

BY-LAW NUMBER 3  
of  
**OpenHW Group**

## Contents

Section	Page
Article 1 - INTERPRETATION .....	1
1.1    Definitions.....	1
1.2    Interpretation. ....	2
Article 2 - REGISTERED OFFICE .....	2
2.1    Registered Office.....	2
Article 3 - CORPORATE SEAL.....	3
3.1    Corporate Seal. ....	3
Article 4 - PURPOSE .....	3
4.1    Tax Exempt Purposes .....	3
4.2    Specific Purpose.....	3
Article 5 - DIRECTORS .....	4
5.1    Duties and Number.....	4
5.2    Qualifications. ....	4
5.3    Election and Removal.....	4
5.4    Consent. ....	4
5.5    Vacation of Office. ....	5
5.6    Filling Vacancies.....	5
Article 6 - MEETINGS OF DIRECTORS.....	5
6.1    Place of Meeting.....	5
6.2    Notice. ....	5
6.3    Adjournment. ....	6
6.4    Regular Meetings. ....	6
6.5    Quorum.....	7
6.6    Voting. ....	7
6.7    Meetings by Other Electronic Means.....	7
6.8    Participation by Telephone or Electronic Means. ....	7
6.9    Chairperson of the Meeting. ....	7
6.10   Resolutions in Lieu of Meeting. ....	8
6.11   Privilege of the Board of Directors.....	8
Article 7 - POWERS OF DIRECTORS .....	8
7.1    Administer Affairs. ....	8
7.2    Expenditures.....	8
7.3    Borrowing Power. ....	8
7.4    Fund Raising. ....	9

## Contents

Section	Page
7.5 Agents, Employees, Consultants and Professionals .....	9
7.6 Executive Committee.....	9
Article 8 - REMUNERATION OF DIRECTORS .....	9
8.1 Remuneration of Directors.....	9
Article 9 - OFFICERS .....	9
9.1 Appointment. ....	9
9.2 Remuneration of Officers.....	10
9.3 Removal of Officers. ....	10
9.4 Vacancies. ....	10
9.5 Duties of Officers May be Delegated.....	10
9.6 Powers and Duties. ....	10
Article 10 - FOR THE PROTECTION OF DIRECTORS AND OFFICERS .....	12
10.1 Limitation of Liability. ....	12
Article 11 - INDEMNITIES TO DIRECTORS AND OTHERS.....	12
11.1 Indemnities to Directors and Others.....	12
11.2 Insurance.....	13
Article 12 - INTERESTED DIRECTOR/OFFICER CONTRACTS .....	13
12.1 Disclosure of Interest.....	13
12.2 Submission of Contracts or Transactions to Members for Approval. ....	14
Article 13 - COMMITTEES.....	14
13.1 Appointment, Powers & Authority .....	14
13.2 Quorum of a committee meeting .....	14
13.3 Meetings by other electronic means.....	15
13.4 Participation by telephone or electronic means .....	15
13.5 Qualification .....	15
13.6 Committee Meetings.....	15
13.7 Voting procedure .....	15
13.8 Committee reports .....	16
13.9 Costs; expenses .....	16
Article 14 - MEMBERS .....	16
14.1 Membership Conditions.....	16
14.2 Resignation.....	17
14.3 Termination of membership.....	17
14.4 Discipline of Members. ....	18

## Contents

Section	Page
14.5 Reinstatement .....	18
Members suspended, terminated or expelled pursuant to Article 14.4 may be reinstated only by Special Resolution of the board of directors then in office.....	18
14.6 Membership Transferability .....	18
Article 15 - MEMBERSHIP DUES .....	18
15.1 Dues. ....	18
Article 16 - MEMBERS' MEETINGS .....	19
16.1 Time and Place of Annual Meeting.....	19
16.2 Annual Meetings.....	19
16.3 Special Meetings. ....	19
16.4 Notice. ....	19
16.5 Record Date for Notice. ....	20
16.6 Waiver of Notice. ....	20
16.7 Quorum.....	20
16.8 Chairperson of the Meeting. ....	20
16.9 Adjournment. ....	20
16.10 Meetings by Other Electronic Means.....	21
16.11 Participation by Teleconference or Electronic Means. ....	21
16.12 Persons Entitled to be Present. ....	21
16.13 Votes. ....	21
16.14 Ballots.....	22
16.15 Proxyholders and Representatives.....	22
16.16 Time for Deposit of Proxies. ....	23
16.17 Mailed-In or Electronic Ballot .....	24
16.18 Resolution in Writing.....	24
16.19 Only One Member. ....	24
Article 17 - BANKING ARRANGEMENTS .....	24
17.1 Banking Arrangements. ....	24
Article 18 - NOTICES.....	25
18.1 Method of Giving Notice. ....	25
18.2 Signature to Notices. ....	25
18.3 Computation of Time. ....	25
18.4 Proof of Service. ....	25
18.5 Omission and Errors.....	26
Article 19 - RULES, REGULATIONS, POLICIES AND PROCEDURES .....	26

## Contents

Section	Page
19.1 Rules, Regulations, Policies and Procedures.....	26
Article 20 - BY-LAWS .....	26
20.1 By-laws and Effective Date.....	26
20.2 Invalidity of any Provisions of this By-Law.....	26
Article 21 - RULES OF ORDER.....	26
21.1 Rules of Order .....	26
Article 22 - PUBLIC ACCOUNTANT .....	27
22.1 Public Accountant.....	27
Article 23 - FINANCIAL YEAR .....	27
23.1 Financial Year.....	27
Article 24 - REPEAL OF BY-LAW NO. 1 .....	27
24.1 Repeal of Existing By-law No. 1 .....	27
24.2 Effective Date .....	27

# BY-LAW NUMBER 2

of

## OpenHW Group

A By-law relating generally to the conduct of the affairs of the Corporation.

**BE IT ENACTED** as a By-law of the Corporation as follows:

### Article 1 - INTERPRETATION

#### 1.1 Definitions.

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

- (a) **Act** means the *Canada Not-for-profit Corporations Act*, S.C. 2009, c.23, including the regulations made pursuant to the Act, as from time to time amended and every statute that may be substituted therefor and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the Act shall be read as references to the substituted provisions therefor in the new statute or statutes;
- (b) **Articles** means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;
- (c) **By-laws** means this by-law and any other by-laws of the Corporation as amended and which are, from time to time, in force and effect;
- (d) **Code of Conduct** means such policy consistent with this By-Law as may be approved from time to time by the board of directors of the Corporation relating to the standards, rules, guidelines and values that govern and guide ethical business behaviour of the directors, officers, Members and employees of the Corporation in respect of the fundamental principles, vision, mission and goals of the Corporation, the maintenance and preservation of the Corporation's high standards of professional integrity towards clients, colleagues, partners, members and the general public and the interactions among such persons and entities;
- (e) **Corporation** means **OpenHW Group**, a federal not-for-profit corporation incorporated under the Act;
- (f) **Marketing Working Group** means the committee created to promote the development and adoption of the Corporation's free and open-source intellectual property and surrounding hardware and software throughout global and local communities;
- (g) **Member** or **Members** means the signatories of the OpenHW Group Membership Agreement that have been accepted for membership in the Corporation;
- (h) **OpenHW Group Membership Agreement** means the agreement, as in effect and as amended from time to time, by the board of directors of the Corporation;
- (i) **Ordinary Resolution** means a resolution passed by a majority of not less than fifty percent (50%) plus one (1) of the votes cast on that resolution;

- (j) **Proposal** means a proposal submitted by a Member of the Corporation that meets the requirements of Section 163 of the Act;
- (k) **Regulations** means the regulations made under the Act as may be amended from time to time and every regulation that may be substituted therefor and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the regulations shall be read as references to the substituted provisions therefor in the new regulations;
- (l) **Special Resolution** means a resolution passed by a majority of not less than two-thirds (2/3rds) of the votes cast on that resolution;
- (m) **Straw Poll** means a temporary and non-binding option to move a topic of discussion forward in order to further explore ideas and options and;
- (n) **Technical Working Group** means the committee created to receive submissions or other disclosures of any technical information, proposed designs or improvements, recommendations, comments and other materials with respect to the Corporation's free and open-source intellectual property and surrounding hardware and software.

