

ADVOCIS PROTECTIVE ASSOCIATION

BY-LAW NO. 1

Draft dated: January 20, 2005

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ADVOCIS PROTECTIVE ASSOCIATION

BY-LAW NO. 1

BE IT ENACTED as a by-law of Advocis Protective Association (the “**Corporation**”) as follows:

ARTICLE I **DEFINITIONS**

1.01 Definitions

In these By-laws, unless the context otherwise requires:

- a. “**Act**” means the *Canada Corporations Act* (Canada) and the regulations enacted pursuant to that Act and any legislation that may be substituted therefor, as may be amended from time to time;
- b. “**Affiliate Member**” has the meaning ascribed to such term as set forth in Article 4.05 herein;
- c. “**Board of Directors**” means the board of directors of the Corporation;
- d. “**By-laws**” means this By-law No. 1 of the Corporation, as amended and/or restated from time to time in accordance with Article XVIII hereunder;
- e. “**Charter Member**” means TFAAC;
- f. “**Corporate Member**” has the meaning ascribed to such term as set forth in Article 4.04 herein;
- g. “**director**” means a member of the Board of Directors;
- h. “**Members**” collectively means, the Regular Members, the Affiliate Members, the Corporate Members, the Subscribing Members and the Charter Member;
- i. “**Regular Member**” has the meaning ascribed to such term as set forth in Article 4.03 herein;
- j. “**Subscribing Member**” has the meaning ascribed to such term as set forth in Article 4.06 herein;
- k. “**TFAAC**” means The Financial Advisors Association of Canada, as represented by TFAAC’s Board of Directors or such person or persons as TFAAC’s Board of Directors otherwise in writing directs.

ARTICLE II
CORPORATE SEAL

2.01 **Corporate Seal**

The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Corporation.

ARTICLE III
HEAD OFFICE

3.01 **Head Office**

- a. Until changed in accordance with the Act, the head office of the Corporation shall be in the City of Toronto, in the Municipality of Metropolitan Toronto, in the Province of Ontario.
- b. The Corporation may establish such other offices and agencies as the Board of Directors may from time to time determine.

ARTICLE IV
CONDITIONS OF MEMBERSHIP

4.01 **Classes of Membership**

There shall be five classes of membership in the Corporation, namely:

- a. Charter Member;
- b. Regular Member;
- c. Corporate Member;
- d. Affiliate Member and
- e. Subscribing Member.

4.02 **Charter Member**

The Charter Member shall be TFAAC. The Charter Member shall be entitled to receive notice of and to attend all meetings of Members and the Charter Member shall have one (1) vote on every item of business, question or resolution transacted, discussed or presented at any such meeting. The Charter Member shall be entitled to vote in respect of any amendments to the Letters Patent or By-laws of the Corporation, and no such amendment shall be enforced or acted upon until sanctioned by the Charter Member present at any meeting called for such purpose.

4.03 **Regular Member**

- a. Regular Members shall be those individuals who are admitted as Regular Members by the Corporation, from time to time, in accordance with this Section 4.03 (hereinafter referred to as “**Regular Members**”).
- b. The Board of Directors shall, subject to Section 4.09, admit as a Regular Member any individual;
 - i. who has applied for membership in prescribed form in the Corporation;
 - ii. who has paid the appropriate membership fee to the Corporation;
 - iii. who is a member in good standing of TFAAC; and
 - iv. who meets the additional qualifications, if any, prescribed by the Board of Directors from time to time.
- c. The Board of Directors shall determine when Regular Members are required to renew their membership (and pay the applicable dues and fees as provided for in Articles 4.08 and 4.09) and the Board of Directors may, in their sole discretion and authority, determine not to renew any Regular Member’s membership in the Corporation.
- d. Subject to Article 4.02, Regular Members shall be entitled to receive notice of and to attend all meetings of Members and shall have one (1) vote on those items of business which do not pertain to the Letters Patent and/or By-laws and/or appointment of directors of the Corporation.

4.04 **Corporate Member**

- a. Corporate Members shall be those corporations who are admitted as Corporate Members by the Corporation, from time to time, in accordance with this Section 4.04 (hereinafter referred to as “**Corporate Members**”).
- b. The Board of Directors shall, subject to Section 4.09, admit as a Corporate Member any corporation;
 - i. which has applied for membership in prescribed form in the Corporation;
 - ii. which has paid the appropriate membership fee to the Corporation;
 - iii. which is approved for membership by both the Board of Directors and TFAAC;
 - iv. which meets the additional qualifications, if any, prescribed by the Board of Directors from time to time.

c. Subject to Article 4.02, Corporate Members shall be entitled to receive notice of and to attend all meetings of Members but shall not have any vote on any item of business, question or resolution transacted, discussed or presented at any such meeting, unless otherwise provided for herein.

