

**THE RESTATED BYLAWS**  
**OF**  
**NORTHERN RIO ARRIBA ELECTRIC COOPERATIVE, INC.**  
**(A New Mexico Non-Profit Cooperative Corporation)**

**THESE RESTATED BYLAWS** ("Bylaws") dated as of the 27<sup>TH</sup> day of September, in the year 2021, set forth these Bylaws of the **NORTHERN RIO ARRIBA ELECTRIC COOPERATIVE, INC.**, a New Mexico nonprofit Cooperative Corporation (herein "Cooperative," or "NORA"), which will become effective when duly adopted by the Membership, and the Board of Trustees.

**ARTICLE I**  
**NAME AND OFFICE**

**Section 1.1. NAME OF THE COOPERATIVE** - The name of the Cooperative will be **NORTHERN RIO ARRIBA ELECTRIC COOPERATIVE, INC.**, a not-for-profit Cooperative Corporation.

**Section 1.2. PRINCIPAL OFFICE** - The principal office of this Cooperative will be located in Rio Arriba County, in the State of New Mexico.

**Section 1.3. REGISTERED OFFICE** - The registered office of the Cooperative, required by the Non-Profit Corporation Act of New Mexico (Chapter 53, Article 8 NMSA 1978) ("Act") to be maintained in the State of New Mexico, may be, but need not necessarily be, identical with the Cooperative's principal office in the State of New Mexico, and the address of the registered office may be changed from time-to-time by the Board of Trustees.

**ARTICLE II**  
**PURPOSES, MISSION, AND COOPERATIVE PRINCIPLES**

**Section 2.1. NONPROFIT COOPERATIVE** - The Cooperative is organized as a nonprofit Cooperative in accordance with the Non-Profit Corporation Act of the State of New Mexico, as amended (the "Act"). The Cooperative shall at all times be operated on a Cooperative non-profit basis for the mutual benefit of its members. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

**Section 2.2. NORA BUSINESS MISSION AND PURPOSE** - The mission and purpose of NORA includes, but may not be limited to the provision of services, programs, and products in support of the stated purpose and mission of NORA:

*Northern Rio Arriba Electric Cooperative is dedicated to providing courteous and reliable service to all users, at the lowest rates consistent with sound financial management.*

**Section 2.3. NORA COMMITMENT TO QUALITY** – NORA's commitment to quality is to:

- Encourage the wise use of our energy resources
- Reference "The Seven Cooperative Principles" as our guide to do our business
- Operate our business in a financially sound manner
- Hold ourselves accountable to the highest standard for employee and public safety and security
- Perform our work in a manner that is environmentally and socially acceptable

**Section 2.4. COOPERATIVE PRINCIPLES** – NORA is guided by the seven Cooperative principles established by the General Assembly of the International Cooperative Alliance:

1. **Voluntary and Open Membership.** Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.
2. **Democratic Member Control.** Cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Representatives are elected from the Cooperative membership to serve on the Board of Trustees. At Northern Rio Arriba Electric Cooperative, members have equal voting rights, with one vote per member.
3. **Member Economic Participation.** Members contribute equitably to and democratically control the capital of their Cooperative. At least part of that capital is usually the common property of the Cooperative. They usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing the Cooperative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the Cooperative; and supporting other activities approved by the membership.
4. **Autonomy and Independence.** Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their Cooperative autonomy.
5. **Education, Training and Information.** Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives. They inform the general public, particularly young people and opinion leaders, about the nature and benefits of cooperation.
6. **Cooperation Among Cooperatives.** Cooperatives serve their members most effectively and strengthen the Cooperative movement by working together through local, national, regional, and international structures.
7. **Concern for Community.** While focusing on member needs, cooperatives work for the sustainable development of their communities through policies accepted by members.

**Section 2.5. NONDISCRIMINATION POLICY STATEMENT** - The Cooperative and its Board of Trustees will not practice or permit any unlawful discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, pregnancy (including pregnancy, childbirth, lactation, breastfeeding, and/or related medical conditions), race, race-related hairstyle, use of a cultural or religious headdress, spousal affiliation, religion (including religious dress and grooming practices), color, gender, gender identity, gender expression, national origin or ancestry, citizenship status, physical and/or mental disability, medical condition, genetic information (including testing and characteristics), marital status, registered domestic partner status, age (40 and over), military and/or veteran status, uniformed service member status, or any other basis protected by federal, state or local law or ordinance or regulation.

### **ARTICLE III** **MEMBERSHIP**

**Section 3.1. QUALIFICATIONS AND OBLIGATIONS** - Any person, firm, corporation or body politic may become a member in Northern Rio Arriba Electric Cooperative by:

- (a) Agreeing to purchase from NORA electric energy or, if not connected to NORA's electric distribution system, the other services that the Board of Trustees determines to offer on a membership basis as hereinafter specified; and
- (b) Agreeing to comply with and be bound by the Articles of Incorporation of NORA and these Bylaws and any amendment thereto and such policies, rules and regulations as may from time-to-time be adopted by the Board of Trustees.

No person, firm, corporation or body politic may own more than one (1) membership in NORA. An application for membership of any person who is legally married shall automatically be deemed and

become an application for membership by both spouses as joint members without further action of either spouse unless at the time of application for membership either spouse otherwise directs NORA in writing. The subsequent legal marriage of any existing member shall automatically be deemed and become a joint membership without further action of either spouse unless within 30 days after the date of marriage, either spouse otherwise directs NORA in writing. Immediate family members other than spouses, such as parent/child, siblings, etc. may also apply for a joint membership, provided such joint members likewise comply with the provisions above. Such joint membership shall be limited to two (2) immediate family members.

**Section 3.2. MEMBERSHIP CLASSES** – Based on the member’s use, receipt, or purchase of Cooperative goods and services, membership in NORA shall be grouped into two (2) classes, voting members and non-voting patrons, determined as follows:

- (a) All members subscribing to receive electric energy shall be voting members, with one (1) vote per membership, as provided herein. In addition, such members shall have the benefit of all rights and privileges as established by these Bylaws and the Board of Trustees.
- (b) Patrons subscribing to receive other products or services shall be afforded such membership status as the Board of Trustees may by policy establish.

Unless otherwise specified herein, the reference to “member” or “members” shall mean voting members, with regard to all rights, privileges and actions to be taken by members based upon their participation in the decision-making process.

**Section 3.3. JOINT MEMBERSHIP** – No more than two (2) persons residing together may jointly become a member and their application for a joint membership may be accepted in accordance with the provisions of these Bylaws. The joint membership shall be deemed to be one (1) member by the Cooperative and shall be treated as one (1) membership for all purposes. The two (2) persons who have a joint membership may determine from time-to-time which person shall have the right to vote.

A member may apply at any time for conversion to a joint membership (limited to two persons only) subject to compliance with the requirements set forth in this Article. The term joint membership shall be deemed to be joint tenancy with full rights of survivorship as authorized by laws of New Mexico, except as restricted herein as limited to two (2) persons only. Any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. For joint membership the following rules shall apply:

- (a) the presence at a meeting of either joint member shall be regarded as the presence of one (1) member, and of constituting a joint waiver of notice of the meeting.
- (b) the vote of either joint member shall constitute one (1) vote; no split vote shall be permitted.
- (c) a waiver of notice signed by either joint member shall constitute a joint waiver.
- (d) notice to either joint member shall constitute notice to both joint members.
- (e) expulsion or withdrawal of either joint member shall terminate the joint membership.
- (f) either but not both joint members may be elected or appointed as an officer or Trustee, subject to the qualifications for such office stated in these Bylaws; and
- (g) the joint member continuing to receive electric service shall be considered as an individual member upon notification of death, divorce or legal separation, or legal conclusion of the relationship of those named in a joint membership.

**Section 3.4. CONVERSION OF MEMBERSHIP** - A membership may be converted to a joint membership upon the written request of the holder thereof subject to the Articles of Incorporation, Bylaws and rules and regulations adopted by the Board of Trustees. If approved, the outstanding membership certificates shall be surrendered, and shall be reissued by the Cooperative in such manner as shall indicate the changed membership status.

- (a) An existing single membership may be converted to a joint membership between no more than two (2) persons residing together at the written request of the holder thereof and the agreement by such holder and the other person seeking joint membership to comply with the requirements of this Article. The membership shall be amended by adding the names of the two (2) joint members, the capital credit account shall likewise be amended to add the names of the two (2) joint members, and the pre-existing membership and capital credit account shall continue as a joint membership account.
- (b) When a membership is held jointly by two (2) people, upon the death of a joint member, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to them and the joint membership may be changed to the survivor; and upon the recording of such death on the books of the Cooperative, the surviving person shall become the member, provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Cooperative.

**Section 3.5. NONDISCRIMINATION** - Membership in NORA shall be upon the basis of the following principles:

- (a) The extension of the privilege of membership on an area coverage basis; and
- (b) Open membership without discrimination within the area or territory within which NORA has undertaken to render services to its members.

**Section 3.5. RETENTION OF COOPERATIVE STATUS** - Nothing contained herein shall be construed to require NORA to render service at any time to any person who has not applied for membership.

**Section 3.6. PURCHASE OF ELECTRIC ENERGY** - Each member who is or desires to be connected to NORA's electric distribution system shall, as soon as electric energy is available, obtain from NORA all electric energy purchased on the premises specified in their application for membership, and shall pay therefor at rates which shall from time-to-time be fixed by the Board of Trustees. Each member shall pay to the Cooperative such minimum amount, regardless of the amount of electric energy consumed, as shall be fixed by the Board of Trustees from time-to-time.

Production or use of electric energy on such member's premises, regardless of the source thereof, by means of facilities which shall be interconnected with NORA facilities, shall be subject to appropriate regulations as shall be fixed from time-to-time by NORA. It is expressly understood that amounts paid for electric energy in excess of the cost of service, are furnished by members as capital, and each member shall be credited with the capital so furnished as provided in these Bylaws. Each member shall pay to NORA such minimum amount regardless of the amount of energy as shall be fixed by the Board of Trustees from time-to-time.

Each member shall also pay all amounts owed by them to NORA as and when the same shall become due and payable. The Cooperative may charge interest or late fees on any past due amount up to the maximum legal rate. When a member has more than one (1) service connection from the Cooperative, any payment by such member for service from the Cooperative may, at the Cooperative's option, be allocated and credited to all of the members' outstanding accounts proportionately.

NORA will use its best efforts to furnish adequate and dependable electric service, although it cannot and therefore does not guarantee a continuous adequate and uninterrupted supply of electricity.

**Section 3.7. EXPULSION OF MEMBERS** - The Board of Trustees of NORA may, by the affirmative vote of not less than two-thirds (2/3) of the members thereof, expel any member who shall have violated or refused to comply with any of the provisions of the Articles of Incorporation of NORA or these Bylaws or any rules or regulations adopted from time-to-time by the Board of Trustees. Any member so expelled

may be reinstated as a member by a vote of the members at any Annual or Special Meeting of the members. Reinstatement by action of the members shall be final with respect to the specific instance of non-compliance or violation that gave rise to Board of Trustees' action.

**Section 3.8. WITHDRAWAL OF MEMBERSHIP** - Any member may withdraw from membership upon payment in full of all debts and liabilities of such member to NORA and upon compliance with such terms and conditions as the Board of Trustees may prescribe.

**Section 3.9. SUSPENSION AND REINSTATEMENT OF MEMBERSHIP** - Any member may have their electric service terminated and shall be deemed a suspended member for any of the following events:

- (a) failure to pay any amounts due the Cooperative.
- (b) failure to comply with electric service contracts or other documents governing such electric service.
- (c) upon discovery of any tampering or other interference with the Cooperative's electric service.
- (d) upon discovery of any imminent hazard or danger to Cooperative equipment or others.
- (e) failure to comply with membership obligations; or
- (f) any other reason permitted by law or regulation.

Any member deemed a suspended member is not eligible to vote at membership meetings or be entitled to electric service. Such member's status shall be restored to a good standing upon full and complete compliance with reason for suspension, including any additional charges required for such reinstatement, and upon providing adequate security, or providing such other assurance of regular future compliance thereof, or otherwise complied with membership obligations causing such suspension of membership.

Membership suspensions may be immediate without providing notice for: (a) tampering, (b) imminent hazard, or (c) other suspensions pursuant to Cooperative policies of general application and as provided for by law. A suspended member will be provided opportunity to comment or correct the reason of suspension.

If the Cooperative determines a suspension reason requires notice, the member shall receive such notice as established by Cooperative Bylaws or policies and that member has five (5) days after the date of notice to comment upon the suspension reason. Then, unless otherwise determined by the Board in good faith, the member is suspended.

Upon a member's suspension, except for the Cooperative's obligation to retire and refund capital credits and obligations regarding dissolution, the Cooperative's duties, obligations and liabilities imposed by these Bylaws cease and the Cooperative may cease providing any Cooperative service to the suspended member; such suspended member forfeits and relinquishes any voting rights or the member rights provided in these Bylaws.

**Section 3.10. TRANSFER AND TERMINATION OF MEMBERSHIP** -

- (a) Membership in NORA shall not be transferable, except as hereinafter otherwise provided. Upon the death, cessation of existence, expulsion or withdrawal or disconnection of service of a member without intention of reconnection within one (1) year, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not release the member from the debts or liabilities of such member to NORA.
- (b) A membership may be transferred by a member to themselves and their spouse or other joint member, as the case may be, upon the written request of the joint members. Requests for a transfer of a corporate, political or other non-individual membership shall be made by the designated and authorized agent of such corporation, political body or other business entity. Any transfer hereunder shall be noted on the books of NORA.

- (c) When a membership is held jointly, upon the death of either joint member, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to them, as the case may be, provided however, that the estate of the deceased shall not be released from any membership debts or liabilities to NORA.

**Section 3.11. MEMBERSHIP AND SERVICE CONNECTION FEES** - The membership fee shall be five dollars (\$5.00) or such other amount as may be fixed from time-to-time by the Board of Trustees. Provided, however, that the Board of Trustees shall have the right and responsibility of establishing schedules of additional deposits and fees to be required of members, based upon the kind and extent of service required.

## **ARTICLE IV**

### **RIGHTS, OBLIGATIONS, RESPONSIBILITIES AND LIABILITIES OF MEMBERS**

**Section 4.1. CONTRACT OF MEMBERSHIP** - The members and patrons of the Cooperative, by purchase of electric energy and other Cooperative products and services, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws constitute a contract between the Cooperative and each member and both the Cooperative and the member are bound by such contract, and other governing documents, as fully as though each member had individually signed a separate instrument containing such terms and provisions by the purchase of electric energy and other Cooperative services.