## 1.2 Interpretation.

This By-law shall, unless the context otherwise requires, be construed and interpreted in accordance with the following:

- (a) all terms contained and which are defined in the Act, or the Regulations shall have the meanings given to such terms in the Act or such Regulations;
- (b) words importing the singular number only shall include the plural and *vice versa*; and the word "**person**" shall include bodies corporate, corporations, companies, partnerships, syndicates, trusts and any number of aggregate of persons;
- (c) the headings used in the By-laws are inserted for reference purposes only and are not to be construed 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; and
- (d) if any of the provisions contained in the By-laws are inconsistent with those contained in the Articles or the Act, the provisions contained in the Articles or the Act, as the case may be, shall prevail.

The term "**contracts, documents or instruments in writing**" as used in this By-law shall include deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property, real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper writings.

## Article 2 - REGISTERED OFFICE

### 2.1 Registered Office.

Until changed in accordance with the Act, the registered office of the Corporation shall be situated in the Province of Ontario and at such location therein as the board of directors of the Corporation may from time to time determine.

## Article 3 - CORPORATE SEAL

### 3.1 Corporate Seal.

The Corporation may have a corporate seal in the form approved from time to time by the board of directors of the Corporation. If a corporate seal is approved by the board of directors of the Corporation, the Secretary of the Corporation shall be the custodian of the corporate seal.

## Article 4 - PURPOSE

### 4.1 Tax Exempt Purposes

The Corporation is organized and is to be operated to engage in any lawful activity permitted by the Act. The purposes of the Corporation include developing, promoting, protecting, and standardizing free and open-source semiconductor intellectual property and related activities.

### 4.2 Specific Purpose

The Corporation's specific purpose (**Specific Purpose**) is to develop, standardize, protect, and promote the free and open-source semiconductor intellectual property, and related activities that:

- (a) sustain and evolve the Corporation's free and open-source intellectual property and surrounding hardware and software ecosystem over time in response to changes in technology and the needs and requests of the user community;
- (b) ensure the free and open-source implementations developed by the Corporation are available to all implementers;
- (c) manage licensing of the Corporation's trademark(s) and thereby provide a vehicle to decide whether a project or product can use the trademark(s);
- (d) maintain publicly accessible online repositories of any specification documents, implementations, and compatibility test suites;
- (e) produce and sell development boards or systems and promotional materials the proceeds from which are used to further the Specific Purposes of the Corporation.

No substantial part of the Corporation's Specific Purpose shall be the carrying on of propaganda, or otherwise attempting, to influence legislation (except to the extent authorized by the Act, if the Corporation makes an election thereunder), and the Corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

This Section may not be amended except by the unanimous vote of the board of directors and as required by the Act, by a Special Resolution of the Members.



## Article 5 - DIRECTORS

### 5.1 Duties and Number.

The activities and the affairs of the Corporation shall be managed by a board of directors, comprised of such number of directors as is provided in the Articles. If the Articles provide for a minimum number and a maximum number, the number of directors shall be determined from time to time by the Members by Ordinary Resolution or, if the Ordinary Resolution empowers the directors to determine the number from time to time, by resolution of the board of directors of the Corporation. For greater certainty, in the case of a soliciting corporation, the minimum number of directors may not be fewer than three (3), at least two (2) of whom are not officers or employees of the Corporation or its affiliates.

### 5.2 Qualifications.

Every director shall be an individual, eighteen (18) or more years of age, with power under law to contract and an employee of a Platinum Member.

### 5.3 Election and Removal.

Each director named in the prescribed notice of directors submitted with the Articles shall hold office from the date of issuance of the Articles until the first meeting of the Members of the Corporation.

In order to institute and provide for a system of staggered terms for directors for the benefit of the Corporation and for good order, all of the directors of the Corporation shall be elected to office in accordance with the following procedure:

- (a) At the first annual meeting of Members, the directors shall be elected as follows, rounded-up when required or necessary in the order appearing below:
  - (i) 1/3 of the directors to be elected shall be elected for a term of one (1) year and up for re-election at the next annual meeting;
  - (ii) 1/3 of the directors shall be elected for a term of two (2) years; and
  - (iii) 1/3 the terms of the directors shall be elected for a term of three (3) years.
- (b) Thereafter, at each annual meeting of the Members, the directors to be elected to replace the directors who's term has expired shall be elected for a term of three (3) years.
- (c) If the total number of directors is changed, any increase in directors will be apportioned, as per section (a) above, to maintain the terms of office of the directors as nearly equal in number as possible.
- (d) There is no limit to the number of consecutive terms a director may serve and a Director may succeed himself or herself in office.

Subject to the Act, the Members of the Corporation may, by Ordinary Resolution passed at a special meeting of Members of which notice specifying the intent to pass such resolution has been given, remove any director from office before the expiration of that director's term of office and may, by a majority of the votes cast at the meeting, elect a qualified person to fill the vacancy for the remainder of the term of the director so removed.

### 5.4 Consent.

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

- (a) not refusing to hold office if such person is present at the meeting when the election or appointment takes place;
- (b) 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
- (c) by acting as a director pursuant to such person's election or appointment.

#### 5.5 Vacation of Office.

The office of a director shall *ipso facto* be vacated if the director:

- (a) has the status of a bankrupt;
- (b) is declared incapable by a court in Canada or in another country;
- (c) if by notice in writing to the Corporation resigns office, 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;
- (d) dies; or
- (e) is removed from office in accordance with Section 5.3 hereof.

#### 5.6 Filling Vacancies.

Subject to the Act, a vacancy occurring in the board of directors with the exception of:

- (a) vacancy resulting from an increase in the number or the minimum or maximum number of directors provided in the Articles; or
- (b) or from a failure to elect the number or minimum number of directors provided in the Articles,

may be filled for the remainder of the term by a qualified person by resolution of the directors then in office, if they shall see fit to do so, so long as there is a quorum of directors in office; otherwise such vacancy shall be filled at the next annual meeting of the Members at which the directors for the ensuing year are elected. If there is not a quorum of directors or if there has been a failure to elect the number or minimum number of directors provided for in the Articles, the remaining directors shall forthwith call a special meeting of the Members to fill the vacancy, and, in default or if there are no directors then in office, the meeting may be called by any Member.

## **Article 6 - MEETINGS OF DIRECTORS**

#### 6.1 Place of Meeting.

Meetings of the board of directors of the Corporation may be held at any time and at any place within or outside Canada.