4.05 **Affiliate Member**

a. Affiliate Members shall be those individuals who are admitted as Affiliate Members by the Corporation, from time to time, in accordance with this Section 4.05 (hereinafter referred to as “**Affiliate Members**”).

b. The Board of Directors shall, subject to Section 4.09, admit as an Affiliate Member any individual;

i. who has applied for membership in prescribed form in the Corporation;

ii. who has paid the appropriate membership fee to the Corporation;

iii. who is approved for membership by both the Board of Directors and TFAAC;

iv. who is an employee of a Corporate Member; and

iv. who meets the additional qualifications, if any, prescribed by the Board of Directors from time to time.

c. Subject to Article 4.02, Affiliate Members shall be entitled to receive notice of and to attend all meetings of Members but shall not have any vote on any item of business, question or resolution transacted, discussed or presented at any such meeting, unless otherwise provided for herein.

d. The membership of an Affiliate Member shall automatically terminate at 12:01 a.m. on the ninetieth (90th) day after the effective date of termination of such Member’s employment with the Corporate Member which Corporate Member was the basis for meeting the criteria set out in Section 4.05(b)(iv) above, or at 12:01 a.m. on the ninetieth (90th) day after the date such Corporate Member ceases to be a member of the Corporation, unless prior to 12:01 a.m. on the ninetieth (90th) day after such occurrence, the Affiliate Member becomes a Regular Member of the Corporation or becomes an employee of another Corporate Member of the Corporation and is admitted as an Affiliate Member by virtue of being an employee of such other Corporate Member.

4.06 **Subscribing Member**

a. Subscribing Members shall be those individuals who are admitted as Subscribing Members by the Corporation, from time to time, in accordance with this Section 4.06 (hereinafter referred to as “**Subscribing Members**”).

b. The Board of Directors shall, subject to Section 4.09, admit as a Subscribing Member any individual;

- i. who does not qualify as or wish to become a Regular Member or an Affiliate Member;
 - ii. who has applied for membership in the prescribed form in the Corporation;
 - iii. who has paid the appropriate membership fee to the Corporation;
 - iv. who has been approved for membership by both the Board of Directors and TFAAC; and
 - v. who meets the additional qualifications, if any, prescribed by the Board of Directors from time to time.
- c. Subject to Article 4.02, Subscribing Members shall be entitled to receive notice of and to attend all meetings of the Members but shall not have any vote on any item of business, question or resolution transacted, discussed or presented at any such meeting, unless otherwise provided for herein.

4.07 **Enforceable Contract**

Granting of membership in the Corporation creates an enforceable contract as between the Regular Member, Corporate Member, Affiliate Member or Subscribing Member, as the case may be, and the Corporation, wherein the Regular Member/applicant, Associate Member/applicant, Corporate Member/applicant or Subscribing Member/applicant, as the case may be:

- a. acknowledges the services of the Corporation;
- b. agrees to follow the by-laws, including this By-law, and the rules and regulations of the Corporation, as they may be prescribed by the Board of Directors from time to time; and
- c. agrees to pay the dues and/or fees or a schedule of payments as prescribed by the Board of Directors from time to time,

all in consideration for:

- a. the Corporation granting membership to the applicant; and
- b. the Corporation providing certain services of the Corporation to the Member, as determined by the Board of Directors.

4.08 **Dues & Fees**

There shall be no membership dues, unless directed by the Board of Directors, but there shall be membership fees as prescribed by the Board of Directors from time to time.

4.09 **Specific Fees and Other Requirements**

Any application for membership, and any application for renewal of membership, as it pertains to a Regular Member, Corporate Member, Affiliate Member or Subscribing Member may be refused by the Board of Directors, in its sole discretion, for any reason whatsoever. Any applicant for membership, or renewal of membership, in the Corporation may have specific fees and/or other requirements set by the Board of Directors from time to time, for granting of membership and/or renewal of membership, and if the applicable applicant does not meet such requirements or submit such fees, membership may be refused and/or not renewed.

4.10 **Resignation; Waiver**

No Regular Member, Corporate Member, Affiliate Member or Subscribing Member may withdraw or resign from the Corporation unless such Member delivers to the Corporation written notice and a written resignation; (together with a waiver and release to the Corporation in a form prescribed by the Board of Directors), all lodged with the Secretary of the Corporation. Withdrawal or resignation shall: (i) not relieve the Member of the obligation to pay any dues, fees or other charges therefor accrued and unpaid; and (ii) be effective only when approved by the Board of Directors.

4.11 **Suspension or Expulsion**

The Board of Directors shall have the power to suspend or expel a Regular, Corporate, Affiliate or Subscribing Member from the Corporation in accordance with the by-laws, rules and regulations of the Corporation. Any Member who fails to pay such Member's E&O premium when payment for same falls due shall automatically cease to be a Member of the Corporation.

4.12 **Reinstatement**

The Board of Directors shall have the power, in accordance with the rules and regulations prescribed by the Board of Directors from time to time, to reinstate into the membership of the Corporation a Regular, Corporate, Affiliate or Subscribing Member, as the case may be, either on a conditional or unconditional basis, who has been suspended or expelled as a Member of the Corporation.

4.13 **Transferability of Membership**

Membership in the Corporation is not transferable.

