



This is the 3<sup>rd</sup> affidavit of Kevin Harding in this case and was made on November 26, 2020

No. S-209201  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

Petitioners

**AFFIDAVIT #3 OF KEVIN HARDING**

I, Kevin Harding, policy analyst, of 6951 Elmbridge Way in the City of Richmond, in the Province of British Columbia affirm that:

1. I have personal knowledge of the facts and matters referred to by me except where indicated on information and belief and where so stated I verily believe them to be true. I affirm this Affidavit in support of an Application Response to the Application filed by the Petitioners on November 23, 2020.
2. I continue to be the spokesperson for Save MEC's steering committee (the Steering Committee) as described in my Affidavit #1, paras 20-28)
3. Despite the Sale Approval and Vesting Order issued in *Mountain Equipment Co-operative (Re)*, 2020 BCSC 1586, and the renaming of MEC to 1077 (2<sup>nd</sup> Affidavit of Robert Wallis filed on Nov. 23, at para 31) the Save MEC committee continues to work diligently towards advancing and protecting what remains of 1077's members' interests.
4. There are a number of individuals who continue to be interested in our efforts through the Save MEC Facebook page.

**The Membership Information Disclosure**

5. In and around mid-September 2020, and in response to the commencement of the CCAA proceedings, the Steering Committee determined a list of members would be necessary to meet the goals of Save MEC, as explained later in this affidavit. We requested Eugene Kung, a member Save MEC, to seek access to the membership registry or contact list of members (the "List").

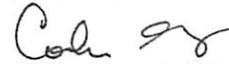
6. On September 22, 2020, Mr. Kung formally served 1077's head office on Great Northern Way with a request for a copy of the membership registry in electronic format, including a list of names and contact information of members, as indicated in **Exhibit "A"**.
7. Mr. Kung is a member of 1077 (member # 9049547), as indicated in the affidavit in **Exhibit "B"**.
8. Mr. Kung's request was accompanied by an affidavit declaring that he would only use the List for corporate purposes pertaining to 1077, as defined in s.1(1) of the *Cooperative Association Act*, as indicated in **Exhibit "B"**.
9. On October 20, 2020, counsel for 1077 replied to Mr. Kung stating that, in light of the CCAA proceedings, direction from the Court would be sought before MEC provides a "formal response" to Mr. Kung's request, as indicated in **Exhibit "C"**.
10. I and the rest of the Save MEC steering committee are fully aware of the statutory limitations placed on the use of the membership registry; in particular, s.134 of the *Co-op Act* and the s.1 definition of "corporate purposes". Neither I nor any member of the Save MEC steering committee intend to use the registry information in a manner contrary to law.
11. The purpose for obtaining the List, as agreed upon by the Steering Committee, is to have the capacity to communicate with 1077 members with respect to influencing the voting of members at a future meeting, including the next Annual General Meeting (AGM). See for example **Exhibit "D"**. The List may be utilized to achieve one or more of the following purposes:
  - a. A potential restructuring of the co-op and amendment to its corporate purposes;
  - b. Election of a new board of directors;
  - c. Encouraging members to exercise their voting rights to elect Board that would provide stewardship for what remains of 1077 as a co-operative;
  - d. Informing members of their right to participate in the ongoing governance of 1077 as a co-operative and communicating about future meetings; and,
  - e. To democratically determine the future direction of the co-op and how best to meet members' outdoor exploration and adventure needs, including:
    - i. Collectively developing proposals to be voted upon at the AGM, such as how and whether to continue the historic non-retail activities of the co-operative; and,
    - ii. Restructuring the organization or combining with other co-operatives that have similar purposes.
12. Furthermore, there are many other social and community benefits that 1077 could facilitate or organize. For example, 1077 has historically engaged in considerably more than just "retail" business. The co-op also conducted a number of related activities, including but not limited to:
  - a. Gear exchanges, where members could swap gear with one another, knowing that the social and associative link between members increased the value and reliability of the gear;
  - b. Races and social events, where members were able to meet and interact with each other, learn from one another (such as bicycle repairs, hiking safety, etc.);

