

**ARTICLES OF INCORPORATION  
OF  
NEELEY MORGANS, INC.**

**FILED/EFFECTIVE**

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STATE OF IDAHO

BY AGREEMENT made effective the 1st day of April, 2000, the undersigned natural persons over the age of eighteen (18) years, in accordance with the Idaho Business Corporation Act, approve the following Articles of Incorporation:

**ARTICLE 1: NAME**

The name of this Corporation is Neeley Morgans, Inc., and the address of the principal office is 16695 East 5000 North, Newdale, Idaho, 83436.

**ARTICLE 2: DURATION**

The duration of the Corporation shall be perpetual, or until terminated under the terms of this Agreement or by law.

**ARTICLE 3: PURPOSES**

This Corporation is organized to do all things reasonable and proper in farming and ranching and to deal generally therein.

a. This Corporation shall have all rights and powers normally ascribed to and incidental to said basic purpose and to business operations in general including, but not limited to, raising capital and operating monies; entering into, performing and carrying out contracts; entering into joint ventures or limited or general partnerships, and to act as a general partner in one or more limited partnerships; acquiring, by purchase or otherwise, maintaining, developing, improving, financing, mortgaging, selling, renting or exchanging such real property, equipment and other facilities as are needed by the Corporation; and to undertake all business transactions, functions and services ordinary and necessary to the business, as set forth above, or any other lawful business authorized under the laws of this State.

b. This Corporation shall also have as its purpose the pursuit and development of any other business opportunities that relate to its basic purpose, as set forth above.

c. The Corporation may engage in any other lawful activities providing that its Bylaws and/or records reflect proper action permitting such activity.

**ARTICLE 4: AUTHORIZED SHARES**

The aggregate number of shares of common stock which the Corporation shall have authority to issue is ten thousand (10,000), having no par value. Each share shall participate equally in the

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earned surplus and dividends of the Corporation as well as share equally in the distribution of the assets of the Corporation upon dissolution and termination. There shall be one (1) class of common stock.

Such common stock shall be divided into voting common stock and non-voting common stock. Two thousand five hundred (2,500) shares shall be designated as voting common and seven thousand five hundred (7,500) shares designated as non-voting common. As between the voting and non-voting common, the voting rights shall be the sole difference.

#### **ARTICLE 5: REGISTERED OFFICE AND AGENT**

The name of this Corporation's original Registered Agent is Travis L. Bowen, P.C., and the address of the Registered Office is 1906 Jennie Lee Drive, Idaho Falls, Idaho, 83404.

#### **ARTICLE 6: INCORPORATOR**

The name and address of the Incorporator of the Corporation is as follows:

<b><u>NAME</u></b>	<b><u>ADDRESS</u></b>
Owen Judson Neeley	16695 East 5000 North Newdale, Idaho 83436

#### **ARTICLE 7: DIRECTORS AND CUMULATIVE VOTING**

The number of Directors constituting the initial Board of Directors of this Corporation is one (1), and the name and address of the person who is to serve as Director until the first annual meeting of Shareholders or until successors are elected and shall qualify, is:

<b><u>NAME</u></b>	<b><u>ADDRESS</u></b>
Owen Judson Neeley	16695 East 5000 North Newdale, Idaho 83436

Such Director is to be elected by cumulative voting, in that each Shareholder shall be entitled to vote all of his whole or fractional shares cumulatively.

The number of Directors can range from a minimum of the lowest amount allowed by law to a maximum of seven (7).

At each election of Directors, each Shareholder entitled to vote at such elections shall have the right to accumulate his votes and give one candidate a number of votes equal to the number of Directors to be elected, multiplied by the number of votes to which his shares are entitled, or to

distribute his votes on the same principal among as many candidates as he desires. The candidates, up to the number of Directors to be elected, receiving the highest number of votes shall be elected.

## **ARTICLE 8: REGULATION OF INTERNAL AFFAIRS**

The affairs of the Corporation shall be conducted as follows:

a. The majority of the Directors may adopt Bylaws for the Corporation which are consistent with these Articles and the laws of the State of Idaho and may amend, restate and repeal from time to time any Bylaw as provided hereafter.

b. No contract, lease or other transaction between the Corporation and any other corporation, and no other act of the Corporation with relation to any other corporation shall, in the absence of fraud, in any way be invalidated or otherwise affected by the fact that any one or more of the Directors of the Corporation is pecuniarily or otherwise interested in, or are directors or officers of such other corporation. Any Director of the Corporation may vote upon any contract or other transaction between the Corporation and any subsidiary or affiliated Corporation without regard to the fact that he is also a Director of such subsidiary or affiliated Corporation. Any Director of the Corporation, individually, or any firm or association of which any Director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract, lease or other transaction with the Corporation, provided that the fact that he individually, or as a member of such firm or association is such a party to, or is so interested in, any contract, lease or other transaction with the Corporation, shall disclose, or shall have been known, to the Board of Directors or by a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract or transaction shall be taken; and in any case described in this Article, any such Director may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract, lease or other transaction and may vote thereat to authorize any such contract or transaction.

## **ARTICLE 9: SPECIAL REQUIREMENTS FOR DIRECTOR ACTION**

Except with the affirmative vote of not less than fifty-one percent (51%) of the total number of Directors constituting the entire Board, the Board of Directors, or any committee thereof, shall not have the power, or take any action the result of which would be to:

a. Adopt, amend, repeal or alter in any way the Articles of Incorporation or Bylaws of the Corporation;

b. Merge or consolidate or agree to merge or consolidate the Corporation with or into any other corporation or corporations;

c. Liquidate, reorganize or recapitalize the Corporation or adopt any plan to do so;

d. Issue or sell any shares of capital stock of the Corporation, or any options or rights to purchase any shares of capital stock of the Corporation, whether or not such shares have been previously issued; and

e. Declare or pay any dividends on, or make any other distributions upon or in respect of, or purchase, retire or retain any shares of the capital stock of the Corporation, or set aside any funds for such purposes.

