

**BYLAW #10 of the  
ONTARIO SEWER AND WATERMAIN CONSTRUCTION ASSOCIATION**

**ARTICLE I. - Definitions**

**Section 1.01** In this By-law and all other By-laws of the Corporation, unless otherwise defined:

“**Act**” means the Corporation Act (Ontario) as amended from time to time;

“**Board**” means the Board of Directors of the Corporation;

“**Business Day**” means any day other than a Saturday, Sunday and any day that is a holiday as defined in the Interpretation Act (Ontario) and any act that may be substituted therefore, as from time to time amended;

“**By-laws**” means this By-law and all other By-laws of the Corporation from time to time in force and effect (individually a “By-law”);

“**Corporation**” means the ONTARIO SEWER AND WATERMAIN CONSTRUCTION ASSOCIATION, the corporation incorporated pursuant to the Letters Patent dated March 22, 1971;

“**Delegate**” means an individual appointed by a Member as its representative pursuant to Article 9;

“**Director**” means a member of the Board (collectively the “Directors”);

“**Director at Large**” means a **Director** elected or appointed pursuant to sections 3.03, 3.04, 3.06 and 4.02 (collectively “Directors at Large”);

“**Effective Date**” means the date contemplated in Section 14.01;

“**Executive Committee**” means the committee provided for in Section 4.01;

“**Fees**” means the membership fees and dues for membership in the Corporation and any further assessments determined by the Board as pursuant to Section 9.09;

“**Independent Member**” means a Person engaged as a contractor or supplier for the construction of sewer and watermain projects in a geographic area outside of the geographic areas that constitute the Local Associations;

“**Letters Patent**” shall mean the Letters Patent of the Corporation dated March 22, 1971 and all Supplementary Letters Patent thereto.

**“Local Association”** means any local civil or heavy construction association which represents businesses engaged in the provision of sewer and watermain construction services and who are either Members or eligible to become Members of the Corporation, including without limitation the Conestoga, Hamilton, London, Niagara, Ottawa, Sarnia, Toronto, Kingston, Simcoe County and Durham Region associations (collectively, the “Local Associations”);

**“Member”** means any Person included or admitted as a member of the Corporation as provided for in Article 9;

**“Nominating Committee”** means the committee provided for in Section 4.02;

**“Nominee”** means an individual nominated as a candidate for election as a Director as provided for in Section 4.02 (collectively the “Nominees”);

**“OCPA”** means the Ontario Concrete Pipe Association;

**“Ontario Concrete Pipe Producer”** means a producer member of the OCPA;

**“Person”** includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate and a natural person in his or her capacity as a trustee, executor, administrator or other legal representative.

**“OMMDC”** means **“Ontario Municipal Manufacturers and Distributors Committee**

**OMMDC** is a committee formed by manufacturers of plastic pipe and/or fittings and/or distributors of plastic pipe and all other appurtenances in the municipal waterworks industry in Ontario and supports the OSWCA Industry Fund.

**“Recorded Address”** means, in the case of a Member, such Person’s address as recorded in the Register of Members and, in the case of a Director, officer, auditor or member of an advisory committee of the Board, such Person’s address as recorded in the records of the Corporation;

**“Local Association Member”** means any person admitted as a Local Association Member as provided for in Article 9;

**“Special Resolution”** means a resolution passed by the Board and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of Members duly called for that purpose or, by the consent in writing of all Members entitled to vote at such meeting.

**“Signing Officer”** means, in relation to any instrument, any person authorized to sign the same on behalf of the Corporation by Section 2.04 of this By-law or by resolution passed pursuant thereto;

**“YEC”**: means, the Young Executive Committee

**“YEC”** is a subcommittee of the Board and is governed by its own bylaws, as approved by the OSWCA board of directors

Unless otherwise defined above, words and expressions defined in the Act have the same meanings when used herein; words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders.

## **ARTICLE II – Business of the Corporation**

2.01 **Head Office:** Until changed in accordance with the Act, the head office of the Corporation shall be at any location in the Province of Ontario determined by the Board of Directors from time to time by resolution.

2.02. **Corporate seal:** It is not necessary for the Corporation to maintain or use a corporate seal, however if such a seal is used or adopted, it shall be in the form approved by resolution of the Board.