**Section 4.2. PROPERTY INTEREST OF MEMBERS** - Upon dissolution, after

- (a) All debts and liabilities of the Cooperative shall have been paid, and
- (b) All capital furnished through patronage shall have been retired as provided in these Bylaws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the seven (7) years next preceding the date of the filing of the certificate of dissolution, or, if the Cooperative shall not have been in existence for such period, during the period of its existence.

**Section 4.3. NON-LIABILITY FOR DEBTS OF NORA** - The private property of the members of NORA shall be exempt from execution for the debts of NORA and no member shall be individually liable or responsible for any debts or liabilities of NORA.

**Section 4.4. OFFICIAL PUBLICATION** - The Board is hereby authorized to subscribe from the revenues from each member, the amount necessary to pay for the official publication or other publications as selected by the Board. The Cooperative newsletter, or inserts shall be designated as the official publication for legal notice and communication to members.

**Section 4.5. MEMBER GRANT OF PROPERTY RIGHTS** -

- (a) **Easement and Rights of Way:** Each member shall, upon being requested so to do by the Cooperative, execute and deliver to the Cooperative grants of Easement or Right-of-Way over, on and under such lands owned or leased by or mortgaged to the member, and in accordance with such reasonable terms and conditions, as the Cooperative shall require for the furnishing of electric service to them or other members for the construction, operation, maintenance or relocation of the Cooperative's facilities.
  - Each member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized Employees, Agents

and Independent Contractors to have access thereto for meter reading and for inspection, maintenance, replacement, relocation or repair of such facilities at all reasonable times.

- As part of the consideration for such service, each member shall be the Cooperative's bailee of such facilities and shall accordingly desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use their best efforts to prevent others from so doing.
- Each member shall also provide such protective devices to their premises, apparatuses or meter base as the Cooperative may from time-to-time require in order to protect the Cooperative's physical facilities and their operation and to prevent any interference with or damage to such facilities.
- In the event that such facilities are interfered with, impaired in their operation or damaged by the member, or by any other person when the member's reasonable care and surveillance should have prevented such, the member shall indemnify the Cooperative and its Employees, Agents and Independent Contractors against death, injury, loss or damage resulting therefrom, including but not limited to, the Cooperative's cost of repairing, replacing, or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment.
- In no event shall the responsibility of the Cooperative extend beyond the Point of Delivery.

(b) **Other Rights and Covenant of Cooperation:** Each member shall upon request of the Cooperative grant such rights and cooperate as reasonably necessary to facilitate the Cooperative to safely, reliably and efficiently operate the Cooperative's electric system or provide any Cooperative service.

**Section 4.6. WIRING STANDARDS** - Each member shall cause all premises covered by this membership to become and remain wired in accordance with specifications set forth by various local, state and federal agencies having jurisdiction over such wiring, and in accordance with the specifications of the New Mexico Electrical Codes, The National Electric Codes and any other applicable codes or regulations. In addition, the Cooperative may prescribe such additional requirements for wiring standards as the Cooperative deems appropriate. Failure to abide by all local, state and federal wiring codes shall be a basis for disconnection of service pursuant to policies of the Cooperative set from time-to-time by the Board of Trustees.

**Section 4.7. LIMITS OF RESPONSIBILITY** - Each member shall indemnify the Cooperative for, and hold the Cooperative harmless from, any expenses, costs, liabilities, or damages, including reasonable attorney fees and legal expenses, incurred by the Cooperative, or by any Cooperative Trustee, officer, employee, agent, representative, or contractor, because of any property damage, personal injury, or death resulting from the member's negligence or failure to comply with the governing documents. Each member shall be responsible for and shall indemnify the Cooperative and its Employees, Agents and Independent Contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of such premises and all wiring and apparatuses connected thereto or used thereon.

The Cooperative's responsibility for wiring shall terminate at such point as the Cooperative determines from time-to-time.

**Section 4.8. LOAD MANAGEMENT PROGRAMS** - Each member may participate in any program and shall comply with related rates, policies, service rules and regulations as may be reasonably established by the Cooperative to enhance load management to more efficiently utilize or conserve energy or to conduct load research.

**Section 4.9. MEMBER LIABILITY** - No member shall tamper or interfere with, damage or impair any Cooperative equipment. Each member shall use their diligent efforts to guard and protect Cooperative properties situated on their premises and to promptly report all incidents of malfunction, tampering,

vandalism or damage to Cooperative property. Members shall install, implement and maintain any protective device or procedure on the member's premises as is reasonably required by the Cooperative.

**Section 4.10. DISPUTE RESOLUTION** - In the event of any and all disputes, claims or controversies arising from or related in any way to NORA's provision of electric energy or other services, or its furnishing of any goods or its conduct of its operations, the parties shall use their best efforts to settle the dispute by direct negotiations between individuals with full settlement authority.

If the dispute is not settled promptly through negotiation, the parties shall submit the dispute to mediation under the applicable Mediation Rules of the American Arbitration Association or other independent professional organization. Mediation is negotiation facilitated by a neutral third party (mediator) who does not have a stake in the outcome of a dispute. Instead, the mediator helps the parties find common ground and assists with drafting a settlement agreement.

Thereafter, any unresolved disputes, claims or controversies shall be decided by binding arbitration in accordance with the applicable Arbitration Rules of the American Arbitration Association, or by a panel of arbitrators, and judgment upon the Award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The members and NORA, each patron, member or non-member alike, and NORA agree that all such disputes, claims or controversies according to this bylaw and the regulations and policies prescribed by the Board of Trustees pursuant to this bylaw, agree to abide by and perform any resulting arbitration awards.

## **ARTICLE V**

### **MEETINGS OF MEMBERS**

**Section 5.1. ANNUAL MEETING** – The Annual Meeting of the members shall be held once each year at such place within one (1) of the counties served by NORA, and at such time, as shall be designated by the Board of Trustees in the Notice of Meeting, for the purpose of passing upon reports covering the previous calendar year, ratifying the newly elected Trustees, and transacting such other business as may come before the meeting. The Board of Trustees may in its discretion, determine to cancel or postpone the Annual Meeting if it is deemed to be in the public interest during circumstances beyond the reasonable control of the Board or the members. Failure to hold the Annual Meeting shall not cause a forfeiture or a dissolution of NORA.

**Section 5.2. SPECIAL MEETINGS** - Special Meetings of the members may be called by the President or by a 2/3<sup>rd</sup> majority of the Board of Trustees or upon a written request signed by at least 50 members or two per centum (2%) of all the Cooperative members, and it shall thereupon be the duty of the President to call such meeting and to cause notice of such meeting to be given as hereafter provided. Special Meetings of the members may be held at any place within one (1) of the counties served by NORA in the State of New Mexico, specified in the notice of the Special Meeting.

**Section 5.3. NOTICE OF MEMBERS' MEETING** - Written or, to the extent allowed by law, electronic notice, stating the place, day and hour of the meeting and, in case of a Special Meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than seven (7) days nor more than thirty (30) days before the date of the meeting, either personally, by mail, or electronically posted to the last known e-mail address of a member, by or at the direction of the President to each member. If mailed, such notice shall be deemed to be delivered when it is deposited or a newsletter or other publication of NORA or of an affiliated organization which includes the notice is deposited in the United States mail, addressed to the member at their address as it appears on the records of NORA, with postage thereon prepaid. If notice is given electronically, the date of delivery shall be the date of posting/transmitting such notice to the last known e-mail address of the member. Proof of such posting/transmission shall be kept by NORA. The failure of any member to receive notice of an Annual or Special Meeting of the members shall not invalidate any action which may be taken by the members at any such meeting.

**Section 5.4. QUORUM** - The presence of 50 members or two per centum (2%) of the Cooperative members, whichever shall be the larger at any Annual or Special Meeting of the members shall constitute a quorum. The presence of either or both persons holding a joint membership shall constitute the presence of one (1) member. If less than a quorum is present at any meeting, a 2/3<sup>rd</sup> majority of those present in person may adjourn the meeting from time-to-time without further notice. The minutes of each meeting shall contain a list of the members present in person.

**Section 5.5. VOTING** - Each member, who is not in a status of suspension, shall be entitled to only one (1) vote upon each matter submitted to a vote at a meeting of the members. All questions shall be decided by a vote of a 2/3<sup>rd</sup> majority of the qualified members voting thereon in person, except as otherwise provided by law, the Articles of Incorporation of NORA, or these Bylaws.

Each qualified member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at any meeting of the members. If a member is qualified to vote but is provided services in more than one (1) District, the member may only vote in only one (1) such District. If a member receiving service in more than one (1) District has their residence (as may be defined by the Board) in one (1) of those Districts, they may only vote in that District. If the member's residence is not in any of those Districts, they may elect which District to vote in, however, the member may not change that designation unless and until they no longer receive service in that District. At all meetings of the members at which a quorum is present, all questions shall be decided by a vote of the 2/3<sup>rd</sup> majority of the members voting thereon at such meeting in person, except as otherwise provided by law, the Articles of Incorporation of NORA, or these Bylaws. Two (2) persons holding a joint membership shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members.

- (a) **Mail Voting:** Voting by mail shall be permitted on matters of merger or consolidation with other cooperatives and other matters that the Board determines a membership mail vote is necessary. In the case of a mail vote, a printed ballot containing the proposition to be voted upon as approved by the Board shall be mailed to the membership at least fifteen (15) days before the date of the meeting. The ballot shall be returned as established by the Board. The method of mail balloting shall be as required by law and as established by the Board.
- (b) **Electronic Voting:** The Trustees may allow members to vote electronically upon a motion, resolution, amendment or election to be acted upon at any such meeting whether or not by ballot, which shall be in the form prescribed by the Board of Trustees and shall contain:
  - The exact text of the proposed motion, resolution, amendment or election to be acted upon at such meeting.
  - The date of the meeting.
  - Spaces opposite the text of such motion, resolution, amendment or election in which the member may indicate their affirmative or negative vote thereon. Members shall express their choice by marking an "X" in the appropriate space on such ballot.
- (c) **Non-Natural Persons:** Members must present evidence satisfactory to the Cooperative that the individual is duly authorized to vote for the non-natural person member.
- (d) **Record Date:** The Board may fix a record date for determining the membership and the members entitled to vote at the membership meeting.

**Section 5.6. VOTING LIST** - The Cooperative shall make, at least fifteen (15) days before each meeting of the members, a complete list in either electronic or paper form, arranged in alphabetical order, of the members entitled to vote at such meeting and their addresses. The list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the meeting.

**Section 5.7. ORDER OF BUSINESS** - The order of business at Annual and other meetings of the members shall be as set by the Board of Trustees, unless modified by the affirmative vote of at least two-thirds (2/3) of the members present. All other procedural matters at meetings of the members not addressed by the meeting rules established by the Board shall be governed by the latest edition of Roberts Rules of Order Newly Revised. The order of business at the Annual Meeting of the members, and so far as possible, at all other meetings of the members, shall be essentially as follows:

- Call of the roll.
- Report on the number of members present in person in order to determine the existence of a quorum.
- Reading of the notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
- Reading of unapproved minutes of the previous meeting of the members and the taking of necessary action thereon.
- Presentation and consideration of, and acting upon, reports of officers, Trustees and committees.
- Election of Trustees.
- Unfinished business.
- New business.
- Adjournment.

**Section 5.7. REPORTS** - At each Annual Meeting of the members, the Cooperative shall submit reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth in summary the condition of the Cooperative at the close of such fiscal year.

**Section 5.8. ANNUAL MEETING RULES AND RESOLUTIONS** - The Board of Trustees shall establish rules to govern the conduct of that year's Annual Meeting. The rules shall include a deadline for members to submit any advisory resolutions relating to the affairs of NORA that they plan to present at the Annual Meeting, and that deadline shall be communicated to the membership. The Board shall also have responsibility for considering any proposed advisory resolutions that are timely submitted by members. In consultation with the General Manager, the Board shall determine whether additional information should be presented to the membership to ensure a full airing of the issue and an informed decision by the membership on the matter. The Board in its report to the membership may make a recommendation concerning disposition of any such resolution.

**Section 5.9. ELECTION AND CREDENTIALS COMMITTEE** – The Board of Trustees may, at least three (3) days before any meeting of the members, appoint an Election and Credentials Committee consisting of not less than five (5) nor more than fifteen (15) members, who are not close relatives or members of the same household of existing Trustees or known candidates for Trustees to be elected at such meeting. In appointing the Committee, the Board shall have regard for equitable representation of the several Districts served by the Cooperative.

The Committee may elect its own Chair and Secretary prior to or at the Annual Membership Meeting. The Committee may appoint any qualified member present at the membership meeting in the event of the failure of an appointed member to attend the organizational meeting of the Committee. It shall be the responsibility of the Committee to establish or approve the manner of conducting member registration and any ballot voting, or other voting, to pass upon all questions that may arise with respect to the registration of members in person, to count all ballots cast in any election or in any other ballot vote taken, to rule upon the effect of any ballots irregularly or indecisively marked, and to pass upon any protest or objection filed with respect to any election or to conduct affecting the results of any election, or any member meeting issue. Only a member in good standing may file protest or objection.

In the exercise of its responsibility, the Committee may have available to it the advice of counsel provided by the Cooperative. In the event a protest or objection is filed concerning any election, such protest or objection must be filed within three (3) business days following the adjournment of the meeting in which the election is

conducted. The Committee may thereupon be reconvened, upon notice from its Chair, not less than seven (7) days after such protest or objection is filed. The Committee may hear such evidence as is presented by the protestor(s) who may be heard in person, by counsel, or both; and the Committee, by a vote of a 2/3<sup>rd</sup> majority of those present and voting, shall, within a reasonable time but not later than thirty (30) days after such hearing, render its decision, which may be either to affirm or change the results of the election or to set aside such election. The Committee's decision (as reflected by a 2/3<sup>rd</sup> majority of those actually present and voting) on all such matters shall be final.

The failure of the Cooperative or Committee to act as required by this Bylaw shall not, by itself, affect any vote, Trustee election, or other action taken at a member meeting.

## **ARTICLE VI**

### **BOARD OF TRUSTEES AND DISTRICTS**

**Section 6.1. GENERAL POWERS OF TRUSTEES** - Subject to the limitations of the Articles of Incorporation, other sections of these Bylaws, and New Mexico law, all corporate powers of the Cooperative will be exercised by or under the authority of, and the business and affairs of the Cooperative will be controlled by, the Board of Trustees, except such as are by law or by the Articles of Incorporation of NORA or by these Bylaws conferred upon or reserved to the members.

