

Schedule I

Heritage Co-op 1997 Ltd.

By-laws

Approved by Board Jan 27, 2000

Approved at April 6, 2000 AGM

Revised April, 2011
Revised April, 2017
Revised April 2022

By-laws

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By-laws

1. Interpretation

1.01 Definitions [Section 1]

(a) In the by-laws of the Cooperative, unless the context otherwise requires:

“*Act*” means *The Cooperatives Act*, and any statute that may be substituted for it, as amended from time to time;

“articles” has the meaning specified in the *Act*;

“board” means the board of directors of the Cooperative;

“by-laws” means these by-laws and all amendments, additions, deletions or replacements from time to time in force and effect;

“Cooperative” means Heritage Co-op 1997 Ltd.;

“entity” means a body corporate, a trust, a partnership, a fund, or an unincorporated organization;

“meeting of members” means an annual meeting of members or a special meeting of members;

“member” means a person having rights through a membership interest in the Cooperative in accordance with the *Act*, articles and by-laws;

“ordinary resolution” means a resolution passed at a meeting of members or of the board by a majority of the votes cast by or on behalf of the persons who are entitled to vote in respect of the resolution;

“patronage return” means an amount that, under the *Act*, is allocated among and credited or paid by the Cooperative to its members, based upon the business done by each member with the Cooperative;

“person” means an individual or an entity and includes a legal representative;

“recorded address” means:

(i) in the case of a member, the address of the member as recorded in the members’ register; and

- (ii) in the case of a director, officer, auditor or member of a committee of the board, the latest address of the person as recorded in the records of the Cooperative; and
- (iii) in the case of joint members, the address appearing in the members' register in respect of the joint membership or the first address so appearing if there is more than one;

“regulations” means regulations prescribed under the *Act*;

“special resolution” means a resolution passed at a meeting of the members or of the board by 2/3 of the votes cast by or on behalf of the persons who are entitled to vote in respect of the resolution;

“surplus” means net savings before provision for income tax and before patronage returns;

“trading area” means the geographic area or areas in which the Cooperative carries on its business activities.

- (b) Words and expressions defined in the *Act* have the same meanings when used in these by-laws.
- (c) Words expressing the singular number include the plural and vice versa; words expressing gender include the masculine, feminine and neuter genders.
- (d) If the by-laws and the *Act* conflict or are inconsistent, the *Act* governs.

2. Business of the Cooperative

2.01 Registered Office [Sections 9(1), 10(3) and 27]

- (a) The registered office of the Cooperative is at the place in Manitoba specified in the articles.
- (b) The Cooperative, by special resolution of its members, may change the location of its registered office to another place in Manitoba.
- (c) The board may change the address of the registered office within the place specified in the articles or a special resolution of the members.

2.02 Corporate Seal [Section 31]

The corporate seal, if any, of the Cooperative is in the form determined by the board.

2.03 Financial Year

The financial year of the Cooperative ends on the date fixed by the board.

2.04 Execution of Instruments

Deeds, transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Cooperative by the person(s) designated from time to time by the board.

2.05 Financing Arrangements

- (a) The financial business of the Cooperative including, but not limited to, borrowing money and giving security for it, shall be transacted with credit unions, credit union centrals, banks, trust companies or other bodies corporate or organizations the board designates from time to time.
- (b) The Cooperative will transact its financial business or any part of it under agreements, instructions and delegations of powers that the board specifies or authorizes from time to time.

2.06 Information Available to Members [Sections 28 and 29]

- (a) Members of the Cooperative, their agents and legal representatives, and the Registrar may examine the following records of the Cooperative during the usual business hours of the Cooperative:
 - (i) its articles and by-laws, and all amendments to them;
 - (ii) the minutes of meetings and resolutions of its members;
- (b) The rules relating to providing copies of records to members and creditors are those specified in the *Act*.

3. Borrowing

3.01 Borrowing Power [Section 74]

- (a) Without limiting the borrowing powers of the Cooperative as specified in the *Act*, the board may from time to time:
 - (i) borrow money upon the credit of the Cooperative;
 - (ii) issue, re-issue, sell or pledge debt obligations of the Cooperative; and
 - (iii) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Cooperative, owned or subsequently acquired, to secure any debt obligation of the Cooperative.

- (b) Nothing in this section limits or restricts the borrowing of money by the Cooperative on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Cooperative.

3.02 Delegation of Borrowing Power [Section 202]

The board may delegate to one or more of the directors and officers of the Cooperative all or any of its borrowing powers to the extent and in the manner that the board determines is appropriate at the time of each delegation.

4. **Directors** [Sections 177-217]

4.01 Number of Directors [Section 178]

The board shall establish, by resolution, within the minimum and the maximum number stated in the articles, the number of directors required to constitute a full board.

4.02 Personal Qualifications [Section 184]

No person shall be a director if that person:

- (a) is not an individual;
- (b) is less than 18 years of age;
- (c) is of unsound mind and has been so found by a court in Canada or elsewhere;
- (d) is bankrupt;
- (e) is an employee of the Cooperative or a commission operator under contract with the Cooperative; or
- (f) has an account with the Cooperative that is more than 120 days in arrears.
- (g) Is an individual who is related to an employee of the Cooperative in any of the following ways:
 - (i) Spouse;
 - (ii) Person living in an arrangement equivalent to spouse;
- (h) Has been an employee, tenant or contractor for the Cooperative within the past 24 months;
- (i) has brought court action against the Cooperative or is an individual who is related to anyone that has brought court action against the Cooperative, in any of the ways listed in (g); or

- (j) is an owner or employee of any business offering products or services in significant competition with Heritage Co-op.