- c. Contributions to environmental activities, which saw the co-op previously donate 1% of its revenues, at a minimum, to environmental causes, but also directly sponsor the development and maintenance of outdoor trails and activities throughout the country. There is no guarantee that a for-profit, private corporation will continue to make these contributions to the community, and this has evolved, over time, to be an essential corporate purpose of the co-op; and,
  - d. Support and development of new co-operatives, for example by providing mentoring, advising, provision of office space, and similar support.
13. These corporate purposes and other activities cannot be readily achieved without the membership register.
14. Save MEC is not seeking the membership register for the development of a new co-operative nor a non-profit organization. Furthermore, there is no present intention to resurrect the previous business operations of the co-op, given its financial state and lack of assets.
15. At present there is a clear leadership vacuum, with the present Board unwilling to engage in leadership or other efforts to assist the ongoing existence of 1077.
16. The purpose of regaining democratic participation in the Board is especially important given that the Board appears to have deliberately neglected to inform many members about the AGM. Many members have either not received any information, received inadequate information, and/or received inaccurate information about voting or the AGM.
17. As a member of 1077 I have not personally received any direct communication from MEC about voting or AGMs.
18. The Committee is committed to respecting the privacy of members, and if Save MEC obtains a copy of the list, the Steering Committee would entrust a member of the committee with oversight of the list to ensure it is only used for corporate purposes authorized by the *Co-op Act* such as influencing voting or efforts to reorganize what remains of the co-operative.
19. Andrej Kalesoki, who applied for access to the membership list, (Wallis 2nd Affidavit at para 20) is not a representative or member of Save MEC or the Steering Committee. The Steering Committee was not aware of this request.
20. For many years now, 1077 has identified members at point-of-sale transactions with an electronic database, whereby members provide their phone number and name rather than having to memorize their member number or use a card. For this system to work as it has, it would require the vast majority of currently purchasing members to be in an electronic database connected to the point-of-sale system.
21. None of these additional corporate purposes necessarily require retail stores to operate out of, and in fact, many of them can be provided by the members in co-operation with each other.



This is Exhibit "A" referred to in the  
Affidavit of Kevin Harding  
Sworn before me at Vancouver  
This 26<sup>th</sup> day of November 20, 20

Eugene Kung  
403-2023 Franklin Street  
Vancouver, B.C. V5L 1R4



A Commissioner for taking Affidavits  
within British Columbia

September 22, 2020

Mountain Equipment Co-operative  
Registered Office  
1077 Great Northern Way  
Vancouver, B.C.  
V5T 1E1

Dear Sir/Madam:

Pursuant to Section 133 of the Cooperative Association Act, I, Eugene Kung (MEC Membership #9048547) of 403-2023 Franklin Street, Vancouver, B.C., V5L 1R4, apply for a copy of the list of the names and addresses of the members of the Mountain Equipment Co-operative, together with their contact details, being e-mail addresses and telephone numbers. I would be grateful if the membership list could be sent to me electronically. My e-mail address is [eugene.kung@gmail.com](mailto:eugene.kung@gmail.com).

Accompanying this application is an affidavit pursuant to Section 133(2) of the Cooperative Association Act.

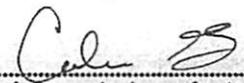
Please inform me of the cost for providing the membership list as soon as possible.

