

**2017-2018 REVISED AND RESTATED BY-LAW NO. 1**

A by-law relating generally to the conduct of the affairs of

**CANADIAN URBAN TRANSIT RESEARCH & INNOVATION CONSORTIUM**

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## SECTION 1 - GENERAL

### 1.1 Definitions

In this by-law, unless the context otherwise requires,

"**Academic Member**" means a Member that is an entity that is a university, college, cegep or research institution in Canada recognized as eligible for federal funding according to the rules of eligibility outlined by the Canadian Tri-Council;

"**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;

"**activities**" includes any conduct of the Consortium to further its purpose and any business carried on by the Consortium, but does not include the affairs of the Consortium;

"**affairs**" means the relationships among the Consortium, the Directors, officers or Members of the Consortium;

"**Articles**" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Consortium;

"**Authorized Representative**" means an authorized representative of a Member designated from time to time pursuant to section 2.2;

"**Board**" means the board of Directors of the Consortium;

"**body corporate**" includes a company or other organization with a legal personality wherever or however incorporated;

"**by-law**" means this by-law as amended, from time to time, in force and effect;

"**Chair**" means the Chair of the Board;

"**Consortium**" means Canadian Urban Transit Research & Innovation Consortium;

"**Director**" means a member of the Board;

"**entity**" means a body corporate, a partnership, a trust, a joint venture or an unincorporated association or organization;

"**Executive Director**" means the Chief Executive Officer;

"**Government Member**" means a Member that is a Canadian federal or provincial government department, ministry, agency, corporation or instrumentality; or a Canadian municipal corporation, board or commission, that is not a Public Transit System Member;

"**Honourary Counsel**" means the Honourary Counsel to the Consortium;

**"Member"** means a member of the Consortium;

**"NPO Member"** means a Member that is a Canadian not-for-profit entity that is not an Academic Member, a Government Member, a Public Transit System Member or a Transportation Industry Member;

**"ordinary resolution"** means a resolution passed by the majority of the votes cast on that resolution;

**"Public Transit System Member"** means a Member that is a public sector entity that operates a public transit system in Canada;

**"Purpose of the Consortium"** as provided in the Articles means to make Canada the global leader in innovative, cutting-edge manufacturing and innovation in transit and integrated mobility – from vehicles to communications systems to software – and to achieve this by promoting greater partnership between industry, academia and policy makers.

**"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; and

**"Transportation Industry Member"** means a Member that is an entity that provides, is developing or actively planning to develop, equipment, supplies or services for public transit or integrated mobility in Canada that is not an Academic Member, Government Member or a Public Transit System Member;

**"Vice-Chair"** means the Vice-Chair of the Board.

## 1.2 Interpretation

1.2.1 In the interpretation of this by-law, words importing the singular include the plural and vice-versa, and words in one gender include all genders.

1.2.2 Other than as specified in section 1.1, words and expressions defined in the Act have the same meanings when used in this by-law.

1.2.3 In the event of a discrepancy between the English and French versions of this by-law, the English version shall take precedence.

1.2.4 The Chair, in deciding a matter, may consult with the Executive Director and/or the Honourary Counsel and/or use the most current edition of "Robert's Rules of Order, Newly Revised".

## 1.3 Corporate Seal

The Consortium may have a corporate seal in the form approved from time to time by the Board. If a corporate seal is approved by the Board, the Executive Director shall be the custodian of the corporate seal.

#### **1.4 Execution of Documents**

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Consortium shall be signed by any two officers of the Consortium. In addition, the Board may from time to time by resolution 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 (if any) to the document. Any person authorized to sign any document may have certified a copy of any instrument, resolution, by-law or other document of the Consortium to be a true copy thereof.

#### **1.5 Fiscal Year**

The financial year end of the Consortium shall be the 31<sup>st</sup> of December in each year commencing in 2015.

