

SUMMARY NOTES FOR UPDATED BY-LAWS

From the Board:

We, the Board, wished to propose an update of the By-laws for The Durham Art Gallery to improve on the governance process within the organization and, as well, account for some governmental changes. You'll notice that the proposed by-laws are more detailed, with many more headings and sub-headings for clarity in reading and updating in the future.

Below is our summary of the major changes in the new by-laws that we feel will most impact the future governance of the organization. Please take time to review both the current and new by-laws before the Sept.13th AGM at: www.durhamart.on.ca/events.php

Thank-you.

The Durham Art Gallery Board

Article 3.2 Number (DIRECTORS)

- to better serve the Membership and organization, an increase from five (5) to seven (7) Board Members is proposed

Article 3.4 Election and Term (DIRECTORS)

- to help guard against the wholesale turnover of a Board and to help attract new Board members, staggered Board Terms of one (1), two (2) and three (3) years are proposed

Article 7.1 Qualifications (MEMBERS)

- for clarity, the By-laws now delineate the categories of Membership

Article 7.2 Rights of Members (MEMBERS)

- Under current By-laws, one (1) Membership (M/S) of any category equals one (1) vote at any Members' meeting. Under the proposed bylaws, to better reflect M/S categories, any Individual/Single* M/S shall be entitled to one (1) vote, while any Family* M/S shall be entitled to two (2) votes – split between two (2), qualifying Family members
**M/S categories of Friend, Patron, Benefactor and Associate may either be purchased as an Individual/Single M/S, or a Family M/S*

Article 8.10 Quorum (MEETINGS OF MEMBERS)

- to ensure better governance, quorum at Meetings of Members is now proposed at ten percent (10%) of the Membership (*currently, 150 = 15 Members for quorum*)

NOTE: New Bylaws will come immediately into effect, if, and when, Approved by the Members.

THE DURHAM ART GALLERY

GENERAL OPERATING BY-LAW NO. 2

GENERAL OPERATING BY-LAW NO. 2

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

THE DURHAM ART GALLERY

(An Ontario corporation)

(the “Corporation”)

WHEREAS the Corporation was granted Letters Patent by the Ontario Government of Canada under the *Corporations Act* (Ontario) on the 24th day of December, 1980 under the name The Durham Art Gallery.

AND WHEREAS the current By-laws of the Corporation were enacted on the 1st day of April, 2010;

AND WHEREAS it is determined necessary to replace the current By-laws of the Corporation, with General Operating By-law No. 2 herein.

NOW THEREFORE BE IT ENACTED that the following By-law be enacted as the General Operating By-law of The Durham Art Gallery as follows:

1. INTERPRETATION

1.01 Definitions

In this By-law and all other By-laws and resolutions of the Corporation, unless the context otherwise requires:

“Act” means the “*Corporations Act* (Ontario), R.S.O. 1990, Ch. C.38, including any regulations made pursuant thereto, and any statute or regulations substituted therefor, as amended from time to time. “Board” means the board of directors of the Corporation.

“By-laws” means this by-law and all other by-laws of the Corporation as amended and which are, from time to time, in force and effect.

“Corporation” means the legal entity incorporated as a corporation without share capital under the Act by Letters Patent dated the 24th day of December, 1980 and named “The Durham Art Gallery”.

“Director” means a member of the Board.

“Letters Patent” means the letters patent of the Corporation as amended from time to time including any letters patent of continuance in the event of subsequent substitution of the Act.

“Member” means a member of the Corporation.

“Members” or “Membership” means the collective membership of the Corporation.

“Officer” means an officer of the Corporation.

