

HIATUS HOUSE

BY-LAW NUMBER 12

A By-law to amend, consolidate and restate the provisions of all previous by-laws.

CONTENTS

Interpretation	1	Protection of Directors and Officers	13
Legal Framework.....	3	Financial Year.....	13
Head Office.....	3	Borrowing.....	13
Membership in the Corporation	3	Execution of Instruments	14
Meetings of the Members of the Corporation.....	4	Notice.....	14
Board.....	7	Amendments.....	14
Executive Committee of the Board	12	Repeal of Prior By-Laws	15
Officers	12	Attachment 1 to By-Law Number 12	16

IT IS HEREBY ENACTED as a by-law of the Corporation as follows:

INTERPRETATION

1. **Definitions.** In this By-law, unless the context otherwise requires:
 - (a) **“Board”** means the board of directors of the Corporation.
 - (b) **“By-law”** means this by-law.
 - (c) **“Conflict of Interest”** means a situation where the personal, business or other interests of a person are in conflict with the best interests of the Corporation.
 - (d) **“Contracts, Documents and Instruments in Writing”** includes cheques, drafts, orders for payment, 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 obligation, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper and electronic writings.
 - (e) **“Corporation”** means Hiatus House.¹
 - (f) **“Director”** means a director of the Corporation and is synonymous with the terms, “board member” and “member of the Board.”²
 - (g) **“Executive Director”** means the executive director of the Corporation.
 - (h) **“Letters Patent”** means the letters patent of the Corporation as amended by any supplementary letters patent.³

1 The Corporation is an Ontario, non-share capital corporation, incorporated August 23, 1976, pursuant to the Ontario *Corporations Act* and having Ontario corporation number 340720. The Corporation is a registered charity, having charitable registration number 129209300 RR0001.

2 Directors are the individuals who are elected by the Members to the Board. “Directors”, “board members” and “members of the board” are synonymous terms and are in contrast to, “members of the Corporation.”

3 The Letters Patent is the charter or constitution for the Corporation – the document that brought the Corporation into existence. The Corporation’s Letters Patent are dated August 23, 1976, as amended by

- (i) **“Member”** means a member of the Corporation and **“Membership”** has a corresponding meaning.⁴
 - (j) **“Officer”** means an officer of the Corporation, including President, Vice-President, Past President, Secretary and Treasurer.⁵
 - (k) **“Past President”** means the past president of the Corporation.
 - (l) **“Perceived Conflict of Interest”** means when a person having thought a situation through, would think it was reasonably possible that a person might be adversely influenced in the performance of her or his duties to the Corporation by her or his personal, business or other interests.
 - (m) **“President”** means the president of the Corporation.
 - (n) **“Secretary”** means the secretary of the Corporation.
 - (o) **“Treasurer”** means the treasurer of the Corporation.
 - (p) **“Vice-President”** means the vice-president of the Corporation.
2. **Plural.** Words that are in the singular form are deemed to include the plural form and vice versa.
 3. **Include, Etc.** Whenever the words “include,” “includes” or “including” (or similar terms) are used they are deemed to be followed by the words “without limitation.”
 4. **References to Legislation.** Any reference in this By-law to any legislation, including any regulations promulgated thereunder or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such legislation, regulation or section as amended, restated or re-enacted from time to time.
 5. **Severability.** 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.
 6. **Footnotes.** The footnotes in this By-law are inserted for non-binding explanatory purposes only. They are not to be considered or taken into account for the purposes of construing or interpreting the provisions of this By-law nor shall they be used in any way to clarify, modify or explain the effect of any such provisions.

Supplementary Letters Patent dated June 5, 1986.

4. Members of the Corporation are a parallel to shareholders of a share capital corporation. As a non-share capital corporation, the Corporation has members and not shareholders. Members of the Corporation are in contrast to members of the Board of the Corporation.
5. Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors. This is mandated by Ontario *Corporations Act* section 289(1) in the case of the President. Further, the By-laws in this case, also mandate that the President, Past President, Vice-President, Secretary and Treasurer be Directors.

LEGAL FRAMEWORK

7. **Hierarchy.** In order of hierarchy, the legal framework for the Corporation is as follows:
- (a) Law of the land including, statutory law such as the *Canada Income Tax Act* and the *Ontario Corporations Act* and common law.⁶
 - (b) Letters Patent.
 - (c) By-laws.
 - (d) Board policy.⁷
 - (e) Operational policy.
- In the event of a conflict, the policies at the higher level in the legal framework shall prevail.⁸
8. **Objects as per Letters Patent.** The objects of the Corporation are as set out in the Letters Patent.⁹
9. **Vision and Mission.** The vision and mission of the Corporation shall be within the scope of the objects of the Corporation.