ARTICLE V
MEMBERS' MEETINGS

5.01 **Annual Meeting**

The annual or any other general meeting of the Members shall be held at such time in each year and such place as the Board of Directors may determine for the following purposes:

- a. reviewing and considering the report of the Board of Directors and of any committees who wish to issue a separate report;
- b. receiving and considering the balance sheet as at the year ending, and the statement of income and expenditures for the period prior to the date of such meeting;
- c. receiving and considering the report of the auditors and appointing the auditors for the ensuing year;
- d. receiving the list of directors appointed by TFAAC pursuant to Article 6.01;
- e. transacting any other business that may be properly brought before the meeting.

5.02 **Special Meetings**

The Board of Directors, the Charter Member or fifty (50) Regular Members shall have the power to call a special meeting of Members at any time.

5.03 **Notice of Meeting**

Notice of time and place of each meeting of Members shall be given in the manner provided for herein and shall be given at least twenty-eight (28) days and not more than sixty (60) days before the time fixed for the holding of such meeting, to each director, to the auditors and to each Member who is entitled to such notice and who at the close of business on the record date is entered in the record of the Corporation as a Member of the Corporation. Notice of any special general meeting shall state the business to be transacted at such meeting in sufficient detail to permit each Member to form a reasonable judgment thereon. Any person entitled to notice may in any manner waive notice or otherwise consent to a meeting of Members.

5.04 **List of Members Entitled to Notice**

For any meeting of Members, the Corporation shall prepare a list of Members entitled to receive notice of such meeting arranged in alphabetical order. This list shall be prepared on the date set in accordance with Article 5.05 hereof and shall be available for examination by any Member during regular business hours at the place where the record is kept or at the meeting.

5.05 **Record Date for Notice**

The Board of Directors may fix in advance a record date preceding the date of any meeting of Members by not more than sixty (60) days and not less than twenty-eight (28) days for the determination of Members entitled to notice of the meeting. If no record date is fixed, the record date for the determination of Members entitled to notice of the meeting shall be at the close of business on the day immediately preceding the day on which notice is given.

5.06 **Persons Entitled to be Present**

The only persons entitled to be present at a meeting of Members shall be those entitled to notice, the Board of Directors, the auditors and any other persons determined by the Board of Directors or by consent of the meeting expressed by resolution passed at the meeting.

5.07 **Chair and Secretary**

The chair of any meeting of the Members shall be the Chair of the Corporation and if such person is not present at such meeting the Vice-Chair of the Corporation. If no such officer is present within fifteen (15) minutes of the time fixed for holding such meeting, the persons present and entitled to vote shall choose a chair from among them. The secretary of the meeting shall be the Secretary of the Corporation. If the Secretary is not present within fifteen (15) minutes of the time fixed for holding the meeting, the chair shall appoint a person, who need not be a Member, to act as secretary of the meeting.

5.08 **Quorum**

A quorum for the transaction of business at any meeting of Members shall be the Charter Member alone (represented by proxy) with respect to amendments to the Letters Patent or By-laws of the Corporation, appointment of directors and/or with respect to Article 6.06, and the Charter Member (represented by proxy), majority of Directors and ten (10) Regular Members entitled to vote thereat represented in person or by proxy with respect to such other matters.

5.09 **Proxy**

Every Member entitled to vote at a meeting of Members may appoint a proxyholder, or one (1) or more alternate proxyholders, which proxyholder or proxyholders for a Regular Member need be a Regular Member to attend at the meeting in the manner and to the extent authorized and with the authority conferred by the proxy. A proxy shall be in writing and executed by the Member or such person's duly authorized attorney. The Board of Directors may specify in the notice calling a meeting of Members a time (preceding the time of such meeting by not more than ten (10) days) before which time the proxy to be used at such meeting shall be deposited. The proxy shall only be acted upon if, prior to the time so specified, it shall have been deposited with the Corporation or with an officer or agent thereof specified in such notice, or if no such time is specified in such notice, unless it has been received by the said secretary or by the chairman of the meeting or any adjournment thereof prior to the time of voting.

5.10 **Votes to Govern**

At any meeting of Members, every question shall, unless otherwise required by the Letters Patent or any Supplemental Letters Patent of the Corporation, this By-law, other by-laws of the Corporation or the Act, be determined by a majority of votes cast from those members entitled to vote on the question. The chair shall not be entitled to vote, save and except in the case of an equality of votes, in which case the chair of the meeting shall be entitled to a casting vote.

5.11 **Method of Voting**

- a. Subject to the Act, any question at a meeting of Members shall be decided by a show of hands of the Members entitled to vote on that question, unless a poll or ballot is required or demanded as hereinafter provided. Upon the show of hands, every Member who is entitled to vote and is present or represented by a proxy shall have one (1) vote. Whenever a vote by a show of hands shall have been taken upon a question, unless a ballot thereon is so required or demanded, a declaration by the chairman of the meeting that the vote upon the question has been carried or not carried and an entry to that effect in the minutes shall be *prima facie* evidence of the fact without proof of the number or the proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the question, and the result of the vote so taken shall be the decision of the Members upon the said question.
- b. On any question proposed for consideration at a meeting of Members, whether or not a show of hands has been taken thereon, any Member entitled to vote on such question, whether present in person or represented by proxy, may require or demand a poll or ballot. A poll or ballot so demanded or required shall be taken in such manner as the chairperson of the meeting shall direct. The Member who so requests or demands a poll or ballot may withdraw such a requirement or demand at any time prior to the taking of the poll or ballot. If a poll or ballot is taken, each Member entitled to vote, whether present in person or by proxy, shall have one (1) vote and the result of the poll or ballot so taken shall be the decision of the Members upon the question.