#### 6.2 Notice.

A meeting of directors of the Corporation may be convened by the Chairperson of the board, the Vice-Chairperson of the board, the President, if a director, a Vice-President who is a director or any two (2) directors at any time. The Secretary, when directed or authorized by any one of the foregoing officers or any two (2) directors, shall convene a meeting of directors. For greater certainty, unless sent by mail, forty-

eight (48) hours' notice of such meeting shall be given to each director. Notice of any such meeting that is sent by mail shall be served in the manner specified in paragraph 18.1 of this By-law not less than fourteen (14) days (exclusive of the day on which the notice is delivered or sent but inclusive of the day for which notice is given) before the meeting is to take place; provided always that a director may in any manner and at any time waive notice of a meeting of directors and attendance of a director at a meeting of directors shall constitute a waiver of notice of the meeting except where a 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; provided further that meetings of directors may be held at any time without notice if all the directors are present (except where a 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) or if all of the absent directors waive notice before or after the date of such meeting.

If the first meeting of the board of directors of the Corporation following the election of directors by the Members is held immediately thereafter, then for such meeting or for a meeting of the board of directors of the Corporation at which a director is appointed to fill a vacancy in the board, no notice shall be necessary to the newly elected or appointed directors or director in order to legally constitute the meeting, provided that a quorum of the directors is present.

A notice of meeting of the board of directors of the Corporation need not specify the purpose of or the business to be transacted at the meeting except that a notice of meeting of directors shall specify any Proposal to:

- (a) submit to the Members any question or matter requiring the approval of Members;
- (b) fill a vacancy among the directors or in the office of the public accountant or appoint additional directors;
- (c) issue debt obligations except as authorized by the directors;
- (d) approve any financial statements referred to in Section 172 of the Act;
- (e) adopt, amend or repeal By-laws; or
- (f) establish contributions to be made, or dues to be paid, by Members under Section 30 of the Act.

### 6.3 Adjournment.

Any meeting of directors may be adjourned from time to time by the Chairperson of the meeting, with the consent of two-thirds (2/3rds) of the directors present at the meeting, to a fixed time and place. Notice of any adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat.

The directors who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. 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.

### 6.4 Regular Meetings.

The board of directors of the Corporation may appoint a day or days in any month or months for regular meetings of the board of directors at a place or hour to be named by the board of directors and a copy of any resolution of the board of directors fixing the place and time of regular meetings of the board of directors

shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meetings except where the Act requires the purpose thereof or the business to be transacted thereat to be specified.

#### 6.5 Quorum.

A majority of the directors in office shall form a quorum for the transaction of business provided that vacancies on the board shall not be included when establishing the required quorum. A quorum of directors may exercise all the powers of directors. For the purposes of determining a quorum, a director may be present in person or, if authorized under Sections 6.7 or 6.8 below, by teleconference and/or by other electronic means.

#### 6.6 Voting.

Each director is authorized to exercise one (1) vote. Unless otherwise stated herein, all matters requiring resolution by the board of directors and questions arising at any meeting of directors shall be decided by Ordinary Resolution of votes cast on such matter or question. In case of an equality of votes, the Chairperson of the meeting shall not have a second or casting vote in addition to an original vote. No director shall vote by proxy at any meeting of the board of directors of the Corporation. A declaration by the Chairperson of the meeting that a resolution has been carried and an entry to that effect in the minutes of such meeting shall be admissible in evidence as *prima facie* proof of the fact that such resolution was carried without the necessity of proof of the number or the proportion of votes recorded in favour of or against such resolution.

#### 6.7 Meetings by Other Electronic Means.

The directors of the Corporation may meet by other electronic means that permits each director to communicate adequately with each other, provided that:

- (a) the board of directors 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;
- (b) each director has equal access to the specific means of communication to be used; and
- (c) each director has consented in writing in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

#### 6.8 Participation by Telephone or Electronic Means.

If the majority of the directors of the Corporation consent thereto generally or in respect of a particular meeting, a director may participate in a meeting of the board of directors or of a committee of the board of directors by means of telephone or other communication facilities as shall permit all persons participating in the meeting to hear and communicate with each other. A director participating in a meeting either by telephone or other electronic means shall be deemed for the purposes of the Act to have been present at that meeting. Written consent to meeting by teleconference or electronic means may be given before or after the meeting to which it relates or may be a “blanket” consent relating to all meetings of the board of directors of the Corporation and/or committees of the board of directors.

#### 6.9 Chairperson of the Meeting.

In the event that the Chairperson of the board and the Vice-Chairperson of the board are absent or unable to act, the directors who are present shall choose one (1) of their number to chair the meeting.

#### 6.10 Resolutions in Lieu of Meeting.

A resolution in writing signed by all of the directors entitled to vote on that resolution at a meeting of directors is as valid as if it had been passed at a meeting of directors.

#### 6.11 Privilege of the Board of Directors.

The Chairperson of the meeting, with the approval of the board of directors, may invite such officers or other persons, whether or not they are Members of the Corporation, to attend and participate in the discussion on particular items of business of the board of directors, provided that such participant shall in no event be entitled to vote on any motion arising from such discussion.

### **Article 7 - POWERS OF DIRECTORS**

#### 7.1 Administer Affairs.

The board of directors of the Corporation shall manage, or supervise the management of, the activities and affairs of the Corporation and make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the Corporation is by its Articles or otherwise authorized to exercise and do.

#### 7.2 Expenditures.

The directors shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers of the Corporation the right to employ and pay salaries to employees. The directors shall have the power to make expenditures in furtherance of the purposes of the Corporation. The directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interests of the Corporation in accordance with such terms as the board of directors of the Corporation may prescribe.

#### 7.3 Borrowing Power.

The directors of the Corporation may from time to time:

- (a) borrow money upon the credit of the Corporation;
- (b) limit or increase the amount to be borrowed;
- (c) issue or cause to be issued bonds, debentures or other securities of the Corporation and pledge or sell the same for such sums upon such terms, covenants and conditions and at such prices as may be deemed expedient; and
- (d) secure any such bonds, debentures, or other securities, or any other present or future borrowing or liability of the Corporation, by mortgage, hypothec, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation, and the undertaking and rights of the Corporation.

The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the Corporation possessed by its directors or officers independently of a borrowing By-law.

From time to time, the board of directors may authorize any director or officer of the Corporation or other persons 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 of directors may authorize and generally to manage, transact and settle the borrowing of money by the Corporation.

#### 7.4 Fund Raising.

The board of directors of the Corporation shall take such steps as they may deem requisite to enable the Corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever in furtherance of the Specific Purpose of the Corporation.

#### 7.5 Agents, Employees, Consultants and Professionals.

The board of directors of the Corporation may appoint agents and engage employees, consultants or professionals as it shall deem necessary from time to time and such persons shall have the authority and shall perform the duties as shall be prescribed by the board of directors at the time of such appointment. The remuneration of agents, employees, consultants or professionals shall, subject to all other provisions of this By-law, be fixed by the board of directors by resolution provided that the board of directors may delegate this function to an officer or officers of the Corporation.

#### 7.6 Executive Committee.

The board of directors of the Corporation may establish and appoint from among its number an Executive Committee comprised of such individuals as the board may from time to time appoint to the Executive Committee. The Executive Committee shall exercise such powers as are authorized by the board of directors. Reasonable notice of meetings of the Executive Committee shall be given in the manner provided in Section 18.1. Subject to the Act, the provisions of Sections 6.1 and 6.2 hereof, shall apply to the Executive Committee. A quorum at any meeting of the Executive Committee shall be a majority of the directors comprising the Executive Committee. Subject to the By-laws and any resolution of the board of directors, the Executive Committee may otherwise meet for the transaction of business, adjourn and otherwise regulate its meetings as it sees fit and may from time to time adopt, amend or repeal rules or procedures in this regard.

