

3/26/19
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MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU), entered this 11th day of March, 2019 between NEW Cooperative, Inc. (hereinafter "NEW Cooperative") and Woodbury County, Iowa, a county government (hereinafter the "County").

Purpose

This MOU is intended to clarify the framework in which tax increment rebate payments will be made to NEW Cooperative from the County for the duration of the Development Agreement, including any expansion of the grain handling facility located at 2309 Highway 39, Anthon, IA 51004.

Background

In 2012, Platinum Grain, LLC (hereinafter "Platinum Grain") proposed to construct a grain handling facility in Woodbury County, Iowa (2309 Highway 39, Anthon, IA 51004). At the request of Platinum Grain, the County created the Platinum Grain Urban Renewal Area to provide tax increment financing assistance to Platinum Grain for the construction of the grain handling facility project. On May 8, 2012, Platinum Grain and the County entered into a Development Agreement (ATTACHMENT A). On May 30, 2017, NEW Cooperative acquired Platinum Grain and all its assets by entering into a Purchase Agreement (ATTACHMENT B).

Per the terms of the Development Agreement between Platinum Grain and the County, NEW Cooperative was eligible to receive the remaining tax increment rebate payments owed to Platinum Grain as its successor. On June 13, 2017, the County passed a Resolution to assign the Development Agreement and transfer economic development tax increment rebate payments to NEW Cooperative from Platinum Grain, Resolution No. 12,580 (ATTACHMENT C).

Furthermore, the Development Agreement states, "To the extent that the Company expands the Project prior to the termination of this Agreement, the County agrees to make Payments with respect to the additional taxable valuation at the percentages set out above, for the remainder of the original ten-year payment period of this Agreement."

In the event an expansion occurs, payments for the expansion will be made on December 1 and June 1 of each fiscal year, beginning in the first fiscal year for which the County receives incremental property tax revenues with respect to an increase in the taxable valuation of the property over the valuation shown on the tax rolls as of January 1, 2019 (the "New Incremental Property Tax Revenues"), and continuing for the remainder of the original ten-year payment period of the Development Agreement, or until such earlier date upon which total payments equal to \$2,000,000 have been made. For example, if an increase in taxable valuation of the Property is placed on the Woodbury County tax rolls as of January 1, 2020, the first Payment will be made on December 1, 2021.

Current Rebate Payment Schedule

<u>FY</u>	<u>Agree to % of Rebate</u>	<u>Total TIF Taxable Value</u>	<u>Tax Rate</u>	<u>Gross Tax</u>	<u>Less: BPTC</u>	<u>Net Tax Paid</u>	<u>Less Other Debt Levys</u>	<u>Tax Rebate to Platinum</u>	<u>Installment</u>
14-15	75%	2,989,337	23.67048	70,759.04	571.87	70,187.17		52,640	
15-16	75%	4,273,128	22.87457	97,745.97	1,441	96,304.53		72,228	
16-17	75%	4,563,572	23.00890	105,002.77	-	105,002.77	6,770.00	98,233	
17-18	75%	4,563,932	23.09066	105,384.20	-	106,070.00		106,070	
18-19	75%	4,593,632	22.75956	104,549.04		104,549.04	6,299.00	49,203	1st Half 2nd Half
19-20	50%	6,124,842	22.07100	139,399.00		139,399.00			
20-21	50%			-		-		-	
21-22	50%			-		-		-	
22-23	50%			-		-		-	
23-24	50%			-		-		-	

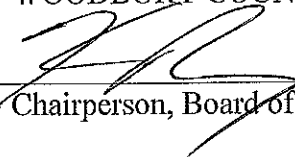
Total Rebate not to Exceed Aggregate of \$ 2,000,000

378,374

Duration

This MOU shall become effective upon signature by the authorized officials of participating entities and will remain in effect until June 30, 2024, or on such earlier date on which the County has made payments to NEW Cooperative in a total amount not to exceed \$2,000,000.

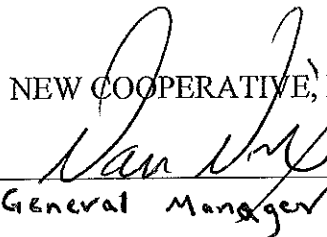
WOODBURY COUNTY, IOWA

By: 
Chairperson, Board of Supervisors

Attest:

By: Steve Hofmeyer - Deputy
County Auditor

NEW COOPERATIVE, INC

By: 
General Manager

ATTACHMENT A

DEVELOPMENT AGREEMENT

This Agreement is entered into between Woodbury County, Iowa (the "County") and Platinum Grain, LLC (the "Company") as of the 8th day of May, 2012.