5.12 **Adjournment**

Any meeting of Members shall be adjourned, with the consent or at the request of the Charter Member. Such adjournment may be to a fixed place and time, as determined by the Charter Member. If the meeting is adjourned prior to the meeting, notice of the adjourned meeting shall be given in the manner provided for in Article 22.03 hereof. At the time of the meeting, Members present entitled to vote at such meeting, whether present in person or represented by proxy, and regardless of whether a quorum is present at such meeting, may, with the consent of the Charter Member adjourn the meeting to a fixed time and place, giving notice only to those Members entitled to vote and present at such meeting or represented by proxy, to the Board of Directors and to the auditor.

ARTICLE VI
BOARD OF DIRECTORS

6.01 **Number of Directors**

The property and business of the Corporation shall be managed by a Board of Directors of no less than seven (7) and no more than fifteen (15) directors. The number of directors between seven (7) and fifteen (15) shall be determined from time to time by a majority of the directors at a meeting of the directors duly called for the purpose of determining the number of directors to be appointed. The directors shall be appointed from time to time by the Charter Member at a meeting duly called for the purpose of determining the

directors to be appointed. Up to two (2) individuals may be appointed as directors who are not required to be members of TFAAC.

6.02 **Qualification of the Board of Directors**

Directors must be individuals, at least 18 years of age, with power under law to contract. A Director must be a member of TFAAC, unless such person is one of the maximum of two (2) directors appointed who are not required to be members of TFAAC, as provided in Article 6.01 above.

6.03 **Initial Directors**

The applicants for incorporation shall become the first directors of the Corporation whose term of office shall continue until their successors are appointed. At the first meeting of the Board of Directors, the directors then appointed by the Charter Member shall replace the provisional (initial) directors named in the Letters Patent of the Corporation.

6.04 **Term**

Successors to the first directors shall be appointed for a term of one (1), two (2) or three (3) years, it being the intention that there will be a similar number of directors appointed for one (1) year, two (2) year and three (3) year terms as successors to the first directors. Thereafter, directors shall be appointed for a term of three (3) years, with the proviso that a director cannot be appointed for more than three (3) consecutive three (3) year terms.

6.05 **Retiring Directors**

A retiring director shall remain in office until the dissolution or adjournment of the meeting at which such director's retirement is accepted and such director's successor is appointed.

6.06 **Removal of Directors**

The office of director shall be automatically vacated:

- a. if at a Board of Directors meeting called for that purpose, a resolution is passed by two-thirds (2/3) of the directors of the Corporation that such person be removed from office, and subsequent thereto the written approval of TFAAC to such removal is provided by TFAAC;
- b. if such director has resigned such person's office by delivering a written resignation to the Secretary of the Corporation;
- c. if such director is found by a court to be of unsound mind;
- d. if such director becomes bankrupt or suspends payment or compounds with such person's creditors;

- e. if the Charter Member directs in writing that such director be removed from office;
- f. on such director's death; and/or
- g. on such director ceasing to be a member of TFAAC (unless such director was originally appointed as one (1) of two (2) directors not required to be a Member of TFAAC);

provided that if any vacancy shall occur for any reason contained in this paragraph, the Board of Directors by majority vote, may, by appointment, fill the vacancy, until such time as the Voting Members meet to elect a new director.

6.07 **Remuneration**

The Board of Directors shall serve as such without remuneration, save and except for the chair and any director appointed pursuant to Article 6.01 who is not required to be a member of TFAAC, who may be paid an honorarium, and no director shall directly or indirectly receive any profit from such position; provided that: (i) any director who is engaged in or is a member of a firm engaged in any business or profession may act in and be paid the usual professional costs and charges for any professional business required to be done in connection with the administration of the business and affairs of the Corporation; and (ii) any director who is also an employee of the Corporation shall receive no remuneration for serving as a director of the Corporation. A director may be paid reasonable expenses incurred by such person in the performance of such director's duties. Nothing herein contained shall be construed to preclude any director from serving the Corporation as an officer, employee or in any other capacity and receiving compensation therefor.

ARTICLE VII **POWERS OF DIRECTORS**

7.01 **Power of Board of Directors**

The Board of Directors may, with the consent of the Charter Member, administer the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and, subject to the prior written approval of TFAAC and save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the Corporation is by its charter or otherwise authorized to exercise and do.

