

CASEY HOUSE FOUNDATION

BY-LAWS

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ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.01 Definitions

In this By-Law, the following words and phrases shall have the following meanings, respectively:

- (a) **“Act”** means the *Corporations Act* (Ontario) and/or the *Not-for Profit Corporations Act* (Ontario)¹ and, where the context requires, includes the regulations made under it;
- (b) **“Articles²”** means any document or instrument that incorporates a corporation or modifies its incorporating document or instrument, including articles of incorporation, restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent or a special Act;
- (c) **“Associates”** where used to indicate a relationship with any person, means:
 - (i) any partner of that person;
 - (ii) any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity;
 - (iii) the person’s spouse or same-sex partner or any relative of the person; or
 - (iv) any relative of the spouse or same-sex partner of the person;
- (d) **“Board”** means the board of directors of the Corporation;
- (e) **“By-Laws”** means any by-laws of the Corporation from time to time in effect, including this By-Law No. 1;
- (f) **“Chair”** means the chair of the Board of Directors of the Corporation who shall also be President of the Corporation;
- (g) **“Chief Executive Officer”** means the senior employee of the Corporation appointed by the Board to manage and administer the day-to-day affairs of the Corporation. The Chief Executive Officer shall also be the chief executive officer of the Hospital;
- (h) **“Committee”** means a committee of the Board or as otherwise specified in this By-Law;
- (i) **“Conflict of Interest”** includes, without limitation, the following three areas that may give rise to a conflict of interest for any of the Directors, namely:
 - (i) Pecuniary or Financial Interest – a Director is said to have a pecuniary or financial interest in a decision when the Director (or his/her Associates) stands to gain by

¹ Part III of the Corporations Act will be repealed on January, 2014.

² NFPCA 1(1).

that decision, either in the form of money, gifts, favours, gratuities or other special considerations;

- (ii) Undue Influence – a Director’s participation or influence in Board decisions that selectively and disproportionately benefits particular agencies, companies, organizations, municipal or professional groups, or customers or stakeholders of the Corporation from a particular demographic, geographic, political, socio-economic, cultural or other group is a violation of the Director’s entrusted responsibility to act in the best interests of the Corporation as a whole;
 - (iii) Adverse Interest – a Director is said to have an adverse interest to the Corporation when he/she is a party to a current, pending or threatened claim, application or proceeding against the Corporation; and
 - (iv) Personal Relationship – a Director has or may be perceived to have personal interests that are inconsistent with those of the Corporation, creating conflicting loyalties;
- (j) **“Corporation”** means the Casey House Foundation;
 - (k) **“Director”** means a member of the Board;
 - (l) **“ex officio”** means membership “by virtue of office” and includes all rights, responsibilities and power to vote, unless otherwise expressly specified in this By-Law;
 - (m) **“Excluded Person”** means:
 - (i) any person providing supplies or services or their affiliates and any Director, owner, operator, major shareholder, or senior executive (as well as their formal associates including parents, siblings, children, spouses and common-law partners) of such person(s) if such person(s):
 - (A) is under contract with the Corporation;
 - (B) has responded to a request for proposals issued by the Corporation in the previous fiscal year;
 - (C) intends to submit a proposal during the term of office of the Director; or
 - (D) any person convicted of a criminal offence;
 - (ii) any employee other than the Chief Executive Officer;
 - (iii) any Associate of an employee of the Corporation; and
 - (iv) any person convicted of a criminal offence;
 - (n) **“Financial Expertise”** means an individual with past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual’s financial sophistication;

- (o) **“Financially Literate”**: an individual is financially literate if he/she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the Corporation’s financial statements;
- (p) **“Foundation”** means the Casey House Foundation;
- (q) **“Head Office”** means the head office of the Corporation at 119 Isabella Street, Toronto, Ontario, or such other place as the Board determines by Special Resolution from time to time;
- (r) **“Hospital”** means the Casey House;
- (s) **“Letters Patent”** means the letters patent incorporating the Corporation dated December 6, 1988 and any supplementary letters patent of the Corporation;
- (t) **“Member”** means a member of the Corporation;
- (u) **“Officer”** means those officers of the Corporation set out in section 8.01;
- (v) **“Patient”** means, unless otherwise specified, any “in-patient” or “out-patient” of the Corporation;
- (w) **“Performance Metrics”** means the Board approved organization performance metrics that provide an overview of the organization performance in achieving financial and human resource targets and such other performance metrics that the Board may approve from time to time;
- (x) **“Policies”** means the Board administrative and governance policies;
- (y) **“Proclamation Date”** means the date that the *Not-for Profit Corporations Act* (Ontario) is proclaimed into force;
- (z) **“Show of Hands”** includes the polling of those participating in the meeting through teleconference and other acceptable electronic means; and
- (aa) **“Special Resolution”** means a resolution passed by the Directors and confirmed with or without variation by at least two thirds (2/3) of the votes cast at a special meeting of the Members duly called for that purpose or at an annual meeting of the Members, or in lieu of such confirmation, by consent in writing of all Members entitled to vote at such meeting.

1.02 Interpretation

This By-Law shall be interpreted in accordance with the following, unless the context otherwise specifies or requires:

- (a) Words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and vice versa; and words importing persons include individuals, corporations, partnerships, trusts and unincorporated organizations.

- (b) The headings used in this By-Law are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions hereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.
- (c) Any references in this By-Law to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed to reference it as amended or re-enacted from time to time or to reference any successor to it.

1.03 Meeting Procedures

- (a) Any Director, Officer, or employee, as the context requires, may participate in a meeting of the Board or of a Committee by means of telephone conference or electronic or other communication facilities, provided the facilities permit all persons participating in the meeting to communicate adequately with each other during the meeting³. A person participating in such a meeting by such means is deemed, for the purposes of the Act and this By-Law, to be present in person at the meeting.
- (b) The public is allowed to attend any meeting of the Board. The public is not entitled to vote or make motions. Questions may be submitted in advance for consideration by the Chair. The Chair may recognize a member of the public when he/ she considers appropriate.
- (c) Notwithstanding any other provision in this By-Law, the Board may, at its option and without notice, choose to hold all or any part of a Board meeting in camera, if the subject matter under consideration involves:
 - (i) the disclosure of intimate, personal or financial information in respect of an employee or prospective employee; a patient; or a Director, Officer or Committee member of the Foundation;
 - (ii) the acquisition or disposal of real estate;
 - (iii) the deliberations or decisions in respect of negotiations with employees of the Foundation;
 - (iv) any legal proceeding or potential legal proceeding affecting the Foundation;
 - (v) instructions given to or opinions received from professional advisors (e.g., lawyers, auditors, architects, etc.) to the Foundation; or
 - (vi) such other matter deemed by the Chair to be of a sensitive or confidential nature.
- (d) Subject to paragraph (b) above, business arising at any meeting of the Corporation, the Board or any Committee established pursuant to this By-Law shall be decided by a majority of votes, unless otherwise required by:
 - (i) the Act; or

³ NFPCA S.53(4).

