

**DRAFT CONSTITUTION SAMPLE: This is a sample constitution to guide in developing a new constitution or amending an existing one.**

**Comments are made in RED to assist the group in discussion.**

Constitution of \_\_\_\_\_

### Article 1 – Interpretation

#### 1.01 Definitions.

In this by-law and all other by-laws of \_\_\_\_\_:

- a. “Act” means \_\_\_\_\_ Act (Manitoba) and the regulations made under the Act, as amended from time to time, or any Act that may hereafter be substituted
- b. “Board” means the Board of Directors of the Organization
- c. “Member” means a member of the Organization
- d. “Organization” means the \_\_\_\_\_
- e. Any word or term contained in this by-law which is not defined in this by-law but is defined in the \_\_\_\_\_ Act or *The Corporations Act* has the meaning given to it in the Acts.

#### 1.02 Interpretation.

In this by-law the plural, they/them includes the singular, he/she/him/her.

#### 1.03 Headings.

The headings used in this by-law are inserted for reference purposes only and shall not affect the construction or interpretation of this by-law.

### Article 2 - Business of \_\_\_\_\_

#### 2.01 Head Office

The registered office of the Organization shall be:

12345 Street  
P.O. Box 123  
Somewhere, Manitoba  
Postal Code

#### 2.02 Authority (if applicable)

The Organization is organized under the authority of ( *insert any Act which may govern this organization* ) and is also subject to *The Corporations Act*, (if *incorporated* except where the latter Act is inconsistent with \_\_\_\_\_ Act and all Articles in this document shall be read to conform with these Acts.

**This section may also reference other Acts that apply to the organization.**

#### 2.03 Objects of the Organization

The objects of the Organization (as stated in the Act) are:

- a. to encourage
- b. to provide leadership in
- c. to provide programs, services and facilities based

#### 2.02 Fiscal Year

The fiscal year of the Organization shall be from \_\_\_\_\_ of one year to \_\_\_\_\_ of the succeeding year.

#### 2.03 Financial Business

- a. The Board may, from time to time, by resolution, designate such chartered banks, credit unions or other financial institution as the Board deems appropriate at which the financial business of the Organization shall be transacted.
- b. The Board may, by resolution, designate and authorize an appropriate Board Member or Board Members, officer or officers, or other person or persons to transact financial business on behalf of the Organization pursuant to such agreements and instructions as the Board may from time prescribe or authorize including the use of a credit card or electronic banking.
- c. All withdrawals from deposits at an institution designated by the Board pursuant to clause 2.03 (a) and all payments on behalf of the Organization, shall be made by cheque or electronic payment signed by at least two persons designated by the Board by resolution for this purpose.

#### 2.04 Signing Authority

- a. Contracts, documents or instruments in writing requiring the signature of the Organization may be signed by:
- b. The President or the Vice-President, together with
- c. The Secretary or Treasurer or any other Board Member or person designated by the Board by resolution
- d. and all contracts, documents or instruments in writing so signed shall be binding upon the Organization without any further authorization or formality.

#### 2.05 Fundraising

The Board shall take the necessary steps to enable the Organization to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments, grants, payments and donations of any kind whatsoever for the purpose of furthering its objects.

#### 2.06 Safeguards

The Board shall take reasonable steps to ensure that the assets of the Organization are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with the Board's authorization and recorded properly to permit

the preparation of financial statements in accordance with generally accepted accounting principles.

### Article 3 - Members

3.01 Membership in the Organization is open to individuals who are \_\_\_\_ years of age or older **and to corporations**.