7.02 **Restriction on Board of Director's Authority**

Notwithstanding anything else contained in this By-law to the contrary, it is specifically provided that the Corporation, and the Board of Directors and/or anyone else acting on behalf of the Board of Directors may not propose or operate the Corporation on a deficit budget basis, without the prior written approval of the Charter Member. In addition, the

Board of Directors cannot make changes to the Letters Patent and/or By-laws of the Corporation without the prior written approval of the Charter Member. Such written approval must be signed by the Chair and Secretary of the Charter Member, attached to a certified copy of the resolution passed by the Board of Directors of the Charter Member authorizing same.

7.03 **Expenditures**

The Board of Directors shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers of the Corporation the right to employ and pay salaries to employees. The Board of Directors shall have the power to make expenditures for the purposes of furthering the objects of the Corporation. The Board of Directors shall have the power to enter into a trust arrangement with a trust company, bank or any other entity or professional company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the Corporation in accordance with such terms as the board of directors may prescribe. In exercising such powers, the Board of Directors shall require the prior written approval of the Charter Member.

7.04 **Borrowing**

The Board of Directors is hereby authorized, with the prior written approval of the Charter Member, from time to time:

- i. to borrow money upon the credit of the Corporation, from any bank, corporation, firm or person, upon such terms, covenants and conditions at such times, in such sums, to such an extent and in such manner as the Board of Directors in its discretion may deem expedient;
- ii. to limit or increase the amount to be borrowed;
- iii. to issue or cause to be issued bonds, debentures or other securities of the Corporation and to pledge or sell the same for such sums, upon such terms, covenants and conditions and at such prices as may be deemed expedient by the Board of Directors; and
- iv. to secure any such bond, debentures or other securities, or any other present or future borrowing or liability of the company, by mortgage, hypothec, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation, and the undertaking and rights of the Corporation.

From time to time, the Board of Directors may, with the prior written approval of the Charter Member, authorize any director, officer or employee of the Corporation or any other person to make arrangements with reference to the moneys borrowed or to be borrowed as aforesaid and as to the securities to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any moneys borrowed or remaining due by the Corporation as the Board of Directors

may authorize and generally to manage, transact and settle the borrowing of money by the Corporation.

7.05 **Agents and Employees**

The Board of Directors may, with the prior written consent of TFAAC, appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the directors at the time of such appointment.

7.06 **Remuneration**

A reasonable remuneration of all officers, agents and employees and committee members shall be fixed by the Board of Directors by resolution. Such resolution shall have force and effect only until the next meeting of Members when such resolution shall be confirmed by resolution of the Charter Member, or in the absence of such confirmation by the Charter Member, then the remuneration to such officers, agent, or employees and committee members shall cease to be payable from the date of such meeting of Members.

ARTICLE VIII
DIRECTORS' MEETINGS

8.01 **Meetings**

Meetings of the Board of Directors may be held at any time and place to be determined by the Board of Directors provided that fourteen (14) days prior written notice of such meeting shall have been given to each director. A director may waive notice of such meeting, or otherwise consent to a meeting of the Board of Directors without the requirement of the said fourteen (14) days written notice. There shall be at least four (4) meetings per year of the Board of Directors. No error or omission in giving notice of any meeting of the Board of Directors or any adjourned meeting of the Board of Directors shall invalidate such meeting or make void any proceedings taken thereat and any director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

8.02 **Quorum**

A majority of Board of Directors in office, from time to time, shall constitute a quorum for meetings of the Board of Directors. Any meeting of the Board of Directors at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under the by-laws of the Corporation, subject to the qualifications set forth in Article 7.02.

8.03 **Meeting by Teleconference and Other Electronic Means**

a. The Board of Directors of the Corporation may meet by teleconference provided that either a majority of the Board of Directors consents to a meeting by

teleconference or meetings by teleconference have been approved by resolution passed by the Board of Directors at a meeting of the Board of Directors.

- b. The Board of Directors of the Corporation may meet by other electronic means that permits each director to communicate adequately with each other, provided that:
 - i. the Board of Directors have passed a resolution addressing the mechanics of holding such a meeting and dealing specifically with how security issues should be handled and the procedure for establishing a quorum and recording votes;
 - ii. each director has equal access to the specific means of communication to be used; and
 - iii. each director has consented in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

8.04 **Voting**

- a. Each director is authorized to exercise one (1) vote at all meetings of the Board of Directors, save and except the Chair as noted below. The director serving as chair of a meeting of the Board of Directors shall not be entitled to vote, save and except in the case of an equality of votes, in which case the Chair shall be entitled to a casting vote.
- b. Any matter within the powers of the Board of Directors in the administration of the affairs of the Corporation shall be decided upon the approval of a majority of the directors of the Corporation attending at a meeting of directors duly called and properly constituted, subject to the qualifications set forth in Article 7.02.