2.03. **Financial Year:** Until changed by resolution of the Board, the financial year of the Corporation shall end on the last day of November in each year.

2.04. **Execution of Instruments:** Deeds, transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Corporation by two persons, one of whom holds the office of the President, Vice-President or Director and the other of whom holds one of the aforesaid offices or the office of the Executive Director, Secretary, Treasurer, or any other office created by the Board. In addition, the Board may from time to time direct by resolution the manner in which the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any signing officer may affix the corporate seal thereto.

2.05. **Banking Arrangements:** The banking business of the Corporation shall be transacted with any financial institution listed in Schedule I of the Bank Act as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions and delegations of power as the Board may from time to time prescribe or authorize.

2.06. **Voting Rights in Other Bodies Corporate:** The signing officers of the Corporation may execute and deliver instruments of proxy and arrange for the issuance of voting certificates or other evidence of the right to exercise the voting rights attaching to any securities held by the Corporation. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular voting rights or class of voting rights may or shall be exercised.

2.07. **Auditors:** The Members shall at each annual meeting appoint an auditor to audit the accounts of the Corporation and to hold office until the next annual meeting, provided that the Board may fill any casual vacancies in the office of auditor. The remuneration of the auditor shall be fixed by the Members or, by the Board if they are so authorized by the Members.

## **ARTICLE III. - Directors**

**3.01**            **Power of Board:**        The business and activities of the Corporation shall be managed by the Board of Directors. Directors shall be natural persons who are Canadian residents. Each director shall have one vote on any matters to be decided by the Board of Directors.

**3.02**            **Number of Directors:**    Subject to the Letters Patent and Supplementary Letters Patent of the Corporation, the Board shall be composed of not less than twelve (12) directors, as per 3.04, and not more than determined by resolution of the Board from time to time.

**3.03**            **Qualification of Directors:**    Each Director: (i) shall be and thereafter remain throughout his term, a Member; (ii) shall be at least eighteen (18) years of age; (iii) shall have executed and delivered a written confirmation that he or she has read and is in compliance with the Bylaws of the Corporation and (iv) shall be aware of and be prepared to conform to the roles and responsibilities outlined in the “**Association General Policies**” document. (v) shall not be an undischarged bankrupt nor a mentally incompetent person. If a director fails to comply with the foregoing conditions, he thereupon ceases to be a Director, and the vacancy so created may be filled in the manner described in this Section 3.

**3.04**            **Composition of the Board of Directors**  
Each Member that is a Local Association shall be entitled to be represented by one Director, herein referred to as a “Local Association Director”. In addition to the foregoing there shall be not more than six (6) Directors elected or appointed as “Directors at Large”, one (1) Director elected or appointed as the “OCPA Director”, one (1) Director elected or appointed as the “OMMDC Director” one (1) Director elected or appointed as the “YEC Director” and up to one (1) “Ex-Officio Director” appointed pursuant to sections 3.03 and 3.07. It is the intent that the board composition be comprised of more sewer and watermain contractor members than non-contractor members.

**3.05**            **Local Association Director**  
Local association director shall be nominated by the local association in accordance with article 3.03 and 3.04. The board of directors reserves the right to accept and/or reject the nomination.

**3.06**            **Director at Large**  
Directors at Large shall be nominated by the nomination committee as per article 4.02. It is the board’s expectation that Directors at Large will provide special skills or experiences to meet the needs of the association from time to time and will be nominated and elected in accordance with article 3.03 and 3.04. Notwithstanding article 3.03, Directors at large may or may not be members of the association.

**3.07**            **Ex-Officio Director:**    Whenever the immediate past president of the Corporation does not otherwise have a position on the Board of Directors, such individual shall be Ex-Officio a member of the Board with full voting privileges. If the immediate

past president is a member of the Board either as a Local Association Director or as a Director at Large, the Ex-Officio position shall remain vacant.

