

**BY-LAW NO. 1.1**

**A BY-LAW RELATING GENERALLY TO THE CONDUCT OF THE BUSINESS AND  
AFFAIRS OF**

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**CANADIAN ASSOCIATION OF PROFESSIONAL SOMMELIERS (CAPS)  
ASSOCIATION CANADIENNE DES SOMMELIERS PROFESSIONNELS (ASCP)**

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**A CORPORATION SUBJECT TO THE CANADA  
NOT-FOR-PROFIT CORPORATIONS ACT**

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A by-law relating generally to the  
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### **CANADIAN ASSOCIATION OF PROFESSIONAL SOMMELIERS ASSOCIATION CANADIENNE DES SOMMELIERS PROFESSIONNELS**

**BE IT ENACTED** as a By-law of **CANADIAN ASSOCIATION OF PROFESSIONAL SOMMELIERS** as follows:

Amended 1. – Lynn Abernethy, Secretary to the National Board, January, 2021

#### **SECTION I – GENERAL**

##### **1.0 Preliminary notes**

The Canadian Association of Professional Sommeliers (CAPS) – Association Canadienne des Sommeliers Professionnels (ACSP) - National is an association of non-profit provincial chapters. It constitutes a Canadian National Council chaired by a president and directors drawn from the boards of the regional chapters. For the purpose of this document CAPS National and CAPS Canada will be used interchangeably.

The National Board of Directors (CAN) is the central and decision-making body of the CAPS-ASCP National body with respect to national and international activities.

The CAN has the right to request an annual contribution from the regional chapters in order to pay the required annual contribution to the Association de la Sommellerie Internationale (ASI).

CAN is the only organization that can accept and recognize the creation of new regional chapters or proceed with the exclusion of regional chapters.

The CAN must report annually, at the general assembly, to its regional chapter members; CAN will report on its administration through its annual report and financial statements; each regional chapter will forward these documents to their respective chapter members.

The CAN is responsible for the planning and preparation of the national sommelier competition, in direct collaboration with the hosting regional chapter, according to the rules established by the former.

The CAN designates the person or persons who will represent it at international assemblies and international competitions conducted by ASI and the Allianza Panamericana de Sommeliers (APAS). The regional chapters have no jurisdictional authority to act on behalf of CAN in any context.

Each regional chapter is sovereign in terms of its own by-laws and general operating regulations, its treasury, its sommelier education and accreditation requirements, its regional sommelier competitions, its management of promotional events and membership.

## 1.01 Definitions

In this by-law and all other by-laws of the Corporation, unless the context otherwise requires:

**“Act”** means the *Canada Not-For-Profit Corporations Act* S.C. 2009, c. 23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;

**“articles”** means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;

**“Association”** means The Canadian Association of Professional Sommeliers (CAPS) – Association Canadienne des Sommeliers Professionnels (ACSP);

**“Board”** means the board of directors of the Corporation;

**“by-law”** means this by-law and any other by-law of the Corporation as amended and which are, from time to time, in force and effect;

**“chapter(s)”** means the provincially registered not-for-profit corporations that make up CAPS – National or sometimes referred to as CAPS Canada;

“director” means a member of the board of directors;

**“meeting of members”** includes monthly, annual or special meetings of members; “special meeting of members” includes a meeting of any class or classes of members entitled to vote at an annual meeting of members;

**“members” is as defined in article 2.01 of the present by-laws.**

**“National” refers to the association of all regional chapter members;**

**“ordinary resolution”** means a resolution passed by a majority of not less than 50% plus 1 of the votes cast on that resolution;

**“proposal”** means a proposal submitted by a member of the Corporation that meets the requirements of Section 163 (Shareholder Proposals) of the Act;

**“Regulations”** means the regulations made under the Act, as amended, restated or in effect from time to time;

**“special resolution”** means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

## 1.02 Interpretation

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and “person” includes an individual, body corporate, partnership, trust

and unincorporated organization.

Other than as specified above, words and expressions defined in the Act have the same meanings when used in these by-laws.

#### **1.03 Corporate Seal**

The seal, an impression of which is stamped in the margin of this document, shall be the seal of the corporation. The secretary of the Corporation shall be the custodian of the corporate seal.

#### **1.04 Execution of Documents**

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two (2) of its officers. In addition, the board may, from time to time, direct the manner by 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 (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, bylaw or other document of the Corporation to be a true copy thereof.

