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Suggestions on the  
Incorporation of Cooperative Livestock  
Shipping Associations  
under  
the Laws of South Dakota.

by  
M. R. Benedict and Turner Wright.

Extension Service  
South Dakota State College  
Brookings, S. Dak.

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South Dakota State College and United States Department of Agri-  
culture Cooperating. Distributed in furtherance of Acts of Congress  
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STEPS IN THE FORMATION OF A  
COOPERATIVE LIVESTOCK SHIPPING ASSOCIATION

by

M. R. Benedict and Turner Wright

The cooperative shipping of livestock from South Dakota points has become so general that nearly every farmer is familiar with the workings of the Cooperative Shipping Association.

During the early stages of this movement; that is, up to the present time, these organizations have been for the most part loosely formed, unincorporated associations of producers with no very permanent existence. Where they were well managed, they have accomplished fairly well the principal purposes of a livestock shipping association; namely, the narrowing of the handling margin at the local points, better grading of the stock shipped, and the elimination of excessive duplication in the local handling agencies.

As time goes on, however, it becomes more evident that these loosely organized units have a number of defects which could be largely eliminated by incorporation of the associations into permanent, legally formed units of the distribution system.

One of the requisites for efficient handling of livestock by the local association is adequate volume. Without this, it cannot accomplish the two main objects of its existence; namely, the reduction of the local handling margin and better classification of the animals by grades so that they may be sold to better advantage at the terminals. It is further felt by many growers that the development of any effective plan for regulating the flow of livestock onto the markets depends upon handling a large volume of it through interrelated cooperative organizations such as the cooperative shipping associations at the local points, and the cooperative commission companies at the terminals.

To bring this about, many associations are developing the plan of incorporating and making written contracts with their members to deliver their livestock to the associations for selling. Such a contract is, of course, unenforceable unless the organization has a legal corporate existence.

Additional reasons for the incorporation of livestock shipping associations are: first, that incorporation limits the liability of the individual member to the amount of his membership fee in case the association should become liable under the workman's compensation act or otherwise; secondly, it enables the association to sue for damages in case of losses in transit or other possible recoverable losses. There is some question as to whether this can be done effectively by an unincorporated association.

These reasons are sufficiently strong that a considerable number of associations have taken steps to incorporate during the past year. The forms here included have been developed in harmony with the existing cooperative laws of the state, and are meant to serve as suggested forms for new associations which are expecting to incorporate, or for established but unincorporated associations that wish to become incorporated.

The general problems of organization and management of cooperative livestock shipping associations are so well covered in Farmers' Bulletin 1292, United States Department of Agriculture, copy of which can be secured from this office, that it is not considered desirable to go into these matters in this circular. The following suggestions relate only to the legal phases of the formation of these associations. Acknowledgment is made of the generous assistance of Mr. Hugh N. Allen, cooperative marketing counsel in drawing up the accompanying forms.

#### Procedure in Incorporating

a. Have each man sign the agreement for the organization of a cooperative livestock shipping association. This may be done either at a general meeting called for the purpose, or by arrangements for a committee in each community to see the men individually and get their signatures. The latter plan is much the most thorough and effective.

b. Arrange for a committee of five to incorporate the association by filing articles of incorporation with the Secretary of State.

c. After incorporation is completed, call a meeting of the signers of the agreement to form an association. Have this meeting pass upon the bylaws. A majority of all signers of the agreement must be present or vote by mail to make the adoption of the bylaws legal. If it is doubtful that the attendance of a majority can be secured, send copies of the proposed bylaws to the individual signers and get their votes by mail. In this case, however, if these votes are to be counted, the bylaws must be adopted exactly as sent out.

d. Have Marketing Agreements printed and ready for each member to sign at this time. Have every shipper sign one either at this time or at the time of his first shipment. A good volume of business should be assured before shipping is started. Efficiency in the operation of the association will depend upon two things: first, good management; and second, sufficient volume of business so that the manager can handle the stock advantageously.