1.02 Interpretation

In the interpretation of this By-law, unless the context otherwise requires, the following rules shall apply:

except where specifically defined herein, all terms contained herein and which are defined in the Act shall have the meanings given to such terms in the Act;

words importing the singular number only shall include the plural and *vice versa*;

the word “person” shall include an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;

words importing the masculine gender include the feminine and neuter genders;

the headings used in the By-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions;

the By-laws of the Corporation shall be strictly interpreted at all times in accordance with and subject to the objects contained in the Letters Patent of the Corporation which objects for purposes of this By-law are incorporated by reference and made a part hereof; and

if any of the provisions contained in the By-laws are inconsistent with those contained in the Letters Patent or the Act, the provisions contained in the Letters Patent or the Act, as the case may be, shall prevail.

2. GENERAL

2.01 Registered Office

The head office of the Corporation shall be in the Municipality of West Grey, in the County of Grey, unless changed by Special Resolution in accordance with the Act.

2.02 Corporate Seal

Until changed in accordance with the Act, the seal, an impression of which is stamped in the margin hereof, shall be the seal of the Corporation.

2.03 Board Policies

The Board may adopt, amend, or repeal such board policies that are not inconsistent with By-laws of the Corporation relating to the management and operation of the Corporation as the Board may deem appropriate from time to time. Any board policy adopted by the Board shall continue to have force and effect until amended, repealed, or replaced by a subsequent resolution of the Board.

2.04 Fiscal Year

Unless otherwise changed by resolution of the Board, the fiscal year end of the Corporation shall be the 31st day of December in each year.

2.05 Execution of Documents

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two (2) of its Officers. Notwithstanding the foregoing, the Board may from time to time direct the manner in which and the person or persons by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal thereto.

2.06 Banking

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the Board may designate, appoint or authorize from time to time by resolution. The banking business or any part thereof shall be transacted by any two (2) Officers of the Corporation and/or other persons as the Board may by resolution from time to time designate, direct or authorize.

2.07 Auditors

The Members shall at each annual meeting appoint an auditor to audit the accounts of the Corporation for report to Members to hold office until the next following annual meeting provided, however, the Directors may fill any casual vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the Board. The auditor may not be a Director, Officer or employee of the Corporation, unless the consent of all Members has been obtained.

2.08 Borrowing

2.08.a Borrowing Authority

Subject to the limitations set out in the Act, the Letters Patent of the Corporation and this By-law, the Board may: borrow money on the credit of the Corporation; issue, sell or pledge securities of the Corporation; or charge, mortgage, hypothecate or pledge all or any of the real or personal property of the Corporation including book debts and unpaid calls, rights, powers, franchises and undertakings, to secure any securities or any money borrowed or other debt or any other obligation or liability of the Corporation.

2.08.b Authorization

From time to time, the Board may authorize any Director or Officer or other persons of the Corporation to make arrangements with reference to money borrowed or to be borrowed as to the terms and conditions of the loan thereof, and as to the security to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional security as the Board may authorize and generally to manage, transact and settle the borrowing of money by the Corporation.

3. DIRECTORS

3.01 Powers

Subject to the Act and the Letters Patent, the Board shall manage or supervise the management of the activities and affairs of the Corporation.

3.02 Number

There shall be seven (7) Directors, unless changed by Special Resolution of the Directors.

3.03 Qualifications

Each Director shall be an individual who is not less than 18 years of age and have the power under law to contract. No person who has been found by a court in Canada or elsewhere to be mentally incompetent or who has the status of a bankrupt shall be a Director. A Director must be in full agreement with the governing documents of the Corporation. A Director shall at the time of his or her election (or within 10 days thereafter) and during the term of office as a Director be a Member of the Corporation in good standing, and is not an ineligible individual as defined in the *Income Tax Act* (Canada).

3.04 Election and Term

Subject to the provisions of this By-law, Directors shall be elected by the Members at an annual meeting.

The Directors' term of office shall be one (1) year, two (2) years, or three (3) years, calculated from the date of the meeting at which they are elected until the annual meeting next following or until their successors are elected. The Directors shall decide on their respective term of office at the first Board meeting after their election; one-third (1/3) of the Directors shall serve for a three-year term, one-third (1/3) of the Directors shall serve for a two-year term, and one-third (1/3) of the Directors shall serve for a one-year term.