4.03 Further Qualifications [Section 184]

No person shall be a director unless that person or an entity of which that person is an officer, director, or member:

- (a) was a member of the Cooperative at the record date as defined in 10.04.
- (b) as a member purchased goods or services, or a combination of both, from the Cooperative during the last financial year of the Cooperative, worth the collective amount of at least \$2,500.00; and
- (c) supports the affairs of the Cooperative and complies with the by-laws.

4.04 Nominating Committee

- (a) Before director elections are held, the board will appoint a nominating committee, composed of two or more directors whose terms of office do not expire at the next meeting of the members, and other members of the Cooperative that the board, in its discretion, choose to appoint.
- (b) Except as set out in these by-laws, the procedures of the nominating committee are those determined from time to time by the board.

4.05 Nominating Procedure

- (a) All nominations must be made through the nominating committee.
- (b) Members who wish to be nominated for the position of director of the Co-operative must deliver nomination papers to the nominating committee at least 14 days before the meeting of the members at which directors' terms of office expire.
- (c) All nomination papers submitted to the nominating committee must
 - (i) be signed by at least two members other than the nominee;
 - (ii) be accompanied by a brief biography of the nominee; and
 - (iii) contain the written consent of the nominee
- (d) At each meeting of members when directors terms of office expire, the nominating committee will place before the meeting a list of nominees for the position of director.
- (e) Only members who have complied with (a), (b), and (c) are entitled to run for the position of director.

- (f) All nominees must meet the qualifications under section 4.02 to become a Director for Heritage Co-op 1997 Ltd.

4.06 Voting Procedure

- (a) At each annual meeting of members when directors' terms of office expire, members shall elect directors to replace those whose terms have expired. [Section 186(1)]
- (b) Directors shall be elected by secret ballot if the number of nominees in an election for directors exceeds the number of directors to be elected at the election. [Section 187(1)]
- (c) If the number of candidates is equal to the number of directors to be elected, those nominated candidates are declared elected and the Cooperative will not require members to cast ballots. [Section 187(1)]
- (d) The candidate who receives the greatest number of votes in the election is elected a director and the other candidates who receive, in descending order, the next greatest number of votes are also elected director, until the number of directors to be elected has been elected. [Section 187(3)]
- (e) If the candidates are to be elected for different terms of office, the candidate who receives the greatest number of votes in the election is elected for the longest term and the other candidates who receive, in descending order, the next greatest number of votes are elected to the longest remaining terms to be filled, until the number of directors to be elected have been elected. [Section 187(6)]
- (f) If candidates are to be elected for different terms of office and the members have not been required to cast ballots due to the application of paragraph (c), the directors whose terms of office do not expire at or before the end of the meeting of members at which the election is to be held, will announce which of the candidates are to be elected for the longest terms.
- (g) Where directors are to be elected for different terms, if two or more candidates receive an equal number of votes for the last position of a particular term, the chair of the meeting of members shall arrange, if it is practical to do so, for a run-off election to be held by secret ballot at that meeting to decide which of the candidates is to be elected for the particular term. [Section 187(7)]
- (h) If two or more candidates receive an equal number of votes for the last vacancy on the board and it is not practical to hold a run-off election at the meeting of members:
 - (i) the directors who have already been elected in the election; and

- (ii) the directors whose terms of office do not end at or before the end of the meeting of members at which the election is held

will determine which of the tied candidates is to be elected. [Section 187(5)]

- (i) A ballot that is cast for more than the number of directors to be elected is null and void.

[Section 187(2)]

4.07 Term of Office

- (a) Except as set out in (b) and (c), a director elected to replace one whose term of office has expired holds office until the close of the third annual meeting of members after the one at which that director's election is first announced. [Sections 186(1) and 186(2)]
- (b) A director appointed or elected to fill a vacancy holds office for the unexpired term of the predecessor in office.
- (c) The Cooperative, by ordinary resolution at an annual meeting of members and before elections are held at that meeting, may provide for directors' terms of office that are shorter than those provided in (a).

4.08 Re-election of Retiring Directors

Retiring directors, if qualified, are eligible for re-election.

4.09 Scrutineers

- (a) The board will appoint three or more scrutineers, who are not nominees for the position of director, to ascertain the results of director elections.
- (b) The scrutineers will declare the results of director elections for the office of director.

4.10 Removal of Directors [Section 191(1)]

Subject to the *Act*, the members, by ordinary resolution at a special meeting of members, may remove a director from office.

4.11 Ceasing to Hold Office [Section 190]

A director ceases to hold office when the director:

- (a) dies or resigns;

- (b) is removed from office by ordinary resolution at a special meeting of members;
or
- (c) becomes disqualified from being a director.

4.12 Vacancies [Sections 194 and 198(2)]

- (a) If there is a vacancy on the board and there is still a quorum of the board in office, the board is entitled to:
 - (i) continue to function without filling the vacancy; or
 - (ii) appoint a director to fill the vacancy, unless the circumstances specified in (b) have arisen;
- (b) The board is not entitled to fill a vacancy on the board that is caused by either:
 - (i) an increase in the number of directors; or
 - (ii) a failure to elect the minimum number of directors required by the articles.
- (c) If:
 - (i) there is a vacancy on the board and no quorum of the board in office; or
 - (ii) the circumstances in (b) have arisen,the directors then in office must:
 - (iii) call a special meeting of members to fill the vacancy; and
 - (iv) determine the nomination and election procedures that will apply to the process of filling the vacancy.
- (d) If the board fails to call a special meeting of members or, if there are no directors then in office, any member may call for the special meeting of members to elect directors.

4.13 Quorum [Section 198(1)]

A quorum of the board is a majority of the number of directors that the board has established, pursuant to 4.01, as the number required to constitute a full board.