Executive Committee members shall be subject to removal by resolution of the board of directors of the Corporation. Executive Committee members shall receive no remuneration for serving as such, but are entitled to reasonable expenses incurred in the exercise of their duty.

### **Article 8 - REMUNERATION OF DIRECTORS**

#### 8.1 Remuneration of Directors.

The directors shall serve as such without remuneration and no director shall directly or indirectly receive any profit from his or her position as director; provided that a director may be reimbursed for reasonable expenses incurred by the director in the performance of his or her duties.

### **Article 9 - OFFICERS**

#### 9.1 Appointment.

The board of directors of the Corporation may annually, or more often as may be required, appoint by Ordinary Resolution a Chairperson of the board, a Vice-Chairperson of the board, a President, a Secretary, one (1) or more Vice-Presidents, a Treasurer and one (1) or more Assistant Secretaries and/or one (1) or more Assistant Treasurers. Notwithstanding the foregoing, each incumbent officer shall continue in office until the earlier of:

- (a) that officer's resignation, which resignation shall be effective at the time the written resignation is received by the Corporation or at the time specified in the resignation, whichever is later;
- (b) the appointment of a successor;
- (c) that officer ceasing to be a director;
- (d) the meeting at which the directors annually appoint the officers of the Corporation;
- (e) that officer's removal; or
- (f) that officer's death.

A director may be appointed to any office of the Corporation but none of the said officers need be a director or Member of the Corporation except that the Chairperson of the board and the Vice-Chairperson of the board shall be directors of the Corporation. With the exception of the Chairperson of the board and the Vice-Chairperson of the board, two (2) or more of the aforesaid offices may be held by the same person. In case and whenever the same person holds the offices of Secretary and Treasurer that person may but need not be known as the Secretary-Treasurer. The board of directors of the Corporation may from time to time appoint such other officers and agents as it shall deem necessary who shall have such authority and shall perform such duties as may from time to time be prescribed by Ordinary Resolution of the board of directors.

## 9.2 Remuneration of Officers.

The remuneration of all officers appointed by the board of directors shall be determined from time to time by resolution of the board of directors of the Corporation 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.

## 9.3 Removal of Officers.

All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the board of directors of the Corporation at any time, with or without cause.

## 9.4 Vacancies.

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

## 9.5 Duties of Officers May be Delegated.

In case of the absence or inability to act of any officer of the Corporation or for any other reason that the board of directors may deem sufficient, the board of directors may delegate all or any of the powers of any such officer to any other officer or to any director for the time being.

## 9.6 Powers and Duties.

All officers shall sign such contracts, documents or instruments in writing as require their respective signature and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the board of directors. The duties of the officers shall include:

- (a) **Chairperson of the board.** The Chairperson of the board, if any, shall, when present, preside at all meetings of the board of directors, committees of directors, if any, and of the Members.
- (b) **Vice-Chairperson of the board.** If the Chairperson of the board is absent or is unable or refuses to act, the Vice-Chairperson of the board, if any, shall, when present, preside at all meetings of the board of directors, committees of directors, if any, and of the Members.
- (c) **President.** The President shall be the chief executive officer of the Corporation, unless otherwise determined by resolution of the board of directors. The President shall be vested with and may exercise all of the powers and shall perform all of the duties of the Chairperson of the board and/or Vice-Chairperson of the board if none be appointed or if the Chairperson of the board and the Vice-Chairperson of the board are absent or are unable or refuse to act; provided, however, that, unless the President is a director, the President shall not preside as chairperson at any meeting of directors or of committees of directors, if any, and, subject to paragraph 16.8 of this By-law, at any meeting of Members. The board of directors may delegate to that person full power to manage and direct the activities, business and affairs of the Corporation (except such matters and duties as by law must be transacted or performed by the board of directors and/or by the Members) and to employ and discharge agents and employees of the Corporation or may delegate to that person any lesser authority. The President shall conform to all lawful orders given by the board of directors of the Corporation and shall at all reasonable times give to the Corporation and to the directors all information they may require regarding the affairs of the Corporation.
- (d) **Vice-President.** The Vice-President or, if more than one (1), the Vice-Presidents, in order of seniority, shall be vested with all the powers and shall perform all the duties of the President in the absence or inability or refusal to act of the President; provided, however, that a Vice President who is not a director shall not preside as chairperson at any meeting of the board of directors or of committees of directors, if any, and that a Vice-President who is not a director shall not, subject to paragraph 16.8 of this By-law, preside at any meeting of Members.
- (e) **Secretary.** The Secretary, when in attendance, shall be the secretary of all meetings of the board of directors, Members and committees of the board, and shall give or cause to be given notices for all meetings of the board of directors or committees of directors, if any, and Members when directed to do so and have charge of the corporate seal of the Corporation, if any, the minute books of the Corporation and of the documents and registers referred to in Section 21 of the Act.
- (f) **Treasurer.** Subject to the provisions of any resolution of the board of directors, the Treasurer shall have the care and custody of all the finances and securities of the Corporation and shall deposit the same in the name of the Corporation in such banks or with such depository or depositories as the board of directors of the Corporation may direct. The Treasurer shall keep or cause to be kept the requisite books of account and accounting records in compliance with the Act. The Treasurer may be required to give such bond for the faithful performance of the Treasurer's duties as the board of directors in their uncontrolled discretion may require but no director shall be liable for failure to require any bond or for the insufficiency of any bond or for any loss by reason of the failure of the Corporation to receive any indemnity thereby provided. Whenever required, the Treasurer shall provide the board of directors with an account of all his or her transactions as Treasurer and the financial transactions of the Corporation.
- (g) **Assistant Secretary and Assistant Treasurer.** The Assistant Secretary or, if more than one (1), the Assistant Secretaries in order of seniority, and the Assistant Treasurer or, if more than one (1), the Assistant Treasurers in order of seniority, shall respectively perform



all the duties of the Secretary and the Treasurer, respectively, in the absence or inability or refusal to act of the Secretary or the Treasurer, as the case may be.

The duties of all other officers of the Corporations shall be such as the terms of their engagement call for or as the board of directors requires of them.

## **Article 10 - FOR THE PROTECTION OF DIRECTORS AND OFFICERS**

### **10.1 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 in connection therewith 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, omissions, failures, 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 Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be placed or invested from time to time, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom or which any monies, securities or effects of the Corporation are lodged or deposited from time to time, or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any monies, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune which may happen in the execution of the duties of his or her office or in relation thereto unless the same happens by or through his or her failure to exercise his or her powers and to discharge his or her duties honestly, in good faith with a view to the best interests of the Corporation; provided that nothing herein contained shall relieve any director or officer from the duty to act in accordance with the Act and the Regulations thereunder or from liability for any breach thereof. The directors of the Corporation will not be under any duty or responsibility in respect of any contact, act or transaction whether or not made, done or entered into in the name of or on behalf of the Corporation, except such as has been submitted to and authorized or approved by the board of directors.

