

## **FORM 3**

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### **SOCIETY ACT**

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#### **CONSTITUTION**

1. The name of the Society is the “Vancouver Grain Exchange Society”, herein referred to as the society.
2. The purposes of the Society are:
  - a) To encourage and promote the shipment of grain via the West Coast of Canada.
  - b) To organize, establish and maintain an association related to the grain industry, not for financial profit or gain, but for the purpose of promoting objects and measures for the advancement of trade and commerce and to disseminate information to its membership.
  - c) To promote the development of businesses capable of providing services, facilities and equipment required by or which will benefit the interests of persons, firms and corporations which are involved in the grain industry.
  - d) To promote and protect all interests concerned in the purchase, sale and handling of grain and grain products and to inspire confidence and stability in the methods and workings and integrity of its members.
  - e) To avoid and amicably adjust, settle and determine, controversies and misunderstandings between persons engaged in the said trade, or which may be submitted to Arbitration as hereinafter provided.
  - f) To promote the establishment and maintenance of uniformity in the business, customs and regulations among the persons engaged in the grain industry and promote the highest standards of business ethics among those engaged in the grain industry.
  - g) To further co-operation among persons, firms, and corporations in Western Canada, engaged in the grain industry.
  - h) To undertake the study of issues and opportunities relating to the grain industry and to exchange information among members and others.
  - i) To recommend legislation and regulations on matters which shall or may affect the grain industry, to Federal, Provincial and Municipal Governments.
  - j) To do all things necessary of incidental to the attainment of the objects of the Society.
  - k) To do all things as are necessarily incidental to or that are reasonable ancillary to any of the foregoing or of the same general nature.
3. The operations of the Society will be carried on chiefly in the City of Vancouver, British Columbia, and in various other ports in the Province of British Columbia. This provision is alterable.

## **BY-LAWS**

### **By-Law 1A – Application for Regular Membership**

- 1A.01 Any person, firm or corporation engaged in the grain industry and having a place of business in Western Canada may apply for regular membership in the Society as provided for in these By-Laws.
- 1A.02 Every application for regular membership in the Society shall be on a form approved by the Council. All applicants shall be proposed by at least one Regular member of the Society, entitled to vote.
- 1A.03 Every application for regular membership shall be accompanied by payment of the membership fee in such amount as may be determined from time to time by the Council.
- 1A.04 Every application for regular membership shall be delivered to the Secretary/Treasurer of the Society who shall place such applications before Council for vote in accordance with By-Law 5.03
- 1A.05 The Council, in its sole discretion, shall accept or refuse an application for regular membership by a simple majority of Council members in person or by written vote.

### **By-Law 1B – Application for Club Membership**

- 1B.01 Any person, firm or corporation engaged in the grain industry and having a place of business in Western Canada may apply for club membership in the Society as provided for in these By-Laws.
- 1B.02 A club member will pay such dues as are set from time to time by the Council of the Society, and may be invited to participate in meetings or events at the Council's discretion. A club member shall not have any voting rights as set out in By-Law 4.03
- 1B.04 A club member may apply for Regular Membership at any time pursuant to By-Law 1A.

### **By-Law 2 – Representative**

- 2.01 Every member being a firm or corporation shall, annually, designate in writing to the Secretary/Treasurer, a representative or one or more alternate representatives, for such member, for the ensuing year.
- 2.02 Every member being a firm or corporation may from time to time change its representative by notice in writing to the Secretary/Treasurer.
- 2.03 The vote of every member entitled to vote, shall be exercised by its representative, or by proxy as provided for in By-Law 4.03.

### **By-Law 3 – Obligations of Membership**

3.01 Every member shall:

a) Be bound by,

i) The Constitution and By-Laws of the Society

ii) All of its rules and regulations which may from time to time be in force

b) Discharge all obligations assumed by the Society

3.02 The Society may by resolution with a majority of ninety percent (90%) of those members entitled to vote, present at a Special General Meeting called for the purpose, suspend or expel any member for conduct which may be considered against the best interests of the Society. The member concerned shall be given at least seven day's notice in writing by the Secretary/Treasurer, of the time and place of the Meeting, and such notice shall contain a short statement of the allegations to be considered at such Meeting. The member against whom allegations have been stipulated, shall not be entitled to vote.

3.03 The Council may by resolution, suspend or expel any member for non-observance of this Constitution or these By-Laws, or any regulation or rule of the Society or its Council, or for failure to discharge any obligation made or assumed by the Society or its Council or for non-payment of any sums owing by such member to the Society.

3.04 Any person, firm, or corporation being dissatisfied with any decision made pursuant to By-Law 3.03, may appeal to the voting members of the Society by a single notice in writing, setting out grounds of appeal, which notice shall be delivered to the office of the Society within one week of the date the decision is communicated to the member. The decision of the members of the Society, made by a simple majority vote at a Special General Meeting to be convened within one month from the filing of the notice of appeal, shall be final and binding upon such person, firm or corporation.

3.05 Any member, who has been expelled pursuant to By-Law 3, may re-apply for membership after the expiration of three (3) months from the date of expulsion.

3.06 Any member may resign from the Society by delivering to it a written notice to that effect, but no resignation shall become effective until the expiration of sixty (60) days after the receipt of such notice; provided that any such resignation may be revoked by the member within the said sixty (60) days. In the event of any member tendering his resignation, he shall not be able to vote on any question until such resignation has been revoked.

### **By-Law 4 – Meetings**

4.01 Annual General Meetings

The Annual General Meeting shall be held within sixty (60) days of the Society's fiscal year end (July 31st) and shall be convened at such time and place as may be decided upon by the Council to receive reports from Officers and/or Committees, to elect or advise on the election of or appointment of Council members for the ensuing year, and for such other general or special purposes as may be necessary. The Secretary shall send notices of the Annual General Meeting to each member at least fifteen (15) days prior to the date of such Meeting.