#### **1.05 Financial Year**

The financial year end of the Corporation shall be December 31<sup>st</sup> in each year.

#### **1.06 Banking Arrangements**

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the board of directors may designate, appoint or authorize from time to time by resolution. The banking business or any part of it shall be transacted by the Treasurer, an officer of the Corporation elected yearly by the board of directors. The President or, in his/her absence, the Secretary of the Corporation will have full access to the bank account or accounts at all times and the capability to execute any or all transactions, as needed.

#### **1.07 Borrowing Powers**

A director of the Corporation may, with the authorization of a majority of the regional chapter members,

- (i) borrow money on the credit of the corporation;
- (ii) issue, reissue, sell, pledge or hypothecate debt obligations of the corporation;
- (iii) give a guarantee on behalf; and
- (iv) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any debt obligation of the corporation.

#### **1.08 Annual Financial Statements**

The Corporation shall send to the regional chapter members, within 45 days of the financial year

end, a copy of the provisional annual financial statements and other documents referred to in Subsection 172(1) (Annual Financial Statements) of the Act or a copy of a publication of the Corporation reproducing the information contained in the documents. The final version of the financial statements shall be submitted to the directors for ratification at the Annual General Meeting of the Corporation.

### **1.09 Official Logos**

The logo of CAPS/ACSP represents a bunch of grapes, purple or green, with on the outside left side of the text, 13 berries for the 10 provinces and the 3 territories of Canada. The logo features on the right side the name of the national association, the same colour as the cluster, with the English name at the top and the French name at the bottom. This logo is the only one recognized for all regional chapter members and cannot be modified without the agreement of the National board.



## **SECTION II - MEMBERSHIP**

### **2.01 Membership classes**

There is currently a single class of member within CAPS National. The class is titled Regional Chapter member. There is no time limitation to the status of a Regional Chapter member unless a voluntarily withdrawal is notified by a Regional Chapter or a termination is voted by the CAPS National board in accordance with article 3.14.

New members can join this class upon approval by the CAPS National board.

Other classes of members can be created by the CAPS National board with their respective rights and obligations.

### **2.02 Membership Conditions**

Subject to the Act and the articles, there shall be two representatives from each CAPS-ASCP registered regional chapter member to serve on the board of directors. Each representative is designated as a director of the CAPS National board and is of equal standing with a right to vote.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendments to this section of the by-laws if those amendments affect

membership rights and/or conditions described in Paragraphs 197(1)(e), (h), (l) or (m) of the Act.

### **2.03 Membership Transferability**

A membership may only be transferred to the Corporation. Pursuant to Section 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to add, change or delete this section of the by-laws.

## **SECTION III – MEETING OF MEMBERS**

### **3.01 Notice of Members Meeting**

Notice of the time and place of a meeting of members shall be given by the Secretary at least 30 days before the day on which the meeting is to be held to each member by the following means:

- (a) by mail, courier or personal delivery, or
- (b) by electronic means (email, SMS text).

Pursuant to Subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

The notice shall mention that the agenda of the meeting and the provisional financial statements, when applicable, are posted on the CAPS Canada website and available for download.

### **3.02 Members Calling a Special Members' Meeting**

The board of directors shall call a special meeting of members in accordance with Section 167 of the Act, on written requisition of at least one (1) member with voting rights. If the directors do not call a meeting within twenty-one (21) days of receiving the requisition, any member who initiated the requisition may call the meeting.

### **3.03 Absentee Voting at Members' Meetings**

Pursuant to Section 171(1) of the Act, a member entitled to vote at a meeting of members may vote by proxy by appointing in writing a proxyholder, and one or more alternate proxyholders, who are required to be voting members of the Corporation, to attend and act at the meeting in the manner and to the extent authorized by the absentee member and with the authority conferred by it subject to the following requirements:

- (a) a proxy is valid only at the meeting in respect of which it is given or at a continuation of that meeting after an adjournment;
- (b) a member with a right to vote may revoke a proxy by depositing its revocation in writing at least two (2) days prior to the meeting or the continuation of the meeting;

