

**MANITOBA INTERNET EXCHANGE INCORPORATED  
BY-LAW NO. 1**

**1. NAME**

1.1 The name of the Corporation is **MANITOBA INTERNET EXCHANGE INCORPORATED**

**2. INTERPRETATION**

2.1 In the by-laws of the Corporation, unless the context otherwise requires:

- (a) "Act" means *The Corporations Act* (Manitoba) and any statute that may be substituted therefor, as from time to time amended;
- (b) "appoint" includes "elect" and vice versa;
- (c) "board" means the board of directors of the Corporation;
- (d) "by-laws" means this by-law and all other by-laws of the Corporation from time to time in force and effect;
- (e) "notice in writing" includes notice given by electronic means as provided for in Article 16; and
- (f) "Corporation" means this corporation.

Save as previously mentioned, words and expressions defined in the Act have the same meanings when used herein.

**3. MEMBERSHIP**

3.1 **Membership** - Membership in the Corporation is open to individuals, corporations, partnerships or government agencies who wish to use the internet peering service to be provided by the Corporation.

3.2 **Application to Membership** - Persons wishing to become members of the Corporation shall be admitted as members upon their submitting an application for membership to the Secretary and paying the required membership fees. All membership applications shall be subject to approval by the board.

3.3 Each member who is not an individual shall identify, in its membership application, an individual to act as the representative of the member for purposes of attending and voting at meetings of the members of the Corporation. The member may change this representative at any time by notice in writing to the Secretary of the Corporation.

3.4 **Fees** - The board may adopt a by-law setting a basic membership fee, payable on an annual basis, which shall include the fee for access to the basic internet peering service to be provided by the Corporation. The board may modify this fee at any time on three months' notice in writing to the members.

3.5 **Termination of Membership** - A membership in the Corporation may be terminated:

- (a) by the member writing a letter of resignation to the Secretary;
- (b) by the member failing to pay the annual membership fees within one month after the day on which they are due;
- (c) by an infringement of the by-laws or by conduct considered by a three quarters majority of the board of directors to be detrimental to the Corporation.

3.6 **Additional Fees and Services** - The Corporation may from time to time provide additional services to the members and assess additional fees for these services. Members shall not be required to pay these additional fees if they do not wish to receive the additional services.

#### 4. **MEETINGS OF MEMBERS**

4.1 **General Meeting** - There shall be at least one General Meeting of the Corporation each year which shall be held on a date fixed by the board of directors which date shall be not more than fourteen (14) months after the date of the previous General Meeting of Members.

4.2 The board may, by resolution, call a special meeting of the members at any time.

4.3 The board shall call a special meeting of members if such a meeting is requested by a requisition signed by at least twenty percent of the members in good standing or two members in good standing. The requisition shall state the purpose for which the meeting is to be called.

4.4 **Notice of Meetings** - Notices of General or Special Meetings shall be given to members in the manner set out in Article 16, a minimum of twenty one (21) days prior to the date of the meeting. The notice shall state the time, date, place, and the agenda of the meeting.

4.5 **Quorum** - A quorum at any meeting of members shall be a minimum of four (4) members or 25 percent (25%) of the members, whichever is greater, entitled to vote at the meeting. If a quorum is present at the opening of a meeting of members, the members present may proceed with the business of the meeting even though a quorum is not present throughout the meeting.

4.6 **Votes to Govern at Members' Meetings** - At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the questions. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the Chair of the meeting in addition to an original vote shall have a second or casting vote.

4.7 **Meetings by Electronic Means** - If the Corporation chooses to make available a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during a meeting of members, any person entitled to attend such meeting may participate in the meeting by means of such telephonic, electronic or other communication facility in the manner provided by the Act. A person participating in a meeting by such means is deemed to be present at the meeting. Notwithstanding any other provision of this by-law, any person participating in a meeting of members pursuant to this section who is entitled to vote at that meeting may vote, in accordance with the Act, by means of any telephonic, electronic or other communication facility that the Corporation has made available for that purpose.

4.8 If the directors or members of the Corporation call a meeting of members pursuant to the Act, those directors or members, as the case may be, may determine that the meeting shall be held, in accordance with the Act and the Regulations, entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

## 5. **BOARD OF DIRECTORS**

5.1 The board of directors shall consist of seven (7) directors who shall be elected at the General Meeting. Members of the board of directors need not be members of the Corporation.

5.2 A member of the board of directors shall cease to be a member of the board if he or she is absent from three consecutive meetings without an excuse satisfactory to a majority of the board of directors. directors removed in this manner shall be notified in writing by the Secretary.

5.3 At the first General Meeting of the Corporation one half of directors shall be elected for a term of one year and one half for a term of two years. At all subsequent General Meetings directors shall be elected for a term of two years.

5.4 The office of director shall be automatically vacated:

- (a) if at a special general meeting of members, a resolution is passed by of the members present at the meeting that the director be removed from office;
- (b) if the director delivers a written resignation to the secretary of the corporation;
- (c) if the director is found by a court to be of unsound mind;
- (d) if the director becomes bankrupt.

