

ARTICLES OF INCORPORATION & BY-LAWS



Effective September 2022



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ARTICLES OF INCORPORATION
OF
NUWAY-K&H COOPERATIVE,
AN IOWA 501A COOPERATIVE

ARTICLE I

Name and Principal Place of Business

Section 1. The name of this cooperative corporation shall be NuWay-K&H Cooperative.

Section 2. The principal place of business and registered office for this cooperative shall be at 1740 US Hwy 18 W., Clear Lake, IA 50428.

ARTICLE II

Purpose, Powers and Limitations

Section 1. Purpose. This cooperative may engage in any activity within the purposes for which cooperatives may be organized pursuant to Iowa Chapter 501A and all such activities shall be deemed within its purposes.

Section 2. Powers. This association shall have the power and authority, either for itself and its members and patrons, to do and perform every act and thing necessary and proper to the conduct of its business or the accomplishment of the purposes set forth herein or permitted by the act under which this association is incorporated.

ARTICLE III

Period of Duration

The period of duration of this association shall be perpetual.

ARTICLE IV

Membership

Section 1. Producer Eligibility. Membership in this cooperative shall be restricted to certain producers of agricultural products, which or who in either case meet the conditions of membership as provided in this Article IV and the Bylaws of this cooperative. For purposes of this Article IV, “producers of agricultural products” shall mean persons (including individuals and joint ventures, corporations, partnerships, limited liability companies, limited liability partnerships, unincorporated associations or other legal entities owned or controlled by individual farmers, ranchers or their family groups) that

are engaged in the production of one or more agricultural products, including tenants of land used for the production of such products and lessors of such land that receive as rent therefore any part of the product of such land.

Section 2. Other Criteria for Membership/Classes of Membership. The Board of Directors of this cooperative may establish a minimum amount of business (as a percentage of purchases, in dollar volume, or otherwise) and other membership criteria and classes of membership as described in the Bylaws.

Section 3. Voting. Voting rights in this cooperative are reserved to shareholders as described in the Bylaws and only members of this cooperative shall have voting power. Each member shall have only one (1) vote in the affairs of the cooperative. There shall be no voting by proxy or cumulative voting.

Section 4. Producer Patrons. Producers of agricultural products described in the first paragraph of Section 1 of this Article IV who (i) patronize this cooperative under conditions established by the Board of Directors of this cooperative or as provided in the Bylaws of this cooperative but (ii) who are otherwise not eligible to be members of this cooperative may nevertheless conduct business with this cooperative on a patronage basis as a nonmember patron, as more particularly provided in the Bylaws of this cooperative.

Section 5. Preferred Equities. In addition to and not by way of limitation of the powers granted to the Board of Directors of this cooperative by the laws of the State of Iowa or elsewhere in these Articles or the Bylaws of this cooperative, the Board of Directors shall have the following authority and power, which may be exercised from time to time at its sole discretion. The Board of Directors by resolution may establish and issue to any person (whether member, nonmember patron, or other person) one or more than one class or series of debt and/or equity instruments, may set forth the designation of classes or series of such debt and/or equity instruments, and may fix the relative rights, preferences, privileges and limitations of each class or series of debt and/or equity instruments, including, without limitation, one or more than one class or series of Preferred Equity instruments. Noncumulative dividends may be paid on the equity capital of this cooperative, which is evidenced by an equity instrument established pursuant to this Section 5; provided that dividends on such equity capital may not exceed eight percent (8%) per annum. Debt or equity instruments established pursuant to this Section 5 shall not entitle the holder to voting rights. Unless otherwise expressly authorized by the Board of Directors, debt or equity instruments established and issued pursuant to this Section 5 may only be sold or transferred with the approval of the Board of Directors of this cooperative.

ARTICLE V

Patronage Refunds

All net proceeds (savings) of this association in excess of dividends, if any, and additions to reserves shall be distributed to patrons at least annually or more often on the basis of patronage as more particularly provided for in the Bylaws. Patronage refunds may be distributed in cash, credits or any other manner allowed by law as more particularly provided for in the Bylaws. Any such credits shall be redeemable only at the option of the Board of Directors.

ARTICLE VI
Board of Directors

The business and affairs of this association shall be managed by a board of directors of not less than five (5) persons, as set by the Bylaws, which directors shall be members or representatives of members who are other than natural persons. Directors shall be elected by the members of the association for such terms as the Bylaws may prescribe, at the annual meetings of members.

The principal officers of this cooperative shall be chairman, vice-chairman, secretary and treasurer. The chairman and vice chairman shall be elected by the board of directors from their own number and their duties shall be equivalent to president and vice president, respectively. Whenever the board of directors so orders, the offices of secretary and treasurer may be held by the same person, who shall be designated as “secretary-treasurer.”

ARTICLE VII
Limitation on Director Liability

Liability of Directors may be limited as allowed by Iowa law in the Bylaws.

ARTICLE VIII
Amendments

These Articles of Incorporation may be amended in the manner provided by statute.