The Board Members whose terms come to an end shall retire at the annual meeting at which the election of Directors is to be made but subject to the provisions of the By-laws, shall be eligible for re-election.

There is no maximum term of office for a Director and as such, a Director will be eligible for re-election to the Board at the end of his or her term on a consecutive basis thereafter provided that such Director continues to meet the qualification requirements to be a Director.

3.05 Consent

A Director who is elected or appointed must consent to hold office as a Director by:

not refusing to hold office if such person is present at the meeting when the election or appointment takes place, consenting to hold office in writing before the election or appointment takes place or within ten (10) days after it if such person is not present at the meeting, or by acting as a Director pursuant to such person's election or appointment.

3.06 Vacation of Office

A Director ceases to hold office when the Director dies, resigns, is removed from office by the Members, becomes disqualified to serve as Director, acquires the status of a bankrupt, or becomes mentally incompetent. Where a person is no longer a Director, then such person shall be deemed to have also automatically resigned as an Officer (if it is a requirement to be a Director to hold that particular Officer position) and/or a committee member, as applicable, provided that the Board may in its discretion subsequently re-appoint such individual as a committee member if the Board deems it appropriate in the circumstances.

3.07 Resignation

A Director may resign from office by giving a written resignation to the Corporation and such resignation becomes effective when received by the Corporation or at the time specified in the resignation, whichever is later.

3.08 Removal

Subject to the Act, the Members may, by resolution passed at a meeting of Members, remove any Director from office before the expiration of the Director's term and may elect a qualified individual to fill the resulting vacancy for the remainder of the term of the Director so removed, failing which such vacancy may be filled by the Board. A Director shall be automatically removed from his or her office if he or she no longer fulfils all of the qualifications to be a Director in Section 3.03 as determined in the sole discretion of the Board.

3.09 Filling Vacancies

Subject to Section 3.08 above and to the provisions of the Act, a vacancy on the Board may be filled for the remainder of its term by a qualified individual by resolution of a quorum of the Board. If there is not a quorum of Directors, the Directors then in office shall forthwith call a special meeting of Members to fill the vacancy and, if they fail to call a meeting or if there are no Directors then in office, the meeting may be called by any Member.

3.10 Remuneration of Directors

The Directors shall serve as such without remuneration and no Directors shall directly or indirectly receive any profit from his position as such; provided that a Director may be paid reasonable expenses incurred by him/her in the performance of his/her duties. Nothing herein contained shall be construed to preclude any Directors from serving the Corporation as an Officer or in any other capacity and receiving compensation therefor.

4. MEETINGS OF DIRECTORS

4.01 Place of Meetings

Meetings of the Board may be held at the head office of the Corporation or at any other place within or outside of Canada, as the Board may determine.

4.02 Calling of Meetings

Meetings of the Board may be called by the President or Vice-President, or by the Secretary-Treasurer on direction of the President or Vice-President or by the Secretary-Treasurer on direction in writing of any two (2) Directors at any time.

4.03 Notice of Meeting

Unless sent by mail, forty-eight (48) hours' notice of a meeting of the Board shall be given to each Director. Notice of any such meeting that is sent by mail shall be served in the manner specified in Section 9.01 of this By-law not less than fourteen (14) days (exclusive of the day on which the notice is delivered or sent but inclusive of the date for which the notice is given) before the meeting is to take place. Notwithstanding the foregoing, notice of a meeting shall not be necessary if all of the Directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.

4.04 First Meeting of New Board

Provided that a quorum of Directors is present, a newly elected Board may, without notice, hold its first meeting immediately following the meeting of Members at which such Board is elected.

4.05 Regular Meetings

The Board may appoint a day or days in any month or months for regular meetings of the Board at a place and hour to be named. A copy of any resolution of the Board fixing the place and time of such regular meetings of the Board shall be sent to each Director forthwith after being passed, and no other notice shall be required for any such regular meeting.