#### **1.6 Banking Arrangements**

The banking business of the Consortium shall be transacted at such bank, trust company or other firm or corporation carrying on banking business in Canada or elsewhere as the Board may designate, appoint or authorized from time to time by resolution. The banking business or any part of it shall be transacted by an officer or officers of the Consortium and/or other persons as the Board may by resolution from time to time designate, direct or authorize.

#### **1.7 Borrowing Powers**

The Board may, without authorization of the Members,

- 1.7.1.1 borrow money on the credit of the Consortium;
- 1.7.1.2 issue, reissue, sell, pledge or hypothecate debt obligations of the Consortium;
- 1.7.1.3 give a guarantee on behalf of the Consortium to secure performance of an obligation of any person; and
- 1.7.1.4 mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Consortium, owned or subsequently acquired, to secure any obligation of the Consortium.

#### **1.8 Annual Financial Statements and Report of the Public Accountant**

- 1.8.1 The Consortium may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act and the report of the public accountant referred to in section 191 (Report on Financial Statements) of the Act to the Members, give a notice to the Members stating that the financial statements and documents, and the report are available at the registered office of the Consortium.
- 1.8.2 Notwithstanding section 1.8.1, any Member may, on request, obtain a copy of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act and the report of the public accountant referred to in section 191 (Report on Financial

Statements) of the Act free of charge at the registered office, by prepaid mail, or by electronic transmission.

## **SECTION 2 - MEMBERS**

### **2.1 Membership Conditions**

2.1.1 Subject to the Articles, there shall be one (1) class of members in the Consortium. Membership in the Consortium shall be available only to entities that would qualify as an Academic Member, a Government Member, a NPO Member, a Public Transit System Member or a Transportation Industry Member and have applied for and been accepted into membership in the Consortium by ordinary resolution of the Board or in such other manner as may be determined by the Board. Each Member shall be entitled to receive notice of, attend and vote at all meetings of the Members of Consortium.

2.1.2 Membership in the Consortium shall be conditional upon support for the Purpose of the Consortium and upon engagement and involvement in an active research and development project of the Consortium.

2.1.3 The term of membership of a Member shall be determined by the Board, subject to renewal in accordance with the policies of the Consortium.

2.1.4 The provisions of the Act, and in particular Sections 197 and 199, apply to any Fundamental Changes to the Consortium, and without limiting the generality of the foregoing, includes the requirement for a Special Resolution of Members to do any of the following:

2.1.4.1 Changes a condition required for being a Member.

2.1.4.2 Adds, changes or removes a provision respecting the transfer of membership.

2.1.4.3 Changes the manner of giving notice to Members entitled to vote at a meeting of Members.

2.1.4.4 Changes the method of voting by Members not in attendance at a meeting of Members.

### **2.2 Authorized Representative**

2.2.1 Each Member shall designate one (1) authorized representative to represent the Member at any meeting of the Consortium. The authorized representative shall be the individual so designated on the application of the Member, or any renewal thereof.

2.2.2 A Member may change its authorized representative at any time by providing to the Executive Director written notice of the change of authorized representative and the effective date and time of the change shall be the date and time specified in the notice.

2.2.3 A Member may designate a different authorized representative for any meeting by providing to the Executive Director written notice of the change of authorized representative for the purpose of the meeting no less than forty-eight (48) hours in advance of any meeting.

### **2.3 Membership Transferability**

2.3.1 A membership may only be transferred to the Consortium.

2.3.2 Pursuant to subsection 197(1) (Fundamental Changes) of the Act, a special resolution of the Members is required to make any amendment to add, change or delete this section of this By-law.

## **SECTION 3 - MEMBERSHIP DUES, TERMINATION AND DISCIPLINE**

### **3.1 Membership Dues**

Subject to the Articles and the by-law, the Directors may require the Members to pay annual dues and may determine from time to time the amount of dues to be paid by each Member or group of Members and may determine the manner in which the dues are to be paid. Each Member shall be notified in writing of the membership dues at any time payable by the Member and, if the membership dues are not paid within sixty (60) days of the membership renewal date, the Member's membership shall be suspended. If the Member continues to fail to pay the membership dues within one hundred and twenty (120) days of the membership renewal date, the Member's membership shall be terminated upon ratification by the Board and the Member shall automatically cease to be a Member of the Consortium.