#### Additional Suggestions

a. Do not have Marketing Agreements at all unless the directors expect to keep them checked up and properly recorded and to follow up violations, taking proper steps for the enforcement of the provisions of the contracts.



b. Record and number all contracts, and issue a duplicate copy fully filled out to the grower. Then keep this record up to date and accept shipments from no one who does not sign a marketing agreement.

c. The forms submitted have been carefully thought out. Do not change words or sentences in them except on competent legal advice. This does not mean that these forms are perfect, and they no doubt can be improved upon in some respects. However, any changes so made should be carefully worked out with a competent attorney, as the changing of a few words unimportant to the mind of a layman may nullify the effect of a contract.

d. When in doubt on legal points, consult a competent attorney. All other businesses keep themselves informed as to the legal aspects of their corporations, and, if cooperative associations are to succeed, they must do likewise.

e. Get a secretary who will give prompt attention to the necessary corporation reports to the Internal Revenue Bureau and other agencies authorized to require such reports.

f. See to it that an adequate book record of the business of the association is kept and an annual audit made of it. The audit is short work if the records are properly kept. A standard plan for keeping records on cooperative shipping associations can be secured by writing the Department of Farm Economics, State College of Agriculture, Brookings, South Dakota.

g. Remember that shipping associations whether incorporated or unincorporated come under the workman's compensation law of the state, according to an opinion of the attorney general, and are liable in case of the death or injury of their employees. The law requires that employers of labor either carry liability insurance or maintain a sufficient reserve for contingencies. For the present, the plan of building up a strong sinking fund is probably the most practical solution of this. Copies of the workman's compensation act can be secured from the Department of Farm Economics.

h. In regard to State Securities Commission and the necessity for securing license from them before selling memberships, it is our opinion that item 5 of Section 10129, laws of South Dakota, exempts these associations from this necessity. Consideration of this point should, however, not be overlooked in forming other corporations.

AGREEMENT FOR THE ORGANIZATION OF A COOPERATIVE LIVESTOCK

SHIPPING ASSOCIATION AT \_\_\_\_\_ S. D.

We, the undersigned, actual producers of livestock in the vicinity of \_\_\_\_\_ S. D., in consideration of the premises, and of our mutual undertakings, and of the agreement of each and every other party hereto, each for himself, and collectively for the express benefit of and as the COOPERATIVE LIVESTOCK SHIPPING ASSOCIATION of \_\_\_\_\_ to be organized, do hereby agree as follows:

1. That we shall become members of the said COOPERATIVE LIVESTOCK SHIPPING ASSOCIATION of \_\_\_\_\_, to be organized and incorporated under Chapter 15, Laws of South Dakota, for 1923, known as the "Cooperative Marketing Act" of South Dakota, and which organization shall conform to the Federal Cooperative Act, and with the rules and regulations for cooperative associations under the Federal Revenue Act, and we shall subscribe to the by-laws thereof, which by-laws are to be adopted in an open meeting of the subscribers hereto, called for that purpose after due notice to each of the signers hereof, and we shall pay a membership fee of \_\_\_\_\_ Dollars;

2. It is expressly understood and agreed that this instrument is one of a series of instruments, identical in terms herewith intended to be circulated in the vicinity of \_\_\_\_\_ S. D., concurrently herewith, and that all such instruments shall be deemed to be one contract for the purpose of binding the subscribers to the same extent as if all of said subscribers had signed the same instrument;

3. IT IS FURTHER EXPRESSLY UNDERSTOOD AND AGREED, That if by the \_\_\_\_\_ day of \_\_\_\_\_, 192\_. signature shall not have been secured to this instrument and other similar instruments of this series, of \_\_\_\_\_ actual producers of livestock in the vicinity of \_\_\_\_\_ S. D., then this agreement shall be inoperative, unless the signers hereto shall specifically agree to an extension of the time in which the necessary signatures may be secured, or shall specifically agree to a reduction in the minimum number of producer signatures herein specified.

Read, considered and signed on the date indicated opposite our respective signatures.

