

**Bylaws of the  
Nebraska Sustainable Agriculture Society, Inc.**

**Restated 2015**

**BYLAWS OF THE NEBRASKA SUSTAINABLE AGRICULTURE SOCIETY, A  
NEBRASKA NON PROFIT CORPORATION**

**ARTICLE I - NAMES AND OFFICES**

**1.1 Name.** The name of the Corporation is the Nebraska Sustainable Agriculture Society, Inc. (the “Corporation”).

**1.2 Principal Office.** The principal office of the Corporation in the State of Nebraska shall be located in the City of Hartington, County of Cedar. The Corporation may have such other offices, either within or without the State of Nebraska, as the Board of Directors of the Corporation (the “Board of Directors”) may determine or as the affairs of the Corporation may require from time to time.

**ARTICLE II - MEMBERS**

**2.1 Classes and Qualifications of Members.**

- A. The Corporation shall have one class of members.
- B. Qualifications for membership, including a system of paid dues for establishing membership status, shall be established by the Board of Directors.
- C. Certificates evidencing membership may be issued, but failure of the Board of Directors to issue a certificate of membership shall not affect membership status provided that a member has met all of the requirements of membership.

**2.2 Annual Meeting.**

- A. The Corporation shall hold annually, at a time fixed by the Board of Directors, a meeting of members.
- B. Annual members’ meetings must be held in the State of Nebraska, the exact location of which shall be at a place fixed by the Board of Directors.
- C. Any reference to a “regular meeting” refers to an annual meeting.

**2.3 Special Meeting.**

- A. The Corporation shall hold a special meeting of members:
  - (i) On call of the Board of Directors; or
  - (ii) If the holders of at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the Corporation’s secretary one

or more written demands for the meeting describing the purpose or purposes for which it is to be held.

- B. The record date for determining members entitled to demand a special meeting shall be the date the first member signs the demand.
- C. Special members' meetings may be held in or out of this state at the place fixed by the Board of Directors. If no place is fixed by the Board of Directors, special meetings shall be held at the Corporation's principal office.
- D. Only business within the purpose or purposes described in the meeting notice may be conducted at a special members' meeting.

#### **2.4 Action without Meeting.**

- A. Action required or permitted to be taken at a members' meeting may be taken without a meeting if the action is taken by 51% of all the members entitled to vote on the action. The action shall be evidenced by one or more written consents describing the action taken, signed by all the members entitled to vote on the action, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records.
- B. If not otherwise determined under the Nebraska Business Corporation Act, the record date for determining members entitled to take action without a meeting shall be the date the first member signs the consent under Section 2.4.
- C. A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.
- D. If the Nebraska Business Corporation Act requires that notice of proposed action be given to nonvoting members and the action is to be taken by unanimous consent of the voting members, the Corporation shall give its nonvoting members written notice of the proposed action at least ten days before the action is taken. The notice shall contain or be accompanied by the same material that, under the act, would have been required to be sent to nonvoting members in a notice of meeting at which the proposed action would have been submitted to the members for action.

#### **2.5 Record Date; Notice of Meeting.**

- A. The Corporation shall notify members of the date, time, and place of each annual and special members' meeting no fewer than ten nor more than sixty days before the meeting date.

- B.** Unless the Nebraska Business Corporation Act requires otherwise, notice of an annual meeting shall not be required to include a description of the purpose or purposes for which the annual meeting is called.
- C.** Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.
- D.** The Board of Directors of the corporation may fix a future date as the record date. If not so fixed, the record date for determining members entitled to notice of and to vote at an annual or special members' meeting shall be the day before the first notice is delivered to members. A record date fixed under this section may not be more than seventy days before the meeting or action requiring a determination of members. A determination of members entitled to notice of or to vote at a members' meeting shall be effective for any adjournment of the meeting unless the Board of Directors fixes a new record date, which the Board shall do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.
- E.** If an annual or special members' meeting is adjourned to a different date, time, or place, notice shall not be required to be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or is required to be fixed, however, notice of the adjourned meeting shall be given under this section to persons who are members as of the new record date.

## **2.6 Member List.**

- A.** After fixing a record date for a meeting, the Corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of a members' meeting.
- B.** The members' list shall be available for inspection by any member, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member, his or her agent, or his or her attorney shall be entitled on written demand to inspect and to copy the members' list during regular business hours and at his or her expense during the period it is available for inspection, subject to the following restrictions:
  - (i)** The member's demand is made in good faith and for a proper purpose;
  - (ii)** The member describes with reasonable particularity his or her purpose and the records he or she desires to inspect; and

(iii) The records are directly connected with the member's purpose.