### **3.2 Termination of Membership**

A membership in the Consortium is terminated when,

- (i) the Member resigns by delivering a written resignation to the Chair;
- (ii) the Member ceases to qualify as an Academic Member, a Government Member, a NPO Member, a Public Transit System Member or a Transportation Industry Member in accordance with section 2.1.1;
- (iii) the Member fails to pay the membership dues and the Member's membership is terminated upon ratification by the Board in accordance with section 3.1;
- (iv) the Member is expelled in accordance with section 3.4 or is otherwise terminated in accordance with the Articles or by-laws; or
- (v) the Consortium is liquidated or dissolved under the Act.

### **3.3 Effect of Termination of Membership**

Subject to the Articles, upon any termination of membership, the rights of the Member, including any rights in property of the Consortium, automatically cease to exist.

### **3.4 Discipline of Members**

3.4.1 The Board shall have the authority to suspend or expel any Member from the Consortium for any one or more of the following grounds:



- (i) Violating any provision of the Articles, by-laws, or written policies of the Consortium.
- (ii) Failing to comply with the membership conditions in subsection 2.1.2 as determined by the Board in its sole discretion.
- (iii) Carrying out any conduct which may be detrimental to the Consortium as determined by the Board in its sole discretion.
- (iv) For any other reason that the Board, in its sole and absolute discretion, considers to be reasonable, having regard to the purpose of the Consortium.

3.4.2 In the event that the Board determines that a Member should be expelled or suspended from membership in the Consortium, the Executive Director, or such other officer as may be designated by the Board, shall provide twenty (20) days 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 Executive Director, or such other officer as may be designated by the Board, in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the Executive Director, the Executive Director, or such 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 Consortium. 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.

#### **SECTION 4 - MEETINGS OF MEMBERS**

##### **4.1 Place of Members' Meeting**

Meetings of the Members shall be held at any place and time within Canada determined by the Board.

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

Any person entitled to attend a meeting of Members may participate in the meeting, in accordance with the Regulations, if any, by means of a telephonic, an electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the Consortium makes available such a communication facility. A person participating in a meeting by such means is deemed for the purposes of the Act 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 Consortium has made available for that purpose.

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

Meetings of the Members may be held entirely by telephonic, an electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

#### **4.4 Notice of Members' Meeting**

4.4.1 Notice of the time and place of a meeting of the Members shall be given to each Member by any of the following means:

- (i) By mail, courier or personal delivery to each Member during a period of twenty-one (21) to sixty (60) days before the day on which the meeting is to be held.
- (ii) By telephonic, electronic or other communication facility to each Member during a period twenty-one (21) to thirty-five (35) days before the day on which the meeting is to be held.

4.4.2 Pursuant to subsection 197(1) (Fundamental Changes) of the Act, a special resolution of the Members is required to make any amendment to this By-law to change the manner of giving notice to Members entitled to vote at a meeting of Members.

#### **4.5 Annual Members' Meeting**

An annual meeting of the Members shall be held no later than fifteen (15) months after the last preceding annual meeting but not later than six (6) months after the end of the Consortium's preceding financial year.

#### **4.6 [deleted]**

#### **4.7 Members Calling a Members' Meeting**

The Board shall call a special meeting of the Members in accordance with Section 167 of the Act, on written requisition of Members carrying not less than five percent (5%) of the voting rights. If the Board does not call a meeting within twenty-one (21) days of receiving the requisition, any Member who signed the requisition may call the meeting.

#### **4.8 Chair of Members' Meeting**

In the event that the Chair and the Vice-Chair are absent, the Members who are present and entitled to vote at the meeting shall choose one of their numbers to chair the meeting.

#### **4.9 Quorum at Members' Meetings**

4.9.1 A quorum at any meeting of the Members (unless a greater number of Members are required to be present by the Act) shall be twenty-five percent (25%) of Members having voting rights.