(Prepared by \_\_\_\_\_ etc.,

DATE	NAME OF PRODUCER	ADDRESS
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Tentatively submitted for consideration only, by HNA. 6-21-23



ARTICLES OF INCORPORATION

of

COOPERATIVE LIVESTOCK SHIPPING ASSOCIATION

OF \_\_\_\_\_ S. D.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned \_\_\_\_\_

for ourselves, our associates and successors, have associated ourselves together for the purpose of forming a cooperative association under and by virtue of the statutes and laws of the State of South Dakota, and particularly under and by virtue of the "COOPERATIVE MARKETING ACT" of the State of South Dakota, being Chapter 15, Laws of South Dakota for 1923, and we do hereby certify and declare as follows, viz:

FIRST

The name of this association shall be COOPERATIVE LIVESTOCK SHIPPING ASSOCIATION OF \_\_\_\_\_ S. D.;

SECOND

The purpose for which this Association is formed is to market the livestock of its members on a cooperative basis as provided by the laws of the State of South Dakota and of the United States; to be an agricultural association instituted for the purpose of mutual help, without having capital stock, and not to be conducted for pecuniary profit for itself, as such, or for its members, as such, but only for its members as producers of livestock; to promote the general welfare of livestock producers and provide better and more economical methods of marketing livestock; to buy, handle, sell and market livestock for itself and for its members; to cooperate by contract or otherwise with other associations or individuals conducting business for similar purposes; to reduce speculation, manipulation and waste in the marketing of livestock; to enter into, make, perform and carry out contracts with any person, firm, partnership, corporation or association; to be a body corporate and politic, with the right of succession, capable of suing and being sued; to make and enforce contracts in relation to the legitimate business of the Association; to take, purchase, hold and dispose of real and personal estate for the purpose of the Association, including holding an interest or membership in other similar organizations; to do any and all things incident to or necessary, or desirable, or convenient for the prosecution of its business; to perform any other pertinent, legitimate and lawful service which may tend to the mutual benefit of its members and the general benefit of the livestock industry; to make, alter or amend by-laws not inconsistent with the constitution or the laws of the State of South Dakota, or of the United States; to



limit its membership to persons, firms, partnerships, corporations or associations engaged in the production of livestock, and to prohibit the transfer of membership to any non-eligible person, firm, partnership, corporation or association; This Association shall exercise all the powers under "The Cooperative Marketing Act", of South Dakota, being Chapter 15, Laws of South Dakota for 1923, both as expressed and implied, and claims all further powers warranted under subsequent legislative enactments;

THIRD

The place where the principal business of this Association shall be transacted is \_\_\_\_\_ in the County of \_\_\_\_\_ State of South Dakota.

FOURTH

The term for which this Association shall exist shall be Forty (40) years;

FIFTH

The number of Directors of this Association shall be FIVE (5), and the names and residences of such who are to serve for the first three months and until their successors are elected and qualified, are as follows:

NAMES

ADDRESSES

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SIXTH

This Association shall be without capital stock or stockholders, and shall be a Membership Association composed of individuals, firms, partnerships, corporations and associations as members; its membership shall be limited to those engaged in the production of livestock, including the lessees and tenants of land used for the production of livestock, and any lessors and landlords who receive as rent part of the livestock raised on the leased premises; and no member shall have the right to dispose of his membership, or of his property rights thereunder, to any non-eligible person, nor to any person whatever without first offering the same to the Association in the manner and under the terms to be provided in the by-laws of the Association; Each member shall pay a membership fee of \_\_\_\_\_ Dollars, and shall subscribe to the by-laws of the Association;

SEVENTH

The voting power of the members of this Association shall be equal, and each member shall have one and only one vote, which must be cast in person or by signed ballot; voting by proxy shall not be permitted;

EIGHTH

The property rights of the members of this Association shall be equal, and each member shall have one unit of property rights only;

NINTH

Except for debts lawfully contracted between him and the Association, no member shall be liable for the debts of the Association to an amount exceeding the sum remaining unpaid on his membership fee, including any unpaid balance or any promissory notes given in payment thereof;

IN TESTIMONY WHEREOF, We have hereunto set our hand this \_\_\_\_\_ day of \_\_\_\_\_, 192\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Prepared by etc.)

STATE OF SOUTH DAKOTA )  
                                  ) ss  
County of \_\_\_\_\_ )

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 192\_, before the undersigned personally appeared the above names

\_\_\_\_\_  
\_\_\_\_\_  
well and personally known to me to be the same persons described in and who executed the foregoing instrument and severally acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand affixed my official seal at said county the day and year last above written.

