



THE DURHAM ART GALLERY

GENERAL OPERATING BY-LAW No. 3

27 April 2024

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BY-LAWS as of the Corporation's Annual General Meeting held 13 April 2024

GENERAL OPERATING BY-LAW

A By-law relating generally to the conduct of the affairs of **THE DURHAM ART GALLERY**, an Ontario corporation,

WHEREAS:

- (A) The Corporation was incorporated in Ontario on 24 December 1980 under the name "The Durham Art Gallery";
- (B) General Operating By-law No. 1 was enacted on 1 April 2010 and repealed and replaced by General Operating By-law No. 2 which was passed by the Board of Directors on 14 August 2018 and enacted by the Members at the annual general meeting held in respect of the 2018 Financial Year. General Operating By-law No. 2 was subsequently amended by the Members at the annual general meeting held in November 2020 (as amended, the "**Previous By-law**"); and
- (C) It is necessary to replace the Previous By-law of the Corporation, with General Operating By-law herein to conform to Ontario's Not-for-Profit Corporations Act, 2010, S.O. 2010, C.15 (together, where the context requires, with the regulations made under it, as amended or re-enacted from time to time "**ONCA**"), which took effect on 19 October 2021 and requires provincially-incorporated nonprofits, to ensure their governing documents, including their articles and bylaws, comply with ONCA no later than 18 October 2024.

NOW THEREFORE BE IT ENACTED that the Previous By-law of the Corporation is repealed and the following by-law is enacted as the general operating by-law of the Corporation as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 In this By-law, unless the context otherwise requires:

- 1.1.1.1 "**Articles**" means the articles of incorporation or letters patent of the Corporation;
- 1.1.1.2 "**Board**" means the board of directors of the Corporation;
- 1.1.1.3 "**By-law**" means this by-law, and "**By-laws**" means this by-law and all other by-laws, of the Corporation as amended and which are, from time to time, in force and effect;
- 1.1.1.4 "**Class A Member**" means a person who fulfills the criteria set out in By-law 8.2.1;
- 1.1.1.5 "**Class B Member**" means a person who fulfills the criteria set out in By-law 8.2.2;
- 1.1.1.6 "**Corporation**" means the legal entity incorporated as a corporation without share capital by Letters Patent dated 24 December 1980 and named "The Durham Art Gallery";
- 1.1.1.7 "**Director**" means an individual occupying the position of director of the Corporation by whatever name he or she is called;
- 1.1.1.8 "**Extraordinary Resolution**" means a resolution that is:

- (a) submitted to a special meeting of the Members duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least 80 per cent of the votes cast, or
 - (b) consented to by each Member entitled to vote at a meeting of the Members or the Member's attorney.
- 1.1.1.9 **"Member"** means a Class A Member or a Class B Member of the Corporation;
- 1.1.1.10 **"Membership"** means being a Member;
- 1.1.1.11 **"Officer"** means an officer of the Corporation.
- 1.1.1.12 **"ONCA"** has the meaning given to that term in Recital (C).
- 1.1.1.13 **"Previous By-laws"** has the meaning given to that term in Recital (B); and
- 1.1.1.14 **"Proxy"** means an authorization by means of which a Member has appointed a proxyholder to attend and act on the Member's behalf at a meeting of the Members.
- 1.1.1.15 **"Special Resolution"** means a resolution that:
 - (a) is submitted to a special meeting of the Members duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least two-thirds of the votes cast, or
 - (b) consented to by each Member entitled to vote at a meeting of the Members or the Member's attorney.

1.2 Interpretation

- 1.2.1 In the interpretation of this By-law, unless the context otherwise requires, the following rules shall apply:
 - 1.2.1.1 except where specifically defined herein, all terms contained herein and which are defined in ONCA shall have the meanings given to such terms in ONCA;
 - 1.2.1.2 words importing the singular number only shall include the plural and *vice versa*;
 - 1.2.1.3 the word "person" shall include an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;
 - 1.2.1.4 words importing the masculine gender include the feminine and neuter genders and vice versa;

- 1.2.1.5 the headings used in the By-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions;
- 1.2.1.6 The words: "include", "including", "such as", "comprise", "comprising", "in particular" and the like, shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of the phrase to which they are applied.
- 1.2.1.7 Liability includes any obligation or liability (whether present or future, actual or contingent, secured or unsecured, as principal or surety or otherwise);
- 1.2.1.8 the By-laws of the Corporation shall be strictly interpreted at all times in accordance with and subject to the objects contained in the Articles of the Corporation which objects for purposes of this By-law are incorporated by reference and made a part hereof; and
- 1.2.1.9 if any of the provisions contained in the By-laws are inconsistent with those contained in the Articles or ONCA, the provisions contained in the Articles or ONCA, as the case may be, shall prevail.

2. **GENERAL**

2.1 **Registered Office**

The head office of the Corporation shall be in the Municipality of West Grey, in the County of Grey, unless changed by Special Resolution in accordance with ONCA.

2.2 **Severability and Precedence**

The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law. If any of the provisions contained in the by-laws are inconsistent with those contained in the Articles or ONCA, the provisions contained in the Articles or ONCA, as the case may be, shall prevail.

2.3 **Corporate Seal**

The seal of the Corporation, if any, shall be in the form determined by the Board.

2.4 **Board Policies**

The Board may adopt, amend, or repeal such board policies relating to the management and operation of the Corporation as the Board may deem appropriate from time to time. Any policies shall, as implemented or amended, be consistent with By-laws of the Corporation. Any board policy adopted by the Board shall continue to have force and effect until amended, repealed, or replaced by a subsequent resolution of the Board.

2.5 **Execution of Documents**

- 2.5.1 Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any one (1)

or two (2) of its Officers or Directors in accordance with the thresholds and requirements set out in the Board-approved financial policy from time to time. In addition, the Board may from time to time direct the manner in which, and the person or persons by whom, a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal thereto. Any Director or Officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

- 2.5.2 Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form, each of which is executed by one or more persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, are deemed to constitute one document for the purposes of these by-laws

3. FINANCIAL MATTERS

3.1 Fiscal Year

Unless otherwise changed by resolution of the Board, the fiscal year end of the Corporation shall be the 31st day of December in each year.

3.2 Banking

The banking business of the Corporation shall be transacted at such banks, trust companies or other firms or corporations carrying on a banking business in Canada as the Board may designate, appoint or authorize from time to time by resolution. The banking business or any part thereof shall be transacted by any two (2) Officers of the Corporation and/or other persons as the Board may by resolution from time to time designate, direct or authorize.

3.3 Borrowing

3.3.1 Borrowing Authority

Subject to the limitations set out in ONCA, the Articles of the Corporation and this By-law, the Board may: borrow money on the credit of the Corporation; issue, sell or pledge securities of the Corporation; or charge, mortgage, hypothecate or pledge all or any of the real or personal property of the Corporation including book debts and unpaid calls, rights, powers, franchises and undertakings, to secure any securities or any money borrowed or other debt or any other obligation or liability of the Corporation.

3.3.2 Authorization

From time to time, the Board may authorize any Director or Officer or committee of Directors to make arrangements with reference to money borrowed or to be borrowed as to the terms and conditions of the loan thereof, and as to the security to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional security as the Board may authorize and generally to manage, transact and settle the borrowing of money by the Corporation.

3.4 Financial Disclosure

3.4.1 Approval of annual financial statements

- 3.4.1.1 The Directors shall approve annual financial statements of the Corporation that relate to the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting.
- 3.4.1.2 The approval of the Directors must be evidenced by the signature of one or more Directors.
- 3.4.1.3 If the Corporation has an audit committee, the audit committee shall review the financial statements of the Corporation before they are approved by the Directors.
- 3.4.1.4 The Corporation shall not issue, publish or circulate copies of the annual financial statements unless they are:
 - (a) approved and signed in accordance with By-laws 3.4.1.1 and 3.4.1.2; and
 - (b) accompanied by the audit or review engagement report, if any.

3.4.2 Presentation of annual financial statements to Members

No less than 21 days before each annual meeting of the Members, the Board shall make available to all Members who have previously informed the Corporation in writing that they wish to receive a copy:

- 3.4.2.1 the financial statements approved by the Directors;
- 3.4.2.2 the report of the auditor or of the person who conducted a review engagement, as the case may be; and
- 3.4.2.3 any further information respecting the financial position of the corporation and the results of its operations required by the Articles or the By-laws.

3.4.3 Contents of financial statements

The financial statements referred to in By-law 3.4.1 shall:

- 3.4.3.1 be prepared in accordance with the generally accepted accounting principles set out in the CPA Canada Handbook — Accounting or the CPA Canada Public Sector Accounting Handbook, both as amended from time to time; and
- 3.4.3.2 include:
 - (a) a statement of financial position or a balance sheet,
 - (b) a statement of comprehensive income or a statement of retained earnings,
 - (c) a statement of changes in equity or an income statement, and

- (d) a statement of cash flows or a statement of changes in financial position.

3.5 **Membership Dues**

Subject to the Articles and these By-laws, the Directors may require Class A Members to make an annual contribution or pay annual dues and may determine the manner in which the contribution is to be made or the dues are to be paid.

3.6 **Investment**

The Corporation may invest its funds as its Directors think fit, subject to the Articles, these By-laws, any investment policy approved by the Board and any limitations accompanying a gift.

4. **DIRECTORS**

4.1 **Powers**

Subject to ONCA and the Articles, the Board shall manage or supervise the management of the activities and affairs of the Corporation.