**BYLAWS
OF
NUWAY-K&H COOPERATIVE**

**ARTICLE I
Membership**

Section 1. Qualifications. Any agricultural producer (whether natural person or corporate entity of any kind) entering into a patronage relationship with the association and who does at least \$10,000.00 in business annually with the association is eligible for membership and becomes a member upon approval of the Board of Directors and upon receiving from this association written notification and a copy of the Bylaws (“Consent Bylaw”) providing for consent to take patronage distribution into income. Individuals or entities shall be designated solely as “Members” and any shares of stock previously issued by this or its predecessor entities shall be shown as Member equity only. Shares of stock issued by any predecessor entity shall be redeemed upon presentation to the Board, for those shares par value, with such redemption shown as an increase in the Member’s equity commensurate with the par value given the stock at its time of issuance.

“Producers” shall mean and include persons actually engaged in the production of one or more of the agricultural products handled by this association, including tenants of land used for the production of any such product, and lessors of such land who receive as rent part of the product of such land, and associations of such producers.

Section 2. Voting Rights. No member shall have more than one vote on any issue and voting by proxy shall not be allowed. Any firm, corporation or cooperative association holding a membership in this association may elect or appoint any person to represent it at any meeting, and the person so elected or appointed shall have full power and authority to represent such organization and also to cast its vote at any meeting. If two or more persons hold one (1) membership in partnership, joint tenancy or otherwise, the vote of such membership shall be cast by any one (1) of such persons. The spouse of a member may vote on behalf of such member or stockholder unless the member has indicated otherwise. A husband and wife may both vote on any issue if they are both members and provided each holds a full membership independent of the other.

Section 3. Termination of Membership. At any time if a member (a) has become ineligible for membership, or (b) has failed to patronize this association for a period of one year or more in an amount of at least \$10,000.00 annually in the association, (c) dies; or (d) whenever the Board of Directors by resolution finds that a member has (i) intentionally or repeatedly violated any Bylaw of this association, or (ii) breached any contract with this association, or (iii) remained indebted to this association for ninety days after such indebtedness first became payable, or (iv) willfully obstructed any lawful purpose or activity of this association; then, in

any such event, the Board of Directors, in its sole discretion, may terminate such membership. No action taken hereunder shall impair the obligations or liabilities of either party under any contract with the association which may be terminated only as provided therein. Moreover, termination shall not be deemed to revoke such member's consent contained in Article VI, Section 11 hereof but rather such member may only revoke such consent in writing. Upon termination of membership said member shall thereafter have no voting rights in this Cooperative. A terminated member's patronage credits shall be revolved or retired in the same manner as the patronage credits of members. No action taken hereunder shall impair the obligations or liabilities of either party under any contract with the Cooperative which may be terminated only as provided therein.

ARTICLE II Member Meetings

Section 1. Annual Meeting. The annual meeting of the members of the Cooperative shall be held annually within one hundred fifty (150) days following the end of the Cooperative's fiscal year, at the principal place of business of the Cooperative, or at such other place conveniently located within the area served by it, and at such date and hour, as may be determined by the board of directors and designated in the notice of the meeting.

Section 2. Special Meetings. Special meetings of the members may be called at any time by a majority vote of the directors or upon the written petition of at least twenty percent (20%) of the patron members. The special members' meeting shall be held within thirty (30) days after the date of the presentation of a valid written petition under this section.

Section 3. Notice. Notice of a meeting of the members, both annual and special, shall be mailed to each and every member personally (or, in the case of an organizational member, to the secretary thereof) at said person's last known post office address, not less than fifteen (15) days prior to the date of the meeting. Upon the mailing of any notice of any meeting of members, the Secretary shall execute a certificate, setting forth a correct copy of the notice and showing the date of the mailing thereof and that the same was mailed within the time and in the manner herein prescribed. Said certificate shall be made a part of the record of the meeting.

Section 4. Mail Votes. Any patron member who is absent from any meeting of the members may vote by mail on the ballot herein prescribed upon any motion, resolution, or amendment that the board of directors may, in its discretion, submit to the patron members for vote by mail. Such ballot may be in the form prescribed by the board of directors and shall contain the exact text of the proposed motion, resolution, or amendment to be acted upon at such meeting and the date of the meeting and spaces opposite the text of motion, resolution, or amendment in which such member may indicate said person's affirmative or negative vote thereon. Such member shall express said person's choice by marking an "X" in the appropriate space upon such ballot. Such ballot shall be placed in a plain, sealed enveloped inside another envelope bearing the signature of the

member and when received by the Cooperative shall be accepted and counted as the vote of such absent member at such meeting.

Section 5. Record Date. The members of record according to the member record books on the date notice is given of any meeting will be the members entitled to notice of and to vote at that meeting.

Section 6. Quorum. A quorum necessary for the transaction of business at any meeting of the members shall be the lesser of fifty (50) patron members, or ten percent (10%) of the total number of patron members entitled to vote at such meeting; provided, however, that in determining a quorum on a question submitted to a vote by mail, patron members present in person or represented by mail votes shall be counted. The quorum shall be established by a registration of the patron members present at such meeting, which registration shall be verified by the Secretary, and shall be reported in the minutes of the meeting.

Section 7. Actions by Members. If a quorum is present, the affirmative vote of a majority of the members represented at a meeting (in person and through written ballots) will be the act of the members, unless a different vote is required by law, the Articles of Organization, or these Bylaws.