4.14 Board's Transaction of Business

- (a) The board may exercise its powers by: **[Section 204(1)]**
 - (i) ordinary resolution passed at a board meeting at which a quorum is present;
 - (ii) where these by-laws or the *Act* require a special resolution of the board, by a special resolution passed at a board meeting at which a quorum is present; or
 - (iii) written resolution, signed by all the directors entitled to vote on that resolution at a board meeting.
- (b) A written board resolution, signed by all directors entitled to vote on that resolution at a board meeting: **[Sections 204(1) and 204(2)]**
 - (i) is valid as either an ordinary resolution or a special resolution;
 - (ii) is effective from the date specified in the written resolution, but that date shall not be before the day on which the first director to sign the resolution signed it; and
 - (iii) must be kept with the minutes of the proceedings of the board.
- (c) Where there is an equality of votes in an ordinary resolution at a board meeting, the motion is lost; neither the chair of the meeting nor the president is entitled to a second or casting vote.
- (d) If there is a vacancy on the board, the remaining directors may exercise all the powers of the board as long as a quorum remains on the board. **[Sections 194(1) and 198(2)]**

4.15 Electronic Attendance **[Section 201]**

A director may attend a board meeting by means of a telephonic, electronic or other communication facility if the facility permits all persons participating in the meeting to communicate adequately with each other during the meeting, and a director participating in a meeting by these means is deemed to be present at the meeting.

4.16 Time and Place of Meetings **[Section 197]**

The board may meet at the time and place in Canada that the board determines is appropriate, and if the board does not determine the time and place, the president or any two directors may make that determination.

4.17 Notice of Meeting

- (a) Except as otherwise provided in these by-laws, notice of the time and place of each board meeting must be given to each director: **[Section 197]**
 - (i) at least five days before the board meeting is to be held, if the notice is delivered personally to each director or by transmitted, electronic or recorded communication; or
 - (ii) at least ten days before the board meeting is to be held if the notice is given by any other method.
- (b) In case of an emergency, the president or the vice-president is entitled to call a special board meeting by giving each director at least 48 hours' notice by transmitted, electronic, or recorded communication.
- (c) A notice of a board meeting need not specify the purpose of, or the business to be transacted at, the meeting unless the meeting is called to deal with an emergency or unless the meeting involves: **[Sections 200(1) and 257]**
 - (i) submitting to the members any question or matter requiring approval of the members;
 - (ii) filling a vacancy among the directors;
 - (iii) filling a vacancy in the office of auditor;
 - (iv) issuing securities;
 - (v) declaring patronage returns or dividends on shares;
 - (vi) purchasing, redeeming or otherwise acquiring shares issued by the Cooperative;
 - (vii) approving any financial statement of the Cooperative of the kind referred to in section 257 of the *Act*;
 - (viii) enacting, amending or repealing by-laws; or
 - (ix) making decisions that by the *Act* or the articles are required to be made by a vote of greater than a majority of the directors.
- (d) Notice of an adjourned board meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.
- (e) A director may, in any manner, waive notice of or otherwise consent to a board meeting. **[Section 381]**

4.18 Meeting of New Board [Section 200(3)]

If a quorum of directors is present, each newly elected board, without notice, may hold its first board meeting immediately after the meeting of members at which the board is elected.

4.19 Regular Meetings

- (a) The board may appoint a day or days in any month or months for regular board meetings at places and hours to be determined by the board.
- (b) A copy of any resolution of the board fixing the places and times of regular board meetings must be sent to each director immediately after being passed, and no other notice is required for any regular board meeting, except where the *Act* requires the purpose of the meeting or the business to be transacted at it to be specified in the notice.

4.20 Chair

- (a) Subject to (b), (c) and (d), the chair of any board meeting is the president.
- (b) If the president is absent from the board meeting, the directors present shall appoint a vice-president who is a director to be chair.
- (c) If neither the president nor a vice-president is present at a board meeting, the directors present shall appoint one of their number to be chair.
- (d) The president, although present at a board meeting, may designate one of the directors present to chair all or a portion of any board meeting.

4.21 Conflict of Interest [Sections 207-210]

The rules relating to directors' conflicts of interest are those specified in the *Act*.

4.22 Remuneration and Expenses [Section 216]

- (a) The directors shall be paid remuneration for their services at the rates the members determine from time to time by ordinary resolution at a meeting of members.
- (b) The Cooperative shall reimburse the directors for travelling and other expenses they have properly incurred in attending meetings of the board and committees of the board and for performing other functions authorized from time to time by the board.

5. Committees and Officers

5.01 Committee of Directors [Section 202]

The board may appoint committees of directors, however designated, and delegate to them any of the board's powers except those that, under the *Act*, the board is prohibited from delegating.

5.02 Quorum and Procedure [Section 198(1)]

Unless the board determines otherwise, each committee has the power to fix its quorum at not less than a majority of the committee members, to elect its chair, and to regulate its procedure.

5.03 Committees' Transaction of Business [Section 204]

- (a) A committee of the board may exercise its powers by:
 - (i) ordinary resolution passed at a committee meeting at which a quorum is present;
 - (ii) where these by-laws or the *Act* require a special resolution of a committee of the board, by a special resolution passed at a committee meeting at which a quorum is present; or
 - (iii) written resolution signed by all the committee members entitled to vote on that resolution at a committee meeting.
- (b) A written resolution of a committee of the board:
 - (i) is valid as either an ordinary resolution or a special resolution;
 - (ii) is effective from the date specified in the written resolution, but that date shall not be before the day on which the first committee member to sign the resolution signed it; and
 - (iii) must be kept with the minutes of the proceedings of the committee.
- (c) Where there is an equality of votes in an ordinary resolution at a board committee meeting, the motion is lost; the chair of the meeting is not entitled to a second or casting vote.
- (d) If there is a vacancy on a committee, the remaining committee members may exercise all the powers of the committee as long as a quorum of the committee remains in office.