4.2 **Number**

4.3 **There shall be a minimum of three (3) and a maximum of seven (7) Directors unless increased by Special Resolution of the Directors. Not more than one-third of the Directors may be employees of the Corporation. Qualifications**

Each Director shall be an individual who is not less than 18 years of age and have the power under law to contract. No person who has been found by a court in Canada or elsewhere to be mentally incompetent or who has the status of a bankrupt shall be a Director. A Director must be in full agreement with the governing documents of the Corporation. A Director shall at the time of his or her election (or within 10 days thereafter) and during the term of office as a Director be a Class A Member of the Corporation in good standing, and is not an ineligible individual as defined in the *Income Tax Act* (Canada).

4.4 **Election and Term**

4.4.1 Subject to the provisions of this By-law, Directors shall be elected by the Class A Members at an annual meeting.

4.4.2 The Board may appoint additional Directors for a limited term of one (1) year, provided that the number of additional Directors appointed does not exceed one-third ($\frac{1}{3}$) of the number of Directors elected by the Class A Members at the previous annual Class A Members' meeting.

4.4.3 The term of office of the Directors (subject to the provisions, if any, of this By-law) appointed:

4.4.3.1 at an annual meeting of the Class A Members shall be from the date of the meeting at which they are elected or appointed until the second annual meeting of Class A Members following their election.

4.4.3.2 by the Board shall be from the date on which they are elected or appointed until the first annual meeting of Class A Members following their election.

- 4.4.4 The Board members whose terms come to an end shall retire at the annual meeting at which the election of Directors is to be made but subject to the provisions of the By-laws, shall be eligible for re-election.
- 4.4.5 The maximum term of office for a Director shall be six (6) consecutive years and as such, a Director will be eligible for re-election to the Board at the end of his or her term, unless the Director's cumulative consecutive appointment would exceed 6 years, provided that such Director continues to meet the qualification requirements to be a Director. A Director who becomes ineligible for re-election in a year under this By-law 4.4.5 shall become eligible for election after having taken one year off, provided that such Director meets the qualification requirements to be a Director at the time of the relevant election or appointment.

4.5 **Consent**

A Director who is elected or appointed must consent to hold office as a Director by:

- 4.5.1 not refusing to hold office if such person is present at the meeting when the election or appointment takes place,
- 4.5.2 consenting to hold office in writing before the election or appointment takes place or within ten (10) days after it if such person is not present at the meeting, or
- 4.5.3 by acting as a Director pursuant to such person's election or appointment.

4.6 **Vacation of Office**

4.6.1 The office of a Director shall be vacated immediately:

- 4.6.1.1 if the Director resigns office by written notice to the Corporation, which resignation shall be effective at the time it is received by the Corporation or at the time specified in the notice, whichever is later;
- 4.6.1.2 if the Director dies or becomes bankrupt;
- 4.6.1.3 if the Director is found to be incapable by a court or incapable of managing property under Ontario law; or
- 4.6.1.4 If removed under Section 4.8 of these by-laws.

4.6.2 Where a person is no longer a Director, then such person shall be deemed to have also automatically resigned as an Officer (if it is a requirement to be a Director to hold that particular Officer position) and/or a committee member, as applicable, provided that the Board may in its discretion subsequently re-appoint such individual as a committee member if the Board deems it appropriate in the circumstances.

4.7 **Resignation**

A Director may resign from office by giving a written resignation to the Corporation and such resignation becomes effective when received by the Corporation or at the time specified in the resignation, whichever is later.

4.8 **Removal from Office**

4.8.1 The Class A Members of the Corporation may, by ordinary resolution at a special

meeting, remove from office any Director or Directors, except persons who are directors by virtue of their office.

4.8.2 A Director is entitled to give the Corporation a statement giving reasons,

4.8.2.1 for resigning; or

4.8.2.2 for opposing their removal as a Director if a meeting of the Class A Members is called for the purpose of removing him or her,

and the Corporation shall immediately give the Class A Members a copy of the statement.

4.9 **Filling Vacancies**

4.9.1 A Director appointed or elected to fill a vacancy holds office for the remainder of the unexpired term of the Director's predecessor.

4.9.2 Subject to Section 3.08 above and to the provisions of ONCA, a vacancy on the Board may be filled for the remainder of its term by a qualified individual by resolution of a quorum of the Board. If there is not a quorum of Directors, the Directors then in office shall forthwith call a special meeting of Class A Members to fill the vacancy and, if they fail to call a meeting or if there are no Directors then in office, the meeting may be called by any Class A Member.

4.10 **Remuneration of Directors**

No Director shall directly or indirectly receive any profit from occupying the position of Director or from providing services to the Corporation in another capacity. However, Directors may be reimbursed for reasonable expenses that they incur in either of those capacities. Nothing herein contained shall be construed to preclude any Directors from serving the Corporation as an Officer or in any other capacity.

5. **MEETINGS OF DIRECTORS**

5.1 **Place of Meetings**

Meetings of the Board may be held at the head office of the Corporation or at any other place within or outside of Canada, as the Board may determine.

5.2 **Calling of Meetings**

Meetings of the Board may be called by the Chair or Vice-Chair, or by the Secretary on direction of the Chair or Vice-Chair or by the Secretary on direction in writing of any two (2) Directors at any time.

5.3 **Notice of Meeting**

5.3.1 Subject to Section 5.5 (Regular Meetings) notice of a meeting of the Board shall be given to each Director"

5.3.1.1 if sent by mail in the manner specified in Section 9.01 of this By-law, not less than fourteen (14) days; or

5.3.1.2 If delivered personally, sent by email or other electronic means, or sent by courier, not less than forty-eight (48) hours,

(exclusive of the day on which the notice is delivered or sent but inclusive of

the date for which the notice is given) before the meeting is to take place.

5.3.2 Notwithstanding the foregoing, notice of a meeting shall not be necessary if all of the Directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.

5.3.3 If the meeting of the Directors will take place by telephonic or electronic means, the notice of the meeting must include instructions for attending and participating in the meeting by the telephonic or electronic means that will be made available for the meeting, including, if applicable, instructions for voting by such means at the meeting.

5.4 **First Meeting of New Board**

Provided that a quorum of Directors is present, a newly elected Board may, without notice, hold its first meeting immediately following the meeting of Class A Members at which such Board is elected.

5.5 **Regular Meetings**

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 meetings of the Board shall be sent to each Director forthwith after being passed, and no other notice shall be required for any such regular meeting.

5.6 **Quorum**

A quorum for the transaction of business at any meeting of the Board shall be a majority of the Directors then in office. Only those Directors present in person, by telephone or electronically shall be counted in determining whether or not a quorum is present. No person shall act for an absent Director at a meeting of Directors.

5.7 **Participation at Meeting by Telephone or Electronic Means**

5.7.1 If a majority of the Directors consent, either at a Board meeting by resolution or by consents signed individually by a majority of the Directors, a meeting of the Board of Directors may be held using telephonic, electronic or other means permitting all participants to communicate adequately with each other during the meeting provided that: the Board of the Corporation has passed a resolution addressing the mechanics of holding such a meeting and dealing specifically with how security issues should be handled, the procedure for establishing quorum and recording votes; and each Director has equal access to the specific means of communication to be used.

5.7.2 A Director participating in the meeting by such means shall be deemed for the purposes of ONCA to have been present at that meeting. A written consent pursuant to this Section may be given before or after the meeting to which it relates and may be a "blanket" consent, relating to all meetings of the Board and/or committees of the Board.

5.8 **Chair of the Meeting**

The chair of Board meetings shall be the Chair, or the Vice-Chair if the Chair is absent

or unable to act. In the event that the Chair and Vice Chair are all absent, the Directors who are present shall choose one of their number to chair the meeting.

5.9 **Voting**

5.9.1 Votes to Govern

Each Director is authorized to exercise one (1) vote. At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chair of the meeting, in addition to an original vote, shall have a second or casting vote.

5.9.2 Evidence of Resolution

Unless a ballot is demanded, an entry in the minutes of a meeting of the Directors to the effect that the chair of the meeting declared a resolution to be carried or defeated is, in the absence of evidence to the contrary, proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

5.9.3 Electronic Votes on Urgent Matters

If a matter which is unlikely to be controversial among the Directors requires urgent Board action (each as determined by the Chair or the Vice-Chair, acting reasonably) and a quorum of Directors is unavailable to meet, then the Chair may circulate a draft resolution electronically without convening a meeting of the Directors, and the Board may vote electronically to pass the resolution. Such a vote shall pass by majority vote, and, if passed, shall take effect until the next meeting of the Directors, when the vote shall be ratified by the Directors present in order to have continuing effect. Any electronic vote pursuant to this by-law 5.9.3 shall be set out in the minutes of the next meeting of the Directors.

5.10 **Consent and Dissent**

5.10.1 Consent

A Director who is present at a meeting of the Directors or of a committee of Directors is deemed to have consented to any resolution passed or action taken at the meeting, unless,

- 5.10.1.1 the Director's dissent is entered in the minutes of the meeting;
- 5.10.1.2 the Director requests that his or her dissent be entered in the minutes of the meeting;
- 5.10.1.3 the Director gives his or her dissent to the secretary of the meeting before the meeting is terminated; or
- 5.10.1.4 the Director submits his or her dissent to the corporation immediately after the meeting is terminated,

5.10.2 Eligibility to Dissent

Director who votes for or consents to a resolution is not entitled to dissent.

5.10.3 Director not Present at Meeting

A Director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented to the resolution or action unless within

seven (7) days after becoming aware of the resolution, the Director:

5.10.3.1 causes his or her dissent to be placed with the minutes of the meeting;
or

5.10.3.2 submits his or her dissent to the Corporation.