Section 8. Action to Amend. A motion to amend or table a resolution on which there are mail ballots requires the affirmative vote of a majority of all of the members represented at the meeting, including those members who have cast mail ballots on the resolution.

ARTICLE III **Board of Directors**

Section 1. Number of Directors, Election and Term. The number of directors of this association shall be not less than five (5) who shall be members of this association and shall be elected by ballot at the annual meeting. The actual number of directors shall be determined by the Board of Directors. The term of office of each director shall be three (3) years and shall be so arranged so that as nearly as possible the term of office of an equal number of directors shall expire each year. Directors shall hold office until their successors shall be elected and qualified.

Section 2. Qualifications. Every director shall be a member or duly elected or appointed representative of a member, which is other than a natural person. No person shall be eligible to be a director if he engages in activities in competition with the goals and best interests of the association.

Section 3. Removal and Vacancies. If any director shall cease to be a member, his office shall be thereupon automatically vacated. If a majority of the directors find after hearing that any

director is in competition with or is affiliated with any enterprise that is in competition with this association, such person shall cease to be a director. In addition, any director of the association may be removed from office for cause at any annual or special meeting called for that purpose at which a quorum of the members shall be present by vote of the majority of the members present. Failure of a director to attend three (3) consecutive directors' meetings or a total of six (6) directors' meetings, except for cause, during a year just preceding shall be conclusive cause for removal by the stockholders. No director shall be removed from office at either an annual or special meeting unless he shall be informed of the meeting at which the matter is to be considered at least ten (10) days before such meeting. Such notice shall be registered by mail addressed to him at his last known address, and he shall be entitled to be heard at such meeting, except a director may be removed at an annual meeting for failure to attend the required number of board meetings without notice. Any vacancy in the Board of Directors, except as may be caused by removal by the members, shall be filled by the remainder of the Board of Directors until the next annual meeting, at which meeting a director shall be chosen by the members for the unexpired term of such vacancy. Any vacancy in the Board of Directors caused by removal by the members shall be filled by the members for the unexpired term of such director, and such election may be held at the same meeting at which the director was removed from office.

Section 4. Compensation or Reimbursement. The rate of compensation, if any, of the directors and officers of the association shall be determined by the Board of Directors.

Section 5. Regular Directors Meetings. Regular meetings of the Board of Directors shall be held at such time and place, as the Board of Directors shall determine.

Section 6. Special Directors Meetings. Special meetings of the Board of Directors may be called by the Chairperson or by a majority of the Board. Each member of the Board of Directors shall be duly notified of all such meetings. No business except that mentioned in the call for a special meeting of the Board of Directors shall receive final action at said meeting except that when all members of the Board are present, they may sign a waiver of notice and purpose and then transact any business which may properly come before a regular meeting of the directors.

Section 7. Annual Meeting. The annual meeting of the Board of Directors shall be held within thirty (30) days following the annual meeting of the stockholders without further notice. At such meeting, the officers of the association shall be elected for the ensuing year.

Section 8. Notice and Waiver of Directors Meeting. Notice of meetings of the Board of Directors shall be given in person, by phone, by e-mail or by mail at least twenty-four (24) hours prior to such meeting. A signed waiver of notice of a Board meeting is equivalent to personal notice to the person so signing. Attendance at a meeting is a waiver of notice of such meeting, except when a director attends the meeting and objects thereto to the transaction of business because the meeting was not properly convened. The purpose of any meeting of the Board need

not be specified in the notice, or waiver of notice of any regular meeting, but shall be specified in the notice of special meeting.

Section 9. Action without Meeting. Any action which may be taken at a meeting of the Board of Directors or of a lawfully constituted committee thereof may be taken without a meeting if set forth and approved by a writing signed by all directors or by all committee members, as the case may be, and such action shall be effective on the date on which the last signature is placed on such writing or such earlier effective date as set forth therein.

Section 10. Quorum-Directors. A majority of the directors in office shall constitute a quorum necessary to the transaction of business at any regular or special meeting of the Board of Directors; but if less than a quorum is present, those directors present may adjourn the meeting from time to time until a quorum shall be present. Unless otherwise required by law, all questions shall be decided by a vote of a majority of the directors present at a meeting.

Section 11. Executive Committee. The Board of Directors may designate three (3) or more directors, one of whom shall be the Chairman of the association, to constitute an executive committee. The Board may elect other directors as alternate members of the executive committee. To the extent determined by the Board and consistent with law, such committee shall have and exercise the authority of the Board in the management and business of the association; provided, however, that such committee shall not have the powers of the Board in regard to apportionment or distribution of proceeds, election of officers and filling vacancies on the Board. Any such executive committee shall act only on the interval between meetings of the Board of Directors and shall be subject at all times to the control and direction of the Board. Copies of the minutes of each executive committee meeting shall be mailed to all Directors within seven (7) days following such meeting.

Section 12. Powers. The Board of Directors shall have and exercise full control of the affairs of this association, except such as are conferred by law, these Bylaws or the Articles of Incorporation, upon the members or upon an officer of this association.