Yours truly,

  
Eugene Kung

Enclosure

This is Exhibit " B " referred to in the  
Affidavit of Kevin Harding  
Sworn before me at Vancouver  
This 26<sup>th</sup> day of November 2020

  
A Commissioner for taking Affidavits  
within British Columbia

IN THE MATTER of an application pursuant to Section 133 of the Cooperative Association Act:

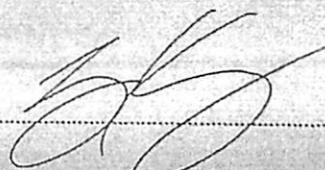
I, Eugene Kung, of 403-2023 Franklin Street, Vancouver, B.C., V5L 1R4, lawyer, Mountain  
Equipment Co-operative Membership #9048547, SWEAR (OR AFFIRM) THAT:

1. I am applying to Mountain Equipment Co-operative ("MEC") for a list of the members of  
MEC, together with their addresses and, if possible, their e-mail addresses and  
telephone numbers.
2. The list is required and will be used only for corporate purposes pertaining to MEC as  
defined in S1(1) of the Cooperative Association Act. The purposes are with respect to  
the calling of a Special General Meeting of MEC and for proposing a resolution or  
resolutions at that meeting.

SWORN (OR AFFIRMED) BEFORE ME at  
Vancouver,  
British Columbia on 22 September, 2020

  
A commissioner for taking affidavits for British  
Columbia

[print name or affix stamp of commissioner]

  
Eugene Kung

Neil M.G. Chantler  
Barrister and Solicitor  
Suite 650 - 375 Water Street  
Vancouver, BC V6B 5C6  
(604) 424-8454



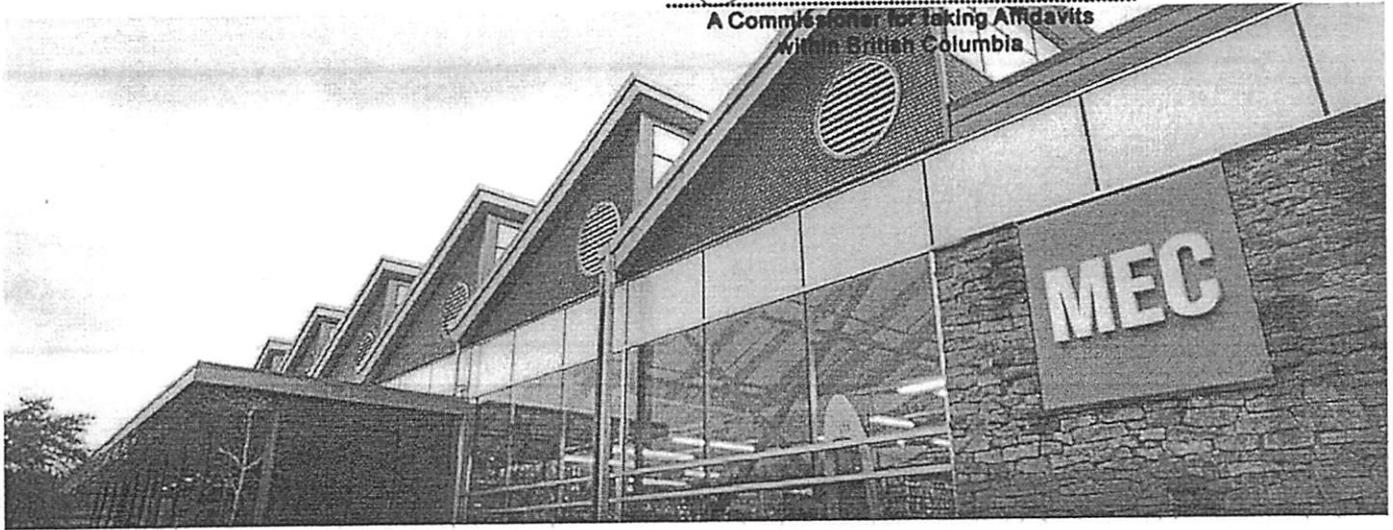
This is Exhibit " D " referred to in the  
Affidavit of Kevin Harding  
Sworn before me at Vancouver  
This 26<sup>th</sup> day of November 2020