(OFFICIAL SEAL)

\_\_\_\_\_

STATE OF SOUTH DAKOTA)

County of \_\_\_\_\_)

} ss

\_\_\_\_\_ and \_\_\_\_\_, be-  
duly sworn, each for himself deposes and says: That he is one of  
the persons described in and who signed the foregoing Articles of  
Incorporation as an incorporator therein; that he has read said  
Articles and knows the contents thereof; that the incorporators  
intend in good faith to form a corporation for the purpose of  
the promotion of a lawful business as set forth in said Articles,  
and not for the purpose of enabling any corporation of  
corporations to avoid the provisions of Sections 4352 to 4364  
inclusive, Revised Code of 1919, of the State of South Dakota,  
relating to unlawful trusts and combinations, and laws amend-  
atory thereof.

(OFFICIAL SEAL)

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 192\_.

\_\_\_\_\_  
Tentatively submitted for consideration only, by HNA. 6-21-23

BY-LAWS

of

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ARTICLE 1. NAME

SECTION 1. This association shall be known as the

and shall be incorporated under and by virtue of the "Cooperative Marketing Act" of the State of South Dakota; being Chapter 15, Laws of South Dakota for 1923; it shall conform to the provisions of the Federal Cooperative Act approved February 18, 1922, and it shall comply with the rules and regulations of the Federal Revenue Act exempting cooperative organizations from Income Tax.

ARTICLE 11 PURPOSES

SECTION 1. The purpose for which this Association is formed is to market the livestock of its members on a cooperative basis as provided under the laws of the State of South Dakota and of the United States; to be an agricultural association instituted for the purpose of mutual help, without having capital stock, and not to be conducted for pecuniary profit for itself, as such, or for its members, as such, but only for its members as producers of livestock; to promote the general welfare of livestock producers, and provide better and more economical methods of marketing livestock; to buy, handle, sell and market livestock for its members; to cooperate by contract or otherwise with other associations or persons conducting business for similar purposes; to reduce speculation, manipulation, and waste in the marketing of livestock; to be a body corporate and politic, with the right of succession, capable of suing and being sued; to make and enforce contracts in relation to the legitimate business of the Association; to take, purchase, hold, mortgage, and dispose of real and personal estate for the purposes of the Association, including holding an interest or membership in other similar or allied organizations; to do any and all things incident to, or necessary, or desirable, or convenient for the prosecution of its business; to perform other pertinent, legitimate, and lawful service which may tend to the mutual benefit of its members and the general benefit of the livestock industry; to make, alter, or amend by-laws not inconsistent with the constitution and the laws of the State of South Dakota, or of the United States, to limit its membership to individuals, firms, partnerships, corporations, or associations engaged in the production of livestock, and to prohibit the transfer of membership to any non-eligible individual, firm, partnership, corporation or association: This Association shall exercise all the powers under the "Cooperative Marketing Act" of South Dakota, both as expressed and implied, and claims all further powers warranted under subsequent legislative enactments.



## ARTICLE III MEMBERSHIP

SECTION 1. Membership in this Association is limited to individuals, firms, partnerships, corporations, and associations that are bona fide producers of livestock, either as breeder or feeders or both, including the lessees and tenants of land used for the production of livestock, and lessors and landlords who receive as rent part of the livestock raised on the leased premises, and any such bona fide livestock producer may become a member of this Association by making due application and agreeing to comply with the Cooperative Marketing Act of South Dakota, and with the requirements of these by-laws.

SECTION 2. The Board of Directors of this Association shall be the sole judge of the eligibility of applicants for membership, and applicant, if requested to do so, must submit evidence to the Board of Directors as to eligibility; and if, after becoming a member of this Association, any member shall cease to be a bona fide livestock producer, he shall forfeit his rights in the Association, and no refunds of earnings, except such as have accumulated, shall thereafter be made to him until he shall again become a bona fide livestock producer.

SECTION 3. This Association shall issue a certificate of membership to each member, such certificate of membership shall not be transferable, and no person may acquire the same through the operation of law.