## **Article 11 - INDEMNITIES TO DIRECTORS AND OTHERS**

### **11.1 Indemnities to Directors and Others.**

Subject to the Act and to this paragraph 11.1, the Corporation shall indemnify a director or officer of the Corporation, a former director or officer of the Corporation, or any other individual who acts or acted at the Corporation's request as a director or officer of a body corporate of which the Corporation is or was a member or shareholder, or an individual acting in a similar capacity of another entity at the request of the Corporation, and his or her heirs, executors, administrators and legal representatives, against all costs, charges and expenses, including, without limitation, 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 to which the individual is made a party or involved in by reason of being or having been a director or officer of the Corporation or a director or officer of a body corporate of which the Corporation is or was a member or shareholder or acting in a similar capacity of such other entity at the request of the Corporation (excluding any proceeding by or on behalf of the Corporation or such body corporate of which the Corporation is or was a member or shareholder to obtain a judgment in favour of the Corporation or such body corporate of which the Corporation is a member or shareholder and excluding any proceeding initiated by such individual other than to establish a right of indemnification under this By-law), if,

- (a) the individual acted honestly and in good faith with a view to the best interests of the Corporation, or, as the case may be, to the best interests of such body corporate of which the Corporation is or was a member or shareholder; and

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

The Corporation will not advance monies to a director, officer or other individual for any costs, charges or expenses which are occasioned by his or her own wilful neglect or default

The Corporation will not advance monies to a director, officer or other individual for any costs, charges or expenses of any civil, criminal, administrative, investigative or other proceeding which the individual is made a party or involved in by reason of being or having been a director or officer of the Corporation or body corporate of which the Corporation is or was a member or shareholder at the request of the Corporation, whether or not such costs, charges or expenses relate to payment of a retainer, an interim legal account or otherwise.

The individual is required to repay any monies indemnified by the Corporation in respect of any proceeding forthwith if:

- (c) a court or other competent authority has determined that such indemnity is prohibited under the Act or any other applicable law; or
- (d) if he or she has not been substantially successful on the merits in the defence of any such proceeding, unless the individual fulfils the conditions set out in subparagraphs 11.1(a) and 11.1(b) above and was not judged by a court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done.

The Corporation may indemnify such individuals in such other circumstances as the Act or any applicable law permits or requires. Nothing in this By-Law limits the right of any individual entitled to indemnity to claim indemnity apart from the provisions of this By-Law.

## 11.2 Insurance.

Subject to the Act, the Corporation may purchase and maintain insurance for the benefit of any person referred to in paragraph 11.1 hereof against any liability incurred by him or her in his or her capacity as a director or officer of the Corporation or of another body corporate at the Corporation's request.

# Article 12 - INTERESTED DIRECTOR/OFFICER CONTRACTS

## 12.1 Disclosure of Interest.

Every director or officer of the Corporation who is in any way directly or indirectly interested in a material contract or material transaction or proposed material contract or proposed material transaction with the Corporation shall make the disclosure required by the Act and, except as provided by the Act, no such director shall vote on any resolution to approve any such contract. In supplement of and not by way of limitation upon any rights conferred upon directors by Section 141 of the Act and specifically subject to the provisions contained in that section, it is declared that no director shall be disqualified by any such office from, or vacate any such office by reason of, holding any office or place or profit under the Corporation or under any corporation in which the Corporation shall be a member or shareholder or by reason of being otherwise in any way directly or indirectly interested or contracting with the Corporation as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Corporation in which the director is in any way directly or indirectly interested as vendor, purchaser or otherwise. Subject to compliance with the Act, no contract or arrangement entered into by or on behalf of the Corporation for which disclosure is required shall be avoided or voidable and no director shall be liable to account to the Corporation or any of its members or creditors for any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship.

## 12.2 Submission of Contracts or Transactions to Members for Approval.

The board of directors of the Corporation in its discretion may submit any contract, act or transaction with the Corporation for approval or confirmation by Special Resolution at any annual meeting of the Members or at any general meeting of the Members called for the purpose of considering the same and, subject to the provisions of Section 141 of the Act, any such contract, act or transaction that shall be approved or ratified or confirmed by Special Resolution shall be as valid and as binding upon the Corporation and upon all the Members as though it had been approved, ratified or confirmed by every Member of the Corporation.

## **Article 13 - COMMITTEES**

### 13.1 Appointment, Powers & Authority

The board of directors shall appoint Marketing Working Group and Technical Working Group Chairs and Vice Chairs. The board of directors may appoint such additional working groups and / or committees as the board of directors from time to time deems necessary or appropriate to conduct the affairs and further the Specific Purposes of the Corporation.

Subject to Section 138(2) of the Act on limitations to delegation of authority by the board, as amended from time to time, any such committee shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the Corporation, may appoint such subcommittees and task groups as it deems necessary to further the Specific Purpose of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; provided, however, that no committee may:

- (a) authorize distributions of funds;
- (b) approve or recommend to Members dissolution, merger or the sale, pledge or transfer of all or substantially all of this corporation's assets;
- (c) elect, appoint, or remove directors or fill vacancies on the board or on any of its committees; or
- (d) adopt, amend or repeal the Articles, the Bylaws, or any resolution of the board of directors.

Any committee having the authority of the board of directors shall consist of two (2) or more directors who serve at the pleasure of the board of directors. The two (2) committee Members shall consist of at least the Committee Chair and the Committee Vice Chair. The board of directors shall retain the right to limit the powers and duties of any committee that it has created and to disband any such committee in its sole discretion. The Committee Chair shall report back at a frequency defined by the board of directors.

The board of directors shall have the final vote of approval of the recommendation of the committees. Votes associated with committees require two-thirds (2/3) board of directors approval.

### 13.2 Quorum of a committee meeting

Two-Thirds (2/3) of the Members of a committee shall form a quorum for the transaction of business provided that vacancies on a committee shall not be included when establishing the required quorum. For the purposes of determining a quorum, a committee Member may be present in person or, if authorized under Sections 13.3 or 13.4, by teleconference and/or by other electronic means.

### 13.3 Meetings by other electronic means.

The Members of a committee may meet by other electronic means that permits each such committee Member to communicate adequately with each other, provided that:

- (a) the board of directors 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;
- (b) each committee Member has equal access to the specific means of communication to be used; and
- (c) each committee Member has consented in writing in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

### 13.4 Participation by telephone or electronic means.

If the majority of the committee Members consent thereto generally or in respect of a particular meeting, a committee Member may participate in a meeting by means of such conference telephone or other communication facilities as shall permit all persons participating in the meeting to hear and communicate with each other. A committee Member participating in a meeting either by telephone or other electronic means shall be deemed for the purposes of the Act to have been present at that meeting. Written consent to meeting by teleconference or electronic means may be given before or after the meeting to which it relates or may be a "blanket" consent relating to all meetings of the committees.

### 13.5 Qualification

Only Platinum and Gold Members of the Corporation may serve as a Committee Chair or Vice Chair.

### 13.6 Committee Meetings

Committee meetings shall be announced by electronic or other means by the Committee Chair one calendar month in advance and shall be held at places and times to encourage maximum participation, taking into consideration the committee Members' varying schedules and time zones, to the extent possible. Minutes from each meeting shall be made available to Members within one calendar month of each meeting.

### 13.7 Voting procedure

A Member is said to be represented on a committee if the Member has one or more representatives on the committee.

With the exception of a Straw Poll, each Member represented on a committee shall have one (1) vote on each matter put before to the said committee.

During the first four (4) meetings of a committee, each Member represented on the committee is eligible to vote on matters brought before the committee. After the first four (4) meetings, each Member represented on the committee must have had a representative present at three (3) of the four (4) previous committee meetings to be eligible to vote on matters brought before the committee.