3.02 An individual **or corporation** wishing to become a Member must:

- a. provide the Organization with the individual or corporation's name and contact information. **(may wish to specify what kind of info – name, mailing address, phone number, email etc)**
- b. **agree to allow the Organization to provide the Member's name and contact information to \_\_\_\_\_.**
- c. pay the membership fee determined from time to time by resolution of the Board (optional for Societies) and

*NOTE: individual organizations may have specific guidelines they wish to consider – for example must be a producer of a particular commodity*

3.03 Classes of Membership

**Describe those classes applicable to your organization -for example – active, retired, honorary, associate, student, corporate, liaison)**

**The eligibility for these needs to be described along with any specific privileges such as voting, fees, how they are given etc.**

3.04 Privileges of Membership

Except as otherwise provided in this by-law, a Member shall be entitled to participate in the activities of the Organization as shall be defined by the Board each year and vote or hold office in the Organization. Only those Members who have paid their membership fee prior to the Annual Meeting are entitled to vote at the annual meeting or to hold office.

**Some organizations specify a time in advance of the annual general meeting for fee payment**

3.05 Membership Fees

The Board of Directors will determine the amount of the annual membership fee payable to the Association by all members.

3.06 Membership Year

The annual membership in the organization shall run from \_\_\_\_\_ to \_\_\_\_\_ of each year. **(or “shall correspond to the fiscal year”)**

### 3.07 Resignation

Any Member may withdraw from membership by delivering a written withdrawal to the Secretary of the Organization or by mailing or delivering it to the address of the Organization. The resignation of a member shall not entitle the Member to a refund or rebate of membership fees previously paid.

### 3.08 Termination

Membership in the organization

- a. may be terminated by a vote of three-quarters of the Members at an annual general or special meeting of the members provided that the person who is the subject of the proposed resolution for termination be given a minimum five days notice of the meeting before the resolution is put to a vote; and,
- b. shall be automatically terminated if the Member fails to pay the annual membership fee by the end of the fiscal year.

May wish to include reasons for termination other than failure to pay dues. Is there an appeal process?

## Article 4 – Members’ Meetings

### 4.01 Annual Meeting - Notice

- a. The Annual Meeting of the Organization shall be held between \_\_\_\_\_(month) and \_\_\_\_\_(month) in each year or as determined by the Board.

Sometimes this is listed as a certain number of days after the end of the fiscal year

- b. Members will be notified of the date of the Annual Meeting at least 21 days and not more than 50 days before the meeting. Notification shall be either by newspaper advertisement, mail, electronic mail, facsimile, or such other method as the Board may determine.
- c. The Board shall establish the record date for determining those Members who are entitled to receive notice of and attend the Annual Meeting and the Secretary shall make the list available for review by a Member upon request.

### 4.02 Quorum

A majority of the Members shall constitute a quorum at the Annual Meeting.

### 4.03 Agenda

The agenda for the Annual Meeting shall include:

- a. presentation of Reports and Statements as set out in ARTICLE 4.03
- b. election of Board Members to fill vacancies on the Board
- c. election of the President and Vice-President; and

- d. annual appointment of an auditor unless there is a resolution approved by 2/3 vote of the Members not to appoint an auditor but to appoint two qualified persons in which case two qualified persons shall be appointed

#### 4.04 Reports and Financial Statements

The Board shall present at the Annual Meeting:

- a. a report of the activities and accomplishments of the Organization since the last Annual Meeting;
- b. comparative financial statements as relating separately to
  - i. the period that began immediately after the end of the last completed fiscal year and ended not more than six months before the Annual Meeting, and
  - ii. the immediately preceding fiscal year; and,
- c. the report of the auditor, if any, or the qualified persons appointed in place of an auditor.

The financial statement referred to in subclause (b)(ii) of this Article may be omitted if the reason for the omission is set out in the financial statements or in a note thereto to be placed before the Members at the Annual Meeting.

#### 4.05 Special Meetings

- a. On the written request of at least two Members or where otherwise required by this by-law, the President shall call a special meeting of Members for the transaction of the business mentioned in the request or required by this by-law.
- b. A special meeting shall be called in relation to the selling, mortgaging, leasing or otherwise disposing of property owned by the Organization. Only those persons who are members for the current year and who were members for the two previous years are entitled to vote at this meeting.
- c. Notice of a special meeting shall be given in the manner set out in ARTICLE 4.01.