**3.08 Election, Term and Rotation:**

Subject to the provisions of the Act, Directors shall be elected or appointed as follows:

a) Local Association Directors shall hold office until so directed, in writing by the Local Association.

b) OCPA and OMMDC Directors shall be nominated by their respective organizations/associations, and the Director as appointed shall hold office until so directed, in writing by their respective organizations/associations.

c) Directors at Large shall be elected by the Members entitled to vote thereon and have a term of two (2) years and are eligible for re-nomination

d) YEC Director shall be nominated by the YEC and have a term of two (2) years and may serve only one (1) term

**3.09 Removal of Directors:** The Members may by resolution passed by at least two-thirds cast at a board meeting of which notice specifying the intention to pass such a resolution has been given, remove any Director before the expiration of his term of office.,

**3.10 Vacation of Office:** The office of a Director shall be vacated upon the occurrence of any of the following events: (i) if a receiving order is made against him or if he makes an assignment under the Bankruptcy Act; (ii) if an order is made declaring him to be a mentally incompetent person or incapable of managing his affairs; (iii) if he shall be removed from office by resolution of the Members as provided for in Section 3.09; or (iv) if by notice in writing to the Corporation he resigns his office and such resignation, if not effective immediately, becomes effective in accordance with its terms.

**3.11 Vacancies:**

(a) Subject to Articles 3.03, 3.04, 3.05 and 3.06 vacancies on the Board may be filled by appointment by the remaining members of the Board of Directors so appointed and shall hold office for the unexpired term of the vacating Director.

(b) If the Directors shall not see fit to so fill any vacancy, such vacancy shall be filled at the next annual general meeting of the Members at which Directors are elected.

**3.12 First Meeting of New Board:** Each newly elected Board shall hold its first meeting within sixty (60) days following the meeting of Members at which such Board is elected.

**3.13 Calling of Meetings:** Unless otherwise resolved by the board and subject to Section 3.12, meetings of the Board shall be held at such time and place as the Board may determine. Once determined, a copy of any resolution of the Board fixing the place and time or changing the frequency of such regular meetings shall be sent to each

Director forthwith after being passed and no other notice shall be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified. In addition, meetings of the Board must be held at such time as three Directors concur in the necessity for holding a meeting.

**3.14**            **Place of Meetings:** Meetings of the Board shall be held at the head office of the Corporation or, if the Board so determines at any other place as the Board may deem appropriate.

**3.15**            **Notice of Meeting:** Notice of the time and place of every meeting so called shall be given in the manner provided in Section 11 to each Director: (i) not less than 48 hours before the time when the meeting is to be held if the notice is mailed; or (ii) not less than 24 hours before the time when the meeting is to be held if the notice is given personally or is delivered or is sent by any means of transmitted or recorded communication; provided that no notice of a meeting shall be necessary if all the Directors in office are present or if those absent waive notice of or otherwise consent to such meeting being held. Where meetings are to be held on less than 72 hours notice such meeting must be held at the head office of the Corporation, or if the Board so determines at such other location as is available.

**3.16**            **Adjourned Meeting:** Notice of an adjourned meeting of the Board is not required if the time and place of the adjourned meeting is announced at the original meeting.

**3.17**            **Meetings by Telephone:** Where all the Directors have consented thereto in writing, any Director may participate in a meeting of the Board by means of conference telephone or other communications equipment whereby all persons participating in the meeting can hear each other, and a Director participating in a meeting pursuant to this Section 3.15 are then in Canada, the meeting shall be deemed to have been held in Canada. Minutes of such meeting held by such communications equipment shall be kept by the Secretary or, with the consent of all Directors participating in such meeting, a tape recording or other electro-mechanically reproducible record of the meeting may be made from which minutes shall be prepared by the Secretary.

**3.18**            **Powers:** 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 with the Corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such powers to do all such other acts and things as the Corporation is by its charter or otherwise authorized to exercise and do; and without in any way limiting the foregoing, the Board is expressly empowered, from time to time to purchase, lease or otherwise acquire, alienate, sell, exchange, or otherwise dispose of shares, stocks, rights, warrants, options and other securities, lands, buildings and other property, moveable or immovable, real or personal, or any right or interest therein owned by the Corporation, for such consideration and upon such terms and conditions as they may deem advisable.

**3.19**            **Action by the Board:** Subject to Section 3.18, the powers of the Board may be exercised at a meeting at which a quorum of Directors is present and at which a majority of such Directors are resident Canadians or by resolution consented to by the signatures of all the Directors then in office; and (ii) where there is a vacancy or vacancies in the Board, the remaining Directors may exercise all the powers of the Board so long as a quorum remains in office.

**3.20**            **Board Meeting Quorum:** The quorum for the transaction of business at any meeting of the Board shall be sixty percent (60%) of the number of Directors or such greater number of Directors as the Board may from time to time determine.  
. Proxies shall not be used to establish a quorum.