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

#### **4.10 Motions at Members' Meetings**

Any Member may move or second a motion on a matter on the agenda of that meeting.

#### **4.11 Manner of Voting at Members' Meeting**

Subject to section 4.10, voting at a meeting of the Members shall be in accordance with Section 165 of the Act, by a show of hands unless a ballot is demanded by a Member entitled to vote at the meeting, and the Member may demand a ballot before or after any vote by show of hands.

#### **4.12 Electronic Voting**

Any vote referred to in section 4.11, may be held in accordance with the Regulations, if any, entirely by means of a telephonic, an electronic or other communication facility, if the Consortium makes available such communication facility.

#### **4.13 Voting while participating electronically**

Any person participating in a meeting under sections 4.2 or 4.3 and entitled to vote at that meeting may vote, and that vote may be held, in accordance with the Regulations, if any, by means of the telephonic, electronic or other communication facility that the Consortium has made available for the purpose.

#### **4.14 Absentee Voting at Members' Meeting**

4.14.1 Pursuant to subsection 171(1) (Absentee Voting) of the Act, a Member entitled to vote at a meeting of Members may vote by proxy by appointing in writing a proxy holder, and one or more alternate proxy holders, who are not required to be Members, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by it subject to the following requirements:

- (i) A proxy is valid if executed by the Member and the Member has deposited the notice of proxy with the Chair of the meeting prior to the commencement of the meeting.
- (ii) 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.
- (iii) A Member may revoke a proxy by written notice executed by the Member and deposited with the Chair of the meeting on the day of the meeting or the day of the continuation of that meeting after an adjournment of that meeting.
- (iv) A proxy holder or an alternate proxy holder has the same rights as the Member by whom they were appointed.

4.14.2 Pursuant to subsection 197(1) (Fundamental Changes) of the Act, a special resolution of the Members is required to make any amendment to this by-law to change the method of voting by Members not in attendance at a meeting of the Members.

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

4.15.1 At any meeting of the Members every question shall, unless otherwise provided by the Articles or by-laws or the Act, be determined by a majority of the votes cast on the questions.

- 4.15.2 In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall have a second or casting vote.

## **SECTION 5 - DIRECTORS**

### **5.1 Number of Directors**

The Board shall consist of a minimum and a maximum number of Directors as specified in the Articles from time to time. The Members may, from time to time by ordinary resolution, fix the number of Directors and the number of Directors to be elected at the annual meeting of Members or delegate those powers to the Directors.

### **5.2 Election and Term of Directors**

Subject to the Act, in particular Section 136 of the Act, the Members shall elect the Directors at the first meeting of the Members and at each succeeding annual meeting at which an election of Directors is required, and the Directors shall be elected to hold office for a term expiring not later than the close of the second annual meeting of the Members following the election.

### **5.3 Composition of the Board & Qualification of Directors**

After the next Annual Meeting of Members, the Board shall at all times be composed of:

- (i) at least twenty-five percent (25%) Authorized Representatives of Academic Members;
- (ii) at least twenty-five percent (25%) Authorized Representatives of Public Transit System Members; and
- (iii) at least twenty-five percent (25%) Authorized Representatives of Transportation Industry Members;

where the number of Directors is rounded down to the greatest whole number in cases of fractional compositions, provided that any act of the Board or any Director is valid despite any irregularity in the composition of the Board or any irregularity in the election or appointment or a defect in the qualification of a Director.

### **5.4 Calling of Directors' Meetings**

- 5.4.1 The Board may meet at any place from time to time as the Board determines but shall meet at least two (2) times a year.
- 5.4.2 Meetings of the Board may be called by the Chair at any time upon the provision of at least forty-eight (48) hours written notice to the Directors.
- 5.4.3 The Chair shall call a special meeting of the Board on written requisition of at least three (3) Directors. If the Chair does not call a meeting within seven (7) days of receiving the requisition, any Director who signed the requisition may call the meeting.