4.06 Quorum

A quorum for the transaction of business at any meeting of the Board shall be a majority of the Directors then in office. Only those Directors present in person, by telephone or electronically shall be counted in determining whether or not a quorum is present.

4.07 Participation at Meeting by Telephone or Electronic Means

If a majority of the Directors consent, either at a Board meeting by resolution or by consents signed individually by a majority of the Directors, a meeting of the Board of Directors may be held using telephonic, electronic or other means permitting all participants to communicate adequately with each other during the meeting provided that: the Board of the Corporation has passed a resolution addressing the mechanics of holding such a meeting and dealing specifically with how security issues should be handled, the procedure for establishing quorum and recording votes; and each Director has equal access to the specific means of communication to be used.

A Director participating in the meeting by such means shall be deemed for the purposes of the Act to have been present at that meeting. A written consent pursuant to this Section may be given before or after the meeting to which it relates and may be a “blanket” consent, relating to all meetings of the Board and/or committees of the Board.

4.08 Chairperson of the Meeting

The chairperson of Board meetings shall be the President or the Vice-President if the President is absent or unable to act. In the event that the President and Vice-President are absent, the Directors who are present shall choose one of their number to chair the meeting.

4.09 Votes to Govern

Each Director is authorized to exercise one (1) vote. At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chairperson of the meeting in addition to an original vote shall have a second or casting vote.

4.10 Disclosure of Interest

4.10.a Disclosure

Any Director who has any direct or indirect pecuniary or personal interest, gain or benefit in an actual or proposed contract, business transaction, financial arrangement or other matter with the Corporation, shall declare their interest therein at the first opportunity at a meeting of the Board.

4.10.b Material Interest

Notwithstanding the provisions in this Section herein, no disclosure or prohibition of involvement is required in relation to any actual or proposed contract, business transaction, financial arrangement, or other matter with the Corporation unless the direct or indirect pecuniary or personal interest, gain or benefit of the Director in such contract, business transaction, financial arrangement or other matter is of a material nature. The phrase “material nature” shall mean that the Director in question, directly or indirectly, is personally receiving a material benefit or gain of some kind, either financially or otherwise, with the determination of “material nature” in such circumstances to be determined by the Board from time to time, subject to the overriding compliance with the common law concerning conflict of interest of Directors as fiduciaries and the provisions of the Act.

4.10.c Procedure Where Disclosure

The chair of Board meetings shall request any Director who has declared a direct or indirect (i.e. through his or her family members) pecuniary or personal interest, gain or benefit in any proposed contract, business transaction, financial arrangement, or other matter with the Corporation, to absent himself during the discussion of and vote upon the matter, with such action being recorded in the minutes.

4.11 Confidentiality

Every Director, Officer, committee member, employee and volunteer, shall respect the confidentiality of matters brought before the Board or before any committee of the Board, or any matter dealt with in the course of employment or involvement of such person in the activities of the Corporation.

4.12 Delegation

Subject to the Act, the Board may appoint from their number a managing director or a committee of Directors and delegate to the managing director or committee any of the powers of the Board.

4.13 Committees

The Board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make. Any committee member may be removed by resolution of the Board. The Board may fix any remuneration for committee members who are not also Directors of the Corporation. Unless otherwise determined by the Board, a committee shall have the power to fix its quorum at not less than a majority of its members, to elect its chairman and to otherwise regulate its procedure.

4.14 Remuneration of Officers, Agents, Employees

The remuneration of Officers, agents, employees and committee members shall, subject to the other provisions of this By-law, be fixed by the Board by resolution provided that the Board may delegate this function to an Officer or Officers of the Corporation.

5. OFFICERS

5.01 Appointment

The Board may designate the offices of the Corporation, appoint Officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such Officers the power to manage the affairs of the Corporation. A Director may be appointed to any office of the Corporation. An Officer may, but need not be, a Director unless this By-law otherwise provides. Two or more offices may be held by the same person.