HEAD OFFICE

10. **Head Office.** The head office of the Corporation shall be in the location required by the Letters Patent and at such place therein as the Board may from time to time determine.¹⁰

MEMBERSHIP IN THE CORPORATION

11. **Membership.** The Membership of the Corporation (in contrast to membership on the Board) shall consist of those individuals who are from time to time elected as Directors.¹¹
12. **Termination of Membership.** Membership is not transferable and terminates upon the subject individual ceasing, for whatever reason, to be a Director. In such case, Membership shall be deemed to have been terminated on the date that the individual ceased to be a Director.

6 Common law, also sometimes referred to as judge-made law, is the law that comes from decisions of the courts.

7 The Board's policies have been assembled in a "Board Governance Manual."

8 The hierarchy is set by law and therefore it is not possible to change the hierarchy by amending this provision.

9 The objects of the Corporation, as set out in the Letters Patent, are:

- (a) *To construct or purchase, hold, manage, provide and maintain a hostel, as defined by the National Housing Act, to act as an emergency shelter for battered women and their children;*
- (b) *To buy, lease, hold, build, develop or improve any lands and buildings necessary for the carrying out of the said objects;*
- (c) *To raise money through subscriptions, membership, donations and by receiving gifts and testaments for carrying out the said objects;*
- (d) *To do all such things as are incidental or conducive to the attainment of the above objects, subject to The Mortmain and Charitable Uses Act and The Charitable Gifts Act;*
- (e) *To provide counselling programs for domestic violent families (battered women, male batterers and children);*
- (f) *To provide public education in the field of domestic violence; and*
- (g) *To conduct research in the field of domestic violence.*

10 The Letters Patent provide that the head office shall be in the City of Windsor, in the County of Essex. See *Ontario Corporations Act* section 277 for further detail with respect to changing head office location.

11 *Ontario Corporations Act* section 286(1) used to require directors to be members. However, effective January 13, 2018, the requirement in the *Ontario Corporations Act* that directors be or become within 10 days members was removed. Notwithstanding, given the Corporation's governance structure, section 11 of this By-law provides automatic membership to anyone who is elected a Director.

MEETINGS OF THE MEMBERS OF THE CORPORATION

13. **Calling of Meetings of Members.** Calling of meetings of the Members shall be subject to and in accordance with the following:
- (a) **Annual General Meeting.** The annual general meeting of Members shall be held not more than fifteen (15) months after the holding of the last preceding annual general meeting.¹²
 - (b) **Special Meetings.** Meetings of Members may otherwise be called by the Board, the President, or through requisition by the Members in accordance with the *Ontario Corporations Act*.¹³
14. **Notice.** Notice of meetings of Members shall be subject to and in accordance with the following:
- (a) **Responsibility.** The Secretary shall give or cause to be given the required notice.
 - (b) **Amount of Notice.** At least ten (10) days' notice shall be given (exclusive of the day on which the notice is delivered or sent but inclusive of the day for which notice is given).¹⁴
 - (c) **Content.** Notice shall include the date, time and place, as well as an agenda describing the nature of the business to be transacted in sufficient detail to allow a Member to make an informed decision of whether or not to attend.¹⁵
 - (d) **To Whom Given and Manner.** Notice shall be given to:
 - (i) each Member;¹⁶
 - (ii) the auditor, if one has been appointed;¹⁷ and
 - (iii) the Executive Director,in the manner specified in section 47 of this By-law.
 - (e) **Waiver.** Meetings of Members may be held without notice if all those entitled to notice, have waived in writing the notice, provided that attendance of any such person at a Members' meeting shall constitute a waiver of notice of the meeting except where such person attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or held.
 - (f) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.
 - (g) **Errors or Omissions.** No error or omission in giving notice for a meeting of Members shall invalidate such meeting or invalidate or make void any proceedings taken or had at a meeting of Members.

12 See *Ontario Corporations Act* section 293 relating to timing of annual general meetings.

13 See *Ontario Corporations Act* section 295 which addresses the ability of the Members to requisition a meeting.

14 *Ontario Corporations Act* section 93 made operative by section 133(1) details notice requirements.

15 The *Ontario Corporations Act* does not require notice to be in any particular form or format and nor does it specify the information to be included, other than time and place. The common law also however applies and the notice content provisions in this section reflect common law requirements.