#### 4.02 Special General Meetings

Members shall be given a minimum of fifteen (15) days notice of special general meetings and the Secretary/Treasurer shall send an agenda to each member at least 7 days prior to the date of any such special general meeting.

#### 4.03 Votes

- a) Every Regular Member entitled to vote shall be permitted only one (1) vote.
- b) All motions, resolutions and election of Council Members shall be passed by a simple majority of those present and entitled to vote at any meeting or by proxy, unless by law or these By-Laws, a greater majority is required. All motions and resolutions placed before the membership and voted upon by mail, email, or fax, shall be passed by a simple majority of the total membership eligible to vote, subject to scrutiny and approval by Council. Except for the election of Council members, votes need not be by ballot but a vote by ballot shall be taken on any question, if demanded by at least 10 per cent (10%) of the members present or represented at any meeting, or if directed by the President of the Society. All votes by ballot shall be taken in such manner as the Chairman shall direct.
- c) Voting at meetings will be direct or by proxy. A member may instruct a person in writing, to vote by proxy at an Annual General Meeting or Special Meeting. Additionally, voting may be conducted by indirect means through mail, email or fax. Indirect voting may be carried out for the election of Council and approval of membership applications. Where voting is conducted by mail, email, or fax, motions or resolutions will be circulated to the membership 21 days in advance of the date set for the vote.
- d) Any member having failed to pay any fees or dues upon demand within the time limited by such demand, shall ipso facto lose his/her right to vote until such arrears are fully paid.

#### 4.04 Quorum

Except as otherwise provided for in these By-Laws, at all meetings of the Society, a quorum shall consist of at least ten (10) members who are entitled to vote, who are either present or represented by proxy.

#### 4.05 Proxies

The Council, in their sole discretion shall declare the rules respecting proxies, which may include prescription as to form, revocation, and manner of delivery.

#### 4.06 Adjournment

Any meeting may be adjourned, including a Meeting at which no quorum is present.

### **By-Law 5 - Council**

#### 5.01 Management & Composition

- a) The affairs, business and concerns of the Association shall be managed by a President, Vice-President and Secretary/Treasurer as Executive Council. The total number of council members shall be a minimum of 5 and a maximum of 9.

- a) Only Regular members or their alternate representative shall be eligible for election as a Council member. The Council members of the Society shall, by resolution, determine the manner of nomination and election. No member, being a firm or corporation shall be permitted to allow more than one person representing it, to stand for election. The Council shall hold an election annually.
- b) Any Council member shall, ipso facto, vacate office if:
  - i) He or the member whom he is representing becomes bankrupt or makes an assignment for the benefit of creditors; or
  - ii) He ceases to be a representative or alternate of a member; or
  - iii) By notice in writing to the Society he resigns his office.
- c) Council members shall serve without remuneration, but shall be reimbursed for reasonable out of pocket expenses.
- d) The Council shall appoint the Chamber of Shipping of British Columbia to act in an administrative capacity for the Society in exchange for a fee to be determined from time to time.

#### 5.02 Quorum

Four Council members shall constitute a quorum. A Council member who is directly or indirectly interested in an existing or proposed contract or transaction with the Society shall disclose fully and properly the nature and extent of his interest but may be counted in the quorum present at the meeting at which any vote on such contract or transaction is taken.

#### 5.03 Voting of Council

All matters, questions, motions and resolutions shall be decided by simple majority of those present in person.

#### 5.04 Meetings & Duties of Council

The Council shall meet from time to time as required for the despatch of business. Council meetings shall be called, adjourned, and regulated in such manner as the President, or in his absence, Vice President, or in the absence of both the President and Vice President, the Secretary/Treasurer, shall see fit. The Secretariat shall call a meeting of Council upon the request of a quorum of Council members.

#### 5.05 Powers

The Council shall from time to time fix the amount of fees and assessments as they see fit.

#### 5.06 Resolutions

A resolution signed under the hands of all of the Council members, though not passed at a Council meeting, shall have the same force and effect as if it had been passed at a Council meeting.

#### 5.07 Committees

The Council shall establish such committees as they shall from time to time determine.

#### 5.08 Protective Clause for Council

No Council member shall be held personally responsible for any act of his own as a Council member, save and except a personal act of wilful neglect; nor shall he be held personally responsible for the act of any other Council member or Executive Council.

#### **By-Law 6 Disclosure of Interest of Council**

- 6.01 In this By-Law 6, the word “transaction” shall mean any arrangement, other than a gift under which the Society and another person agree to exchange value or services, or the Society confers a benefit on another person, or the Society receives a benefit from another person.
- 6.02 Each Council member shall act honestly and in good faith and in the best interests of the Society. A Council member shall avoid conflicts of interest, so that the Council member gains no benefit from his or her position, but acts solely for the benefit of the Society.
- 6.03 Any Council member who is, in any way, directly or indirectly interested in an existing or proposed contract or transaction with the Society, shall disclose fully and promptly the nature and extent of his interest in such contract or transaction in accordance with the provisions of the *Society Act*.
- 6.04 The Council may authorize an existing or proposed contract or transaction with the Society in which a Council member is interested if it is in the best interests of the Society. A Council member may not vote in respect of any such contract or transaction with the Society in which he or she is interested, but he or she shall be counted in the quorum present at the meeting at which such vote is taken.
- 6.05 A Council member who holds any office or possesses any property whereby, directly or indirectly, a duty or interest might be created to conflict with his or her duty or interest as a Council member shall disclose fully and promptly the nature and extend of the conflict or potential conflict with his or her duty and interest as a Council member.
- 6.06 Subject to compliance with the provisions of the *Society Act*, a Council member or his or her firm may act in a professional capacity for the Society (except as Auditor of the Society) and such Council member or his or her firm shall be entitled to remuneration for professional services as if he or she were not a Council member.
- 6.07 A Council member may be or become a director or officer or employee of, or otherwise interested in, any corporation or firm in which the Society may be interested, and, subject to compliance with the provisions of the *Society Act*, such Council member shall not be accountable to the Society for any remuneration or other benefits received by him or her as a director, officer or employee of, or from his interest in, such other corporation or firm, unless the Society in a General meeting otherwise directs.