ARTICLE IX **PROTECTION OF OFFICERS AND DIRECTORS**

- 9.01 Any director or officer of the Corporation shall not be liable for any act, receipt, neglect or default of any other director, officer or employee or for any loss, damage or expense happening to the Corporation through any deficiency of title to any property acquired by the Corporation or for any deficiency of any security upon which any moneys of the Corporation shall be invested or for any loss or damage arising from bankruptcy, insolvency or tortious act of any person including any person with whom any moneys, securities or effects shall be deposited or for any loss, conversion, or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune which may happen in the execution of the duties of his respective office or trust unless such occurrence is as a result of his own wilful neglect or default. The Board of Directors of the Corporation shall not be responsible for any contract or transaction entered into in the name of the Corporation, except such contracts or transactions that are submitted to and authorized by the directors. If any director or officer shall be employed by the Corporation or shall have an interest in a person who is employed by the Corporation,

such director or officer shall not be disentitled from receiving remuneration from such employment.

ARTICLE X
INDEMNITIES TO DIRECTORS AND OTHERS

- 10.01 Every director or officer of the Corporation or other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any company controlled by it and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Corporation, from and against;
- i. all costs, charges and expenses which such director, officer or other person sustains or incurs in or about any action, suit or proceedings which is brought, commenced or prosecuted against him, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office or in respect of any such liability; and
 - ii. all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by such person's own wilful neglect or default.

ARTICLE XI
INTEREST OF DIRECTORS IN CONTRACTS

11.01 **Conflicts of Interest**

- a. Any director of the Corporation who:
 - i. is a party to a material contract or proposed material contract with the Corporation; or
 - ii. is a director or officer of or has a material interest in any body corporate or business firm who is a party to a material contract or proposed material contract with the Corporation,shall disclose in writing or have entered in the minutes, the nature and extent of his interest in such material contract or proposed material contract with the Corporation.
- b. The disclosure required by (a) above, shall be made:
 - i. at the meeting at which a proposed contract is first considered;
 - ii. if the director was not then interested in a proposed contract, at the first meeting after said director becomes so interested; or

- iii. if the director becomes interested after a contract is made at the first meeting held after the director becomes so interested.
- c. If a contract or a proposed contract is one that, in the ordinary course of carrying on the Corporation's non-pecuniary purpose or purposes, would not require approval by the directors or Members, a director shall disclose in writing the nature and extent of his interest at the first meeting held after the director becomes aware of the contract or proposed contract.
- d. A director referred to in sub-paragraph (a) above is liable to account for any profit made on the contract by the director or by a corporate entity or business firm in which the director has a material interest, unless:
 - i. the director disclosed his interest in accordance with subparagraphs (a), (b) or (c) above;
 - ii. after such disclosure the contract was approved by the directors or members; and
 - iii. the contract was reasonable and fair to the Corporation at the time it was approved; and

provided that a director who has made a declaration of his interest in a contract or a proposed contract and has not voted in respect of such contract contrary to the prohibition contained in sub-paragraph (e) below, if such prohibition applies, is not accountable to the Corporation or any of its Members or creditors by reason only of such director holding that office or of the fiduciary relationship thereby established, for any profit realized by such contract.

- e. A director referred to in sub-paragraph (a)(i) above shall not vote on any resolution to approve the contract, unless the contract is:
 - i. an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the Corporation; or
 - ii. one relating primarily to his remuneration as an officer or employee of the Corporation.
- f. For the purposes of this Article XI, a general notice to the directors by a director declaring that said director is a director or officer of or has a material interest in a body corporate or business firm and is to be regarded as interested in any contract made therewith, is a sufficient declaration of interest in relation to any contract so made.
- g. A contract is not void by reason only of the failure of a director to comply with the provisions of this Article XI, but the court may upon the application of the Corporation or a Member, set aside a contract in respect of which a director has failed to comply, with the provisions of this Article XI, and the court may make any further order it thinks fit.

- h. A director of the Corporation shall disclose in writing to the Board of Directors any claim which has been made against such director involving any E&O policy in which the Corporation is involved, and such director shall abstain from voting on any resolution pertaining to underwriting and/or claims determination issues relating to such claim.

ARTICLE XII **OFFICERS**

12.01 **Officers**

The officers of the Corporation shall be the Chair, Vice-Chair, Secretary, Treasurer, and Chief Operating Officer. A director may be appointed to any office of the Corporation but none of the said officers, other than the Chair or Vice-Chair, need be a director of the Corporation. Two or more of the aforesaid offices may be held by the same person. All officers of the Corporation, except the Chief Operating Officer, and except a director appointed as an officer where such director is one (1) of the directors not required to be a member of TFAAC as provided in Article 6.01 (in which case such officer must be an employee or officer of a Corporate Member) must be Regular Members of the Corporation. In case and whenever the same person holds the offices of Secretary and Treasurer, that person may but need not be known as the Secretary-Treasurer. The Charter Member may from time to time appoint such other officers and agents as it shall deem necessary who shall have such authority and shall perform such duties as may from time to time be prescribed by the Board of Directors, as approved in writing by the Charter Member.

12.02 **Appointment of Officers**

Officers of the Corporation shall be appointed by the Charter Member at the first meeting of the Board of Directors following an annual general meeting of Members.