- (ii) the rules of procedure selected by the Corporation for such meetings.
- (e) Voting shall take place as follows:
- (i) Except as provided in this By-Law, each Member, each Director and each Committee member shall be entitled to one (1) vote at any meeting of the Corporation, Board or Committee, respectively. All Members must attend annual and/or special meetings of the Corporation in person or via telephone or electronic means in order to be eligible to vote⁴.
 - (ii) Votes shall be by Show of Hands, among all Members and Directors entitled to vote. In the event of a tie the motion is lost.
 - (iii) An abstention shall not be considered a vote cast.
 - (iv) After a Show of Hands has been taken on any question, the chair of the meeting may require, or any person entitled to vote on the question may demand, a poll thereon. A poll so required or demanded shall be taken in such manner as the chair of the meeting shall direct. A demand for a poll may be withdrawn at any time prior to the taking of the poll. Upon a poll, each individual shall have one (1) vote and the result of the poll shall be the decision of the Members, the Board or the Committee, as the case may be.
 - (v) Whenever a vote by Show of Hands shall have been taken on a question, unless a poll is required or demanded, a declaration by the chair of the meeting that a resolution, vote or motion has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution, vote or motion.
- (f) Minutes shall be kept for all meetings of the Corporation, the Board or any Committee, and shall be approved at the next meeting of the Corporation, the Board or the Committee, as the case may be.
- (g) Minutes of the in camera portion of Board meetings will be sequestered as “in camera”.
- (h) The declaration of the Secretary or Chair that notice has been given pursuant to this By-Law shall be sufficient and conclusive evidence of the giving of such notice.
- (i) No error or omission in giving notice for a meeting of the Board or of any Committee shall invalidate such meeting or invalidate or make void any proceedings taken or had at such meeting.
- (j) Any Member, Director or Committee member may at any time waive notice of any meeting of the Members, the Board or a Committee, as the case may be, and may ratify and approve any or all proceedings taken or had at that meeting.

⁴ NFPCA s.67(1). Note that Foundation members could vote by proxy.

- (k) Any questions of procedure at or for any meetings of the Corporation, of the Board, or of any Committee that have not been provided for in this By-Law or by the Act shall be determined by the chair of the meeting in accordance with the rules of procedure adopted by resolution of the Board from time to time. During any period of time that the Board has not adopted rules of procedure, a simple majority vote in support of the chair's ruling will enable a ruling to stand.

ARTICLE 2 PURPOSES OF THE CORPORATION

2.01 Purposes of the Corporation

The purposes of the Corporation as contained in the Articles are to receive and maintain a fund or funds and to apply from time to time all or part thereof and/or the income therefrom exclusively for charitable purposes carried on by, in connection with, in relation to, for the benefit of or to enhance or improve the services provided by or the facilities of the Hospital, a registered charitable organization incorporated pursuant to the laws of Ontario, provided that the Hospital continues to be a registered charity pursuant to the provisions of the *Income Tax Act* (Canada).

ARTICLE 3 MEMBERSHIP OF THE CORPORATION

3.01 Membership Categories

The Members of the Corporation shall be, ex officio, the Directors of the Corporation.

3.02 Resignation

A Member may resign from the Corporation by delivering a written resignation to the Secretary. A resignation shall be effective at the time it is received by the Secretary of the Corporation or at the time specified in the resignation, whichever is later.

3.03 Termination of Membership

- (a) The interest of a Member in the Corporation is not transferable and lapses and ceases to exist⁵ when the Member ceases to be a Director.
- (b) In the event that the Board determines that a Member should be expelled or suspended from membership in the Corporation, the Chair, or such other officer as may be designated by the Board, shall provide fifteen (15) days notice of suspension or termination to the Member and shall provide reasons for the proposed suspension or expulsion. The Member may make written submissions to the Chair, or such other officer as may be designated by the Board, in response to the notice received, within such fifteen (15) day period. In the event that no written submissions are received by the Chair, the Chair or such other officer as may be designated by the Board, may proceed to notify the Member that the Member is suspended or expelled from membership in the Corporation. If written submissions are received in accordance with this section, the Board will consider such submissions in arriving at a final decision and shall notify the Member concerning

⁵ NFPCA s.51.

such final decision within a further fifteen (15) days from the date of receipt of the submissions⁶.

ARTICLE 4 ANNUAL AND SPECIAL MEETINGS OF MEMBERS OF THE CORPORATION

4.01 Annual Meetings – Time and Place

The annual meeting of Members shall be held at the Head Office of the Corporation or at any place in Ontario as the Board determines between April 1st and July 31st in each year on a date fixed by the Board.

4.02 Notice

- (a) Notice of a meeting of Members stating the day, hour and place of the meeting and the general nature of the business to be transacted shall be served either personally or by sending such notice to the Directors, Members and auditor in the manner contemplated in Article 12 at least ten (10) days and not more than fifty (50) days before the date of every meeting.
- (b) Attendance of any Member at a meeting of Members shall constitute a waiver of notice of the meeting, except where such Member attends such meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
- (c) The notice of an annual meeting shall contain sufficient information concerning any special business (see paragraph 4.04(b)) to permit the Member to form a reasoned judgment on the decision to be taken and the text of any special resolution to be submitted to the meeting⁷.

4.03 Annual Meetings Business

- (a) The general business transacted at the annual meeting of the Corporation shall include:
 - (i) reading and/or the consideration⁸ of:
 - (A) the minutes of the previous Members meeting;
 - (B) report of the unfinished business from any previous meeting of the Corporation;
 - (C) reports of the Chair and the Chief Executive Officer;
 - (D) report of the auditor, including presentation of audited financial statements and entering of the auditor's certificate into the record;

⁶ NFPCA s.51(3).

⁷ NFPCA 55(8)(b).

⁸ NFPCA s.55(7).

- (ii) the election of Directors; and
- (iii) appointment of the auditor, licensed under the *Public Accountancy Act* (Ontario), to hold office until the next annual meeting, and authority of Directors to fix the remuneration of the auditor.

Any other items of business conducted at a meeting of the Members shall be deemed to be special business⁹.

- (b) No item of other business shall be considered at the annual meeting unless notice in writing of such item of special business has been given to the Secretary prior to the giving of notice of the annual meeting so that such item of special business can be included in the notice of annual meeting, together with the text of the resolution. If the item of special business is requisitioned by the Members; the Member's requisition must comply with section 4.04.

4.04 Special Meetings

- (a) The Chair may call a special meeting of the Corporation.
- (b) Not less than one tenth (1/10)¹⁰ of the voting Members of the Corporation may, in writing, requisition the Directors to call a special meeting of the Members. Such a meeting can be called for any purpose connected with the affairs of the Corporation that is properly within the purview of the Members' role in the Corporation and that is not inconsistent with the Act. The requisition shall be deposited at the Head Office of the Corporation, may consist of several similar documents, each signed by one or more Members, and shall identify the purpose of the proposed meeting.
- (c) If the Directors, acting in their sole discretion, determine that the requisition:
 - (i) meets the qualifications set out in paragraph 4.04(b), the Directors shall call and hold such meeting within twenty-one (21) days from the date of the deposit of the requisition; or
 - (ii)
 - (A) the requisition does not meet the qualifications set out in paragraph 4.04(b)¹¹; or
 - (B) the primary purpose of the requisition is to enforce a personal claim or redress a personal grievance against the Corporation or its Directors, officers, or Members; or
 - (C) the requisition does not relate in a significant way to the activities or affairs of the Corporation; or

⁹ NFPCA s.55(7).