#### **By-Law 7 Borrowing Powers**

Subject to the provisions of the Societies Act, the Council may borrow or raise and secure payment or repayment of monies in order to meet the expenses of the Society, and in furtherance of the objects of the Society.

## **By-Law 8      Audit**

The accounts and books of the Society shall be examined at least once in each year, and their correctness ascertained.

## **By-Law 9      The Seal**

The President of the Society shall have custody of the Seal, which shall not be affixed to any instrument except by authority of a resolution of the Council, and in the presence of such council members and/or officers of the Society, as may be prescribed by such resolution.

## **By-Law 10      Events of Delay**

- 10.01 An Event of Delay is defined as an event which includes any labour action AND which prevents or delays the movement of goods to and/or from British Columbia port(s) as to the method of conveyance.
- 10.02 Should the shipment of goods or any part thereof be prevented or delayed at any time during the last 28 days of the guaranteed time of shipment, or at any time during the guaranteed contract period if less than 28 days, by reason of an Event of Delay, the seller shall be entitled upon termination of such Event of Delay to as much additional time, not exceeding 28 days, for shipment from such port or ports as was left for shipment under the contract before the beginning of the Event of Delay, and if the time for shipment under the contract is 21 days or less, a minimum extension of 21 days shall be allowed. If a further Event of Delay or further Events of Delay should occur before the expiration of the time by which the guaranteed time of shipment was first extended pursuant to this By-Law 10, the seller shall be entitled to an additional extension, but such extension shall be limited to a period equal to the period of duration of the further Event of Delay (or the aggregate of the periods of duration of the further events of Delay, as the case may be), and shall commence to run on the day following the day of expiration of the time by which the guaranteed time of shipment was first extended. In the case of non-shipment under such circumstances, and if the seller has claimed an extension or extensions pursuant to this By-Law 10, the date of default shall be similarly deferred.
- 10.03 The seller shall give notice in writing or by cable, telefax, or electronically to the purchaser not later than two (2) days (Saturdays, Sundays and Holidays excepted) after the last day of guaranteed time of shipment (and similarly after the day of expiration of the time by which the guaranteed time of shipment was first extended in the case of a further Event of Delay or further Events of Delay), if they intend to claim any extension of time for shipment under this By-Law 10. Such notice shall state the port or ports from which the shipment is intended to be from, and if such extension is claimed, the shipment, after expiry of the contract period, shall only be made from such port or ports. All such notices shall be passed on in due course.
- 10.04 In furtherance of the purposes of the Society, the Council may issue confirmation of the existence of an Event of Delay upon receipt of written request in accordance with section 10.05 below.
- 10.05 If the seller gives the notice or notices as referred to above, the seller shall forthwith make a written request to the Society to confirm immediately the existence of such an Event of Delay or Events of Delay and in due course, the date or dates of commencement and termination thereof.
- 10.06 A Notice issued by the Society certifying the existence and duration of the Event of Delay or Events of Delay causing the delay and/or prevention of shipment shall be accepted as final.
- 10.07 If any extension of time for the shipment is claimed by the seller, then carrying charges shall be deemed not earned during the extension period.

- 10.08 An Event of Delay can only be issued by a majority vote by a committee comprised of the Vancouver Grain Exchange Council members and two members nominated by the Canadian Grain and Oilseeds Exporters Association
- 10.09 The President of the Society may request a conference call to discuss the potential for an issuance of an Event of Delay.

#### **By-Law 11 Arbitration**

- 11.01 All Arbitrations shall be heard by a Committee of Arbitration through the Vancouver Maritime Arbitrators Association (hereinafter referred to as the VMAA).
- 11.02 All parties who request for Arbitration shall be bound by the rules of the VMAA.

#### **By-Law 12 Amendments to Constitution and By-Laws**

The Constitution and By-Laws of the Society may be altered or amended at any Annual, or Special Meeting of the Society. Notice of such proposed alteration or amendment shall be mailed, faxed, or emailed to each voting member with the notice calling the said meeting at which it is to be considered.

#### **By-Law 13 Minutes, Books and Records**

The President, or some other officer specially charged by the Council members with that duty, shall maintain and have charge of the Minute Book of the Society, and shall record or cause to be recorded therein, Minutes of proceedings of all meetings of members and/or Council. The books and records of the Society may be inspected by the members of the Society at such time and place as may be fixed from time to time by the Council.

#### **By-Law 14 Winding Up**

No member of the Society shall be entitled to any property or assets of the Society and in the event that the Society shall be wound up or dissolved, any surplus assets remaining after such winding up or dissolution, shall be distributed to such charity or charities as the Council members in their sole discretion may determine.