- (c) a proxyholder or an alternate proxyholder has the same rights as the member by whom they were appointed, including the right to speak at a meeting of members in respect of any matter, to vote by way of ballot at the meeting, to demand a 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 by way of a show of hands;
- (d) if a form of proxy is created by a person other than the member, the form of proxy shall:
  - (i) indicate, in bold-face type,
    - a. the meeting at which it is to be used,
    - b. that the member may appoint a proxyholder, other than a person designated in the form of proxy, to attend and act on their behalf at the meeting, and
    - c. instructions on the manner by which the member may appoint the proxyholder,
  - (ii) contain a designated blank space for the date of the signature;
  - (iii) provide a means for the member to designate some other person as proxyholder, if the form of proxy designates a person as proxyholder;
  - (iv) 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 of a public accountant and the election of directors;
  - (v) 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 of a public accountant or the election of directors; and
  - (vi) 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 Subparagraph (iv) or (v) with respect to any matter to be acted on, the membership is to be voted accordingly;
- (e) a form of proxy may include a statement that, when the proxy is signed, the member confers authority with respect to matters for which a choice is not provided in accordance with Subparagraph (d)(iv) only if the form of proxy states, in bold-face type, how the proxyholder is to vote the membership in respect of each matter or group of related matters;
- (f) if a form of proxy is sent in electronic form, the requirements that certain information be set out in bold-face type are satisfied if the information in question is set out in some other manner to draw the addressee's attention to the information; and

(g) a form of proxy that, if signed, has the effect of conferring a discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting must contain a specific statement to that effect.

Pursuant to Section 197(1) of the Act, a special resolution of the members (and if Section 199 applies, a special resolution of each class of members) is required to make any amendment to the articles or by-laws of the Corporation to change this method of voting by members not in attendance at a meeting of members.

### **3.04 Proposals Nominating Directors**

Subject to the Regulations under the Act, each Regional Chapter member shall propose two designates from their respective board to act as directors on the National Board. The sitting President of the board does not count as one of the designates from one of the Regional Chapter members.

### **3.05 Cost of Publishing Proposals for Annual Members' Meetings**

The member who submitted the proposal shall pay the cost of including the proposal and any statement in the notice of meeting at which the proposal is to be presented unless otherwise provided by ordinary resolution of the members present at the meeting.

### **3.06 Place of Members' Meeting**

Subject to compliance with Section 159 (Place of Members' Meetings) of the Act, meetings of the members may be held at any place, or electronically, within Canada as determined by the board or, if all of the members entitled to vote at such meeting so agree, outside Canada.

### **3.07 Persons Entitled to be Present at Members' Meetings**

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 public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, 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 by resolution of the members.

### **3.08 Chair of Members' Meetings**

In the event the chair of the board and the vice-chair of the board are not appointed or are absent, the president or vice president of the board shall chair the meeting of the members of the Corporation. In the absence of all the foregoing officers, the members who are present and entitled to vote at the meeting shall choose one amongst them to chair the meeting.

### **3.09 Quorum at Members' Meetings**

A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be a majority of the board members entitled to vote at the meeting.

### **3.10 Votes to Govern at Members' Meetings**

At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the questions, either on a show of hands or on a ballot or on the results of electronic voting. 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.

### **3.11 Participation by Electronic Means at Members' Meetings**

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

### **3.12 Members' Meeting Held Entirely by Electronic Means**

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

### **3.13 Membership Dues**

Any membership dues levied will have been voted on at the annual general meeting of members and will apply only for the financial year in which the meeting is held. Payment of the dues, when applicable, is required within 60 days of the receipt of the invoice. Failure to make the payment can lead to termination of the membership as expressed in article 3.14.

### **3.14 Termination of Membership**

A membership in the Corporation is terminated when:

- (a) the member dies, or, in the case of a member that is a corporation, the corporation is dissolved;
- (b) a member fails to maintain any qualifications for membership described in the section on membership conditions of these by-laws;
- (c) the member resigns by delivering a written resignation to the chair of the board of the Corporation in which case such resignation shall be effective on the date specified in the resignation;
- (d) the member is expelled in accordance with any discipline of members section or is otherwise terminated in accordance with the articles or by-laws;

- (e) the member's term of membership expires; or
- (f) the Corporation is liquidated or dissolved under the Act.

### **3.15 Effect of Termination of Membership**

Subject to the articles, upon any termination of membership, the rights of the member, including any rights in the property of the Corporation, automatically cease to exist.

### **3.16 Discipline of Members**

The board shall have authority to suspend or expel any member from the Corporation for any one or more of the following grounds:

- (a) violating any provision of the articles, by-laws, or written policies of the Corporation;
- (b) carrying out any conduct which may be detrimental to the Corporation as determined by the board in its sole discretion;
- (c) for any other reason that the board in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.