## ARTICLE IV FISCAL YEAR MEETINGS

SECTION 1. The fiscal year of the Association shall commence \_\_\_\_\_, and end \_\_\_\_\_.

SECTION 2. The annual meeting of the Association shall be held at the office of the Association in \_\_\_\_\_ S. D., on the \_\_\_\_\_ of each year, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

SECTION 3. Special meetings of the members of the Association may be called at any time by the order of the Board of Directors; it shall call such meetings whenever \_\_\_\_\_ percent of the members file a petition in writing demanding a special meeting and stating the specific business to be brought before such meeting.

SECTION 4. Notice of the annual or of any special meeting of the members of the Association, together with a statement of the purpose thereof, shall be mailed by the Secretary to each member at least ten days prior to the meeting, or such notice may be given by publication in a newspaper of general circulation published at the principal place of business of the Association not less than ten days prior to the date of the meeting.

#### ARTICLE V--QUORUM

SECTION 1. \_\_\_\_\_ percent of the members shall constitute a quorum for the transaction of business at any meeting of the Association, except for the transaction of such business concerning which a different quorum is specifically provided by law or by these by-laws.

#### ARTICLE VI--DIRECTORS and OFFICERS

SECTION 1. The Board of Directors of this Association shall consist of FIVE (5) members, each of whom shall be a bona fide livestock producer and a member of this Association in good standing. Directors shall be elected by the members in annual meeting assembled, and shall serve for a term of three years. After the adoption of these by-laws there shall be elected two directors of the first class for a term of one year, two directors of the second class for a term of two years, and one director of the third class for a term of three years. At the expiration of the terms of the directors so elected, their successors shall be elected in like manner for terms of three years. Directors shall hold office until their successors shall have been elected and qualified and shall enter upon the discharge of their duties.

SECTION 2. The Board of Directors shall meet within ten days after the first election, and after each annual election, and shall elect by ballot from their number a President, a Vice-President, and a Secretary-Treasurer. They shall also choose three auditors from the members of the Association, not directors, officers, agents or employes of the Association. Such officers and auditors shall hold office for one year or until their successors are duly elected and qualified.

SECTION 3. Any vacancy in the Board of Directors, caused other than by expiration of term, shall be filled until the next regular meeting of the members of the Association, by the remaining members of the Board of Directors by a majority vote of the remaining members of said Board.

SECTION 4. A majority of the members of the Board of Directors shall constitute a quorum at any meeting of the Board of Directors.

SECTION 5. The compensation, if any, of the Board of Directors may be fixed at any annual meeting of the members of the Association, or at any special meeting called for that purpose.

SECTION 6. Any member of the Association may bring charges against an officer or director by filing them in writing with the Secretary of the Association, together with a petition signed by not less than ten percent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the Association, and by a majority vote of the members the Association may remove the officer or director to fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel, and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity.

#### ARTICLE VII--POWERS and DUTIES of DIRECTORS

SECTION 1. The Board of Directors shall have complete management of the business and affairs of this Association, and may from time to time establish, amend, or repeal such rules and regulation, or issue such orders or directions as to it may seem necessary or desirable for the proper management or conduct of the said business and affairs of this Association, and provide for the enforcement of such rules, regulations, orders, and directions by contract or otherwise.

SECTION 2. The Board of Directors may employ and dismiss at will a Business Manager and such other employes as may be necessary or desirable, and fix their compensation. The Manager shall have charge of the business of the Association under the direction of the Board of Directors.

SECTION 3. The Board of Directors shall require all officers and employes charged with the responsibility for the custody of any of the funds or property of the Association, to give bond with sufficient surety for the faithful performance of their duties.

SECTION 4. The Board of Directors shall prescribe the form of the Association Seal.



SECTION 5. In addition to the meeting of the Board of Directors after each annual meeting of the Association, the Board shall hold at least \_\_\_\_\_ other regular meetings at such time as may be designated by the Board. Special meetings of the Board of Directors shall be held upon call of the president upon reasonable notice to the members of the Board, or shall be called upon the written request of two (2) members of said Board.