¹⁰ NFPCA s.60(1).

¹¹ NFPCA s.56(6).

(D) substantially the same requisition was submitted to Members in a notice of a meeting of the Members held not more than two (2) years before the receipt of the requisition and the requisition was defeated; or

(E) the rights conferred by this section are being abused to secure publicity, the Directors shall provide the requisitioning Members with written notice of their determination not to call a meeting within twenty-one (21) days from the date of the deposit of the requisition.

(d) Subject to paragraph 4.04(c) above, if the Directors do not within twenty-one (21) days from the date of the deposit of the requisition call and hold such meeting, any of the requisitions may call such meeting as nearly as possible in the manner as is set out in this section 4.04¹².

4.05 Special Meetings – Notice

(a) Notice of a special meeting shall be delivered in the same manner as notice for an annual meeting.

(b) The notice of a special meeting shall state the purpose for which it is called and the text of any special resolution to be submitted to the meeting¹³.

4.06 Quorum

A quorum for an annual or special meeting of the Corporation shall be a majority of the voting members.

4.07 Chair

The chair of a meeting of the Corporation shall be:

(a) the Chair;

(b) the Vice-Chair, if the Chair is absent or is unable to act;

(c) a chair elected by the voting Members present if the Chair and Vice-Chair are absent or are unable to act. The Secretary shall preside at the election of the chair, but if the Secretary is not present, the Directors, from those present, shall choose a Director to preside at the election; or

(d) if no Director is present or if all the Directors present decline to take the chair, then the persons who are present and entitled to vote shall choose one of their number to be the chair.

¹² NFCA s.60(5).

¹³ FPCA 55(8)(b).

4.08 Adjourned Meeting

- (a) If, within one-half (1/2) hour after the time appointed for a meeting of the Corporation, a quorum is not present, the meeting shall stand adjourned until a day within two (2) weeks to be determined by the chair.
- (b) At least forty-eight (48) hours' notice of the adjourned meeting shall be given in a manner contemplated by section 4.02.

4.09 Written Resolutions

A resolution signed by all the Members entitled to vote on that resolution at a meeting of the Members is as valid as if it had been passed at a meeting of the Members¹⁴.

4.10 Financial Year End

The financial year of the Corporation shall end with the 31st day of March in each year.

ARTICLE 5 BOARD OF DIRECTORS

5.01 Board of Directors Composition

- (a) The affairs of the Corporation shall be governed by a Board consisting a maximum of twenty-five (25) and a minimum of eighteen (18) Directors , of whom:

Elected

- (i) a minimum of fifteen (15) Directors and a maximum of twenty-one (21) shall be elected by the Members;

Ex Officio Non-Voting

- (ii) the Chief Executive Officer; and
 - (iii) the Chief Development Officer.
- (b) Notwithstanding paragraph (a) above, in any given year in which a Director serving as Past-Chair exceeds the term of office restriction set out in section 5.03 of this By-Law, the affairs of the Corporation shall be governed by a Board consisting of a maximum of twenty-six (26) Directors.
 - (c) The number of elected Directors shall be fixed from time to time by at least a two-thirds (2/3) vote of the Directors.

5.02 Term of Office

- (a) Directors shall be elected in rotation for a three (3) year term.

¹⁴ NFPCA s.59(1).

- (b) Additional Directors shall be elected to replace Directors retiring early on a one for one basis, and shall be elected for the remaining term of the retiring Director.

5.03 Term of Office Restrictions

Subject to section 8.02, no person may be elected a Director for more terms than will constitute six (6) consecutive years of service; provided, however, that following a break in continuous service of at least one (1) year the same person may be re-elected a Director.

5.04 Non-Voting Directors

The Chief Executive Officer and the Chief Development Officer shall be non-voting ex officio Directors.

5.05 Qualification of Directors

Every Director shall¹⁵:

- (a) be a Director of the Hospital;
- (b) be eighteen (18) or more years of age;
- (c) not be an undischarged bankrupt;
- (d) not be an Excluded Person;
- (e) not be a person who is not an individual;
- (f) not be a person who has been found under the *Substitute Decisions Act*, 1992 or under the *Mental Health Act* to be incapable of managing property;
- (g) not be a person who has been found to be incapable by any court in Canada or elsewhere;
- (h) not be any person who has been found guilty of a non-criminal "relevant offence" (offences that relate to financial dishonesty or are otherwise relevant to the operation of a charity, including violations of fundraising, consumer protection or securities legislation);
- (i) not be a director of a charity during a period in which the charity engaged in conduct that was a serious breach of the requirements for registration for which the charity had its registration revoked; and
- (i) not be a promoter of a gifting arrangement or other tax shelter in which a charity participated and the registration of the charity has been revoked.

5.06 Termination of Office

The office of an elected Director shall automatically be vacated if:

¹⁵ NFPCA s.23(1).

- (a) the Director ceases to be a Director of the Hospital;
- (b) the Director becomes bankrupt or suspends payment of debts generally or compounds with creditors or makes an assignment in bankruptcy or is declared insolvent;
- (c) an order is made declaring the Director to be a mentally incompetent person or incapable of managing his/her affairs;
- (d) the Director, by notice in writing to the Secretary of the Corporation, resigns his/her office, which resignation shall be effective at the time it is received by the Secretary of the Corporation or at the time specified in the notice, whichever is later;
- (e) the Director dies;
- (f) the Members by a majority of vote, declares the Director's seat vacant because:
 - (i) the Director has failed to comply with the Board's attendance policy; or
 - (ii) the Director has failed to comply with the Act¹⁶, or the Corporation's By-Laws, policies or procedures, including without limitation, the confidentiality, conflict of interest and standard of care provisions contained in this By-Law; or
 - (iii) if a Director's conduct is determined to be detrimental to the Corporation¹⁷; or
 - (iv) for any other reason that the Members consider to be reasonable, having regard to the purpose of the Corporation.

ARTICLE 6 RESPONSIBILITIES OF THE BOARD AND INDIVIDUAL DIRECTORS

6.01 Standard of Care

Every Director and Officer of the Corporation, in exercising his/her powers and discharging his/her duties, shall¹⁸:

- (a) act honestly and in good faith with a view to the best interests of the Corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

6.02 Conflict of Interest

- (a) Subject to compliance with the Act, every Director and Officer who, either directly or through one of his/her Associates, has or thinks he/she may potentially have a Conflict of

¹⁶ NFPCA 43(2).

¹⁷ NFPCA s.56(6).

¹⁸ NFPCA s.43.

Interest with respect to a proposed or current material¹⁹ contract, transaction, matter or decision of the Corporation, shall disclose the nature and extent of the Conflict of Interest at a meeting of the Board.