5.04 Advisory Committee

The board may appoint other committees, composed of directors and non-directors, as it deems advisable, but the functions of these other committees is only to advise the board.

5.05 Appointment, Powers and Duties of Officers [Section 211]

- (a) The board shall appoint, from among the directors, a president and one or more vice-presidents.
- (b) The board may appoint a secretary, a treasurer and other officers that the board determines are necessary.
- (c) Except for the president and vice-presidents, the officers may, but need not, be directors of the Cooperative.
- (d) One person may hold more than one office.
- (e) The board shall specify the powers and duties of the officers appointed, except that the board will not delegate any powers to the officers that, under the *Act*, the board is prohibited from delegating.

5.06 Variations of Powers and Duties [Section 202]

Subject to the *Act*, the board may vary, add to, or limit the powers, duties and responsibilities of any committee or officer.

5.07 Term of Office and Remuneration [Section 216]

- (a) The board shall determine the term of office and the remuneration of any officer it appoints.
- (b) Each officer appointed by the board holds office until the officer's successor is appointed, but the board, in its discretion, may remove any officer of the Cooperative without prejudice to that officer's rights under any employment contract.

5.08 Conflict of Interest [Sections 207-210]

The rules relating to officers' conflicts of interest are those specified in the *Act*.

5.09 Agents and Attorneys

The board may appoint agents or attorneys for the Cooperative in or outside Canada with powers of management or otherwise, including the power to sub-delegate, as the board determines appropriate.

5.10 Fidelity Bonds

The board may require the Cooperative's officers, employees and agents, as the board determines appropriate, to furnish bonds for the faithful discharge of their powers and duties, in the form and with the surety that the board, from time to time, determines appropriate.

6. Duty of Care and Protection of Directors, Officers and Others

6.01 Duty of Care of Directors and Officers [Section 212(1)]

Directors and officers of the Cooperative, in exercising their powers and discharging their duties, must:

- (a) act honestly and in good faith with a view to the best interests of the Cooperative; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

6.02 No Exculpation [Section 213(3)]

No provision in a contract, the articles, the by-laws, or a resolution of the board or the members relieves directors or officers from the duty to act in accordance with the *Act* and the regulations, or relieves them from liability for any non-compliance with the *Act* or the regulations.

6.03 Optional Indemnity [Section 214(1)]

The Cooperative may indemnify:

- (a) an individual who is or was a director or officer of the Cooperative,
- (b) an individual who acts or acted at the Cooperative's request as a director or officer of a body corporate of which the Cooperative is or was a member, shareholder or creditor, and
- (c) the heirs and legal representatives of anyone listed in (a) or (b),

against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment reasonably incurred by the individual in respect of any civil, criminal or administrative action or proceeding (except an action or proceeding brought by or on behalf of the Cooperative or the body corporate to procure a judgment in its favour) to which the individual is made a party because of being or having been a director or officer of the Cooperative or that body corporate, if:

- (d) the individual acted honestly and in good faith with a view to the best interests of the Cooperative or the body corporate of which the individual was a director or officer; and
- (e) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.

6.04 Mandatory Indemnity [Section 214(4)]

The Cooperative must indemnify an individual referred to in 6.03 who has been substantially successful in the defence of any civil, criminal or administrative action or proceeding to which the individual is made a party because of being or having been a director or officer of the Cooperative, or of a body corporate of which the Cooperative is or was a member, shareholder or creditor, against all costs, charges and expenses reasonably incurred by the individual in respect of the action or proceeding.

6.05 Derivative Actions and Cost Advances [Sections 214(2) and 214(3)]

The Cooperative, in accordance with and as specified in the *Act*, may advance moneys for costs or indemnify an individual referred to in 6.03 in respect of an action to procure a judgment in favour of the Cooperative.

6.06 Insurance [Section 214(5)]

Subject to the *Act*, the Cooperative may purchase and maintain insurance for the benefit of any individual referred to in 6.03 in amounts the board, from time to time, determines is appropriate.

6.07 Dissent [Section 213]

- (a) A director who votes for or consents to a resolution or action is not entitled to dissent from the resolution or action.
- (b) A director who is present at a meeting of the board or a committee of the board is deemed to have consented to any resolution passed or action taken at the meeting unless:
 - (i) the director's dissent from the resolution or action is entered in the minutes of the meeting or the director requests that the dissent be entered in the minutes;
 - (ii) the director sends a written dissent from the resolution or action to the secretary of the meeting before the meeting is adjourned; or

- (iii) the director sends a written dissent from the resolution or action by registered mail or delivers it to the registered office of the Cooperative immediately after the meeting is adjourned.
- (c) A director who was not present at a meeting of the board or a committee of the board at which a resolution was passed or action taken is deemed to have consented to the resolution or action taken unless, within seven days after becoming aware of the resolution or action, the director:
 - (i) causes the director's dissent in writing from the resolution or action to be placed with the minutes of the meeting; or
 - (ii) sends the director's dissent in writing from the resolution or action by registered mail or delivers it to the registered office of the Cooperative.

7. Shares, Memberships and Transfers

7.01 Open Membership [Sections 4(1)(a) and 218]

Subject to the qualifications in 7.02, membership in the Cooperative is open to all persons who can reasonably use the services of the Cooperative and meet the responsibilities of membership.

7.02 Effective Date of Membership [Section 219(4)]

If all of the conditions of membership, as set out in the articles, are met within six months after the day on which the Cooperative receives the membership application, the membership is effective on the day on which the application is approved.

7.03 No Share Certificate to be Issued

- (a) The Cooperative is not required to issue membership share certificates. [Section 101]
- (b) The Cooperative must prepare and maintain, at its registered office, a members' register, setting out the names, alphabetically arranged, and the latest known addresses of its members, and the number of membership shares and other securities, if any, of the Cooperative owned by each member. [Sections 28(1) and 101(1)]
- (c) If requested in writing by a member, the Cooperative shall provide a statement to that member showing the interest of that member in the Cooperative, including the number of shares held by that member. [Section 101]

7.04 Duty of Members

- (a) A member must faithfully support and promote the business and affairs of the Cooperative.