16 See *Ontario Corporations Act* paragraph 93(1)(a) made operative by section 133(1).

17 See *Ontario Corporations Act* section 96(6) made operative by section 133(1).

15. **Place of Meetings.** Meetings of Members shall be held at the head office of the Corporation or elsewhere in Ontario as may from time to time be determined by the Board.¹⁸
16. **Chair.** The President shall chair meetings of the Members or if absent, unable or unwilling, the Vice-President and in the absence, inability or unwillingness of both the President and Vice-President, the Past President and in the absence, inability or unwillingness of all the aforementioned, the Members present in person or by proxy shall by majority resolution choose another Director to act as chair of the meeting,¹⁹ provided that if there are no Directors who are present, able and willing, the Members shall choose any Member present who is able and willing to chair the meeting.
17. **Attendance and Participation.** The below individuals shall be entitled to attend meetings of Members and to the extent indicated below participate thereat as follows:
- (a) **Members.** Members shall be entitled to attend all meetings of Members in person²⁰ or by proxy. Members shall be entitled to participate by being heard (verbally or in writing), debating and voting.
 - (b) **Executive Director.** The Executive Director shall be entitled to attend all meetings of Members in person. The Executive Director shall not be entitled to participate at meetings of Members by voting or debating but shall be entitled to participate by being heard (verbally or in writing).
 - (c) **Auditor.** The auditor, if one has been appointed, shall be entitled to attend all meetings of Members in person. The auditor shall not be entitled to participate at meetings of Members by voting or debating but shall be entitled to participate by being heard (verbally or in writing) on any matter that concerns the auditor as auditor.²¹
 - (d) **Invited Guests.** Invited guests shall be entitled to attend all meetings of Members in person on invitation of the Chair, the Board or with the consent of the meeting. Invited guests shall not be entitled to participate at meetings of Members by voting or debating but shall be entitled to participate by being heard (verbally or in writing).
18. **Transaction of Business.** Transaction of business at meetings of the Members shall be subject to and in accordance with the following:
- (a) **Quorum.**²² No business shall be transacted in the absence of quorum. Quorum shall be a majority of the Members.

18 The head office is at 250 Louis Avenue, Windsor, Ontario. See Ontario *Corporations Act* section 82 made operative by section 133(1) for further detail with respect to place of meetings.

19 See Ontario *Corporations Act* clause 93(1)(e) made operative by section 133(1).

20 Note Ontario *Corporations Act* section 125.1 provides that, "Unless the by-laws of a corporation provide otherwise, a meeting of the members may be held by telephonic or electronic means and a member who, through those means, votes at the meeting or establishes a communications link to the meeting is deemed to be present at the meeting.

21 See Ontario *Corporations Act* section 96(6) made operative by section 133(1).

22 Note there is no statutory requirement for quorum for Members' meetings. In the absence of any quorum provision in the by-laws, at common law it is a majority. Given the governance structure, quorum has been set at a majority of Members.

- (b) **Debate and Decorum.**
 - (i) No attendee entitled to speak shall do so:
 - (A) Unless recognized by the chair of the meeting.
 - (B) To a question at any one time for longer than five (5) minutes.
 - (C) If to do so would interrupt an individual who is speaking except to raise a question of privilege or point of order.
 - (ii) Attendees shall obey any proper direction of the chair of the meeting.
 - (iii) Attendees who disturb the proper conduct of the proceedings or otherwise conduct themselves in a disorderly or unseemly manner shall leave the meeting if so ordered by the chair of the meeting.
- (c) **Voting.**
 - (i) Members shall each only have one (1) vote. For greater clarity, the chair of the meeting in her or his capacity as a Member shall similarly have one (1) vote.
 - (ii) In the event of a tie, the chair of the meeting shall have a second or casting vote.²³
 - (iii) Unless otherwise required, every question shall be decided by at least a majority of the votes of the Members present in person or by proxy.²⁴
 - (iv) Unless otherwise specified, every question shall be decided in the first instance by a show of hands unless a poll be demanded by any Member. If a poll be demanded and not withdrawn, the poll shall be taken in such manner as the chair of the meeting shall direct.
 - (v) A declaration by the chair of the meeting that a resolution has been carried or not carried and an entry to that effect in the minutes of the Corporation shall be admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes accorded in favour of or against such resolution.

19. **Proxies.** Every Member may by means of a proxy appoint a person who need not be a Member, as nominee for the Member, to attend and act at the meeting in the manner, to the extent, and with the power conferred by the proxy, subject to and in accordance with the following:²⁵

- (a) **In Writing and Signed.** A proxy shall be in writing, shall be executed by the Member or the attorney of the Member authorized in writing, or, if the Member is a body corporate, under its corporate seal or by an officer or attorney thereof duly authorized.
- (b) **Validity.** A proxy shall cease to be valid one (1) year from its date.
- (c) **Form.** Subject to the requirements of the Ontario *Corporations Act*, a proxy may be in the form attached as Attachment 1 to this By-law or such other form as the Board may from time to time prescribe or as the chair of the meeting may accept as sufficient.