5.11 Material Interest

5.11.1 Disclosure

5.11.1.1 No Director shall, directly or through an associate, receive a financial benefit, through a contract or otherwise, from the Corporation unless the provisions of ONCA and the law applicable to charitable corporations are complied with.

5.11.1.2 A Director who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation or is a director or officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation shall make the disclosure required by ONCA.

5.11.1.3 Except as provided by ONCA, no such Director shall attend any part of a meeting of Directors during which the contract or transaction is discussed or vote on any resolution to approve any such contract or transaction.

5.11.2 Material Interest

The phrase "material interest" shall mean that the Director in question, directly or indirectly, is personally receiving a material benefit or gain of some kind, either financially or otherwise, with the determination of "material interest" in such circumstances to be determined by the Board from time to time, subject to the overriding compliance with the common law concerning conflict of interest of Directors as fiduciaries and the provisions of ONCA.

5.11.3 Procedure Where Disclosure

The chair of Board meetings shall request any Director who has declared a direct or indirect (i.e. through his or her family members) pecuniary or personal interest, gain or benefit in any proposed contract, business transaction, financial arrangement, or other matter with the Corporation, to absent himself during the discussion of and vote upon the matter, with such action being recorded in the minutes.

5.11.4 Procedure Where Disclosure

If no quorum exists for the purpose of voting on a resolution to approve a contract or transaction only because a director is not permitted to be present at the meeting by reason of subsection (5), the remaining directors are deemed to constitute a quorum for the purposes of voting on the resolution.

5.12 Confidentiality

Every Director, Officer, committee member, employee and volunteer, shall respect the confidentiality of matters brought before the Board or before any committee of the Board, or any matter dealt with in the course of employment or involvement of such

person in the activities of the Corporation.

5.13 Delegation

- 5.13.1 Subject to ONCA, the Board may appoint from their number a managing director or a committee of Directors and delegate to the managing director or committee any of the powers of the Board.
- 5.13.2 The Board cannot delegate the following responsibilities to a managing Director or a committee of Directors:
 - 5.13.2.1 seeking Member approval on a decision
 - 5.13.2.2 filling a vacancy among the Directors, the auditor, or a person appointed to conduct a review engagement
 - 5.13.2.3 appointing additional Directors
 - 5.13.2.4 issuing debt obligations except as authorized by the Directors
 - 5.13.2.5 approving financial statements
 - 5.13.2.6 changing the By-laws
 - 5.13.2.7 establishing Membership dues or contributions
- 5.13.3 The Board cannot delegate any of its responsibilities to an individual who is not a Director or an Officer, or to a committee that consists of one or more individuals who are not Directors.

5.14 Committees

Committees may be established by the Board as follows:

- 5.14.1 The Board may appoint from their number a managing Director or a committee of Directors and may delegate to the managing Director or committee any of the powers of the Directors excepting those powers set out in ONCA that are not permitted to be delegated; and
- 5.14.2 Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make. Any committee member may be removed by resolution of the Board.
- 5.14.3 The Board may fix any remuneration for committee members who are not also Directors of the Corporation.
- 5.14.4 Unless otherwise determined by the Board, a committee shall have the power to fix its quorum at not less than a majority of its members, to elect its chair and to otherwise regulate its procedure.
- 5.14.5 The Chair and Vice-Chair may (but are not required to) serve on the Committees.
- 5.14.6 Any committee member may be removed by resolution of the Board.

5.15 Remuneration of Officers, Agents, Employees

The remuneration of Officers, agents, employees and committee members shall, subject to the other provisions of this By-law, be fixed by the Board by resolution

provided that the Board may delegate this function to an Officer or Officers of the Corporation.

6. OFFICERS

6.1 Offices and Appointment

- 6.1.1 At the Board's first meeting following the annual meeting of the Corporation, the Board shall appoint a Chair from among the Directors.
- 6.1.2 Unless the Board otherwise designates the other offices of the Corporation (if any) from time to time by resolution the other offices of the Corporation shall be Vice-Chair, Treasurer, Secretary and Executive Director.
- 6.1.3 A Director may be appointed to any office of the Corporation.
- 6.1.4 An Officer may, but need not be, a Director unless this By-law otherwise provides.
- 6.1.5 The same person may hold two or more offices of the Corporation.

6.2 Duties and Powers

6.2.1 Duties and Powers

Unless otherwise specified by the Board (which may, subject to ONCA, modify, restrict or supplement such duties and powers), the offices of the Corporation, if designated and if Officers are appointed thereto, shall have the duties and powers associated therewith as set out in this Article 6.

Every director and officer in exercising his or her powers and discharging his or her duties to the corporation shall,

6.2.2 Standard of Care

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

6.3 Delegation

Officers shall be responsible for the duties assigned to them and they may delegate to others the performance of any or all of such duties.

6.4 Term of Office

Officers who are not employees of the Corporation shall hold their position for a period of one (1) year, or, in those cases where an Officer is appointed by the Board to fill a vacancy during the year, until the first meeting of the Board immediately following the annual general meeting. There is no maximum term of office for an Officer and as such, an Officer will be eligible for re-appointment on a consecutive basis. Officers who are employees of the Corporation shall hold office at the discretion of the Board.

6.5 **Vacancy in Office**

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:

- 6.5.1 the expiry of the then current term of office, of that officer;
- 6.5.2 the Officer's successor being appointed;
- 6.5.3 the Officer's resignation;
- 6.5.4 such Officer ceasing to be a Director (if a necessary qualification of this appointment); or
- 6.5.5 such Officer's death,

whichever shall first occur. 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.

6.6 **Remuneration of Officers**

The remuneration of all Officers appointed by the Board shall be determined from time to time by resolution of the Board except that no Officer who is also a Director shall be entitled to receive remuneration for acting as such. All Officers shall be entitled to be reimbursed for reasonable expenses incurred in the performance of the Officer's duties.

6.7 **Agents and Attorneys**

Subject to the By-laws, the Board may authorize any Officer from time to time to appoint agents or attorneys for the Corporation in Canada with such powers of management, administration or otherwise as the Board considers fit.

6.8 **Disclosure (Conflict of Interest)**

An Officer shall have the same duty to disclose such Officer's interest in a material contract or transaction or proposed material contract or transaction with the Corporation, as is imposed upon Directors pursuant to the provisions of ONCA and the By-laws.

6.9 **Chair**

6.9.1 **Qualifications**

The Chair shall be a Director.

6.9.2 **Role**

The Chair provides leadership to the Board, ensures the integrity of the Board's process and represents the Board to outside parties. The Chair co-ordinates Board activities in fulfilling its governance responsibilities and facilitates co-operative relationships among Directors and between the Board and senior management, if any, of the Corporation. The Chair ensures the Board discusses all matters relating to the Board's mandate. The Chair shall perform the duties described in Article 6.9.3 and such other duties as may be required by law or as the Board may determine from time to time.

6.9.3 Responsibilities

- 6.9.3.1 **Agendas.** Establish agendas aligned with annual Board goals and preside over Board meetings if also holding the office of Chair. Ensure meetings are effective and efficient for the performance of governance work. Ensure that a schedule of Board meetings is prepared annually.
- 6.9.3.2 **Direction.** Serve as the Board's central point of communication with the senior management, if any, of the Corporation; provide guidance to senior management, if any, regarding the Board's expectations and concerns. In collaboration with senior management, develop standards for Board decision-support packages that include formats for reporting to the Board and level of detail to be provided to ensure that management strategies and planning and performance information are appropriately presented to the Board.
- 6.9.3.3 **Performance Appraisal.** Lead the Board in monitoring and evaluating the performance of senior management, if any, through an annual process.
- 6.9.3.4 **Work Plan.** Ensure that a Board work plan is developed and implemented that includes annual goals for the Board and embraces continuous improvement.
- 6.9.3.5 **Representation.** Serve as the Board's primary contact with the public.
- 6.9.3.6 **Reporting.** Report regularly to the Board on issues relevant to its governance responsibilities.
- 6.9.3.7 **Board Conduct.** Set a high standard for Board conduct and enforce policies and By-laws concerning Directors' conduct.
- 6.9.3.8 **Mentorship.** Mentor the Vice-Chair to be prepared to assume the role of Chair in their absence and for succession planning;
- 6.9.3.9 **Succession Planning.** Ensure succession planning occurs for senior management, if any, and Board.

6.10 Vice-Chair

6.10.1 Qualifications

The Vice-Chair shall be a Director.

6.10.2 Role

If the Chair is absent, or is unable or refuses to act, the Vice-Chair shall, when present, preside at all meetings of the Board, committees of Directors, if any, and the Members. The Vice-Chair provides leadership to the Board and assists the Chair in coordinating Board activities in fulfilling its governance responsibilities and facilitating co-operative relationships among Directors and between the Board and senior management, if any, of the Corporation. The Vice-Chair shall perform the duties described in Article 6.10.3 and such other duties as may be required by law or as the Board may determine from time to time.