- (b) A member is bound by the by-laws and policies of the Cooperative, as amended from time to time, as if they formed a contract between the member and the Cooperative. [Section 220]

7.05 Deceased Shareholders [Sections 108 and 109]

If an individual who holds a membership share or, with another person, is a joint holder of a membership share, dies, the Cooperative is not required to make any entry in the members' register, or any payment in respect of the death until all the documents required by law have been provided to the Cooperative and there has been compliance with the reasonable requirements of the Cooperative.

7.06 Lien for Indebtedness

- (a) The Cooperative has a lien on any membership share of the Cooperative that is registered in the name of a member or the member's legal representative, and on any other interest of a member in the property of the Cooperative and on any sum payable by the Cooperative to the member, for any debt of that member to the Cooperative. [Section 72(1)]
- (b) The Cooperative may enforce the lien specified in (a) by the sale of any membership share affected by the lien or by any other action, suit, remedy or proceeding authorized or permitted by law or by equity. [Section 73]
- (c) Pending enforcement of the lien specified in (a), the Cooperative may refuse to register a transfer, or acknowledge any assignment, of any membership share or any other interest or any sum payable affected by the lien.

7.07 Dealings with Registered Owner [Section 103]

Subject to the *Act*, the Cooperative shall treat as absolute owner of any membership share, membership, or other interest in the Cooperative the person in whose name it is registered or recorded in the members' register or other records of the Cooperative, as if that person had full legal capacity and authority to exercise all rights of ownership, despite any indication to the contrary through knowledge, notice, or description in the Cooperative's records.

7.08 Withdrawal of Members [Section 245]

- (a) A member may apply to withdraw from membership in the Cooperative by giving to the secretary of the Cooperative at least six months' notice of the intention to withdraw.
- (b) The board may accept any application for withdrawal upon shorter notice than six months if the board determines it is appropriate.

- (c) Subject to 8.05, notice to the Cooperative of the death or bankruptcy of an individual member has the same force and effect as a notice of intention to withdraw.
- (d) Notice to the Cooperative of bankruptcy or liquidation and dissolution proceedings in respect of a corporate member of the Cooperative has the same force and effect as a notice of intention to withdraw.

7.09 Board's Termination of Membership – Reasons [Section 244(1)]

The board, by special resolution, and following the procedures specified in 7.10, may terminate the membership of a member if:

- (a) that member has failed to transact any business with the Cooperative over a period of at least two consecutive years; or
- (b) the board, acting reasonably, considers that member's conduct to be detrimental to the welfare of the Cooperative.

7.10 Board's Termination of Membership - Procedure [Section 244(2)]

- (a) If termination of a membership is to be considered at a board meeting, the secretary must give to:

- (i) the directors; and
- (ii) the member involved,

at least seven days' written notice of the meeting at which the termination resolution is to be considered and a statement of the grounds on which it is proposed that the membership be terminated.

- (b) The member whose membership the board is considering for termination is entitled to appear, personally, or by or with an agent or counsel, to make submissions at the board meeting at which the membership termination will be considered.

7.11 Notice of Board Decision [Section 244(3)]

Within seven days after the date on which the board makes its decision on whether to terminate the membership of a member, the Cooperative must give written notice of its decision to the person whose membership has been terminated.

7.12 Right to Appeal to Members [Section 244(4)]

A person whose membership the board has terminated may appeal the decision to the next meeting of members by sending a notice of appeal to the Cooperative within 14 days after the notice specified in 7.11 was given to the person.

7.13 Decision of the Members on Appeal [Section 244(5)]

The meeting of members of the Cooperative to which an appeal under 7.12 is brought shall confirm or set aside, by ordinary resolution, the board resolution, and there is no further appeal in the matter.

7.14 Members' Termination of Membership [Section 244(6)]

A meeting of members, by special resolution, may terminate the membership of a member.

7.15 Payment upon Termination, Withdrawal or Other Cessation of Membership

Where the membership of a member of the Cooperative is terminated, or a member withdraws from membership in the Cooperative, or a membership otherwise ceases, the Cooperative shall:

- (a) not later than one year after the day of termination, withdrawal or cessation, repurchase and redeem all the membership shares held by the member, other than shares purchased on behalf of the member by the application of patronage returns credited to the member, unless the Cooperative would not be permitted to repurchase and redeem the shares because of the limitations specified in 7.16; and [Section 246(1)]
- (b) upon termination, withdrawal, or cessation, repurchase and redeem all the membership shares held by the member that were purchased on behalf of the member by the application of patronage returns credited to the member, subject to and in accordance with the priorities specified in 9.07. [Section 246(3)]

7.16 Limitation on Purchase or Redemption [Section 66(1)]

The Cooperative shall not make any payments to acquire or redeem a share if there are reasonable grounds to believe that:

- (a) it is, or after the payment would be, unable to pay its liabilities as they become due; or
- (b) the realizable value of its assets, after the payment, would be less than the total of:
 - (i) its liabilities; and
 - (ii) the amount that would be required to be paid to the holders of shares that have a right to be paid, on a redemption or liquidation, rateably with or in priority to the holders of the shares to be repurchased or redeemed.

7.17 Price upon Withdrawal, Termination or Other Cessation of Membership [Section 246(2)]

The price of a share repurchased by the Cooperative under 7.15(a) shall be its par value, unless the capital of the Cooperative has been impaired, in which case the board is entitled to fix the price at an amount below the par value that the board, in its entire discretion, considers consistent with the impairment of capital.