### Article 5 – Governing Board

#### 5.01 Board Composition

- a. The Board shall consist of not less than \_\_\_\_ and not more than \_\_\_\_ Board Members.  
*(NOTE: A minimum of 3 Board Members is required)*
- b. The Members shall elect at each Annual Meeting from among themselves on third of the Board Members. An individual must be at least 18 years of age upon election to be eligible to serve as a Board Member and cannot have the status of bankrupt.

#### 5.02 Term of Board Members

A Board Member shall be appointed for a term of up to 3 years. Board Members shall be eligible for re-election but shall not serve for consecutive terms exceeding an aggregate of 9 years. In appointing or electing Board Members, the Members shall take reasonable steps to ensure the continuity of the Board through staggered terms.

The length of the term and the number of consecutive terms should be decided by the organization

#### 5.03 Removal of Board Members

a. A Board member may be removed by a vote of three-quarters of the Board at an annual general or special meeting of the Board provided that the person who is the subject of the proposed resolution for termination be given a minimum five days notice of the meeting before the resolution is put to a vote; and

b. A Board Member shall be automatically removed from the Board, if the board member:

- i. provides a resignation in writing to the Secretary and the resignation shall take effect on the date specified in the letter or the date it is provided to the Secretary, whichever is later,
- ii. is deceased,
- iii. is incapable of managing their own affairs,
- iv. declares bankruptcy,
- v. misses \_\_\_\_\_ (a specified number of meetings of the Board in a year) or 3 consecutive regular meetings without approval of the Board
- vi. shall be automatically terminated if they fail to pay the annual membership fee by the end of the fiscal year.

May wish to include any other reasons for termination. Is there an appeal process? It is important that this section be very clear to help decrease conflict if it is used.

#### 5.04 Vacancy

In the event of a vacancy occurring on the Board, the remaining Board Members shall have the power to appoint any Member to fill such vacancy for the balance of the term remaining provided that, when three or more vacancies occur at the same time, a special general meeting of the Organization shall be called to elect Members to fill the vacancies.

### Article 6 – Board Meetings

#### 6.01 Time and Place

The President shall convene regular meetings of the Board at such times and places as deemed appropriate.

## 6.02 Accountability

The Board shall prepare an annual report on its activities and shall provide a copy of the report to the Superintendent of Agricultural Societies as required in subsection 16(1) of the Act, no later than March 1<sup>st</sup> of each year or by such date as specified by Superintendent of Agricultural Societies

## 6.03 Special Meetings

- a. A special meeting of the Board may be called by the President at any time to transact business in between regular meetings of the Board, and the President shall call a special meeting on written request of any two Board Members of the Board.
- b. The President shall ensure that notice of the time and place of any special meeting, the agenda for such meeting and all necessary resource material are provided to the Board Members not less than 2 days where reasonably possible, (exclusive of the day on which notice is delivered or sent but inclusive of the day for which notice is given) prior to the meeting.
- c. The following order of business shall be observed at all special meetings:
  - I. reading of the Notice of the Meeting
  - II. establishment of a Quorum
  - III. transaction of business
  - IV. adjournment

Where all the Board Members are present at a special meeting and unanimously agree, business other than the special business included in the Notice for such meeting may be discussed and transacted.

## 6.04 Quorum

A simple majority of the Board Members holding office at the time of the meeting shall constitute a quorum. No business shall be transacted at a meeting of the Board unless a quorum of the Board is present.

## 6.05 Minutes

Minutes shall be kept for all meetings of the Board and these shall be circulated among all Board Members.