The business and affairs of the Cooperative shall be managed by or under the direction of a Board of Trustees consisting of District Trustees (elected as specified in this Article), and one (1) or more Trustees-at-large (if elected by the members). This Board shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the members.

In order to secure needed special services or ability, the Board of Trustees only may, at any meeting of the members, recommend the election of some designated Cooperative member to the office of trustee-at-large to serve until the next Annual Meeting. An elected trustee-at-large shall have full voice in all deliberations of the Board but shall abstain from voting on all issues when their vote would make or break a tie.

Without limiting the general powers, the Board of Trustees shall have the following powers:

- (a) In accordance with the New Mexico Non-Profit Corporation Act, the affairs of the Cooperative shall be managed by the Board of Trustees.
- (b) To select (to fill a vacancy) and remove members of the Board of Trustees and its Officers, agents of the Cooperative, prescribe such powers and duties for them as may not be inconsistent with law, the Articles of Incorporation, or these Bylaws, and require from them security for faithful service.
- (c) To select, supervise, annually review and evaluate the performance of, and remove the General Manager of the Cooperative.
- (d) To conduct, manage, and control the affairs and business of the Cooperative, and to make rules and regulations not inconsistent with law, the Articles of Incorporation, or these Bylaws.
- (e) To make and establish Board of Trustees management policies and to maintain those policies in the Cooperative's Board of Trustees Management Policy Manual.
- (f) To borrow money and incur indebtedness for the purposes of the Cooperative, and for that purpose to cause to be executed and delivered, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidence of debt and securities.

No contract or other transaction entered into by the Cooperative shall be affected or invalidated by reason of the mere fact that any one (1), or more, of the Board members or officers of the Cooperative is (or are) interested in it or is (or are) a member, owner, Trustee, officer, or employee of a Cooperative, corporation, nonprofit corporation, partnership, joint venture, trust, incorporated association or other entity which is interested in it, if the transaction meets all the following criteria:

- (a) The amount of the transaction shall not exceed a dollar value amount set annually by the Board of Trustees.
- (b) The nature of the transaction is reasonable when compared to an arm's length transaction between the Cooperative and an independent third party.
- (c) The details of the transaction are fully reported to the Board of Trustees for its review and approval; and
- (d) The interested Trustee discloses the potential conflict of interest and refrains from voting on the transaction and it is approved or ratified by a 2/3<sup>rd</sup> majority of a quorum of Trustees present.

**Section 6.2. DUTIES OF BOARD OF TRUSTEES** - In accordance with New Mexico law, a Trustee shall perform their duties as a Trustee including their duties as a member of any committee of the Board upon which the Trustee may serve, in good faith, in a manner the Trustee believes to be in or not opposed to the best interests of the Cooperative and with such care as an ordinarily prudent person would use under similar circumstances in a like position.

In performing such duties, a Trustee shall be entitled to rely on factual information, opinions, reports or statements including financial statements and other financial data in each case prepared by:

- a. One or more Officers or employees of the Cooperative whom the Trustee reasonably believes to be reliable and competent in the matters presented.
- b. Counsel, public accountants or other persons as to matters which the Trustee reasonably believes to be within such persons' professional or expert competence; or
- c. A committee of the Board of Trustees upon which the Trustee does not serve, duly designated in accordance with a provision of the Bylaws as to matters within its designated authority, which committee the Trustee reasonably believes to merit confidence, but the Trustee shall not be considered to be acting in good faith if the Trustee has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

**Section 6.3. EXPECTATIONS OF TRUSTEES** – As steward of the public trust, the Board of Trustees (“the Board”) shall be responsible for the governance of the Cooperative. All members of the Board of Trustees are expected to:

- a. Make their best effort to advise, govern, oversee policy and direction, and assist with the leadership and general promotion of the Cooperative so as to support the organization's mission and needs.
- b. Maintain confidentiality of the Board's executive sessions and speak for the Board of the organization only when expressly authorized to do so.
- c. Adhere to all applicable policies and procedures established by the Board.
- d. Regularly attend and be actively involved in meetings of the Board of Trustees in order to effectively conduct the business of the Board of Trustees.
- e. Stay informed and participate with due diligence in fulfilling their duties as members of the Board of Trustees.
- f. Believe in and be an active advocate and ambassador for the values, mission and vision of the organization, and help communicate and promote the organization's mission and programs to the community.
- g. Become and stay familiar with the organization's finances, budget, and financial/resource needs.
- h. Comply with Article VIII of these Bylaws concerning Conflict of Interest and Nepotism.
- i. When serving on a committee, sub-committee, ad-hoc committee, task force, or other projects, prepare for and participate.
- j. Be alert to community concerns that can be addressed by the organization's mission, objectives, and programs.
- k. Financially support the organization in a manner commensurate with one's ability.

**Section 6.4. LEGAL DUTIES OF TRUSTEES** – In accordance with the New Mexico Non-Profit Corporation Act, a Trustee or officer is not liable to the Cooperative or its members, or to any other person for monetary damages for breach of fiduciary duty as a Trustee, for an action taken or omission made by the officer in the person's capacity as an officer unless the Trustee or officer's conduct, breach, or failure to perform constitutes willful misconduct or recklessness, and was not exercised:

- a. in good faith.
- b. with ordinary care; and
- c. in a manner the officer reasonably believes to be in the best interest of the Cooperative.

This section shall not affect the liability of the Cooperative for an act or omission of the officer. Further, no member of the Board of Trustees shall be held personally liable for any damages resulting from:

- a. any negligent act or omission of an employee of that nonprofit Cooperative.
- b. any negligent act or omission of another Trustee of that nonprofit Cooperative; or
- c. any action taken as a Trustee or any failure to take any action as a Trustee unless:
  1. the Trustee has breached or failed to perform the duties of the Trustee's office; and
  2. the breach or failure to perform constitutes willful misconduct or recklessness.

The immunity provided under New Mexico law shall not extend to acts or omissions of Trustees of nonprofit Cooperatives that constitute willful misconduct or recklessness personal to the Trustee. The immunity is limited to actions taken as a Trustee at meetings of the Board of Trustees or a committee of the Board of Trustees or by action of the Trustees without a meeting pursuant to the New Mexico Non-Profit Corporation Act.

The Cooperative shall not transfer assets in order to avoid claims against corporate assets resulting from a judgment against the Cooperative. If a Trustee votes to do so, the immunity provided by the New Mexico Non-Profit Corporation Act shall have no force or effect as to that Trustee.

**Section 6.5. QUALIFICATIONS OF TRUSTEES** - Any person shall be qualified to be a voting member of the Board of Trustees if they shall be over the age of eighteen (18) years, is in support of the mission and goals of NORA, is a member in good standing, and maintains their primary residence within the voting District which they are to represent. The following persons are ineligible to serve on the NORA Board of Trustees:

- (a) Any person who does not have the capacity to enter into legally binding contracts.
- (b) Any person who has been an employee of the Cooperative during the five (5) years preceding their election to the Board.
- (c) Any person or entity that has a material financial interest (as determined by the remaining Trustees) in an enterprise or a business directly in competition with services provided by the Cooperative.
- (d) Any person employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative, except a member shall not be disqualified because they have an interest in a small, distributed generation installation (as defined from time-to-time by the Board of Trustees) which energy may qualify for reimbursement in part by this Cooperative under applicable rate schedules.
- (e) Any person who has been convicted of a felony or of any other offence involving a breach of trust while serving as Trustee or at any time within the five-year period preceding an election for which a person is seeking a position on the Board.
- (f) Any person who has been a party to litigation against the Cooperative or any of its Trustees or employees in their official capacity while serving as Trustees or employees at any time preceding the Trustee election or appointment; or
- (g) A Close Relative of an incumbent Trustee or of an employee of the Cooperative. For purposes of this section a "Close Relative" shall be defined as spouse, brothers, sisters, parents, children, grandparents, aunt, uncle, nephew, or niece, In-laws of the same and/or resident(s) of the same household.

Upon the establishment of the fact that any person being considered for or already holding the position of Trustee may lack eligibility to become or remain a Trustee, it shall be the duty of the Board of Trustees, upon reasonable notice to the person whose eligibility is in question, to hold a hearing on such matter. Following such hearing, the Board of Trustees shall find and determine whether such person is ineligible to become a Trustee, or if already a Trustee, is ineligible to remain a Trustee under the qualifications provided in these Bylaws. In making such determination, if the person whose eligibility is being considered is a Trustee, that person may not vote.

If the Board of Trustees determines by a 2/3<sup>rd</sup> majority vote that the person, if a candidate, is ineligible to become a Trustee, then such person's name shall be withdrawn as a candidate for Trustee. If the Board of Trustees determines by a 2/3<sup>rd</sup> majority vote that a person who is already a Trustee is ineligible to remain a Trustee, then that office of Trustee shall forthwith become vacant, and the Board of Trustees shall fill the vacancy pursuant to these Bylaws.

When a membership is held jointly, either joint member, but not both, shall be eligible to be a Trustee, provided the candidate meets the qualifications set forth above, and provided further that the other joint member meets the qualifications above. When a membership is held by a corporation, partnership, or limited liability company, any (but not more than one) of the officers, partners, or members shall be eligible, provided the candidate meets the qualifications set forth above, and provided further that all the officers, partners, or members meet the qualifications set forth above.

Nothing contained in this section shall affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Trustees.

**Section 6.6. NUMBER OF TRUSTEES** - The Board of Trustees will consist of not less than three (3), nor more than nine (9) voting members. The Board of Trustees may decide by a 2/3<sup>rd</sup> majority vote to change the number of Trustees at any Regular or Special Meeting of the Board of Trustees. Trustees shall be elected for each of the voting Districts as set forth herein and by policy of the Board of Trustees and shall have their primary residence within the voting District they are to represent.

Providing, however, that each of the trustees whose term of office is not expiring at an Annual Meeting shall continue to serve for the rest of their elected term, and only Districts who have a Trustee whose term is terminated at any Annual Meeting shall be eligible to elect a Trustee for a term of three (3) years.

In the event an Annual Membership Meeting is not held, the Board of Trustees (who are still serving terms) shall upon a 2/3<sup>rd</sup> majority vote fill terminated Board positions for three (3) year terms. The positions so filled by the Board of Trustees shall be those that would have been filled by the members had the Annual Membership Meeting been held. Such positions shall be filled by qualified individuals meeting all the qualifications and requirements as set forth in this Article.

**Section 6.7. COOPERATIVE DISTRICTS AND REPRESENTATION** - The territory served by the Cooperative shall be divided into Trustee Districts. Each District shall be represented by one (1) Trustee, and the Districts will be defined by policy of the Board of Trustees, subject to approval by vote of the general membership.

Each District shall be represented on the Board of Trustees by one (1) Trustee elected by the members of said District as hereinafter provided. It shall be the duty of the Board of Trustees to re-District whenever established Districts fail to assure reasonably equal representation to all members, giving due regard for natural or political boundaries and communities of interest.

When there is a question whether the Districts continue to meet that objective, the Board President shall appoint a committee to study the issue. The committee's recommendation shall be reported to the Board, and the committee's recommendation and any Board action taken based on that recommendation shall be reported to the membership at the next Annual Meeting. Any re-Districting approved by the Board of Trustees

may be modified on a prospective basis by the members at that next Membership Meeting, however, no change in the boundaries shall disqualify any Trustee from completing their then current term.

**Section 6.8. NON-VOTING EX-OFFICIO TRUSTEES** - The Board of Trustees, by a two-thirds (2/3) majority vote, may appoint non-voting ex-officio members of the Board of Trustees who shall not be counted in the number of members of the Board of Trustees. Each of the said non-voting ex-officio members shall be entitled to participate in the deliberations of the Board of Trustees, but shall have no vote or decision-making power, and shall be ineligible to hold office. The General Manager of NORA shall be ex-officio, non-voting member of the Board of Trustees.

**Section 6.9. TERMS OF OFFICE FOR ELECTED TRUSTEES** - All elected Trustees will have a regular term of three (3) years until the commencement of their successors at the Annual Meeting of the Cooperative term of office. Trustees shall serve staggered terms so that no voting District will have more than one (1) position subject to election at an Annual Meeting. Trustees shall serve until the election and qualification of their successors and may be elected by a plurality vote of the members whose primary residence is within the voting District which the trustee is to represent.

**Section 6.10. RESIGNATIONS** - Any Trustee may resign at any time by delivering a written resignation letter to the Board of Trustees of the Cooperative.

**Section 6.11. REMOVAL OF TRUSTEES** - An elected or appointed Trustee may be removed at any meeting of the Board of Trustees for cause, including continued gross or willful neglect of their duties or conduct derogatory to the best interests of the Cooperative. This will include, but not be limited to mismanagement of the affairs of the Cooperative, breach of duties of care or loyalty, and improper use of inside information. An elected or appointed Trustee may also be removed for two (2) successive unexcused absences without prior notification at Board of Trustees meetings. An ex-officio Trustee may be removed at any meeting of the Board of Trustees by modification or dissolution of that ex-officio position. A two-thirds (2/3) majority vote of the entire Board of Trustees will be necessary to remove an elected or appointed Trustee, or to modify or dissolve an ex-officio position. Any elected or appointed Trustee proposed for removal, or ex-officio Trustee holding a position proposed for modification or dissolution, will be notified by certified mail at least five (5) days prior to the proposed removal, or proposed position modification or dissolution, of the time and place at which the meeting is to take place and will be entitled to appear at such meeting and be heard.

**Section 6.12. VACANCIES** - Vacancies, whether caused by reason of a change in the number of Trustees authorized by a Board of Trustees resolution; an unfilled previously approved Board of Trustees position, death, resignation, removal, inability to serve an unexpired remainder of a normal term of a Trustee, or otherwise, of an Officer or Trustee may be filled. Fulfilling an incomplete term is not considered part of the term limit. The method of selection will be determined by resolution of the Board. A person named to fill a vacancy shall be named to hold office until the expiration of the normal term of the person replaced; or until the expiration of the term specified for a newly created Board of Trustees position. However, should a vacancy occur in the office of the President, the Vice-President shall succeed them immediately.