In the event the board determines, resulting from a vote by at least 50% of voting members plus one (1), that a member should be expelled or suspended from membership in the Corporation, the president, or such other officer as may be designated by the board, shall provide a twenty (20) day notice of suspension or expulsion to the member and shall provide reasons for the proposed suspension or expulsion. The member may make written submissions to the president, or such other officer as may be designated by the board, in response to the notice received within such twenty (20) days period. In the event no written submissions are received by the president, the president, or such other officer as may be designated by the board, may proceed to notify the member that the member is suspended or expelled from membership in the Corporation. If written submissions are received in accordance with this section, the board will consider such submissions in arriving at a final decision and shall notify the member concerning such final decision within a further twenty (20) days from the date of receipt of the submissions. The board's decision shall be final and binding on the member, without any further right of appeal.

### **3.17 Annual General Meeting**

The General meeting takes place within 120 days of the end of the financial year (December 31 of the preceding year).

The Board of Directors fixes the date, time and place of the meeting.

- (a) Notice of meeting - A notice of meeting must be sent to members no later than thirty (30) calendar days preceding said meeting.
- (b) Powers of the annual general meeting

Subject to the provisions of these regulations, the following powers are expressly vested in:

- i. Receive reports from the presidency and those responsible for acting committees;
- ii. Receive financial statements;
- iii. Receive the budget for the current year;
- iv. Receive objectives and annual planning;
- v. Establish, repeal, supplement or amend in any way these by-laws. However, the favourable vote of two-thirds (2/3) of the members with voting rights present is necessary and a notice of convocation of ten (10) days of such an assembly must include precise mention of the text to be repealed, or completed or amended as well as the new proposed text.

## **SECTION IV – DIRECTORS**

### **4.01 Number of Directors**

The board shall consist of the number of directors specified in the articles. The board shall be comprised of the fixed number of directors as determined from time to time by the members by ordinary resolution or, if the ordinary resolution empowers the directors to determine the number, by resolution of the board. The minimum number of directors is one (1) director from each of the Regional Chapter members.

### **4.02 Term of Office of Directors**

The directors of the board must have been designated by their respective regional chapters, resulting from a vote within their own boards, at least once per year.

### **4.03 Appointment of Additional Directors**

The responsibility to designate the required number of representatives lies with each regional chapter member. Should a regional chapter fail to assign the required number, other regional chapters are not authorized to nominate an additional representative to compensate the lesser number of directors. Should a regional chapter fail to assign at least one representative to sit as a director on the board for a period of three months or more, the CAPS National board may consider the termination of the membership of that regional chapter.

### **4.04 Policies**

Subject to the articles and the by-laws, the board of directors may, by resolution, make, or amend or repeal policies regarding the conduct of the activities or affairs of the Corporation. Any such policy shall be effective from the date of the resolution of the directors until the next meeting of members where it may be confirmed, or rejected or amended by the members by a special resolution. If the policy, or amendment or repeal is confirmed or confirmed as amended by the members it remains effective in the form in which it was confirmed. The policy, or amendment or repeal ceases to have effect if it is not

submitted to the members at the next meeting of members or if it is rejected by the members at the meeting.

## **SECTION V – MEETING OF DIRECTORS**

### **5.01 Calling of Meetings of Board of Directors**

Meetings of the board may be called by the chair of the board, the vice-chair of the board, the President or any two (2) directors at any time.

### **5.02 Notice of Meeting of Board of Directors**

Notice of the time and place for the holding of a meeting of the board shall be given in the manner provided in the section on giving notice of meeting of directors of this by-law to every director of the Corporation not less than seven (7) days before the time when the meeting is to be held. Notice of a meeting shall not be necessary if all 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.

### **5.03 Regular Meetings of the Board of Directors**

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 confirmed. 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, but no other notice shall be required for any such regular meeting except if Subsection 136(3) (Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

### **Quorum at Board of Directors Meetings**

A quorum at any meeting of the Board of Directors shall be the majority of the board members entitled to vote at the meeting.

### **5.04 Votes to Govern at Meetings of the Board of Directors**

At all meetings of the board, every question shall be decided by the majority of the votes cast on the question. In case of an equality of votes, the chair (president) of the meeting shall cast the deciding vote.

### **5.05 Committees of the Board of Directors**

The board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the board shall see fit. Any such committee must formulate its own rules of procedure (terms of reference), 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 of directors.