- (b) The declaration of interest shall be disclosed at the meeting of the Board at which the material contract, transaction, matter or decision is first raised.
- (c) If the Director, or his/her Associates, becomes interested in a material contract, transaction, matter or decision after the Board meeting at which it is first raised, the Director shall make a declaration at the next Board meeting following the Director's perception or apprehension of a conflict.
- (d) In the case of an existing material contract, transaction, matter or decision, the declaration shall be made at the first meeting of the Board after the individual becomes a Director or the interest comes into being.
- (e) After making such a declaration, no interested Director shall vote or be present at the vote or during the discussions, or otherwise attempt to influence the voting, on a material contract, transaction, matter or decision, nor shall the Director be counted in any required quorum with respect to the vote.
- (f) If a Director has made a declaration of Conflict of Interest in compliance with this By-Law, the Director is not accountable to the Corporation for any profits he/she may realize from the material contract, transaction, matter or decision.
- (g) If the Director fails to make a Declaration of his/her interest in a material contract, transaction, matter or decision, as required by this By-Law, this failure may be considered grounds for termination of his/her position as a Director, in addition to any other remedies available to the Corporation under statute, equity or common law.
- (h) The failure of any Director to comply with the Conflict of Interest provisions of this By-Law does not, in or of itself, invalidate any material contract, transaction, matter or decision undertaken by the Board.
- (i) If a Director believes that any other Director is in a Conflict of Interest position with respect to any material contract, transaction, matter or decision:
 - (i) the Director shall have his/her concern recorded in the minutes;
 - (ii) the Director with the alleged Conflict of Interest shall have the right to address the Board with respect to the allegation;
 - (iii) thereafter, the Board, after the Director alleged to have a Conflict of Interest has absented himself from the room, shall vote on whether the Director, in the opinion of the Board, is in a Conflict of Interest;

¹⁹ NFPCA s.41(1).

- (iv) if the Board finds the Director in a Conflict of Interest, that Director shall absent himself during any subsequent discussion or voting process relating to or pertaining to the conflict;
 - (v) the question of whether or not a Director has a Conflict of Interest shall be determined by a simple majority of the Board and shall be final; and
 - (vi) if the Board finds that the Director does not have a Conflict of Interest, the Director remains responsible to declare a conflict if one develops.
- (j) If the Board finds that the person is not in conflict, the Board will then vote on the material contract, transaction, matter or decision and the votes of each Director, including the Director with the alleged conflict, shall be recorded.
- (k) Every declaration of a Conflict of Interest and the general nature thereof shall be recorded in the minutes by the Board.
- (l) Where the number of Directors who, by reason of the provisions of this section, are prohibited from participating in a meeting is such that, at that meeting the remaining Directors are not of sufficient number to constitute a quorum, then, notwithstanding any other provision in this By-Law, the remaining number of Directors shall be deemed to constitute a quorum, provided such number is not less than three (3).
- (m) Where, in the circumstances mentioned in paragraph (l) above, the remaining number of Directors who are not prohibited from participating in the meeting is less than three (3), the Chair may apply to the Superior Court of Justice on an ex parte basis for an order authorizing the Board to give consideration to, discuss and vote on the matter out of which the interest arises.
- (n) The Court may, on an application brought under paragraph (m) above, by order, declare that this section does not apply to the Board, as the case may be, in respect of the matter in relation to which the application is brought, and the whole Board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the Directors had any interest therein, subject only to such conditions and directions as the Court may consider appropriate and so order.
- (o) Directors of the Corporation that are affiliated with the Hospital may have an actual or perceived conflict of interest with the Corporation. Where such conflicts arise solely because of the relationship between the Corporation and a Member of the Corporation, the circumstances shall be deemed, notwithstanding any other provision contained in this By-Law or in the Act, not to be conflict as such circumstances are inevitable given the Corporation's purposes and its corporate governance structure. The Board also believes that given the Corporation's purposes, the benefits of having such Members on the Board outweigh any potential difficulties relating to the perceived or actual conflicts of interest. The benefits include:
- (i) reflection of the operational reality of the inter-relationship that the Corporation has with key stakeholders/partners that is critical to the Corporation achieving its mission and vision, and

- (ii) increased capacity of the Board because it leads to fuller and more informed deliberation on issues that have cross-organizational implications.

6.03 Confidentiality/Public Relations

- (a) Unauthorized statements may adversely affect the interests of the Corporation. Every Director, Officer, and employee of the Corporation and every member of a Committee shall respect the confidentiality of matters brought before the Board or any such Committee or coming to his/her attention in the course of his/her duties.
- (b) Only the Chair is responsible for Board communications and may delegate authority to one or more Directors, Officers or employees of the Corporation to make statements to the news media or public about matters that the Chair the Board determines appropriate for disclosure. No statements respecting such matters shall be made to the public or the press by any Director, Officer, or employee except as authorized by the Chair or the Board.
- (c) Persons, other than persons referred to in paragraph (a) above, permitted to attend any meeting of the Board or any meeting of a Committee shall be advised that they are required to respect the confidentiality of all matters coming to their attention during any such meeting and shall undertake accordingly.

6.04 Remuneration of Directors

- (a) The Directors of the Corporation shall serve as such without remuneration, and no Director shall directly or indirectly receive any profit from his/her position as such, provided that a Director may be paid reasonable expenses incurred by him/her in the performance of his/her duties as a Director.
- (b) Nothing in this By-Law shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation thereof.

6.05 Roles of the Board

The Board shall:

- (a) approve the vision and/or mission statements for the Corporation;
- (b) approve the strategic plan consistent with the purposes of the Corporations (Article 2), the vision statement and/or mission statement;
- (c) ensure that key corporate priorities are formulated that help the Corporation actualize its vision and accomplish its mission in accordance with the strategic plan;
- (d) oversee the implementation of internal control and management information systems which will allow the Board and management to oversee the Corporation's achievement of Performance Metrics;
- (e) recruit, retain, evaluate and compensate the Chief Executive Officer;
- (f) establish a Board Policy for the performance evaluation and compensation of the Chief Executive Officer. The Policy shall ensure that:

- (i) the Chief Executive Officer's performance evaluation and compensation are aligned with the Corporation meeting its Performance Metrics targets;
 - (ii) all Board members are provided an opportunity to provide input into the process; and
 - (iii) the Board shall be required to approve any changes to the Chief Executive Officer's employment agreement or compensation;
- (g) provide operational oversight to:
- (i) ensure procedures are in place for monitoring compliance with relevant legislation, regulations, affiliation agreements and by-laws; and,
 - (ii) ensure the corporation operates effectively and efficiently.
- (h) provide financial oversight to:
- (i) ensure the financial viability of the Corporation;
 - (ii) ensure the efficient use of financial resources; and
 - (iii) Audit of the Corporation;
- (i) provide governance to:
- (i) ensure and review the Board's effectiveness;
 - (ii) ensure and review the effectiveness of each Director;
 - (iii) nominate new Directors;
 - (iv) ensure the removal of Directors as prescribed; and
 - (v) ensure that the Board complies with legal and regulatory requirements.
- (j) provide communications and advocacy:
- (i) to ensure that the Board and the Corporation have policies and methods to communicate effectively with stakeholders, government and the general public.