Section 13. Duties. The Board of Directors shall govern the business and the affairs of the association and shall make all necessary rules and regulations for the management of the business not inconsistent with the law, the Articles of Incorporation or these Bylaws. The Board shall have the power to appoint and dismiss the Chief Executive Officer (CEO) and to fix the CEO's compensation and prescribe their duties. The Board shall require the manager and all officers, agents, or employees having custody of the funds of the association to provide, at the association's expense, surety bonds in such amounts as the Board shall determine. The Board shall have the books of the association audited at least once a year after the close of the fiscal year and shall present a financial report to the members at the annual meeting.

Section 14. Mail and/or Electronic Ballots. It is the policy of this Cooperative that mail and/or electronic ballots may be used in the process of electing directors and shall be used in the process of removing directors. When used, electronic and/or mail ballots shall be signed by the Member casting the ballot. Any mail ballot without a signature or whose signature is illegible shall be void and not counted for any purpose. In the case of elections, nominations must be made before the ballot is prepared, and the Board of Directors shall establish a process for notifying patrons for the nomination process not less than 30 days prior to preparation of the mail and/or electronic ballot. Nominees must be voting members in good standing. The Board of Directors may adopt additional rules, if any, that it deems necessary to further implement the process of using mail, electronic ballots, or any other method allowed by law which rules shall be published in the main office of the Cooperative 30 days prior to any director election.

Section 15. Board Policy Compliance. Each director shall fully comply with the Board of Director's policy manual established by the Board of Directors, if any. The Board of Directors, not including a director thought to be in violation of the manual, may remove a director who is disqualified by the policies in that manual. This power of removal shall be in addition to the removal power in Article III, Section 3 of this Bylaw.

Section 16. Electing Directors by District. The Board of Directors may, in its sole discretion, establish director districts and establish procedures for voting for directors by district.

Section 17. Electronic Communications. A director or committee member may participate in a meeting by any means or communication through which such person, other persons so participating, and all persons physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting by that means constitutes presence in person at the meeting. A conference among directors or committee members by any means of communication through which such persons may simultaneously hear such other during the conference is a meeting of the Board of Directors or Committee, as the case may be, if the same notice is given of the conference as would be required for a meeting, and if the number of persons participating in the conference would be sufficient to constitute a quorum at a meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

Section 18. Outside Directors. Notwithstanding the number directors authorized by Section 1 above, or the compensation established by Section 5 above, the directors elected under Section 1 ("member directors") may elect up to three outside directors or advisory to serve on the Board of Directors on terms and conditions determined by the member directors in their sole discretion. "Outside" or Advisory directors shall be elected to provide relevant expertise for the benefit of the entire cooperative and the deliberations of the member directors. "Outside" directors shall participate on the same basis, with the same powers and pursuant to the same obligations as member directors. "Outside" or Advisory directors may not serve as an officer of the Cooperative, nor may an employee serve as an "outside" director.

ARTICLE IV

Officers

Section 1. Number. The board shall elect a Chairperson, a Vice Chairperson, a records officer and a financial officer. The records officer shall be known as Secretary and the financial officer shall be known as Treasurer. The offices of Secretary and Treasurer may be combined. The board may also select a President and such other officers and assistant officers as it deems appropriate.

Section 2. Selection, Tenure and Qualifications. The officers will be selected at the board's organizational meeting. An officer will serve until a successor is elected and appointed. The President (if one is elected), Secretary and Treasurer need not be directors.

Section 3. Vacancies. An officer may resign at any time. An officer who is no longer serving as a director must resign from the office. The board may remove any officer whenever, in its judgment, the best interest of the Cooperative will be served by removal. The board may fill any vacancy of any office for the unexpired portion of the term, or the board may leave an office vacant until the next organizational meeting of directors.

Section 4. Duties of Officers. Each officer will perform the duties that are customarily performed by the person holding that office, except to the extent that these customary duties are modified by these Bylaws or by board resolution. In addition, each officer other than the President will perform those duties specified by the President, provided that those duties are not in conflict with the explicit directions of these Bylaws or a board resolution.

(a) **Chairperson.** The Chairperson will determine the agenda for and preside at board and executive committee meetings and supervise the activities of the other officers and the CEO.

(b) **Vice Chairperson.** The Vice Chairperson will serve as chair in the Chairperson's absence.

(c) **Secretary.** The Secretary will monitor the preparation of the minutes of all board and committee meeting; perform all duties typically required of the records officer; and perform such duties as may be assigned by the Chairperson.

(d) **Treasurer.** The Treasurer shall supervise the safekeeping of all funds and property of the Cooperative; supervise the keeping of books and records of all financial transactions of the Cooperative; perform the duties typically required of the financial officer; perform such duties as assigned by the Chairperson.

Section 5. CEO. The board of directors shall employ a CEO, who may be designated as the President, to manage the day-to-day affairs and business of the Cooperative. The CEO shall have the authority to implement the functions, duties and obligations of the Cooperative except as restricted by the board of directors. The CEO shall not exercise authority reserved to the board

of directors or the members under these Bylaws or applicable Iowa law. The CEO shall have the authority to execute documents on behalf of the Cooperative, including but not limited to forms and elections to be filed with the Internal Revenue Service.