facebook

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Carl S

A Commissioner for Taking Affidavits  
within British Columbia



## SaveMEC / SauvonsMEC

Public group · 11.3K members

About Discussion

Join Group



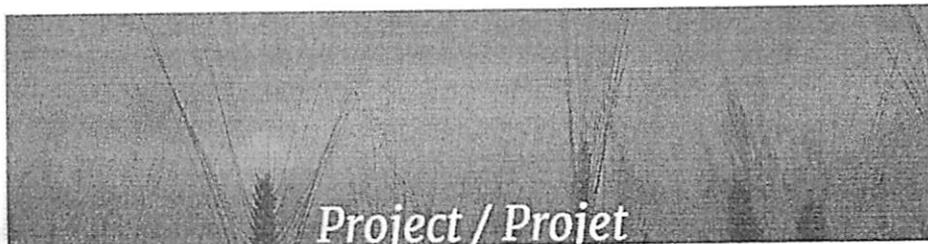
Kevin Harding

October 6 · 🌐

Project/Projet Redemption - Take over the co-op at the AGM (or sooner).

Project Redemption is an idea that we can (a) monitor the sale of MEC's assets, (b) continue to push for an AGM to hold the directors accountable, reform the co-op's bylaws, and elect a new board of directors, and (c) protect the corporate records of the co-op and use it as a base for building back better. This would not be able to stop MEC's sale, but we'd save the corporate body that is the co-op, if possible.

Are you interested? Ask questions here and chat with each other - and volunteer: <https://bit.ly/3nnLRN5>



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  117

37 Comments 3 Shares

 Like

 Comment

 Share



## MEC'S WEBSITE PRIVACY POLICY (PRE-APRIL 2016)

This statement discloses the privacy practices and policies for Mountain Equipment Co-operative's (MEC's) website. If you have any questions about these practices and policies, please email us at [privacy@mec.ca](mailto:privacy@mec.ca).

MEC respects your personal privacy. We believe ensuring the security of your personal information is an important part of our job. If we ask you to provide any personal information, we will tell you the purposes for which we intend to use that information. Your personal information is not lent or sold to anyone for any purpose.

## INFORMATION COLLECTION, USE, AND DISCLOSURE

Information gathered on [mec.ca](http://mec.ca) falls under the following categories:

- Aggregate Site Use Information
- Online Order Information and Security
- MEC Membership Information
- Subscriptions, Online Gear Swap, and Events List Information

This is Exhibit "E" referred to in the Affidavit of Kevin Harding Sworn before me at Vancouver This 26<sup>th</sup> day of November 2020

  
A Commissioner for taking Affidavits within British Columbia

## AGGREGATE SITE USE INFORMATION

We record information about the pages viewed by all of our website visitors. This data includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, platform type, date/time stamp, connection speed, read time, display time, and number of clicks.

We use this data, in aggregate form, to compile statistics and reports for Mountain Equipment Co-operative's use, and improve the online experience for all visitors.

We may, on occasion, provide portions of this aggregate information to vendors, consultants, potential advertisers, or news agencies. Typical uses of the data in this fashion would be to gauge the amount of interest in our site and/or to plan for site infrastructure improvements.

## COOKIE USE

A cookie is a small text file stored on a user's hard drive. Depending on how you have configured your browser, when you visit our site we use cookies. Cookies are required to shop on our site. We use cookies to assist with anonymous site traffic analysis, which includes tracking the time/date of visits, pages viewed, and referring URLs.

There are simple ways to either refuse all cookies, or accept them each time they are offered. Consult your browser's help files for assistance on changing cookie settings or removing cookie files.

## ONLINE ORDER INFORMATION AND SECURITY

If you place an order online, we only request the information needed to complete the processing of your orders and billing. We also share our users' personal information with outside shipping companies and credit card processing companies in order to bill and ship your order, but we do not provide any more information than necessary for these purposes. We may also use the information to contact you regarding your order.

