

EAST FORK BIODIESEL, LLC

MEMBERSHIP UNIT TRANSFER POLICY

References to “we,” “our” or “us” throughout this policy refer to East Fork Biodiesel, LLC, known as East Fork. Our operating agreement places restrictions on members’ transfer of their East Fork membership units, known as membership unit(s). To assist with this process, we have the following membership unit transfer policy, known as the transfer policy:

All transfers of membership units require the prior approval of our Board of Directors, known as the board. Because we are a limited liability company and do not intend to elect to be treated as a corporation, we expect to be treated as a partnership for federal income tax purposes. This means that we expect not to pay any federal income tax and expect our members will pay tax on their shares of our net income. To qualify for taxation as a partnership, we cannot be a publicly traded partnership under Section 7704 of the Internal Revenue Code.

Our operating agreement prohibits any transfer of units that would, in the determination of our board, cause East Fork to be a publicly traded partnership. Our board intends to approve only those transfers that fall within safe harbor provisions of the Treasury Regulations, so that we will not be classified as a publicly traded partnership.

These safe harbor provisions generally provide that our membership units will not be treated as readily tradable on a secondary market, or the substantial equivalent, if the membership units are transferred:

- in “private transfers”;
- through a qualified matching service; or
- in limited amounts that satisfy a 2% test.

Private transfers include, among others:

- Transfers by gifts in which the transferee’s tax basis in the membership units is determined by reference to the transferor’s tax basis in the interests transferred;
- Transfers at death, including transfers from an estate or testamentary trust;
- Transfers between members of a family as defined in Section 267(c)(4) of the Internal Revenue Code;
- Transfers from retirement plans qualified under Section 401(a) of the Internal Revenue Code (e.g., 401(k), profit-sharing plan, money purchase pension plan) or an IRA; and
- “Block transfers.” A block transfer is a transfer by a member and any related persons as defined in the Internal Revenue Code in one or more transactions during any thirty-calendar-day period of membership units that in the aggregate represents more than two percent of the total interests in partnership capital or profits.

Our board may prohibit, restrict, limit, delay or place conditions on any proposed transfer for any reasonable purpose, as determined by our board. A reasonable purpose will include, but is not limited to, prohibiting, restricting, limiting, delaying or placing conditions on any transfer (whether alone or together with any previous or prospective transfer) which would or might reasonably be determined to:

- violate or otherwise be in noncompliance with any applicable law, rule, regulation or order of any nation, state or local governmental entity, known as applicable law;
- cause us to violate or otherwise be in noncompliance with any applicable law;
- cause us to be taxed as a corporation for tax purposes;
- violate any term or condition of our operating agreement;
- require us to become licensed, registered or regulated as an investment company, a broker-dealer or any other form of regulated entity under any applicable law; or
- create or result in any of our membership units becoming fractional membership units.

The transferor and transferee in each proposed transfer of a membership unit must complete, sign and submit to us our membership unit transfer application, known as the transfer application.

The transfer application (and any other information and document we may deem to be necessary or appropriate) seeks, among other things, (a) the transferee's taxpayer identification number; (b) the information necessary to determine the transferee's initial tax basis in the assigned membership units; (c) information necessary or appropriate for us to be able to file all required tax returns and other legally required information statements or returns; (d) evidence that the transferee is properly authorized to acquire the membership units and to become a member and that the transferor is authorized to transfer the membership units to the transferee; and (e) a copy of the agreement between the transferee and the transferor.

With certain exceptions, the transferor in each proposed transfer may be requested to provide us and our counsel with an acceptable opinion of counsel for the transferor and/or the transferee confirming that that the proposed transfer will not have or cause any of the results or effects described in the bulleted subparagraphs above. These exceptions include involuntary transfers such as death, divorce, bankruptcy, conservatorship.

The transferor and/or the transferee in each proposed transfer must pay all fees, costs and expenses connected with the transfer and the admission of the transferee as a member and incurred as a result of the transfer, including fees and costs our accountant, tax preparer and attorney, if any.

A transfer of a membership unit may be made to us in accordance with the operating agreement, this transfer policy and applicable law.

Our board is not required to act upon any proposed transfer of any membership unit until its next regularly scheduled meeting following the date on which we receive a completed and signed transfer application from the transferor and the transferee.

A transfer of a membership unit which is approved by our board will be effective for all purposes (including for purposes of allocations and distributions) not later than the first day of the month following the month in which all documents required to finalize the transfer have been signed and delivered to us, all in accordance with our operating agreement and applicable law.

Once approved and effective, the transferee will become a member in accordance with and subject to the terms of our operating agreement and this transfer policy.

This transfer policy is intended to be consistent with our operating agreement. However, any inconsistencies between our operating agreement and this transfer policy will be resolved in favor of the requirements of our operating agreement.

Any transfer of a membership unit that is inconsistent with the requirements of this transfer policy and/or our operating agreement will be null and void and of no force or effect. All parties engaging in a prohibited transfer will be required to indemnify and hold us and the other members harmless as provided in Section 9.4 of the operating agreement.

The Board of Directors of East Fork Biodiesel, LLC