The adoption of any resolution or proposal brought before a committee requires that the resolution or proposal receives an affirmative vote from a majority of the committee Members present at the meeting and that a quorum be present. Individual committee may elect to require a Special Resolution for the approval of certain resolutions or proposals.

### 13.8 Committee reports

Committee reports shall be made publicly available online via the OpenHW Group website ([www.openhwgroup.org](http://www.openhwgroup.org)) for external comments and discussion for at least forty-five (45) days before the board of directors votes on the committee reports. The committee reports forwarded to the board of directors shall include a document with the committee's response to issues raised by committee members who voted against such committee report and by any dissenting public comments.

The board of directors shall provide a written summary of the rationale for its vote. The board of directors may approve, reject, or request for revision any committee report.

### 13.9 Costs; expenses

Committee members shall bear their own costs and expenses for his or her participation in meetings, travel, employee compensation, and incidental expenses.

## Article 14 - MEMBERS

### 14.1 Membership Conditions.

Subject to the Articles, the classes of Members of the Corporation are defined in the OpenHW Group Membership Agreement and are restated herein. There shall be four (4) classes of membership in the Corporation: (1) Platinum Member; (2) Gold Member; (3) Silver Member; and (4) Supporter Member with the following rights, privileges, restrictions and conditions:

- (a) **Platinum Member** A Platinum Member shall pay the annual membership dues detailed below and shall be entitled to receive notice of, attend and cast (1) vote at all meetings of the Members of the Corporation on any matter presented to the Members (including the election of directors). An employee of a Platinum Member is eligible to serve as Chair or Vice Chair of committees;
- (b) **Gold Member** A Gold Member shall pay the annual membership dues detailed below and shall be entitled to receive notice of, attend and cast (1) vote at all meetings of the Members of the Corporation on any matter presented to the Members (including the election of directors). An employee of a Gold Member is eligible to serve as Chair or Vice Chair of committees;
- (c) **Silver Member** A Silver Member shall pay the annual membership dues detailed below and shall be entitled to receive notice of, attend and cast (1) vote at all meetings of the Members of the Corporation on any matter presented to the Members (including the election of directors); and
- (d) **Supporter Member** A Supporter Member shall pay the annual membership dues detailed below and shall be entitled to receive notice of, attend and cast (1) vote at all meetings of the Members of the Corporation on any matter presented to the Members (including the election of directors).

The following table shows the membership requirements for each class of membership:

<b>Annual Revenues &amp; # of Employees</b>	<b>Platinum membership dues \$ / (ACs)</b>	<b>Gold membership dues \$ / (ACs)</b>	<b>Silver membership dues \$ / (ACs)</b>	<b>Supporter membership dues</b>
> \$3 billion or > 5000 employees	\$250K / (3)	\$125K / (2)	\$75K / (1.5)	\$75K
< \$3 billion or < 5000 employees	\$200K / (2.5)	\$100K / (2)	\$50K / (1.5)	\$50K
< \$1 billion or < 2000 employees	\$150K / (2)	\$75K / (1.5)	\$37.5K / (1)	\$37.5K
< \$500 million or < 1000 employees	\$100K / (1)	\$50K / (1)	\$25K / (1)	\$25K
< \$100 million or < 500 employees	\$50K / (1)	\$25K / (1)	\$10K / (1)	\$10K
< \$10 million or < 100 employees	\$25K / (0.5)	\$10K / (0.5)	\$5K / (0.5)	\$5K
< \$1 million or < 10 employees	\$10K	\$5K	\$1K	\$1K
Govt, Govt agencies, NGOs, etc.	\$25K	\$10K	\$5K	\$5K
Academic, Research or Publishing Organizations, etc	\$10K	\$5K	\$1K	\$1K

The Members of the Corporation shall be admitted into membership by the President or such other officer as may be designated by the board of directors, in accordance with rules for membership in the Corporation which have been approved by resolution of the board of directors of the Corporation and those interested in furthering the Specific Purpose of the Corporation. Members of the Corporation may also be admitted in such other manner as may be approved from time to time by the board of directors of the Corporation. Each Member shall be promptly informed by the Secretary of their admission as a Member.

#### 14.2 Resignation.

Members may withdraw from the Corporation by delivering to the Corporation a resignation in writing which shall be effective upon delivery of such written notice of resignation to the Corporation. In the case of resignation, a Member shall remain liable for payment of its membership dues levied or which became payable by the Member to the Corporation prior to such Members resignation.

#### 14.3 Termination of membership.

The interest of a Member in the Corporation lapses and ceases to exist:

- (a) upon dissolution of the Member; or

- (b) after the Member is expelled or otherwise terminated in accordance with the Articles or By-Laws; or
- (c) when the Member's period of membership (if any) expires; or
- (d) when the Member ceases to be a Member by resignation; or
- (e) when the Corporation is liquidated or dissolved in accordance with the Act,

or otherwise in accordance with the By-laws; provided always that the Members of the Corporation may, by resolution passed by at least two-thirds (2/3rds) of the votes cast at a special meeting of which notice specifying the intention to pass such resolution has been given (provided the Member shall be granted the opportunity to be heard) terminate the membership of any Member of the Corporation.

Subject to the Articles, upon any termination of membership, the membership rights of the Member shall automatically cease to exist, provided that termination of membership shall not affect the rights and obligations Member accrued prior to the effective date of such termination.

#### 14.4 Discipline of Members.

By Special Resolution, the board of directors of the Corporation shall have authority to suspend or expel any Member from the Corporation for violating any provision of the Articles, By-laws or written policies of the Corporation.

In the event that the board of directors determines 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 of directors, 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 President, or such other officer as may be designated by the board of directors, in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the President, the President, or such other officer as may be designated by the board of directors, 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 paragraph the board of directors 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 of directors' decision shall be final and binding on the Member, without any further right of appeal.

#### 14.5 Reinstatement

Members suspended, terminated or expelled pursuant to Article 14.4 may be reinstated only by Special Resolution of the board of directors then in office.

#### 14.6 Membership Transferability.

A membership may only be transferred to the Corporation. Pursuant to subsection 197(1) 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.

## **Article 15 - MEMBERSHIP DUES**

#### 15.1 Dues.

There shall be dues or fees payable by Members and such dues or fees shall be fixed, from time to time, by a resolution of the board of directors and as specified herein.

The Secretary (or any officer of the Corporation, if no Secretary is appointed) shall notify each Member of any delinquent dues or fees at any time payable by them and, if any are not paid within sixty (60) days of the date of such notice, the Member(s) in default shall thereupon automatically cease to be a Member(s) of the Corporation, but such defaulting Member(s) may on payment of all unpaid dues or fees be reinstated by unanimous vote of the board of directors.

## **Article 16 - MEMBERS' MEETINGS**

### **16.1 Time and Place of Annual Meeting.**

Subject to compliance with Section 159 of the Act, the annual meeting of the Members shall be held annually on such day in each year and at such time as the board of directors may by resolution determine at any place within Canada or, if the Articles so provide, may be held at such place outside Canada specified in the Articles or if all of the Members entitled to vote at that meeting so agree.

### **16.2 Annual Meetings.**

At every annual meeting, in addition to any other business that may be transacted, the report of the board of directors, the financial statements and the report of the public accountant shall be presented and the board of directors shall be elected and the public accountant appointed for the ensuing year. The Members may consider and transact any business either special or general at any meeting of Members.