## OUR SITE SECURITY

We use appropriate security safeguards to protect your personal information against loss, theft, and unauthorized access. Any personal information you provide to Mountain Equipment Co-operative is exchanged on a secure server. We use one of today's most advanced security systems, the Secure Sockets Layer (SSL) protocol, to encrypt, or encode, information you send to us in the order process. The encryption process protects information, such as your credit card number, and billing and shipping information by scrambling it before it is sent from your computer. Only once we receive your information is it decoded, and we make all reasonable efforts to ensure its security on our own systems.

## WARNING:

e-mail is not a secure means to send personal information, as it is not encrypted. We strongly encourage you to use our secure ordering process when ordering online. For general correspondence we also have our secure Contact Us page at [info@mec.ca](mailto:info@mec.ca).

## MEC MEMBERSHIP INFORMATION

As a co-operative, MEC requires your assistance in providing us with your personal information to fulfil our regulatory obligations. If you become a member, you must provide certain information which is added to our internal membership database, which co-operatives must maintain by law. The information maintained in the database includes:

- member number;
- the name, address, and telephone number of the member;
- the number of patronage bonus shares held by the member;
- the date on which the name of the member was entered in the register as a member with the co-operative;
- the date on which any person ceased to be a member of the co-operative.

The information contained in the database can only be used for corporate purposes pertaining to Mountain Equipment Co-operative, such as Board election information and other correspondence. MEC does not sell, rent, or loan our membership lists to anyone.

## UPDATING MEMBERSHIP DATA

Membership information previously provided to MEC can be updated online at [www.mec.ca/update](http://www.mec.ca/update), or by calling Membership Services at 1.800.474.7704 (Canada and U.S.) or 604.876.6221 (Local and International).

## OPTING OUT

If you wish to have any of your personal information removed from our databases, or if you no longer want us to send any further communications to you, please send an e-mail to Membership Services at [info@mec.ca](mailto:info@mec.ca).

Please note, however, that as a co-operative we are required by law to maintain certain information about our members, as noted above in Information, Collection, Use & Disclosure, which we are required by law to maintain even after a member has terminated his or her membership.

## SUBSCRIPTIONS, ONLINE GEAR SWAP, AND EVENTS LIST INFORMATION

Visitors to our site may choose to opt in to receive our email newsletters. They may also choose to use our free online Online Gear Swap and Events Listings.

### NEWSLETTER SUBSCRIPTION

Newsletters are sent only to users who choose to provide us with their email address. Our newsletter subscriber database is never sold, rented or loaned to any other parties. Subscribers wishing to update their contact information, or opt out of receiving newsletters, can use our online subscriber services at [www.mec.ca/newsletter](http://www.mec.ca/newsletter).

We collect aggregate information regarding open rates, page views, and generated sales from our HTML email newsletters. Aggregate information does not personally identify individuals. Subscribers concerned about collection of aggregate information may unsubscribe at [www.mec.ca/unsubscribe](http://www.mec.ca/unsubscribe).

### ONLINE GEAR SWAP AND EVENTS LISTINGS

Visitors choosing to use our free online Online Gear Swap or events listings are bound by the user-provided content guidelines set out in our Terms of Use. Online Gear Swap posting data is stored for a maximum 15 days. Events Listings data is stored from the time the posting is made until the user-defined expiration date.

### FRAUD PREVENTION

Mountain Equipment Co-operative reserves the right to co-operate with local, national, or international law enforcement or other authorities in the investigation of improper or unlawful activities and this may require the disclosure of personal information. If such an investigation requires disclosure of personal information kept in our records, we may be required by law to cooperate. We also reserve the right to report improper or unlawful user activities on our site, which may require the disclosure of personal information relating to those individuals conducting such improper or unlawful activities.

### LINKS

This web site contains links to other sites and advertisements. This privacy statement only applies to information collected by our web site. We are not responsible for the privacy practices and policies of these third parties.