**3.21**            **Chairman:** The chairman of any meeting of the Board shall be the first mentioned of the following officers who is a Director and is present at the meeting; President, 1<sup>st</sup> Vice-President or 2<sup>nd</sup> Vice-President. If no such Director is present, the directors present shall choose one of their numbers to be the chairman.

**3.22**            **Votes to Govern:** Questions arising at any meeting of the Board shall be decided by a majority of votes of the Directors present at the meeting. All votes at any such meeting shall be taken by poll if so demanded by any Director present, but if no demand is made, the vote shall be taken in the usual way by assent or dissent. In the event of an equality of votes on any matter, the chairman of the meeting shall have a second tie-breaking vote; a declaration by the chairman of the meeting that a resolution has been carried and an entry to that effect in the minutes shall be prima facie proof of the number of proportion of votes recorded in favour of or against such resolution.

**3.23**            **Conflicts of Interest:** A Director shall not be disqualified by reason of his office from contracting with the Corporation or a subsidiary thereof. Subject to the provisions of the Act, a Director shall not by reason only of his office be accountable to the Corporation or to its Members for any profit or gain realized from a contract or transaction in which he has an interest and such contract or transaction shall not be voidable by reason only of such interest, provided that, if a declaration and disclosure of such interest is required by the Act, such declaration and disclosure shall have been made and the Director shall have refrained from voting as a Director on the contract or transaction and shall not have been counted in the quorum.

**3.24**            **Remuneration and Expenses:** The Directors of the Corporation shall serve without remuneration and no Director shall directly or indirectly receive any profit from his position as such; provided however, that a Director or committee member shall be entitled to be reimbursed for reasonable traveling and other expenses properly incurred by him in attending meetings of the Board or any committee thereof, provided such expenses are documented and consistent with policies as may be determined by the Board from time to time.



## ARTICLE IV - Committees

4.01 **Executive Committee:** Subject to section 3.08, the Executive Committee shall consist of: the President, Past President, First Vice-President, Executive Director, Secretary and the Treasurer, together with such Directors as determined from time to time by the Board of Directors for a term not exceeding two years. A quorum for executive committee meetings shall be 50% of the committee members. Each member of the Executive Committee shall serve during the pleasure of the Board and, in any event, only so long as he shall be a Director. The Board may fill vacancies in the Executive Committee by election from among its number. If and whenever a vacancy shall exist in the Executive Committee, the remaining members of the Executive Committee may exercise all its power so long as a quorum remains in office.

The Executive Committee shall possess and may exercise, subject to any regulations which the Board may from time to time impose, all the powers of the Board in the administration of the affairs of the Corporation in such manner as the Executive Committee shall deem to be in the best interests of the Corporation in all cases which specific directions shall not have been given by the Board. The Executive Committee shall report to the Board, but has the responsibility and the power to deal with the daily operations of the Corporation. In so doing, however, the Executive Committee must adhere to the policies established by the Board. Unless otherwise determined by the Board, the Executive Committee shall meet regularly, keep minutes of its meetings in which shall be recorded all action taken by it and submit a summary of such minutes to the Board at the next scheduled meeting of the Board.

4.02 **Nominating Committee:** There shall be a Nominating Committee which shall consist of three members of the Board. The members of the Nominating Committee shall be comprised of Local Association Directors.

The Nominating Committee shall present to the Board a report containing the names of a sufficient number of Nominees to fill the vacancies on the Board. The nominating committee recommendation shall adhere to sections 3.02, 3.03, 3.04, 3.05 and 3.06 of this document. The report of the Nominating Committee shall either be adopted by the Board in which event the proposed nominees shall become the nominees of the Nominating Committee and shall be reported to the Members as hereinafter provided for or, the report of the Nominating Committee may be rejected in whole or in part in which case the board may either substitute the name of another individual to replace that of any Nominees rejected by the Board or may require the Nominating Committee to find additional Nominees satisfactory to the Board. In such circumstances, the Nominating Committee shall meet again and so often as shall be required until its report shall have been approved by the Board.