WHEREAS, at the request of the Company, the County is in the process of creating the Platinum Grain Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, the Company owns certain real property which is situated within the Urban Renewal Area, described as follows:

That part of the Northeast Quarter of the Northeast Quarter of Section 7 and that part of the Northwest Quarter of the Northwest Quarter of Section 8, ALL in Township 87 North, Range 43 West of the 5th P.M., Woodbury County, Iowa, described as follows:

Beginning at the northwest corner of said Section 8; Thence South 88 degrees 35 minutes 25 seconds East (assumed bearing) along the north line of the Northwest Quarter of said Section 8 a distance of 722.89 feet to the west line of Iowa Highway 31; Thence southerly 891.76 feet along said west line, along a nontangential curve concave to the east, having a central angle of 18 degrees 40 minutes 40 seconds, a radius of 5,810.00 feet, a chord of 890.89 feet and chord bearing of South 18 degrees 22 minutes and 03 seconds West; Thence North 88 degrees 26 minutes 52 seconds West parallel with the north line of the Northeast Quarter of said Section 7 a distance of 906.34 feet; Thence North 01 degrees 33 minutes 08 seconds East perpendicular with the north line of said Northeast Quarter 851.00 feet to the north line of said Northeast Quarter; Thence South 88 degrees 26 minutes 52 seconds East along said North line 441.17 feet to the point of beginning.

(the "Property") and;

WHEREAS, the Company intends to construct a grain handling facility on the Property (the "Project"); and

WHEREAS, the Company has requested tax increment financing assistance in paying the costs of the Project; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes counties to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Company's Covenants

1. The Company agrees to construct the Project on the Property and to use the Project as a grain handling facility until the termination date of this Agreement.

2. The Company agrees to make timely payment of all property taxes as they come due until the termination date of this Agreement and to submit a receipt or cancelled check to the County in evidence of each such payment.

3. The Company agrees to enter into a minimum assessment agreement in substantially the form attached to this Agreement as Exhibit A, in order to guarantee to the County that the taxable valuation of the Property will not be less than \$1,250,000 until the termination date of this Agreement.

B. County's Obligations

In recognition of the Company's obligations set out above, and contingent on the Company being in compliance with those obligations at all times until the termination date of this Agreement, the County agrees to make economic development tax increment payments (the "Payments") to the Company for ten fiscal years, pursuant to Chapters 15A and 403 of the Code of Iowa, provided, however, that the aggregate, total amount of the Payments shall not exceed \$2,000,000.

The Payments will be made on December 1 and June 1 of each fiscal year, beginning in the first fiscal year for which the County receives incremental property tax revenues with respect to an increase in the taxable valuation of the Property over the valuation shown on the tax rolls as of January 1, 2012 (the "Incremental Property Tax Revenues"), and continuing for ten fiscal years or until such earlier date upon which total Payments equal to \$2,000,000 have been made. For example, if an increase in taxable valuation of the Property is placed on the Woodbury County tax rolls as of January 1, 2013, the first Payment will be made on December 1, 2014.

Each Payment shall be equal to a percentage of the total Incremental Property Tax Revenues received by the County with respect to the Property in the six months preceding such Payment date, as follows:

Years 1-5: 75%
Years 6-10: 50%

Incremental Property Tax Revenues are produced by multiplying the consolidated property tax levy (county, school, etc.) times the incremental valuation of the Property, then subtracting debt service levies of all taxing jurisdictions, subtracting the school district physical plant and equipment levies and subtracting any other levies which may be exempted from such calculation by action of the Iowa General Assembly.

The Payments shall not constitute general obligations of the County, but shall be made solely and only from Incremental Property Tax Revenues attributable to the Property that are received by the Woodbury County Treasurer.

To the extent that the Company expands the Project prior to the termination date of this Agreement, the County agrees to make Payments with respect to the additional taxable valuation at the percentages set out above, for the remainder of the original ten-year payment period of this Agreement.

The County agrees to make the required certifications to document the obligation of the County to rebate to the Company future Incremental Property Tax Revenues attributable to the Property.

C. Administrative Provisions

1. This Agreement may not be amended or assigned by either party without the express permission of the other party. However, the County hereby gives its permission that the Company's rights to receive the Payments hereunder may be assigned by the Company to a lender, as security, without further action on the part of the County.

2. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

4. This Agreement shall terminate on June 30, 2024, or on such earlier date on which the County has made Payments to the Company in a total amount not to exceed \$2,000,000.

The County and the Company have caused this Agreement to be signed, in their names and on their behalf, by their duly authorized officers, all as of the day and date written above.

WOODBURY COUNTY, IOWA

By: Jackie Smith
Chairperson, Board of Supervisors

Attest:

Jeanette Depette
County Auditor

PLATINUM GRAIN, LLC

By: Nick Barabish, General Manager

Preparer Information: Robert E. Josten, Dorsey & Whitney LLP, 801 Grand, Suite 3900, Des Moines, Iowa 50309 (515) 283-1000

MINIMUM ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of the 3d day of April, 2012, is entered into by and among the Board of Supervisors of Woodbury County, Sioux City, Iowa (the "County"), Platinum Grain, LLC (the "Property Owner"), and the County Assessor of Woodbury County (the "Assessor").