5.5 If a vacancy occurs in the board of directors between General Meetings of members, the board may elect a new director who shall hold office until the next General Meeting of members.

## 6. MEETINGS OF THE BOARD

6.1 **Calling of Meetings** - Meetings of the board shall be held from time to time and at such time and place as the board, the Chair of the Board, any two other Officers or any five other directors may determine.

6.2 **Place of Meetings** - Meetings of the board shall be held within the City of Winnipeg unless the board decides otherwise by resolution.

6.3 **Notice of Meeting** - Notice of the time and place of each meeting of the board shall be given in the manner provided in Article 16 to each director not less than 72 hours before the time when the meeting is to be held. A notice of a meeting of directors need not specify the purpose of or the business to be transacted at the meeting except where the Act requires such purpose or business to be specified, including any proposal to:

- (a) fill a vacancy in the board of directors, Officers or Auditor, or remove a director or Officer from office;
- (b) adopt or amend by-laws;
- (c) submit to the Members any matter requiring the approval of the members.

6.4 A director may in any manner waive notice of or otherwise consent to a meeting of the board.

6.5 **Meetings by Electronic Means** - If a majority of the directors consent, one or more directors may participate in a meeting of the board or of a committee of the board by means of such telephone or other communications facilities as permit all persons participating in the meeting to hear each other, and a director participating in such a meeting by such means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the board and of committees of the board held while a director holds office.

6.6 **Adjourned Meeting** - Notice of an adjourned meeting of the board is not required if the time and place of the adjourned meeting is announced at the original meeting.

6.7 **Regular Meeting** - The board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the board fixing the place and time of such regular meeting shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified.

6.8 **Quorum** - Four directors shall constitute a quorum.

6.9 **Votes to Govern** - At all meetings of the board every question shall be decided by a majority of the votes cast on the question. The chair of the meeting shall not vote except in a case of equality of votes when the chair shall have the casting vote.

## 7. **APPOINTMENT AND REMOVAL OF OFFICERS**

7.1 The board may designate the offices of the Corporation, appoint officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such officers the power to manage the affairs of the Corporation. A

director may be appointed to any office of the Corporation. An officer may, but need not be, a director unless these by-laws otherwise provide. Two or more offices may be held by the same person.

7.2 In the absence of a written agreement to the contrary, the board may remove, whether for cause or without cause, any officer of the Corporation. Unless so removed, an officer shall hold office until the earlier of:

- (a) the officer's successor being appointed,
- (b) the officer's resignation,
- (c) such officer ceasing to be a director (if a necessary qualification of appointment)
- (d) such officer's death.

7.3 If the office of any officer of the Corporation shall be or become vacant, the directors may, by resolution, appoint a person to fill such vacancy.

7.4 The Chair of the Board and a majority of the directors shall not be involved in the day to day operations of the Corporation.

## 8. DESCRIPTION OF OFFICES

8.1 Unless otherwise specified by the board (which may, subject to the Act modify, restrict or supplement such duties and powers), the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

- (a) **Chair of the Board** – The chair of the board, if one is to be appointed, shall be a director. The chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The chair shall have such other duties and powers as the board may specify. The chair will not be involved with the day-to-day operations of the Manitoba Internet Exchange.
- (b) **Vice-Chair of the Board** – The vice-chair of the board, if one is to be appointed, shall be a director. If the chair of the board is absent or is unable or refuses to act, the vice-chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The vice-chair shall have such other duties and powers as the board may specify.

- (c) **President** – If appointed, the president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation.
- (d) **Secretary** – If appointed, the secretary shall attend and be the secretary of all meetings of the board, meetings of members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings. The secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees. The secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
- (e) **Treasurer** – If appointed, the treasurer shall have such powers and duties as the board may specify.

8.2 The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

## 9. **CONFLICT OF INTEREST**

9.1 A director or officer who is a party to, or who is a director or officer of or has a material interest in any person who is a party to, a material contract or proposed material contract with the Corporation shall disclose the nature and extent of his interest at the time and in the manner provided by the Act. Any such contract or proposed contract shall be referred to the board or shareholders for approval even if such contract is one that in the ordinary course of the Corporation's business would not require approval by the board or shareholders, and a director interested in a contract so referred to the board shall not vote on any resolution to approve the same except as provided by the Act.

## 10. **REMUNERATION OF DIRECTORS**

10.1 Directors shall serve without remuneration and no director shall be an employee of the Corporation. However, directors may receive reimbursement or indemnity for expenses and liabilities incurred by them in the performance of their duties as directors.

## 11. EMPLOYEES

11.1 The board may employ persons to operate the Corporation and may specify the duties of and, in accordance with this by-law and subject to the provisions of the Act, delegate to such employees powers to manage the business and affairs of the Corporation.

11.2 The board may delegate to a personnel committee consisting of members of the board the power to hire and dismiss employees and to fix the terms of employment of employees.