**Section 6.13. NOMINATION** - It shall be the duty of the Board of Trustees to appoint, no less than forty-five (45) days nor more than ninety (90) days before the date of a meeting of the members at which Trustees are to be elected, a Committee on Nominations consisting of not less than five (5) nor more than eleven (11) members who shall be selected so as to represent each voting District. No member of the Board of Trustees may serve on such committee. The committee shall prepare and post at the principal office of the Cooperative at least forty (40) days before the meeting a list of nominations for trustees, which may include a greater number of candidates than are to be elected.

Any fifteen (15) or more members acting together may make other nominations by petition not less than thirty (30) days prior to the meeting and the Secretary shall post such nominations at the same place where the list of nominations made by the committee is posted.

The Secretary shall mail with the notice of the meeting or separately, but at least seven (7) days before the date of the meeting, a statement of the number of trustees to be elected and the names and addresses of the candidates, specifying separately the nominations made by the committee on nominations and also the nominations made by petition, if any. No member may nominate more than one (1) candidate for a position. Provided, however, that before the name of any nominee shall be placed upon the ballot, there must be an expression by such nominee to the effect that they will be willing to serve as Trustee if elected.

From time-to-time, in order to fill vacancies on the Board of Trustees, nominees may be brought to the full Board of Trustees by the Chairperson or Executive Committee of the Board to be considered for appointment.

**Section 6.14. ATTENDANCE AT MEETINGS** - Any member of NORA is expected to attend all meetings of the Board of Trustees, meetings of Board committees of which they are a member. NORA Board members are also entitled to attend Board committee meetings, as well as meetings of NORA advisory, affiliate, auxiliary, and/or general membership organizations.

**Section 6.15. REGULAR MEETINGS** - Regular Meetings of the Board of Trustees will be held at specified intervals at such time and place as are determined by a resolution of the Board of Trustees and will be held at least six (6) times a year.

Notice of the place, day, and hour of each Regular Meeting of the Board of Trustees will be given to each Trustee at least seven (7) but not more than fifty (50) days prior thereto by oral notice given directly or by telephone to the Trustee or by email or by mail as provided herein, except that any notice given by mail will be deemed to have been given two days after the postmarked date.

The Agenda of each Regular Meeting of the Board of Trustees will be given to each Trustee at least two (2) days prior to the meeting by oral notice given directly or by telephone to the Trustee or by email or by mail as provided herein, except that any notice given by mail will be deemed to have been given two (2) days after the postmarked date.

**Section 6.16. SPECIAL MEETINGS** - Special Meetings of the Board of Trustees may be called by or at the request of the President at any time. The President or Secretary will, upon a written request of at least one-half (1/2) the number of Trustees, call a Special Meeting to be held not more than seven (7) days after the receipt of such request. The authority calling a Special Meeting will fix the time and place for the meeting. Notice of the time and place of Special Meetings will be given in advance and will also include a statement of the purpose for which the meeting is called.

The Agenda of each Special Meeting of the Board of Trustees will be given to each Trustee at least two (2) days prior to the meeting by oral notice given directly or by telephone to the Trustee or by email or by mail as provided herein, except that any notice given by mail will be deemed to have been given two (2) days after the postmarked date.

**Section 6.17. EMERGENCY MEETINGS** - Emergency meetings of the Board of Trustees may be called by the President or by any two (2) Trustees other than the President if there are circumstances that could not have been reasonably foreseen, for purposes of making an organizational decision with respect to the stated emergency. Such emergency must require immediate attention and possible action by the Board, and which of necessity makes it impracticable to provide the notices required for a Regular or Special Meeting of the Board of Trustees.

Notice and purpose of an Emergency Meeting may be given with as little advance notice as four (4) hours, if circumstances reasonably require it. Such notice of an Emergency Meeting may be communicated verbally or in writing and will specify where the meeting is to be held at such a time, day, and place as shall be designated in the notice of the meeting. The Board of Trustees is hereby expressly authorized to make any necessary decisions in connection with a specific emergency situation for which such an Emergency Meeting is convened.

The Agenda of an Emergency Meeting of the Board of Trustees will be given to each Trustee as soon as is practicable but need not be given prior to the start of the Emergency Meeting.

**Section 6.18. MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS** - Board of Trustees meetings shall be open to all interested persons. Matters relating to personnel, disciplinary action, legal, taxation or similar affairs shall be deliberated and decided in a closed executive session that only voting Trustees are entitled to attend. The President of the Board of Trustees may also invite other persons to attend a specified closed executive session with consent of the Board of Trustees. By a 2/3<sup>rd</sup> majority vote on a motion of a question of privilege the Board of Trustees may decide to go into executive session on any matter deserving of confidential treatment or of personal concern to any member of the Board of Trustees. An Executive Session should be included on the Agenda for the meeting, however if circumstances so dictate, the President of the Board of Trustees may also call the Board of Trustees into executive session at any time for purposes as listed in this Section.

**Section 6.19. WAIVER OF NOTICE** - In accordance with the New Mexico Non-Profit Corporation Act, attendance of a Trustee at any meeting shall constitute a waiver of notice and agenda of the meeting except when a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Additionally, whenever any notice is required to be given under the provisions of the laws of the State of New Mexico pertaining to non-profit Cooperatives, or under provisions of the Articles of Incorporation or the Bylaws of this Cooperative, a waiver of notice either approved by a 2/3<sup>rd</sup> majority vote of the Board of Trustees attending the meeting in question and recorded in the minutes, or a waiver of notice in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**Section 6.20. ATTENDANCE AND QUORUM** - The presence at any meeting of a 2/3<sup>rd</sup> majority of the current elected and appointed voting members of the Board of Trustees in person will be necessary and sufficient to constitute a quorum for the transaction of business.

- a. Ex-officio voting Trustees who are not present at a meeting of the Board shall not count against the number required to establish a quorum; but if present at the meeting they shall count toward the establishment of a quorum.
- b. A Trustee present by proxy at a meeting may not be counted toward a quorum.
- c. Ex-Officio non-voting Trustees may not be counted toward a quorum.
- d. If a quorum is present at the beginning of a Membership Meeting, the quorum remains as long as at least three (3) voting Trustees remain. When it can be shown that a quorum was missing for a prior vote by "clear and convincing proof" (such as the record of a roll call listing everyone present at the meeting at that moment), past actions can be challenged.
- e. In the event that a Trustee must leave a Board of Trustees or Committee meeting, the minutes shall record the time when they left the meeting.

The act of the 2/3<sup>rd</sup> majority of the Trustees present at a meeting at which a quorum is present, unless otherwise provided by law, these Bylaws, or the Articles of Incorporation, shall be the act of the Board of Trustees. If a quorum is not present at a meeting of the Board of Trustees, matters before the Board of Trustees may be discussed, but no business may be transacted on items requiring Board action; and a 2/3<sup>rd</sup> majority of the Trustees present may adjourn the meeting without further notice.

**Section 6.21. MANNER OF ACTING AND VOTING** - Unless otherwise specified herein, the decision of the Board of Trustees or the act of a 2/3<sup>rd</sup> majority of the Trustees present (for those actions called to a vote by the President) at a meeting at which a quorum is present will be the act of the Board of Trustees, unless the act of a greater number is required by law or by these Bylaws or the Articles of Incorporation of the Cooperative. For those issues called to a vote, each Trustee (excluding ex-officio non-voting Trustees) will be entitled to one (1) vote, to be cast in person, or by another method approved in these Bylaws.

**Section 6.22. DISSENT TO OR ABSTENTION FROM ACTION** - A Trustee of a Cooperative who is present at a meeting of the Board of Trustees at which action is taken on a corporate matter described herein is presumed to have assented to the action unless:

- (a) the Trustee's dissent or abstention has been entered in the minutes of the meeting.
- (b) the Trustee has filed a written dissent or abstention with respect to the action with the person acting as the secretary of the meeting before the meeting is adjourned; or
- (c) the Trustee has sent to the secretary of the Cooperative, within a reasonable time after the meeting has been adjourned, a written dissent or abstention by:
  - 1. Certified or registered mail, return receipt requested; or
  - 2. Other means specified in the Cooperative's governing documents.

The right to dissent or abstain under this section does not apply to a Trustee who voted in favor of the action.

**Section 6.23. PARTICIPATION THROUGH REMOTE COMMUNICATIONS EQUIPMENT** - Any one (1) or more members of the Board of Trustees, or any committee thereof, may participate in any meeting of the Board of Trustees, or of any such committee, by means of a remote electronic communications system, including videoconferencing technology or the Internet, upon the approval of the President of the Board of Trustees or the Committee Chairperson respectively. Such approval shall be given only if:

- (a) Each person entitled to participate in the meeting consents to the meeting being held by means of that system; and
- (b) The system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

Participation by such means shall constitute presence in person at a meeting, and shall count toward a quorum, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 6.24. PROXY VOTING** - Proxy voting may be done by any Board member who expects to be unable to attend a meeting and is allowed only for those members who cannot attend the entire meeting; proxies may not be assigned for parts of meetings. A proxy vote must be cast in writing and must (a) state who is authorized to cast the proxy vote; and (b) specify their vote on only agenda items announced through the distributed agenda prior to the meeting. Proxy votes shall not count toward the quorum required for a meeting.

- (a) The President must be (1) informed of all proxies prior to the start of the meeting in which the proxy is to be in effect, or (2) notified of proxies at the time a Board member leaves a meeting prior to adjournment, as long as a quorum remains upon their departure. All proxies must be certified by a 2/3<sup>rd</sup> majority of the Board of Trustees immediately prior to the meeting in which said proxies will be voted, or prior to the Board member's departure as herein stated.
- (b) Only duly qualified voting members of the Board of Trustees may be designated to act as a proxy, and no person so designated shall represent more than two (2) other qualified voting members. A member serving as a proxy must exercise their judgment as to the viability of instruction from the assigner when announced agenda items are amended or developed through the meeting process.
- (c) The proxy vote must be either in the affirmative, in the negative, or an abstention on the question voted on, and may not be qualified in any way.
- (d) The proxy vote must be entered as a proxy vote in the minutes of the meeting.
- (e) The proxy vote must be ratified by the declaration of the proxy voter at the next Regular or Special Meeting at which the member is present, and such ratification must be entered in the minutes of the meeting.
- (f) If the member attends the meeting at which the proxy vote is taken, the proxy shall automatically be revoked.

**Section 6.25. E-MAIL, POSTAL, FAX AND TELEPHONE BALLOTS** - A motion that has been duly raised and debated at a meeting of the Board of Trustees or has been recommended for consideration by the Executive Committee; may be referred by the Board of Trustees or the Executive Committee, to all members of the Board of Trustees for decision by "postal ballot"; to be sent to each member of the Board of Trustees by mail, e-mail, facsimile (fax), or telephone. A resolution based on such question adopted as a result of such ballot shall be as valid and effective as if it had been passed at a meeting of the Board of Trustees, duly convened and held.

The vote on a question referred to members of the Board of Trustees for decision by mail, e-mail, or fax ballot must, be submitted in writing to each voting member of the Board of Trustees by mail, e-mail, fax or in person, to the Secretary of the Board of Trustees, or their designee for counting within five (5) days following the issuance of the ballot. The lack of a written ballot shall be considered an abstention.

The vote on a question referred to members of the Board of Trustees for decision by telephone ballot, may be conducted by the Secretary of the Board of Trustees or their designee. Such a ballot may be submitted orally, or in writing to each voting member of the Board of Trustees by mail, e-mail, fax or in person, to the Secretary of the Board of Trustees, or their designee for counting within five (5) days following the issuance of the ballot. An oral ballot must be verified by that voting Trustee in writing, by mail, e-mail, fax or in person, to the Secretary of the Board of Trustees, or their designee within five (5) days following the counting of the ballots. The lack of a written ballot and the lack of written verification of an oral ballot, shall be considered an abstention.

All resolutions made in accordance with this Section shall be affirmed by a vote of the Board of Trustees at the next Regular Meeting of the Board of Trustees and recorded in the minutes.

**Section 6.26. INFORMAL ACTION BY TRUSTEES** - Any action required by the New Mexico Non-Profit Corporation Act to be taken at a meeting of the Trustees of the Cooperative or any action that may be taken at a meeting of the Trustees or of any committee may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, is signed by a sufficient number of Trustees or committee members as would be necessary to take such action at a meeting at which all of the Trustees or members of the committee were present and voted. Any such written consents shall be executed, dated, and delivered to the Cooperative in the manner required by the New Mexico Non-Profit Corporation Act.

**Section 6.27. COMPENSATION** - Trustees as such shall not receive any stated salary for their service. However, as determined by resolution of the Board of Trustees, the Trustees may receive a monthly retainer and shall receive, on a per diem basis, a fixed sum for (a) attending meetings of the Board of Trustees and (b) when such has had prior approval of the Board of Trustees, for attending meetings, programs and educational seminars sponsored by an organization of which this Cooperative is a member or with which it is otherwise associated and (c) for the performance of other business of the Cooperative. Trustees shall also receive reimbursement of any travel and out-of-pocket expenses actually, necessarily, and reasonably incurred in attending such meetings, programs and seminars in performing such business of the Cooperative. These expenses may be paid by a fixed sum per diem set by the Board of Trustees.

**Section 6.28. CONDUCT OF MEETINGS** - All meetings of the Board of Trustees will be in accordance with customary rules of order, or by the rules of order established by the President for each meeting, or for a specific issue brought to a vote of the Board of Trustees.

**Section 6.29. ACTION WITHOUT A MEETING** - Any action by the Board of Trustees may be taken without a meeting if all members of the Board of Trustees individually or collectively consent in writing to this action. Such written consent or consents will be filed with the minutes of the proceedings of the Board of Trustees through the Secretary.

**Section 6.30. ANNUAL REPORTS** - The Board of Trustees shall receive and review, at the first Board of Trustees no later than the meeting held following six (6) months after the close of the fiscal year of the Cooperative and completion of the financial audit. The Annual report shall include, at a minimum, a summary of the Cooperative's activities and financial status during the preceding fiscal year.

**Section 6.31. TRANSFER OF MEMBERSHIP** - Elected or appointed membership in the Board of Trustees is not transferable or assignable, without approval of a 2/3<sup>rd</sup> majority of the entire Board of Trustees or as otherwise specified herein.