## **5.06 Limitation of Liability**

Every director and officer of the corporation, in exercising his or her powers and discharging his or her duties, shall act honestly and in good faith with a view to the best interests of the Corporation, and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Subject to the foregoing, no director or officer shall be liable for the acts, receipts, neglects or defaults of conformity, or for any loss, damage or expenses happening to the Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the corporation shall be invested, or for any loss occasioned by any error of judgement or oversight on his or her part, or for any other loss or damage or misfortune whatever, which shall happen in the execution of the duties of his or her office or in relation thereto, unless the same are occasioned by his or her own wilful neglect or default; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the Act or from liability for any breach thereof.

## **5.07 Indemnifications**

### **Scope**

(1) The corporation shall indemnify present or former directors or officers of the corporation, or another individual who acts or acted at the corporation's request as a director or an officer or in a similar capacity of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the corporation or other entity.

### **Advances**

(2) The corporation may advance money to a director, an officer or other individual for the costs, charges and expenses of a proceeding referred to in subsection (1). The individual shall repay the money if the individual does not fulfil the conditions of subsection (3).

### **Limitation**

(3) The corporation shall not indemnify an individual under subsection (1) unless the individual:

- (i) acted honestly and in good faith with a view to the best interests of the corporation or, as case may be, to the best interests of the other entity for which the individual acted as director or officer or in a similar capacity at the corporation's request; and
- (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that their conduct was lawful.

#### **Legal action**

(4) The corporation may, with the approval of a court, indemnify an individual referred to in subsection (1), or advance money under subsection (2), in respect of an action by or on behalf of the corporation or other entity to procure a judgment in its favour to which the individual is made a party because of the individual's association with the corporation or other entity as described in subsection (1), against all costs, charges and expenses reasonably incurred by the individual in connection with the action, if the individual fulfils the conditions set out in subsection (3).

#### **Right to indemnity**

(5) Despite subsection (1), an individual referred to in that subsection is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defence of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual's association with the corporation or other entity as described in that subsection, if the individual seeking indemnity:

- (a) was not judged by the court or other competent authority to have committed any fault or to have omitted to do anything that the individual ought to have done; and
- (b) fulfils the conditions set out in subsection (3).

#### **Insurance**

- (a) The corporation will maintain insurance for the benefit of an individual referred to in subsection (1) against any liability incurred by the individual.
- (b) in the individual's capacity as a director or an officer of the corporation; or
- (c) in the individual's capacity as a director or an officer, or in a similar capacity, of another entity, if the individual acts or acted in that capacity at the corporation's request.

## **SECTION VI – OFFICERS**

### **6.01 Appointment of Officers**

The board may designate the offices of the Corporation, appoint officers from the board of directors, determine the terms of the offices, specify their duties and, subject to the Act, delegate to such officers the power to manage the affairs of the Corporation. A director may be appointed to any office of the Corporation.

## 6.02 Description of Offices

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

- (1) *Chair of the Board* – The chair of the board shall be a director. The chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The chair shall have such other duties and powers as the board may specify.
- (2) *Vice-Chair of the Board* – The vice-chair of the board shall be a director. If the chair of the board is absent or is unable or refuses to act, the vice-chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The vice-chair shall have such other duties and powers as the board may specify.
- (3) *President* – The president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation. If the chair of the board is not appointed, the president shall preside at all meetings of the Board of Directors and of the members of the Corporation.
- (4) *Vice-President* - There shall be one or more vice presidents of the Corporation who shall have such duties and powers as the board may specify. In the absence of the president, a vice president may preside at all meetings of the Board of Directors and of the members of the Corporation.
- (5) *Secretary* – The secretary shall attend and be the secretary of all meetings of the board and of members. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
- (6) *Treasurer* – The treasurer shall have such powers and duties as the board may specify. The treasurer will be responsible for all interactions with a public accountant as required to produce the Corporation's financial statements and tax returns.

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

## 6.03 Terms of office

If appointed, the offices of Chairman of the board, vice-chairman of the board, President and Vice president are assigned for a three (3) years term, unless removed from office by the board of directors before the expiration of the term.

The appointments of the offices of Chairman of the board, vice-chairman of the board, President and Vice president are scheduled according to a set rotation between all regional chapter

members.

The set rotation is Québec, Ontario, Atlantic, British Columbia, Manitoba; should a new Regional Chapter member join the Corporation, the rotation will be amended by a resolution of the board of directors. Each Regional Chapter member will have the option of passing its turn.