### **16.3 Special Meetings.**

Other meetings of the Members may be convened by order of the Chairperson of the board, the Vice-Chairperson of the board, the President if a director or a Vice-President who is a director or by the board of directors of the Corporation at any date and time and at any place within Canada or, unless the Articles so provide, may be held at a place outside Canada if all of the Members entitled to vote at such meeting so agree.

The board of directors shall call a special meeting of 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 directors do not call a meeting within twenty-one (21) days of receiving the requisition, any Member who signed the requisition may call the meeting.

### **16.4 Notice.**

Notice of the time and place of any annual or special meeting of Members shall be provided to Members of the Corporation entitled to vote at such meeting by any of the following means:

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

Pursuant to subsection 197(1) 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.



Notice of any meeting where special business will be transacted should contain sufficient information to permit the Member to form a reasoned judgment on the decision to be taken. Notice of each meeting of Members must remind the Member that the Member has the right to vote by proxy.

#### 16.5 Record Date for Notice.

The board of directors of the Corporation may, within the periods prescribed by the Regulations, fix in advance a date, as a record date for the determination of the Members entitled to receive notice of the meeting, and notice of any such record date shall be in the manner provided in the Act. If no record date is so fixed, the record date for the determination of the Members entitled to receive notice of the meeting shall be at the close of business on the day immediately preceding the day on which the notice is given or, if no notice is given, the day on which the meeting is held.

#### 16.6 Waiver of Notice.

Subject to the Act, a meeting of Members may be held for any purpose at any time and any place without notice if all the Members entitled to notice of the meeting, the directors and the public accountant of the Corporation are present in person or represented by proxy, if applicable, at the meeting otherwise than to object to the transaction of business on the grounds that the meeting is not lawfully called, or if the absent Members, directors and the public accountant have waived notice of or otherwise consented to the meeting being held so long as the Members, the directors and public accountant present are not attending for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully held. A Member and any other person entitled to attend a meeting of Members may in any manner waive notice of a meeting of Members and attendance of any such person at a meeting of Members shall constitute a waiver of notice of the meeting except where such person attends a meeting for the express purposes of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

#### 16.7 Quorum.

A quorum at any meeting of the Members (unless a greater number of Members are required to be present by the Act or by the Articles or any other By-law) shall be twenty percent (20%) of the Members entitled to vote at the meeting.

In accordance with the Act, if a quorum is present at the opening of a meeting of Members, the members present may proceed with the business of the meeting, even if a quorum is not present throughout the meeting. If a quorum is not present at the opening of a meeting of Members, the Members present may adjourn the meeting to a fixed time and place but may not transact any other business.

For the purpose of determining quorum, a Member may be present in person, by proxy or, if authorized under paragraphs 16.10 and 16.11 hereof, by telephonic and/or other electronic means.

#### 16.8 Chairperson of the Meeting.

In the event that the Chairperson of the board and the Vice-Chairperson of the board are absent or unable to act, the President is absent and there is no Vice-President present, the persons who are present and entitled to vote shall choose another director as Chairperson of the meeting and if no director is present or if all the directors present decline to take the chair then the persons who are present and entitled to vote shall choose one (1) of their number to be chair of the meeting.

#### 16.9 Adjournment.

The chairperson of any meeting of Members may with the consent of the meeting adjourn by Ordinary Resolution the same from time to time to a fixed time and place and no notice of such adjournment need be given to the Members. 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.

#### 16.10 Meetings by Other Electronic Means.

Any person entitled to attend a meeting of the Members of the Corporation may meet by other electronic means that permits such person to communicate adequately with each other, provided that:

- (a) the Members of the Corporation have 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 in order to meet the prescribed requirements;
- (b) each Member or other person entitled to be present has equal access to the specific means of communication to be used; and
- (c) each Member has consented in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

#### 16.11 Participation by Teleconference or Electronic Means.

A Member participating in a meeting whether by telephone or other electronic means shall be deemed for the purposes of the Act to have been present at that meeting. Written consent to meeting by teleconference or electronic means may be given before or after the meeting to which it relates or may be a “blanket” consent relating to all meetings of the Members. 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.

#### 16.12 Persons Entitled to be Present.

The only persons entitled to be present at a meeting of Members of the Corporation shall be those entitled to vote at the meeting, the board of directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, the Articles or the By-laws to be present at the meeting. Any other person may be in attendance only by invitation of the Chairperson of the meeting or with the consent of the meeting.

#### 16.13 Votes.

Subject to Section 171 of the Act, every question submitted to any meeting of Members shall be decided in the first instance by a show of hands by a majority of votes unless otherwise specifically provided in the Act. In the case of an equality of votes, the Chairperson of the meeting shall not, have a second or casting vote in addition to the vote or votes to which the chairperson may be otherwise entitled.

Unless a ballot thereon is required or demanded as hereinafter provided, upon a show of hands every person who is present and entitled to vote shall have one (1) vote. Whenever a vote by show of hands shall have been taken upon a question or matter, unless a ballot thereon is so required or demanded, a declaration by the Chairperson of the meeting that the vote upon the question or matter has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact, without proof, of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said question or matter, and the result of the vote so taken shall be the decision of the Members upon the said question or matter.

No Member shall be entitled either in person or by proxy to vote at meetings of Members of the Corporation unless the Member has paid all dues or fees, if any, due by the Member at the time of said meeting .

#### 16.14 Ballots.

On any question or matter proposed for consideration at a meeting of Members, and whether or not a show of hands has been taken thereon, the Chairperson of the meeting may require a ballot or any person who is present and entitled to vote on such questions or matters at the meeting may demand a ballot. A ballot so required or demanded shall be taken in such manner as the Chairperson of the meeting shall direct. A requirement or demand for a ballot may be withdrawn at any time prior to the taking of the ballot. If a ballot is taken, each person present shall be entitled to vote at the meeting upon the question or matter, to that number of votes provided by the Act or the Articles, and the result of the ballot so taken shall be the decision of the Members upon the said question or matter. To the extent permitted by the Act, a vote at a meeting of Members may be carried out by means of a telephonic, electronic or other communications facility.

#### 16.15 Proxyholders and Representatives.

Pursuant to subsection 171(1) of the Act, every Member entitled to vote at a meeting of Members may vote by proxy by appointing in writing a proxyholder, or one (1) or more alternate proxyholders, to attend and act as his or her representative at the meeting in the manner and to the extent authorized and with the authority conferred by the proxy subject to the following requirements:

- (a) a proxy is valid only at the meeting in respect of which it is given or at continuation of that meeting after an adjournment;
- (b) a Member may revoke a proxy by depositing an instrument or act in writing executed or, in Québec, signed by the Member or by their agent or mandatory:
  - (i) at the registered office of the Corporation no later than the last business day preceding the day of the meeting, or the day of the continuation of that meeting after an adjournment of that meeting, at which the proxy is to be used, or
  - (ii) with the Chairperson of the meeting on the day of the meeting or the day of the continuation of that meeting after an adjournment of that 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 the 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 (1) 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 in 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, or any ballot that may be called for and that, if the Member specifies a choice under the 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 that 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 the 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 so as 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 the meeting or other matters that may properly come before the meeting must contain a specific statement to that effect.

Pursuant to subsection 197(1) of the Act, a Special Resolution of the Members is required to make any amendment to the By-laws to change this method of voting by Members not in attendance at a meeting of Members.