#### **By-Law 15 Notice**

- 15.01 A notice may be given to a member, either personally or by post, email, or telefax to the address shown in the Society member listings as confirmed by the member during the renewal of annual dues. Where notice is sent by post, service of the notice shall be deemed to have been given by properly addressing, prepaying and posting the letter containing the notice and such notice shall be deemed in effect on the day following the date of posting. If notices are sent by telefax or email transmittal they shall be deemed to have been given on the day sent and if delivered personally, they will be deemed to be received when delivered.
- 15.02 The failure by the Society to give notice of any Meeting to any member or his representative, or the failure of any member or his representative to receive any such notice, shall not in any way invalidate any of the proceedings or actions taken at any Meeting.
- 15.03 Fifteen (15) days written notice of a General Meeting of the Society shall be given to the members entitled to receive such notice.



## **By-Law 16      Cash Grain Contracts Trade Terms**

### **16.01    FOB Cars and/or Trucks**

FOB Cars and/or Trucks shall be the term used to designate delivery made of grain into railway cars and trucks. All contracts FOB Cars and/or Trucks should stipulate whether it is subject to “Buyer’s Call” or to “Seller’s Call”. In cases where such stipulation is not made in the Contract, it will be understood that the shipment period shall be at the Seller’s call. All sales made FOB Cars and/or Trucks shall be subject to the following terms:

- a) It shall be the duty of the seller to order the railway cars, on instructions of the buyer, and the seller shall, upon request of the buyer, furnish satisfactory evidence of so doing.
- b) It shall be the duty of the buyer to order the trucks, instructing the seller accordingly.

### **16.02    FOB Dock**

FOB Dock shall be the term used to designate delivery of grain made on or to the dock or wharf specified in the contract (at the time of sale) or later mutually agreed upon between the buyer and the seller. All sales made FOB Dock shall be subject to the following terms:

- a) All charges, including wharfage, accruing on the grain at the wharf or dock up to the time of delivery shall be for account of seller, and it shall be the duty of the seller to provide a wharf receipt, supported by Government Weight and Grade Certificates, to the buyer free of all storage charges or other encumbrances up to the time of delivery.

### **16.03    Delivered Container Yard**

Delivered Container Yard shall be the term used to designate delivery of grain in containers to the dock, or wharf designated, specified in the contract and the time of sale, or later mutually agreed upon between the buyer and the seller. All sales made Delivered Container Yard shall be subject to the following terms:

- a) All charges accruing on the grain and/or container up to the time of delivery at the dock or wharf designated shall be for the account of the seller.
- b) All charges at the dock or wharf designated shall be for the account of the buyer.
- c) Once delivered to the dock or wharf designated, it shall be the duty of the seller to tender by notice to the buyer a letter of release, free from all encumbrances.

### **16.04    FAS Vessel**

FAS Vessel shall be the term used to designate delivery of grain from alongside a vessel in a position available to ship’s tackle. All sales made FAS Vessel shall be subject to the following terms:

- a) All charges accruing on the grain up to the time of delivery of grain made alongside the vessel shall be for the account of the seller.
- b) It shall be the duty of the seller to tender to the buyer a wharf receipt, or letters of release, free of all encumbrances.
- c) Risk of loss or damage to the grain shall be and remain for the account of the seller until said tender by the seller to the buyer of the wharf receipt or letters of release.

- d) The property and ownership in the grain shall not pass from the seller to the buyer until the acceptance of the tender and consequent delivery by the seller to the buyer of the said wharf receipt, or of letters of release.
- e) It shall be the duty of the buyer to place insurance on the said grain for the account of whom it may concern and to pay the cost thereof from the time of reaching the ship's tackle (as defined in Sec. 16.04) notwithstanding that the ownership thereof does not pass to them until the delivery of the said wharf receipt, and the buyer shall, if required by the seller, provide evidence satisfactory to the seller of the seller's interest being adequately protected.
- f) Where grade and grain is sold with an option, seller must declare grade 48 hours prior to vessel's readiness to load.

#### 16.05 FOB Vessel

FOB Vessel shall be the term used to designate delivery of grain on board a vessel. "On board a vessel" means delivery of grain ex elevator spout within reach of a ship's hold. All sales made FOB Vessel shall be subject to the following terms:

- a) Berthing of vessels loading grain shall be in accordance with the operating rules and practices of the Canadian Ports Clearance Association. The obligation is on the buyer to berth the vessel ready to load at a pier or jetty connected with the elevator named by the seller, which elevator is herein referred to as the supplying elevator.
- b) The seller shall load on board said vessel the full quantity of grain as demanded by the buyer, always within the contract.
- c) The seller shall procure the grain to be graded by the Canadian Grain Commission.
- d) The seller shall pay all charges incurred in the transportation and delivery of the grain up to the time of and including actual delivery unto the vessel, including the wharfage where applicable.
- e) Upon the completion of the loading, the seller shall tender to the buyer a GDA accompanied by Government Weight and Grade Certificates, or letters of release, and shall thereupon become entitled to payment of the purchase price.
- f) Risk of loss or damage to the grain shall be and remain for the account of the seller until said tender by the seller to the buyer of the said GDA accompanied by Government Weight and Grade Certificates or letters of release.
- g) The property and ownership in the grain shall not pass from the seller to the buyer until the acceptance of the tender and consequent delivery by the seller to the buyer of the said GDA accompanied by Government Weight and Grade Certificates, or letters of release.
- h) It shall be the duty of the buyer to place insurance on the said grain for the account of whom it may concern, and to pay the cost thereof from the time of leaving the elevator spout, notwithstanding that the ownership thereof does not pass to him until the delivery of the said GDA and the buyer shall, if required by the seller, provide evidence satisfactory to the seller of the seller's interest being adequately protected.