20. **Adjournment.** The chair presiding at the meeting, with the consent of the meeting and

²³ See Ontario *Corporations Act* paragraph 93(1)(c) made operative by section 133(1), which provides the chair presiding with a second and casting vote in the absence of provision otherwise.

²⁴ Certain decisions are required by the Ontario *Corporations Act* to be passed by a 2/3rds vote, such as, for example, the decision to pass a by-law to provide for the establishment of an executive committee as per Ontario *Corporations Act* section 70(1) made operative by section 133(1).

²⁵ See Ontario *Corporations Act* section 84 made operative by section 133(1).

subject to such conditions as the meeting decides, shall adjourn the meeting from time to time and from place to place.²⁶

BOARD

21. **Governance.** The Board shall administer the affairs of the Corporation subject to any applicable law, the Letters Patent and this By-law.²⁷
22. **Qualifications.** Each Director shall at the time of election and throughout his or her term of office:
- (a) be or immediately upon election become a Member of the Corporation;²⁸
 - (b) be at least eighteen (18) years of age;²⁹
 - (c) not be an undischarged bankrupt;³⁰
 - (d) not be a person who has been found under the Ontario *Substitute Decisions Act, 1992* or under the Ontario *Mental Health Act* to be incapable of managing property;³¹
 - (e) not be a person who has been found to be incapable by any court in Canada or elsewhere;³²
 - (f) not be an "ineligible individual"³³ within the meaning of the Canada *Income Tax Act*, and

26 See Ontario *Corporations Act* clause 93(1)(d) made operative by section 133(1).

27 See Ontario *Corporations Act* section 283(1).

28 Ontario *Corporations Act* section 286(1) used to require directors to be members. However, effective January 13, 2018, the requirement in the Ontario *Corporations Act* that directors be or become within ten days members was removed. Notwithstanding, section 11 of this By-law provides automatic membership to anyone who is elected a Director, so the qualification has been retained.

29 See Ontario *Corporations Act* section 286(4). Note paragraph 23(1)2 of the Ontario *Not-for-Profit Corporations Act, 2010* which will not come into force any earlier than twenty-four months after notice is given of the proposed proclamation date, with no such notice currently have been given, sets out the same requirement.

30 See Ontario *Corporations Act* section 286(5). Note paragraph 23(1)5 of the Ontario *Not-for-Profit Corporations Act, 2010*, which will not come into force any earlier than twenty-four months after notice is given of the proposed proclamation date, with no such notice currently have been given, sets out the same requirement.

31 This qualification is as per *Not-for-Profit Corporations Act, 2010* section 23(1)3, which will not come into force any earlier than twenty-four months after notice is given of the proposed proclamation date, with no such notice currently have been given, sets out the same requirement.

32 This qualification is as per *Not-for-Profit Corporations Act, 2010* section 23(1)4, which will not come into force any earlier than twenty-four months after notice is given of the proposed proclamation date, with no such notice currently have been given, sets out the same requirement.

33 Relevant excerpts from the Canada *Income Tax Act* section 149.1(1) are as follows:

"ineligible individual", at any time, means an individual who has been

- (a) convicted of a relevant criminal offence unless it is a conviction for which
 - (i) a pardon has been granted and the pardon has not been revoked or ceased to have effect, or
 - (ii) a record suspension has been ordered under the *Criminal Records Act* and the record suspension has not been revoked or ceased to have effect,
- (b) convicted of a relevant offence in the five-year period preceding that time,
- (c) a director, trustee, officer or like official of a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which the registration of the charity or association was revoked in the five-year period preceding that time,
- (d) an individual who controlled or managed, directly or indirectly, in any manner whatever, a registered charity or a registered Canadian amateur athletic association during a period in which the charity or association engaged in conduct that can reasonably be considered to have constituted a serious breach of the requirements for registration under this Act and for which its registration was revoked in the five-year period preceding that time, or
- (e) a promoter in respect of a tax shelter that involved a registered charity or a registered Canadian amateur athletic association, the registration of which was revoked in the five-year period preceding that time for reasons that included or were related to participation in the tax shelter; ...