- C. The Corporation shall make the members' list available at the meeting and any member, his or her agent, or his or her attorney shall be entitled to inspect the list at any time during the meeting or any adjournment.
- D. Refusal or failure to prepare or make available the members' list shall not affect the validity of action taken at the meeting.

**2.7 Quorum and Voting.** Each member shall be entitled to one vote on each matter voted on at a members' meeting. Only a member shall be entitled to vote. Unless otherwise required by the Nebraska Business Corporations Act, the Articles of Incorporation, or these Bylaws, a quorum is established by any number of members represented at the meeting. The right of the members to vote shall be limited to voting for members of the Board of Directors and voting for the removal of a director, as provided in the Articles of Incorporation.

**2.8 Notice.**

- A. A member may waive any notice required by the Nebraska Business Corporation Act, the Articles of Incorporation, or Bylaws before or after the date and time stated in the notice. The waiver shall be in writing, shall be signed by the member entitled to the notice, and shall be delivered to the Corporation for inclusion in the minutes or filing with the corporate records.
- B. A member's attendance at a meeting:
  - (i) Waives objection to lack of notice or defective notice of the meeting unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and
  - (ii) Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice unless the member objects to considering the matter when it is presented.

**2.9 Member Inspection of Records.**

- A. A member of the Corporation shall be entitled to inspect and copy during regular business hours at the Corporation's principal office any of the following records of the Corporation if he or she gives the Corporation written notice of his or her demand at least five business days before the date on which he or she wishes to inspect and copy:
  - (i) The Corporation's Articles or Restated Articles of Incorporation and all amendments thereto currently in effect;



- (ii) The power of a court to compel the production of corporate records for examination.
- E. For purposes of this section, member shall include a beneficial owner whose shares are held in a voting trust or by a nominee on his or her behalf.
- F. Nothing in Section 2.10 shall be construed to limit access the Corporation may voluntarily provide any member(s) to its records.

### **ARTICLE III - DIRECTORS**

**3.1 Powers.** The Corporation shall have a Board of Directors. All corporate powers shall be exercised by or under the authority of, and the affairs of the Corporation shall be managed under the direction of, the Board of Directors.

#### **3.2 Number and Qualifications; Election.**

- A. The Board of Directors shall consist of not less than seven (7) and not more than thirteen (13) directors, consistent with the Articles of Incorporation. Any decrease in the number of directors designated by the Board of Directors shall not shorten an incumbent director's then-existing term.
- B. Each director shall be elected to serve a term of three (3) years, except that all Directors duly elected as of the date of the adoption of these Restated Bylaws shall serve the remainder of their current term of years. Thereafter, the terms of the directors shall be staggered so as to create a rotating Board of Directors in which approximately one-third of the directors are elected each year to three (3) year terms. Each director's term of office shall begin and terminate at the time of the applicable annual meeting of the members, or until the director's successor is qualified and elected. There is no limit on the number of terms, including successive terms, a director may hold.
- C. At least fifty percent (50%) of the directors shall be active agricultural producers.

#### **3.3 Vacancies.**

- A. A vacancy in the Board of Directors shall exist upon the death, resignation or removal of any director, upon a termination of a director's position under Section 3.2, or upon an increase in the number of directors.
- B. If a vacancy occurs on the Board of Directors, either the Board of Directors or the members may fill the vacancy.

- C. A vacancy that will occur at a specific later date, by reason of a resignation effective at the later date or otherwise, may be filled before the vacancy occurs, but the new director may not take office until the vacancy occurs.

**3.4 Resignation of Directors.** A director may resign at any time by delivering written notice to the Board of Directors, or to the President or the Secretary of the Corporation. Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the Board of Directors.

**3.5 Removal of Directors.** The Board of Directors may remove any member with or without cause at any time. Any vacancy occurring in any office of the Corporation by death, resignation, removal, or otherwise may be filled for the unexpired portion of the term by majority vote of the whole Board of Directors at any regular or special meeting. In the event that a director has two or more unexcused absences from board meetings, the Board of Directors must vote to retain him or her as a director by a majority vote of the remaining directors. In the event that a majority of the remaining directors do not vote to retain the director, he or she shall be automatically removed for non-attendance.