### ACCURACY OF INFORMATION

We strive to ensure that any personal information we retain and use is as accurate, complete and up-to-date as necessary for the purposes for which we will use it. We do not routinely update personal information unless necessary for these purposes. Nonetheless, if our records regarding your personal information are inaccurate or incomplete, we will amend that information at your request.

### ACCESS TO INFORMATION

At your request, we will provide to you a statement explaining the extent to which we hold personal information about you, and we will explain how that information has been used or disclosed by us.

This page will be updated if information about the collection and use of your personal data changes.

## CHANGES TO THIS PRIVACY POLICY

MEC may update this privacy policy in the future. We will notify you about material changes to this privacy policy by placing a prominent notice on our website. As well, a history of those changes will be noted here, beginning with changes published after January 1, 2005.

Any changes in our use of personal information contrary to Members' initial consent will be posted, in advance, on our website with instructions regarding consent to any changes. Notices may also be posted in our stores and sent by email. All changes will remain in compliance with federal and provincial privacy legislation.

## ANTI-SPAM POLICY

MEC has a no tolerance spam policy to protect our members and other individuals who receive our messages. We only send commercial electronic messages (CEMs) from our servers in compliance with this Anti-spam Policy.

## WHEN DOES MEC SEND CEMS?

MEC only sends CEMs in the following contexts:

- You have explicitly informed us that you would like to receive such messages,
- MEC is engaged in a commercial activity with you, and the CEM consists solely of an inquiry or application related to that activity,
- MEC is providing a quote or estimate for the supply of a product or service if you requested the quote or estimate,
- The CEM facilitates, completes or confirms a commercial transaction that you previously agreed to enter into with MEC,
- The CEM provides warranty information, product recall information or safety or security information about a product or service that you use, have used or have purchased,
- The CEM provides notification of factual information about: (i) your ongoing use or ongoing purchase of a product or service offered under a subscription, membership, account, loan or similar relationship with MEC, or (ii) your ongoing subscription, membership, account, loan or similar relationship with MEC,
- The CEM delivers a product or service, including product updates or upgrades, that you are entitled to receive under the terms of a transaction that you previously entered into with MEC.
- You have provided your email address to MEC, or have published your email address, without placing any restrictions on its use,
- You have an existing business relationship with MEC.
- MEC is otherwise permitted by law to do so, and believes the CEM is necessary or may be useful to you.

## OPT-IN AND UNSUBSCRIBE

Opt-in email is an online marketing term for promotional email that recipients have previously requested by signing up via mec.ca, share applications or other paper forms, or through the MEC app. Ideally, web users are invited to sign up for promotional information about one or more product/service categories. Those who signed up have thus 'opted in'.

If at any instance you want to cease receiving CEMs from MEC, you may click the unsubscribe link at the bottom of any CEM. When you unsubscribe using the links provided in our CEMs, your request will be processed as soon as possible, and no later than 10 business days after you send the request.



## RECEIPT OF UNWANTED CEMS FROM MEC

In the unlikely event that you receive any unwanted messages from MEC or sent using MEC servers, please contact us at 1.888.847.0770.

This is Exhibit " F " referred to in the  
Affidavit of Kevin Harding  
Sworn before me at Vancouver  
This 26<sup>th</sup> day of November 20 20

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.....  
A Commissioner for taking Affidavits  
within British Columbia

# APPLICATION FOR WITHDRAWAL OR TRANSFER OF SHARES



Before you fill this page out, please read the policy summary on the other side of this form.

## Member information

Please provide the information we would have on file for the member who is applying to withdraw or transfer shares:

Member number \_\_\_\_\_

First and last name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ Email \_\_\_\_\_

If your current contact information is different than the above (or if you are the executor) please fill out the section below. Your information will only be used to contact you about this application and will not be added to any mailing lists.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ Email \_\_\_\_\_

You have different options based on the reason you are withdrawing or transferring your shares.