6.10.3 Responsibilities

- 6.10.3.1 **Assistance.** Assist the Chair, as appropriate, in fulfilling all responsibilities and specific duties described within the Chair of the Board Position Description.
- 6.10.3.2 **Advice.** Report to, advise, and provide wise counsel to the Chair.
- 6.10.3.3 **Agendas.** Assist and advise the Chair on establishing agendas and meeting materials for Board meetings.
- 6.10.3.4 **Liaison.** Act as an additional key point of contact with the Executive Director in the Chair's absence or incapacity.
- 6.10.3.5 **Succession.** In the Chair's absence or incapacity, carry out duties delegated by the Chair or the Board.
- 6.10.3.6 **Process Implementation.** Collaborate with the Chair to develop and implement processes and practices that support the deliberations of the Board in order that the Board may diligently fulfill its duties and conduct its work and affairs effectively and efficiently.
- 6.10.3.7 **Financial Planning.** Assist with the planning and achievement of the financial goals of the Corporation, which may include working towards a specified budget, revenue generation or revenue sourcing.
- 6.10.3.8 **Special Projects.** Lead special projects and initiatives as assigned by the Chair or the Board, such as policy development or implementation.
- 6.10.3.9 **Mentoring.** Mentor new appointees to the Board, and provide oversight, coaching and advice with a view to ensuring quality, consistency and accountability.
- 6.10.3.10 **Committees.** Take on responsibility, as appropriate, for communication and coordination with Committee Chairs.
- 6.10.3.11 **Meetings.** The Vice-Chair may chair a portion of each meeting as pre-determined by the Chair and Vice-Chair;
- 6.10.3.12 **Mentorship.** Serve as a mentor to other Directors. Ensure that all Directors contribute fully. Address issues associated with underperformance of individual Directors.

6.11 **Secretary**

6.11.1 **Qualifications**

The Secretary shall be a Director.

6.11.2 **Role**

The Secretary works collaboratively with the Chair and Vice-Chair to support the Board in fulfilling its fiduciary responsibilities. The Secretary shall perform the duties described in Article 6.11.3 and such other duties as may be required by law or as the Board may determine from time to time.

6.11.3 **Responsibilities**

- 6.11.3.1 **Board Conduct.** Support the Chair in maintaining a high standard for Board conduct and uphold policies and the By-laws regarding Directors' conduct, with particular emphasis on fiduciary responsibilities.
- 6.11.3.2 **Document Management.** Keep the registers and documents required by By-law 11.1. Ensure the proper recording and maintenance of minutes of all meetings of the Corporation, the Board and Board committees. Attend to correspondence on behalf of the Board. Have custody of all minute books, documents, registers and the seal of the Corporation and ensure that they are maintained as required by law. Ensure that all reports are prepared and filed as required by law or requested by the Board.
- 6.11.3.3 **Meetings.** Give such notice as required by the By-laws of all meetings of the Corporation, the Board and Board committees. Attend all meetings of the Corporation, the Board and Board committees.

6.12 Treasurer

6.12.1 Qualifications

The Treasurer may or may not be a Director.

6.12.2 Role

The Treasurer works collaboratively with the Chair, Vice-Chair and senior management, if any, to support the Board in achieving its fiduciary responsibilities. The Treasurer shall perform the duties described in Article 6.12.3 and such other duties as may be required by law or as the Board may determine from time to time.

6.12.3 Responsibilities

- 6.12.3.1 **Custody of Funds.** The Treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the Board from time to time. The Treasurer shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the Chair and Directors at the regular meeting of the Board, or whenever they may require it, an accounting of all the transactions and a statement of the financial position, of the Corporation. The Treasurer shall also perform such other duties as may from time to time be directed by the Board.
- 6.12.3.2 **Board Conduct.** Maintain a high standard for Board conduct and uphold policies and By-laws regarding Directors' conduct, with particular emphasis on fiduciary responsibilities.
- 6.12.3.3 **Mentorship.** Serve as a mentor to other Directors.

6.12.3.4 **Financial Statement.** Present to the Class A Members at the annual meeting as part of the annual report, the financial statement of the Corporation approved by the Board together with the report of the auditor or of the person who has conducted the review engagement, as the case may be.

6.12.4 **Executive Director**

6.12.5 The executive director shall be responsible for implementing the strategic plans and policies of the Corporation. The executive director shall, subject to the authority of the board, have general supervision of the affairs of the Corporation. The executive director shall be entitled to receive notice of and to attend and speak at all meetings of the Board and of meetings of Class A Members as a non-member thereof without the right to vote, save and except when the Board is discussing the position, salary or benefits of the executive director

6.13 The duties of all other Officers of the Corporation shall be such as the terms of their engagement call for or the Board requires of them.

7. **PROTECTION OF DIRECTORS, OFFICERS AND OTHERS**

7.1 **Limitation of Liability**

Except as otherwise provided in ONCA, no Director or Officer for the time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or Officer or employee or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation or 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 or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person including any person with whom or which any moneys, securities or effects shall be lodged or deposited or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of the Director's or Officer's respective office or trust or in relation thereto unless the same shall happen by or through the Director's or Officer's own wilful neglect or default.

7.2 **Indemnity of Directors and Officers**

7.2.1 Subject to ONCA, the Corporation shall indemnify and saved harmless every Director and Officer of the Corporation, and his or her heirs, executors and administrators, and estate and effects, respectively, out of the funds of the Corporation, from and against,

7.2.2 all costs, charges and expenses whatsoever that he/she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him/her, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him/her, in or about the execution of the duties of him/her office; and

7.2.3 all other costs, charges and expenses that him/her sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by him/her own wilful neglect or default.

7.3 **Advances**

With respect to the defence by a Director or Officer of any claims, actions, suits or proceedings, whether civil or criminal, for which the Corporation is liable to indemnify a Director or Officer pursuant to this By-law, the Corporation may advance to the Director or Officer such funds as may be reasonably necessary for the defence of such claims, actions, suits or proceedings upon written notice by the Director or Officer to the Corporation disclosing the particulars of such claims, actions, suits or proceedings and requesting such advance.

8. **MEMBERS**

8.1 **Two Classes of Membership**

Membership in the Corporation shall consist of two classes of Members, namely, Class A Members and Class B Members.

8.2 **Conditions of Membership**

The following conditions of Membership shall apply:

8.2.1 **Class A - General Membership.**

- 8.2.1.1 Class A Members shall be persons who have applied and been accepted for Class A Membership in the Corporation. The Board may, by resolution, approve the admission of the Class A Members of the Corporation. Members may also be admitted in such other manner as may be prescribed by the Board by resolution.
- 8.2.1.2 The term of Membership of a Class A Member shall be one year, subject to renewal in accordance with the policies of the Corporation.
- 8.2.1.3 As set out in the Articles, each Class A Member is entitled to receive notice of, attend, and vote at all meetings of Members, and each Class A Member shall be entitled to one (1) vote at such meetings.
- 8.2.1.4 Class A Membership shall be divided into categories of Membership for the purpose of prescribing applicable procedures, including prescribed membership forms and assessing Membership fees as more particularly described in accordance with Board policies concerning Membership as adopted by the Board from time to time. Membership categories shall include, but not be limited to: Youth Membership; Single Membership; and Patron Membership.

8.2.2 **Class B - Honourary Membership.**

- 8.2.2.1 The Board of Directors may, from time to time, consider, and recommend persons for Class B Membership, persons that have made a significant contribution to the advancement of the Durham Art Gallery.
- 8.2.2.2 Class B Membership of persons recommended from time to time by the Board of Directors shall be conditional upon approval of the Class A Members at a meeting of the Members.
- 8.2.2.3 Class B Membership shall be granted for a fixed, non-renewable period or, in the case of an individual, may be granted for the individual's lifetime. The duration of the Honourary Membership shall be recommended by the Board and approved by the Class A Members at

the time that the granting of the Class B Membership is approved.

- 8.2.2.4 Persons do not become ineligible for Class B Membership because of having previously held a Class B Membership.

8.3 **Rights of Members**

8.3.1 **Class A - General Membership.**

- 8.3.1.1 A Class A Member of the Corporation shall have the right to receive notice of, attend, speak, participate and vote at all meetings of Members.

- 8.3.1.2 For the purposes of Class A Member voting rights at Member meetings, each Class A Membership shall constitute the right to one (1) vote.

8.3.2 **Class B - Honourary Membership.**

- 8.3.2.1 Class B Membership bestows upon the person the opportunity to be a Member of the organization without the need to pay an annual Membership fee.

- 8.3.2.2 Subject to ONCA and the Articles, a Class B Member shall not be entitled to receive notice of, attend, or vote at meetings of the Members of the Corporation.

- 8.3.2.3 Class B Members must obtain a Class A Membership to hold office or to vote.

8.4 **Change of Membership Class**

- 8.4.1 If a Class A Member wishes to convert to a Class B Membership, the Class A Member must submit a written request to the Chair of the Board, requesting a recommendation for Class B Membership. The Board shall consider the matter and Article 8.2.2 shall apply if the Board resolves to recommend the Class B Membership to the Class A Members for approval at the next meeting of the Class A Members.

- 8.5 If a Class B Member wishes to convert to a Class A Membership, the Class B Member shall complete the application for a Class A Membership which shall be deemed approved by the Board upon receipt. The Member's Class B membership shall be suspended for the duration of the Member's Class A Membership and shall be reinstated upon the cessation of the Member's Class A Membership, unless it has expired during that period.

8.6 **Termination of Membership**

Subject to ONCA, the interest of a Member in the Corporation is non-transferable and lapses and ceases to exist upon the earlier of the Member's term of Membership expiring (if any), the Member's non-payment of payable Membership dues, resignation, death or removal in accordance with this By-law or in the event of the dissolution of the Corporation. The rights of a Member, including any rights in the property of the Corporation, cease to exist on termination of the Membership

8.7 **Resignation**

Any Member of any class may resign as a Member by delivering a written resignation to the Chair of the Board of the Corporation. A resignation shall be effective from the

date specified in the resignation.