## 6.06 Voting

- a. Unless otherwise specified in *The Corporations Act*, questions arising at any meeting of the Board shall be decided by a majority of votes. In the case of an

- equality of votes, the President of the meeting, who shall ordinarily have no vote, shall cast the deciding vote.
- b. All votes shall be taken by a show of hands unless a request for a ballot at any time.
  - c. Notwithstanding clause (a), the Board may by resolution establish specific items for which more than a majority of votes is required for assent.
  - d. There shall be no voting by proxy.

#### 6.07 Participation by Electronic Means

A Board Member may, if all Board Members present at the meeting consent, participate in a Board meeting or a meeting of a committee of the board by means of such telephone or other communication facilities as permit all persons participating in the meeting to hear each other, and a Board Member participating in the meeting by that means is deemed to be present at the meeting.

#### 6.08 Resolution in Lieu of Meeting

- a. Notwithstanding any of the foregoing provisions of this by-law, a resolution signed by all the Board Members entitled to vote on that resolution at a meeting of the Board or any committee of the Board is as valid as if it had been passed at a meeting of the Board or of any committee of the Board, and is effective from the date specified in the resolution, but that date shall not be prior to the date on which the first Board Member signed the resolution.
- b. The resolution may also be made and agreed to by electronic means.

#### 6.09 Questions of Procedure

Questions of procedure at both regular and special meetings which have not been provided for in this By-Law shall be determined in accordance with the rules of order established by the Board from time to time.

### Article 7 – Officers

#### 7.01 Election of Officers

- a. The Members shall elect from among themselves at each Annual Meeting a President and Vice-President.
- b. The Board shall elect or appoint a Secretary and Treasurer or a Secretary/Treasurer to hold office for such term as may be determined by the Board.
- c. Where there is a vacancy during the term of office of the President or Vice-President in between Annual Meetings, the Board may fill it for the balance of the term.
- d. Where there is a vacancy occurring in the office of Secretary or Treasurer, the Board shall elect or appoint a successor at the next regular Board meeting



following the occurrence of the vacancy or where the vacancy is the result of the removal of the Secretary or Treasurer from office, at the meeting at which he or she is removed from office.

## 7.02 Duties of Officers

### a. Duties of President:

The President shall call and preside at all meetings of the Board; call and preside at all meetings of the Executive Committee and be an ex-officio member of all other committees of the Board; and perform such other duties as may be assigned from time to time by the Board by resolution.

### b. Duties of Vice-President:

The Vice-President shall perform such duties as may be assigned from time to time by the Board of resolution and during the absence or disability of the President shall have the powers and duties of that office.

### c. Duties of Treasurer:

The Treasurer shall,

- i. receive all money paid to the Organization and deposit or invest it as allowed by \_\_\_\_\_
- ii. keep a complete and detailed record of all the Organization's financial transactions and maintain copies of all receipts and invoices issued by or to the Organization;
- iii. at the end of the Organization's fiscal year, close and balance the Organization's books of account and prepare the financial statements **that subsection 149(1) of *The Corporations Act* requires to be submitted at the Organization's next Annual Meeting**
- iv. when called for by the Board Members or auditor hand over to the Board Members or a person named by them all books, papers and money belonging to the Organization

### d. Duties of Secretary:

Unless otherwise determined by the Board by resolution, the Secretary shall:

- i. give or cause to be given notices of all meetings of the Board, and, as directed by the board, of meetings of committees of the Board;
- ii. prepare in consultation with the President, and distribute the agendas of Board meetings,
- iii. attend all Board meetings, record minutes and circulate to all Board Members the minutes of such meetings;
- iv. maintain a record of Board Members' attendance at meetings of the Board;
- v. conduct correspondence as directed by the Board;

- vi. maintain custody of the corporate seal of the organization in the event that the organization has a corporate seal;
- vii. maintain the minute book of the organization,
- viii. submit all reports that may be required of the Organization by legislation, and
- ix. perform such other duties as may be assigned from time to time by the Board by resolution.