- i) The buyer shall arrange with the Master and/or owners' agents of the vessel for the issuance and delivery to the seller of Bills of Lading to the order of the said seller covering grain as delivered on board, and as described in said GDA unless prior to the time of actual demand for Bill or Bills of Lading, the seller delivers to the buyer said GDA accompanied by said Government Weight and Grade Certificates; provided that the seller will not exercise their right to demand Bills of Landing direct to himself until he shall have first tendered to the buyer the said GDA accompanied by the said Government Weight and Grade Certificates, and demanded payment in accordance with the provisions of Section 16.23 of this By-Law and the buyer shall have made default in payment.
- j) Before loading begins, the seller shall notify in writing the owner and/or owner's agents and the Master that the proposed loading is governed by the terms of this By-Law and that notwithstanding the Marine Liability Act, the seller is entitled to delivery of bills of Landing until such time as they shall have delivered the said GDA to the buyer; provided that a notice at any time to a Vancouver/Prince Rupert area resident agent of an owner of any ship, shall be deemed to be notice to all the ships of such owner calling at the Port of Vancouver and/or Prince Rupert.
- k) Without in any way extending the delivery period specified in a contract between buyer and seller on sales FOB Vessel for a specified period, except as hereinafter provided, the buyer shall in every case give fifteen (15) running days written notice of call (including the day on which notice is given) and shall name therein a date on which they will take delivery of the grain, and the seller shall thereupon be under obligation to deliver on the date named.
- l) In the case of a contract calling for delivery within a period the first day of which is less than fifteen (15) days from the date of contract the buyer may within the next two business days from the date of contract designate to the seller any day within the contract period as the date upon which they will take delivery and the seller shall make delivery accordingly; failing which they buyer is obligated to give fifteen (15) running days written notice of call in accordance with clause (k).
- m) If for any reason the buyer is unable to take delivery on the date named in said notice of call he will have an allowance of ten (10) running days (always within the contract period) free of all charges. After termination of said ten days free period all carrying charges as per By-Law 1 Section 9 shall be for account of and be paid by the buyer.
- n) In case of contracts calling for delivery within five days, the name of the vessel on which the grain is to be loaded shall be furnished by the buyer to the seller on demand and, in all other cases, reasonable notice (not less than forty-eight (48) hours) shall be given; failing which the buyer is obligated to give fifteen (15) running days written notice of call in accordance with clause (k).
- o) Should buyer elect to name a vessel instead of a date as hereinbefore mentioned, buyer must at same time name an expected date of readiness. No additional charges shall be incurred by reason of failure of the vessel to take the grain on that expected date (always within the contract period). If, for any reason, delivery is not taken on the vessel named, carrying charges as per the Interpretation Clauses listed at the end of these By-Laws, shall start five days after expected date named.

- p) Should the buyer fail to furnish a vessel by the expiration of the contract period, the seller shall have the option of making delivery “In Store” by Electronic Inventory Record (EIR) at contract price less regular ‘fobbing’ charges including elevation, wharfage, cost of weighing and inspection, and cancellation charges on the last date of the contract period, or any time thereafter including carrying charges as per Interpretation Clauses listed at the end of these By-Laws; or of extending the contract until a notice of call is given in accordance with clause (k) and, for which, the buyer is obligated to pay all carrying charges as per Interpretation Clauses listed at the end of these By-Laws.

#### 16.06 Afloat

Afloat shall be the term used to designate grain, which has actually been loaded on board a vessel and not unloaded at a destination.

#### 16.07 In Transit or En Route

In Transit or En Route shall be the term used to designate grain actually loaded in cars and billed or divertible to destination. On sales in transit or en route, the seller shall arrange for and pay the diversion charges if any.

#### 16.08 Sale on Arrival – Sale When Spot

When the grain is consigned for “Sale on Arrival” or for “Sale When Spot” it shall be understood that such sale shall be made the second day after unload, Government Weight and Grade to govern and the price to be determined by that existing at the close on the second day after unload, if same is a business day, and if not, then the price at the close on the first business day thereafter.

#### 16.09 On Track

On Track shall be the term used to designate the delivery of grain in cars on the track of the railway at the point named in the contract and at a date specified in the contract, as mutually agreed upon by the buyer and seller by notice. All sales made “on track” shall be subject to the following terms:

- a) All charges on the delivery of the grain and/or car(s) up to the point named in the contract or mutually agreed upon.
- b) The buyer assumes all risks and costs from the date specified in the contract, or mutually agreed upon.
- c) It is the duty of the seller to tender by notice that the cars(s) have been constructively placed by the railway at the point named in the contract and for the date specified in the contract, or mutually agreed upon.

#### 16.10 In Store

In Store shall be the term used to designate grain stored at any licensed grain terminal for immediate delivery or for delivery at some future date. The buyer shall pay the elevator charges and the seller shall pay the inward inspection and inward weighing charges. On contracts made “in store for future delivery” the following conditions will apply unless otherwise specified:

- a) Without in any way extending the delivery period specified in a contract between buyer and seller on sales for a specified period, except as hereinafter provided, the buyer shall give written notice of call as noted hereunder in this Section 16.10 (a) and shall therein name a

vessel and an expected loading date on which the buyer will take delivery of the grain and the seller shall thereupon be under obligation to deliver in accordance with the notice of call and with Section 16.10 (e).