8.8 Removal

8.8.1 The Board may, acting in good faith and in a fair and reasonable manner, suspend or remove any Member from the Corporation for any one or more of the following grounds:

8.8.1.1 violating any provision of the Articles, By-laws, or policies of the Corporation;

8.8.1.2 carrying out any conduct which may be detrimental to the Corporation as determined by the Board in its sole discretion;

8.8.1.3 behaving in a manner inconsistent with the Corporation's commitment to providing an environment free of discrimination, harassment and bullying, where all individuals are treated with respect and dignity, can contribute fully and have equal opportunities; or

8.8.1.4 for any other reason that the Board in its sole and absolute discretion considers to be reasonable, having regard to the purposes of the Corporation.

8.8.2 Upon fifteen (15) days' written notice to a Member, the Board may pass a resolution authorizing disciplinary action or the termination of Membership for violating any provision of the Articles or By-laws.

8.8.3 The notice shall set out the reasons for the disciplinary action or termination of Membership. The Member receiving the notice shall be entitled to give the Board a written submission opposing the disciplinary action or termination not less than 5 days before the end of the 15-day period. The Board shall consider the written submission of the Member before making a final decision regarding disciplinary action or termination of Membership.

8.8.4 The Board's decision shall be final and binding on the Member, without any further right of appeal.

8.9 Membership Dues

Class A Members shall be notified in writing of the annual Membership fees, if any, at any time payable by them and, if any are not paid within one (1) calendar month of the Membership renewal date, as the case may be, the Class A Members in default shall thereupon cease to be Members of the Corporation.

8.10 Non-Human Members

The Corporation shall recognize any individual authorized by a Class A Member corporation or other entity to represent the Class A Member at meetings and the individual may exercise all the powers of that corporation or entity on its behalf.

9. MEETINGS OF MEMBERS

9.1 Meeting of Members

A "meeting of Members" or "Members' meetings" shall include an annual meeting of Class A Members and a special meeting of Class A Members.

9.2 Annual Meetings

- 9.2.1 Subject to the By-laws, the Board shall call, at such date and time as it determines, an annual meeting of Members for the purpose of considering the financial statements and reports of the Corporation pursuant to ONCA, electing Directors, appointing the auditor and transacting such other business as may properly be brought before the meeting, provided that the annual meeting of Members shall be held within fifteen (15) months from the holding of the last annual meeting of Members.
- 9.2.2 Class A Members who hold at least ten percent (10%) of votes that may be cast at a meeting of the Members sought to be held may requisition the Directors to call the meeting for the purposes stated in the requisition (which may be executed by those Class A Members in counterparts. On receiving a requisition, the directors shall, within 21 days, call a meeting of the Members to transact the business stated in the requisition unless:
- 9.2.2.1 a record date has been fixed under By-law 9.15;
 - 9.2.2.2 the Directors have called a meeting of the Members and have given notice of the meeting in accordance with these By-laws; or
 - 9.2.2.3 the business of the meeting as stated in the requisition includes a matter described in By-law 9.12.6 (*Member Proposals*),

Failing which, any Member who signed the requisition may call the meeting (and the Corporation shall reimburse their expenses of calling the meeting) unless the Class A Members resolve otherwise at the meeting. A meeting called, held and conducted under and in accordance with this By-law 9.2.2 is for all purposes a meeting of Members of the Corporation duly called, held and conducted.

9.3 Special Meetings

9.4 The Board may at any time call a special meeting of Members for the transaction of any business which may properly be brought before the Class A Members. Place of Meetings

9.4.1 Location within Ontario

Meetings of Members may be held at any place within Ontario as the Board may determine.

9.4.2 Electronic or Telephonic Meetings

A meeting of the members may be held entirely by one or more telephonic or electronic means or by any combination of in-person attendance and by one or more telephonic or electronic means. A meeting of the Members held by telephonic or electronic means must enable all persons entitled to attend the meeting to reasonably participate. A meeting of the Members held exclusively by telephonic or electronic means is deemed to be held at the place where the registered office of the Corporation is located.

9.5 Special Business

All business transacted at a special meeting or an annual meeting of Members, except consideration of the minutes of an earlier meeting, the financial statements and the auditor's report, election of Directors and reappointment of the incumbent auditor,

constitutes special business.

9.6 Notice of Meetings

9.6.1 Amount of notice required

Subject to ONCA, not less than ten (10) and not more than fifty (50) days' written notice of any annual or special Members' meeting shall be given in the manner specified in ONCA to each Member, each Director and to the auditor or person appointed to conduct a review engagement.

9.6.2 Method for giving notice

Notice of the time and place of a meeting of Members shall be provided to each Class A Member in accordance with Article 10.1 and shall be posted on the website for the Corporation no less than ten (10) days prior to the date of the meeting of Members.

9.6.3 Required content of notice

Notice of a meeting of Members must:

9.6.3.1 state the time and place of the meeting (except that a place of the meeting is not required if the meeting will be conducted exclusively by electronic or telephonic means);

9.6.3.2 remind Class A Members that they have the right to vote by Proxy and include any deadline for submitting the Proxy to the Corporation imposed under By-law 9.16.5 (*Time limit for deposit*);

9.6.3.3 if a person may attend a meeting of the Members by telephonic or electronic means, include instructions for attending and participating in the meeting by the telephonic or electronic means that will be made available for the meeting, including, if applicable, instructions for voting by such means at the meeting; and

9.6.3.4 if special business will be transacted at the meeting, to permit the Members to form a reasoned judgment on the decision to be taken, and state the text of any special resolution or by-law to be submitted to the meeting.

9.6.4 Exception for Members not registered

9.6.5 The Corporation is not required to give notice to Members who are not registered on the records of the Corporation on the record date determined under By-law 9.15 (*Record Date*), but failure to receive a notice does not deprive a Member of the right to vote at the meeting.

9.7 Waiving Notice

A Class A Member and any other person entitled to attend a meeting of Members may in any manner and at any time waive notice of a meeting of Members, and attendance of any such person at a meeting of Members is a waiver of notice of the meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

9.8 **Persons Entitled to be Present**

The only persons entitled to be present at a meeting of Members shall be those entitled to vote at the meeting, the Directors and the auditor of the Corporation and such other persons who are entitled or required under any provision of ONCA, the Articles or By-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or with the consent of the meeting. A Director is entitled to attend and be heard at every meeting of the Members.

9.9 **Chairperson of the Meeting**

The chairperson of Members' meetings shall be the Chair of the Board, or the Vice-Chair of the Board if the Chair of the Board is absent or unable to act. In the event that the Chair of the Board and the Vice-Chair of the Board are absent, the Members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

9.10 **Quorum**

A quorum at any meeting of the Members (unless a greater number of Members are required to be present by ONCA) shall be ten percent (10%) of the Class A Members of the Corporation whether present in person or by Proxy. For the purpose of determining quorum, a Class A Member may be present in person or by Proxy, or by telephonic or electronic means.

If a quorum is present at the opening of a meeting of Members, the Class A Members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

If a quorum is not present at the opening of a meeting of the Members, the Class A Members present may adjourn the meeting to a fixed time and place, but may not transact any other business.

9.11 **Adjournment**

9.11.1 The chairperson of any meeting of Members may with the majority consent of any Class A Members at the meeting adjourn the same from time to time.

9.11.2 If a meeting of the Members is adjourned by one or more adjournments for an aggregate of less than 30 days, it is not necessary that any person be notified of the meeting that continues the adjourned meeting, other than by announcement of all of the following at the time of an adjournment:

9.11.2.1 The time of the continued meeting.

9.11.2.2 If applicable, the place of the continued meeting.

9.11.2.3 If applicable, instructions for attending and participating in the continued meeting by the telephonic or electronic means that will be made available for the meeting, including, if applicable, instructions for voting by such means at the meeting.

9.11.3 If a meeting of the Members is adjourned by one or more adjournments for an aggregate of 30 days or more, the corporation shall give notice of the meeting that continues the adjourned meeting in accordance with By-law 9.6 (*Notice of*

Meetings).

- 9.11.4 Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

9.12 **Member Proposals**

- 9.12.1 A Member entitled to vote at an annual meeting of the Members may,
 - 9.12.1.1 give the Corporation notice of any matter that the Member proposes to raise at the meeting, referred to as a "proposal"; and
 - 9.12.1.2 discuss at the meeting any matter with respect to which the Member would have been entitled to submit a proposal.
- 9.12.2 The Corporation shall include the proposal in the notice of meeting required under By-law 9.6 (Notice of Meeting).
- 9.12.3 Upon the written request of the Member who submits a proposal, the Corporation shall include in the notice of meeting a statement in support of the proposal by the Member and the name and address of the Member. The statement and the proposal must together not exceed 750 words.
- 9.12.4 The Member who submitted the proposal shall pay the cost of including the proposal and any statement in the notice of the meeting at which the proposal is to be presented, if any.
- 9.12.5 A proposal may include nominations for the election of Directors if the proposal is signed by not less than five percent (5%) of the Class A Members, but this subsection does not preclude nominations being made at a meeting of the Members.
- 9.12.6 The Corporation is not required to comply with By-laws 9.12.2 and 9.12.3 if,
 - 9.12.6.1 the proposal is not submitted to the corporation at least 60 days before the date of the meeting;
 - 9.12.6.2 it clearly appears that the primary purpose of the proposal is to enforce a personal claim or redress a personal grievance against the corporation or its directors, officers, members or debt obligation holders;
 - 9.12.6.3 it clearly appears that the proposal does not relate in a significant way to the activities or affairs of the Corporation;
 - 9.12.6.4 not more than two years before the receipt of the proposal, the Member failed to present in person or by Proxy, if authorized by the by-laws, at a meeting of the Members, a proposal that had been included in a notice of meeting at the Member's request;
 - 9.12.6.5 substantially the same proposal was submitted to members in a notice of a meeting of the Members held not more than two years before the receipt of the proposal and the proposal was defeated; or
 - 9.12.6.6 the rights conferred by this section are being abused to secure publicity.