#### ARTICLE VIII--COOPERATION AND RECIPROCIITY

SECTION 1. This Association may cooperate with other local, regional, state or national livestock marketing agency or agencies organized for the advancement and improvement of livestock interests, in any way that tends to carry out the purpose of this Association, and not inconsistent with the by-laws and rules and regulations of this Association. The Board of Directors shall have the right and power to affiliate and cooperate by agreement, membership, or otherwise, and may subscribe for and invest any of its funds in capital stock or membership in any other such cooperative association.

SECTION 2. A member of another cooperative livestock shipping association which extends the same reciprocal rights to members of this Association, shall upon application for membership be entitled to membership if otherwise eligible without the payment of additional membership fee, upon an assignment of livestock by him to be handled by this Association. And any member of this Association shall have the right to ship his livestock through such reciprocating association upon due notice to the manager of this Association of his intention so to do.

#### ARTICLE IX--DUTIES of OFFICERS

SECTION 1. The President shall:-(a) preside over all meetings of the Association and of the Board of Directors; (b) sign, as president, with the Secretary-Treasurer, all membership certificates, contracts, checks, notes, deeds, and other instruments on behalf of the Association; provided, however, that the Board of Directors may set aside a fund for operating expenses and such other purposes as may be designated by it, in a bank to be designated by the said Board, which fund shall be subject to the check of the Business Manager under such directions, rules and regulations of the Board of Directors as the said Board of Directors may prescribe; (c) Call special meetings of the Association and of the Board of Directors; (d) Perform all acts and duties usually required by an executive and presiding officer.

SECTION 2. In the absence or disability of the President, the Vice-President shall perform the duties of the President, provided, however, that upon the death, resignation, or disability of the President, the Board of Directors may declare the office vacant and elect his successor.



SECTION 3. The Secretary-Treasurer shall:- (a) Keep a complete record of all meetings of the Association and of the Board of Directors; (b) Keep the Corporate Seal of the Association and affix the same to all corporate instruments issued and make corresponding entries in a book which he shall keep for that purpose; (c) Sign as Secretary-Treasurer, with the President, all membership certificates, contracts, checks, notes, deeds and other instruments on behalf of the Association, except as otherwise specifically provided by these by-laws (d) Serve all notices required by law and by these by-laws; (e) Receive and disburse all funds and be the custodian of all the property of the Association, except as herein otherwise specifically provided; (f) Keep a complete record of the business of the Association and make a full report of all matters and business pertaining to his office to the members at the annual meeting, and to make all reports required by law; (g) Perform such other duties as may be required of him by the Association or the Board of Directors..

#### ARTICLE X--DUTIES and POWERS of MANAGER

SECTION 1. The Manager shall perform such duties and have such powers as the Board of Directors may require or may delegate to him, he shall sit with the Board of Directors in an advisory capacity in deliberation upon matters pertaining to the general business and policies of the Association.

SECTION 2. The Manager shall not buy livestock for shipment to market or for sale locally on his own account while he is in the employ of the Association.

#### ARTICLE XI--MEMBERSHIP FEES

SECTION 1. Each livestock producer shall pay to the Association a membership fee of Five Dollars (\$5.00). In the event it not paid earlier the fee shall be deducted from the proceeds of a first shipment of livestock of the producer made through the Association.

SECTION 2. When a sufficient surplus and reserve fund has been accumulated the Board of Directors may in its discretion return membership fees to members either in whole or in part.

SECTION 3. The violation of these by-laws or any that hereafter be adopted, or of any contract or agreement entered into by the Association with a member, shall constitute a sufficient cause for the expulsion or suspension of such a member from the Association. No member shall be deprived of the benefits of the Association or be expelled from or suspended by it except by a two-thirds vote of the members present at any annual or special meeting of the Association following the mailing of a notice to each member in accordance with these by-laws, specifying that the matter of the expulsion or disciplining of such member is

to be voted on at that meeting. The member shall have charges preferred against him at least ten (10) days in advance of such meeting and shall have an opportunity to present witnesses and to be heard in person and by counsel.

SECTION 4. Whenever the Board of Directors, after hearing, determines that a member has ceased to be a bona fide producer of livestock, his membership may be terminated by action of the said Board, and his membership certificate cancelled.

