

## BY-LAW NUMBER 1

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

### TORONTO MEDIA ARTS CLUSTER INTERPRETATION

1. In the by-laws of the Corporation,
  - a. **Act** means the *Canada Corporations Act*, R.S.C. 1970, chapter C 32, and regulations made under the Act, as the same may be amended or substituted from time to time;
  - b. **Board** means the board of Directors of the Corporation;
  - c. **Corporation** means Toronto Media Arts Cluster;
  - d. **Director** means a person who has been appointed or elected to the office of director of the Corporation in accordance with the provisions of the by-laws of the Corporation; and
  - e. **Member** means a member in good standing of the Corporation determined and enrolled as such in accordance with the by-laws of the Corporation.

### MEMBERS

2. Membership in the Corporation shall be limited to corporations and unincorporated associations / organizations that are either non-profit organizations or registered charities within the meaning of the *Income Tax Act* (Canada) whose purposes are to advance the public's appreciation and understanding of, or otherwise promote public interest in, the arts, and which are interested in furthering the objects of the Corporation and whose application for admission as a Member has received the approval of the Board.
3. An applicant for membership in the Corporation, whose application is received by the Corporation less than thirty-one days before a meeting of Members, if accepted as a Member, shall not be entitled to vote at that meeting.
4. The Board may establish dues or fees and may at any time change the required dues or fees. The Board may exempt any Member from the requirement to pay dues or fees.
5. A Member who wants to resign must advise the Secretary in writing. The resignation takes effect on the later of the date on which the Secretary receives it or the date the Member specifies.
6. Upon recommendation by the Board and where reasonable notice and an opportunity to speak has been given to the Member, a Member may be removed by a vote of three quarters of the Members present at a meeting of the Members.

## MEETINGS OF MEMBERS

7. The annual or any other general meeting of the Members shall be held in the city where the head office of the Corporation is situated or at any place in Canada as the Board may determine and on such day as the Board shall appoint. The Members may resolve that a particular meeting of Members be held outside of Canada.
8. At every annual meeting of the Members, in addition to any other business that may be transacted, the financial statements and the report of the auditors shall be presented and auditors appointed for the ensuing year.
9. The Board or the president or vice-president shall have power to call, at any time, a general meeting of the Members of the Corporation. The Board shall call a special general meeting of Members for a purpose not inconsistent with the Canada Corporations Act, on written requisition of at least 5% of the Members.
10. Members' meetings can deal only with business that has been specified in the notice.
11. Ten percent or 15 Members present in person or by proxy, whichever is fewer, but not fewer than two Members, will constitute a quorum for Members' meetings.
12. Fourteen days written notice shall be sent by either regular mail, facsimile transmission, or electronic mail transmission to each Member of any annual or special general meeting of Members.
13. Notice of a meeting shall contain sufficient information to permit the Member to form a reasoned judgment on the decisions to be taken.
14. Notice of each meeting of Members must remind the Member that he/she has the right to vote by proxy. Proxy forms may be submitted by facsimile or electronic mail, as well as by personal delivery or mail. A proxy may be in the following form:

I, a voting Member of the Toronto Media Arts Cluster, appoint (name), or failing such person (insert another name) as my proxy, to attend and act at the meeting of the Members to be held on (date) at (place) and at any postponement or adjournment thereof, in the same manner and to the same extent and with the same powers as if I was present at the meeting. (signature and date).
15. Each Member with a right to vote and who is present at a meeting shall have the right to exercise one vote. A Member may, by means of a written proxy, appoint a proxy holder to attend and act at a specific meeting of Members, in the manner and to the extent authorized by the proxy. A proxy holder is not required to be a Member of the Corporation.
16. Except with respect to matters which the Act requires be dealt with at a meeting of the Members, a resolution in writing signed by all the Members entitled to vote on that resolution at a meeting of Members is as valid and effective as if passed at a meeting of the Members duly called, constituted and held for that purpose. A resolution in writing may be so approved in counter part form.