## **ARTICLE VII**

### **OFFICERS OF THE BOARD OF TRUSTEES**

**Section 7.1. OFFICERS** - The Officers of this Cooperative will consist of the President, the Vice-President(s), the Secretary, and the Treasurer, each of whom will be elected at the Annual Meeting and following the selection of new Trustees for the coming year. Other Officers and assistant Officers and agents deemed necessary may be elected or appointed by the Board of Trustees or chosen in the manner prescribed by these Bylaws. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. All Officers and agents of the Cooperative, as between themselves and the Cooperative, will have the authority and perform the duties in the management of the Cooperative as provided in these Bylaws, or as determined by the resolution of the Board of Trustees not inconsistent with these Bylaws.

**Section 7.2. QUALIFICATIONS** - Any voting member of the Board of Trustees will be eligible to serve as an Officer of the Cooperative.

**Section 7.3. NOMINATION, ELECTION, AND APPOINTMENT OF OFFICERS** – For regular terms of office, the Governance Committee or Sub-Committee shall present a slate of Officers to the Board of Trustees. Additional nominations for Officers may be made by any member of the Board of Trustees. The nominated Officers shall be drawn from among the voting members of the Board of Trustees.

All Officers of the Cooperative will be elected annually at its Annual Meeting by a 2/3<sup>rd</sup> majority vote of the entire Board of Trustees. If the election of Officers is not held at such meeting, such election shall be held as soon thereafter as may be convenient. The newly elected Officers shall take office immediately following the close of the meeting at which they are elected.

The Board of Trustees has the authority at any meeting of the Board, to appoint officers to fill vacancies in accordance with Article IV, Section 4.6 herein, or to fill new offices created in accordance with Article IV, Section 4.13 herein.

**Section 7.4. TERMS OF OFFICE OF OFFICERS** - The term for each Officer shall be the one-year period commencing with the close of the Annual Meeting of the Board of Trustees until the election of their successors at the Annual Meeting of the Cooperative.

**Section 7.5. VACANCIES** - A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Trustees for the unexpired portion of the term. Vacancies may be filled, or new offices created and filled by appointment at any meeting of the Board of Trustees.

**Section 7.6. REMOVAL OF OFFICERS** - Any elected or appointed Officer may be removed upon an affirmative vote of a two-thirds (2/3) majority of the full Board of Trustees whenever in its judgment the best interests of the Cooperative would be served thereby. Such removal will be without prejudice to the contract rights, if any, of the person removed. Election or appointment of an Officer or agent will not of itself create contract rights. Upon removal of an Officer their successor may be then elected at any meeting of the Board.

**Section 7.7. PRESIDENTIAL SUCCESSION** - In cases of temporary absence, the succession shall be Vice-President, Treasurer, and then Secretary. In the event that the elected President is unable to fulfill their

term, the Vice-President shall become President. The Vice-President position shall not automatically succeed to the President at the expiration of the President's regular term of office. Any individual Board member shall be a candidate for President.

**Section 7.8. DUTIES OF THE PRESIDENT** - The President shall: (i) preside at all meetings of the Board of Trustees; (ii) sign any contracts or other instruments authorized either generally or specifically by the Board of Trustees; (iii) Annually present a slate of standing committee chairs and members to the Board of Trustees for approval; and (iv) Chairperson the Executive Committee and serve as an ex-officio member of all other standing and full Board of Trustees committees. The President also shall serve as the Cooperative's principal Executive Officer, although they may delegate day-to-day executive authority to the General Manager. Between meetings of the Board of Trustees, the President shall consult with the General Manager on matters that are not clearly the responsibility of one of the standing committees. The President also will serve as parliamentarian and make all decisions on the rules of order at all meetings of the Board of Trustees, unless another person is appointed by the President to serve as parliamentarian. Other rules of order may be adopted, by a 2/3<sup>rd</sup> majority vote of the Trustees present at any meeting of the Board of Trustees. The President will have such other powers and duties as may be prescribed from time-to-time by the Board of Trustees.

**Section 7.9. DUTIES OF THE VICE-PRESIDENT** - The Vice-President will serve on the Executive Committee, and other committees as appointed by the President. In the absence of the President or in the event of their inability or refusal to act, the Vice-President will perform the duties of the President and when acting, will have all the powers of and be subject to all the restrictions upon the President. The Vice-President will perform such other duties as may be assigned from time-to-time by the President or by the Board of Trustees.

**Section 7.10. DUTIES OF THE SECRETARY** - The Secretary (i) will keep the minutes of the meetings of the Board of Trustees and will keep books of the Cooperative for that purpose; (ii) will see that all notices of meetings are given in accordance with these Bylaws or as required by law; (iii) will be the custodian of all records of the Cooperative except for the financial records to be maintained by the Treasurer as provided in these Bylaws; (iv) will countersign all documents required by law or by the Board of Trustees; (v) will keep the seal of the Cooperative and affix it to such papers and instruments as may be required in the regular course of business; and (vi) generally perform all duties incident to the office of Secretary and such other duties as may be prescribed by the Board of Trustees from time-to-time.

**Section 7.11. DUTIES OF THE TREASURER** - The Treasurer will serve as Chairperson of the Finance Committee and be responsible for receipt and custody of all funds donated to or belonging to or accruing to the Cooperative at any time; will keep or cause to be kept full and accurate accounts of receipts and disbursements of the Cooperative, and will deposit or cause to be deposited all monies and other valuable effects of the Cooperative in the name and to the credit of the Cooperative in such banks or depositories as the Board of Trustees may designate. Whenever required by the Board of Trustees, the Treasurer will render or cause to be rendered a statement of accounts; will at all reasonable times exhibit the corporate books and accounts to any Officer or Trustee of the Cooperative and will perform all duties customarily incident to the office of Treasurer, subject to control of the Board of Trustees. The Treasurer, if required to do so by the Board of Trustees, will give a bond for the faithful discharge of the duties of the Treasurer in such amount, and with such sureties, as the Board of Trustees may require, the expense of any such bond will be paid by the Cooperative. The Treasurer will be required to prepare or cause to be prepared an annual accounting statement which must be presented each year at a meeting of the Board of Trustees held not later than one hundred-twenty (120) days after the end of the Cooperative's fiscal year. The Board of Trustees may delegate, to the full extent permitted by law, any of the duties of the Treasurer to the General Manager of the Cooperative if a General Manager is appointed by the Board of Trustees.

**Section 7.12. OTHER OFFICERS** - Other Officers may be named, in order to perform such duties and have such powers as may be assigned to them by the Board of Trustees. Such other Officers may include, but not be limited to additional Vice-Presidents, and/or President-Elect.

**Section 7.13. ATTENDANCE AT MEETINGS** - Any Officer of the Cooperative will have the right to attend all meetings of the Board of Trustees, including committee meetings; as well as meetings of NORA advisory, affiliate, auxiliary, and/or general membership organizations.

**Section 7.14. EXECUTIVE VICE-PRESIDENT/GENERAL MANAGER** - The Board of Trustees may appoint a manager who may be, but who shall not be required to be, a member of the Cooperative, and who also may be designated Executive Vice-President. Such officer shall perform such duties and shall exercise such authority as the Board of Trustees may from time-to-time vest in them.

**Section 7.15. ATTORNEY** - The Board of Trustees may retain an attorney to serve as Board/NORA counsel. The attorney shall perform such duties and shall exercise such authority as the Board of Trustees may from time-to-time vest in them.

**Section 7.16. BONDS OF OFFICERS** - The Treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds or property shall give bond in such sum and with such surety as the Board of Trustees shall determine. The Board of Trustees in its discretion may also require any other officer, agent, or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

**Section 7.17. COMPENSATION** - The powers, duties, and compensation of officers, agents and employees shall be fixed by the Board of Trustees, subject to the provisions of these Bylaws.

**Section 7.18. REPORTS** - The officers of the Cooperative shall submit at each Annual Meeting of the members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the conditions of the Cooperative at the close of such fiscal year.

**Section 7.19. DELEGATION OF SECRETARY'S AND TREASURER'S RESPONSIBILITIES** - Notwithstanding the duties, responsibilities and authorities of the Secretary and of the Treasurer hereinbefore provided in Sections 6 and 7, the Board of Trustees by resolution may, except as otherwise limited by law, delegate, wholly or in part, the responsibility and authority for, and the regular and routine administration of, one (1) or more of each such officer's duties to one (1) or more Agents, Other Officers or Employees of the Cooperative who are not Trustees. To the extent that the Board does so delegate with respect to any such officer, that the officer as such shall be released from such duties, responsibilities and authorities.

## ARTICLE VIII

### CONFLICT OF INTEREST AND NEPOTISM

**Section 8.1. CONFLICT OF INTEREST** - Any member of the Board of Trustees who is an owner, trustee, officer, Trustee, or employee of, or who has any proprietary interest in, or who receives or has expectations of receiving compensation for services to any organization, program or project under consideration by the Cooperative will be deemed to have a conflict of interest. Any member of the Board of Trustees and its committees who will significantly monetarily gain or lose from the results of the Board of Trustees actions upon a matter under consideration will be deemed to have a conflict of interest.

Persons having a conflict of interest will so declare and will abstain from discussion and debate upon the matter under consideration, unless requested by the Board of Trustees to provide technical information for purposes of clarification. Persons having such a conflict of interest will abstain from voting upon that matter under consideration. Any person, or any Board of Trustees or committee member may inquire as to whether any individual on the Board of Trustees or its committees has a conflict of interest.

- a. **Declaration** - When a real or apparent conflict of interest arises for any Board of Trustees or committee member in the course of corporate business, that person shall declare the conflict immediately for the record. Conflicts may be declared at any point in the meeting.

- b. **Request For Guidance** - In the event that a Board of Trustees or Committee member is in doubt as to whether they may have a conflict of interest on a matter to be voted upon, that individual shall request guidance from the Board President or Committee Chairperson. The Board President or Committee Chairperson shall rule either directly or upon the vote of the members on the member's status of conflict.
- c. **Challenge** - Any person or any Board of Trustees or committee member may inquire as to whether any individual on the Board of Trustees or its committees has a conflict of interest. Upon challenge of the conflict-of-interest status of such individual, the Board President or Committee Chairperson shall rule either directly or upon the vote of the members on the matter.
- d. **Concealment** - Willful concealment of conflict of interest on the part of any member in a matter before the Board of Trustees or its committees shall be grounds for removal.

**Section 8.2. NEPOTISM** - The Board of Trustees of the Cooperative shall adhere to the following policies concerning nepotism (note: the term “employee” as used herein shall include both salaried and contract personnel acting in a staff capacity to the Cooperative; the term “immediate family” shall include: father, mother, daughter, son, sister, brother, husband, wife, a co-habiting partner, uncle, aunt, 1<sup>st</sup> or 2<sup>nd</sup> cousin, grandfather, grandmother, or grandchild, in-laws or any other relative whose presence is deemed to constitute a potential conflict of interest).

- a. No more than one member of an immediate family may serve simultaneously on the Board of Trustees of the Cooperative, except by two-thirds (2/3) majority approval of the entire Board of Trustees.
- b. No member of the Board of Trustees shall be eligible for employment with the Cooperative for a period of one (1) year after the relinquishment of duties as a member of the Board of Trustees, except by two-thirds (2/3) majority approval of the entire Board of Trustees.
- c. No employee of the Cooperative shall be eligible to obtain membership on the Board of Trustees for a period of one (1) year after their termination of employment or relinquishment of duties as an employee of the Cooperative, except by two-thirds (2/3) majority approval of the entire Board of Trustees.
- d. No employee of the Cooperative or members of the employee's immediate family shall be eligible to serve as a voting member of the Board of Trustees, except by two-thirds (2/3) majority approval of the entire Board of Trustees.
- e. No members of the immediate family of a Trustee be eligible for employment or as a contractor with the Cooperative, except by two-thirds (2/3) majority approval of the entire Board of Trustees.

## **ARTICLE IX**

### **COMMITTEES OF THE BOARD OF TRUSTEES**

**Section 9.1. AUTHORITY AND APPOINTMENT OF COMMITTEES** - The President shall appoint the Chairperson and other members of such committees, sub-committees, task forces, working groups or other such entities as may be authorized by the Board of Trustees for such period as may be necessary. Every elected and appointed member of the Board of Trustees will be encouraged to serve on at least one (1) committee, sub-committee, task force, working group, or other such entity. It shall be the responsibility of the Board of Trustees to establish the duties of said committees.

A full Committee of the Board of Trustees, to the extent provided by Board of Trustees policy, Board of Trustees resolution, the Articles of Incorporation or in the Bylaws of the Cooperative, shall have and exercise all the authority of the Board of Trustees, except that no committee shall have the authority of the Board of Trustees in reference to amending, altering or repealing the Bylaws; altering or repealing Board of Trustees policy, electing, appointing or removing any member of any committee or any Trustee or Officer of the Cooperative; amending the Articles of Incorporation, restating Articles of Incorporation, adopting a plan of merger or adopting a plan of consolidation with another Cooperative; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the Cooperative;

authorizing the voluntary dissolution of the Cooperative or revoking proceedings therefor; adopting a plan for the distribution of the assets of the Cooperative; or amending, altering or repealing any resolution of the Board of Trustees which by its terms provides that it shall not be amended, altered or repealed by the committee. The designation and appointment of any committee and the delegation thereto of authority shall not operate to relieve the Board of Trustees, or any individual Trustee, of any responsibility imposed upon it or them by law.

**Section 9.2. MEMBERSHIP OF COMMITTEES; INDEPENDENT MEMBERS** - Committee membership may be open to any interested person and may include non-Board of Trustees members who bring relevant experience to a committee and shall be subject to the approval of the Board of Trustees. All full committees of the Board of Trustees shall consist of at least two (2) or more Trustees. Only members of the Board of Trustees shall be eligible to serve as committee Chairpersons.

In accordance with the IRS "independence test," several committees (or sub-committees) require that its members be "independent," including but not limited to the Finance Committee, the Audit Committee, and the Compensation Committee. A committee member qualifies as "independent" if they meet these two (2) key criteria of independence:

- a. **No Compensation** – Subject to allowable compensation detailed in these Bylaws, the Trustee must not receive any direct or indirect compensation or other financial gain from the Cooperative, including but not limited to consulting, advisory or other compensatory fees. This proscription extends to indirect payments made to spouses and other immediate family members. In addition, indirect payments include those made to an entity in which the member is a partner, member, an officer such as a managing Trustee occupying a comparable position or executive officer, or occupies a similar position and which provides accounting, consulting, legal, insurance, investment banking, or other financial advisory services to the Cooperative or any of its subsidiaries.
- b. **Not an "Affiliate" of the Cooperative** - the Trustee may not be so affiliated with the Cooperative as to be unable to differentiate between what is good for himself or herself and what is good for the Cooperative. A member is not independent if they are an "affiliated person" of the Cooperative or any subsidiary, such as being an executive officer, an employee, a general partner or a managing member of an entity that is an affiliate of the Cooperative.