#### Article 8 – Committees of the Board

##### 8.01 Standing Committees of the Board

- a. The Board shall annually appoint the members of the following Standing Committees:
  - i. the Executive Committee
  - ii. the Finance Committee
- b. If a vacancy occurs in one of the Standing Committees established in the course of the year, the Board shall appoint, at its next regular meeting following the occurrence of the vacancy, another person to that Committee.

##### 8.02 Executive Committee

The Executive Committee shall:

- a. consist of the President, who shall serve as Chair of the Committee, the Vice-President, the Chair of the Finance Committee and such other Board Members as the Board may determine.
- b. study and advise or make recommendations to the Board on any matter as directed by the Board.
- c. perform such other duties as the Board may direct.

##### 8.03 Finance Committee

The Finance Committee shall:

- a. consist of the Treasurer and/or Secretary-Treasurer and at least three Board Members. Where the Treasurer is not a Board Member, they shall be an ex-officio, non-voting member of the committee.
- b. advise and make recommendations to the Board on:
  - i. the annual budget for capital and operating revenues and expenditures for the ensuing fiscal year.
  - ii. the policies and procedures to be established for investment, banking, insurance, donations, bequests, endowments, tendering and purchasing.
- c. Perform such other duties as directed by the Board.

8.04 The Board may, by resolution, establish and empower ad hoc and standing committees of the Board in addition to the Standing Committees, as the Board may, from time to time consider appropriate.

#### Article 9 – Fiduciary Duty and Standard of Care Of Board Members and Officers

##### 9.01 Duty of Care of Board Members and Officers

Every Board Member and Officer of the Organization in exercising and discharging their powers shall:

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

##### 9.02 Conflict of Interest

Where a Board Member has a financial or material interest, direct or indirect, in any matter in which the Organization is concerned, they shall disclose their interest and shall not attempt to influence, take part in the discussion of, or vote on any question with respect to the matter.

**The Organization may wish to have a more specific definition of what a direct or indirect financial or material interest is.**

##### 9.03 Indemnification

The Organization agrees to indemnify and save harmless the Board Members and Officers from all actions undertaken by them in good faith on behalf of Organization, claims, suits or proceedings brought against them, provided that no Board Member shall be indemnified by the organization in respect to any liability, costs, charges or expenses that he or she sustains or incurs as a result of his or her own fraud, dishonesty, willful neglect or willful default.

#### Article 10 – Amendment of Constitution

##### 10.01 Amendment of Constitution

This by-law may be repealed or amended by the Board and sanctioned by an affirmative vote of two-thirds (2/3) of the Members present at an Annual Meeting or a special meeting duly called for the purpose of considering the said repeal or amendment.

##### **10.02 Approval Required for Certain Changes**

**This section is included if the Organization requires permission for changes to their**

constitution as a result of legislation or affiliation with another group. For example a local of a provincial body, or a provincial part of a national group.

Article 10 – Dissolution

10.01 Dissolution of the \_\_\_please insert the name of the organization\_\_\_\_\_ In the event of dissolution or windup of the Organization and following the payment of all outstanding debts, liabilities, costs, charges and expenses properly incurred in winding up, the Organization shall transfer all of its property and assets to the \_\_\_\_\_. The (designated organization) will hold the funds in trust for a period of 5 years after dissolution. These funds would form the start-up capital should a new Organization form in Manitoba. If a new association has not formed after 5 years, these funds shall be designated for use by (name of designated Organization) towards \_\_\_\_\_.

OR

In the event of dissolution or windup of the Organization and following the payment of all outstanding debts, liabilities, costs, charges and expenses properly incurred in winding up, the Organization shall transfer all of its property and assets to organization(s) having similar objectives or purposes. The recipient(s) of the transfer will be decided by the Members at the final General meeting.

Please note – it is important to note whether dissolution of the organization is covered by any legislation.

Approved by the Board of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Approved by the Members of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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President

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Secretary