SECTION 5. A member who does not avail himself of the facilities of the Association at least once in any twelve month period shall automatically forfeit his membership at the end of such period, provided that such person may be reinstated by the Board of Directors if it shall see fit so to do, upon satisfactory showing being made to the Board.

SECTION 6. On the death, withdrawal, or expulsion of a member his interest in the Association shall be conclusively ascertained by the Board of Directors, and the Association shall pay the amount thus ascertained to the member or his legal representative within one year from the date of appraisal.

SECTION 7. A member may withdraw from membership in this Association by giving written notice to that effect to the Association not more than thirty days nor less than five days prior to December 31st of any year; provided that if the member elect to so terminate his membership, he must first pay to the Association any sum due the Association from the member.

#### ARTICLE XII--DUTIES and RIGHTS of MEMBERS

SECTION 1. The Board of Directors shall by rules and regulations provide for the identification of the products of the various members for marketing purposes.

SECTION 2. Each member of this Association shall be entitled to one and only one vote, which vote must be cast in person or by signed ballot; voting by proxy shall not be permitted.

SECTION 3. Except in the case of the removal of a director or officer, or the expulsion or disciplining of a member, absent voters may vote on specific question, motions, or resolutions by signed ballots transmitted to the Secretary of the Association by mail, and such ballots shall be counted only in the meeting at the time when such vote is taken.

SECTION 4. The property rights of the members of this Association shall be equal, and each member shall have one unit of property rights only.

SECTION 5. This Association shall not handle the livestock of any non-member.



SECTION 6. Any member having a grievance or complaint against the Association may appeal to the Board of Directors.

SECTION 7. Any member desiring to ship livestock through this Association shall report to the manager as far in advance as practicable when such livestock will be ready for market, the kinds, the number of each kind, and the approximate weight, of each, which he desires to market through the Association. He shall deliver the said livestock at the shipping yard at the time designated by the manager of the association.

SECTION 8. No member shall sell to an outside party, or ship through another agency, any livestock promised for shipment through the Association, except livestock offered to and rejected by the Association.

SECTION 9. Whenever a member shall sell to an outside party the livestock promised or listed by him with the Association for sale, he shall, unless released by the Manager, pay an amount to the Association equal to the excess transportation and market expenses which other members contributed to that shipment by reason of his failure to comply with such promise of listing.

SECTION 10. In case any member is offered a price for his livestock which apparently will be in excess of the price that will be obtained at the terminal market by the Association, said members shall turn the bid over to the Association manager, who will handle it to the best interests of all concerned.

#### ARTICLE XIII--EXPENSES and CHARGES

SECTION 1. The expenses of operation and other expenses and charges of this Association shall be met by fixed charges, rates, commission, or compensation, to be fixed and determined from time to time by the Board of Directors.

#### ARTICLE XIV--REFUNDS or DIVISION OF EARNINGS

SECTION 1. After the expenses of the Association for the operation or otherwise have been paid, and after provisions have been made for a fund for maintenance and operation and protection of the business of the Association, the Board of Directors shall apportion the net earnings as follows:--(a) By setting aside not less than twenty-five per cent of the net profits per annum for reserve fund until an amount has accumulated in said reserve fund which shall be ample and safe for the conduct of the business of the Association; (b) Then by setting aside an amount not less than one per cent nor more than five per cent of the net profits as an educational fund to be used in teaching cooperation; (c) The balance of such net earnings shall be divided among the members of the Association who have done business through the Association during the period for which the distribution is being made, in proportion to the fixed charges, rates, commissions or compensations charged to them during that period, or in accordance with the amount of value of the business done by them with the Association during that period.

## ARTICLE XV--ACCOUNTS AND AUDITING

SECTION 1. This Association shall install a standard system of accounting and provide accounting appurtenances that may be necessary to conduct the business in a safe and orderly manner.

SECTION 2. A complete annual audit shall be made by a competent accountant previous to the date of each annual meeting at which meeting his report shall be presented in full; special audits shall be made upon the order of the Board of Directors, or upon a majority vote of the members at any regular or special meeting of the Association.