4.03 **Joint Services Committee:** The Treasurer, President and the 1<sup>st</sup> Vice President shall represent the Association at the Joint Services Committee, being the committee jointly established with the Greater Toronto Sewer and Watermain

Contractors Association for the purpose of approving any changes to staff compensation as well as the hiring or dismissal of full time employees other than temporary service agencies and students. In the event that alternates or additional board members are required, such directors shall be appointed by the board.

**4.04**            **Additional Committees:** The Board may from time to time elect or appoint such additional committees as it may deem advisable.

**4.05**            **Quorum and Procedure:** Subject to the foregoing and unless otherwise ordered by the Board, each committee shall have power to fix its quorum at not less than a majority of its members, elect its chairman and to regulate its procedure.

**4.06**            **Place of Business:** Meetings of all committees shall be held at the head office of the Corporation or at any other place specified in the notice calling the meeting.

## **ARTICLE V - Officers**

5.01            **Election and Appointment of Officers:** There shall be a President, a 1<sup>st</sup> Vice-president, a 2<sup>nd</sup> Vice-President, a Secretary and a Treasurer (or in lieu of a Secretary and Treasurer, a Secretary-Treasurer) and such other officers as the Board may determine from time to time. One person may hold more than one office except the offices of President and 1<sup>st</sup> Vice-President or 2<sup>nd</sup> Vice-President.

5.02            **Variation of Duties:** From time to time the Board may vary, add to or limit the powers and duties of any officer.

5.03            **Term of Office:** The Board may remove at its pleasure an officer of the Corporation, without prejudice to any officer's rights under any employment contract. Otherwise each officer elected or appointed by the Board shall hold office until his successor is elected or appointed.

5.04            **Agents and Attorneys:** The Board shall have power from time to time to appoint agents or attorneys for the Corporation in or out of Canada with such powers of management or otherwise (including the power to subdelegate) as may be thought fit.

## **ARTICLE VI – Executive Director**

6.01 The board may, from time to time, employ an Executive Director.

6.02 **Terms of Employment:** Upon the selection of an Executive Director, the Board and the Executive Director shall enter into an employment contract wherein all terms of employment shall be set forth.

6.03 **Management of Operations and Staff:** Unless otherwise determined by the Board, the Executive Director shall report to the President. The Executive Director shall have the primary responsibility for the day to day operation of the affairs of the Corporation, including the management of Corporation staff and the management and directions to outside consultants and professional advisors.

## **ARTICLE VII – Books and Records**

7.01 **Books and Records:** The Board shall ensure that all necessary books and records of the Corporation required by the By-laws or any applicable laws are regularly and properly kept.

## **ARTICLE VIII – Protection of Directors, Officers and Others**

8.01 **Limitation of Liability:** No Director or officer of the Corporation shall be liable for: the acts, receipts, neglects or default of any other Director or officer or employee; joining in any receipt or other act for conformity; any loss, damage or expense happening to the Corporation through insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the corporation; the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation shall be invested; any loss or damage arising from bankruptcy, insolvency or tortuous acts of any person with whom any of the monies, securities or effects of the Corporation shall be deposited; any loss occasioned by any error of judgment or oversight on his part; or any other damage or misfortune whatsoever which shall happen in the execution of the duties of his office or in relation thereto, unless the same are occasioned by his own willful neglect or default, provided that nothing herein shall relieve and Director or officer of any liability imposed on him under the Act.

8.02 **Indemnity:** Subject to the limitations contained in the Act, every Director, officer and the Executive Director of the Corporation and every other person who has undertaken or is about to undertake any liability on behalf of the Corporation or anybody corporate controlled by it and its heirs, executors, administrators and other legal personal representatives shall, from time to time, be indemnified and saved harmless by the Corporation from and against:

- (i) any liability and all costs, charges and expenses that he sustains or incurs in respect of any actions, suit or proceeding that is proposed

or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

- (ii) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the Corporation;

8.03 **Insurance:** Subject to the limitations contained in the Act, the Corporation may purchase and maintain such insurance for the benefit of its Directors, officers and Executive Director as the Board may from time to time determine.

## **ARTICLE IX - Membership**

9.01 **Membership:** The membership of the Corporation shall consist of the Local Associations the OCPA, OMMDC and the independent members, together with such persons as may be admitted as members to those organizations.

9.03 **Voting Members:** Voting Members in good standing shall be entitled to appoint a Delegate to represent their respective interests at meetings of Members as follows:

- (i) Each Voting Member shall be entitled to appoint one (1) member for consideration by the Nominating Committee, to stand for election as a Director as provided for in Section 4.02.