#### **ARTICLE 10: SHAREHOLDER VOTE REQUIREMENT**

The affirmative vote of holders of fifty-one percent (51%) of the outstanding shares entitled to vote shall be necessary for the following corporate action:

- a. Amendment to the Articles of Incorporation or Bylaws of the Corporation;
- b. Merger, reorganization or consolidation of the Corporation;
- c. Reduction or increase of the stated capital of the Corporation;
- d. Reduction or increase in the number of authorized shares of the Corporation;
- e. Sale, lease or exchange of the major portion of the property or assets of the Corporation; or
- f. Dissolution or liquidation of the Corporation.

#### **ARTICLE 11: RESTRICTIONS ON TRANSFER OF STOCK**

If (a) any two (2) or more Shareholders or Subscribers owning stock of the Corporation enter into any agreement abridging, limiting or restricting the rights of any one (1) or more of them to sell, assign, transfer, mortgage, pledge, hypothecate or transfer on the books of the Corporation, any or all of the stock of the Corporation held by them, and if a copy of said agreement shall be filed with the Corporation, or if (b) the Shareholders entitled to vote shall adopt any Bylaw provision abridging, limiting or restricting the aforesaid rights of any Shareholders, then and in either of such events, all certificates of shares of stock subject to such abridgments, limitations or restrictions shall have a reference thereto endorsed thereon by an Officer of the Corporation and such stock shall not thereafter be transferred on the books of the Corporation except in accordance herewith, or with the terms and provisions of such agreement or Bylaws, as the case may be.

#### **ARTICLE 12: PRE-EMPTIVE RIGHTS**

The authorized and treasury stock of this Corporation may be issued at such time, upon such terms and conditions, and for such consideration as the Board of Directors shall determine.

Shareholders shall have pre-emptive rights to acquire unissued shares of this Corporation in the manner and subject to the limitations prescribed by this Article, and not otherwise. Before the Board of Directors shall issue any unissued shares of this Corporation, authorized in these Articles or by later amendment, it shall notify each Shareholder of the proposed issuance of the terms and conditions under which the shares are proposed to be issued. For a period of thirty (30) days after the giving of such notice, any Shareholder shall have the rights, on the same terms and conditions as is stated in the notice, to acquire such portion of the shares proposed to be issued as the shares held by such Shareholder bears to the total shares issued and outstanding at the time such notice is given, such right to be exercised by giving notice of such election to the Corporation at its registered office. If any Shareholder does not give notice of his election to acquire such shares within such thirty (30) day period, the shares may be issued to others, but only on terms and conditions no more favorable than the terms and conditions stated in the notice to the Shareholders. Except as provided for above, no other pre-emptive rights shall vest in any Shareholder.

### **ARTICLE 13: LIMITATION OF LIABILITY AND INDEMNIFICATION**

Directors of the Corporation shall have no personal liability whatsoever to the Corporation or its Shareholders for monetary damages for breach of fiduciary duty, except liability:

- a. For any breach of the Director's duty of loyalty to the Corporation or its Shareholders;
- b. For acts or omissions by the Director not in good faith or which involve intentional misconduct or a knowing violation of the law;
- c. For actions under Idaho Code Section 30-1-48 or its successor provisions; or
- d. For any transaction from which the Director derived an improper personal benefit.

The Corporation shall have the power to indemnify, to the maximum extent permitted by law, by express provision in its Bylaws, by agreement or by majority vote of either its Shareholders or disinterested Directors, present or former Shareholders, Directors and/or Officers, agents, and/or employees of the Corporation.

### **ARTICLE 14: NONASSESSIBILITY**

Shares of the Corporation shall not be subject to assessment for payment of debts of the Corporation.

### **ARTICLE 15: RIGHT TO AMEND**

The Corporation reserves the right to amend, alter, change or repeal any provision of these Articles, in the manner now or hereafter prescribed by law, and by these Articles; and all rights and powers conferred herein on Shareholders and Directors are subject to this reserved power.

## ARTICLE 16: WAIVER OF CONFLICT OF INTEREST

The parties to this Agreement acknowledge that this Agreement has been prepared by the Law Offices of Travis L. Bowen, P.C. (hereinafter referred to as the "Law Firm") on behalf of the parties hereto. There is an inherent potential for conflicts of interest among the parties to this Agreement because this Agreement establishes the rights and obligations of each of the parties to this Agreement. Due to such potential conflicts of interest, the Law Firm has advised and hereby advises each of the parties that it would be in their best interest to obtain the services of their own independent legal counsel to review this document. Notwithstanding the fact that the Law Firm has prepared this Agreement and has provided legal advice to one or more of the parties in preparation of this Agreement and in related matters, the parties hereby waive, as evidenced by the execution of this Agreement, any potential conflicts of interest that may arise as a result of the above actions by the Law Firm, whether or not one or more of the parties to this Agreement may have consulted with separate legal counsel concerning this Agreement.

IN WITNESS WHEREOF, the undersigned have hereunto executed this Agreement this 3 day of May, 2000.

### INCORPORATOR:

  
Owen Judson Neeley

### CONSENT OF REGISTERED AGENT

I hereby consent to appointment as the initial Registered Agent of Neeley Morgans, Inc.

  
TRAVIS L. BOWEN, P.C.

Travis L. Bowen, President