The Board shall delegate responsibility and concomitant authority to the Chief Executive Officer for the management and operations of the Corporation, and require accountability to the Board.

6.06 Performance Expectations of Each Director

- (a) Accountability
 - (i) The Director does not represent the specific interests of any constituency, stakeholder or Member.

- (ii) The Director does not function as an advocate, except as requested by the Board and consistent with the Corporation's purposes, mission, vision and values.
- (iii) The Director complies with the Act, the By-Laws, and the Board's policies and procedures.

(b) Exercise of Authority

- (i) A Director carries out the powers of the office only when acting as a voting member during a duly constituted meeting of the Board or one of its appointed bodies.
- (ii) A Director respects the responsibilities delegated by the Board to the Chief Executive Officer, avoiding interference with their duties, but insisting upon accountability and reporting mechanisms for assessing organizational performance.

(c) Team Work

A Director works positively, cooperatively and respectfully with other Directors, the Officers, and the Chief Executive Officer of the Corporation.

(d) Attendance

- (i) The Director attends Board and assigned Committee meetings and Board retreats, in accordance with the minimum expectations established by the Board attendance policy.
- (ii) All Directors are expected to serve on at least one Committee and to represent the Board when requested.

(e) Participation

- (i) The Director comes prepared to meetings (of both the Board and its Committees) and events, asks informed questions, and makes a positive contribution to discussions.
- (ii) The Director treats others with respect.

(f) Competencies

Where appropriate, the Director actively contributes specific expertise, skills and other attributes that are needed on the Board.

(g) Confidentiality

The Director respects the confidentiality of Board discussions and information and follows the Board policy governing communications.

(h) Public Support

The Director supports the decisions and policies of the Board in discussions with outsiders, even if the Director voiced or holds other views or voted otherwise at the Board.

(i) Education

The Director takes advantage of opportunities to be educated and informed about the Board and the Corporation's marketplace and industry.

(j) Evaluation

The Director participates in the evaluation of the Board and individual members.

(k) All Directors are expected to make an annual donation to the Corporation at a level considered appropriate by the director in his or her own discretion.

ARTICLE 7 REGULAR AND SPECIAL MEETINGS OF THE BOARD

7.01 Regular Meetings

- (a) The Board shall meet at the Head Office or another place in Ontario determined by the Board, at such time as the Board may from time to time determine.
- (b) There shall be at least four (4) regular meetings per year. The Board shall determine the dates for the upcoming year's regularly scheduled meetings, and this schedule shall be circulated to all Directors. The circulation of the notice shall be deemed to be notice of meetings.

7.02 Special Meetings

Special meetings of the Board shall be called by the Secretary on the request of any of the following:

- (a) the Chair the Board; or
- (b) any three (3) Directors, by written request.

7.03 Notice of Regular and Special Meetings

- (a) Subject to paragraph 7.01(b), notice of regular Board meetings shall be sent by ordinary mail, electronic transmission or courier at least ten (10) days before the date on which the meeting is to be held.
- (b) Notice of a special meeting of the Board may be given by telephone and/or email at least twenty-four (24) hours in advance of the meeting. The notice of a special meeting shall state the purpose for which it is called.
- (c) Provided a quorum of Directors is present, each newly elected Board may, without notice, hold its first meeting immediately following the annual meeting of Members at which the Board is elected.

7.04 Quorum

- (a) (i) A quorum at any meeting of the Board shall be the presence of a majority of the voting Directors, either in person or by telephone conference or other facilities as described in paragraph 1.03(a).
- (ii) The non-voting Directors shall not count towards quorum.

No meeting of the Board shall be duly constituted for the transaction of business unless a quorum is present. There will be no representation by proxy at any Board meeting.

- (b) If, within one-half (1/2) hour after the time appointed for a meeting of the Board, a quorum is not present, the meeting shall stand adjourned until a day within two (2) weeks to be determined by the Chair. At least forty-eight (48) hours' notice of the adjourned meeting shall be given.

7.05 Chair of Board Meetings

Board meetings shall be chaired by:

- (a) the Chair;
- (b) the Vice-Chair if the Chair is absent; or
- (c) a Director elected by the Directors present if the Chair and Vice-Chair are both absent.

7.06 Procedures for Board Meetings

- (a) The declaration of the Secretary or Chair that notice has been given pursuant to this By-Law, shall be sufficient and conclusive evidence of the giving of such notice.
- (b) No error or omission in giving notice for a meeting of Directors shall invalidate such meeting or invalidate any proceedings at such meeting and any Director may at any time waive notice of any such meeting and may ratify and approve any or all proceedings.
- (c) Minutes shall be kept for all meetings of the Board.
- (d) Despite any other provisions of this By-Law, any Director may at any time require that a vote be recorded. The request for a recorded vote does not require a motion and is not debatable or amendable.
- (e) From and after the Proclamation Date, a Director who is present at a meeting of the Directors or of a Committee of Directors is deemed to have consented to any resolution passed or action taken at the meeting, unless²⁰:
 - (i) the Director's dissent is entered in the minutes of the meeting;

²⁰ NFPCA s.45(1).

- (ii) the Director requests that his or her dissent be entered in the minutes of the meeting;
 - (iii) the Director gives his or her dissent to the secretary of the meeting before the meeting is terminated; or
 - (iv) the Director submits his or her dissent immediately after the meeting is terminated to the Corporation.
- (f) From and after the Proclamation Date, a Director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented to the resolution or action unless within seven days after becoming aware of the resolution, the Director,
- (i) causes his or her dissent to be placed with the minutes of the meeting; or
 - (ii) submits his or her dissent to the Corporation.

7.07 Written Resolutions

A resolution, signed by all the Directors entitled to vote on that resolution at a meeting of Directors or of a committee of Directors is as valid as if it had been passed at a meeting of Directors or of a committee of Directors²¹.

ARTICLE 8 OFFICERS

8.01 Officers

- (a) The Officers shall be the officers of the Hospital, ex officio, the Chair, Vice Chair, Secretary and Treasurer.
- (b) Ex officio Directors shall be ineligible for election as Chair or Vice-Chair.
- (c) Upon the election of the Chair by the Board, the immediately preceding Chair will remain on the Board and shall serve as Past-Chair.
- (d) Any Officer of the Board shall cease to hold office upon resolution of the Board.

8.02 Duties of the Chair

The Chair the Board shall, without limitation:

- (a) when present, preside at all meetings of the Board and act as chair of such meetings;
- (b) report to each annual meeting of the Corporation, and at all such other times as the Chair the Board may consider advisable or necessary, concerning the management and operations of the Corporation;

²¹ NFPCA s.45(3).