8. Joint Membership

8.01 Joint Membership

Two or more persons may apply to be joint holders of a membership in the Cooperative.

8.02 Statements of Interest and Notices [Section 95(3)]

If two or more persons are registered as joint holders of a membership in the Cooperative:

- (a) any statement showing the interest of joint members is sufficient if given, in the manner specified in 11.01, to only one of the joint holders; and
- (b) any notice to the joint holders of the membership is sufficient if given, in the manner specified in 11.01, to only one of the joint holders.

8.03 Business Done by Joint Holder

The business that one joint holder of a membership does with the Cooperative in a financial year is deemed to be business that the joint membership has done with the Cooperative in that year.

8.04 Voting [Section 235(3)]

- (a) Each joint membership has one vote.
- (b) The signature, on a written resolution, of any one of the persons who are joint holders of a membership is sufficient signature for all of the joint holders of that membership.

8.05 Withdrawal of Membership [Section 245]

- (a) An application for withdrawal by a joint membership must be in writing and signed by all surviving holders of the joint membership.
- (b) If the Cooperative receives proof satisfactory to it that any one joint holder of a membership has died, it may treat the surviving joint holder(s) as the holder(s) of the membership.

- (c) The death of one of the joint holders of a membership does not have the same effect as notice of withdrawal.

8.06 Director

Only one of the joint holders of a membership is entitled to be a director of the Cooperative at any one time unless that holder or another of those holders:

- (a) is a member in his or her own right; or
- (b) has been authorized to represent another entity that is a member.

9. Allocation of Revenues

9.01 General Reserve Fund [Section 52]

The Cooperative must transfer to its general reserve fund in each financial year a minimum of 10% of its surplus in that financial year.

9.02 Deficits and Return on Capital [Section 52]

- (a) After the Cooperative has transferred the required amounts to the general reserve fund as specified in 9.01, but before it distributes any patronage return to its members, the Cooperative must use the remainder of its surplus to first retire all or a portion of the Cooperative's deficits previously incurred as the board determines is appropriate.
- (b) After providing for deficits as specified in 9.02(a), the Cooperative may pay, out of the surplus of the Cooperative, interest or dividends on the membership shares at the rate, if any, specified in the articles, but not exceeding the rate prescribed in the regulations.

9.03 Allocation to Members [Section 53]

After providing for the matters specified in 9.01 and 9.02 and for income tax, the Cooperative shall allocate among, and credit to, its members, the surplus for each financial year of the Cooperative, and each member is entitled to a share of that remaining surplus in proportion to the business done by the member with the Cooperative in that financial year as computed by the board, in accordance with 9.04, and at a rate set by the board.

9.04 Computation of Business Done [Section 54]

The board shall compute the amount of business done by a member with the Cooperative in each financial year in relation to:

- (a) the quantity, quality, kind and value of the goods sold by the Cooperative; and

- (b) the services rendered by the Cooperative to the member;

with appropriate differences for the different classes, grades or qualities of the goods and services.

9.05 Patronage Return Applied to Shares

- (a) Subject to (b), in each financial year of the Cooperative, the whole of any patronage return credited to a member shall be applied to purchase on behalf of the member additional membership shares of the Cooperative at par value, up to the highest number of shares that can be fully paid for by the patronage return and the balance of the patronage return shall be applied to the members' credit against the purchase of an additional membership share. [Section 58(1)]
- (b) No member may own more of the issued and outstanding membership shares than specified in the articles. [Section 9(1)(d)(iii)]

9.06 Notice [Section 58(2)]

The Cooperative must notify each member of the number of membership shares of the Cooperative purchased or to be purchased for them, the manner of issuance or transfer to them of the shares and the payment for the shares out of their patronage returns.

9.07 Re-Purchase of Membership Shares by the Cooperative [Section 59]

Subject to 7.16, the Cooperative shall annually repurchase and redeem at least 10% of the membership shares issued to the members by the application of patronage returns credited to the members from the surplus arising in the previous financial year, according to the following priorities:

- (a) to the estates of individual members, notice of whose death the Cooperative has received;
- (b) to individual members who have reached the age of 65 years or, in the case of a joint membership, where the youngest of the individual members has reached the age of 65 years, but the Cooperative will not reduce the number of shares held by that member or joint membership below ten shares;
- (c) to individual members who have permanently moved their residence out of the trading area, or corporate members who have permanently moved their registered office out of the trading area;
- (d) to the remaining members according to one of the following methods:
 - (i) in proportion to the total number of shares held by each member;

- (ii) in proportion to the number of shares purchased on behalf of each member by the application of the patronage return credited to each member from the surplus arising in the previous financial year;
- (iii) in proportion to the number of shares purchased on behalf of each member by the application of the patronage return credited to each member from the surplus arising in the previous financial year where the proportion can vary, as determined by the board, according to the total number of shares held by each member;
- (iv) a combination of (i) and (ii) or a combination of (i) and (iii);

but the Cooperative will not reduce the number of shares held by any member or joint membership below ten shares;

- (e) to members whose membership the Cooperative has terminated or who have withdrawn for other reasons, including, but not limited to:
 - (i) liquidation and dissolution, or receivership, of a member that is an entity; and
 - (ii) bankruptcy of the member.

9.08 Deficits

- (a) If the calculation of surplus, less the provision for income tax, produces a negative amount, this amount shall be the deficit of the Cooperative for that financial year.
- (b) The Cooperative shall carry forward the deficit and deduct it from surpluses accruing in subsequent financial years of the Cooperative, or charge the deficit against the general reserve fund, or charge part of the deficit against the general reserve fund and carry forward the balance, as the board determines appropriate.