5.02 Description of Offices

Unless otherwise specified by the Board (which may, subject to the Act, modify, restrict or supplement such duties and powers), the offices of the Corporation, if designated and if Officers are appointed thereto, shall have the following duties and powers associated therewith:

President - The President shall be a Director. The President shall, when present, preside at all meetings of the Board, committees of Directors, if any, and the Members.

Vice-President - The Vice-President shall be a Director. If the President is absent or is unable or refuses to act, the Vice-President shall, when present, preside at all meetings of the Board, committees of Directors, if any, and the Members.

Secretary - The secretary, when in attendance, shall be the secretary of all meetings of the Board, Members and committees of the Board and, whether or not the secretary attends, the secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to Members, Directors, the auditor and members of committees; the secretary shall be the custodian of the corporate seal as well as all books, papers, records, documents and other instruments belonging to the Corporation.

Treasurer - The treasurer shall be responsible for the maintenance of proper accounting records in compliance with the Act as well as the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation; whenever required, the treasurer shall render to the Board an account of all such person's transactions as treasurer and of the financial position of the Corporation.

Executive Director - If appointed, the executive director shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The executive director shall, subject to the authority of the board, have general supervision of the affairs of the Corporation. The executive director shall be entitled to receive notice of and to attend and speak at all meetings of the Board and of meetings of Members as a non-member thereof without the right to vote, save and except when the Board is discussing the position, salary or benefits of the executive director.

The duties of all other Officers of the Corporation shall be such as the terms of their engagement call for or the Board requires of them.

5.03 Term of Office

Officers who are not employees of the Corporation shall hold their position for a period of one (1) year, or, in those cases where an Officer is appointed by the Board to fill a vacancy during the year, until the first meeting of the Board immediately following the annual general meeting. There is no maximum term of office for an Officer and as such, an Officer will be eligible for re-appointment on a consecutive basis. Officers who are employees of the Corporation shall hold office at the discretion of the Board.

5.04 Vacancy in Office

In the absence of a written agreement to the contrary, the Board may remove, whether for cause or without cause, any Officer of the Corporation. Unless so removed, an Officer shall hold office until the earlier of:

the expiry of the then current term of office, of that officer;

the Officer's successor being appointed;

the Officer's resignation;

such Officer ceasing to be a Director (if a necessary qualification of this appointment); or

such Officer's death,

whichever shall first occur. If the office of any Officer of the Corporation shall be or become vacant, the Directors may, by resolution, appoint a person to fill such vacancy.

5.05 Remuneration of Officers

The remuneration of all Officers appointed by the Board shall be determined from time to time by resolution of the Board except that no Officer who is also a Director shall be entitled to receive remuneration for acting as such. All Officers shall be entitled to be reimbursed for reasonable expenses incurred in the performance of the Officer's duties.

5.06 Agents and Attorneys

Subject to the By-laws, the Board may authorize any Officer from time to time to appoint agents or attorneys for the Corporation in or out of Canada with such powers of management, administration or otherwise as the Board considers fit.

5.07 Disclosure (Conflict of Interest)

An Officer shall have the same duty to disclose such Officer's interest in a material contract or transaction or proposed material contract or transaction with the Corporation, as is imposed upon Directors pursuant to the provisions of the Act and the By-laws.

6. PROTECTION OF DIRECTORS, OFFICERS AND OTHERS

6.01 Limitation of Liability

Except as otherwise provided in the Act, no Director or Officer for the time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or Officer or employee or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person including any person with whom or which any moneys, securities or effects shall be lodged or deposited or for any loss, conversion, misapplication 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 whatever which may happen in the execution of the duties of the Director's or Officer's respective office or trust or in relation thereto unless the same shall happen by or through the Director's or Officer's own wilful neglect or default.

6.02 Indemnity of Directors and Officers

Subject to the Act, the Corporation shall indemnify and saved harmless every Director and Officer of the Corporation, and his or her heirs, executors and administrators, and estate and effects, respectively, out of the funds of the Corporation, from and against,

all costs, charges and expenses whatsoever that he/she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him/her, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him/her, in or about the execution of the duties of him/her office; and

all other costs, charges and expenses that him/her sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by him/her own wilful neglect or default.