**3.6 Meetings.**

- A. The Board of Directors may hold regular or special meetings within or outside of the State of Nebraska.
- B. The Board of Directors shall hold four regular or special meetings annually.
- C. Notice of the date, time, and place of regular meetings of the Board of Directors shall be provided at least 30 days before the meeting. The notice need not state the purpose of the meeting unless otherwise required. The Board of Directors may fix, by resolution, the time and place for the holding of regular meetings.
- D. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President, by 20 percent of the directors then in office, or by 10 percent of the members. The person or persons who call a special meeting of the Board of Directors may fix the time and place of the special meeting.

**3.7 Notice of Special Meetings.**

- A. Special meetings of the Board of Directors shall be preceded by at least 48 hours' notice of the date, time, and place of the meeting. Except as otherwise required by law or these Bylaws, the notice need not describe the purpose of the special meeting. However, if a majority of the directors deem the reason for the special meeting an emergency situation, then the notice requirement may be satisfied by telephonic notice or electronic mail notice to the phone number shown in the Corporation's current list of

directors prior to the meeting. If the notice is not communicated directly to the director telephonically or through electronic mail, then a message conveying the notice must be left either with the person who answers the telephone or on an electronic recording device, so long as someone answers or an electronic recording device is attached to the telephone number. Each director must have the option to participate in the meeting via electronic or telephonic or other means which allow all directors participating to simultaneously hear each other.

- B.** A director's attendance at or participation in a meeting waives any required notice of the meeting to the director unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.
- C.** A director may at any time waive any notice required by law, the Articles of Incorporation or these Bylaws. The waiver shall be in writing, shall be signed by the director entitled to the notice, shall specify the meeting for which notice is waived and shall be filed with the minutes or appropriate records.
- D.** Notice of the time and place holding an adjourned meeting need not be given if such time and place are fixed at the meeting adjourned.

### **3.8 Action Without a Meeting.**

- A.** Action required to be taken at a Board of Directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.
- B.** Action taken under this section shall be effective when the last director signs the consent, unless the consent specifies a different effective date.
- C.** A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.
- D.** Action taken under this section may be communicated using any written mechanism set forth in Section 7.3(d). Oral consent is not permitted under this section.

### **3.9 Quorum and Vote.**

- A.** A majority of the directors in office shall constitute a quorum for the transaction of business. Less than a majority of the directors present, in the absence of quorum, may adjourn from time to time but may not transact any business.

- B. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board of Directors.
- C. A director of the Corporation who is present at a meeting of the Board of Directors or is present at a meeting of a committee of the Board of Directors is deemed to have assented to the action taken unless:
  - (i) the director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding the meeting or transacting business at the meeting;
  - (ii) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or
  - (iii) the director derives written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

**3.10 Ex Officio and Honorary Directors.** The Board of Directors may, in its discretion, appoint ex officio directors and honorary directors to serve for such terms and with such rights and obligations as the Board of Directors determines.

**3.11 Compensation.** The Board of Directors shall not receive any compensation for service on the Board. However, this shall not preclude any director or committee member from serving the Corporation in any other capacity and receiving compensation for that service.

#### **ARTICLE IV - COMMITTEES**

##### **4.1 Appointment.**

- A. Subject to applicable law, the provisions of the Articles of Incorporation and these Bylaws, the Board of Directors may appoint such committees as may be necessary or desirable from time to time, consisting of such number of members and having such powers as the Board may designate, except that a committee may not:
  - (i) Approve or propose to the members any action that the Nebraska Business Corporation Act requires to be approved by members;
  - (ii) Fill vacancies on the Board of Directors;
  - (iii) Amend articles of incorporation pursuant to Nebraska Business Corporation Act Section 21-20,117;
  - (iv) Adopt, amend, or repeal bylaws;

- (v) Approve a plan of merger not requiring member approval;
- B. Committee members shall be nominated by the President and subject to approval by the Board of Directors. Each committee shall have two or more members, who shall serve at the pleasure of the Board of Directors.

## **ARTICLE V - OFFICERS**

### **5.1 Designation: Election.**

The officers shall be elected by, and hold office at the pleasure of, the Board of Directors. The same individual may simultaneously hold more than one office in the Corporation.

### **5.2 Vacancies.**

- A. A vacancy in an office shall exist upon the death, resignation or removal of any officer, or upon the addition of an assistant officer position as the Board of Directors may appoint from time to time.
- B. If a vacancy in an office occurs, the Board of Directors may fill the vacancy.
- C. A vacancy that will occur at a specific later date, by reason of a resignation effective at the later date or otherwise, may be filled before the vacancy occurs, but the new officer may not take office until the vacancy occurs.