- (g) not be an employee of the Corporation or have a relationship with an employee of the Corporation which poses a potential Conflict of Interest or presents a Perceived Conflict of Interest, as determined by the Membership.
23. **Number and Election.** The affairs of the Corporation shall be managed by such number of Directors as may be determined from time to time by special resolution,³⁴ providing that at all times the number shall not be fixed at fewer than three (3) Directors.³⁵ Subject to early removal and the due election of a successor, each Director shall be elected by the Members for one (1) year, provided that if the total number of Directors is at least six (6), Directors may be elected for terms of one (1) to three (3) years, provided always that at least three (3) Directors retire each year.³⁶ For greater clarity, subject to the limit of terms in section 24 of this By-law, retired Directors are eligible for re-election if they remain qualified in accordance with section 22.
24. **Limit of Terms.** No Director shall serve as such for more than twelve (12) continuous years without taking at least one (1) year off, subject to the time being extended in the case of a Director who holds an Officer's position.
25. **Vacation of Office.** The office of a Director shall be vacated, if any one or more of the following apply:
- (a) **Removal by Members.** Upon resolution to remove the Director, passed by a majority of the votes cast by the Members at a meeting of Members for which notice specifying the intention to pass such resolution has been given to the Members.³⁷
- (a) **Written Resignation.** By the Director delivering notice of resignation in writing to the Secretary in which case, such resignation shall be effective at the time specified in the notice or at the first Board meeting following receipt of the notice by the Secretary, whichever is later.
- (b) **Failure to Attend Three Consecutive Meetings.** If the Director fails to attend three (3) consecutive meetings of the Board and she or he also fails, within thirty (30) days, to respond positively to a letter from the Corporation requesting that the Director confirm that she or he wishes to continue as a Director. In such case, the

"relevant criminal offence" means a criminal offence under the laws of Canada, and an offence that would be a criminal offence if it were committed in Canada, that

- (a) relates to financial dishonesty, including tax evasion, theft and fraud, or
- (b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association;

"relevant offence" means an offence, other than a relevant criminal offence, under the laws of Canada or a province, and an offence that would be such an offence if it took place in Canada, that

- (a) relates to financial dishonesty, including an offence under charitable fundraising legislation, consumer protection legislation and securities legislation, or
- (b) in respect of a charity or Canadian amateur athletic association, is relevant to the operation of the charity or association;

34 "Special resolution" is defined by the Ontario *Corporations Act* section 1 as a, "resolution passed by the directors and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of the shareholders or members of the corporation duly called for that purpose, or, in lieu of such confirmation, by the consent in writing of all the shareholders or members entitled to vote at such meeting."

35 Ontario *Corporations Act* section 283(2) requires a fixed number of directors not fewer than three (3).

36 *Corporations Act* section 287(5) permits retirement in rotation providing that at least 3 directors retire each year and no director is elected for a term of longer than five (5) years.

37 See Ontario *Corporations Act* section 127.2.

vacancy will be deemed to have become effective at the end of the said thirty (30) day period. For greater clarity, the Board shall have the discretion whether or not to send the letter referred to above.

- (c) **Death.** Upon the death of the Director.
 - (d) **No Longer Qualified.** Upon a Director ceasing to be qualified pursuant to section 22 of this By-law. In such case, the vacancy will be deemed to have become effective on the date that such a determination was made by the Membership.
26. **Filling Vacancies.** Directors' vacancies shall be filled as follows:
- (a) **If Removed by Members.** In the event a vacancy is created by the removal of a Director in accordance with section 25(b) of this By-law, then the Members present in person or by proxy may (but are not required) by majority resolution at a meeting of Members elect any individual in her or his stead for the remainder of her or his term.³⁸
 - (b) **Otherwise.** Vacancies may otherwise be filled as follows:
 - (i) **If Quorum Remains.** So long as a quorum of Directors remain in office, any vacancy may be filled for the remainder of the term by majority resolution of the Board passed at a meeting of the Board, if the Board shall see fit to do so. If the Board does not see fit to do so, such vacancies shall be filled at the next annual general meeting at which the Directors for the ensuing year are elected.³⁹
 - (ii) **If No Quorum Remains.** If a quorum of Directors does not remain, the remaining Directors shall forthwith call a meeting of the Members to fill the vacancy.⁴⁰
27. **No Remuneration or Interest in Contracts.** Directors shall not receive remuneration in any capacity or any direct or indirect profit from their positions with the Corporation, provided that Directors may be reimbursed for reasonable expenses incurred by them in the performance of their duties as long as they have complied with any expense reimbursement policies from time to time in place.⁴¹

MEETINGS OF THE BOARD

28. **Number of Board Meetings.** The Board shall meet as necessary to fulfil the Board's duties.
29. **Calling of Meetings.** Meetings of the Board may be called by the Board, by the President, or by any two (2) Directors.
30. **Place of Meetings.** Meetings of the Board shall be held at the head office of the Corporation or at such other place as the Board may from time to time determine.⁴²

38 See Ontario *Corporations Act* section 67 made operative by section 133(1).

39 See Ontario *Corporations Act* section 288(2).

40 See Ontario *Corporations Act* section 288(3).

41 It used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, regulations were passed under the Ontario *Charities Accounting Act* relaxing these rules. Notwithstanding, the prohibition is maintained through this By-law section 27.