17. A majority of the votes cast by the Members shall determine the questions in meeting except where the vote or consent of a greater number of Members is required by the Act or these By-laws.
18. If a majority of the Members of the Corporation consent thereto generally or in respect of a particular meeting, a Member may participate in a meeting of the membership by means of such conference telephone or other communications facilities to which each Member has equal access to permit all persons participating in the meeting to hear and communicate with each other. A Member participating in such a meeting by such means is deemed to be present at the meeting; provided that, at the outset of each such meeting and whenever votes are required, the chairperson of the meeting shall call roll to establish quorum. If the chairperson of the meeting is not satisfied that the proceedings of the meeting may proceed with adequate security and confidentiality, then, unless a majority of the Members participating in such meeting otherwise require, the chairperson may adjourn the meeting to a pre-determined date, time and place. In such meetings, the secretary of the meeting shall record the results of all votes and communicate the results in a manner so that all persons participating in the meeting shall know the results.
19. Unless a ballot is requested by a Member, voting on any matter before the meeting may be by show of hands and a declaration by the chair of the meeting that a decision has been made and/or a decision recorded in the minutes of the latter, it is admissible in evidence as proof on the face of the decision without requiring proof of the number or proportion of the votes recorded in favour of or against such a decision. Such ballot will be taken in the manner the chair of the meeting decides.
20. No error or omission in giving notice of any annual or general meeting or any adjourned meeting, whether annual or general, of the Members of the Corporation shall invalidate such meeting or make void any proceedings taken thereat, and any Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had at that meeting. For the purpose of sending notice to any Member, Director or officer for any meeting or otherwise, the address of the Member, Director or officer shall be his/her last address recorded on the books of the Corporation.
21. Any meeting of Members may be adjourned and reconvened at any time and such matters may be considered at such reconvened meeting as might have been considered at the original meeting which was adjourned.
22. Minutes of the meetings of the Members of the Corporation shall be kept and made available to Members.

## **BOARD OF DIRECTORS**

23. The property and business of the corporation shall be managed by the Board.
24. Subject to Section 28, the Board shall, from time to time and at any time, consist of a number of positions of director of the Corporation that is equal to the number of Members of the Corporation, but in any case, the Board shall not consist of a number of positions of director of the Corporation that is fewer than three. Directors must be individuals, at least 18 years of age, with power under law to contract. Directors need not be Members.

25. If between annual general meetings new Members are admitted by the Board, then the number of positions of director of the Corporation shall automatically increase by the number of newly admitted Members, and the following rules shall apply:
- a. the Board, in its discretion as to timing, will call a meeting of Members for the purpose of electing individuals to the newly created positions of director of the Corporation;
  - b. the nomination and election of Directors to fill these new positions of director of the Corporation shall be carried out in accordance with the rules set out in Sections 29 and 30, except for the following additional rules which will apply:
    - (i) only the newly admitted Members shall be entitled to nominate an individual for election as a Director;
    - (ii) each newly admitted Member may, in writing delivered to the Board not later than 15 days before the Members meeting at which there is to be an election of Directors, nominate one, and only one, individual for election as a Director;
    - (iii) the election of these Directors shall take place at a special meeting of the Members called by the Board for the purpose of holding an election of Directors; and
    - (iv) the Directors shall be elected for a term ending at the next annual general meeting.
26. The Directors shall see that all necessary books and records of the Corporation required by the by-laws of the Corporation or by any applicable statute or law are regularly and properly kept.
27. The Board may prescribe, as it deems expedient, such rules and regulations not inconsistent with the by-laws of the Corporation relating to the management and operation of the Corporation.
28. The applicants for incorporation of the Corporation shall be the first Directors of the Corporation. Their term of office shall continue until the first meeting of Members, at which time the Board shall be elected.
29. All nominations for the election of Directors shall be conducted in accordance with the following rules:
- a. each Member may, in writing delivered to the Board not later than 30 days before the Members meeting at which there is to be an election of Directors, nominate one, and only one, individual for election as a Director; and
  - b. the Board shall nominate in writing to the Members meeting at which there is to be an election of Directors those individuals who were nominated by the Members pursuant to sub-section 29a, above, or, as applicable, pursuant to paragraph (ii) of sub-section 25b, above.

30. At the first meeting of the Members following the incorporation of the Corporation, and at every annual general meeting of the Members after the first meeting of the Members, the Directors shall be elected in accordance with the following rules:
- a. the Members shall elect the Directors from among those individuals nominated for election as Directors in accordance with Section 29; and
  - b. if the number of candidates for election as Directors at a meeting of Members is the same or fewer than the number to be elected at that meeting, then the chair of the meeting may declare the candidates to have been elected by acclamation.
31. The office of Director shall be automatically vacated:
- a. if a Director shall resign his/her office by delivering a written resignation to the secretary of the Corporation;
  - b. if he/she is found by a court to be of unsound mind;
  - c. if he/she becomes bankrupt or suspends payment or compounds with his/her creditors;
  - d. if at a special general meeting of Members a resolution is passed by two-thirds of the Members present at the meeting that he/she be removed from office; and
  - e. on death

If any vacancy shall occur, then the Board may fill the vacancy for the balance of the former Director's term by appointing an individual who is eligible in accordance with the provisions of this By-law and who, in addition, is nominated by the Member whose nominee Director vacated the position on the Board.