ARTICLE V
Preferred Stock

Section 1. Preferred Equities. In accordance with the powers granted to the Board of Directors of this cooperative by the laws of the State of Iowa and in its Articles of incorporation the Board of Directors may, by resolution, establish and issue to any person (whether member, nonmember patron, or other person) one or more than one class or series of debt and/or equity instruments, may set forth the designation of classes or series of such debt and/or equity instruments, and may fix the relative rights, preferences, privileges and limitations of each class or series of debt and/or equity instruments, including, without limitation, one or more than one class or series of Preferred Equity instruments. Noncumulative dividends may be paid on the equity capital of this cooperative, which is evidenced by an equity instrument established pursuant to this Section; provided that dividends on such equity capital may not exceed eight percent (8%) per annum. Debt or equity instruments established pursuant to this Section shall not automatically entitle the holder to voting rights. Unless otherwise expressly authorized by the Board of Directors, debt or equity instruments established and issued pursuant to this Section may only be sold or transferred with the approval of the Board of Directors of this cooperative.

ARTICLE VI
Method of Operation - Patronage Refunds

Section 1. Patronage Transactions. Transaction between the Cooperative and a member who purchases goods or services from this Cooperative, shall be a “Patronage Transaction”; provided, that no such transaction with either the United States, or any of its agencies, shall be a “Patronage Transaction.” Each Patronage Transaction between the Cooperative and each member shall be subject to and shall include as part of its terms each provision of this Article VI, whether it be expressly referred to in said Patronage Transaction or not.

Section 2. Cooperative Operation. The Cooperative shall be operated on a cooperative basis in carrying out its business within the scope of the powers and purposes defined in the Articles of Organization. Accordingly, the net income of the Cooperative in excess of amounts credited by the board of directors to capital reserves shall be accounted for, allocated and distributed annually as provided in this Article VI. In determining the net income or net loss of the Cooperative or its allocation units, there shall be taken into account the Cooperative’s share of the net income or net loss of any unincorporated entity in which it owns an equity interest, patronage dividends distributed by other cooperatives of which it is a patron and, to the extent determined by the board of directors, its share of the undistributed net income or net loss of any corporation in which it owns an equity interest.

Each patron member for whom the Cooperative procures goods or services shall be entitled to the net income arising out of said transaction as provided in this Article VI unless such member and the Cooperative have expressly agreed to conduct said business on a nonpatronage basis. Non-members shall not be entitled to the net income arising out of said transactions as provided in this Article VI unless the Cooperative agrees to conduct said business on a patronage basis.

Section 3. Patronage Business; Nonpatronage Business. As used in this Article, the following definitions shall apply:

(a) The term “Patronage Business” shall refer to business done by the Cooperative with or for members.

(b) The term “Nonpatronage Business” shall refer to business done by the Cooperative that does not constitute “Patronage Business.”

Section 4. Establishment of Pools or Allocation Units. Pools or allocation units may be established by the board of directors on a reasonable and equitable basis and they may be functional, divisional, departmental, geographic, or otherwise. If pools or allocation units are established, the board of directors shall adopt such reasonable and equitable accounting procedures as will, in the Board’s judgment, equitably allocate among such pools or allocation units the Cooperative’s income, gains, expenses and losses and, to the extent provided in Section 2 of this Article VI, patronage dividends received by the Cooperative and its share of income, gain, loss and deduction of other entities in which it owns an interest.

Section 5. Determination of the Patronage Income or Loss. The net income or net loss from Patronage Business for each fiscal year shall be the sum of:

(a) The gross revenues directly attributable to goods or services procured for members, plus

(b) Other items of income or gain attributable to the Cooperative’s Patronage Business, less

(c) All expenses and costs of goods or services directly attributable to goods or services procured for members, less

(d) Other expenses or losses attributable to the Cooperative’s Patronage Business, dividends on preferred stock to the extent that such dividends cannot be fully paid from net income from Nonpatronage Business as provided in Section 4.10 (a) of this Article, and distributable net income from Patronage Business that is credited to the capital reserve pursuant to Section 9(c) of this Article VI.

The foregoing amounts shall be determined in accordance with the accounting treatment used by the Cooperative in calculating its taxable income for federal income tax purposes; provided, however, that the board of directors may prospectively adopt a reasonable alternative method. Expenses and cost of goods or services shall include without limitation such amounts of depreciation, cost depletion and amortization as may be appropriate, amounts incurred for the promotion and encouragement of cooperative organization, and taxes other than federal income taxes. Such net income or net loss shall be subject to adjustment as provided in Sections 7 and 10(b) of this Article VI relating to losses.

Section 6. Allocation of Patronage Income. The net income from Patronage Business for each fiscal year shall be allocated among the members in the ratio that the quantity or value of the business done with or for each such member bears to the quantity or value of the business done with or for all members. The board of directors shall reasonably and equitably determine whether allocations shall be made on the basis of quantity or value.

Section 7. Treatment of Patronage Losses.