WITNESSETH

WHEREAS, the Property Owner owns certain real property the legal description of which is:

That part of the Northeast Quarter of the Northeast Quarter of Section 7 and that part of the Northwest Quarter of the Northwest Quarter of Section 8, ALL in Township 87 North, Range 43 West of the 5th P.M., Woodbury County, Iowa, described as follows:

Beginning at the northwest corner of said Section 8; Thence South 88 degrees 35 minutes 25 seconds East (assumed bearing) along the north line of the Northwest Quarter of said Section 8 a distance of 722.89 feet to the west line of Iowa Highway 31; Thence southerly 891.76 feet along said west line, along a nontangential curve concave to the east, having a central angle of 18 degrees 40 minutes 40 seconds, a radius of 5,810.00 feet, a chord of 890.89 feet and chord bearing of South 18 degrees 22 minutes and 03 seconds West; Thence North 88 degrees 26 minutes 52 seconds West parallel with the north line of the Northeast Quarter of said Section 7 a distance of 906.34 feet; Thence North 01 degrees 33 minutes 08 seconds East perpendicular with the north line of said Northeast Quarter 851.00 feet to the north line of said Northeast Quarter; Thence South 88 degrees 26 minutes 52 seconds East along said North line 441.17 feet to the point of beginning.
(the "Property") and

WHEREAS, the Property Owner will undertake the development of a grain handling facility on the Property; and

WHEREAS, the Property will be located within the Woodbury County Platinum Grain Urban Renewal Area; and

WHEREAS, the County has agreed to enter into that certain Development Agreement between the County and the Property Owner dated as of the 3d day of April, 2012 (the "Development Agreement") and to make certain incremental property tax payments to the Property Owner; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, the County and the Property Owner desire to establish a minimum actual value (the "Minimum Actual Value") for the Property and the improvements to be constructed thereon, which shall be effective as of January 1, 2013, and from then until this Agreement is terminated pursuant to the terms hereof and which is intended to reflect the minimum market value of the land and improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made, do hereby agree as follows:

1. The Minimum Actual Value which shall be assessed for the Property with the improvements constructed thereon, as of January 1, 2013 shall be \$1,250,000, which shall continue as the Minimum Actual Value until termination of the County's obligations under the Development Agreement.

2. To the extent that, by action of state law or otherwise, the taxable valuation of the Property is shown on the records of the County Auditor to be less than the Minimum Actual Value, the parties agree that the County Assessor should adjust that actual valuation figure in such manner to produce a taxable valuation figure equal to the Minimum Actual Value figure. The terms "actual value" and "taxable value" as used in this Minimum Assessment Agreement shall have the same meaning as that given to those terms in Chapter 441 of the Code of Iowa.

3. In accordance with Section 403.6 of the Code of Iowa, this Agreement does not prohibit the Assessor from assigning a higher actual value to the Property nor does it prohibit the Property Owner from seeking administrative or legal remedies to reduce the actual value assigned by the Assessor, except that the Property Owner shall not seek to have the actual value reduced below the Minimum Actual Value set out in paragraph 1 of this Agreement.

4. This Agreement shall be promptly recorded with the Woodbury County Recorder, along with a copy of Iowa Code Section 403.6.

5. Neither the preambles nor provisions of this Agreement are intended to modify, nor shall they be construed as modifying, the terms of any other contract or agreement between the County and the Property Owner.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

7. The County and the Property Owner have caused this Agreement to be signed, in their names and on their behalf, by their duly authorized officers, and the County's seal to be affixed, all as of the day and date written above.

WOODBURY COUNTY, IOWA

By Jackie Smith
Chairperson, Board of Supervisors

Attest:

Jessu Deputy
County Auditor
(SEAL)

PLATINUM GRAIN, LLC

By Phil Bardish
General MANAGER

Attest:

STATE OF IOWA)
)
COUNTY OF WOODBURY) SS:

On this 8th day of May, 2012, before me the undersigned, a Notary Public in and for the said County and State, personally appeared Jackie Smith and Jean Jessen, Deputy Auditor, to me personally known, who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor, respectively, of Woodbury County, Iowa, the County executing the instrument to which this is attached; that the seal affixed hereto is the seal of said County, that said instrument was signed and sealed on behalf of said County, by authority of its Board of Supervisors; and that said individuals, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said County, by it and by them voluntarily executed.

Karen James
Notary Public



STATE OF IOWA)
)
COUNTY OF WOODBURY)

On this 8th day of May, 2012, before me the undersigned, a Notary Public in and for the State of Iowa personally appeared Nick Bowdish and _____, to me personally known, who, being duly sworn did say that they are the General Manager and _____ of Platinum Grain, LLC, the corporation executing the instrument to which this is attached; that said instrument was signed on behalf of said corporation by authority of its Board of Directors and that the said individuals acknowledge the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Karen James
Notary Public



CERTIFICATION BY ASSESSOR

The undersigned Assessor, being legally responsible for the assessment of the Property which is described in the Minimum Assessment Agreement to which this certification is attached, upon completion of the improvements to be made on it, hereby certifies that the actual value assigned to such land and improvements on the Property shall be not less than the amount shown, until termination of the Agreement pursuant to the terms thereof.