## **5.5 Notice of Directors' Meeting**

- 5.5.1 Notice of the time and place for the holding of a meeting of the Board shall be given in the manner provided in Section 7.1.1 of this by-law to every Director. 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.
- 5.5.2 Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.
- 5.5.3 Unless this by-law otherwise provides, no notice of meeting need specify the purpose of the business to be transacted at the meeting except that a notice of meeting of Directors shall specify any matter referred to in subsection 138(2) (Limits of Authority) of the Act that is to be dealt with at the meeting.

## **5.6 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 for 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.

## **5.7 Quorum at Directors' Meetings**

A quorum at any meeting of the Board shall be a majority of the number of Directors fixed by the Members or the Board, as the case may be.

## **5.8 Rights at Directors' Meetings**

Unless otherwise stated in this by-law, each Director shall have one (1) vote on any matter at any meeting of the Board.

## **5.9 Votes to Govern at Directors' Meetings**

- 5.9.1 At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question.
- 5.9.2 In case of an equality of votes, the Chair in addition to an original vote shall have a second or casting vote.

## **5.10 Participation by Electronic Means at Directors' Meetings**

Subject to the by-laws, a Director may, in accordance with the Regulations, if any, and if all the Directors consent, participate in a meeting of Directors by means of a telephonic, an electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting. A Director so participating in a meeting is deemed for the purposes of the Act to be present at that meeting.

#### **5.11 Directors' Meetings Held Entirely by Electronic Means**

Meetings of the Board may be held entirely by telephonic, an electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

#### **5.12 Committees of Board**

5.12.1 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.

5.12.2 Any appointed committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make.

5.12.3 Any committee member of any appointed committee may be removed by resolution of the Board.

#### **5.13 Remuneration**

5.13.1 The Directors shall serve without remuneration in performance of the duties of a Director or officer of the Consortium, provided that a Director may receive reasonable expenses incurred in the performance of the duties of a Director or officer of the Consortium.

5.13.2 The Directors may receive reasonable remuneration and expenses incurred for any services to the Consortium that are performed in any other capacity.

#### **5.14 Termination of Directorship**

A Director ceases to hold office when the Director,

- (i) dies;
- (ii) resigns;
- (iii) ceases to be the Authorized Representative of a Member;
- (iv) is removed by ordinary resolution of a special meeting of the Members in accordance with section 130 of the Act; or
- (v) becomes disqualified under section 126 (Qualifications of Directors) of the Act.

### **SECTION 6 - OFFICERS & ADVISORS**

#### **6.1 Appointment of Officers**

6.1.1 The Board may designate the offices of the Consortium, appoint officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such officers the power to manage the affairs of the Consortium. If the Board appoints a Treasurer, the Board shall use reasonable care to appoint a person having accounting or related financial management

expertise and financial literacy sufficient to competently carry out the duties of the Treasurer provide for in clause 6.2.1(f).

6.1.2 An officer, except the Executive Director, may be a Director.

6.1.3 Two (2) or more offices may be held by the same person.

## 6.2 Description of Offices

6.2.1 Unless otherwise specified by the Board which may, subject to the Act modify, restrict or supplement such duties and powers, the offices of the Consortium, if designated and if officers are appointed, shall hold office in accordance with the following, and have the following duties and powers associated with their positions:

- (i) Chair of the Board – The Chair, if one is appointed, shall be a Director. The Chair, if any, shall when present, preside at all meetings of the Board and of the Members. The Chair shall have such other duties and powers as the Board may specify.
- (ii) Vice-Chair of the Board – The Vice-Chair shall, if one is to be appointed, shall be a Director. If the Chair is absent or is unable or refuses to act, the Vice-Chair, if any, shall, when present, preside at all meetings of the Board and of the Members. The Vice-Chair shall have such other duties and powers as the Board may specify.
- (iii) Executive Director – If appointed, the Executive Director shall be the chief executive officer of the Consortium and shall be responsible for implementing the strategic plans and policies of the Consortium. The Executive Director shall assist the Chair. The Executive Director shall be an Ex-Officio member of all committees of the Consortium but with no voting power. The Executive Director shall, subject to the authority of the Board, have general supervision of the affairs of the Consortium. The Executive Director shall act as the secretary of the Consortium and attend and be the secretary of all meetings of the Board and the Members. The Executive Director shall have charge of the documents and records of the Consortium and shall see that all notices are given as required. The Executive Director shall have such other duties and powers as the Board may specify.
- (iv) Treasurer – If appointed, the Treasurer shall be responsible for the care, custody and investment of all of the funds and securities of the Consortium. The Treasurer shall supervise the preparation of the budget, review salary proposals and generally work with the staff in all matters relating to the financial administration of the Consortium. The Treasurer shall make a financial report to the Consortium at its annual meeting of the Members, and at any other time the Treasurer deems appropriate.