12.03 **Term**

Notwithstanding the foregoing, each incumbent officer shall continue in office for a term of one (1) year from the date of appointment or until their successor is appointed in their stead, until the earlier of:

- i. that officer's resignation, which resignation shall be effective at the time the written resignation is received by the Secretary of the Corporation or at the time specified in the resignation, whichever is later;
- ii. the appointment of a successor;
- iii. the meeting at which the Charter Member annually appoints the officers of the Corporation;
- iv. that officer (except the Chief Operating Officer) ceasing to be a Regular Member;

- v. that officer (being one of the directors appointed and not required to be a member of TFAAC) ceasing to be an employee or officer of a Corporate Member;
- vi. that officer's removal; or
- vii. that officer's death.

Subject to complying with all other requirements, an incumbent officer (or past officer) may be reappointed to the same or another office.

12.04 **Vacancies**

If the office of any officer of the Corporation shall be or become vacant, the Charter Member may appoint a person to fill such vacancy.

12.05 **Removal**

Officers shall be subject to removal by resolution of the Board of Directors of the Corporation, at any time, with or without cause. The Chief Operating Officer shall also be subject to removal by the Chief Executive Officer of TFAAC at any time, with or without cause.

ARTICLE XIII
DUTIES OF OFFICERS

13.01 **Chair**

The Chair of the Board of Directors shall, when present, preside at all meetings of the Corporation and of the Board of Directors and shall have such other powers and duties as may from time to time be assigned to him or her by resolution of the Board of Directors. The Chair, to be appointed and continue as such, must be a member of the Board of Directors and a Regular Member of the Corporation, save and except in the case of an appointed director who is not required to be a member of TFAAC, in which case such director must be (and continue to be during such person's term as officer) an officer or employee of a Corporate Member.

13.02 **Vice-Chair**

The Vice-Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair and shall perform such other duties as shall from time to time be imposed upon the Vice-Chair by the Board of Directors. The Vice-Chair, to be appointed and continue as such, must be a member of the Board of Directors and a Regular Member of the Corporation, save and except in the case of an appointed director who is not required to be a member of TFAAC, in which case such director must be (and continue to be during such person's term as officer) an officer or employee of a Corporate Member.

13.03 **Treasurer**

The Treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank or trust company, or, in the case of securities, in such registered dealer in securities as may be designated by the Board of Directors from time to time. Such person shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the Chair and Board of Directors at the regular meeting of the Board of Directors, or whenever they may require it, an accounting of all the transactions and a statement of the financial position, of the Corporation. The Treasurer shall also perform such other duties as may from time to time be directed by the Board of Directors.

13.04 **Secretary**

The Secretary may be empowered by the Board of Directors, upon resolution of the Board of Directors, to carry on the affairs of the Corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. The Secretary shall give or cause to be given notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or Chair, under whose supervision the Secretary shall act. The Secretary shall be custodian of the seal of the Corporation, which the Secretary shall deliver only when authorized by a resolution of the Board of Directors to do so and to such person or persons as may be named in the resolution.

13.05 **Chief Operating Officer**

The Chief Operating Officer shall perform those duties of the Corporation and exercise those powers on behalf of the Corporation, as determined by TFAAC, and shall report on a regular basis to the Chief Executive Officer of TFAAC.

13.06 **Other Officers**

The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the Chief Executive Officer of TFAAC, or the directors, with the consent of the Charter Member, requires of them.

ARTICLE XIV
COMMITTEES

14.01 **Appointment**

The Board of Directors may, with the consent of the Charter Member, appoint any number of committees whose members will hold their offices at the will of the Charter Member. The Board of Directors shall determine the duties and other matters involving the business and administration of such committees and may fix by resolution, any remuneration to be paid. The Board of Directors shall, at a minimum, create five (5)

committees, being (i) the Underwriting Committee, (ii) The Claims Committee, (iii) the Governance Committee, (iv) the Finance and Investment Committee, and (v) the Audit Committee.

14.02 **Committee Members Serving in Other Capacities**

Nothing in this By-law shall be construed to preclude a member of any committee from serving the Corporation as an officer or in another capacity and receiving compensation for such service.

ARTICLE XV
EXECUTION OF DOCUMENTS

15.01 Contracts, documents or any instruments in writing requiring the signature of the Corporation, shall require the prior written approval of the Charter Member and such contract, document or other instrument shall be signed by any [two (2)] directors and/or officers of the Corporation and all contracts, documents and instruments in writing so signed (after obtaining the aforementioned written approval) shall be binding upon the Corporation without any further authorization or formality. The Board of Directors shall have power from time to time by resolution to appoint an officer or officers on behalf of the Corporation to sign specific contracts, documents and instruments in writing. The Board of Directors may give the Corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the Corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the Board of Directors.

ARTICLE XVI
MINUTES OF BOARD OF DIRECTORS (AND COMMITTEES)

16.01 **Minutes**

The minutes of the Board of Directors and any committee thereof shall not be made available to the Members of the Corporation, but shall be available to the Charter Member and the Board of Directors each of whom shall receive a copy of such minutes within thirty (30) days following each meeting.