Kathy Sands
County Assessor for Woodbury County,
State of Iowa

Subscribed and sworn to before me this 10th day of May, 2012.

Karen James
Notary Public



ATTACHMENT B

PURCHASE AGREEMENT

THIS AGREEMENT, dated this 30th day of May, 2017, by and between PLATINUM GRAIN, LLC, an Iowa limited liability company with its principal office at 501 W. Highway 212, Box 159, Granite Falls, MN 56241 ("Platinum") and NEW COOPERATIVE, INC., an Iowa cooperative association with its principal office at 2424 1st Avenue South, Fort Dodge, IA, 50501 ("NEW Cooperative").

RECITALS:

WHEREAS, Platinum owns a grain handling facility at 2309 Highway 31, Anthon, Woodbury County, Iowa which consists of an office, metal load-out building, four (4) steel bins, and associated fixtures and equipment (including conveyors, scale, grain measuring devices, and office supplies and furnishings) situated on a 20-acre parcel of land (hereinafter collectively referred to as the "Facility"); and

WHEREAS, NEW Cooperative desires to purchase the Facility on a "turn-key" basis on the terms and subject to the conditions set forth herein.

WHEREFORE, in consideration of the mutual covenants and promises herein, and other good and valuable consideration, the parties agree as follows:

1. **ASSETS TO BE ACQUIRED.** Subject to the satisfaction or waiver of the closing conditions contained in this Agreement, on August 31, 2017 (the "Closing Date"), Platinum hereby agrees to sell, convey, transfer and deliver to NEW Cooperative the following described assets free of all liens, encumbrances, and claims other than the Permitted Encumbrances (as defined below) (hereinafter collectively the "Assets") effective as of September 1, 2017 (the "Effective Date"):

- 1.1 *Real Estate.* The 20-acre (more or less) Facility parcel (the "Real Estate"). Said Real Estate, to be described on attached **Schedule 1.1**, includes all improvements, fixtures, easements, hereditaments, and appurtenances associated therewith. The Real Estate is being acquired subject only to the Permitted Encumbrances.
- 1.2 *Fixed Assets.* Those fixed assets, fixtures, and equipment at the Facility to be set forth on attached **Schedule 1.2**.
- 1.3 *Inventories.* All merchantable inventories of grain at the Facility as of the close of business on the Closing Date to be determined by physical inventory (the "Inventories").
- 1.4 *Facility-Specific Items.* The following personal property at or associated with the Facility:
 - a.) *Operating Supplies and Similar Items.* All operating supplies, fuel, packaging, maintenance, warehouse and office equipment and supplies,

spare parts, tools, maintenance equipment and all similar items, and all other tangible personal property not held for resale, at said Facility.

b.) *Sales and Administrative Property.* All of Platinum's customer and supplier lists, books and records, computer programs and systems and other sales and administrative property relating to the Facility.

c.) *Intangibles Assets.* All (i) telephone, internet, or other listings or advertising in the name of Platinum; (ii) trademarks, tradenames, or copyrights related to Facility.

1.5 *Excluded Assets.* All assets of Platinum other than the Assets, including all cash and cash equivalents and accounts receivable for Inventories sold prior to Closing, shall not be sold to NEW Cooperative and shall remain the property of Platinum.

2. PURCHASE PRICE/CONSIDERATION.

2.1 *Non-Inventory Assets.* The purchase price for the Assets (other than Inventories) shall be [REDACTED] which amount shall payable in full at Closing, less earnest money in the amount of \$100,000.00 to be paid to the Trust Account of Attorney Eric J. Bide by NEW Cooperative upon the execution of this Agreement by both parties. The purchase price shall be allocated among the Assets, to be set forth on attached Schedule 2.1.

2.2 *Inventories.* In addition to the payment under 2.1 above, NEW Cooperative shall also buy the Inventories, determined as follows:

a.) All Inventories shall be priced at market value as of the close of business on the Closing Date, LESS a handling margin of \$.10/bushel.

b.) All open grain purchase and sales contracts will be brought to current market as of the close of business on the Closing Date (and the resulting net gain or loss included as a component of the grain Inventories).

Payment for the items described in this paragraph 2.2 shall be made by NEW Cooperative within seven (7) days of completion of the Final Inventory tally, which shall occur no later than September 15, 2017.

c.) From and after the Closing, NEW Cooperative shall be responsible for any contracted storage obligations for non-Platinum owned grain at the Facility.

2.3 *Assumed Liabilities.* NEW Cooperative is not assuming any liabilities of Platinum.

3. **FINAL INVENTORY/CLOSING.**

3.1 Final Physical Inventory. The parties and their professional advisors shall mutually take a physical count of the Inventories as of close-of-business on the Closing, which results shall be entered on the appropriate schedules hereto as soon as the results are verified.