- b) In the case of a contract under which the first delivery date is fifteen (15) days or more from the date of the contract, the notice of call shall be notice of not less than fifteen (15) running days (including the date on which notice is given).
- c) In the case of a contract under which the first delivery date is less than fifteen (15) days from the date of contract, notice of call may be given within the next five (5) business days after the date of contract. If notice of call is not given within five (5) business days, it shall be given in compliance with paragraph (i).
- d) In his notice of call, the buyer may instead of naming the vessel, state that the vessel is to be named, but in such case carrying charges will at the option of the seller commence five (5) days after the expected loading date. Buyer shall subsequently name the vessel to be loaded and the seller shall thereupon be under obligation to deliver in accordance with Section 16.10 (c).
- e) If proper notice of call has been given, buyer may substitute another named vessel, but in no case is seller obliged to deliver grain before the expected loading date originally notified by the buyer. If a substitute vessel has been named, carrying charges as per the Interpretation Clauses listed at the end of these By-Laws, will at the option of the seller commence five (5) days after the expected loading date originally notified by the buyer.
- f) Subject to Section 16.10 (c) no carrying charges will be incurred by reason of the failure, within the contract period, of the vessel originally named in the notice of call to take grain on the expected loading date. If, for any reason other than the substitution of a vessel, delivery is not taken on the originally named vessel carrying charges, as per the "interpretation clauses" listed at the end of these By-Laws, will at the option of the seller commencing five (5) days after the expected loading date.
- g) Vessels will be berthed and loaded in accordance with the operating rules and practices of the Canadian Ports Clearance Association (CPCA). Seller shall invoice the grain by EIR to the buyer on the business day prior to the day that CPCA has indicated its intention to berth the vessel. Buyer shall load such grain on the vessel named. The seller is only obligated to deliver after those requirements have been fulfilled.
- h) In cases where the contract quantity calls for a percentage more or less or in any other case where the exact quantity to be loaded to the vessel is not definitely determined, the EIR shall be on the basis of the minimum quantity to be loaded, buyer guaranteeing payment on any additional quantities required.

#### 16.11 Immediate Shipment

Immediate Shipment shall be the term used to designate shipment at any time within five (5) days inclusive of the day of contract.

#### 16.12 Quick Shipment

Quick Shipment shall be the term used to designate shipment at any time within ten (10) running days inclusive of day of contract.

#### 16.13 Prompt Shipment

Prompt Shipment shall be the term used to designate shipment any time within fifteen (15) running days inclusive of the day of contract.

#### 16.14 Rail and/or Truck Shipment Contracts

On contracts calling for shipment in rail or trucks as follows:

- a) FOB Cars and/or Trucks in Section 16.01 of these By-Laws;
- b) In Transit or En Route in Section 16.07 of these By-Laws;
- c) On Track in Section 16.09 of these By-Laws;
- d) Immediate Shipment in Section 16.11 of these By-Laws;
- e) Quick Shipment in Section 16.12 of these By-Laws;
- f) Prompt Shipment in Section 16.13 of these By-Laws.

The seller shall tender the buyer with the rail and/or truck numbers not later than two (2) business days after loading.

#### 16.15 Car Loads

When one or more car loads of wheat or coarse grain (meal, feed or other grain products excepted), are bought or sold without any special agreement as to the quantity to be loaded into each, it shall be understood as a sale of one or more individual cars, and that a 'car load' means the content of a standard car and that none other than standard cars shall be applied without the consent of the buyer.

#### 16.16 Specified Quantity

Specified Quantity shall be the term used to designate grain sold in specified quantities and delivered in railway cars and/or trucks. On sales made 'specified quantity' shortage or overage on contract quantity shall be adjusted within five (5) days of date of unload of the last car by the delivery to the buyer. An overage shall be settled either by an EIR on shipment to a licensed grain terminal or at the prevailing market price at buyers option. A shortage shall be settled by cancelling the shortage, or settling at the prevailing market price, or holding the seller in default as per Section 16.22 of these By-Laws.

#### 16.17 Tenders: Quantity

Tenders of any portion of a contract may be made on presentation of proper documents provided such delivery is tendered within the terms of the contract.

#### 16.18 Tenders: Grade

Tenders of a higher grade of the same kind of grain than the grain contracted for shall be deemed good tender at contract price, unless otherwise provided.

#### 16.19 Substitution

On all trades on grain inspected carloads en route where car numbers are furnished at the time of sale, the identical grain contained in the said car must be delivered on the contract within seven days of the unloading of the car at destination. Providing, however, if delivery cannot be made, as specified in the contract, through any cause whatsoever over which the seller has no control, the seller must substitute a similar quantity of grade specified in the contract within two (2) business days of first ascertaining their inability to make delivery of the original car.

#### 16.20 Basis of Contract

Basis of Contract shall be the term used to designate contracts for car loads of uninspected grain made 'basis' some specific grade. On Basis of Contract, should the grain so contracted for be inspected other than the specific grade, then settlement for the same shall be made on the relative value or spread of such other grade of grain two (2) days after date of unload.

#### 16.21 Immediate Delivery

Immediate Delivery shall mean delivery on the same business day that the contract is made.

#### 16.22 Incomplete Delivery or Default

When a seller fails to complete a contract for delivery within the contract period, it shall thereafter be at the option of the buyer in the deficit, for seller's account, provided, however, that the buyer shall give the seller twenty-four (24) hours notice of their intention to exercise such option, up to and including which time the seller's right to deliver on the contract shall continue.

#### 16.23 Terms and Hours of Payment

For all purposes of this By-Law and all contracts made pursuant to or incorporated in this By-Law where any payment is to be made on any business day, it shall be made not later than one hour before bank closing time on all business days. In order to compel payment by buyer within said hours, invoice must be presented not later than three and one-half (3 1/2) hours before bank closing time on all business days, and unless so presented buyer shall be relieved from accepting delivery and making payment until the first banking hour of the following business day. All sales are payable by cheque and payment to be made in Canadian Funds unless otherwise specified.

#### 16.24 Legal Holiday

For all purposes of this By-Law and all contracts made pursuant to or incorporating this By-Law, Legal Holiday shall be understood to mean statutory holidays already defined.