#### **6.04 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:

- (a) the expiration of the officer's term
- (b) the officer's successor being appointed,
- (c) the officer's resignation,
- (d) such officer ceasing to be a regional director or
- (e) such officer's death.

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

### **SECTION VII – NOTICES**

#### **7.01 Method of Giving Any Notice**

Any notice (which term includes any communication or document), other than notice of a meeting of members or a meeting of the board of directors, to be given (which term includes sent, delivered or served) pursuant to the Act, the articles, the by-laws or otherwise to a member, director, officer or member of a committee of the board or to the public accountant shall be sufficiently given:

- (a) if delivered personally to the person to whom it is to be given or if delivered to such person's address as shown in the records of the Corporation or in the case of notice to a director to the latest address as shown in the last notice that was sent by the Corporation in accordance with Section 128 (Notice of directors) or 134 (Notice of change of directors);
- (b) if mailed to such person at such person's recorded address by prepaid ordinary or air mail;
- (c) if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
- (d) if provided in the form of an electronic document in accordance with Part 17 of the Act.

A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate

communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any member, director, officer, public accountant or member of a committee of the board in accordance with any information believed by the secretary to be reliable. The declaration by the secretary that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. The signature of any director or officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

### **7.02 Invalidity of any Provisions of this By-law**

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.

### **7.03 Omissions and Errors**

The accidental omission to give any notice to any member, director, officer, member of a committee of the board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws 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.

## **SECTION VIII – DISPUTE RESOLUTION**

### **8.01 Mediation and Arbitration**

Disputes or controversies among members, directors, officers, committee members, or volunteers of the Corporation are as much as possible to be resolved in accordance with mediation and/or arbitration as provided in the section on dispute resolution mechanism of this by-law.

### **8.02 Dispute Resolution Mechanism**

In the event that a dispute or controversy among members, directors, officers, committee members or volunteers of the Corporation arising out of or related to the articles or by-laws, or out of any aspect of the operations of the Corporation is not resolved in private meetings between the parties then without prejudice to or in any other way derogating from the rights of the members, directors, officers, committee members, employees or volunteers of the Corporation as set out in the articles, by-laws or the Act, and as an alternative to such person instituting a law suit or legal action, such dispute or controversy shall be settled by a process of dispute resolution as follows:

- (a) The dispute or controversy shall first be submitted to a panel of mediators whereby the one party appoints one mediator, the other party (or if applicable the board of the Corporation) appoints one mediator, and the two mediators so appointed jointly appoint a third mediator. The three mediators will then meet with the parties in question in an attempt to mediate a resolution between the parties.
- (b) The number of mediators may be reduced from three to one or two upon agreement of the parties.

(c) If the parties are not successful in resolving the dispute through mediation, then the parties agree that the dispute shall be settled by arbitration before a single arbitrator, who shall not be any one of the mediators referred to above, in accordance with the provincial or territorial legislation governing domestic arbitrations in force in the province or territory where the registered office of the Corporation is situated or as otherwise agreed upon by the parties to the dispute. The parties agree that all proceedings relating to arbitration shall be kept confidential and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.

All costs of the mediators appointed in accordance with this section shall be borne equally by the parties to the dispute or the controversy. All costs of the arbitrators appointed in accordance with this section shall be borne by such parties as may be determined by the arbitrators.

## **SECTION IX – EFFECTIVE DATE**

### **9.01 By-laws and Effective Date**

Subject to the articles, the board of directors may, by resolution, make, or amend or repeal any by-laws that regulate the activities or affairs of the Corporation. Any such by-law, amendment or repeal shall be effective from the date of the resolution of directors until the next meeting of members where it may be confirmed, or rejected or amended by the members by ordinary resolution. If the by-law, or amendment or repeal is confirmed or confirmed as amended by the members it remains effective in the form in which it was confirmed. The by-law, or amendment or repeal ceases to have effect if it is not submitted to the members at the next meeting of members or if it is rejected by the members at the meeting.

This section does not apply to a by-law that requires a special resolution of the members according to subsection 197(1) (fundamental change) of the Act because such by-law amendments or repeals are only effective when confirmed by members.

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*President*

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*Secretary*

**ENACTED** by the board of directors and sealed with the corporate seal this    day of , 2021.

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*President*

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*Secretary*

**CONFIRMED** by at least two-thirds of the votes cast by the members of the Corporation at a General Meeting duly called and held on the    day of , 2021.

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*President*

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*Secretary*