## 12. PROTECTION OF DIRECTORS, OFFICERS AND OTHERS

12.1 Subject to the provisions of the Act, no director or officer shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the moneys, securities or effects of the Corporation shall be deposited, or for any loss occasioned by any error of judgment or oversight on his or her part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his or her office or in relation thereto, unless the same are occasioned by his or her own willful neglect or default; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the Act and the regulations thereunder or from liability for any breach thereof.

12.2 Subject to the limitations contained in the Act, the Corporation shall indemnify a director or officer, a former director or officer, or a person who acts or acted at the Corporation's request as a director or officer of a body corporate of which the Corporation is or was a member or creditor (or a person who undertakes or has undertaken any liability on behalf of the Corporation or any such body corporate) and his or her heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her in respect of any civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been a director or officer of the Corporation or such body corporate, if:

- (a) he or she acted honestly and in good faith with a view to the best interest of the Corporation; and



- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

12.3 **Insurance** - Subject to the limitations contained in the Act, the Corporation may purchase and maintain such insurance for the benefit of its directors and officers as such, as the board may from time to time determine.

### 13. **BUSINESS OF THE CORPORATION**

13.1 **Registered Office** - The registered office of the Corporation shall be located at:

180 George Marshall Way  
Winnipeg, MB R2C 5C9

The directors may by resolution, from time to time, move the registered office to another location in the City of Winnipeg, in Manitoba.

13.2 **Auditors** - At each Annual General Meeting the Corporation shall appoint at the next AGM following the adoption of the by-laws an auditor to carry out an audit of the finances of the Corporation. The audited statement shall be presented at the General Meeting of the Corporation following the Annual Meeting.

13.3 **Fiscal Year** - Until Changed by the Board, the fiscal year of the Corporation shall end on December 31st.

13.4 **Corporate Seal** - The Corporation shall not have a corporate seal unless and until the board adopts one by resolution.

13.5 **Execution of Documents** - Deeds, transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Corporation by two persons who hold the offices of chairman of the board, president, vice-president, secretary or treasurer. In addition, the board may from time to time authorize other officers, employees or other persons to sign a particular class of instruments on behalf of the corporation. Any signing officer may affix the corporate seal to any instrument requiring the same.

13.6 **Banking Arrangements** - The banking business of the Corporation, including, without limitation, the borrowing of money and the giving of security therefor, shall be transacted with such banks, trust companies or other bodies corporate or organizations as may from time to time be designated by or under the authority of the board. Such banking business or any part thereof shall be transacted

under such agreements, instructions and delegations of powers as the board may from time to time prescribe or authorize.

13.7 **Borrowing Powers** - Without limiting the borrowing powers of the Corporation as set forth in the Act, the board may from time to time:

- (a) borrow money upon the credit of the Corporation;
- (b) issue, reissue, sell or pledge bonds, debentures, notes or other evidence of indebtedness or guarantee of the Corporation, whether secured or unsecured; and
- (c) mortgage, hypothecate, pledge or otherwise create an interest in or charge upon all or any property (including the undertaking and rights) of the Corporation, owned or subsequently acquired, by way of mortgage, hypothec, pledge or otherwise, to secure payment of any such evidence of indebtedness or guarantee of the Corporation.

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

#### 14. **COMMITTEES**

14.1 The board may create standing or special committees to undertake the work of the corporation and may delegate to any committee any powers which are not required by the Act to be exercised directly by the Board.

14.2 Each committee may be composed of members of the board of directors or any member of the Corporation. The board of directors may delegate to any Committee the power to add additional members.

14.3 The board of directors may establish other committees as it deems appropriate or as directed by the membership at a General or Special Meeting of the Corporation.

14.4 The duties and responsibilities of each Committee must be approved by the board of directors.

14.5 The Chairperson of each Committee shall be appointed by the board of directors. If a Chairperson of a Committee is not a member of the board of directors then that Chairperson shall be appointed an *ex officio* member of the board of directors for so long as he or she holds the office of Chairperson and, as such, shall be

entitled to receive notice of, attend and speak at meetings of directors but not to vote or move or second motions.

15. **PROCEDURE AT MEETINGS**

15.1 Meetings shall be conducted in accordance with the most recent *Roberts Rules of Order* subject to any modifications which the board of directors or the Members may adopt by By-law or resolution.

16. **NOTICE OF MEETINGS**

16.1 All Members of the corporation shall provide the secretary with a current mailing address and may provide the secretary with a facsimile machine number and/or electronic mail address.

16.2 Any notice of meeting required to be given by this or any other by-law of the Corporation may be given by:

- (a) mailing the notice by ordinary first class mail to the Member's current mailing address;
- (b) delivery by courier service to the Member's mailing address;
- (c) facsimile transmission to the Member's facsimile machine number; or
- (d) electronic mail to the Member's electronic mail address.

16.3 A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any member, director, officer, public accountant or member of a committee of the board in accordance with any information believed by the secretary to be reliable. The declaration by the secretary that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. The signature of any director or officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