3.2 NEW Cooperative will assume possession and operational control of the Facility on the Effective Date.

3.3 Deliveries at Closing. At the Closing, Platinum and NEW Cooperative shall respectively deliver the following duly executed documents and instruments, in addition to those which may be required by the various other provisions of this Agreement.

a.) *Platinum's Deliveries:*

- (i) A SPECIAL Warranty Deed for the Real Estate to be conveyed by Platinum to NEW Cooperative, subject to the Permitted Encumbrances, along with the corresponding Declaration of Value and Groundwater Hazard Statement.
- (ii) Bill of Sale and/or Certificates of Title for all of the fixed assets, equipment, Inventories, and other Assets purchased and sold hereunder.
- (iii) A Resolution of the members of Platinum authorizing the transactions contemplated by this Agreement, and certified by the Corporate Secretary.
- (iv) Such other documents or instruments as are necessary or appropriate to vest in NEW Cooperative full and complete right, title and interest in and to all of the Assets, free and clear of all liens and encumbrances except for Permitted Encumbrances.

b.) *NEW Cooperative's Deliveries:*

- (i) The purchase price and other items of consideration contemplated under Article 2 of this Agreement.

3.4 Prorations/Expenses. The parties hereto understand and agree that all regular operating expenses and utility accounts related to the Facility will be prorated as of the Closing Date. Platinum shall be responsible for all such charges accruing up to said time and date and NEW Cooperative shall be responsible for all such expenses accruing thereafter. All real estate taxes shall be prorated as of the Effective Date using the most current assessed values and levy rates then available, and all prior taxes shall be paid by

Platinum. Platinum shall also pay in full any outstanding special assessments against the Real Estate.

Each party to this Agreement shall pay its own expenses incidental to the negotiation, preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, without limitation, the fees and expenses of their respective legal counsel and accountants.

3.5 Title/Abstracts.

a.) By not later than July 15, 2017, Platinum shall obtain an abstract of title to the Real Estate continued through the Effective Date, and deliver it to NEW Cooperative for examination. It shall be prepared in conformity with this Agreement, Iowa law and the Title Standards of the Iowa State Bar Association. NEW Cooperative shall have 10 days to review such abstracts and make objections to the title. In the event of title objections, Platinum shall propose a cure, and if NEW Cooperative does not accept the proposed cure, it may cancel this Agreement and have its earnest money returned in full. To the extent that NEW Cooperative does not timely object to a matter shown in the abstract, such matter will be a "Permitted Encumbrance." Upon consummation of this transaction, the abstract shall become the property of the NEW Cooperative.

b.) Platinum will furnish to NEW Cooperative true and correct and complete copies of all surveys or lawyers' title opinions it has with respect to the Real Estate.

c.) Platinum shall also furnish to NEW Cooperative true, correct and complete copies of any leases in effect at the Facility. Each leased item is in such condition that, upon return of such property to its owner in its present condition at the end of the relevant lease term or as otherwise contemplated by the agreement between Platinum and the owner or lessor thereof, its obligations to such owner or lessor will be discharged.

4. **INTERIM CONDUCT BY PLATINUM.**

4.1 Access to Assets. From the date of this Agreement until the Closing, Platinum shall permit NEW Cooperative and its agents access to the Assets at all reasonable times for the purpose of inspection, survey and appraisal.

4.2 Maintenance of Assets. All Assets shall be used, operated, maintained and repaired consistent with past practices and in the ordinary course of business and Platinum shall not subject the Assets to any lien or encumbrance of any nature after the date hereof other than the Permitted Encumbrances. Platinum shall maintain all property, casualty and liability insurance in effect with respect to its Assets as of the date hereof through the Closing Date. The foregoing are subject to the provisions of Section 4.4.

- 4.3 Interim Conduct of Business. Until the Closing, Platinum will conduct its business at the Facility in the ordinary and usual course, and from the date hereof to the Closing Date, Platinum shall not: (i) except for any Permitted Encumbrances, encumber or permit to be encumbered any of the Assets; (ii) dispose of or contract to dispose of any of the Assets, except in the regular and ordinary course of business; (iii) enter into any lease or contract with respect to the Facility which will not be performed in full prior to the Closing without full disclosure to and the prior consent of NEW Cooperative.
- 4.4 Loss Prior to the Closing Date. From the date hereof until the Closing Date, the risk of loss of or damage to the Assets shall be and remain that of Platinum. In the event between the date of this Agreement and the Closing Date, any of the Assets are damaged or destroyed by fire or other casualty, Platinum shall immediately notify NEW Cooperative in writing of such occurrence, and upon receipt of such notice NEW Cooperative may elect to:
- a.) Terminate this Agreement, in which event the entire earnest money shall be refunded to NEW Cooperative, and all obligations of NEW Cooperative and Platinum hereunder shall cease; or
 - b.) Elect to consummate this transaction, in which event Platinum shall assign to NEW Cooperative all insurance proceeds payable as a result of such damage or destruction.
 - c.) NEW Cooperative shall have 30 days from the date of its receipt of notice of such damage or destruction within which to elect to exercise its rights under (a) or (b) of this subsection. The Closing Date shall be delayed until NEW Cooperative makes such election.

5. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF PLATINUM.** As a material inducement to NEW Cooperative to enter into this Agreement, Platinum hereby represents, warrants and covenants to and with NEW Cooperative as follows as of the Closing Date:

- 5.1 Organization, Good Standing and Corporate Power. Platinum is a limited liability company association duly organized, validly existing and in good standing under the laws of the State of Iowa and has the corporate power to own, and operate the Assets and carry on its business as now being conducted and to enter into this Agreement and perform its obligations hereunder. Platinum is qualified to do business in Iowa.
- 5.2 Corporate Authorization, Binding Effect. The execution, delivery and performance of this Agreement by Platinum has been duly authorized by the members of Platinum, and this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary statutory and corporate action on the part of Platinum and constitutes the legal, valid and binding obligation of Platinum.

- 5.3 No Conflict with Other Instruments or Agreements. The execution, delivery and performance of this Agreement by Platinum will not result in a breach or violation of, or constitute a default under Platinum's governing documents, or any agreement to which Platinum is a party or by which Platinum is bound or to which any of Platinum's property or Assets is subject, and will not be in violation of any statute, judgment, order, rule or regulation of any court, or any federal, state or other regulatory authority or governmental body having jurisdiction over Platinum.
- 5.4 Title to Assets, Absence of Liens, Condition of Assets. Platinum has good and marketable title to all of the Assets and the instruments of conveyance, and other endorsements and instruments of transfer and assignment contemplated by this Agreement shall be sufficient to transfer good and marketable title to the Assets to NEW Cooperative, other than Permitted Encumbrances, free and clear of all pledges, liens, defects, leases, licenses, equities, conditional sales contracts, charges, claims, encumbrances, security interests, easements, restrictions, chattel mortgages, mortgages or deeds of trust. The Assets are in good and usable condition, ordinary wear and tear excepted, and are in good repair and have been maintained in accordance with good business and maintenance practice.
- 5.5 Environmental. To the best of the knowledge of Platinum, the Facility is currently in compliance with all applicable laws and regulations, including environmental, health and safety laws and regulations; that all required governmental permits and licenses are in effect; that to the best of the knowledge of Platinum, there are no, nor have there been, environmental, health, or safety hazards with respect to the Assets and there are no PCB's, asbestos or other hazardous waste substances present on or in the Assets. Platinum has no knowledge of pending or threatened actions, proceedings or notices of potential action by any governmental agency regarding the condition of the Assets or the violation of any environmental, health or safety laws and there are no pending, threatened or contingent proceedings concerning waste disposal with respect to the Assets.
- 5.6 Litigation. There is no claim, action, suit or proceeding pending, or to the best of Platinum's knowledge, threatened against Platinum or the Assets.
- 5.7 Brokers and Finders. Platinum has not employed any investment banker, broker or finder, or incurred any liability for any brokerage fees, commissions or finders fees in connection with the transactions contemplated by this Agreement.

6. REPRESENTATION AND WARRANTIES OF NEW COOPERATIVE.
NEW Cooperative represents and warrants to and with Platinum as follows:

- 6.1 Organization, Power. NEW Cooperative is a cooperative association duly organized, existing and in good standing under the laws of the State of Iowa,

and has all requisite corporate power and authority to own, operate and lease its properties, and to carry on its business as now being conducted and to enter into this Agreement and perform its obligations hereunder.

- 6.2 Authority Relative to Agreement. The execution, delivery and performance of this Agreement by NEW Cooperative and the consummation by it of the transactions contemplated hereby, have been approved by all necessary corporate action on the part of NEW Cooperative, and this Agreement constitutes the legal, valid and binding obligations of NEW Cooperative.
- 6.3 No Government Authorization Required. No consent, approval, authorization or order of, or qualification with, any court, regulatory authority or other governmental body is required for the consummation by NEW Cooperative of the transactions contemplated by this Agreement.
- 6.4 No Conflict With Other Instruments or Agreements. The execution, delivery and performance of this Agreement by NEW Cooperative will not result in a breach or violation of, or constitute a default under NEW Cooperative's Articles of Incorporation or By-laws, or any agreement to which NEW Cooperative is a party or by which NEW Cooperative is bound or to which any of NEW cooperative's property is subject, and will not be in violation of any statute, judgment, order, rule or regulation of any court, or any federal, state or other regulatory authority or governmental body having jurisdiction over NEW Cooperative in effect at the date hereof.
- 6.5 Brokers and Finders. NEW Cooperative has not employed any investment banker, broker or finder, or incurred any liability for any brokerage fees, commissions or finders fees in connection with the transactions contemplated by this Agreement.