32. The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from his/her position as such; provided that a Director may be paid reasonable expenses incurred by him in the performance of his/her duties. This shall not preclude a Director from serving the Corporation as an officer or in any other capacity.
33. A retiring Director shall remain in office until the dissolution or adjournment of the meeting at which his/her retirement is accepted and his/her successor is elected. This paragraph shall not be construed to preclude a Director from serving the Corporation in any other capacity.

### **DIRECTORS' MEETINGS**

34. Meetings of the Board may be held at any time and place to be determined by the Directors provided that 48 hours written notice of such meeting shall be given personally, or transmitted by facsimile or electronic mail, to each Director, or, if by mail, at least 14 days prior to the meeting. There shall be at least one meeting per year of the Board. No error or omission in giving notice of any meeting of the Board or any adjourned meeting of the Board of the Corporation shall invalidate such meeting or make void any proceedings taken thereat and any Director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. Each Director is authorized to exercise one vote.

35. A majority of the Board, but not less than two Directors, shall constitute a quorum for meetings of the Board. Any meeting of the Board at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under the by-laws of the corporation.
36. If a 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 or of a committee of the Board by means of such conference telephone or other communications facilities to which each Director has equal access to permit all persons participating in the meeting to hear and communicate with each other. A Director participating in such a meeting by such means is deemed to be present at the meeting; provided that, at the outset of each such meeting and whenever votes are required, the chairperson of the meeting shall call roll to establish quorum. If the chairperson of the meeting is not satisfied that the proceedings of the meeting may proceed with adequate security and confidentiality, then, unless a majority of the Directors participating in such meeting otherwise require, the chairperson may adjourn the meeting to a pre-determined date, time and place. In such meetings, the secretary of the meeting shall record the results of all votes and communicate the results in a manner so that all persons participating in the meeting shall know the results.
37. The minutes of the Board (or the minutes of the executive committee) shall not be available to the general membership of the Corporation but shall be available to the Board, each of whom shall receive a copy of such minutes.

### **POWERS OF THE DIRECTORS**

38. The Board may administer the affairs of the Corporation in all things 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 charter or otherwise authorized to exercise and do.
39. The Board 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 Board 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 interest of the Corporation in accordance with such terms as the Board may prescribe.
40. The Board shall take such steps as it 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 for the purpose of furthering the objects of the Corporation.
41. The Board may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the Board at the time of such appointment.
42. Remuneration for all officers, agents and employees and committee members shall be fixed by the Board by resolution.

## **BORROWING**

43. The Board is hereby authorized, from time to time:
- a. to borrow money upon the credit of the Corporation, from any bank, corporation, firm or person, upon such terms, covenants and conditions at such times, in such sums, to such an extent and in such manner as the Board in its discretion may deem expedient;
  - b. to limit or increase the amount to be borrowed;
  - c. to issue or cause to be issued bonds, debentures or other securities of the Corporation and to pledge or sell the same for such sums, upon such terms, covenants and conditions and at such prices as may be deemed expedient by the Board;
  - d. to secure any such bond, 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.
44. From time to time the Board may authorize any Director, officer or employee of the Corporation or any other person to make arrangements with reference to the monies borrowed or to be borrowed as aforesaid and as to the terms and conditions of the loan thereof, and as to the securities to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any monies borrowed or remaining due by the Corporation as the Board may authorize, and generally to manage, transact and settle the borrowing of money by the Corporation.

## **PROTECTION OF DIRECTORS AND OTHERS**

45. No Director or officer of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or employee, or for joining in any receipt or other 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 by order of the Board for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any of the monies, securities or effects of the Corporation shall be lodged or deposited, or for any loss occasioned by any error of judgment or oversight on his part, or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his office or in relation thereto unless the same are occasioned by his own wilful neglect or default.
46. Every Director and officer of the Corporation or other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless, out of the funds of the Corporation, from and against:

- a. all costs, charges and expenses which such Director, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him/her, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him/her, in or about the execution of the duties of his/her office or in respect of any such liability; and
- b. all other costs, charges and expenses which he/she sustains or incurs in or about or in relation to the affairs thereof, except the costs, charges or expenses as are occasioned by his/her own wilful neglect or default.

