsidiary of the Company; or
  4. Has accepted or has an immediate family member who has accepted payments, during the immediately preceding calendar year, from the Company or any of its subsidiaries in excess of Sixty Thousand Dollars (\$60,000), other than as compensation for Board or committee services, payments arising solely from investments in the Company’s securities, compensation paid to a family member who is a non-executive employee of the Company, benefits under a tax-qualified retirement plan, or non-discretionary compensation or certain permitted loans; or

5. Has an immediate family member who is employed, or has been employed within the preceding calendar year, by the Company or any of its subsidiaries as an executive officer; or
6. Is or has an immediate family member who is a partner or controlling member/shareholder or executive officer of any organization to which the Company made, or from which the Company received, payments for property or services that exceeds 5% of the recipient's consolidated gross revenues of that year, or \$200,000, whichever is more, other than payments arising solely from investments in the Company's securities or payments under non-discretionary charitable contribution matching programs; or
7. Is or has an immediate family member who is employed, or has been employed within the preceding calendar year, as an executive officer of another entity where any of the executive officers of the Company serve on the compensation committee of such other entity.

## **B. Qualification Requirements**

In recommending candidates to the Board, the Committee shall consider such factors as it deems appropriate to assist in developing a Board and committees that are diverse in nature and comprised of experienced and seasoned advisors. The types of criteria the Committee shall take into account when identifying and evaluating potential candidates, shall include, but is not limited to the following:

1. The candidate's agricultural, business, legal, technical/engineering, accounting, and financial background and experience;
2. The candidate's community or civic involvement;
3. The candidate's independence from the Company and his or her lack of potential conflict(s) with the Company that cannot be handled by fully disclosing the candidate's interest in a given transaction or by abstaining from decisions of the board in which the candidate may have an interest. Candidates should not have, or appear to have, a conflict of interest that would unreasonably impair the candidate's ability to represent the interests of all of the Company's members or to fulfill the responsibilities of a governor;
4. The candidate's reputation for integrity, honesty, and adherence to high ethical standards. Candidates should have demonstrated business acumen, experience, and the ability to exercise sound judgment in matters related to the current and long-term objectives of the Company, and should be willing and able to contribute positively to the decision making process of the Company; and
5. The specific needs of the existing Board relative to any particular candidate so that the overall Board compensation reflects a mix of talents, experience, expertise, and perspectives appropriate to the Company's circumstances.

The re-nomination of existing governors shall not be automatic, but should be based on continuing qualification under the criteria set forth above. In addition, the Committee shall consider the existing governor's performance on the Board and on any committee on which such governor serves, which shall include attendance at Board and committee meetings and consideration of the extent to which such governor(s) undertook continuing education programs.

### **C. Meetings**

The Committee shall meet at least two times annually. Additional meetings may occur as the Committee or its Chairperson deems advisable. The Committee will keep minutes at each of its meetings and such meeting minutes will be provided to the Board. Committee members will be furnished with copies of the minutes of each meeting. The Committee is governed by the same rules regarding meetings, action without meetings, notice, waiver of notice, and quorum and voting requirements as are applicable to the Board and set forth in the Operating Agreement. The Committee is authorized and empowered to adopt its own rules of procedure not inconsistent with any provision of this Charter, the Company's Operating Agreement, and the laws of the State of Minnesota.