#### 16.25 Business Day

For the purposes of this By-Law and all contracts made pursuant to or incorporating this By-Law, the term Business Day shall mean and shall be limited to the hours of 9:00 am to 5:00 pm for all week days excepting Saturdays, Sundays and Statutory Holidays.

#### 16.26 Running Days

For the purposes of this By-Law and all contracts made pursuant to or incorporating this By-Law, the term running days shall mean the full twenty-four hour period from midnight to midnight of each calendar day including Sundays and Holidays.

16.27 First and Second Half Month

In any month containing an odd number of days the middle day shall be reckoned as belonging to both halves of the month.

16.28 Country Point

Any initial point of shipment west of the eastern boundary of the Province of Manitoba.

**By-Law 17 Brokerage Rules**

17.01 The term “Grain Broker”, as used in this By-Law, shall be construed to mean any member of the society, registered as a “Grain Broker”, who acts for another member, in making any trade in grain or grain products for export, or who acts for another member, in making any trade in grain or grain products, for domestic trade in Canada, and whose “Broker Note” names the parties for whom said broker acted.

17.02 A “Brokers Note”, shall be the memorandum of trade, made by a broker between two principals, which shows acknowledgement of the trade by a signature of an employee of a registered company.

17.03 No member of the society, acting as principal, or their representative, shall be a shareholder of any limited liability company registered with the society as a Grain Broker, nor shall any member, or their representative, be associated, affiliated or incorporated with such.

17.04 No Grain Broker shall act as principal in any transaction relating to the booking of grain.

17.05 No Grain Broker shall directly or indirectly rebate all or any portion of the brokerage earned by said broker to either principal in any transaction.

17.06 Only the broker’s notes of Brokers over whom the Council of the society have control may be produced by members as Brokers’ Notes covering contracts for arbitration under By-Law 11 of these By-Laws.

17.07 Grain Brokers shall submit brokerage notes covering a transaction within one business day from the time the contract is made.

17.08 Broker members forming a partnership shall notify the society thereof, and all brokerage transactions shall be carried on in the name of the partnership, the Council to be advised immediately when any change is made in the personnel of the partnership.

17.09 Any Grain Broker who knowingly submits a bid or makes firm offer of any grain, not having previously received from a principal definite authority to do so, shall be subject to censure or suspension of membership at the discretion of council.

**By-Law 18 Licensed City Agent**

18.01 The term “City Agent” when used in this By-Law shall mean any member who is resident in Western Canada acting on behalf of any member of the society, shall canvass for orders for the purchase or sale of grain in any position or for any delivery, or shall solicit the consignment to a member of the society of grain for the purpose of sale or disposition in any manner.



- 18.02 No member of the society shall employ any City Agent, unless such City Agent shall be licensed as herein provided, and the City Agent, shall be employed by a member of the society only while and so long as such City Agent shall be licensed as hereinafter provided.
- 18.03 Every City Agent shall maintain in all their dealings on behalf of their employer a fair and equitable attitude towards all those doing business with them and to every member of the society or their agents according to the principles of the society and the By-Laws, rules, regulations and customs thereof.
- 18.04 A City Agent may represent more than one member at a time.
- 18.05 No member shall employ any City Agent upon any other basis than that provided for in this By-Law.
- 18.06 Every member employed as a City Agent shall always deal and hold themselves out to be the Agent of the member employing them, and no such member so employed shall deal or hold themselves out to be the principal in any transaction within the scope of their employment.
- 18.07 Every employer shall apply in writing to the Secretary for the license of each City Agent, such application to be made upon a form prescribed by the Council, and to be accompanied by the signed statement of the proposed City Agent in such form as the Council may prescribe.
- 18.08 Upon receipt of application for license the Council shall proceed to examine the qualifications of the proposed City Agent, and if and when their past record, character and qualifications are deemed satisfactory, a license may be issued to the City Agent and delivered to the employer.
- 18.09 The application for license shall state among other things the following:
- a) Whether the proposed City Agent is to devote the whole or only a portion of their time and service to the employer.
  - b) Whether the duties of the proposed City Agent are to include the supervision of other agents or not.
  - c) The particular place or places for which the City Agent is to be appointed or whether the employment is general.
- 18.10 If an application for license is refused by the Council, the employer shall have the right of appeal from the Council in accordance with the procedure contained elsewhere in the By-Laws for similar appeal in respect to suspension or expulsion of a member.
- 18.11 If the City Agent is proved to the satisfaction of the council to have done or omitted to do in the course of their employment any act or things which if done or omitted by a member of this Exchange would in the opinion of the council be contrary to the By-Laws, rules, regulations, customs or principles of the Exchange , or if the City Agent is proved to the satisfaction of the council to have assisted any member of the Exchange to break any of its By-Laws, rules and regulations, then and in any such case the license of the said City Agent may be suspended or revoked. In case of any such investigation, the employer shall be notified of the complaint or rumours, and shall have the privilege of appearing before the Council in conformity with the provisions contained elsewhere in these By-Laws relating to a complaint against a member.