(a) **Methods for Handling Patronage Losses.** If there is a net loss in any fiscal year from Patronage Business, the Cooperative may take one or more of the following actions:

- (i) Offset all or part of such net loss against the net income of other pools or allocation units, if any, for such fiscal year to the extent allowed by law;
- (ii) Establish accounts payable by members that may be satisfied out of any future amounts that may become payable by the Cooperative to each such member;
- (iii) Carry all or part of the loss forward to be charged against future net income of the allocation unit that incurs the loss;
- (iv) Offset all or part of such net loss against the capital reserve; and/or
- (v) Cancel outstanding preferred stock and/or allocated equities evidencing a patronage refund in the amount of the loss.

(b) **Allocation of Net Loss Among Patrons.** Any cancellation of preferred stock, equities and/or establishment of accounts payable pursuant to this Section 7, shall be made among the members in a manner consistent with the allocation of net income.

(c) **Board Discretion.** The provisions of this Section 7 shall be implemented by the board of directors, having due consideration for all of the circumstances which caused the net loss, in a manner that it determines is both equitable and in the overall best interest of the Cooperative.

(d) **No Assessments Against Members or Patrons.** There shall be no right of assessment against members for the purpose of restoring impairments to capital caused by net losses.

Section 8. Distribution of Net Income.

(a) **Patronage Refunds.** The net income allocated to a member pursuant to Section 6 of this Article VI shall be distributed annually to such member as a patronage refund; provided, however, that no distribution need be made where the amount otherwise to be distributed to a member is less than a de minimus amount that may be established from time to time by the board of directors.

(b) **Form of Patronage Refunds.** Patronage refunds shall be distributed in cash, written evidences of equity, book credits, securities of the Cooperative, other securities, or any combination thereof designated by the board of directors, including, without limitation, the following instruments:

(i) Preferred stock, in one or more than one class or series, in such designations or denominations, and with such relative rights, preferences, privileges and limitations as may be fixed by the board of directors, and bearing no interest, dividend or other annual payment.

(ii) Any other form of capital credits in such designations or denominations, and with such relative rights, preferences, privileges and limitations as may be fixed by the board of directors, and bearing no interest, dividend or other annual payment.

(c) **Written Notices of Allocation.** The noncash portion of a patronage refund distribution that is attributable to Patronage Business shall constitute a written notice of allocation as defined in 26 U.S.C. Section 1388 which shall be designated by the board of directors as a qualified written notice of allocation, as a nonqualified written notice of allocation, or any combination thereof as provided in said Section.

(d) **Transfer Restriction.** Preferred stock and any other equity interests evidencing a patronage refund, may only be transferred with the consent and approval of the board of directors, and by such instrument of transfer as may be required or approved by the Cooperative.

(e) **Redemption Discretionary.** No member shall have any right whatsoever to require the retirement or redemption of any preferred stock, other equity interests evidencing a patronage refund, or any allocated capital reserve. Such redemption or retirement is solely within the discretion and on such terms as determined from time to time by the board of directors of the Cooperative. Whenever in the discretion of the board of directors the capital represented by any preferred stock and other equity interests evidencing a patronage

refund is found to be in excess of the amount needed for the operation of the business, then it may distribute such excess in cash to the holders of such interests in such amount and such manner as determined by the board of directors. Preferred stock and any other equity interests evidencing a patronage refund shall be redeemed only when such redemption is not in violation of any agreements entered into by the Cooperative.

(f) Redemptions from Deceased Members. Notwithstanding the provisions of Section 8(e), the Cooperative will redeem equity held by a deceased member under the following rules. Equity of deceased members will be treated the same as all other equity for purposes of loss allocations to the members.

(i) Individual Members. When the executor or other family representative of a deceased individual member applies to the Cooperative for redemption of the decedent's equity, the decedent's name and the amount of equity owned by the decedent will be placed on the individual estate list. An application for redemption can be in any written form so long as it specifies to whom the redemption proceeds should be paid. Payment will be made to the decedent's estate, if one is opened. If an estate is not opened, the Cooperative may require that each person receiving redemption proceeds agree to hold the Cooperative harmless from any liability resulting from such payment.

(ii) Organizational Members. If an organizational member maintains the election described in Section 8(g), then a deceased beneficial owner's name and the amount of equity represented by that owner's subaccount will be placed on the organizational estate list when the Cooperative receives an application for redemption. All redemption proceeds will be paid to the organizational member.

(iii) Order of Payment. The Cooperative will maintain an individual estate list and an organizational estate list. These lists will be maintained in the order in which written applications for redemption are received by the Cooperative, regardless of the date of death. The equity on the individual estate list will be redeemed first, followed by the equity on the organizational estate list. The equity on each list will be redeemed in order in which the names are listed.

(g) Organizational Members. An organizational member having ten or fewer beneficial owners may elect to have the Cooperative treat the owners of the organizational member as if they owned the Cooperative's equity for purposes of the Cooperative's equity redemption programs. An organizational member makes a look through election by certifying the percentage ownership of each of its beneficial owners upon the Cooperative's request. If the board determines that an organizational member has not provided ownership information in a reasonably prompt manner, then the organizational member will not qualify for the special treatment provided for organizational members.

The preferred stock or other equity interests evidencing a patronage refund owned by an electing organizational member will be treated as if it was owned by its beneficial owners as reflected on the look through ledger for purposes of redemptions. The preferred stock or other equity interests evidencing a patronage refund owned by an electing organizational member will be transferred into the names of its beneficial owners upon the termination of the existence of the organizational member.