## ARTICLE XVI--AMMENDMENTS

SECTION 1. These by-laws may be amended at the annual meeting of the members of the Association or at any special meeting of the members called for that purpose by the Board of Directors, by a vote representing ~~a majority of the members of the Association,~~ *the statutory requirement.*

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July 2, 1923



## MEMBERS CONTRACT

THIS AGREEMENT, Made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, A. D., 1923, between the cooperative live stock shipping association having its principal place of business at \_\_\_\_\_ S. D., hereinafter called the "association", and the undersigned livestock producer, hereafter called the "member";

WITNESSETH, That in consideration of the promises and the obligations to be performed by the respective parties hereto, it is hereby mutually understood and agreed;

(1) The association shall engage a suitable manager for the handling of livestock marketing, provide cars for shipment, secure a market outlet; and attend to the marketing of the livestock of members, the collection of claims, and disbursement of receipts;

(2) At such times as may be determined by the association the member shall list with the association for the purpose of selling, all livestock produced or acquired by him, except (a) livestock butchered on the farm or sold to local butchers or other private customers not livestock dealers or shippers, (b) stocker and feeder animals sold locally, and (c) purebred or other animals sold for breeding purposes, and shall deliver the same to the association at shipping point upon due notice, *except that the member shall have the privilege of retaining on his farm all livestock which he may wish to retain.*

(3) The member shall notify the manager of the association of the number, kind, class and approximate weight of animals which he has to ship from time to time, or upon request of the manager. Upon notification from the manager of the association of the date upon which shipment will be made, the member shall deliver the livestock as listed to the designated shipping station. No unhealthy livestock shall be received, and such animals as show evidence of being overheated, overfed, or otherwise in bad condition will be received only at the risk of the members. Animals in excess of the number or total weight listed may be received or rejected at the option of the manager of the association.

(4) If the manager of the association is unable to make up a load of livestock for shipment at the time indicated by him, or is unable to provide shipping facilities, the member may, after ten days from date of listing, withdraw his livestock by notifying the manager in writing, and dispose of it other than through the association;

(5) The member shall pay to the association his proportionate share of the expense incurred in making shipments and such other assessments and charges as are or may hereafter be provided in the by-laws of the association, which said by-laws are by this reference made a part of this agreement, and the association may retain such sums so due from the member from any funds then or thereafter in its hands belonging to the member from the sale of his livestock;

(6) It is further expressly agreed and understood, in consideration of the undertaking of the association, and other similar agreements entered into by the members thereof, and in view of the difficulty of ascertainment of the amount of damages caused by breach of this agreement, that in the event of the member failing to list or deliver his livestock as provided herein, he shall pay to the association the sum of Twenty-five (25¢) for each hundred weight of livestock which he fails to list or deliver in accordance with this agreement, which amounts shall be considered and is hereby specifically agreed to be liquidated damages for such failure, and the association is hereby authorized to deduce the amount of such damages from any monies then or thereafter in its hands belonging to the member, or the association may collect same by process of law; provided that if the member shall have listed his livestock as herein provided but shall fail to deliver the same when notified and as a result thereof, a car or cars are shipped to market with less than the minimum weight charged in accordance with the railroad's tariffs, but the member shall later deliver said livestock to the association for sale, then the member shall pay to the association the freight charges upon such unused capacity only;

(7) The member agrees that in the event of a breach by him of any material provision hereof particularly as to delivery, marketing or sale of any marketable livestock other than to the association, the association shall have proper action instituted by it and be entitled to an injunction to perform as well as breach hereof and a decree for specific performance hereof according to the terms of this contract, and the parties hereto agree that this is a contract for the purpose and sale of personal property under special circumstances and conditions and that the association cannot go to the open market and buy livestock to replace any which a member may fail to deliver;

(8) This contract shall be enforced for a period of ten years from the date hereof, but either party may terminate this contract at his option by giving written notice to that effect to the other party not more than thirty days nor less than five days prior to December 31st of any year during which it is in force, provided that if the member elect to so terminate this contract he must first pay to the association any sum due the association from the member.

IN WITNESS WHEREOF, We have set our hands the day and date first above written.

COOPERATIVE LIVESTOCK SHIPPING  
ASSOCIATION OF \_\_\_\_\_  
SOUTH DAKOTA.

By.....

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