### **5.3 Compensation and Term of Office.**

- A. The compensation and terms of employment of the officers of the Corporation shall be fixed by the Board of Directors. At the direction of the Board of Directors, any officer may be reimbursed for expenses incurred in carrying out his/her duties as an officer.
- B. The Board of Directors may remove any officer, at any time, either with or without cause.
- C. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Corporation. If a resignation is made effective at a later date and the Corporation accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board provides that the successor shall not take office until the effective date.
- D. Nothing in these Bylaws shall affect the rights of the Corporation or any officer under any express contract of employment.

**5.4 President.** The President shall be the chief executive of the Corporation and shall, subject to control of the Board of Directors, have general supervision, direction and control of the affairs of the Corporation. The President shall have the general powers and duties of management usually vested in the office of President of a corporation; shall have authority to sign agreements, notes, instruments and documents on behalf of the Corporation; and shall have such other powers and duties as may be prescribed by the Board of Directors, these Bylaws or applicable law.

**5.5 Vice Presidents.** The Vice Presidents shall perform such duties as the Board of Directors shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by a Vice President designated by the Board of Directors.

**5.6 Secretary.** The Secretary shall keep or cause to be kept at the Corporation's principal office, registered office, or such other place as the Board of Directors may order, a book of minutes of all meetings of directors showing the time and place of the meeting, whether the meeting was regular or special and, if a special meeting, how authorized, the notice given, the names of those present, and a summary of the proceedings thereof. The Secretary shall give or cause to be given such notice of the meetings of the Board of Directors as is required by these Bylaws. The Secretary shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, these Bylaws or applicable law.

**5.7 Treasurer.** The Treasurer, if any, shall be responsible for the funds of the Corporation, shall pay them out as authorized by the Board of Directors, shall deposit and withdraw such funds in such depositories as may be authorized by the Board of Directors, and shall keep full and accurate accounts of receipts and disbursements in books maintained at the Corporation's principal office.

**5.8 Order of Succession of Officers.** The order of succession of officers shall be (in descending order):

- A. President;
- B. Vice President (order within Vice Presidents as prescribed by the Board of Directors);
- C. Secretary;
- D. Treasurer;

## **ARTICLE VI - CORPORATE RECORDS AND EXECUTION OF DOCUMENTS**

**6.1 Records.** The Corporation shall maintain all records required by law or these Bylaws or the Articles of Incorporation. All such records shall be kept at its principal office, registered office or any other place designated by the President of the Corporation or as otherwise provided by applicable law.

**6.2 Execution of Documents.** The Board of Directors may, except as otherwise provided in these Bylaws or applicable law, authorize any officer or agent of the Corporation to enter into any contract or execute any instrument, including checks, in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, or unless inherent in the authority vested in the office under the provisions of these Bylaws, no officer, agent or employee of the Corporation shall have any power or authority to bind the Corporation by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or for any amount.

## **ARTICLE VII - GENERAL PROVISIONS**

**7.1 Seal.** If the Corporation elects to have a corporate seal, the seal shall be circular in form and shall have inscribed thereon the name of the Corporation and the state of its incorporation.

**7.2 Electronic or Telephonic Meetings.** The Board of Directors may permit any or all directors or members to participate in any meeting by, or conduct the meeting through, use of any means of communication by which all directors or members participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

**7.3 Notice.**

- A.** Notices given under or with respect to these Bylaws may be oral or written unless otherwise specified for a particular kind of notice. Notices are effective as set forth in this Section 7.3 unless the notice specifies a later effective date.
- B.** Notice may be communicated in person, by telephone, by facsimile, by electronic mail, first class mail, certified mail, return receipt requested, private carrier, or by publication in a newsletter or similar document mailed or sent by electronic mail to a member's, committee member's or director's address, unless written notice of a particular form of delivery is specified for a particular form of notice.
- C.** Oral notice is effective when communicated. For purposes of voicemail or other oral communication recording mechanisms, oral notice is effective when recorded on such a device if the device is attached to a phone number shown in the Corporation's current list of members, committee members or directors.
- D.** Personal written notice is effective at the earliest of the following:
  - (i)** when received; in the case of facsimile or electronic mail, notice is deemed received at the time the communication reaches the recipient's facsimile machine or electronic mail account;

- (ii) in the case of registered or certified mail, return requested, on the date shown on the return receipt; or
- (iii) in the case of mail with other than first class, registered, or certified postage affixed, 30 days after its postmark.