9.12.7 If the Corporation refuses to include a proposal in a notice of meeting, it shall, within 10 days after the day on which it receives the proposal, notify the Member submitting the proposal of its intention to omit it from the notice of meeting and of the reasons for the refusal.

9.13 **Voting**

9.13.1 Votes to Govern

At all meetings of the Members, every question shall be determined on a show of hands by a majority of votes cast unless otherwise specifically provided by ONCA or by this By-law. In case of an equality of votes, the chairperson of the meeting in addition to an original vote shall have a second or casting vote. An abstention shall not be considered a vote cast.

9.13.2 Show of Hands

Subject to ONCA and this By-law, except where a ballot is demanded, voting on any question proposed for consideration at a meeting of Members shall be by show of hands, and a declaration by the chair of the meeting as to whether or not the question or motion has been carried and an entry to that effect in the minutes of the meeting shall, in the absence of evidence to the contrary, be evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

9.13.3 Ballots

For any question proposed for consideration at a meeting of Members, either before or after a vote by show of hands has been taken, the chair of the meeting, or any Member or proxyholder, may demand a ballot; in which case the ballot shall be taken in such manner as the meeting chair directs and the decision of the Members on the question shall be determined by the result of such ballot.

9.13.4 Voting by telephonic or electronic means

A vote at a meeting of the Members may be conducted entirely by telephonic or electronic means or by a combination of one or more of mail, telephonic or electronic means, and voting in person or by Proxy.

9.13.5 Resolution in lieu of meeting

9.13.5.1 Save and except as set out in By-law 9.13.5.3, a resolution signed by all the members entitled to vote on that resolution at a meeting of the members is as valid as if it had been passed at a meeting of the members. The corporation shall keep a copy of every such resolution with the minutes of the meetings of Members.

9.13.5.2 Save and except as set out in 9.13.5.3, a resolution dealing with a matter required by ONCA to be dealt with at a meeting of the Members, and signed by all the Members entitled to vote at that meeting, satisfies all the requirements of ONCA relating to meetings of the Members.

9.13.5.3 By-laws 9.13.5.1 and 9.13.5.2 shall not apply to a meeting at which a statement is given by a Director under By-law 4.8.2 or

auditor under By-law 9.14.4.

9.13.5.4 The corporation shall keep a copy of every such resolution with the minutes of the meetings of Members.

9.14 **Auditor's Attendance at Meeting of the Members**

9.14.1 Auditor entitled to attend

An auditor is entitled to attend every meeting of the Members at the expense of the Corporation and to be heard on matters relating to the auditor's duties.

9.14.2 Duty to attend and answer questions

If a Director or Member, whether or not the Member is entitled to vote at the meeting, gives notice not less than 21 days before a meeting of the Members to the auditor or a former auditor of the Corporation, the auditor or former auditor shall attend the Meeting at the expense of the Corporation and answer questions relating to their duties.

9.14.3 Notice to corporation

A Director or Member who gives the notice under By-law 9.14.2 shall give a copy of the notice to the Corporation at the same time.

9.14.4 Statement of auditor

An auditor is entitled to give the Corporation a statement giving reasons,

9.14.4.1 for resigning; or

9.14.4.2 for opposing the auditor's removal if a meeting of the Members is called for the purpose of removing the auditor.

9.14.5 Other statements

If a meeting is called to replace the auditor, the Corporation shall make a statement respecting the reasons for the replacement and the proposed replacement auditor may make a statement respecting the Corporation's reasons.

9.14.6 Circulating statement

The Corporation shall immediately give the members a copy of the statements referred to in By-laws 9.14.4 and 9.14.5.

9.15 **Record date**

9.15.1 Directors may fix record date

The Directors may fix a date, not be more than 50 days before the day of the event or action to which it relates, as the record date for:

9.15.1.1 determining Members entitled to receive notice of a meeting of the members;

9.15.1.2 determining Members entitled to vote at a meeting of the members;

9.15.1.3 determining Members entitled to participate in a liquidation

distribution; or

9.15.1.4 determining Members for any other purpose.

9.15.2 No fixed record date

If no record date is fixed under By-law 9.15.1 in respect of an event or action, then:

9.15.2.1 the record date for the determination of Members entitled to receive notice of a meeting of Members or to vote shall be,

(a) at the close of business on the day immediately before the day on which the notice is given, or

(b) if no notice is given, the day on which the meeting is held; and

9.15.2.2 the record date for the Members for any purpose other than to establish a Member's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the Directors pass the relevant resolution.

9.16 Proxies

9.16.1 Proxies

Every Member entitled to vote at a meeting of the Members may by means of a Proxy appoint a proxyholder or one or more alternate proxyholders as the Member's nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the Proxy.

9.16.2 Who may be proxyholder

A proxyholder shall be a Member of the Corporation.

9.16.3 Signature

A Proxy must be signed:

9.16.3.1 by the Member or the Member's attorney; or

9.16.3.2 if the Member is a body corporate, by an officer or attorney of the body corporate duly authorized.

9.16.4 Form of Proxy

9.16.4.1 A form of proxy that is created other than by a Member of the Corporation shall,

(a) indicate, in bold type, the meeting at which the proxy is to be used;

(b) indicate, in bold type, that a Member may appoint a proxyholder, other than a person designated in the form of proxy, to attend and act on the Member's behalf at the meeting, and contain instructions as to the manner in which the Member may do so;

(c) contain a designated blank space for a signature and the

date of signature;

- (d) provide a means for the Member to designate a different person as proxyholder, if the form of proxy designates a person as proxyholder;
- (e) provide a means for the Member to specify that the Membership registered in their name is to be voted for or against each matter, or group of related matters, identified in the notice of meeting, other than the appointment and remuneration of an auditor or person to conduct a review engagement of the corporation, and the election of directors;
- (f) provide a means for the Member to specify that the Membership registered in their name is to be voted or withheld from voting in respect of the appointment and remuneration of an auditor or person to conduct a review engagement of the corporation, or the election of directors; and
- (g) state that the Membership represented by the proxy is to be voted or withheld from voting, in accordance with the instructions of the member, on any ballot that may be called for and that, if the Member specifies a choice under By-laws 9.16.4.1(e) or (f) with respect to any matter to be acted upon, the membership is to be voted accordingly.

9.16.4.2 A form of proxy that is created by a Member shall indicate,

- (a) the meeting at which the proxy is to be used;
- (b) whether the proxy is solicited by or on behalf of management of the Corporation; and
- (c) the powers granted under the proxy.

9.16.4.3 A form of proxy may include a statement that the member confers authority with respect to matters for which a choice is not provided in accordance with By-law 9.16.4.1(e) only if the form of proxy states, in bold type, how the proxyholder is to vote the membership in respect of each matter or group of related matters.

9.16.4.4 A form of proxy that confers discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting shall contain a statement to that effect.

9.16.4.5 If a form of proxy is not dated, the proxy is deemed to have been dated on the date it is sent.

9.16.4.6 If a form of proxy is sent in electronic form, the requirement in By-laws 9.16.4.1(a) and (b) and 9.16.43 that certain information be set out in bold type is satisfied if the information is set out in a different manner so as to draw attention to the information.

9.16.5 Time limit for deposit

The Directors may by resolution fix a time not exceeding 48 hours, excluding Saturdays and holidays, before any meeting or continuance of an adjourned meeting of the Members before which time proxies to be used at that meeting must be deposited with the Corporation or an agent of the Corporation, and any period of time so fixed must be specified in the notice calling the meeting.

9.16.6 Validity

A Proxy is valid only at the meeting for which it is given or, if that meeting is adjourned, at the meeting that continues the adjourned meeting.

9.16.7 Revocation

A Member may revoke a Proxy:

9.16.7.1 by depositing in accordance with By-law 9.16.8 a revocation that is signed by the Member or by the Member's attorney; or

9.16.7.2 in any other manner permitted by law.

9.16.8 Time of revocation

The revocation must be received,

9.16.8.1 at the registered office of the Corporation at any time up to and including the last business day before the day of the meeting or, if the meeting is adjourned, of the continued meeting, at which the Proxy is to be used; or

9.16.8.2 by the chair of the meeting on the day of the meeting or, if it is adjourned, of the continued meeting.

9.16.9 Proxyholder

9.16.9.1 A person who is appointed a proxyholder shall attend in person, or cause an alternate proxyholder to attend, the meeting in respect of which the Proxy is given and shall comply with the directions of the Member who appointed the person.

9.16.9.2 A proxyholder or an alternate proxyholder has the same rights as the Member who appointed him or her to speak at a meeting of the Members in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one Member, to vote at the meeting in respect of any matter by way of a show of hands.

10. AUDITORS

10.1 Appointment

Subject to By-law 10.12, at each annual meeting, the Members shall by ordinary resolution appoint,

10.1.1 an auditor to hold office until the close of the next annual meeting; or

10.1.2 a person to conduct a review engagement of the Corporation.

10.2 Incumbent auditor

If an auditor is not appointed at a meeting of the Members and if no resolution is passed under By-law 11.12, the incumbent auditor continues in office until a successor is appointed.

10.3 Remuneration

The remuneration of an auditor or person appointed to conduct a review engagement may be fixed by ordinary resolution of the Members or, if not so fixed, shall be fixed by the Directors.