Section 9. Capital Reserve. The board of directors shall cause to be created a capital reserve and, except as otherwise provided in Section 10 of this Article VI, shall annually add to the capital reserve the sum of the following amounts:

- (a) The annual net income of the Cooperative attributable to Nonpatronage Business;
- (b) Annual net income from patrons who are unidentified or to whom the amount otherwise to be distributed is less than the de minimus amount provided in Section 8(a) of this Article VI; and
- (c) An amount equal to at least ten percent (10%) of the distributable net income from Patronage Business, provided that a determination as to a specific amount is determined prior to the first day of any fiscal year. The discretion to credit net income from Patronage Business to a capital reserve shall be reduced or eliminated with respect to the net income of any period following the adoption of a board resolution that irrevocably provides for such reduction or elimination with respect to such period.

Federal income taxes shall be charged to the capital reserve.

Section 10. Allocation and Distribution of Non-patronage Income and Loss.

(a) Non-patronage Income. All dividends paid on preferred stock shall be paid exclusively out of net income from Non-patronage Business to the extent such net income is sufficient to satisfy any dividend obligation. The board of directors shall have the discretion to allocate to members those amounts that are remaining after payment of dividends on preferred stock and that would otherwise to be added to the capital reserve pursuant to Section 9(a) of this Article VI. Amounts so allocated shall be allocated among the members on a patronage basis using such method as the board of directors determines to be reasonable and equitable. Amounts so allocated shall be distributed to members thereof in the form of cash, property, preferred stock, other equity interests, or any combination thereof designated by the board of directors. The board of directors may determine whether and to what extent nonmember patrons may share in such distributions.

(b) Nonpatronage Loss. If the Cooperative incurs a net loss on its Nonpatronage Business, or if a net loss is incurred with respect to the Nonpatronage Business of an allocation unit,

such net loss generally shall be chargeable against capital reserve unless and to the extent the board of directors, having due consideration for the circumstances giving rise to such net loss, determines that it is reasonable and equitable to allocate all or part of such a net loss among members.

Section 11. Qualified Patronage Refund and Consent Bylaw. Each member by the act of continuing as a member and by that act alone agrees that the amount of any patronage refund charged such member as provided in this Article and qualified by appropriate action of the Cooperative pursuant to 26 U.S.C. 1388 will be taken into account by such member at its stated dollar amount in the manner provided in 26 U.S.C. 1385 for regular tax and alternative minimum tax purposes and will be reported by such member in his income tax returns for the taxable year in which qualified written notice of such patronage refund is received. The purpose of this consent Bylaw is to make such a patronage refund described in this Section 11 a “qualified patronage refund” within the meaning of the United States Internal Revenue Code.

Section 12. Nonqualified Patronage Refund. When, in the discretion of the board of directors, all or a portion of any patronage refund charged as provided in this Article should not be qualified for exclusion from the Cooperative’s taxable income pursuant to 26 U.S.C. 1382, the board of directors shall so declare by resolution, specifying the portion to which qualification shall not apply and upon the adoption of such resolution, the provisions of Section 12 of this Article shall not apply to such portion of the patronage refund. Such determination may be made separately for regular income tax purposes and for alternative minimum tax purposes.

ARTICLE VII

First Lien and Set-off

Section 1. First Lien. This association shall have a first lien on all patronage capital, and other interests standing on its books for all indebtedness of the respective holders or owners thereof to the association and business entities through which the association conducts its patronage sourced business. This association shall also have the right, exercisable at the option of the Board of Directors, to set-off such indebtedness against the amount of such patronage capital or other interests standing on its books; provided, however, that nothing contained herein shall give the owners of patronage capital or other interests any right to have such set-off trade.

Section 2. Discount. The cooperative may discount the value of the stock and equity credits. The method of discounting the value of the stock and equity credits shall be to calculate the present value of the credits based on the number of years to the expected redemption of the stock and equity credits had the offset against the indebtedness not occurred. The discount rate shall be determined by the Board of Directors in its sole discretion. If the discounted stock and equity credits are more than the indebtedness to be offset, any excess credits shall be returned, in the board’s discretion, either at the time of the offset, or in the normal redemption cycle along

with every other patron's equities. If the discounted stock and equity credits are less than the indebtedness to be offset, the cooperative's lien shall continue against future stock and equity credits allocated to the patron, which shall be discounted and offset against the remaining indebtedness.

Section 3. Set-off. Whenever the Board of Directors determines, in its sole discretion, that a member or patron who is obligated for the payment of any good or services purchased from the association or any business entity through which the Cooperative conducts a patronage-sourced business is insolvent, the Board of Directors may, in its sole discretion, discount and set off as much equity equal to the indebtedness owed to the Cooperative or other business entity. The balance, if any, after the discount and set-off shall not be redeemed unless and until the Board of Directors determines, in its sole discretion, that the redemption is consistent with and in support of the Cooperative's goals and objectives and business interests. Until a determination is made by the Board of Directors, if ever, to redeem the equity, the remaining equity shall remain accounted for on the books and records of the Cooperative at its remaining face value.