E. Written notice is correctly addressed to a committee member, member, or director if addressed to the physical address, electronic mail address, or facsimile phone number shown in the Corporation's current list of committee members, members, or directors.

**7.4 Fiscal Year.** The fiscal year of the Corporation shall begin on October 1 of each year and shall end on September 30 of each year.

## **ARTICLE VIII - LIMITATION OF LIABILITY**

**8.1 Current Laws.** To the fullest extent that the Nebraska Business Corporation Act and all other laws of the State of Nebraska, as they exist on the original date of filing of the Articles of Incorporation with the Nebraska Secretary of State ("Effective Date"), permit the limitation or elimination of the liability of directors, no director of the Corporation shall be liable to the Corporation or its members for monetary damages for breach of fiduciary duty as a director. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to the time of such amendment or repeal.

**8.2 Amended Laws.** If the Nebraska Business Corporation Act or other applicable Nebraska laws are amended after the Effective Date to further limit or eliminate liability of the Corporation's directors for breach of fiduciary duty, then a director of the Corporation shall not be liable for any such breach to the fullest extent permitted by the Nebraska Business Corporation Act, or other applicable Nebraska laws, as so amended. If the Nebraska Business Corporation Act or other applicable Nebraska laws are amended after the Effective Date to increase or expand liability of directors of the Corporation for breach of fiduciary duty, no such amendment shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to the time of such amendment or otherwise adversely affect any right or protection of a director of the Corporation existing at the time of such amendment, as permitted by law.

## **ARTICLE IX - INDEMNIFICATION**

**9.1 Action Against Corporation.** The Corporation shall indemnify to the fullest extent permitted by law, any person who was or is a party or is threatened to be made a party of any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or

proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. To the extent permitted by applicable law, the termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

**9.2 Action by Corporation.** The Corporation shall indemnify to the fullest extent permitted by law any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Corporation unless and only to the extent required by applicable law or that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

**9.3 Expenses.** Subject to applicable law, to the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 9.1 and 9.2, or in defense of any claim, issue, or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

**9.4 Indemnification; Generally; Directors.**

- A.** Subject to applicable law, any indemnification under Sections 9.1 and 9.2 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth therein. Such determination shall be made
- (i)** by the Board of Directors by a majority vote of quorum (as defined in the Bylaws of the Corporation) consisting of directors who were not parties to such action, suit, or proceeding; or
  - (ii)** by independent legal counsel in a written opinion; or



majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

- (ii) By special legal counsel:
    - (a) Selected in the manner prescribed in F; or
    - (b) If there are fewer than two disinterested directors, selected by the Board of Directors in which selection directors who do not qualify as disinterested directors may participate; or
  - (iii) By the members, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.
- G.** Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under Section 9.4.F of this section to select special legal counsel.
- H.** Section 9.4.B-G shall not limit the Corporation's power to pay or reimburse expenses incurred by a director in connection with his or her appearance as a witness in a proceeding at a time when he or she is not a party.
- I.** The Corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she was a director of the Corporation against reasonable expenses incurred by him or her in connection with the proceeding.

**9.5 Advanced Expenses; Generally; Directors.**

- A.** Expenses incurred by a director in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors and subject to applicable law in the specific case upon receipt of an undertaking by or on behalf of such director to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Article. Such expenses incurred by other employees and agents may be so paid upon terms and conditions, if any, as the Board of Directors deems appropriate.
- B.** The Corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a

director who is a party to a proceeding because he or she is a director if he or she delivers to the corporation:

- (i) written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct described in Section 9.4;
- (ii) his or her written undertaking to repay any funds advanced if he or she is not entitled to mandatory indemnification and it is ultimately determined that he or she has not met the relevant standard of conduct described in Section 9.4.

C. The undertaking required by Section 9.5.B shall be an unlimited general obligation of the director but shall not be required to be secured and may be accepted without reference to the financial ability of the director to make repayment.