10.4 Qualifications

In order to be an auditor for, or to conduct a review engagement of, the Corporation, a person must be permitted to conduct an audit or review engagement of the corporation under the Public Accounting Act, 2004 (or any successor legislation) and be independent of the Corporation and the Directors and Officers of the Corporation (as determined under ONCA section 69(2)).

10.5 Duty to resign

Any auditor or person appointed to conduct a review engagement who is disqualified under By-law 10.4 shall resign immediately after becoming aware of the disqualification.

10.6 Auditor, person conducting review engagement ceasing to hold position

An auditor or a person appointed to conduct a review engagement for the Corporation ceases to hold that position when the auditor or person,

10.6.1 dies or resigns;

10.6.2 is declared disqualified under By-law 10.4; or

10.6.3 is removed under By-law 10.8.

10.7 Effective date of resignation

A resignation of an auditor or person appointed to conduct a review engagement becomes effective at the time the resignation is given to the Corporation or at the time specified in the resignation, whichever is later.

10.8 Removal of auditor, person appointed to conduct review engagement

The Members may remove an auditor, other than an auditor appointed by a court, or a person appointed to conduct a review engagement from their position by ordinary resolution at a special meeting.

10.9 Vacancy

A vacancy created by the removal of an auditor or person appointed to conduct a review engagement may be filled at the meeting at which the auditor or person is removed or, if not so filled, may be filled under By-law 10.10.

10.10 **Filling vacancy**

- 10.10.1 the Directors shall immediately fill a vacancy in the position of auditor or of a person appointed to conduct a review engagement.
- 10.10.2 if there is not a quorum of Directors, the Directors then in office shall, within 30 days after the vacancy occurs, call a special meeting of the Members to fill the vacancy and, if they fail to call a meeting or if there are no Directors, any Member may call the meeting.

10.11 **Unexpired term**

An auditor or other person appointed to fill a vacancy under By-law 10.10 may act for the unexpired term of the auditor's or other person's predecessor.

10.12 **Dispensing with Audits**

The Members may pass an extraordinary resolution:

- 10.12.1 to have a review engagement instead of an audit in respect of the corporation's financial year if, in that financial year the Corporation:
 - 10.12.1.1 had annual revenue of more than \$100,000 and less than \$500,000; and
 - 10.12.1.2 received a grant from the Ontario Arts Council (or any successor to that organization) of no more than \$50,000 and no less than \$25,000 (or such other amounts as the Ontario Arts Council may prescribe at the time as requiring a review engagement but not requiring an audit); or
- 10.12.2 to not appoint an auditor and to not have an audit or a review engagement in respect of the Corporation's financial year if, in that financial year, the Corporation:
 - 10.12.2.1 had annual revenue in that financial year of \$100,000 or less; and
 - 10.12.2.2 received a grant from the Ontario Arts Council (or any successor to that organization) of no more than \$25,000 (or such other amount as the Ontario Arts Council may prescribe at the time as not requiring a review engagement).

10.13 **Validity of resolution**

An extraordinary resolution passed under By-law 10.12 is valid until the next annual meeting of the Members.

10.14 **Annual financial review**

- 10.14.1 The auditor or person appointed to conduct a review engagement of the Corporation shall examine the financial statements that are required by section 84 to be placed before the Members as is necessary to enable the auditor or other person to report on the financial statements.
- 10.14.2 The auditor or other person shall report on the financial statements in accordance with the regulations and with generally accepted auditing or review engagement standards, as the case may be.

10.15 **Report on financial statements**

After conducting an audit or a review engagement, the auditor or other person shall report on the financial statements required by By-law 84 to be placed before the members.

10.16 **Obligation of directors, etc., to give information**

10.16.1 The auditor or other person who is conducting a review engagement may (if they are of the opinion that it is necessary in order to conduct the audit or review engagement of the Corporation and to make the report required under By-law 10.16) demand that the present or former Directors, Officers, employees or agents of the Corporation give the auditor or other person any information and explanations and access to records, documents, books, accounts and vouchers of the Corporation

10.16.2 A person to whom a demand is made under By-law 10.17.1 shall give the auditor or other person the requested information, explanations and access if they are reasonably able to do so.

10.16.3 A person who in good faith makes an oral, written or other form of communication under By-law 10.17.1 or 10.17.2 is not liable in any civil proceeding arising from having made the communication.

10.17 **Audit committee**

10.17.1 Appointment

The Board may, but is not required to, appoint an audit committee comprising one or more Directors and the majority of the committee must not be Officers or employees of the Corporation.

10.17.2 Auditor's attendance at audit committee meetings

The Corporation shall give the auditor or person appointed to conduct a review engagement notice of the time and place of any meeting of the audit committee. The auditor or person appointed to conduct a review engagement is entitled to attend the meeting at the expense of the Corporation and be heard, and shall attend every meeting of the committee if requested to do so by one of its members.

10.17.3 Calling meeting of audit committee

The auditor, the person appointed to conduct a review engagement or a member of the audit committee may call a meeting of the committee.

10.18 **Notice of errors in financial statements**

10.18.1 A Director or an Officer shall immediately notify the audit committee, if the Corporation has one, and the auditor or person who conducted a review engagement of the Corporation of any error or misstatement of which the Director or Officer becomes aware in a financial statement prepared as part of an audit or review engagement.

10.18.2 An auditor or former auditor of the Corporation or another person who conducted a review engagement of the Corporation who is notified or becomes aware of an error or misstatement in a financial statement prepared as part of an audit or review engagement shall, if in the opinion

of the auditor, former auditor or other person, the error or misstatement is material, inform each Director accordingly.

- 10.18.3 When the auditor, former auditor or other person informs the Directors of an error or misstatement in a financial statement, the Directors shall prepare and issue revised financial statements or otherwise inform the Members.

11. RECORDS

11.1 Corporate records to be kept

The Corporation shall prepare and maintain records containing,

- 11.1.1 the Corporation's Articles and By-laws, and amendments to them;
- 11.1.2 the minutes of meetings of the Members and of any committee of Members;
- 11.1.3 the resolutions of the Members and of any committee of Members;
- 11.1.4 the minutes of meetings of the Directors and of any committee of Directors;
- 11.1.5 the resolutions of the Directors and of any committee of Directors;
- 11.1.6 a register of Directors containing the following information:
 - 11.1.6.1 The name of every current Director and the date on which the person became a Director.
 - 11.1.6.2 The name of every former Director who ceased to be a Director within the preceding six years, and the dates on which the person became a Director and ceased to be a Director.
 - 11.1.6.3 The residential address or address for service of every current Director, including the municipality, street and number, if any, and postal code.
 - 11.1.6.4 An email address for every current Director who has consented to accepting information or documents by electronic means.
- 11.1.7 a register of Officers containing the following information:
 - 11.1.7.1 The name of every current Officer and the date on which the person became an Officer.
 - 11.1.7.2 The name of every former Officer who ceased to be an Officer within the preceding six years, and the dates on which the person became an Officer and ceased to be an Officer.
 - 11.1.7.3 The residential address or address for service of every current Officer, including the municipality, street and number, if any, and postal code.
 - 11.1.7.4 An email address for every current Officer who has consented to accepting information or documents by electronic means.

- 11.1.8 a register of Members containing the following information:
 - 11.1.8.1 The name of every current Member and the date on which the person became a member.
 - 11.1.8.2 The name of every former Member who ceased to be a Member within the preceding six years, and the dates on which the person became a Member and ceased to be a Member.
 - 11.1.8.3 The residential address, business address or address for service of every current Member, including the municipality, street and number, if any, and postal code.
 - 11.1.8.4 An email address for every current Member who has consented to accepting information or documents by electronic means.
 - 11.1.8.5 The class or group of Membership of each Member, if there is more than one class or group.
- 11.1.9 The Corporation's financial statements and accounting records adequate to enable the directors to ascertain the financial position of the corporation with reasonable accuracy on a quarterly basis; and
- 11.1.10 a register of ownership interests in land in Ontario, which shall:
 - 11.1.10.1 identify each property; and
 - 11.1.10.2 show the date the Corporation acquired the property and, if applicable, the date the Corporation disposed of it.

and the corporation shall cause to be kept with the register a copy of any deeds, transfers or similar documents that contain any of the following with respect to each property listed in the register:

- (a) The municipal address, if any.
- (b) The registry or land titles division and the property identifier number.
- (c) The legal description.
- (d) The assessment roll number, if any.

11.2 **Retention of accounting records and Financial Statements**

Subject to any law or rule of a taxing authority that requires a longer retention period, the Corporation shall retain the accounting records referred to in By-law 11.1.9 for six (6) years.

11.3 **Location of corporate records**

The Corporation shall keep the records described in By-law 11.1 at the Corporation's registered office.

11.4 **Directors' access to records**

- 11.4.1 The records described in By-law 11.1 must be open to inspection by the Directors during the Corporation's regular office hours.

- 11.4.2 The Corporation shall, at the request of any Director, provide the Director with any extract of the records free of charge.
- 11.4.3 The Corporation may, but is not required to, permit a Director to inspect any or all of the records described in By-law 11.1 remotely at any time by means of any technology and may provide the Director any extract of the records by such means.
- 11.4.4 If the Corporation provides a Director with any extracts of the records in accordance with By-law 11.4.3, the Corporation shall not charge the Director for the extracts.