9.04 **Non-Voting Members**  
Non-Voting Members shall be entitled to attend meetings of Members, but shall not be entitled to: (i) vote at meetings of Members; or (ii) participate in any distribution of the property of the Corporation upon a dissolution or winding-up of the Corporation. Non-Voting members shall also consist of YEC and independent members.

9.05 **Resignation:** Members may resign by resignation in writing which shall be effective upon acceptance thereof by the Board provided, however, that in case of resignation or termination of membership for any cause whatsoever, a Member shall be liable for payment of any assessment or any sum levied or which became payable by it to the Corporation prior to the acceptance of its resignation or termination of membership.

9.06 **Membership Dues, Fees and Assessments:** Fees shall be as determined from time to time by resolution of the Board. Such Fees shall be reasonable, shall not be discriminatory and may include a product toll on the selling price of materials used in the construction, repair and maintenance of sewer and watermain systems in Ontario. The Association may notify the Members of the Fees payable by them at any time and, if such Fees are not paid within 30 days of the date of such notice, the defaulting Member shall

thereupon automatically cease to be a Member, but any such Member may, on payment of all unpaid Fees, be reinstated by a majority vote of the Board.

9.07 **Non-Discrimination:** The Corporation shall not prevent any qualified applicant from becoming a Member except for fair and reasonable cause. The Corporation shall not act in a manner that is arbitrary, discriminatory or in bad faith and the Corporation shall not discriminate against any other Person in the matter of fees, dues or levies whether or not that Person is a Member. Membership shall not be terminated except for fair and reasonable cause.

9.08 **Termination of Membership:** The interest of any Member in the Corporation is not transferable and lapses and ceases to exist:

- (i) if the Fees payable by a Member are not paid within 30 days of the date of notification to the Member by the Secretary of the amount of such Fees (provided that any such Member may, on payment of all unpaid Fees be reinstated to membership by a majority vote by the Board);
- (ii) upon the death of any individual Member provided that the termination shall not become effective for 180 days after such Member's death, during which time the estate of personal representative of such deceased Member may elect to continue such deceased membership on behalf of such Member's business enterprise;
- (iii) upon the dissolution, winding-up, bankruptcy or receivership of any Member; and
- (iv) upon the resignation by notice in writing addressed to the Secretary of the Corporation, which resignation shall be effective upon acceptance thereof by the Board;

Any Member whose membership is terminated for any cause whatsoever shall be liable for all Fees which become payable by such Member prior to the termination of such Member's membership.

The Board may, in its discretion, suspend or terminate the membership of any Member who has been guilty of conduct prejudicial to the objects of the Corporation or a continued breach of the By-laws, or who has been convicted of a serious criminal offence before a court of competent jurisdiction, or may reprimand or censure such Member provided that the power to suspend, terminate or reprimand shall not be exercised in an arbitrary manner. The Board shall not take any such action until after a copy of the complaint in writing has been forwarded to the Member accused, who shall be given an opportunity of submitting evidence in defense of such complaint in such manner as the Board shall prescribe. The Board shall not terminate a membership except on a two-thirds vote of the Directors present and voting at a meeting called to consider the matter;

at any such meeting, the accused Member may appear to give evidence on its behalf. Any Person whose membership has ceased or has been otherwise terminated for any reason whatsoever shall be entitled to re-apply for membership in the Corporation in accordance with the provisions of the By-laws.

9.09 **No Actions:** No action shall be brought against the Corporation or against any Director or officer thereof by a Member or former Member for any action in pursuance of the termination or suspension of a Member.

## **ARTICLE X- Annual or General Meetings of Members**

10.01 **Annual Meetings:** The annual meeting of Members shall be held at such time and on such day in each year as the Board may from time to time determine for the purpose of: presenting the reports and statements required by the Act to the Members; electing Directors; appointing auditors and fixing or authorizing the Board to fix the remuneration of the auditors; and the transaction of such other business as may properly be brought before the meeting.

10.02 **General Meetings:** The Board shall have power to call a general meeting of Members at any time.

10.03 **Place of meetings:** Meetings of Members shall be held at the head office of the Corporation or, if the Board so determines, at any other place as the Board may deem appropriate.