42 See Ontario *Corporations Act* section 82 made operative by section 133(1).

31. **Notice.** Notice of meetings of the Board shall be subject to and in accordance with the following:
- (a) **Responsibility.** The Secretary shall give or cause to be given the required notice.
 - (b) **Amount of Notice.** Subject to sections 31(e) and (f), at least seventy-two (72) hours' notice (exclusive of the day on which notice is delivered but inclusive of the day for which notice is given) shall be given.⁴³
 - (c) **Content.** Notice shall include the date, time and place, as well as a description of the nature of the business to be transacted.⁴⁴
 - (d) **To Whom Given and Manner.** Notices shall be given to each Director in the manner specified in section 47 of this By-law.⁴⁵
 - (e) **Regular Meetings.** The Board may appoint a day or days in any month or months for regular meetings of the Board at an hour to be named. A copy of any such resolution of the Board shall be sent to each Director but otherwise no other notice of regular meetings shall be required.
 - (f) **Board Meeting Following Annual General Meeting.** A meeting of the Board may be held, without notice, immediately following the annual general meeting of the Corporation.
 - (g) **Waiver.** No formal notice of a meeting of the Board is necessary if all the Directors are present or if those absent have signified their consent to the meeting being held without notice and in their absence. Further, any Director may at any time waive notice of a Board meeting.
 - (h) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.
 - (i) **Errors or Omission.** No error or omission in giving notice for a meeting of the Board shall invalidate such meeting or invalidate or make void any proceedings taken or had at a Board meeting.
32. **Attendance and Participation.** The below listed individuals shall be entitled to attend meetings of the Board and to the extent indicated below, participate thereat as follows:
- (a) **Directors.** Directors shall be entitled to attend all meetings of the Board and shall be entitled to participate thereat by being heard (verbally or in writing), debating and voting in accordance with this By-law, except in the event of a conflict of interest or inability to exercise independent judgment, in which case the subject Director shall not participate or otherwise attempt to influence decision making.
 - (b) **Executive Director.** The Executive Director shall be entitled to attend all meetings of the Board in person, unless the Board otherwise decides. The Executive Director shall not be entitled to participate at meetings of the Board by voting or

43 Ontario *Corporations Act* section 93 made operative by section 133(1) details notice requirements.

44 The Ontario *Corporations Act* is silent on length, form and content on notices of Board meetings and as such they are governed by the by-laws. In this case, this By-law provision reflects best practices.

45 Ontario *Corporations Act* section 93 made operative by section 133(1) details notice requirements.

debating but shall be entitled to participate by being heard (verbally or in writing).

- (c) **Invited Guests.** Invited guests shall be entitled to attend meetings of the Board, on invitation of the Chair, the Board or with the consent of the meeting. Invited guests shall not be entitled to participate in meetings of the Board by voting or debating but shall be entitled to participate by being heard (verbally or in writing), if recognized by the chair of the meeting.
33. **Chair.** The President shall chair meetings of the Board or if absent, unable or unwilling, the Vice-President and in the absence, inability or unwillingness of both the President and Vice-President, the Past President and in the absence, inability or unwillingness of all the aforementioned, the Directors present shall by majority resolution choose another Director to act as chair of the meeting.
34. **Transaction of Business.**
- (a) **Quorum.** The greatest whole number, not less than two-fifths of the Board, shall form a quorum for the transaction of business by the Board.⁴⁶
- (b) **Means of Meetings.** If all the Directors present at or participating in the meeting consent, a meeting of the Board may be held by such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a Director participating in the meeting by those means is deemed to be present at the meeting.⁴⁷
- (c) **Debate and Decorum.**
- (i) No attendee shall speak:
- (A) Unless recognized by the chair of the meeting.
- (B) To a question at any one time for longer than five (5) minutes.
- (C) If to do so would interrupt an attendee who is speaking except to raise a question of privilege or point of order.
- (ii) Attendees shall conduct themselves with decorum and obey any proper direction of the chair of the meeting.
- (d) **Voting.** Each Director shall be entitled to one (1) vote. The chair of the meeting shall not have a second or casting vote in the event of a tie.⁴⁸ Unless otherwise required, questions arising at any meeting of the Board shall be decided by a majority of votes.⁴⁹
35. **Minutes.** The Secretary shall keep or cause to be kept minutes of all meetings of the

46 Ontario *Corporations Act* section 288(1) provides for a minimum allowable quorum of not less than two-fifths of the Board. Note, quorum is calculated on the number of directors a corporation should have – not on the number it actually has. For example, if the number of Directors is fixed at 10 but there are 3 vacancies, quorum is nonetheless still calculated on the basis of 10 directors. Thus with a quorum requirement of the greatest whole number not less than 2/5ths, quorum would be 4 and thus more than 50% of the Directors would need to attend in order to satisfy quorum in such circumstances.