6.2.2 The powers and duties of all other officers of the Consortium shall be such as the terms of their engagement call for or the Board or Executive Director requires of them.

6.2.3 The Board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

### **6.3 Vacancy of Office**

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

- (i) the officer's successor being appointed;
- (ii) the officer's resignation;
- (iii) such officer ceasing to be a Director (if necessary qualification of appointment); or
- (iv) such officer's death.

6.3.2 If the office of any officer of the Consortium shall be or become vacant, the Directors may, by resolution, appoint a person to fill such vacancy.

### **6.4 Honourary Counsel**

If appointed by the Board, the Honourary Counsel shall provide advice on legal issues relating to the Consortium. The Honourary Counsel shall be a member in good standing of a law society of any province in Canada. The Honourary Counsel may attend and participate, but has no vote, in any meeting of the Board.

## **SECTION 7 - PROTECTION OF DIRECTORS, OFFICERS AND OTHERS**

### **7.1 Conflicts**

7.1.1 A director or an officer of a Consortium shall disclose to the Consortium, in writing or by requesting to have it entered in the minutes of meetings of directors or of committees of directors, the nature and extent of any interest that the director or officer has in a material contract or material transaction, whether made or proposed, with the Consortium, if the director or officer

- (i) is a party to the contract or transaction;
- (ii) is a director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or
- (iii) has a material interest in a party to the contract or transaction.

7.1.2 A director required to make a disclosure under subsection 7.1.1 shall not vote on any resolution to approve the contract or transaction unless the contract or transaction

- (i) relates primarily to the director's remuneration as a director, an officer, an employee, an agent or a mandatary of the Consortium or an affiliate;
- (ii) is for indemnity or insurance under sections 7.3 and 7.4; or
- (iii) is with an affiliate



## 7.2 Limitation of Liability

Every director and officer of the Consortium 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 Consortium and shall 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, neglects or defaults of any other director, officer or employee, or for joining in any act for conformity, or for any loss, damage or expense happening to the Consortium through the insufficiency or deficiency of title to any property acquired for or on behalf of the Consortium, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Consortium shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the monies, securities or effects of the Consortium shall be deposited, or for any loss occasioned by any error of judgment or oversight on his or her part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his or her office or in relation thereto; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the Act or any other applicable law or from liability for any breach thereof.

## 7.3 Indemnification

7.3.1 Subject to the limitations contained in the Act, the Consortium shall indemnify a director or officer, a former director or officer, or a person who acts or acted at the Consortium's request as a director or officer, or in a similar capacity of another entity, and his or her heirs and legal representatives, against all costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonable incurred by him or her in respect of any civil, criminal or administrative action or proceeding in which he or she is involved by reason of being or having been a director or officer of the Consortium or such body corporate, if:

- (i) he or she acted honestly and in good faith with a view to the best interests of the Consortium; and
- (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

7.3.2 The Consortium shall also indemnify such person in such other circumstances as the Act permits or requires. Nothing in this by-law shall limit the right of any person entitled to indemnity to claim indemnity apart from the provisions of this by-law.

## 7.4 Insurance

The Consortium may purchase and maintain insurance for the benefit of any person referred to in section 7.3 to the extent permitted by the Act.