10.04 **Notice of Meetings:** Notice of the time and place of each meeting of Members, other than the annual meeting, shall be given to each Director and to each Member who at the close of business on the record date for notice is entered in the register of the Members in the manner provided in Section 11 not less than 10 days before the date of the meeting. Notice of the time and place of the annual meeting shall be given not less than 30 days prior to the date of such meeting. The notice for each meeting shall include the agenda for business to be placed before such annual meeting, the report of the Nominating Committee as adopted by the Board pursuant to Section 4.02 and such other material as the Act requires or the Board deems desirable. The report of the Nominating Committee and a summary of the Nominees given to the Board as included in the notice for the annual general meeting shall constitute the nomination of those persons named in such report and no written nomination or seconding of any person named in the Nominating Committee's report shall be required. Notice of a special meeting of Members shall state the general nature of the business to be transacted at such meeting.

10.05 **Attendance of Auditors:** The auditors of the Corporation are entitled to receive all notices and other communications relating to any meeting of Members that any Member is entitled to receive. The auditors shall also be entitled to attend and be heard at any such meeting.

10.06 **Record Date for Notice:** The Board may fix in advance a time and date preceding the date of any meeting of Members by not more than 15 days and not less than 10 days, for the determination of the Members entitled to notice of the meeting. If no such record date for notice is fixed by the Board, the record date for notice shall be the date next preceding the day on which notice is given. Provided however that the record date for notice for the annual meeting shall be 35 days prior to such meeting.

10.07 **Meetings without Notice:** A meeting of Members may be held without notice at any time and at any place permitted by the Act or the Letters Patent: (i) if all the Members entitled to vote thereat are present in person or represented by proxy or if those not present or represented by proxy waive notice of or otherwise consent to such meeting being held; (ii) if the auditors and the Directors are present or waive notice or otherwise consent to such meeting being held; and (iii) at such meeting any business may be transacted which the Corporation at a meeting of Members may transact.

10.08 **Chairman, Secretary:** The chairman of any meeting of Members shall be the first mentioned of the following officers who is a Director and is present at the meeting: President, 1<sup>st</sup> Vice-President or 2<sup>nd</sup> Vice-President. If no such officer is present with 15 minutes from the time for holding the meeting, the persons present and entitled to vote shall choose one of their number to be chairman. If the Secretary of the Corporation is absent, the chairman shall appoint some person, who need not be a Member, to act as secretary of the meeting. If desired, one or more scrutineers, who need not be Members, may be appointed by a resolution or by the chairman with the consent of the meeting.

10.09 **Persons Entitled to be Present:** The only persons entitled to attend a meeting of Members shall be the Delegates of Voting Members, Non-Voting Members, the auditors of the Corporation and others who, although not entitled to vote, are entitled or required under any provision of the Act, the Letters Patent or By-laws to be present at the meeting. Any other person may be admitted on the invitation of the chairman of the meeting or with the consent of the meeting.

10.10 **Quorum:** For all purposed the presence in person or by proxy of at least sixty percent (60%) of the Members entitled to vote at the meeting shall constitute a quorum. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of such business.

10.11 **Record Date for Voting:** The Board may fix in advance a date preceding the date of any meeting of Members by not more than 10 Business Days.

10.12 **Proxies:** Every Member entitled to vote at a meeting of Members (other than a Representative Member) may appoint a person as his proxy to attend and act for such Person at the meeting in the manner, to the extent and with the power conferred by the instrument appointing the proxy. An instrument appointing a proxy shall be in writing executed by or on behalf of the appointer and shall conform to the requirements of the Act.

10.13 **Votes to Govern:** At any meeting of Members, every question shall, unless otherwise required by the Act, the Letters Patent or By-laws, be determined by the majority of the votes cast on the question. In case of an equality of votes either upon a show of hands or upon a poll, the chairman of the meeting shall be entitled to a second or casting vote.

10.14 **Show of Hands:** Subject to the provisions of the Act, any question at a meeting of Members shall be decided by a show of hands unless a poll thereon is required or demanded as hereinafter provided. Upon a show of hands every Member who is present in person or by proxy and entitled to vote shall have one vote. Wherever a vote by show of hands shall have been taken upon a question, unless a poll thereon is so required or demanded, a declaration by the chairman of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of meeting shall be prima facie the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said and proof that the vote so taken shall be the decision of the Members upon the said question.