6.03 Advances

With respect to the defence by a Director or Officer of any claims, actions, suits or proceedings, whether civil or criminal, for which the Corporation is liable to indemnify a Director or Officer pursuant to this By-law, the Corporation may advance to the Director or Officer such funds as may be reasonably necessary for the defence of such claims, actions, suits or proceedings upon written notice by the Director or Officer to the Corporation disclosing the particulars of such claims, actions, suits or proceedings and requesting such advance.

7. MEMBERS

7.01 Qualifications

There shall be one (1) class of Members in the Corporation, consisting of persons who have complied with the provisions of this By-law. Membership shall be divided into categories of Membership for the purpose of prescribing applicable procedures, including prescribed membership forms and assessing Membership fees as more particularly described in accordance with board policies concerning Membership as adopted by the Board from time to time. Membership categories shall include, but not be limited to: Single Membership; Family Membership; Friend Membership; Patron; Benefactor; and Associate Memberships.

7.02 Rights of Members

A Member of the Corporation shall have the right to receive notice of, attend, speak, participate and vote at all meetings of Members. For the purposes of Member voting rights at Member meetings, a Single Membership shall constitute the right to one (1) vote, while a Family Membership shall constitute the right to two (2) votes, for two (2), separate, qualified Members under said Family Membership. Friend, Patron, Benefactor and Associate Memberships shall be deemed, upon purchase, to be either a Single Membership or Family Membership and assigned respective rights thereof.

7.03 Termination of Membership

Subject to the Act, the interest of a Member in the Corporation is non-transferable and lapses and ceases to exist upon the earlier of the Member's term of Membership expiring (if any), the Member's non-payment of Membership dues, resignation, death or removal in accordance with this By-law or in the event of the dissolution of the Corporation.

7.04 Resignation

Any Member may resign as a Member by delivering a written resignation to the chairperson of the Board of the Corporation. A resignation shall be effective from the date specified in the resignation.

7.05 Removal

The Board may suspend or remove any Member from the Corporation for any one or more of the following grounds:

violating any provision of the Letters Patent, By-laws, or policies of the Corporation;

carrying out any conduct which may be detrimental to the Corporation as determined by the Board in its sole discretion;

for any other reason that the Board in its sole and absolute discretion considers to be reasonable, having regard to the purposes of the Corporation.

In the event that the Board determines that a Member should be expelled or suspended from membership in the Corporation, the process shall be done in good faith and in a fair and reasonable manner. The chair of the Board shall provide fifteen (15) days notice of suspension or removal to the Member and shall provide reasons for the proposed suspension or removal. The Member may make written submissions to the chair of the Board in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the chair of the Board, he/she may proceed to notify the Member that the Member is suspended or removed from membership in the Corporation. Where 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 such final decision within a further twenty (20) days from the date of receipt of the submissions. The Board's decision shall be final and binding on the Member, without any further right of appeal.

7.06 Membership Dues

Members shall be notified in writing of the membership fees, if any, at any time payable by them and, if any are not paid within one (1) calendar month of the Membership renewal date, as the case may be, the Members in default shall thereupon cease to be Members of the Corporation.

8. MEETINGS OF MEMBERS

8.01 Meeting of Members

A “meeting of Members” or “Members’ meetings” shall include an annual meeting of Members and a special meeting of Members.

8.02 Annual Meetings

Subject to the By-laws, the Board shall call, at such date and time as it determines, an annual meeting of Members for the purpose of considering the financial statements and reports of the Corporation pursuant to the Act, electing Directors, appointing the auditor and transacting such other business as may properly be brought before the meeting, provided that the annual meeting of Members shall be held within fifteen (15) months from the holding of the last annual meeting of Members.