## SECTION 8 - NOTICES

### 8.1 Method of Giving Notice

8.1.1 Any notice (which term includes any communication or document) to be given (which term includes, sent, delivered or served), other than notice of a meeting of Members or a meeting of

the Board, pursuant to the Act, the Articles, the by-laws or otherwise to a Member, Director, officer or committee member or to the public accountant shall be sufficiently given,

- (i) 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 Consortium or in the case of notice to a Director to the latest address as shown in the last notice that was sent by the Consortium in accordance with section 128 (Notice of directors) or section 134 (Notice of change of director or director's address) of the Act;
- (ii) if mailed to such person at such person's recorded address by prepaid ordinary or air mail;
- (iii) if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
- (iv) if provided in the form of an electronic document in accordance with Part 17 of the Act.

8.1.2 A notice shall be deemed to have been given when,

- (i) if delivered in accordance with clause 8.1.1(a), it is delivered personally or to the recorded address;
- (ii) if delivered in accordance with clause 8.1.1(b), it is deposited in a post office or public letter box; or
- (iii) if delivered in accordance with clause 8.1.1(c), it is dispatched or delivered to the appropriate communications company or agency or its representative for dispatch.

8.1.3 The Executive Director may change or cause to be changed the recorded address of any Member, Director, officer, public accountant or committee member in accordance with any information believed by the secretary to be reliable. The declaration by the Executive Director 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 to any notice or other document to be given by the Consortium, may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

## 8.2 Omissions and Errors

The accidental omission to give or send any notice to any Member, Director, officer, committee member or public accountant, or the non-receipt of any notice by any such person where the Consortium has provided notice in accordance with the by-laws or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice pertained or otherwise founded on such notice.

## 8.3 Waiver of Notice

A Director may waive notice of a meeting of Directors, and attendance of a Director at a meeting of Directors is a waiver of notice of the meeting, except if the Director 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.

## **SECTION 9 - INVALIDITY OF ANY PROVISION OF BY-LAW**

### **9.1 Invalidity of any Provision of 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.

## **SECTION 10 - DISPUTE RESOLUTION**

### **10.1 Mediation and Arbitration**

Disputes or controversies among Members, Directors, officers, committee members, or volunteers of the Consortium are as much as possible to be resolved in accordance with mediation and/or arbitration as provided in section 10.2 of this by-law.

### **10.2 Dispute Resolution Mechanism**

In the event that a dispute or controversy among Members, Directors, Officers, committee members or volunteers of the Consortium arising out of or related to the Articles or by-laws, or out of any aspect of the operations of the Consortium 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 Consortium 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:

- (i) The dispute or controversy shall first be submitted to a panel of mediators whereby the one party appoint one (1) mediator, the other party (or if applicable the Board) appoints one (1) mediator, and the two (2) mediators so appointed jointly appoint a third mediator. The three (3) mediators will then meet with the parties in question in an attempt to mediate a resolution between the parties.
- (ii) The number of mediators may be reduced from three to one (1) or two (2) upon agreement of the parties.
- (iii) 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 in 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 Consortium 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.
- (iv) 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 11 - EFFECTIVE DATE**

### **11.1 Make, Amend and Repeal**

Subject to the Articles and section 11.2, the Board may, by resolution, make, amend, or repeal any by-laws that regulate the activities or affairs of the Consortium. 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, rejected or amended by the Members by ordinary resolution. 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. The by-law, amendment or repeal ceases to have effect if it is not submitted to the Members at the next meeting Members or if it is rejected by the Members at the meeting.

### **11.2 Not Applicable**

Section 11.1 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 the Members.

### **11.3 Effective Date**

Subject to matters requiring special resolution of the Members, this by-law shall be effective when made by the Board.

## **SECTION 12 - APPLICATION OF ACT**

### **12.1 Application of Act**

This by-law is subordinate to, and should be read in conjunction with the Act.

**MADE BY THE BOARD the 18<sup>th</sup> day of May, 2018**

**CONFIRMED BY THE MEMBERS the 22<sup>nd</sup> day of June, 2018**

  
Name: Suzanne Connor  
Title: Chair of the Board