11.5 Members', creditors' access to records

- 11.5.1 A Member, a Member's attorney or legal representative and a creditor of the Corporation may examine and, on payment of a reasonable fee, take extracts from the records referred to in clauses 11.1.1, 11.1.2, 11.1.3, 11.1.6, 11.1.7, 11.1.8 and 11.1.10 during the Corporation's regular office hours.
- 11.5.2 The Corporation may, but is not required to, permit a Member, a Member's attorney or legal representative or a creditor of the Corporation to examine any or all of the records mentioned in clauses 11.1.3, 11.1.6, 11.1.7, 11.1.8 and 11.1.10 remotely at any time by means of any technology and may also permit the person, on payment of a reasonable fee, to take extracts by such means.
- 11.5.3 A Member is entitled on request and free of charge to one copy of the Articles and By-laws, including any amendments to them.

11.6 Members' access to register of members

- 11.6.1 A Member or a Member's attorney or legal representative who wishes to examine the register of Members of the Corporation shall first make a request to the Corporation or its agent accompanied by a statutory declaration described in By-law 11.6.4. As soon as is practical, the Corporation or its agent shall allow the applicant access to the register during the Corporation's regular office hours and, on payment of a reasonable fee, provide the applicant with an extract from the register.
- 11.6.2 The Corporation or its agent may, but is not required to, permit an applicant under subsection (1) to examine the register of Members remotely at any time by means of any technology and may, on payment of a reasonable fee, provide the applicant with an extract from the register by such means.
- 11.6.3 Any person described in By-law 11.6.1, on payment of a reasonable fee and on giving the Corporation or its agent the statutory declaration described in subsection 11.6.4, may on application require the Corporation or its agent to give the person a current list of Members setting out the names and addresses of each Member and such additional information as is required by the By-laws as soon as is practical.
- 11.6.4 The statutory declaration required under 11.6.1 or 11.6.3 must,
 - 11.6.4.1 state the name and address of the applicant and, if the applicant

is a body corporate, its address for service; and

- 11.6.4.2 state that the list of Members or the information contained in the register of Members obtained under 11.6.1 will not be used except as permitted under By-law 11.6.5.
- 11.6.4.3 if the applicant is a body corporate, be made by a director or officer of the body corporate.
- 11.6.5 A Member or a Member's attorney or legal representative who obtains a list of Members or information from a register of Members under this section shall not use the list or information except in connection with,
 - 11.6.5.1 an effort to influence the voting of Members;
 - 11.6.5.2 requisitioning a meeting of the Members; or
 - 11.6.5.3 another matter relating to the affairs of the Corporation.

11.7 **Consents of directors**

- 11.7.1 The Corporation shall keep at its registered office, the consents to act as a Director, in the approved form:
 - 11.7.1.1 of each individual who is named in the Articles as a first Director and who is not an incorporator, and
 - 11.7.1.2 of each individual who is named in the Articles as a first Director and who is an incorporator, if the Articles are filed with the Director in an electronic format and the consent is required by the regulations; and
 - 11.7.1.3 of each individual who is elected or appointed a Director of the Corporation.
- 11.7.2 Upon request and without charge, the Corporation shall permit a Director, Member or creditor to inspect a consent kept under By-law 11.7.2 at the Corporation's offices during the Corporation's regular office hours, or remotely at any time by means of any technology, and to make a copy of it without charge.

11.8 **Form of records**

- 11.8.1 All registers and other records required by ONCA or the ONCA regulations to be prepared and maintained by the Corporation may be in any form, provided that the records are capable of being reproduced in an accurate and intelligible form within a reasonable time.

11.9 **Protection of records**

- 11.9.1 The Corporation and its agents shall take reasonable precautions to prevent the loss or destruction of the registers and other records referred to in this By-law 11, to prevent the falsification of entries in those registers and records and to facilitate the detection and correction of inaccuracies in them.

12. NOTICES

12.1 Method of Giving Notices

Any notice, communication or other document required to be given by the Corporation to a Member, Director, Officer, or auditor of the Corporation pursuant to ONCA, the Articles or By-laws or otherwise shall be sufficiently given to such person if:

- 12.1.1 delivered personally, in which case it shall be deemed to have been given when so delivered,
- 12.1.2 delivered to such person's recorded address by courier or other similar means, in which case it shall be deemed to have been given when so delivered,
- 12.1.3 mailed to such person at their recorded address by prepaid ordinary mail, in which case it shall be deemed to have been given on the fifth day after it is deposited in a post office or public letter box, or
- 12.1.4 delivered to such person by electronic means such as e-mail or facsimile, in which case it shall be deemed to have been given when it is so transmitted without subsequent error notification,

at such person's latest address as shown in the records of the Corporation and to the auditor at its business address, or if no address be given therein then to the last address of such Member or Director known to the Secretary.

12.2 Computation of Time

Where a given number of days' notice or notice extending over a period is required to be given under the By-laws, the day of service, posting or other delivery of the notice shall not, unless it is otherwise provided, be counted in such number of days or other period.

12.3 Omissions and Errors

The accidental omission to give any notice to any Member, Director, Officer, member of a committee of the Board or auditor, or the non-receipt of any notice by any such person or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice, provided that no Member objects in writing to the chairperson of the Board of such omission or irregularity within thirty (30) days after the date of such meeting.

12.4 Waiver of Notice

Any Member, proxyholder, Director, Officer, member of a committee of the Board or auditor may waive or abridge the time for any notice required to be given to such person, and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given shall cure any default in the giving or in the time of such notice, as the case may be. Any such waiver or abridgement shall be in writing except a waiver of notice of a meeting of Members or of the Board or of a committee of the Board, which may be given in any manner.

13. AMENDMENTS

13.1 Amendment of Articles

Special Resolution

13.1.1 A Special Resolution of the Members is required to make any amendment to the Articles to,

13.1.1.1 change the Corporation's name;

13.1.1.2 add, remove or change any restriction upon the activity or activities that the corporation may carry on or upon the powers that the Corporation may exercise;

13.1.1.3 create a new class or group of Members;

13.1.1.4 change a condition required for being a Member;

13.1.1.5 change the designation of any class or group of Members or add, change or remove any rights or conditions of any such class or group;

13.1.1.6 divide any class or group of Members into two or more classes or groups and fix the rights and conditions of each class or group;

13.1.1.7 add, change or remove a provision respecting the transfer of a Membership;

13.1.1.8 subject to section 30, increase or decrease the number of, or the minimum or maximum number of, Directors fixed by the Articles;

13.1.1.9 change the purposes of the Corporation;

13.1.1.10 change to whom the property remaining on liquidation after the discharge of any liabilities of the Corporation is to be distributed;

13.1.1.11 change the manner of giving notice to Members entitled to vote at a meeting of members;

13.1.1.12 change the method of voting by Members not in attendance at a meeting of the Members; or

13.1.1.13 add, change or remove any other provision that is permitted by ONCA to be set out in the Articles.

13.1.2 A Director, or a Member who is entitled to vote at an annual meeting of the Members, may, in accordance with By-law 9.12.6, propose to make an amendment referred to in By-law 13.1.1.

13.2 **Amendment of By-laws**

13.2.1 By-laws

The Directors may by resolution make, amend or repeal any by-law that regulates the activities or affairs of the Corporation, except in respect of the following matters:

13.2.1.1 to add, change or remove a provision respecting the transfer of a membership;

13.2.1.2 to change the manner of giving notice to members entitled to vote at a meeting of members; or

13.2.1.3 to change the method of voting by members not in attendance at a

meeting of the members.

13.2.2 Member approval

The Directors shall submit the by-law, amendment or repeal to the members at the next meeting of the Members, and the Members may confirm, reject or amend the by-law, amendment or repeal by ordinary resolution.

13.2.3 Effective date

Subject to Section 11.2.5, the by-law, amendment or repeal is effective from the date of the resolution of the Directors. If the by-law, amendment or repeal is confirmed or confirmed as amended by the Members, it remains effective in the form in which it was confirmed.

13.2.4 Ceasing to have effect

The by-law, amendment or repeal ceases to have effect if it is not submitted by the Directors to the Members as required under Section 11.2.2 or if it is rejected by the Members.

13.2.5 Subsequent resolution

If a by-law, amendment or repeal ceases to have effect, a subsequent resolution of the Directors that has substantially the same purpose or effect is not effective until it is confirmed or confirmed as amended by the Members.

13.2.6 Member proposal

A Member entitled to vote at an annual meeting of the Members may make a proposal to make, amend or repeal a By-law in accordance with By-law 9.12.6 no less than 60 days before the meeting. .

14. **IDENTIFICATION AND REPEAL OF FORMER BY-LAWS**

14.1 Repeal of Former General Operating By-law No. 2

14.1.1 General Operating By-law No. 2 enacted in November 2020 is hereby repealed and replaced by General Operating By-law No. 3 herein effective immediately upon the enactment of this by-law at the time of confirmation by the Board of the Corporation.

14.1.2 The said repeal of the Previous By-law shall not affect the previous operations of such by-law so repealed or affect the validity of any act done or right, privilege, obligation or liability acquired or incurred under the validity of any contract or agreement made pursuant to any such Previous By-law prior to its repeal. All Officers and persons acting under such Previous By-law so repealed shall continue to act as if appointed under the provisions of this By-law. All Board or Members' resolutions, with continuing effect, passed under such repealed Previous By-law shall continue to be valid, except to the extent inconsistent with this By-law, and until amended or repealed.

CERTIFIED to be General Operating By-Law No. 3 of the Corporation, as enacted by the Directors of the Corporation by resolution on the 9th day of April, 2024 and confirmed by the Members of the Corporation by special resolution on the 27th day of April, 2024.

Dated as of the 27th day of April, 2024 to insert year.

T.C. Paige Crewson
Chair, DAG Board

E. Yvonne Pelletier
Secretary, DAG Board