10. Meetings of Members

10.01 Annual Meetings

- (a) The board shall call an annual meeting of members not later than 15 months after the preceding annual meeting. [Section 224(a)]
- (b) At each annual meeting of members, the following business will be considered: [Section 228(2)]
 - (i) report of the board;
 - (ii) financial statements;

- (iii) auditor's report;
 - (iv) election of directors;
 - (v) re-appointment of the incumbent auditors;
 - (vi) consideration of policy resolutions; and
 - (vii) any other business authorized by these by-laws to be transacted at an annual meeting of members.
- (c) Any business other than as listed in (b) above is deemed to be special business, but does not require a special resolution of the members unless otherwise stated in these by-laws or in the *Act*. [Section 228(2)]

10.02 Special Meetings [Section 224(b)]

The board may call a special meeting of members at any time.

10.03 Time and Place of Meetings [Section 221(1)]

Meetings of members shall be held at the time and place in Manitoba that the board determines is appropriate.

10.04 Record Date [Section 225(2)]

- (a) The record date for each meeting of members is the 21st day before the meeting of members.
- (b) Only those members whose names have been entered on the members' register by the record date are entitled to vote at the meeting of members.

10.05 Notice of Meetings

- (a) Notice of the date, time and place of each meeting of members shall be given by: [Section 226(1)]
 - (i) advertising on at least two separate occasions at least five days apart, including the day of publication, in a newspaper circulating in the Cooperative's trading area, where the first advertising day of publication is between 14 and 30 days before the meeting; and
 - (ii) posting the notice in each place of business of the Cooperative for at least 21 consecutive days before the scheduled date for the meeting.

- (b) In addition to providing notice of a meeting of members as specified in (a), the Cooperative must also give notice to each director and the auditor. [Section 226(1)]
- (c) A notice of a meeting of members to consider the following regular business need not contain any special reference to that regular business: [Section 228(2)]
 - (i) report of the board;
 - (ii) financial statements;
 - (iii) auditor's report;
 - (iv) confirmation of election of directors;
 - (v) re-appointment of the incumbent auditors;
 - (vi) consideration of policy resolutions; and
 - (vii) any other business authorized by the by-laws to be transacted at an annual meeting of members.
- (d) If a meeting of members has been called for any purpose other than the business listed in (c), the notice of the meeting must state the nature of that business in sufficient detail to permit a member to form a reasoned judgment on the business. [Sections 228(1) and 228(2)]
- (e) If a special resolution is to be considered at a meeting of members, the notice of the meeting must state the text of that special resolution or, if the full text is too lengthy for convenient inclusion in the notice, a summary of the text. [Section 228(1)(b)]
- (f) Failure to receive a notice does not deprive a member of the right to vote at a meeting of members.
- (g) A member may, in any manner, waive notice of or otherwise consent to a meeting of members. [Section 229]

10.06 Chair

- (a) Subject to (b), the board will appoint an individual, who need not be a member, to chair any meeting of members.
- (b) If the board does not appoint an individual to chair the meeting of members, the members present at the meeting shall appoint an individual, who need not be a member, to chair the meeting.

10.07 Secretary

- (a) Subject to (b), the board will appoint an individual, who need not be a member, to act as secretary at any meeting of members.
- (b) If the board does not appoint an individual to act as secretary at the meeting of members, the members present shall appoint an individual, who need not be a member, to act as secretary of the meeting.

10.08 Persons Entitled to be Present

- (a) The only persons entitled to be present at a meeting of members are those entitled to vote at that meeting, the auditor of the Cooperative, and others who are entitled or required under any provision of the *Act*, the articles, or the by-laws to be present at the meeting.
- (b) Any person other than those specified in (a) may be admitted to a meeting of members only on the invitation of the chair or with the consent of the meeting.

10.09 Quorum [Section 233(1)]

A quorum for the transaction of business at any meeting of members is five plus the number of directors constituting a full board, as specified in 4.01.

10.10 Votes to Govern

- (a) At any meeting of members, unless otherwise required by the *Act*, the articles, or these by-laws, every question shall be determined by ordinary resolution.
- (b) In case of an equality of votes, a motion is lost.
- (c) The chair of any meeting of members is not entitled to a second, or casting, vote.

10.11 Show of Hands

- (a) Except as provided in (c), or where a ballot has been demanded by a person entitled to vote at the meeting of members, any question at a meeting of members shall be decided by a show of hands. [Section 236(1)]
- (b) Unless a ballot has been demanded, whenever a vote by show of hands has been taken on a question, the chair of the meeting is entitled to declare that the vote on the question has been carried, or carried by a particular majority, or not carried and an entry to that effect in the minutes of the meeting is prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion or other proceeding in respect of the question, and the result of the vote taken is the decision of the members on the question. [Section 238]

- (c) Directors shall be elected by secret ballot if the nominees in an election for directors exceeds the number of directors to be elected at the election. [Section 187(1)]

10.12 Demand Ballots at a Meeting of Members

- (a) A person present and entitled to vote at a meeting of members may demand that a ballot be taken on any matter under consideration at that meeting. [Section 236(2)]
- (b) A person who is entitled to demand a ballot:
 - (i) must do so at the meeting of members at which the matter is being considered; and
 - (ii) may do so either before or after the vote by show of hands is taken at the meeting of members.
- (c) If a person entitled to vote at a meeting of members demands a ballot, the chair of the meeting will direct the manner in which the ballot will be taken.
- (d) The person who demanded a ballot may withdraw the demand before the vote by ballot is taken and the meeting must comply with that withdrawal.
- (e) If a ballot is taken, the result of the ballot is the decision of the meeting of members on that question.

10.13 Adjournment [Section 227(1)]

- (a) If a meeting of members is adjourned for fewer than 30 days, it is not necessary to give notice of the adjourned meeting, other than by announcement at the meeting that is adjourned.
- (b) If a meeting of members is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting must be given in the same manner as for an original meeting.