Alternatively, every such Member which is a body corporate or association may authorize, by resolution of its directors or governing body, an individual to represent it at a meeting of Members and such individual may exercise on the Member's behalf, all the powers it could exercise if it were an individual Member. The authority of such an individual shall be established by depositing with the Corporation a certified copy of such resolution, or in such other manner as may be satisfactory to the Secretary of the Corporation or the Chairperson of the meeting. Any such proxyholder or representative need not be a Member.

#### 16.16 Time for Deposit of Proxies.

The board of directors of the Corporation may specify in a notice calling a meeting of Members a time, preceding the time of such meeting by not more than forty-eight (48) hours exclusive of non-business days, before which time proxies to be used at such meeting must be deposited. A proxy shall be acted upon only if, prior to the time so specified, it shall have been deposited with the Corporation or an agent thereof specified in such notice or, if no such time having been specified in such notice, it has been received by the Secretary of the Corporation or by the Chairperson of the meeting or any adjournment thereof prior to the time of voting.

#### 16.17 Mailed-In or Electronic Ballot.

Pursuant to subsection 171(1) of the Act, a Member entitled to vote at a meeting of Members may vote by mailed-in ballot or by means of a telephonic, electronic or other communication facility if the Corporation has a system that:

- (a) enables the votes to be gathered in a manner that permits their subsequent verification, and
- (b) permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each Member voted.

Pursuant to subsection 197(1) of the Act, a Special Resolution of the Members is required to make any amendment to the By-laws of the Corporation to change this method of voting by Members not in attendance at a meeting of Members.

#### 16.18 Resolution in Writing.

A resolution in writing signed by all the Members entitled to vote on that resolution at a meeting of Members is as valid as if it had been passed at a meeting of the Members except where, in accordance with the Act:

- (a) in the case of the resignation or removal of a director, or the appointment or election of another person to fill the place of such director, a written statement is submitted to the Corporation by the director giving the reasons for his or her resignation or the reasons why he or she opposes any proposed action or resolution for the purpose of removing him or her from office or the election of another person to fill his or her office; or
- (b) in the case of the resignation, appointment, removal or election of another person to fill the office of public accountant, a written statement is submitted to the Corporation by the public accountant giving reasons for resigning or for opposing the removal or the appointment of a replacement public accountant or the election of another person to fill his or her office.

A copy of every resolution referred to above shall be kept with the minutes of meetings of Members.

#### 16.19 Only One Member.

Where the Corporation has only one (1) Member, the Member present in person or duly represented by proxy constitutes a meeting.

### **Article 17 - BANKING ARRANGEMENTS**

#### 17.1 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 of the Corporation may designate, appoint or authorize from time to time by resolution. Subject to this Section 17.1, the banking business, or any part thereof, including, without limiting the generality of the foregoing, all cheques, drafts or orders for the payment of money and all notes and acceptances and bills of exchange, shall be signed by such officer or officers or person or persons, whether or not officers of the Corporation, and in such manner as the board of directors may from time to time designate, direct or authorize by resolution.

## **Article 18 - NOTICES**

### **18.1 Method of Giving Notice.**

Any notice, communication or other document (other than notice of a meeting of Members or a meeting of the board of directors) to be given, sent, delivered or served pursuant to the Act, the Regulations, the Articles or the By-laws or otherwise to any Member, director, officer or Member of a committee of the board of directors, 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 or Section 134 of the Act;
- (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 of directors in accordance with any information received from such Member, director, officer, public accountant or Member of a committee of the board of directors and 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.

### **18.2 Signature to Notices.**

Where a notice or other document to be given by the Corporation is signed, the signature of any director or officer of the Corporation to any notice or corporate document to be given by the Corporation may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed or may be an electronic signature provided that (i) the electronic signature is reliable for the purpose of identifying the person; and (ii) the association of the electronic signature with the document is reliable for the purpose for which the document was created.

### **18.3 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 or Articles, the day of service or posting of the notice shall not, unless it is otherwise provided, be counted in such number of days or other period.

### **18.4 Proof of Service.**

With respect to every notice or other document sent by post, it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in paragraph 18.1 of this By-law and put into a Post Office or into a letter box. A certificate of an officer of the Corporation in office at the time of the making of the certificate as to facts in relation to the sending or delivery of any notice or other document to any Member, director, officer or public accountant or publication of any notice or other

document shall be conclusive evidence thereof and shall be binding on every Member, director, officer or public accountant of the Corporation as the case may be.

#### 18.5 Omission and Errors.

The accidental omission to give any notice to any Member, director, officer, Member of a committee of the board of directors 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.

### **Article 19 - RULES, REGULATIONS, POLICIES AND PROCEDURES**

#### 19.1 Rules, Regulations, Policies and Procedures.

The board of directors of the Corporation may adopt, amend or repeal by resolution such rules, regulations, policies and procedures not inconsistent with the By-laws relating to the management and operation of the Corporation and other matters provided for in these By-laws including, without limiting the generality of the foregoing, a Code of Conduct, financial policies and procedures and policies relating to the use of trademarks and other intellectual property as they may deem expedient from time to time. Any such rules, regulations, policies and procedures adopted by the board of directors of the Corporation shall continue to have force and effect until amended, repealed or replaced by a subsequent resolution.

### **Article 20 - BY-LAWS**

#### 20.1 By-laws and Effective Date.

Subject to the Articles, the board of directors of the Corporation may, by Special Resolution, make, 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, rejected or amended by the Members by Special 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 of Members or if it is rejected by the Members at the meeting.

For greater certainty, this Section 20.1 does not apply to a By-law that requires a Special Resolution of the Members according to subsection 197(1) of the Act as such By-laws, amendments or repeals are only effective when confirmed by the Members.

#### 20.2 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.

### **Article 21 - RULES OF ORDER**

#### 21.1 Rules of Order

Any questions of procedures at or for any meetings of the board of directors, Members, or of any committee of the board which have not been provided for in this By-law or by the Act, shall be determined by the Chairperson of the meeting in accordance with the most current edition of *Robert's Rules of Order*.

## **Article 22 - PUBLIC ACCOUNTANT**

### **22.1 Public Accountant.**

Subject to Section 182 of the Act, the Members shall, at each annual meeting, appoint a public accountant to conduct such level of financial review of the accounts of the Corporation as is required by the Act for report to the Members. The public accountant shall hold office until the next following annual meeting; provided, however, that subject to the Act, the directors may fill any casual vacancy in the office of the public accountant. The remuneration of the public accountant shall be fixed by the board of directors of Corporation. Subject to subsection 180(6) of the Act, the public accountant shall be independent of the Corporation, its affiliates, or the directors or officers of the Corporation or its affiliates.

## **Article 23 - FINANCIAL YEAR**

### **23.1 Financial Year.**

The financial year of the Corporation shall terminate on the 31<sup>st</sup> day of December each year or on such other date as the board of directors of the Corporation may from time to time by resolution determine.

## **Article 24 - REPEAL OF BY-LAW NO. 1**

### **24.1 Repeal of Existing By-law No. 1**

As of the coming into force of this By-Law No. 2, the existing By-law No. 1 of the Corporation made and confirmed as of the 24<sup>th</sup> day of April, 2019, is repealed. Such repeal does not affect the previous operation of any by-law so repealed or affect the validity of any act done or right, privilege, obligation or liability acquired or incurred under such by-law prior to its repeal.

### **24.2 Effective Date**

These By-laws will come into force on the date when made by the board of directors in accordance with the Act.

ENACTED as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Richard J. O'Connor,  
President & CEO