7. **CONDITION OF ASSETS - DISCLAIMER.** IT IS UNDERSTOOD AND AGREED BY THE PARTIES THAT THE ASSETS ARE AND WILL BE SOLD, ASSIGNED, TRANSFERRED AND CONVEYED TO NEW COOPERATIVE IN AN "AS IS, WHERE IS" CONDITION AND PLATINUM MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY AS TO THE CONDITION, OPERABILITY, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, QUALITY OF CONSTRUCTION, WORKMANSHIP, SAFETY OR ANY OTHER ASPECT OF SUCH PROPERTIES AND PLATINUM HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING SUCH PROPERTIES INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NO SUCH REPRESENTATION OR WARRANTY HAS BEEN OR WILL BECOME A BASIS OF THE BARGAIN BETWEEN THE PARTIES, NOR HAS BEEN OR WILL BE RELIED UPON BY NEW COOPERATIVE. NEW COOPERATIVE REPRESENTS AND WARRANTS THAT NEW COOPERATIVE HAS EXAMINED AND INSPECTED THE ASSETS AND IS SATISFIED THEREWITH.

8. **CONDITIONS PRECEDENT.**

8.1 The obligation of NEW Cooperative to close on the purchase of the Assets is subject to the satisfaction of each of the following conditions on or before the Closing Date:

a.) *Representations and Warranties.* All representations and warranties of Platinum made herein shall be true in all respects at and as of the Closing Date;

b.) *Compliance with Agreement.* Platinum shall have complied with and performed each and every one of the covenants and obligations hereunder which are to be performed and satisfied prior to or on the Closing Date;

c.) *Claims or Actions.* No suit, action or other proceeding shall be pending or threatened involving any of the Assets, or intended to prevent or which may have the effect of preventing the consummation of the transaction contemplated hereby;

8.2 The obligation of Platinum to close is subject to the satisfaction, at or before the Closing, of each of the following conditions:

a.) *Approval of Platinum.* Platinum shall take action to notify its members of the purchase and sale contemplated herein, and the members shall approve same.

b.) *Representations and Warranties.* All representations and warranties of NEW Cooperative contained herein shall be true in all respects, as though such representations and warranties were made at and as of the Closing Date; and

c.) *Compliance with Agreement.* NEW Cooperative shall have complied with and performed each and every of its covenants and obligations hereunder which are to be performed and satisfied on or before the Closing Date.

9. **PLATINUM EMPLOYEES.** NEW Cooperative is not agreeing to hire any of Platinum's employees in conjunction with its purchase of the Assets. Platinum hereby represents and warrants that it shall be responsible to pay all compensation, bonuses, accrued vacation or sick leave, paid-time-off, and all other benefits or claims payable to any employees of Platinum whose jobs are terminated as a result of the sale of the Assets in compliance with any applicable state or federal law.

10. **CONDEMNATION.** In the event between the date of this Agreement and the Closing Date any condemnation or eminent domain proceedings are initiated which might result in the taking of any part of the Assets, which would materially adversely affect the operation of the Facility, NEW Cooperative may:

- 10.1 Terminate this Agreement, in which event all rights and obligations of the parties hereunder shall cease.
- 10.2 Elect to consummate this transaction, in which event Platinum shall assign to NEW Cooperative all of Platinum's right, title and interest in and to any award made in connection with such condemnation or eminent domain proceedings.

Platinum shall immediately notify NEW Cooperative in writing of the occurrence of any condemnation or eminent domain proceedings. If such proceedings would result in the taking of any part of the Assets, NEW Cooperative shall then notify Platinum within ten (10) days of NEW Cooperative's receipt of Platinum's notice whether NEW Cooperative elects to exercise its rights under 10.1 or 10.2 of this Section. The Closing Date shall be delayed until NEW Cooperative makes such election, which NEW Cooperative shall make no later than 10 business days after receipt of notice of any condemnation proceedings.

11. **PUBLICITY/CONFIDENTIALITY.** In an effort to coordinate the public announcement of the sale of the Facility, the parties agree that they will cooperate with each other in the preparation of a joint news release announcing the transaction contemplated by this Agreement, and that such release shall not be made until July 1, 2017. Prior to said mutual public announcement, neither NEW Cooperative nor Platinum nor any of their employees or agents, shall disclose directly or indirectly to any outside party, any information concerning the transaction contemplated herein, except as required by law or to facilitate the closing of such transaction.

In the event the purchase is not consummated, both parties agree that all confidential information received from the other shall not be disclosed to any third or outside party and all such confidential information supplied or made available by each party shall be returned to that party as soon as practicable. This covenant shall survive any termination of this Agreement without consummation of the transaction contemplated herein. Notwithstanding the foregoing, nothing herein shall be deemed to restrict either party from disclosing such confidential information to professional advisors for the purposes of evaluating such confidential information.

12. **MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions shall apply to this Agreement:

- 12.1 Notices. All notices which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be sufficient in all respects if given in writing and delivered personally or mailed by certified mail, return receipt requested, postage prepaid, as follows:

If to Platinum:

Mt. Ross Baldwin, General Manager
Platinum Grain, LLC
Box K
Anthon, IA 51004

With copies to: Platinum Grain, LLC
Attn: President
c/o Fagen, Inc.
501 W. Highway 212
P. O. Box 159
Granite Falls, MN 56241

and Thomas A. Jensen, Esq.
Stinson Leonard Street LLP
150 South Fifth Street
Suite 2300
Minneapolis, MN 55402

If to NEW Cooperative: Mr. Dan Dix, General Manager
NEW Cooperative, Inc.
2626 First Avenue South
Fort Dodge, Iowa 50501

or at such other address as any party hereto shall have designated by notice in writing to the other parties hereto.