47 This provision tracks the language of Ontario *Corporations Act* section 283(3.1). It is possible to prohibit remote participation by including a prohibition in the By-laws. Consent is collected by way of the Declaration, Consent and Undertaking, which Directors are required to sign upon their election or appointment to the Board.

48 Contrary to popular belief, the chair of a meeting has a vote like any other director. See, "The Guide to Better Meetings for Directors of Non-Profit Organizations" published by the Canadian Society of Corporation Executives (2000).

49 Note that Directors cannot participate or vote at Directors' meetings by way of proxy. This follows from the common law duty not to fetter discretion or delegate decision making.

EXECUTIVE COMMITTEE OF THE BOARD

36. **Composition.** The Board, whenever it consists of more than six (6) Directors, may from time to time elect from among its number an executive committee consisting of not less than three (3) Directors. During the intervals between the meetings of the Board, the executive committee shall possess and may exercise (subject to any regulations or directions which the Board may from time to time impose) all the powers of the Board in the management of the affairs of the Corporation.⁵¹

OFFICERS

37. **Appointment of Officers.** The Board shall appoint Officers⁵² as follows:
- (a) **President.**⁵³ A president from among the Board.
 - (b) **Vice-President.** A vice-president from among the Board.
 - (c) **Treasurer.** A treasurer from among the Board.
 - (d) **Secretary.**⁵⁴ A secretary from among the Board.
 - (e) **Past President.** The past president shall be the outgoing president or if the outgoing President is unable or unwilling, any Past President selected by the Board; and if no such Past President is able or willing, the position shall be vacant.
 - (f) **Other Officers.** Such other officers as the Board may from time to time determine.

An individual may hold more than one (1) office, except for the offices of President and Vice-President.

38. **Powers and Duties.** The duties of Officers shall be as determined from time to time by the Board.⁵⁵
39. **Removal.** Officers serve at the pleasure of the Board and shall be subject to removal by resolution of the Board at any time.

50 See the Hiatus House Board Governance Manual for further requirements regarding minutes.

51 Directors have a duty not to fetter their discretion or delegate decision making. Executive committees are a statutory exception to this duty, hence the reason for their differentiation from other committees which do not have any powers of the Board. See Ontario *Corporations Act* section 70 made operative by section 133(1) for further detail with respect to establishing an executive committee. See the Hiatus House Board Governance Manual for details about other committees.

52 Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors and in the case of the president, this is mandated by Ontario *Corporations Act* section 289(1).

53 Ontario *Corporations Act* section 289 requires the appointment of a president who need be a director and a secretary who need not be a director.

54 Ontario *Corporations Act* section 289 requires the appointment of a president who need be a director and a secretary who need not be a director.

55 See the Hiatus House Board Governance Manual for additional details about Officers, including their respective duties.

PROTECTION OF DIRECTORS AND OFFICERS

40. **Indemnification by the Corporation.**⁵⁶ Every Director, Officer and other person who has undertaken or is about to undertake any liability on behalf of the Corporation 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 whatsoever which such Director, Officer or other person sustains or incurs in or about any action, suit or proceeding which is brought, commenced, or prosecuted against her or him for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by her or him in or about the execution of the duties of her or his office or in respect of any such liabilities; and
 - (b) all other costs, charges and expenses which she or he sustains or incurs in or about or in relation to the affairs thereof;
- except such costs, charges or expenses as are occasioned by her or his own willful neglect or default or that relate to her or his failure to act honestly and in good faith in performing her or his duties.⁵⁷
41. **No Liability.** No Director or Officer for the time being 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 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 or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, solvency or tortious act of any person, firm or foundation with whom or which any monies, securities or effects shall be lodged or deposited or for any other loss, damage, or misfortune whatsoever which may happen in the execution or supposed execution of the duties of her or his respective office or trust or in relation thereto, unless the same shall happen by or through her or his own wilful act or her or his own wilful default or that relate to her or his failure to act honestly and in good faith in performing her or his duties.⁵⁸

FINANCIAL YEAR

42. **Year End.** The fiscal year of the Corporation shall end March 31st in each year.⁵⁹