**Section 9.3. BOARD OF TRUSTEES COMMITTEES AND COMMITTEE CHARTERS** - The Board of Trustees shall establish committees and sub-committees from time-to-time by resolution of the Board of Trustees and shall issue committee Charters to each committee established by the Board of Trustees. Such Charter may be written or oral, shall be recorded in the minutes, and shall specify the task of the committee, the membership of the committee, the budget for the committee, the time period for which the committee shall be in existence and other information as deemed appropriate by the President.

**Section 9.4. VACANCIES** - Vacancies on committees of the Board of Trustees shall be filled by the President of the Board of Trustees subject to the approval of the Board of Trustees.

**Section 9.5. QUORUM** - A 2/3<sup>rd</sup> majority of the whole committee shall constitute a quorum and the act of a 2/3<sup>rd</sup> majority of the members present at a meeting at which a quorum is present shall be the act of the Committee.

**Section 9.6. RULES** - Each committee may adopt rules for its own structure, operations and governance that are not inconsistent with these Bylaws or with the committee Charter or rules adopted by the Board of Trustees.

**Section 9.7. VOTING** - Unless otherwise prohibited in Article VI of these Bylaws, a committee Charter or rules adopted by the Board of Trustees; all individuals that serve as a member of a committee, to include otherwise non-voting ex-officio Trustees, may vote on all matters presented to that committee.

**Section 9.8. BOARD OF TRUSTEES RESPONSIBILITY AND AUTHORITY** - The formation and existence of any committees, and the delegation thereto of any authority will not operate to relieve the Board of Trustees or any individual Trustee of any responsibility imposed by law. No such committee will have the authority of the Board of Trustees with respect to amendment of the Articles of Incorporation, recommending a voluntary dissolution of the Cooperative or a revocation thereof, or amending the Bylaws of the Cooperative.

**Section 9.9. COMMITTEE MEETINGS AUTHORITY AND EXECUTIVE (CLOSED) SESSIONS** - Committee meetings shall be open to all interested persons. By a 2/3<sup>rd</sup> majority vote on a motion of a question of privilege the Chairperson and members of the committee may decide to go into executive session on any matter deserving of confidential treatment or of personal concern to any member of the committee. The authority of each full Committee of the Board will be documented in a Committee Charter or a Board Resolution.

**Section 9.10. STANDING COMMITTEES OR SUB-COMMITTEES** - There will be four (4) standing committees or sub-committees of the Board of Trustees: Executive, Finance, Audit, and Compensation. All other committees, sub-committees, working groups, task forces, etc. shall be established on an as-needed basis and as appropriate by Board of Trustees, Board President, or Board Committee Chairperson authority.

**Section 9.11. EXECUTIVE COMMITTEE** - From its own membership, the Board shall appoint an Executive Committee, which shall have and may exercise between meetings of the Board of Trustees such powers as may be delegated by the Board of Trustees, including but not limited to oversight of the Cooperative's strategic and operational planning, Board of Trustees governance and development, risk management, legal compliance, and personnel matters. The Executive Committee shall also ensure that an annual review of all Board of Trustees, management, operations, and other NORA policies is conducted, including, but not limited to, personnel policies, fiscal policies, and program policies.

The Executive Committee shall consist of the President, the Vice-President(s), the Secretary, the Treasurer, and such other persons as the Board of Trustees may designate from time-to-time which may include the President-Elect (if any). The President will serve as the Chairperson of the Executive Committee and may invite others to attend Executive Committee meetings to participate in discussion of matters before the Committee. The General Manager of the Cooperative shall serve as a non-voting member of the Executive Committee.

The Executive Committee will meet at such time and place as determined by the President. Meetings of the Executive Committee may be called by or at the request of the President, or any two (2) voting members of the Executive Committee and will be held at such time and place as determined by the President. A 2/3<sup>rd</sup> majority of the members of the Executive Committee will constitute a quorum for the transaction of business at the meetings of the Executive Committee. The Executive Committee will have all of the authority of the Board of Trustees, to the full extent permitted by law, except that the Executive Committee shall not have the authority to:

- a. appoint any Trustee to, or fill any vacancy on, the Board of Trustees.
- b. appoint any committee of the Board of Trustees or any member to any committee of the Board of Trustees (other than to fill any vacancy that may occur on any committee other than on the Executive Committee).
- c. appoint or remove any Officer of the Cooperative.
- d. fix or modify the compensation of any Trustee or member of any committee of the Cooperative.
- e. amend or repeal the Articles of Incorporation or the Bylaws or adopt new Articles of Incorporation or Bylaws of the Cooperative.
- f. amend or repeal any resolution of the Board of Trustees, unless by its express terms the resolution is so amendable or repeal-able; or
- g. dissolve or liquidate the Cooperative or file a petition for bankruptcy or insolvency on behalf of the Cooperative.

**SECTION 9.12. BOARD GOVERNANCE SUB-COMMITTEE** - There shall be a permanent standing sub-committee of the Executive Committee known as the Board Governance Sub-Committee, whose members will be appointed from the Board of Trustees. The Board Governance Sub-Committee shall oversee the nomination process for members of the Board of Trustees. The Board Governance Sub-Committee shall also have the powers and authority set forth in any Board Governance Sub-Committee Charter adopted by the Board in accordance with this Section, or as may from time-to-time be required by any rule or regulation to which the Cooperative is subject.

**Section 9.13. FINANCE COMMITTEE** - There shall be a permanent standing committee of the Board of Trustees known as the Finance Committee. It shall be responsible for advising and assisting the Board of Trustees concerning its fiduciary responsibility on financial management matters of the Cooperative.

The Committee will be chaired by the Treasurer and shall include at least two (2) other members of the Board of Trustees. The Board of Trustees may appoint non-Board of Trustees members to the Committee, based on their financial and other related expertise. The Board of Trustees shall ensure that Committee members provide requisite financial expertise to support the charge of the Committee. Only members of the Board of Trustees and non-Board of Trustees members who are determined by the Board of Trustees to be independent (in accordance with this Article) and to satisfy applicable regulatory requirements may serve as members of the Finance Committee.

The Finance Committee shall have powers and authority including but not necessarily limited to the following: (1) reviewing the adequacy of the Cooperative's internal financial controls, (2) reviewing the accounting principles employed in the Cooperative's financial reporting, (3) reviewing and making recommendations to the Board of Trustees concerning the financial structure and financial condition of the Cooperative and its subsidiaries, including annual budgets, long-term financial plans, corporate borrowings, investments, capital expenditures, and long-term financial commitments, (4) approving such matters that are consistent with the general financial policies and direction from time-to-time as determined by the Board of Trustees and (5) performing such other functions as the Board of Trustees shall determine in accordance with this Section.

The Finance Committee shall also have the powers and authority set forth in any finance committee Charter adopted by the Board of Trustees in accordance with this Section as may from time-to-time be required by any rule or regulation to which the Cooperative is subject.

**Section 9.14. AUDIT SUB-COMMITTEE** - There shall be a permanent standing sub-committee of the Board of Trustees known as the Audit Sub-Committee, whose form and purpose shall be determined by resolution of the Board of Trustees. It shall be responsible for assisting the Board of Trustees in its oversight of its financial and fiduciary responsibilities, including but not limited to the integrity of the Cooperative's financial statements; compliance with legal and regulatory requirements; nominating the independent auditor for confirmation by the Board of Trustees; review of the Cooperative's system of internal controls and risk management; and monitoring Trustees' conflicts of interest.

The Audit Committee shall be chaired by a member of the Board of Trustees and shall include at least two (2) other members of the Board of Trustees. The Board of Trustees may appoint non-Board members to the Committee, based on their auditing and other related expertise. Only members of the Board of Trustees and non-Board of Trustees members who are determined by the Board of Trustees to be independent (in accordance with Section 9.2 herein) and to satisfy applicable regulatory requirements may serve as members of the Audit Committee.

In exercising its oversight responsibilities, the Audit Committee shall consist of at least one (1) member who is a designated financial expert. The General Manager shall not be a member of the Audit Committee, but may, upon invitation of the Committee, attend any meeting as an invited guest. A portion of each

meeting with the external auditors and/or internal auditors shall be held without any member of NORA management present.

The Audit Committee shall also have the powers and authority set forth in any audit committee Charter adopted by the Board of Trustees in accordance with this Section as may from time-to-time be required by any rule or regulation to which the Cooperative is subject.

**Section 9.15. COMPENSATION COMMITTEE OR SUB-COMMITTEE** - There shall be a permanent standing committee or sub-committee of the Board of Trustees known as the Compensation Committee or sub-committee, whose form shall be determined by resolution of the Board of Trustees either as (1) a standing Committee of the Board of Trustees, or (2) a standing sub-committee of the Executive Committee.

The Compensation Committee or sub-committee shall be chaired by the President and shall include at least two (2) other members of the Board of Trustees. The Board of Trustees may appoint non-Board of Trustees members to the Committee, based on their relevant expertise. Only Board of Trustees members and non-Board of Trustees members who are determined by the Board of Trustees to be independent (in accordance with Section 6.2 herein) and to satisfy applicable regulatory requirements may serve as members of the Committee or sub-committee.

The responsibilities of the Compensation Committee shall include, but not be limited to, coordinating and ensuring that an annual review and evaluation of the performance of the General Manager is completed; and making recommendations to the Board of Trustees, Executive Committee or General Manager (for other executive-level positions) for normal and customary adjustments to each executive-level position's total compensation as may be appropriate. Only independent members of the Board of Trustees shall deliberate and/or vote on the recommendations. The Committee or sub-committee may also review and advise the General Manager on the performance and total compensation for other staff of the Cooperative reporting directly to them.

The Compensation Committee or sub-committee shall also have the powers and authority set forth in any Charter adopted by the Board of Trustees in accordance with this Section as may from time-to-time be required by any rule or regulation to which the Cooperative is subject.

## **ARTICLE X**

### **AFFILIATE ORGANIZATIONS**

**Section 10.1. AFFILIATE DEFINED** - The Cooperative may establish an affiliate relationship with any independent organization(s) which support(s) the mission of the Cooperative, and which is in close connection with, and working in alliance with NORA to further that mission. Such affiliation(s) shall in no way affect the authority of the Board of Trustees pertaining to the affairs of the Cooperative, and such affiliation shall be of benefit to the Cooperative in fulfilling its stated purpose and mission.

**Section 10.2. AFFILIATE AGREEMENT** - The Cooperative may, upon two-thirds (2/3) majority vote of the Board of Trustees, establish or enter into an affiliate arrangement with other nonprofit religious, charitable, and/or educational organizations. Such affiliate arrangement will be executed in writing by representatives of both parties, and will specify the roles, responsibilities, and duties of each organization to the other.

**Section 10.3. TERMINATION OF AFFILIATE AGREEMENTS** - Any affiliate agreement established by the Cooperative other than those named in Article X, Section 10.2 herein may be terminated by a two-thirds (2/3) majority vote of the entire Board of Trustees. The affiliate agreement will also specify the manner in which the affiliation may be terminated by the affiliate organization.

## **ARTICLE XI**

### **AUXILIARY ORGANIZATIONS**

**Section 11.1. AUXILIARY DEFINED** - The Cooperative may, upon two-thirds (2/3) majority vote of the Board of Trustees, establish an auxiliary organization(s) which support(s) the mission of the Cooperative, and which is in close connection with, and working in alliance with NORA to further that mission. Auxiliary organizations will be unincorporated associations or similar entities that are subject to the authority of NORA Board of Trustees. Such auxiliary organization(s) shall in no way carry the authority of the Board of Trustees pertaining to the affairs of the Cooperative, and such auxiliary organization(s) shall be of benefit to the Cooperative in fulfilling its stated purpose and mission.

**Section 11.2. AUXILIARY AGREEMENT** - Auxiliary organizations established by the Board of Trustees shall be established in a written agreement by representatives of both parties, which shall specify the roles, responsibilities, and duties of each organization to the other.

**Section 11.3. AUXILIARY ORGANIZATION GOVERNANCE AND MANAGEMENT** - Each NORA auxiliary organization will adopt its own governing documents, such as a Charter or Bylaws, and operating policies, which are not inconsistent with NORA governing documents and operating policies, documents, and which will be subject to the review and approval of NORA Board of Trustees. Such documents will include sections addressing, but not be limited to the following issues:

- a. The election of a Board of Trustees and/or Officers who will be responsible for management oversight of the organization's activities.
- b. The designation of representatives, if any, to serve as ex-officio voting members of NORA Board of Trustees.
- c. Any NORA auxiliary organization fund accounts will be retained (e.g. general funds and special project funds) as restricted funds under NORA general accounting system, to be used at the discretion of the auxiliary's Board of Trustees in support of its budgeted and supported activities, but subject to NORA Board of Trustees oversight in accordance with State law.
- d. Any NORA auxiliary organization financial accounts will be set up in conjunction with NORA accounting system so that overall financial reporting is integrated between the organizations. The auxiliary will be responsible for maintaining its operating accounts in accordance with GAAP, and NORA financial policies and guidelines concerning records, receipts, authorized signatories, etc.

**Section 11.4. TERMINATION OF AUXILIARY ORGANIZATIONS** - Any auxiliary organization established by the Cooperative other than those named in Article XI, Section 11.2 herein or any auxiliary agreement entered into by the Cooperative, may be terminated only by a two-thirds (2/3) majority vote of the entire Board of Trustees.

## **ARTICLE XII**

### **ADVISORY COUNCILS**

**Section 12.1. APPOINTMENT OF ADVISORY COUNCILS** - The Board of Trustees may establish an Advisory Council or Councils which will act in an advisory capacity to the Cooperative in matters relating to the furtherance of the Cooperative's stated purpose. The creation of any such Council or Councils and the delegation thereto of any authority shall not relieve the Board of Trustees or any individual Trustee of any responsibility imposed by law.

**Section 12.2. STRUCTURE AND OPERATION** - The structure and operation of any Advisory Council or Councils established by the Board of Trustees shall be determined by resolution and written into the Charter of the Advisory Council.

**Section 12.3. TERMINATION OF ADVISORY COUNCIL** - Any Advisory Council duly established by the Cooperative may be terminated by a two-thirds (2/3) majority vote of the entire Board of Trustees.