- (c) in consultation with the Chief Executive Officer, develop the agenda for Board meetings;
- (d) ensure that appropriate notice of Board and Committee meetings is given to Directors and Committee members;
- (e) where possible, ensure that appropriate Board and Committee information and supporting materials are provided to the Board and Committee members at least seven (7) days prior to the meeting;
- (f) report regularly and promptly to the Board issues that are relevant to their governance responsibilities;
- (g) be responsible for addressing issues associated with under-performance of individual Directors including, if applicable, their removal from the Board;
- (h) ensure that the annual review of the Chief Executive Officer's performance and compensation is done in accordance with Board policy;
- (i) represent the Corporation at public or official functions;
- (j) be an ex officio member of all Committees of the Board;
- (k) when present, preside at meetings of the Governance Committee;
- (l) serve as the Board's central point of official communication with the Chief Executive Officer and, as such, develop a positive, collaborative relationship with the Chief Executive Officer, including acting as a sounding board for the Chief Executive Officer on emerging issues and alternative courses of action;
- (m) stay up-to-date about the Corporation and determine when an issue needs to be brought to the attention of the Board or a Committee;
- (n) set a high standard for Board conduct by, articulating and upholding rules of conduct set out in By-Laws and policies;
- (o) intervene when necessary in instances involving conflict of interest, confidentiality and other Board policies; and
- (p) assume and perform such other duties as may from time to time be assigned by the Board.

8.03 Term of Office Restrictions

- (a) No Director may serve as Chair or Vice-Chair for more than two (2) consecutive annual terms in one office; provided, however, that following a break in continuous service of at least one (1) annual term, the same person may be re-elected or re-appointed to the office.
- (b) If applicable, a Director elected to the position of Chair or Vice-Chair shall be exempt from the term of office restrictions set out in section 5.03 in order to complete respective terms of office as Chair, Vice-Chair or Past-Chair. In addition, a Director whose final year as Chair

of the Board coincides with his/her sixth consecutive year on the Board may be elected for a seventh year in order to serve as Past Chair and thus provide continuity to the Board.

8.04 Duties of the Vice-Chair

The Vice-Chair shall:

- (a) have all the powers and perform all the duties of the Chair during the absence or disability of the Chair; and
- (b) perform such other duties, if any, as may be from time to time assigned by the Board.

8.05 Duties of the Treasurer

The Treasurer of the Corporation shall:

- (a) oversee the management of the finances of the Corporation;
- (b) serve as the Chair of the Audit and Finance Committee; and
- (c) perform such other duties as may be assigned by the Board from time to time.

8.06 Duties of the Secretary

The Secretary shall:

- (a) ensure the proper recording and maintenance of minutes of all meetings of the Corporation, the Board and Committees appointed or authorized by the Board;
- (b) give, or cause to be given, notice of all meetings of the Corporation, the Board and its Committees;
- (c) keep a roll of names and addresses of the members of the Board;
- (d) attend to correspondence of the Board;
- (e) prepare all reports required under any applicable law or regulation of the Province of Ontario;
- (f) keep copies of all testamentary documents and trust instruments by which benefits are given to the use of the Corporation;
- (g) at least semi-annually obtain and provide an accounting to the Board with respect to all funds held in trust by the Corporation;
- (h) chair the first meeting of the Directors of the Corporation following the annual meeting until such time as the Chair is elected by the Directors;
- (i) have custody of all minute books, documents and registers of the Corporation and ensure that the same are maintained as required by the Act and other applicable Legislation;

- (j) obtain and submit quarterly certificates to the Board in respect of the previous quarter evidencing that all wages owing to employees and source deductions relating to the employees that the Corporation is required to deduct and remit to the proper authorities (including the *Income Tax Act*, Canada Pension Plan, the *Employment Insurance Act* and the *Employer Health Tax Act*) have been made and remitted to the proper authorities, and that all taxes collected pursuant to the *Excise Sales the Tax Act* and the *Retail Sales Tax Act* (Ontario) have been collected and remitted to the appropriate authorities;
- (k) be the custodian of the seal of the Corporation; and
- (l) perform such other duties as may be required of the Secretary by the Board.

8.07 Duties of the Past-Chair

The Past-Chair shall serve as a resource to the new officers of the Corporation and perform such duties as may be assigned from time to time by the Chair.

8.08 Appointment of the Chief Executive Officer

- (a) The Chief Executive Officer shall be appointed by the Board in accordance with its approved selection process.
- (b) The Board may at any time revoke or suspend the appointment of the Chief Executive Officer.
- (c) The Board shall delegate responsibility and concomitant authority to the Chief Executive Officer for the management and operations of the Corporation, and require accountability to the Board.
- (d) In the case of the absence or inability to act of the Chief Executive Officer, or for any other reason that the Board may deem sufficient, the Board shall delegate all or any of the powers of the Chief Executive Officer to one or more employees of the Corporation or any other person.

8.09 Duties of the Chief Executive Officer

The Chief Executive Officer responsibilities to the Board include:

- (a) the management of all affairs of the Corporation as directed by the Board from time to time;
- (b) the exercise of the authority delegated to the Chief Executive Officer by the Board through Board policies for the organization and operation of the Corporation;
- (c) discharge the duties required to execute Board policies;
- (d) taking such action as the Chief Executive Officer considers necessary to ensure compliance with the Act, the Affiliation Agreement and the By-Laws of the Corporation;

- (e) submitting quarterly certificates certifying that the methodology and data used by management to report Performance Metrics to the Board and federal and provincial agencies appropriately and accurately reflects the Corporation's performance; and
- (f) apprising the Board of risks to the Corporation.

8.10 Duties of the Chief Development Officer

The Chief Development Officer shall:

- (a) develop, manage and lead through a team of 6 staff the activities in the fundraising department including major gifts, annual campaigns, special events, planned giving, communications, marketing, special events and community relations;
- (b) work closely with the Hospital Board of Directors and the Fundraising Sub-Committee, to ensure that the Hospital's goals are achieved; and
- (c) report to the Chief Executive Officer.

ARTICLE 9 INDEMNIFICATION OF DIRECTORS AND OFFICERS

9.01 Indemnification and Insurance²²

- (a) The Corporation shall indemnify the Directors and officers of the Corporation, the former Directors or officers of the Corporation or an individual who acts or acted at the Corporation's request as a Director or officer, or in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individual is involved because of that association with the Corporation or other entity.
- (b) The Corporation shall advance money to the Director, officer or other individual referred to in paragraph 9.01(a) for the costs, charges and expenses of an action or proceeding referred to in that paragraph, but the individual shall repay the money if the individual does not fulfil the conditions set out in paragraph 9.01(c).
- (c) The Corporation shall not indemnify an individual under paragraph 9.01(a) unless,
 - (i) the individual acted honestly and in good faith with a view to the best interests of the Corporation or other entity, as the case may be; and
 - (ii) if the matter is a criminal or administrative proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

²² NFPCA s.46(6).

9.02 Indemnification of Employees

The Corporation may indemnify an employee or former employee of the Corporation or independent contractor (hereinafter referred to as the "Indemnified Person") who acts or acted at the Corporation's request and the Indemnified Person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the Indemnified Person in respect of any civil, criminal or administrative action or proceeding to which the Indemnified Person is made a party by reason of being or having been an employee of the Corporation, if,

- (a) the Indemnified Person acted honestly and in good faith with a view to the best interests of the Corporation; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the Indemnified Person had reasonable grounds for believing that the Indemnified Person's conduct was lawful.