8.03 Special Meetings

The Board may at any time call a special meeting of Members for the transaction of any business which may properly be brought before the Members. The Board shall call a special general meeting of Members on written requisition of Members carrying at least 10% of the Members of the Corporation entitled to vote.

8.04 Place of Meetings

Meetings of Members may be held at any place within Ontario as the Board may determine.

8.05 Special Business

All business transacted at a special meeting or an annual meeting of Members, except consideration of the minutes of an earlier meeting, the financial statements and the auditor’s report, election of Directors and reappointment of the incumbent auditor, constitutes special business.

8.06 Notice of Meetings

Notice of the time and place of a meeting of Members shall be provided in the manner provided in Section 9.01 of this By-law by mail sent to each Member to the address shown on the books of the Corporation not less than ten (10) days before the meeting of Members is to take place. Notice of a meeting of Members at which special business is to be transacted shall state the nature of

that business in sufficient detail to permit the Member to form a reasoned judgment on the business and provide the text of any resolution or By-law to be submitted to the meeting. Notice of a meeting of Members must remind Members that they have the right to vote by proxy.

8.07 Waiving Notice

A Member and any other person entitled to attend a meeting of Members may in any manner and at any time waive notice of a meeting of Members, and attendance of any such person at a meeting of Members is a waiver of notice of the meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

8.08 Persons Entitled to be Present

The only persons entitled to be present at a meeting of Members shall be those entitled to vote at the meeting, the Directors and the auditor of the Corporation and such other persons who are entitled or required under any provision of the Act, the Letters Patent or By-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or with the consent of the meeting.

8.09 Chairperson of the Meeting

The chairperson of Members' meetings shall be the chairperson of the Board, or the vice-chairperson of the Board if the chairperson of the Board is absent or unable to act. In the event that the chairperson of the Board and the vice-chairperson of the Board are absent, the Members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

8.10 Quorum

A quorum at any meeting of the Members (unless a greater number of Members are required to be present by the Act) shall be ten percent (10%) of the Members of the Corporation. If a quorum is present at the opening of a meeting of Members, the Members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting. For the purpose of determining quorum, a Member may be present in person or by proxy, or, if authorized under Section 8.12, by telephonic and/or by other electronic means.

8.11 Adjournment

The chairperson of any meeting of Members may with the consent of the meeting adjourn the same from time to time to a fixed time and place and no notice of such adjournment need be given to the Members. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

8.12 Absentee Voting

Subject to compliance with the Act, in addition to voting in person, every Member entitled to vote at a meeting of Members may vote by appointing in writing a proxyholder or one or more alternate proxyholders who need not be Members, as the Member's nominee to attend and act at the meeting in the manner and to the extent and with the authority conferred by the proxy.

8.13 Votes to Govern

At all meetings of the Members, every question shall be determined on a show of hands by a majority of votes cast unless otherwise specifically provided by the Act or by this By-law. In case of an equality of votes, the chairperson of the meeting in addition to an original vote shall have a second or casting vote.

8.14 Show of Hands

Subject to the Act and this By-law, except where a ballot is demanded, voting on any question proposed for consideration at a meeting of Members shall be by show of hands, and a declaration by the chair of the meeting as to whether or not the question or motion has been carried and an entry to that effect in the minutes of the meeting shall, in the absence of evidence to the contrary, be evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion.

8.15 Ballots

For any question proposed for consideration at a meeting of Members, either before or after a vote by show of hands has been taken, the chair of the meeting, or any Member or proxyholder may demand a ballot, in which case the ballot shall be taken in such manner as the chair directs and the decision of the Members on the question shall be determined by the result of such ballot.