ARTICLE XVII
FINANCIAL YEAR

17.01 Unless otherwise determined by the Board of Directors, the fiscal year-end of the Corporation shall be the 31st day of December.

ARTICLE XVIII
AMENDMENT OF BY-LAWS

18.01 The by-laws of the Corporation not embodied in the letters patent may be repealed or amended by by-law enacted by a majority of the directors at a meeting of the Board of Directors and sanctioned by an affirmative vote of at least two-thirds (2/3) of the Members at a meeting duly called for the purpose of considering the said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the written approval of TFAAC and the Minister of Industry has been obtained. A by-law signed by all Members entitled to vote thereon at a meeting of the Members as the case may be, is valid as if passed at such meeting.

ARTICLE XIX
AUDITORS

19.01 The Board of Directors shall, subject to the prior written approval of TFAAC at each annual meeting, appoint an auditor to audit the accounts and annual financial statements of the Corporation for report to the members at the next annual meeting. The auditor shall hold office until the next annual meeting provided that the Board of Directors, with the prior written approval of TFAAC, may fill any casual vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the Board of Directors. The auditor shall not be a director, officer or employee of the Corporation or of an affiliated corporation, or in any way associated with any director, officer or employee, unless the Charter Member has consented to the appointment of such an auditor.

ARTICLE XX
BOOKS AND RECORDS

20.01 The Board of Directors shall see that all necessary books and records of the Corporation required by the by-laws of the Corporation or by any applicable statute or law are regularly and properly kept.

ARTICLE XXI
RULES AND REGULATIONS

21.01 The Board of Directors may, subject to the written ratification of the Charter Member, prescribe such rules and regulations not inconsistent with this By-law relating to the management and operation of the Corporation as they deem expedient.

ARTICLE XXII
INTERPRETATION & NOTICE

22.01 Interpretation

- a. All terms which are contained in the By-laws and which are defined in the Act, but not in any By-law shall have the meaning given to such term in the Act;
- b. The insertion of headings and the division of this By-law into articles, sections and subsections are for the convenience of reference only, and shall not affect the construction or interpretation of this By-law.
- c. In these by-laws and in all other by-laws of the Corporation hereafter passed unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include firms, organizations, associated collectives and corporations.

22.02 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.

22.03 Notice

Whenever notice is required to be given pursuant to his By-law and other by-laws of the Corporation, such notice shall be given personally or by facsimile or electronic transmission, or by depositing same in a post office or a public letterbox in a prepaid sealed wrapper, addressed to the director, officer, Member, auditor or member of a committee, at his, her or its address as the same appears on the books of the Corporation. A notice or other documents sent by post shall be held to be sent at the same time when the same was deposited in a post office or public letterbox as aforesaid and shall be deemed to be received at the time it would be delivered in the ordinary course of mail unless there are reasonable grounds for believing that this is not so, or if sent by electronic means shall be held to be sent when the same was handed to the company responsible for the transmission of such message and shall be deemed to be received the following day. The Secretary may change or cause to be changed the recorded address of any Member, director, officer, auditor or member of a committee in accordance with any information believed by the Secretary to be reliable.

22.04 Undelivered Notices

If any notice is returned on two (2) consecutive occasions because the person to whom it is to be given cannot be found, the Corporation shall not be required to give any further notices to the person to whom it is to be given until such person informs the Corporation in writing of the new address.

22.05 **Omissions and Errors**

The accidental omission to give any notice to any Member, director, officer, auditor or member of a committee, or the non-receipt of any notice to any Member, director, officer, auditor or member of a committee or any error contained in any such notice not affecting the substance of the notice shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

22.06 **Waiver of Notice**

A Member (or such person's duly appointed proxyholder), director, officer, auditor or member of a committee may at any time waive any notice, or waive or abridge the time for any notice, required to be given to such person hereunder or otherwise and such waiver or abridgement shall cure any default in the giving or in the time of such notice as the case may be. Any such waiver or abridgement shall be in writing, except waiver of notice of a meeting of Members or of the Board of Directors, which may be given in any manner.

ENACTED the ____ day of October, 2004.

WITNESS the corporate seal of the Corporation.

● – Chief Operating Officer

● – Secretary

BE IT RESOLVED THAT the foregoing By-Law No. 1 being a by-law relating generally to the transaction of the business and affairs of the Corporation be and the same is hereby made as a by-law of the Corporation and the President and the Secretary be and they are hereby authorized to sign the by-law and to apply the corporate seal thereto.

The undersigned, being all of the directors of the Corporation by their signatures hereby pass, pursuant to the provisions of the *Canada Corporations Act*, the foregoing resolution.

Dated the ____ day of October, 2004

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BE IT RESOLVED THAT the foregoing By-Law No. 1 being a by-law relating generally to the transaction of the business and affairs of the Corporation be and the same is hereby confirmed without amendment as a by-law of the Corporation.

The undersigned, being all of the members of the Corporation by their signatures hereby pass, pursuant to the provisions of the *Canada Corporations Act*, the foregoing resolution.

Dated the ____ day of October, 2004