**ARTICLE XIII**  
**FISCAL YEAR OF THE COOPERATIVE**

**Section 13.1. FISCAL YEAR DEFINED** - The fiscal year of the Cooperative will be fixed by resolution of the Board of Trustees.

**ARTICLE XIV**  
**STAFF OF THE COOPERATIVE**

**Section 14.1. GENERAL** - The Board of Trustees has the power to select and hire, and in accordance with applicable law, to terminate the employment of a General Manager of the Cooperative.

**Section 14.2. GENERAL MANAGER DUTIES AND RESPONSIBILITIES** – The General Manager has the responsibility of managing the day-to-day affairs of the Cooperative and administering the programs and policies of the Board of Trustees and will exercise authority for the administration and direction of the Cooperative within the policy developed by the Board of Trustees. Other duties and responsibilities of the General Manager include but are not necessarily limited to the following:

- a. The duties, responsibilities, and essential functions of the General Manager will be spelled out specifically in the job description and employment contract, if any, for the position, which will be approved by the Board of Trustees.
- b. The General Manager will report directly to the Board of Trustees through the Board President and will keep the Board of Trustees fully informed of their activities.
- c. The General Manager’s responsibilities will include providing staff services to the Board of Trustees and its committees; preparing agendas in consultation with the appropriate Trustee; preparing budgets for the operation of the Cooperative; disbursement of all funds necessary for proper administration of all corporate activities; personnel management of paid and volunteer staff; resource development activities to secure support for the programs of the Cooperative; financial management of the day to day operations; general administrative duties as appropriate; and such other duties as may be specified by the Board of Trustees.
- d. The General Manager may delegate the above responsibilities to other staff members of the Cooperative, or to volunteers working on behalf of the Cooperative.
- e. Subject to budgetary constraints approved by the Board of Trustees, the General Manager may appoint and employ any professional and support staff or agents necessary to serve the Cooperative.
- f. The General Manager will have authority and responsibility to hire, terminate, supervise and make compensation recommendations for the administrative, office, management, professional, and other staff of the Cooperative.
- g. The General Manager will establish and maintain a Board of Trustees Handbook that will contain at a minimum a copy of the Cooperative’s Articles of Incorporation and Bylaws, and the active resolutions of the Board of Trustees.
- h. The General Manager will ensure that all Board members receive copies of the minutes of Board of Trustees meetings and reports of the standing committees, including monthly financial statements from the Finance Committee, for inclusion in the Handbook.
- i. The General Manager shall be responsible for maintaining the official corporate records.

**ARTICLE XV**  
**DEPOSITS, CHECKS, LOANS, CONTRACTS AND GIFTS**

**Section 15.1. DEPOSIT OF FUNDS** - All funds of the Cooperative will be deposited in such banks, savings and loan institutions, trust companies, or other reliable depositories as the Board of Trustees from time-to-time will determine by resolution.

**Section 15.2. CHECKS, DRAFTS, ETC.** - All checks, drafts, endorsements, notes, and evidence of indebtedness of the Cooperative and all endorsements for deposits to the credit of the Cooperative will be signed by such Officer or Officers, agent or agents of the Cooperative and in such manner as will from time-to-time be determined by resolution of the Board of Trustees. In the absence of such determination by the Board of Trustees, such instruments will be signed by the Treasurer and countersigned by either the President of the Board of Trustees or the General Manager.

**Section 15.3. DEPOSITS** - All funds of the Cooperative shall be deposited from time-to-time to the credit of the Cooperative in such bank or banks as the Board of Trustees may select.

**Section 15.4. CHANGE IN RATES** - Any proposed change in the rates charged by the Cooperative for electric energy shall first be approved by the Board of Trustees and in accordance with applicable law and upon becoming effective shall be binding upon the patrons of the Cooperative.

**Section 15.5. LOANS** - No loans or advances will be contracted on behalf of the Cooperative and no note or other evidence of indebtedness will be issued in its name, unless and except as authorized by 2/3<sup>rd</sup> majority vote of the entire Board of Trustees. All funds from approved loans shall be used exclusively for the purposes authorized by the Board of Trustees.

Further, in no case shall personal loans be provided to Trustees and executives of the Cooperative, in accordance with the New Mexico Non-Profit Corporation Act:

- a. The Cooperative may not make a loan to a Trustee or officer of the Board of Trustees; and
- b. The Trustees of the Cooperative who vote for or assent to the making of a loan to a Trustee, and any officer who participates in making the loan, are jointly and severally liable to the Cooperative for the amount of the loan until the loan is repaid.

**Section 15.6. GIFTS** - The Board of Trustees may accept on behalf of and for the use of the Cooperative any gifts, bequests or devices for general benefit or purpose of the Cooperative or for any special purpose of the Cooperative. No gift or bequest shall be received and accepted if it is to be conditioned or limited in any manner that jeopardizes the federal income tax exemption of this Cooperative pursuant to Section 501 (c)(12) of the Internal Revenue Code of 1979 (or any amendment thereto).

**Section 15.7. CONTRACTS** - The Board of Trustees may authorize any Officer or Officers, agent or agents of the Cooperative, in addition to the Officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Cooperative, and such authority may be general or confined to specific instances. Without such authorization by the Board of Trustees, no Officer or other agent of the Cooperative may enter into any contract or execute and deliver any instrument in the name of and on the behalf of the Cooperative.

**ARTICLE XVI**  
**NORA NON-PROFIT OPERATION**

**Section 16.1. INTEREST OR DIVIDENDS ON CAPITAL PROHIBITED** – NORA shall at all times be operated on a Cooperative non-profit basis for the mutual benefit of its members and patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its members or patrons.

**Section 16.2. PATRONAGE CAPITAL IN CONNECTION WITH FURNISHING ELECTRIC ENERGY** - In the furnishing of electric energy NORA's operation shall be so conducted that all patrons, alike, will through their patronage furnish capital for NORA. In order to induce patronage and to assure that NORA will operate on a non-profit basis NORA is obligated to account on a patronage basis to all its patrons, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy.

The books and records of NORA shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron.

The Board of Trustees may allocate capital credits according to the class of members served based on the cost of service rendered and the rate of return received and paid to NORA for such service.

In the event of dissolution or liquidation of NORA, after all outstanding indebtedness of NORA shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. If, from time-to-time, prior to dissolution or liquidation, the Board of Trustees shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital credited to member's accounts may be retired in full or in part. The repayment of capital credits pursuant to this provision shall be as determined by the policy of NORA as set from time-to-time by its Board of Trustees.

Capital credited to the account of each patron shall be assigned only on the books of NORA pursuant to written instruction from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by NORA unless the Board of Trustees, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provisions of these Bylaws, the Board of Trustees, at its discretion, shall have the power at any time upon the death of any patron if the legal representative of their estate or their heirs shall request in writing that the capital credited to any such patron be retired under the provisions of these Bylaws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Trustees, acting under policies of general application, and the legal representatives of such patron's estate or their heirs shall agree upon; provided, however, that the financial condition of NORA will not be impaired thereby.

Any distribution of proceeds or redemption or retirement of capital which remains unclaimed three (3) years after the date authorized for retirement or payment in cash or other property may be forfeited by the Board and used as a fund for Cooperative education. Any amounts forfeited may revert to NORA for exclusive use in the NORA Cooperative scholarship fund.

**Section 16.3. PATRONAGE REFUNDS IN CONNECTION WITH FURNISHING OTHER SERVICES** - In the event that NORA should engage in the business of furnishing goods or services other than electrical energy, all amounts received and receivable there from which are in excess of costs and expenses properly chargeable against the furnishing of such goods or services shall, insofar as permitted by law, be

pro-rated annually on a patronage basis and returned to those members from whom such amounts were obtained.

NORA shall account separately for the costs and receipts from its sale of goods and services unrelated to its provision of electric service. In the event that NORA should, in the judgment of the Board of Trustees, engage to a substantial extent in the business of furnishing goods or services other than electric service, all amounts received or receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods and services shall, insofar as permitted by law, be allocated and distributed according to policies established by the Board of Trustees.

**Section 16.4. UNALLOCATED RESERVES** - Notwithstanding anything to the contrary in this Article, the Board of Trustees, in its discretion, may in any year credit to unallocated surplus or reserves of NORA a portion of the net proceeds not exceeding the amount of margins from any subsidiaries of NORA and other non-operating margins, but not including patronage capital from NORA's wholesale power supplier or Cooperative lenders.

**Section 16.5. LOSSES: LIEN AND SET OFF** -

- (a) **Losses:** In the event the expenses of NORA in the furnishing of any goods or services should in any year exceed the receipts therefor the resulting deficit shall not be charged to the individual patrons furnishing such receipts during such year but shall be reflected in the determination of the book value of any capital credits upon their retirement or upon dissolution of NORA as heretofore provided. However, the Board of Trustees shall apply non-operating margins to the writing off or discharge of losses of deficits before making any other allocation thereof.
  
- (b) **Lien and Set Off:** NORA shall have a continuing lien against the patronage capital allocated and credited to any patron for any indebtedness due and owing from such patron to NORA and such indebtedness to the extent of such capital so allocated and credited upon which NORA has a lien shall not be extinguished by bankruptcy of said patron or lapse of time, but shall be set-off against any capital allocated and credited to said patron in any retirement thereof made hereunder to said patron or to their estate or heirs or surviving joint member. The patron shall execute such documents as NORA may request to create and preserve this security interest, and the patron authorizes the Cooperative to perfect this security interest by filing a financing statement.

## **ARTICLE XVII**

### **DISPOSITION OF PROPERTY**

**Section 17.1. DISPOSITION OF PROPERTY AND OTHER SIGNIFICANT ACTS** - The Cooperative may not sell, mortgage, lease, or exchange more than twenty-five (25%) percent of its facilities, property rights, privileges, and franchises with no off setting exchange of facilities; merge with or consolidate into another entity that is not a rural electric Cooperative association within the meaning of the Rural Electrification Act of 1936; or dissolve the Cooperative, without authorization for the above act(s) obtained by the affirmative vote of the holders of two-thirds (2/3) (if for sale, mortgage, lease or exchange) or a majority (if for merger, consolidation or dissolution) of the members given at a members meeting duly called for that purpose, or obtained by the written consent of the holders of said two-thirds (2/3) or said majority of the members provided that such affirmative vote or written consent of the members shall also represent the affirmative vote or written consent of at least two-thirds (2/3) or a majority of the individual members of NORA, depending on the approval ratio required; and provided further, however, that notwithstanding anything herein contained, the Board of Trustees without authorization by the members shall have full power and authority to borrow money from the United States of America or any agency or instrumentality thereof and in accordance with the laws of the State of New Mexico; and/or from any other lender and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidence of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbrance of any or all of the property, assets, rights, privileges, licenses, franchises, and

permits of the Cooperative, whether acquired or to be acquired, and wherever situated all upon such terms and conditions as the Board of Trustees shall determine.

For purposes of this Article, a merger with or consolidation into another rural electric Cooperative association shall not be deemed a sale, mortgage, lease or exchange. Other provisions of these Bylaws notwithstanding, any repeal, amendment, or alteration of this Article that would result in a change in the member approval requirements for acts described herein, must be approved by at least twenty-five (25%) percent of all members of the Cooperative. The Board of Trustees shall submit any actions referred to in this Article to a mail vote by the members of the Cooperative

## **ARTICLE XVIII**

### **BOOKS, RECORDS, AUDITS, AND REGISTERED OFFICE/AGENT OF THE COOPERATIVE**

**Section 18.1. BOOKS AND RECORDS** - The Cooperative will keep complete and accurate books and records of accounting and also will keep minutes of the proceedings of all its meetings and any meetings of committees or councils having any authority with the Board of Trustees and will keep a record of the names and addresses of all members of the Board of Trustees, committees of the Board of Trustees, and advisory councils.

**Section 18.2. FINANCIAL RECORDS AND ANNUAL REPORTS** – The Cooperative shall maintain current and accurate financial records with complete entries as to each financial transaction of the Cooperative, including income and expenditures, in accordance with generally accepted accounting principles. Based on these maintained records, the Board of Trustees of the Cooperative shall annually prepare or approve a financial report for the Cooperative for the preceding year. The report must conform to accounting standards as adopted by the American Institute of Certified Public Accountants and must include:

- a. a statement of support, revenue, and expenses.
- b. a statement of changes in fund balances.
- c. a statement of functional expenses; and
- d. a balance sheet for each fund.

**Section 18.3. FINANCIAL STATEMENTS AND AUDIT** - The Audit Committee shall arrange for an independent CPA to report on the Cooperative's financial statements on an annual basis. The level of service provided by the independent CPA (audit, review or compilation) shall be determined annually as required by law, regulation, funding source, or by resolution of the Board of Trustees. The Audit Committee shall ensure that auditors or lead audit partners are rotated at least every five (5) years. The auditor(s) shall provide disclosure to the Cooperative's audit committee of critical accounting policies and practices and shall advise the audit committee regarding its responsibility to oversee and enforce conflict-of-interest policy. To ensure independence, auditors shall not provide bookkeeping, financial systems implementation, appraisal, or certain other services for the Cooperative.

**Section 18.4. AVAILABILITY OF FINANCIAL INFORMATION FOR PUBLIC INSPECTION** – The Cooperative shall keep records, books, and annual reports of the Cooperative's financial activity at the Cooperative's registered or principal office in this state for at least three (3) years after the close of each fiscal year.

The Cooperative shall make the records, books, and reports available to the public for inspection and copying at the Cooperative's registered or principal office during regular business hours. The Cooperative may charge a reasonable fee for preparing a copy of a record or report.

**Section 18.5. REGISTERED OFFICE AND AGENT** - The Cooperative will maintain a registered office and a registered agent in the County of Rio Arriba, New Mexico at all times. The initial registered office and registered agent of the Cooperative are set forth in the Articles of Incorporation. They may be changed, from time-to-time, as provided in the Non-Profit Corporation Act of New Mexico (Chapter 53, Article 8 NMSA 1978). The address of the registered agent will be the same as the address of the Cooperative's

registered office. The Cooperative also may have such other offices as the Board of Trustees may from time-to-time establish.

**ARTICLE XIX**  
**LIABILITY AND INDEMNIFICATION OF TRUSTEES AND OFFICERS**

**Section 19.1. TRUSTEES' LIMITED LIABILITY** - A Trustee shall not be personally liable to the Cooperative or to its members for monetary damages for breach of fiduciary duty as a Trustee unless:

- (a) The Trustee has breached or failed to perform the duties of their office in compliance with Section 62-15-9.1, NMSA 1978; and
- (b) The breach or failure to perform constitutes willful misconduct or recklessness.