BORROWING

- 56 Ontario *Corporations Act* section 80 made operative by section 133(1) and section 283(5) set out requirements with respect to indemnification. Further, Ontario *Charities Accounting Act* Regulation 4/01 section 2 sets out additional requirements with respect to indemnification and purchase of directors' and officers' insurance.
- 57 Ontario *Charities Accounting Act* Regulation 4/01 section 2 prohibits indemnification for liability that relates to a failure to act honestly or in good faith in the performance of duties.
- 58 Ontario *Charities Accounting Act* Regulation 4/01 section 2 prohibits indemnification for liability that relates to a failure to act honestly or in good faith in the performance of duties.
- 59 Note, before year end can be changed, Canada Revenue Agency approval is required. Details with respect to changing year end are available on Canada Revenue Agency's website under the heading, [Asking for a Fiscal Period-End Change](#).

43. **Borrowing.** The Corporation may from time to time:⁶⁰
- (a) borrow money on the credit of the Corporation;
 - (b) issue, sell or pledge securities of the Corporation; and
 - (c) charge, mortgage, hypothecate or pledge all or any of the real or personal property of the Corporation, including book debts rights, powers, franchises and undertakings, to secure any money borrowed, debt, or any other obligation or liability of the Corporation.

EXECUTION OF INSTRUMENTS

44. **Execution of Instruments.** Contracts, Documents, Instruments in Writing requiring the signature of the Corporation may be signed by any two (2) of the President, Vice-President, Secretary, Treasurer or executive director and all Contracts, Documents, Instruments in Writing and other documents so signed shall be binding upon the Corporation without any further authorization or formality.
45. **Other Authorization.** Notwithstanding any provisions to the contrary contained in this By-law, the Board may at any time by resolution direct the manner in which and the person or persons by whom any particular instrument, contract or obligation of the Corporation may or shall be executed.
46. **Seal.** The Corporation shall have a seal,⁶¹ which shall be the seal that made the impression stamped below.

NOTICE

47. **Notice.** Unless otherwise required, any notice required to be given under the Ontario *Corporations Act*, the Letters Patent, the By-laws or otherwise by an individual person holding Membership, Director, Officer or auditor shall be in writing and shall be delivered, mailed, or sent by facsimile or electronic mail as follows:
- (a) delivered personally, in which case it will be deemed to have been given on the date delivered;
 - (b) delivered to the person's address as recorded in the Corporation's records, in which case it will be deemed to have been given on the date delivered;
 - (c) mailed to the person's address as recorded in the Corporation's records by prepaid mail, in which case it will be deemed to be delivered five (5) days after the date of mailing; or
 - (d) sent to the person's address as recorded in the Corporation's records by facsimile or electronic mail, in which case it will be deemed to be delivered one (1) day after the date of transmittal.

AMENDMENTS

48. **By-laws.** Amendments to this By-law shall be in accordance with applicable legislation.⁶²

60 Ontario *Corporations Act* section 59 made operative by section 133(1) addresses the passing of borrowing by-laws requiring a 2/3rds confirmation vote at a meeting of the Members.

61 See Ontario *Corporations Act* section 279 which provides that a corporation may but need not have a seal.

62 See Ontario *Corporations Act* sections 129 and 130.

REPEAL OF PRIOR BY-LAWS

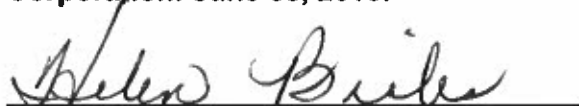
- 49. **Repeal.** Subject to section 50 of this By-law, all prior by-laws of the Corporation are repealed.
- 50. **Proviso.** The repeal of prior by-laws shall not impair, in any way, the validity of any act.

Passed by the Board: June 03, 2019.


Helen Biales – President


Susan Bryant – Secretary

Unanimously approved, ratified, sanctioned and confirmed by the Members of the Corporation: June 03, 2019.


Helen Biales – President


Susan Bryant – Secretary

ATTACHMENT 1 TO BY-LAW NUMBER 12

PROXY

HIATUS HOUSE

The undersigned Member holding Membership in Hiatus House (the "Corporation") hereby appoints with power of substitution _____ (name of appointee) of _____ (town/city) as the proxy of the undersigned to attend and act at the _____ (name of meeting) meeting of the Membership of the Corporation to be held on the ___ day of _____, 20___, and at any adjournment or adjournments thereof in the same manner, to the same extent and with the same power as if the undersigned were present at the said meeting or such adjournment or adjournments thereof.

DATED the ___ day of _____, 20___.

Signature of Member ↑

Print Name of Member ↑