- 12.2 Waivers. Any party hereto may, by written notice to the other party hereto, (i) extend the time for performance of any of the obligations or other actions of the other under this Agreement, (ii) waive any inaccuracies in the representations and warranties of the other contained in this Agreement or in any documents delivered pursuant to this Agreement, (iii) waive compliance with any of the conditions or covenants of the other contained in this Agreement, or (iv) waive or modify performance of any of the obligations of the other under this Agreement. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representations, warranties, covenants or agreements contained in this Agreement. The waiver by any party hereto of a breach of any portion of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
- 12.3 Survival of Representations, Warranties, and Covenants. All representations, warranties, covenants, and agreements of the parties contained in this Agreement, or in any instrument, certification, opinion or other writing provided for herein, shall, unless otherwise specifically provided herein, survive the Closing of the transaction contemplated by this Agreement for a period of 12 months.
- 12.4 Entire Agreement. This Agreement, the Schedules and any other documents executed in performance of this Agreement, shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof

and supersedes all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof. This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties to this Agreement agree to execute any additional documents that may be required in order to carry out the acts called for in the Agreement or to fulfill the purposes or promises contained in this Agreement.

- 12.5 Applicable Law. This Agreement and the legal relations among the parties hereto shall be governed by and construed in accordance with the laws of the State of Iowa applicable to contracts made and performed in Iowa.
- 12.6 Binding Effect. Benefits. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns; nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto or their respective heirs, successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.
- 12.7 Assignability. Neither this Agreement nor any of the parties' rights hereunder shall be assignable by any party hereto without the prior written consent of the other party hereto.
- 12.8 Effect of Headings. The headings of the various sections and subsections herein are inserted merely as a matter of convenience and for reference and shall not be construed as in any manner defining, limiting or describing the scope or intent of the particular sections to which they refer, or as affecting the meaning or construction of the language in the body of such sections.
- 12.9 Construction. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, strictly neither for nor against any party hereto, and without implying a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agent prepared the same, it being agreed that representatives of both parties have negotiated and participated in the preparation hereof.

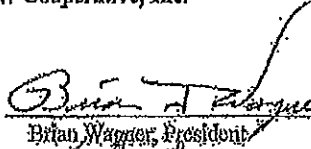
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IN WITNESS WHEREOF, the parties have each executed this Agreement on date first above written.

Platinum Grain, LLC

NEW Cooperative, Inc.

By: 
Roy Fagon, President

By: 
Brian Wagner, President

By: 
Keith Green, Secretary

ATTACHMENT C

RESOLUTION NO. 12,580

A RESOLUTION TO ASSIGN DEVELOPMENT AGREEMENT AND TRANSFER ECONOMIC DEVELOPMENT TAX INCREMENT REBATE PAYMENTS TO NEW COOPERATIVE, INC. FROM PLATINUM GRAIN, LLC.

WHEREAS, Woodbury County, Iowa (the "County"), entered into a Development Agreement with Platinum Grain, LLC, an Iowa limited liability company ("Platinum"), on May 8, 2012 to provide a rebate of incremental taxes on a grain handling facility (the "Facility") at 2309 Highway 31, Anthon, Woodbury County, Iowa; and

WHEREAS, NEW Cooperative, Inc., an Iowa cooperative association ("NEW Cooperative"), desires to purchase the Facility and requests that the Development Agreement and therefore the economic development tax increment payments (the "Payments") be assigned and the Development Agreement transferred to NEW Cooperative for the remainder of the fiscal years, pursuant to Chapters 15A and 403 of the Code of Iowa, understanding that the aggregate, total amount of the Payments made collectively to Platinum and New Cooperative over ten fiscal years shall not exceed \$2,000,000; and

WHEREAS, the executed Development Agreement may not be amended or assigned by either party without the express permission of the other party; and

WHEREAS, Platinum requests that the Development Agreement and the Payments be assigned to NEW Cooperative.

NOW THEREFORE, IT IS RESOLVED by the Board of Supervisors of Woodbury County, Iowa, as follows:

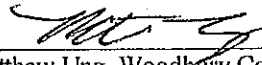
Section 1. This Board approves the assignment of the Development Agreement and the transfer of remaining Payments to NEW Cooperative, subject in all respects to, and effective as of the closing of the sale of the Facility to NEW Cooperative.

Section 2. A copy of the final, executed Purchased Agreement for the sale and purchase of the Facility shall be provided to Woodbury County.

Section 3. This resolution is null and void and the assignment of the Development Agreement will not occur if the sale is not completed.

PASSED AND APPROVED this 13th day of June 2017.

By:


Matthew Ung, Woodbury County Chairman

ATTEST:


Patrick Gill, County Auditor