9.03 Insurance

The Corporation may purchase and maintain insurance for the benefit of an individual referred to in paragraph 9.01(a) against any liability incurred by the individual,

- (a) in the individual's capacity as a Director or officer of the Corporation; or
- (b) in the individual's capacity as a Director or officer, or a similar capacity, of another entity, if the individual acts or acted in that capacity at the Corporation's request.

ARTICLE 10 COMMITTEES OF THE BOARD

10.01 Establishment of Committees

- (a) The Board may establish standing and special Committees whose members will hold their offices at the will of the Board. The Committees of the Corporation shall be those of the Board of Directors of the Hospital, save for the Foundation Committee.
- (b) The standing Committees of the Board shall be:
 - (i) the Governance Committee;
 - (ii) the Audit and Finance Committee;
 - (iii) the Foundation Committee; and
 - (iv) such other standing Committees as the Board may from time to time deem necessary.
- (c) Special Committees shall be those Committees appointed for specific duties whose mandate shall expire with the completion of the tasks assigned. The Board shall prescribe terms of reference for any special Committee.

- (d) The members of any Committee (other than the Governance Committee) need not be Directors of the Corporation. The Board shall appoint members of all Committees and the chair of all Committees, taking into consideration the recommendations of the Governance Committee.
- (e) The Board shall approve terms of reference for each committee. Any terms of reference not included in this By-Law shall be included in policies approved by the Board.
- (f) The Board shall assign to the respective standing and special committees responsibility for the oversight and monitoring specified Performance Metrics.

10.02 Procedural Rules for Committees

- (a) Members of the Board shall chair all Committees.
- (b) The Chair the Board shall be, ex officio, a member of all Committees but shall only count towards quorum if he/she is present.
- (c) A quorum for any meeting of any Committee shall be a majority of the voting members of the Committee.
- (d) Procedures at Committee meetings shall be determined by the chair of each Committee, unless established by a Board policy.

10.03 Governance Committee

- (a) The Governance Committee shall consist of:
 - (i) the Chair;
 - (ii) the Vice Chair;
 - (iii) the Secretary of the Board;
 - (iv) the Chair of each standing committee;
 - (v) up to two (2) elected Director, who may act as the Committee chair; and
 - (vi) The Past Chair, as appropriate.
- (b) The Chief Executive Officer shall, unless the chair determines that the meeting is to be held in camera, be invited to all Governance Committee meetings as non-voting members.
- (c) The terms of reference for the Governance Committee shall include exercising the full power of the Board in all matters in which the full Board is unable to act and the circumstances require action on an emergency basis.

10.04 Audit and Finance Committee

- (a) The Audit and Finance Committee shall consist of:

- (i) the Treasurer, who shall be Chair;
 - (ii) at least three (3) other elected Directors;
 - (iii) at least three (3) non-Director members;
 - (iv) such other individuals as appointed by the Board of Directors.
- (b) Every member of the Audit and Finance Committee shall be independent of the Corporation within the meaning of all applicable laws, rules and regulations including those particularly applicable to the Audit and Finance Committee members and any other relevant consideration as determined by the Board of Directors.
- (c) All members of the Audit and Finance Committee should be financially literate or be willing and able to acquire the necessary knowledge. Financially literate means the ability to read and understand financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the Corporation's financial statements. The Chair shall have a background in accounting or related financial management experience which would include any experience or background which results in the individual's financial sophistication, including being or having been an auditor, a Chief Executive Officer or other senior officer with financial oversight responsibilities. Audit and Finance Committee members will enhance their familiarity with financial, accounting and other areas relevant to their responsibilities by participating in educational sessions or other opportunities for development.
- (d) In fulfilling the responsibilities, the Audit and Finance Committee has the authority to conduct any investigation and access any officer, employee or agent of the Corporation appropriate to fulfilling its responsibilities, including the auditor. The Audit and Finance Committee may obtain advice and assistance from outside legal, accounting or other advisors as the Audit and Finance Committee deems necessary to carry out its duties and may retain and determine the compensation to be paid by the Corporation for such independent counsel or outside advisor in its sole discretion without seeking Board approval.
- (e) The Audit and Finance Committee shall review the audited financial statements, the auditors' findings, fiscal reporting processes and internal control processes within the Corporation and to report to the Board of Directors thereon.
- (f) The Audit and Finance Committee shall have the following responsibilities:
- (i) review and approve each year, the Audit Planning Report prior to the start of year end field work by the external auditing firm;
 - (ii) review, with the auditors, the annual Audited Report and to discuss with them and with the senior management of the Foundation the recommendations contained within the Management Letter;
 - (iii) recommend compliance with or amendments to internal processes on the advice of the auditors or as a result of the independent investigative deliberations of the Audit and Finance Committee;

- (iv) Ensure:
 - (A) the adequacy of financial controls, particularly with respect to the implementation of any observations/recommendations made by the auditors regarding the internal financial system and control procedures of the Corporation; and
 - (B) the compliance of the Corporation with relevant statutory and regulatory controls concerning financial controls and financial reporting;
- (v) review the external environment (such as new directives, bills and acts as they relate to the purpose and objectives of the Audit and Finance Committee, accounting frameworks, policies and system policy changes as well as accounting estimates, actuarial valuations etc) and consider the impact of any changes or developments on the role and function of the Audit and Finance Committee;
- (vi) undertake an annual review of the performance of the auditors and to make a recommendation to the Board of Directors with respect to the Audit and Finance Committee's satisfaction with the auditors performance as a means of assisting the Board of Directors in their decision with respect to appointment or reappointment of the auditors;
- (vii) recommend the approval of the Audited Financial Statements to the Board of Directors and to draw to the attention of the Board any internal procedures which the Audit and Finance Committee deems to put the Foundation at risk fiscally; and
- (viii) report to the Board of Directors at least annually.

10.05 Foundation Committee

- (a) The Foundation Committee shall consist of at least,
 - (i) four (4) Directors;
 - (ii) the Chief Executive Officer (non-voting);
 - (iii) the Chief Development Officer of the Foundation (non-voting); and
 - (iv) such other individuals as the Chair recommends.
- (b) The Chair of the Foundation Committee shall be a Director of the Corporation.
- (c) The Foundation Committee shall be responsible for raising charitable donations for the Corporation for both program and capital purposes.

10.06 Non-Directors on Committees

- (a) In this section, "non-Director" means a person who is not a Director of the Corporation, who has been appointed to a Committee in accordance with this section, and who has the same rights and obligations of other members of the Committee who are Directors.

- (b) On the recommendation of the Governance Committee, non-Directors may be appointed by the Board as voting members of any standing or special Committee, with the exception of the Governance Committee.
- (c) Any non-Director appointed under this section shall have full voting rights on said Committees, unless otherwise indicated, but is not eligible to serve as the Chair of any such Committee.
- (d) Non-Directors serving on Committees shall have one (1) year renewable terms, which shall not preclude their future candidacy for nomination to the Board.
- (e) Participation by a non-Director is conditional on the non-Director signing an acknowledgement that he/she:
 - (i) is a fiduciary of the Corporation and must place the best interests of the Corporation above his/her own best interests; and
 - (ii) has read and understood the Conflict of Interest and confidentiality requirements of this By-Law, which apply to all non-Directors.