D. Authorizations under this section shall be made:

- (i) By the Board of Directors:
  - (a) If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote; or
  - (b) If there are fewer than two disinterested directors, by the vote necessary for action by the board in which directors who do not qualify as disinterested directors may participate; or
- (ii) By the members, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

## **9.6 Indemnification and Advance Expenses; Officers.**

A. A corporation may indemnify and advance expenses to an officer of the corporation who is a party to a proceeding because he or she is an officer of the corporation:

- (i) To the same extent as a director; and
- (ii) If he or she is an officer but not a director, to such further extent as may provided by these Bylaws except for

- (a) liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or
- (b) liability arising out of conduct that constitutes:
  - (A) receipt by him or her of a financial benefit to which he or she is not entitled;
  - (B) an intentional infliction of harm on the corporation or the members; or
  - (C) an intentional violation of criminal law.
- B. The provisions of Section 9.6.A.(ii) shall apply to an officer who is also a director if the basis on which he or she is made a party to the proceeding is an act or omission solely as an officer.
- C. Section 9.6.A.(i) shall not limit the Corporation's power to pay or reimburse expenses incurred by the officer in connection with his or her appearance as a witness in a proceeding at a time when he or she is not a party.

**9.7 Non Exclusive Rights.** The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any statute, bylaw, agreement, vote of members, or disinterested directors or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

**9.8 Insurance.** By action of the Board of Directors, notwithstanding any interest of the directors in the action, subject to applicable law, the Corporation shall purchase and maintain insurance, in such amounts as the Board of Directors deems appropriate, on behalf of any person who is or was a director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power or would be required to indemnify such person against such liability under the provisions of this Article or of the Nebraska Business Corporation Act.

**9.9 Definitions.**

- A. With respect to officers and directors under Article XV, the following definitions apply:

- (i) Disinterested director shall mean a director who, at the time of a vote is not
  - (a) a party to the proceeding; or
  - (b) an individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made;
- (ii) Expenses shall include attorney's fees;
- (iii) Liability shall mean the obligation to pay a judgment, settlement, penalty, or fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding;
- (iv) Official capacity shall mean
  - (a) when used with respect to a director, the office of director in a corporation; and
  - (b) when used with respect to an officer, the office in a corporation held by the officer. Official capacity shall not include service for any other domestic or foreign corporation or limited liability company or any partnership, joint venture, trust, employee benefit plan, or other entity;
- (v) Party shall mean an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding; and
- (vi) Proceeding shall mean any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

**B.** Limitation of these definitions to application with regard to directors and officers shall not be construed to affect the interpretation of these terms in other contexts.

## **ARTICLE X - TRANSACTION BETWEEN CORPORATION AND INTERESTED DIRECTORS**

### **10.1 Validity of Transaction.**

- A. Subject to applicable law, no transaction shall be voidable by the Corporation solely because of a director's direct or indirect interest in the transaction if
  - (i) The material facts of the transaction and the director's interest were disclosed to or known by the Board of Directors or a committee of the Board of Directors, and the Board of Directors or committee authorized, approved, or ratified the transaction; or
  - (ii) The transaction was approved by the Attorney General or the circuit court in an action in which the Attorney General was joined as a party; or
  - (iii) The transaction was fair to the Corporation.
- B. This Article XVI shall not invalidate any contract, transaction or determination that would otherwise be valid under applicable law.

**10.2 Direct and Indirect Interest.** Solely for purposes of this Article XVI, a director of the Corporation has a direct or indirect interest in a transaction if

- A. Another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction;
- B. Another entity of which the director is a director, officer or trustee is a party to the transaction and the transaction is or should be considered by the Board of Directors; or
- C. The director him(her)self is a party to the transaction.

**10.3 Authorization by Board.** A transaction in which a director has an interest is authorized, approved or ratified by the Board of Directors if it receives the affirmative vote of a majority of the directors on the Board of Directors, or on the committee, who have no direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this Article X by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve or ratify the transaction, a quorum shall be present for the purpose of taking action under this Article. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction shall not affect the validity of any action taken under Section 10.1 by the Board of Directors or a committee thereof, if the transaction is otherwise authorized, approved or ratified as provided in Section 10.1.

## **ARTICLE XI - AMENDMENTS**

**11.1 Amendment of Articles and Bylaws.** The Corporation shall provide notice to all directors of any meeting of directors at which an amendment of the Articles of Incorporation or Bylaws is to be approved (such notice period to be the same as otherwise required for such meeting). The notice shall state that the purpose, or one of the purposes, of the meeting is to

consider the proposed amendment, and shall contain or be accompanied by a copy or summary of the amendment or state the general matter of the amendment.

**CERTIFICATION**

The above and foregoing is a true and correct copy of the Bylaws of the Nebraska Sustainable Agriculture Society, Inc. as of June \_\_, 2015.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Secretary