10.14 Electronic Attendance

- (a) In accordance with the Act, the regulations, and those procedures, rules, and processes established by the board from time to time, at the discretion of the board:
 - (i) A member may attend a meeting of members by means of an electronic or other communication facility; and
 - (ii) A meeting of members may be held entirely by means of electronic

communication technology.

- (b) If a member participates in a meeting referred to in (a), such member is deemed to be present at the meeting, including for the purposes of quorum.”

11. Notices

11.01 Method of Giving Notice to Members, etc.

- (a) This section applies to any notice (including, but not limited to, any communication or document) to be given, sent, delivered or served according to the *Act*, the regulations, the articles, the by-laws, or otherwise to a member, director, officer, auditor, or a member of a committee of the board. [Section 379(1)]
- (b) Except for notice of meetings of members, the procedure for which is specified in 10.05, any notice is sufficiently given if delivered personally to the person to whom it is to be given or if delivered to the person’s recorded address, or if mailed to the person at the person’s recorded address by prepaid ordinary or air mail, or if sent to the person’s recorded address by means of prepaid electronic means. [Section 379(1)]
- (c) A notice delivered in the manner specified in (b) is deemed to have been given when it is delivered personally or to the recorded address. [Section 379(1)]
- (d) A notice mailed in the manner specified in (b) is presumed to be received at the time the notice would be delivered in the ordinary course of mail unless there are reasonable grounds for believing that the member did not receive the notice at that time or at all. [Section 379(3)]
- (e) A notice may be sent or given electronically if it is sent or given in accordance with the regulations. [Section 379(2)]
- (f) A notice sent or given electronically is presumed to be received at the time the notice is sent electronically.
- (g) The secretary may change or cause to be changed the recorded address of any member, director, officer, auditor or member of a committee of the board in accordance with any information believed by the secretary to be reliable.

11.02 Method of Giving Notices to Cooperative [Section 380]

- (a) A notice required to be sent to or served upon the Cooperative may be sent by registered mail to the registered office of the Cooperative.
- (b) A notice given in the manner specified in (a) is presumed to be received or served at the time it would be delivered in the ordinary course of the mail

unless there are reasonable grounds for believing that the Cooperative did not receive the notice or document at that time or at all.

11.03 Computation of Time

In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving notice shall be excluded and the date of the meeting or other event shall be included.

11.04 Undelivered Notices [Section 379(4)]

If any mailed notice is returned on three consecutive occasions because the intended recipient cannot be found, the Cooperative is not required to give any further notices to that intended recipient until the intended recipient informs the Cooperative in writing of his or her new address.

11.05 Omissions and Errors

The accidental omission to give any notice to any member, director, officer, auditor or member of a committee of the board or the non-receipt of any notice by any such person or any error in any notice not affecting the substance of it does not invalidate any action taken at any meeting held pursuant to that notice or otherwise founded on that notice.

11.06 Persons Entitled by Death or Operation of Law

Every person who, by operation of law, transfer, death of a member, or any other means becomes entitled to any membership share or membership in the Cooperative, is bound by every notice in respect of the membership share or membership in the Cooperative that has been duly given to the member from whom that person derives title to the share or membership before the person's name and address were entered on the members' register (whether the notice was given before or after the happening of the event that entitled that person to the share or membership) and before the person furnished the Cooperative with the proof of authority or evidence of the person's entitlement as specified by the *Act*.

11.07 Waiver of Notice [Section 381]

- (a) Any member, director, officer, auditor or member of a committee of the board may waive any notice or waive or abridge the time for any notice required to be given to him or her under any provision of the *Act*, the regulations, the Articles, the by-laws or otherwise, and the waiver or abridgement cures any default in the giving or in the time of the notice, as the case may be.
- (b) Any waiver or abridgement except a waiver of notice of a meeting of members or of the board must be in writing, and may be given in any manner.

12. Effective Date, Amendment and Repeal

12.01 Amendment, Repeal and Replacement

- (a) The board may enact or amend a by-law of the Cooperative in the manner provided for in the *Act*. [Section 179(2)]
- (b) The members of the Cooperative may enact, amend, repeal, or replace a by-law by ordinary resolution passed at any annual meeting of the members, or any special meeting of the members called for the purpose, but, in each case, only if written notice of the proposed enactment, amendment, repeal or replacement has been provided to the members with the notice of meeting at which the amendment, enactment, repeal or replacement is considered. [Sections 179(1) and 179(5)]
- (c) The notice of the proposed enactment, amendment, repeal or replacement of by-laws required in (b) must state the text of the resolution that contains the proposed enactment, amendment, repeal or replacement, or, if the full text is too lengthy to conveniently include in the notice, a summary of the text.

12.02 Effective Date [Section 180]

- (a) A by-law or an amendment of a by-law enacted by the board is effective from:
 - (i) the day the resolution is passed by the board; or
 - (ii) the day specified in the by-law or the amendment,whichever is later, until it is confirmed by a meeting of members, with or without amendments, as specified in the *Act*, or until it is repealed by a meeting of members, as specified in the *Act*.
- (b) A by-law enacted or amended by the board and confirmed, or confirmed as amended, by a meeting of members, as specified in the *Act*, is effective in the form in which it was so confirmed.
- (c) A by-law or an amendment, repeal, or replacement of a by-law enacted by the members is effective from:
 - (i) the day the resolution is passed at an annual or special meeting of members as provided in 12.01(b), or
 - (ii) the day specified in the by-law or amendment or in the resolution repealing the by-law,whichever is later.

I, Randy Brown of Brandon, in the Province of Manitoba, Secretary of Heritage Co-op 1997 Ltd., hereby certify that the foregoing are by-laws of the Cooperative as amended at the Meeting of the Members on April 27, 2022.

May 12, 2022

Date

Secretary