**Section 19.2. OFFICERS AND TRUSTEES' INDEMNIFICATION** - Subject to this Article, the Cooperative shall indemnify any person who is or was a Trustee or an elected or appointed officer of the Cooperative and any person who, while a Trustee or officer of the Cooperative, is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another Cooperative or of a foreign or domestic corporation or nonprofit corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust, and who is made a party to any action, suit or proceeding, civil or criminal, by reason of holding or having held such an office or position.

**Section 19.3. EMPLOYEES' AND AGENTS' INDEMNIFICATION** - Subject to this Article, the Board of Trustees may indemnify any person other than a Trustee or an officer acting as such who has or had an employment or agency relationship with the Cooperative and who is made a party to any action, suit or proceeding, civil or criminal, by reason of service during the course of such relationship, including service at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another Cooperative or of a foreign or domestic corporation or nonprofit corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust.

**Section 19.4. INDEMNIFICATION DISQUALIFICATION** - The Trustee, officer or other person shall not be indemnified if they shall be adjudged to be liable on the basis that they breached or failed to perform the duties of their office or position and the breach or failure to perform constitutes willful misconduct or recklessness. The Trustee, officer or other person shall, further, not be indemnified in respect to any proceeding charging improper personal benefit to them, whether or not involving action in their official capacity, in which they shall have adjudged to have been liable on the basis that personal benefit was improperly received. There shall be no indemnification of a person other than a Trustee unless the Board of Trustees finds that the indemnitee:

- (a) Acted in good faith
- (b) Reasonably believed that they were acting in the course of their office, employment or agency and in a manner to be in or at least not opposed to the best interests of the Cooperative; and
- (c) In the case of any criminal proceeding, had no reasonable cause to believe the person's conduct was unlawful.

Termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, be determinative that the person is disqualified from receiving indemnification.

**Section 19.5. INDEMNIFICATION AMOUNT** - Indemnification shall be pursuant to this Article, and maybe pursuant to Section 19.3, made against judgments, penalties, fines, settlements and compromises, cost and expenses, including attorneys' fees, reasonably incurred by or on behalf of the indemnitee in connection with the defense of such proceeding. Reasonable expenses incurred by a trustee, officer or other person who is a

party to a proceeding may be paid or reimbursed by the Cooperative in advance of the final disposition of such proceeding if:

- (a) Such person furnishes the Cooperative a written affirmation of their good faith belief that they are not disqualified from receiving indemnification under Section 4 of this Article.
- (b) Such person furnishes the Cooperative a written undertaking by or on behalf of the person to repay such amount if it shall ultimately be determined that they are disqualified or, in the case of a person other than a Trustee or an officer acting as such, not fully indemnified at the Board of trustee's discretion; and
- (c) A determination is made that the facts then known to those making the determination would not preclude indemnification.

**Section 19.6. INDEMNIFICATION PROCEDURE** - No indemnification under Sections 19.2 and 19.3 of this Article shall be made unless authorized in the specific case after a determination has been made that indemnification is permissible in accordance with the Rural Electric Cooperative Act and this Article. Such determination shall be made:

- (a) By the Board of Trustees by a 2/3<sup>rd</sup> majority vote of a quorum of Trustees not at the time parties to the proceeding.
- (b) If such a quorum cannot be attained, by a 2/3<sup>rd</sup> majority vote of a committee of the Board of Trustees duly designated to act in the matter by a 2/3<sup>rd</sup> majority vote of the full Board of Trustees, in which designated Trustees who are parties may participate, and consisting solely of two (2) or more Trustees not at the time parties to the proceeding.
- (c) By special legal counsel, selected by the Board of Trustees or a committee thereof by vote as set forth in paragraph (a) or (b) of this Section 19.6 or, if the requisite quorum of the full Board of Trustees cannot be obtained therefor and such committee cannot be established, by a 2/3<sup>rd</sup> majority vote of the full Board of Trustees, in which selection Trustees who are parties may participate; or
- (d) Pursuant to a resolution of a majority of the members present and voting at any Annual or Special Meeting.

Authorization of indemnification and determination as to the amount shall be made in the same manner as the permissibility determination, except that if the permissibility determination is made by special legal counsel, authorization and amount determination shall be made in a manner specified in subsection (c) of this Section 19.6 for the selection of such counsel.

**Section 19.7. EMPLOYEE BENEFIT PLANS** - For the purposes of this Article, the Cooperative shall be deemed to have requested a person to serve as a director, trustee, employee or agent of an employee benefit plan or trust whenever the performance of their duties to the Cooperative also imposes duties on them or otherwise involves their services to the plan or trust or the participants or beneficiaries of the plan or trust; excise taxes assessed on them with respect to an employee benefit plan or trust pursuant to applicable law shall be deemed "fines"; and action taken or omitted with respect to an employee benefit plan or trust in the performance of duties for a purpose reasonably believed to be in the interest of the participants and beneficiaries of the plan or trust shall be deemed to be for a purpose which is not opposed to the best interests of the Cooperative and to be neither willful misconduct or reckless.

**Section 19.8. INSURANCE AND SIMILAR PROTECTION** - The Board of Trustees may purchase and maintain insurance or furnish similar protection, including but not limited to providing a trust fund, a letter of credit or self-insurance, on behalf of any person who is or was a trustee, officer, employee or agent of the Cooperative or who, while a trustee, officer, employee or agent of the Cooperative is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another Cooperative or a foreign or domestic corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust, against any liability asserted against and incurred

by the person in such capacity or arising out of that person's status as such, whether or not the Cooperative could indemnify the person against such liability under the provisions of this Article XIX.

**Section 19.9. NON-EXCLUSIVE** - The indemnification authorized by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under an agreement approved by the Board of Trustees, a resolution of the members or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be a trustee, officer, employee or agent and insure to the benefit of their personal representatives and heirs.

**Section 19.10. APPEARANCE AS A WITNESS** - Notwithstanding any other provision of this Article XIX, the Cooperative may pay or reimburse expenses incurred by an Indemnified Person in connection with such person's appearance as a witness or other participation in a Proceeding at a time when such person is not a named defendant or respondent in the Proceeding.

**Section 19.11. SAVINGS CLAUSE** - If this Article, or any portion hereof, will be invalidated on any ground by any court of competent jurisdiction, then the Cooperative will nevertheless indemnify and hold harmless each Indemnified Person as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any proceeding, to the full extent permitted by any applicable portion of this Article that will not have been invalidated and to the fullest extent permitted by applicable law.

## **ARTICLE XX** **MISCELLANEOUS**

**Section 20.1. MEMBERSHIP IN OTHER ORGANIZATIONS** -

The Cooperative may upon the authorization of the Board, purchase stock in or become a member of any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or of any other corporation or organization, when in the opinion of the Board such membership will promote the interest of the Cooperative.

**Section 20.2. POLICIES, RULES, AND REGULATIONS** - The Board of Trustees shall have the power to make and adopt such policies, rules, and regulations, not inconsistent with law, the Articles of Incorporation or these Bylaws, as it may deem advisable for the management of the business and affairs of the Cooperative.

**Section 20.3. ASSIGNMENT AND GIFT BY FAILURE TO CLAIM** - If any member or former member fails to claim or cash any cash retirement of capital credits or their payment from the Cooperative within six (6) years after payment of the same has been made available to them by check mailed to them at their last address furnished by them to the Cooperative, such failure shall be and constitutes an irrevocable assignment and gift by such member of such capital credit or other payments to the Cooperative, as authorized by law.

**Section 20.4. RULES OF ORDER** - Unless the Board determines otherwise, and to the extent consistent with law, the Articles of Incorporation, and these Bylaws, all member meetings, Board meetings and committee meetings are governed by the fundamental fairness rule with Robert's Rules of Order as a guide only, not the ultimate authority, of such rule.

**Section 20.5. GENERAL PROVISIONS** - Within these Bylaws of the Cooperative as currently existing or as later amended unless otherwise provided, words and phrases used in these Bylaws have their customary and ordinary meaning; the singular use of any word includes the plural use, and the plural use of any word includes the singular use; the masculine use of any word includes the feminine and neutral uses, the feminine use of any word includes the masculine and neutral uses, and the neutral use of any word includes the masculine and feminine uses; the present tense of any word includes the past and future tenses, and the future tense of any word includes the present tense; and the words "shall" or "must" indicate a mandatory action or requirement, and the word "may" indicates a permissive action or requirement.

**Section 20.6. GOVERNING LAW** - These Bylaws must be governed by, and interpreted under, the laws of the state of New Mexico.

**Section 20.7. TITLES AND HEADINGS** - All titles and headings of Bylaw articles, sections, and sub-sections are for convenience and reference only, and do not affect the interpretation of any Bylaw article, section, or sub-section.

**Section 20.8. PARTIAL INVALIDITY** - When reasonably possible, every Bylaw article, section, sub-section, paragraph, sentence, clause, or provision (collectively, "Bylaw Provision") must be interpreted in a manner by which the Bylaw Provision is valid. The invalidation of any Bylaw Provision by any entity possessing proper jurisdiction and authority, which does not alter the fundamental rights, duties, and relationship between the Cooperative and members, does not invalidate the remaining Bylaw Provisions.

**Section 20.9. CUMULATIVE REMEDIES** - The rights and remedies provided in these Bylaws are cumulative. The Cooperative or any member asserting any right or remedy provided in these Bylaws does not preclude the Cooperative or member from asserting other rights or remedies provided in these Bylaws.

**Section 20.10. SUCCESSORS AND ASSIGNS** - To the extent allowed by law the duties, obligations, and liabilities imposed upon the Cooperative or any member by these Bylaws are binding upon the successors and assigns of the Cooperative or member; and the rights granted to the Cooperative by these Bylaws inure to the benefit of the Cooperative's successors and assigns. The binding nature of the duties, obligations, and liabilities imposed by these Bylaws upon the successors and assigns of the Cooperative and any member does not relieve the Cooperative or member of the duties, obligations, and liabilities imposed by these Bylaws upon the Cooperative or member.

**Section 20.11. WAIVER** - The failure of the Cooperative or any member to assert any right or remedy provided in these Bylaws does not waive the right or remedy provided in these Bylaws.

**Section 20.12. LACK OF NOTICE** - To the extent allowed by law and the Articles of Incorporation, the failure of any member or Trustee to receive notice of any Meeting, action, or vote does not affect, or invalidate, any action or vote taken by the members or Board.

**Section 20.13. ELECTRONIC NOTICE, DOCUMENTS, AND ACTIONS** - With the consent of a member, notice, dissemination of documents and actions may be completed by electronic means as determined by the Board and as allowed by law. An electronic document electronically sent or transmitted to a member or former member at the member or former member's last known electronic address is considered sent, received, transmitted, and effective on the date sent by the Cooperative. An electronic document electronically received or transmitted from a member or former member is considered sent, received, transmitted, and effective on the date received by the Cooperative. If electronically delivered, such notice shall be deemed to be delivered when sent to the last known electronic address of the member for which no non-delivery notice is returned.

If addressed to an address shown in the Membership List, then a written or electronic notice, communication, or report delivered or transmitted as part of a newsletter, magazine, or other publication regularly sent to members constitutes a notice, communication, or report to all members: (1) residing at the address; or (2) having the same address shown in the Cooperative records.

If a member has reasonable access to appropriate hardware and software, then under such terms and conditions as the Board, acting under policies of general application determines, and as allowed by law, the member consents and agrees to (A) use, accept, send, receive, and transmit an electronic signature, contract, record, notice, vote, communication, comment, and other document regarding an action, transaction, business, meeting, or activity with, for, or involving the Cooperative; (B) electronically conduct an action, transaction, business, meeting, or activity with, for, or involving the Cooperative; and (C) electronically give or confirm this consent and agreement.

**ARTICLE XXI**  
**AMENDMENTS**

**Section 21.1. ARTICLES OF INCORPORATION AND BYLAWS** - The Bylaws and Articles of Incorporation may be altered, amended, or repealed by the members at any Regular or Special Meeting by the affirmative vote of a majority of those members voting thereon; provided the notice of such meeting shall specify the nature of the proposed alterations, amendment, or repeal or an accurate summary and explanation thereof. Any amendment which is germane to the proposed alterations or amendment specified in the notice and submitted at such meeting may be acted upon at said meeting with the same force and effect as though it had been contained in the notice of the meeting.

The Board of Trustees may sponsor or propose Bylaw amendments.

Members may sponsor or propose Bylaw amendments provided the proposed member Bylaw amendment is accompanied by a detailed petition filed with the Cooperative containing the printed names and signatures, address and date signed of at least ten percent (10%) of members at least sixty (60) days prior to the membership meeting.

**Section 21.2. ENDOWMENT FUNDS** – Subject to restrictions imposed by donors and/or Endowment Fund administrators, any Endowment funds established by the Cooperative may be terminated and distributed at any meeting of the Board of Trustees, at which a quorum is present, by the affirmative vote of not less than three-fourths (3/4) of Trustees present at such meeting and entitled to vote, provided written notice of any such proposed alteration termination and/or redistribution has been sent to each Trustee of the Cooperative at least seven (7) days and not more than 50 before the date of the meeting.

**Section 21.3. DISSOLUTION** - Any decision to voluntarily dissolve the Cooperative must be made by a unanimous vote of the Membership. Upon dissolution, all assets will be disposed of in accordance with a plan approved by the Board of Trustees and in compliance with applicable state and federal laws.

**ARTICLE XXII**  
**SAVINGS CLAUSE**

**Section 22.1. SAVINGS CLAUSE** - In the event any provision of the Bylaws shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other lawful provision of the Bylaws and the remaining provisions shall be construed as if such invalid provision had not been contained in the Bylaws.

**NORA ADOPTION AND SIGNATURES**

*These Bylaws supersede any and all previous Bylaws and amendments thereto of NORA and were adopted at a legally convened meeting by the Board of Trustees on the 27<sup>th</sup> day of September, in the year 2021.*

*We, the undersigned, certify that we are the presently elected and acting President and Secretary of NORA, a New Mexico nonprofit Cooperative corporation, and the above Bylaws, consisting of thirty-nine (39) pages, including this page, are the official Bylaws of this Cooperative as adopted at the above-stated meeting.*



Steve Rendon, President, Board of Trustees, NORA

09-27-2021

Date



Paul Cordova, Secretary, Board of Trustees, NORA

11/8/2021

Date