10.15 **Polls:** On any question proposed for consideration at a meeting of Members, and whether or not a show of hands has been taken thereon, the chairman may require a poll thereon if any Person entitled to vote on the question so demands. A poll so required or demanded shall be taken in such a manner as the chairman shall direct. A requirement or demand for a poll may be withdrawn at any time prior to the taking of the poll. The result of the poll so taken shall be the decision of the Members upon the said question.

10.16 **Adjournment:** The chairman at a meeting of Members may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and from place to place.

10.17 **Action in Writing by Members:** Any By-law passed by the Board may, in lieu of confirmation at a general meeting of Members be confirmed and consented to in writing by all the Members entitled to vote at such meeting.

## **ARTICLE XI - Notices**

11.01 **Method of Giving Notices:** Any notice (which term includes any communication or document) to be given, sent, delivered or served pursuant to the Act, the Letters Patent, the By-laws, or otherwise to a Member, Director, officer, auditor, or other representative shall be sufficiently given if: delivered personally to the person to whom it is to be given; delivered to his recorded address; mailed to him at his recorded address by prepaid air or ordinary mail; or sent to him at his recorded electronic address by means of electronic communication. Any notice so delivered shall be deemed to have been given when it is delivered personally or at the recorded address aforesaid; any notice



so mailed shall be deemed to have been given when deposited in a post office or public letter box; and any notice sent by any means of electronic communication shall be deemed to have been given when the sender is provided with reasonable confirmation that the electronic communication has been sent to the relevant electronic address. The Secretary or Executive Directors may change or cause to be changed the recorded address of any Member, Director, officer or auditor in accordance with any information believed by him to be reliable. The Secretary or the Executive Director shall cause to be recorded a written record of all notices of meeting and the method by which and the persons to whom such notices were sent.

11.02 **Computation of Time:** 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.

11.03 **Omissions and Errors:** The omission to give proper notice to any Member, Director, officer, auditor or other representative invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

11.04 **Waiver of Notice:** Any Member (or his duly appointed proxy), Director, officer, auditor or member or other representative may waive any notice required to be given to him under any provision of the Act, the Letters Patent, the By-laws or otherwise and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice.

## **ARTICLE XII - Borrowing**

12.01 **Board:** The Board may and is hereby authorized from time to time, in such amounts and on such terms as it deems expedient to:

- (i) borrow money on the credit of the Corporation for the Corporation;
- (ii) issue, sell or pledge debt obligations (including bonds, debentures, notes or other similar obligations, secured or unsecured) of the Corporation; and
- (iii) charge, mortgage, hypothecate or pledge all or any of the currently owned or subsequently acquired real or personal, moveable or immovable, property of the Corporation, including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed or any debt or liability of the Corporation,

12.02 **Delegation:** The Board may from time to time delegate to such one or more of the Directors or officers of the Corporation as may be designated by the Board

all or any of the powers conferred on the Board pursuant to this Section 12 to such extent and in such manner as the Board shall determine at the time of each such delegation.

### **ARTICLE XIII - Distribution of Assets upon Dissolution**

13.01 Upon the dissolution or winding-up of the Corporation in any manner by law, after payment of all of the Corporation's debts and liabilities, its remaining property, if any, shall be distributed at the time of dissolution to other non-profit associations or organizations, whose objectives are compatible with and related to the best interests of the construction industry in Ontario, as determined by the Board, including without limitation, the Greater Toronto Sewer and Watermain Contractors Association.

### **ARTICLE XIV – Effective Date and Repeal of All other By-laws**

14.01 **Effective Date:** This By-law shall not be effective until it has been confirmed by the Members in accordance with the Act and the Letters Patent.

14.02 **Repeal:** All previous By-laws of the Corporation are repealed as of the coming into force of this By-Law. Such repeal shall not affect the previous operation of any By-laws so repealed or affect the validity of any act done or right, privilege, obligation or liability acquired or incurred under, or the validity of any contract or agreement made pursuant to any such By-laws prior to their repeal. All officers and persons acting under any By-law so repealed shall continue to act as if appointed under the provisions of this By-law and all resolutions of the Members or the Board or a committee of the Board with continuing effect passed under any repealed By-law shall continue to be good and valid except to the extent that it is inconsistent with this By-law and until amended or repealed.