Reason (choose one)	Method to withdraw/transfer shares (choose one)
<input type="checkbox"/> I have a duplicate membership.	<input type="checkbox"/> Close member # _____ and transfer all shares to my active member # _____ <input type="checkbox"/> Close member # _____, send me a refund cheque for the duplicate \$5 membership share, and transfer rest of shares to my active member # _____

Reason (choose one)	Method to withdraw/transfer shares (choose one)
<input type="checkbox"/> Member is deceased. <i>You may be asked to provide proof of death.</i> <input type="checkbox"/> Member is permanently incapacitated. <i>You may be asked to provide further information.</i> <input type="checkbox"/> I no longer wish to be a member of MEC.	<input type="checkbox"/> Send a cheque for the shares accumulated for this membership. <i>If a member is deceased, note that cheques are issued to the estate of the deceased. If the estate is closed, please include proof of executorship, such as a copy of the will, and the cheque will be issued in the executor's name.</i> <input type="checkbox"/> Donate the shares to the MEC Endowment Fund. <i>A tax receipt will be issued for donations of \$25 or more.</i> <input type="checkbox"/> Transfer all shares to another individual: (name and member #) _____ <i>If this is a new member, please attach completed member application.</i>

Reason (choose one)	Only one way to withdraw shares
<input type="checkbox"/> I am 70 years or older. <i>Please provide proof of age, such as a copy of your government-issued ID or birth certificate.</i> <input type="checkbox"/> I am suffering financial hardship due to non-redemption of my shares. <i>You may be asked to provide further information.</i>	<input type="checkbox"/> Send me a cheque for all of my shares, except for one membership share to keep my membership active.

Signature of member or executor (required) \_\_\_\_\_ Date \_\_\_\_\_

# MOUNTAIN EQUIPMENT CO-OP MEMBERSHIP AND REDEMPTION OF SHARES POLICY

MEC is a retail co-operative owned by the people who shop here. To buy or rent gear from MEC, you must be a member. A lifetime individual membership is \$5 (your membership share). As you make purchases, you earn patronage shares and your share value increases.

If you cease to be a member, then you're entitled to be paid for all the shares that you own. This includes both your original \$5 membership share and any other patronage shares that have been credited to you during your membership.

You may apply to withdraw shares for any of the following reasons:

- 1 If you have a duplicate membership. The \$5 membership share may be refunded by cheque or transferred to an active membership. Any accumulated patronage shares will be transferred to the active membership.
- 2 If a member has died, the executor of the member's estate may apply to withdraw or transfer their shares. Withdrawal cheques will be issued to the estate unless the executor provides sufficient proof of executorship, such as a copy of the will.
- 3 If you are unable to enjoy the benefits of membership due to permanent incapacity.
- 4 If you are 70 years or older, you may apply to have all of your shares redeemed except for one membership share to keep the membership active (under the Age Exemption policy). You must provide sufficient proof of age, such as a copy of your government-issued ID or birth certificate.
- 5 If you are suffering financial hardship due to non-redemption of your shares, you may apply to have all your shares redeemed except for one membership share to keep the membership active.
- 6 If you no longer wish to be a member of MEC.

The Board of Directors is guided by these policies but has the discretion to approve or decline all withdrawal requests. Under MEC's Rules of Co-operation, MEC must redeem shares within one year of receiving a completed Application for Withdrawal or Transfer of shares, or within three months if a member has died or is permanently incapacitated.

You may send us your application in one of the following ways:

By mail: Mountain Equipment Co-op  
Attn: Membership Services  
1077 Great Northern Way  
Vancouver, BC V5T 1E1

By email: [info@mec.ca](mailto:info@mec.ca) (please put "Attn: Membership Services" in the subject line)

By fax: 800 722 1960 (toll-free) or 604 876 6590 (local Vancouver area)