9. NOTICES

9.01 Method of Giving Notices

Any notice, communication or other document required to be given by the Corporation to a Member, Director, Officer, or auditor of the Corporation pursuant to the Act, the Letters Patent or By-laws or otherwise shall be sufficiently given to such person if:

delivered personally, in which case it shall be deemed to have been given when so delivered,

delivered to such person's recorded address by courier or other similar means, in which case it shall be deemed to have been given when so delivered,

mailed to such person at their recorded address by prepaid ordinary mail, in which case it shall be deemed to have been given on the fifth day after it is deposited in a post office or public letter box, or

delivered to such person by electronic means such as e-mail or facsimile, in which case it shall be deemed to have been given when it is so transmitted without subsequent error notification,

at such person's latest address as shown in the records of the Corporation and to the auditor at its business address, or if no address be given therein then to the last address of such Member or Director known to the Secretary.

9.02 Computation of Time

Where a given number of days' notice or notice extending over a period is required to be given under the By-laws, the day of service, posting or other delivery of the notice shall not, unless it is otherwise provided, be counted in such number of days or other period.

9.03 Omissions and Errors

The accidental omission to give any notice to any Member, Director, Officer, member of a committee of the Board or auditor, or the non-receipt of any notice by any such person or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice, provided that no Member objects in writing to the chairperson of the Board of such omission or irregularity within thirty (30) days after the date of such meeting.

9.04 Waiver of Notice

Any Member, proxyholder, Director, Officer, member of a committee of the Board or auditor may waive or abridge the time for any notice required to be given to such person, and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given 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 a waiver of notice of a meeting of Members or of the Board or of a committee of the Board, which may be given in any manner.

10. AMENDMENTS

10.01 Amendment of Letters Patent

Notwithstanding the Act, the Letters Patent of the Corporation may only be amended by seventy-five percent (75%) of the votes cast at a Board meeting called for that purpose and sanctioned by an affirmative seventy-five percent (75%) of the votes cast at a Members' meeting duly called for the purpose of considering the said amendment, provided that notice of such Members meeting shall be given at least thirty (30) days prior to such Membership meeting and provided further that the notice shall state the proposed amendment and the purpose thereof.

10.02 Amendment of By-laws

The By-laws of the Corporation not embodied in the Letters Patent may be repealed or amended by By-law and enacted by a two-thirds (2/3) of the votes cast at a meeting of the Board duly called for that purpose and sanctioned by an affirmative two-thirds (2/3) of the votes cast at a meeting of the Members duly called for the purpose of considering the said By-law. Except as otherwise provided, a By-law or an amendment to a By-law passed by the Board has full force and effect from the time the motion is passed or from such future time as may be specified in the motion. A By-law or an amendment to a By-law passed by the Board shall be presented for confirmation at the next annual meeting of Members or to a special general meeting of Members of the Corporation called for that purpose. The Members at the annual meeting or special general meeting may confirm the By-law as presented or reject or amend it, and if rejected, it thereupon ceases to have effect, and if amended, it thereupon takes effect as amended. Any rejection, amendment or refusal to approve the By-law or part of the By-law made in accordance with this Section shall not invalidate any act done or right acquired under any such By-law prior to its rejection, amendment or refusal to approval.

11. IDENTIFICATON AND REPEAL OF FORMER BY-LAWS

Repeal of Former General Operating By-law

- (a) General Operating By-law No. 1 enacted on the first day of April, 2010 is hereby repealed and replaced by General Operating By-law herein effective immediately upon the enactment of this By-law at the time of confirmation by the Board of the Corporation.

- (b) The said repeal of By-law No. 1 shall not affect the previous operations of such By-law so repealed or affect the validity of any act done or right, privilege, obligation or liability acquired or incurred under the validity of any contract or agreement made pursuant to any such By-law prior to its repeal. All Officers and persons acting under such By-laws so repealed shall continue to act as if appointed under the provisions of this By-law. All Board or Members' resolutions, with continuing effect, passed under such repealed By-laws shall continue to be valid, except to the extent inconsistent with this By-law, and until amended or repealed.

PASSED by the Board of Directors of the Corporation this 14th day of August, 2018

David Sugarman
President

Peter Allen
Secretary

ENACTED by the Members of the Corporation this _____ day
of _____, 2018.

Secretary

President

August 14, 2018

The Durham Art Gallery

General Operating By-law No. 2