ARTICLE VIII

Equity Capital Management

Equity Capital Management. The Board of Directors shall manage the Cooperative's equity capital in a way to preserve and build upon the Cooperative's financial position while also allowing for redemptions of equity as and when the Cooperative has the financial strength to redeem equity. The Board of Directors may, from time to time, establish policies for redeeming equities, stock, or other forms of equity used for qualified or non-qualified notices of allocation, or the Board may eliminate equity redemption policies in favor of a capital management policy. Any of these policies may contain offers of discounts or required retentions of capital as part of any redemption of allocated equity. The Board retains the power to amend, modify or repeal these policies and may do so retroactively, all in the Board's sole discretion. For example, if the application of a policy to a specific circumstance suggests that the equity of a deceased member should be paid to the member's estate, the Board of Directors retains the right and power to determine whether to approve the expenditure. In each case, the Board of Directors may refuse any expenditure(s) if the Board determines that such expenditure(s) is (are) not in the interest of the cooperative. Therefore, no equity redemption policy shall be interpreted to require any expenditure of capital and the Board of Directors retains all rights and power to the final review and approval of each expenditure of capital for any redemption of equity. No person shall have any right whatsoever to require the retirement or redemption of any patrons' equities except in accordance with their term, or of any allocated capital reserve. Any redemption or retirement is solely within the discretion and on such terms as determined from time to time by the Board of Directors of this Cooperative, which may, in making any such redemption or retirement, distinguish natural members from unnatural members (corporations, partnerships, LLCs and other business organizations, etc.) and, in doing so, favor natural members with respect to estate retirements and redemptions at specified ages.

ARTICLE IX
Indemnification

Right of Indemnity. The Cooperative shall indemnify and advance expenses to any person, including any director, officer, employee or agent of the Cooperative, for such expenses and liabilities, in such manner, under such circumstances, and to the fullest extent, as is permitted by the Iowa law, as now enacted or hereafter amended.

ARTICLE X
Dissolution

Upon dissolution and after all debts and liabilities of the Cooperative shall have been paid, including the redemption of any issued Preferred equities, the remaining assets shall be distributed as follows:

(a) All capital furnished through patronage and unit retains shall have been retired without priority as to year on a pro rata basis to the holders thereof; and

(b) The value of the remaining property and assets of the Cooperative shall be distributed among the members, current and former, in proportion to the proportionate patronage of each member over the most recent ten (10) fiscal years. In the event that the liquidated value of the remaining property and assets of the Cooperative after satisfying all debts and liabilities shall be insufficient to satisfy items (a) through (c) above, such items shall be satisfied in the order stated before making a distribution of the next item.

ARTICLE XI
Miscellaneous

Section 1. Written Instruments. The board of directors may authorize any representative of the Cooperative to execute a written contract on behalf of the Cooperative, and this authorization may be general or confined to specific instances. If the board of directors does not specify who is to sign a contract on behalf of the Cooperative, then a written contract made by the Cooperative will be executed by the CEO.

Section 2. Loans. The board of directors will have the exclusive authority to borrow money on behalf of the Cooperative. The board may delegate to the CEO or any officer the authority to draw on an existing line of credit.

Section 3. Corporate Seal. The Cooperative will not have a corporate seal.

Section 4. Fiscal year. The fiscal year of the Cooperative will end on August 31 each year.

Section 5. No Addresses. The Board of Directors shall establish a policy for periodically reviewing the sufficiency of addresses of members and patrons. Whenever the Cooperative determines that it does not have a current address for the member or patron who has previously qualified allocated equity of the Cooperative, or whenever a member or patron fails to maintain a current address at the Cooperative, then, in that case and before the previously allocated equity ever becomes payable, that allocated equity will be deemed to be contributed to the Cooperative's unallocated surplus and in the case of a dissolution of the Cooperative, the total surplus remaining, including these contributed amounts, if any, will be distributed to the members and patrons as determined by the Board of Directors and in accordance with the Articles of Incorporation and Bylaws of this Cooperative.

ARTICLE XII
Unclaimed Equities

Unclaimed Equity Disbursements or Property. In accordance with Iowa Statute the cooperative may deposit any unclaimed equity disbursement or other property, notice for which has been provided as required by law, in a reversion fund established by the cooperative for this purpose. Funds deposited in the reversion account may be used by the cooperative as provided by Iowa law.

ARTICLE XIII
Amendments

These Bylaws may be amended at any regular or special meeting at which a quorum is registered as being present or represented by mail vote, by a majority of the members so present or represented by mail vote, where the notice of such meeting contains a summary statement of the proposed amendment. These Bylaws may also be amended by a majority vote of all directors then serving, at any meeting of the board of directors. Any amendment of these Bylaws adopted by the board of directors must be distributed to the members no later than ten (10) days after the adoption and the notice of the annual meeting of the members must contain a notice and summary of any such amendment to these Bylaws adopted by the board of directors. The patron members shall have the right to further amend any amendment of these Bylaws by the board of directors to the extent provided under The Cooperative Associations Act.



ARTICLES OF INCORPORATION & BY-LAWS

Effective September 2022