ARTICLE 11 FINANCIAL MATTERS

11.01 Bonding – Fidelity Insurance

- (a) Directors, Officers and employees, as the Board may designate, shall secure from a guarantee company a bond of fidelity of an amount approved by the Board.
- (b) At the discretion of the Board, the requirements of paragraph (a) above may be met by an alternative form of employee fidelity insurance such as, but not limited to, a blanket position bond, a commercial blanket bond, or a comprehensive dishonesty, disappearance and destruction policy.
- (c) The Corporation shall pay the expense of any fidelity bond or policy secured under paragraphs (a) or (b) above.

11.02 Authorized Signing Officers

- (a) The Board shall establish a signing authority policy for the signing of banking documents, cheques, contracts, and other instruments.
- (b) The Board may direct, by resolution, the manner in which, and the person or persons by whom, any particular instrument or class of instruments may or shall be signed.

11.03 Banking and Borrowing

- (a) Bank accounts of the Corporation shall be kept at such banks and in such places and shall be operated in such manner and by such person or persons as the Board shall from time to time determine by By-Law.
- (b) The Board may from time to time:

- (i) borrow money on the credit of the Corporation;
- (ii) issue, sell or pledge debt obligations (including bonds, debentures, debenture stock, notes or other like liabilities whether secured or unsecured) of the Corporation;
- (iii) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the Corporation, including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed, or other debt or liability of the Corporation; and
- (iv) delegate the powers conferred on the Board under this paragraph to such Officer or Officers of the Corporation and to such extent and in such manner as the Directors shall determine.

11.04 Seal

The corporate seal of the Corporation shall be such as the Board may by resolution from time to time adopt, and shall be entrusted to the Secretary of the Corporation (or delegate) for safekeeping.

11.05 Investments

The Board shall approve investment policies for the Foundation's funds.

11.06 Donations

- (a) No benefit given in trust to or to the use of the Corporation for endowment purposes shall be hypothecated, transferred or assigned to obtain credit or to receive funds except as allowed by the *Trustee Act* (Ontario).
- (b) The Secretary shall keep copies of all testamentary documents and trust instruments by which benefits are given, bequeathed or devised to, or to the use of, the Corporation.
- (c) The Secretary shall give notice to the Public Guardian and Trustee, in accordance with the terms of the *Charities Accounting Act* (Ontario), of the benefits referred to in paragraph (b) above which come into the control or possession of the Corporation and the notice shall be accompanied by an attested or notarial copy of the testamentary or trust document.
- (d) The Corporation shall apply any trust funds of the Corporation only to the designated purpose(s) for which such funds were intended. Under no circumstances shall the Corporation transfer any funds held in trust by the Corporation to any other individual or entity, unless such transfer complies with all applicable law, including without limitation, the *Charities Accounting Act* (Ontario) and the *Trustee Act* (Ontario).
- (e) The Secretary shall at least semi-annually provide an accounting to the Board with respect to all funds held in trust by the Corporation.

11.07 Auditor

- (a) The Corporation shall at its annual meeting appoint an auditor who shall not be a member of the Board or an Officer or employee of the Corporation or a partner or employee of any such person, and who is duly licensed under the provisions of the *Public Accountancy Act* (Ontario), to hold office until the next annual meeting of the Corporation.
- (b) The auditor shall have all the rights and privileges as set out in the Act and shall perform the audit function as prescribed therein.
- (c) The auditor shall make his report to the annual meeting of the Corporation and shall from time to time report to the Board on his work, making any recommendation he considers necessary.

11.08 Fiscal Year

Unless otherwise ordered by the Board, the fiscal year of the Corporation shall terminate on March 31 in each year.

ARTICLE 12 NOTICES

12.01 Notice

- (a) Whenever under the provisions of the By-laws notice is required to be given, unless otherwise provided, such notice may be given in writing and delivered or sent by prepaid mail, by facsimile transmission or by electronic mail, in each case addressed to the Director, officer, member of a committee, Member or auditor at the postal address, the facsimile number or electronic mail address, as the case may be, as the same appears on the books of the Corporation.
- (b) If any notice is sent by prepaid mail, it shall, subject to Section 12.02, be conclusively deemed to have been received on the third (3rd) business day following the mailing thereof. If delivered, a notice shall be conclusively deemed to have been received at the time of delivery, or if sent by facsimile transmission or electronic mail, it shall be conclusively deemed to be received on the next business day after transmission.
- (c) Notwithstanding the foregoing provisions with respect to mailing, in the event that it may be reasonably anticipated that, due to any strike, lock out or similar event involving an interruption in postal service, any notice will not be received by the addressee by no later than the third (3rd) business day following the mailing thereof, then the mailing of any such notice as aforesaid shall not be an effective means of sending the same but rather any notice must then be sent by an alternative method which it may reasonably be anticipated will cause the notice to be received reasonably expeditiously by the addressee.
- (d) Any person entitled to receive any such notice may waive such notice either before or after the meeting to which such notice refers.

12.02 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.

12.03 Omissions and Errors

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

12.04 Waiver of Notice

Any Member, Director, officer, member of a committee or the auditor may waive any notice required to be given to him or her under any provision of the *Public Hospitals Act*, the Act or the Articles or the By-laws, and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice. Attendance and participation at a meeting constitutes waiver of notice.

ARTICLE 13 ENACTMENT, REPEAL AND AMENDMENT OF BY-LAWS

13.01 Amendment

The Board may, by a majority vote, pass or amend the By-Laws of the Foundation from time to time.

13.02 Notice

- (a) Where it is intended to pass or amend the By-Laws at a meeting of the Board, written notice of such intention shall be sent by the Secretary to each Director in the same manner as set out in article 4.02(a) not less than ten (10) days before the meeting.
- (b) Where the notice of intention required by paragraph (a) above is not provided, any proposed By-Laws or amendments to the By-Laws may nevertheless be moved at the meeting and discussion and voting thereon adjourned to the next meeting, for which no notice of intention need be given.

13.03 Effective Date

Subject to section 13.04 below and except as expressly provided in this By-Law or in the Act, the By-Laws or an amendment to the By-Laws passed by the Board have full force and effect:

- (a) from the time the motion was passed; or
- (b) from such future time as may be specified in the motion.

13.04 Approval by Members

- (a) The By-Laws or an amendment to the By-Laws passed by the Board shall be presented for confirmation at the next annual meeting or to a special general meeting of the Members of the Corporation called for that purpose. The notice of such annual meeting or special general meeting shall refer to the By-Laws or amendment to be presented.
- (b) The Members at the annual meeting or at the special general meeting may confirm the By-Laws as presented or reject or amend them, and if rejected, they thereupon cease to have effect, and if amended, they take effect as amended.
- (c) Any amendment to the portion of the By-Laws relating to the borrowing powers of the Corporation is not effective until it has been confirmed by at least two-thirds (2/3) of the votes cast at a general meeting of Members duly called for considering it.

13.05 Rejection

In any case of rejection, amendment, or refusal to approve the By-Laws or part of the By-Laws in force and effect in accordance with any part of this section, no act done or right acquired under any such By-Laws is prejudicially affected by any such rejection.