- 18.12 All licenses shall expire on July thirty-first (31) of each year, or on such other annual date as may be determined by Council from time to time.
- a) Every license issued pursuant to this By-Law shall be in force only until the expiration date hereinbefore provided for, or until such license is suspended or revoked under the terms or provisions of this By-Law.
  - b) A City Agent can be terminated by notice in writing thereof by the employer and filed with the Secretary and immediately upon such notice being so filed, such license shall be cancelled.
- 18.13 It shall be the duty of every member to enquire into the past record and qualifications of any person making application for employment as their City Agent, and such member shall be responsible to this Exchange for the acts of every City Agent employed by them.
- 18.14 Any member desiring a license for any other member under the terms of this By-Law, shall make such application in ample time to permit a reasonable examination into the application; and in the event of reasonable necessity for the services of the city Agent prior to the issue of license, the Secretary shall be and is hereby empowered to issue special and individual letters of authority permitting such activity pending examinations.
- 18.15 The council shall be and is hereby empowered to make, rescind or alter from time to time such rules and regulations as may deemed advisable to give practical and expeditious effect to the operation of this By-Law, and incidental thereto the Council shall be and is hereby authorized to delegate such duties as it may deem advisable to one or more committees without, however, relieving itself of the responsibility thereof and to prepare and prescribe such forms as may be deemed advisable provided however, that no action of the Council herein authorized shall be at the variance or inconsistent with the terms or the reasonable intention of this By-Law.

#### **By-Law 19      Principal and Agent**

- 19.01 Any member of this Association or firm or corporation admitted to trade or do business therein, making any contracts with another member of this Association shall be held as principal unless they can furnish parties satisfactory to the buyer or seller as the case may be. And whenever it shall appear by answer of any party complained of, or otherwise, that in the matter to which the complaint relates they acted as agent for and solely in the interest of and on behalf of other party or parties whether corporation, company, firm or individual, the council shall cause a copy of the complaint and answer to be served on the company, firm or individual, the Council shall cause a copy of the complaint and answer to be served on the principal, with notice of time of hearing the same, and such principal shall be at liberty to appear, answer, defend and produce evidence in their own behalf. Service of notice and copy of complaint and answer as aforesaid may be made either personally or by mail, or electronic means, addressed to such alleged principal at their ordinary place of business or residence. If made personally or by electronic means, it shall be at least six (6) and if by mail, ten (10) days previous to the hearing. The council shall thereupon proceed with the investigation as if the said principal were a person originally complained against.

The Council may, if it is satisfied that the alleged agent acted as agent in the matter to which the complaint relates and pursuant to their authority as such agent and disclosed their principal at the time of the transaction in connection with which the complaint is made, dismiss the complaint as against the agent, and if they deem the charges of the complaint proven as against the principal, may censure, fine, suspend or expel such principal in accordance with the procedure hereinbefore in these By-Laws set forth.

- 19.02 No member of the society is allowed under any circumstances to be both principal and agent in any transaction made under the By-Laws and rules of this Exchange. Furthermore, no member of this Exchange in any transaction made under the By-Laws and rules of this Exchange shall allow themselves, directly or indirectly, either by their own act or by the act of an employee or of a broker or other member of the Exchange, to be placed in the position of agent for both seller and buyer.

## **By-Law 20 Grain Elevators**

To facilitate the movement of grain in Canada to foreign and domestic markets and to promote and protect all interests therein, and upon the requirements of this By-Law being complied with by the owners or operators of any of the following elevators, the Council may by resolution, declare such elevators as:

### **20.01 Licensed Grain Terminal**

- 20.01A A member in good standing of the Exchange who operates a terminal elevator in Western Canada that is licensed as such by the Canadian Grain Commission. The terminal shall be connected by railroad tracks with one or more of the transcontinental railway lines; and have direct facilities for ocean movement. It shall be provided with suitable improvements and appliances for the convenient and expeditious receiving, handling, storing and shipping of grain and grain products in bulk.
- 20.01.B The member may also be a member of the Canadian Ports Clearance Association and shall have the ability to issue an EIR in conformity with the requirements of the Grain Inventory Accounting System (GIAS) of the Canadian Grain Commission under the Canada Grain Act.

## **Bulk Loading Facility**

- 20.02A Any facility in Western Canada connected to one or more of the transcontinental railway lines who moves grain and grain products in bulk direct from rail cars to an ocean vessel and conforms to the Canadian Grain Commission requirements for weight and grade determination. The facility may store grain and grain products that do not come under the jurisdiction of the Canadian Grain Commission.
- 20.02B The operator of the facility does not have to be a member of the society except if they wish to use the Arbitration By-Law as herein provided for under By-Law 11. In that case the operator shall become a member of the Exchange.

## **By-Law 21 Interpretation Clauses**

- 21.01 “*Society Act*” means the *Society Act* of the Province of British Columbia from time to time in force and all amendments to it.
- 21.02 “Council” means the “Council of the society”.
- 21.03 “Membership” means membership in the society.
- 21.04 “Applicant” or “Member” means the person, firm or corporation applying for or holding membership, and for the purpose of these By-Laws, their duly accredited representative.

- 21.05 “Grain” in these By-Laws, or any Rule or Regulation of the Exchange, means and includes all grains, as defined under the Canada Grain Act, and the Canadian Grain Regulations, which comes under the jurisdiction of the Canadian Grain Commission.
- 21.06 “Government” means the “Federal Government of Canada”.
- 21.07 “Electronic Inventory Record” or “EIR” means the electronic record of commodities unloaded to a licensed terminal elevator and registered with a transaction number of the Canadian Grain Commission conforming to and complying with the provisions of the Canada Grain Act.
- 21.08 “GDA” means the Grain Delivery Advice Note issued by the loading elevator showing quantity and grade loaded on board a vessel.
- 21.09 “Carrying Charges” means all regular storage charges, unless otherwise specified in a contract, plus interest, as per Interpretation Clause 21.10.
- 21.10 Interest Rate – Council has established that this rate of interest shall be ½% (one half of one percent), over the current prime rate of the chartered banks for grain documents unless amended by Council at some later date.
- 21.11 The definitions in the *Society Act* apply to these bylaws on the date these bylaws become effective.
- 21.12 Words importing the singular include plural and vice versa; and words importing a female person include a male person and a corporation.
- 21.13 “Seal” means the seal of the society.