## **OFFICERS**

47. The officers of the Corporation shall be a president, vice-president, secretary and treasurer and any such other officers as the Board may by resolution determine. Any two offices may be held by the same person. Officers need not be Directors or Members.
48. Officers shall receive no remuneration for serving as such, but are entitled to reasonable expenses incurred in the exercise of their duty.
49. Officers of the Corporation shall be appointed by resolution of the Board at the first meeting of the Board following an annual meeting of Members.
50. The officers of the Corporation shall hold office for one year from the date of appointment or election or until their successors are elected or appointed in their stead. Officers shall be subject to removal by resolution of the Board at any time.

## **DUTIES OF OFFICERS**

51. Unless another person is authorized by the meeting, the president, when present, chairs all meetings of the Members of the Corporation and of the Board. The president, with the secretary or other officer appointed by the Board to do so, will sign all by laws and any membership certificates. The president shall see that all orders and resolutions of the Board are carried into effect.
52. The vice-president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties as shall from time to time be imposed upon him/her by the Board.
53. The treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the Board from time to time. He/she shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the president and Directors at the regular meeting of the Board, or whenever they may require it, an accounting of all the transactions and a statement of the financial position, of the Corporation. He/she shall also perform such other duties as may from time to time be directed by the Board.



54. The secretary may be empowered by the Board, upon resolution of the Board, to carry on the affairs of the Corporation generally under the supervision of the officers and shall attend all meetings and act as clerk and record all votes and minutes of all proceedings in the books to be kept for that purpose. He/she shall give or cause to be given notice of all meetings of the Members and of the Board, and will be the custodian of the seal. He/she shall perform such other duties as may from time to time be directed by the Board.
55. The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the Board requires of them.

### **COMMITTEES**

56. The Board may appoint committees whose members will hold office at the will of the Board, and may specify their remuneration, if any, and duties. The committees may hold their meetings at the head office or such place or places as the Chairperson may from time to time determine.

### **AUDITORS**

57. The Members shall at each annual meeting appoint an auditor to audit the accounts of the Corporation for report to the Members at the next annual meeting. The auditor shall hold office until the next annual meeting provided that the Directors may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the Board.
58. No person who is a director, officer or employee of the Corporation may be appointed the auditor without the consent of all the members of the Corporation.

### **NOTICES**

59. Notice shall be deemed to have been sufficiently sent if sent in writing to the last known address of the addressee and delivered in person, sent by prepaid first class mail or sent by any electronic means of sending messages, including telex or facsimile transmission or electronic mail, which produces a record. Notice shall not be sent by mail if there is any general interruption of postal services in the municipality in which or to which it is mailed. Each notice so sent shall be deemed to have been received on the day it was delivered or sent by electronic means or on the fifth day after it was mailed.
60. If any notice given to a Member pursuant to Section 59 is returned on two consecutive occasions because such Member cannot be found, then the Corporation shall not be required to give any further notice to such Member until such Member informs the Corporation in writing of its new address.
61. In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving the notice shall be excluded and the date of the meeting or other event shall be included in making the calculation.
62. The signature on any notice or other communication or document to be sent by the Corporation may be written, printed, stamped, engraved, lithographed or otherwise mechanically or electronically reproduced.

63. All actions taken at a meeting in respect of which a notice has been sent shall be valid even if:
- a. by accident, notice was not sent to any person;
  - b. notice was not received by any person; or
  - c. there was an error in a notice that did not affect the substance of that notice.
64. Any person entitled to notice under the Act, the Letters Patent or this By-law may waive that notice. Waiver, either before or after the event referred to in the notice, shall cure any default in sending the notice.

### **GENERAL**

65. Unless otherwise ordered by the Board, the financial year-end of the Corporation shall be the last day of December in each year.
66. The by laws of the Corporation not embodied in the letters patent may be repealed or amended by by-law enacted by a majority of the votes cast by the Directors at a meeting of the Board and sanctioned by an affirmative vote of at least two-thirds of the votes cast at a meeting of Members duly called for the purpose of considering the said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the approval of the Minister of Industry has been obtained.
67. The seal, an impression of which is stamped in the margin, shall be the seal of the Corporation.
68. The Head Office of the Corporation shall be in the City of Toronto, in the Province of Ontario.
69. Contracts, documents or any instruments in writing requiring the signature of the Corporation, shall be signed by any two officers and all contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The Directors shall have power from time to time by resolution to appoint an officer or officers on behalf of the Corporation to sign specific contracts, documents and instruments in writing. The Directors may give the Corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the Corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the Board.

### **OPERATIONS WITHOUT PECUNIARY GAIN**

70. The Corporation is to carry on its operations without pecuniary gain to its Members and any profits or other accretions to the Corporation are to be used in promoting its objects.