

**RESTATED  
BY-LAW NO. 1**

being the General By-law of

**ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**  
(hereinafter referred to as the "Corporation")

**NAME**

1. **Corporate Name** - The name of the Corporation shall be Ontario Motor Vehicle Industry Council.

**INTERPRETATION**

2. **Definitions** - In this By-law, unless the context otherwise specifies or requires:
  - a. "Act" means the *Not-for-Profit Corporations Act, 2010* (Ontario) and where the context requires, includes the regulations made under it, as amended from time to time;
  - b. "Administrative Agreement" means the administrative agreement made between the Ministry and the Corporation as required pursuant to the SCOSA Act, wherein the administration of the MVD Legislation has been delegated to the Corporation;
  - c. "Administrative Authority" means the administrative authority designated under the SCOSA Act to administer the MVD Act, being the Corporation;
  - d. "Advisory Council" means the Advisory Council established pursuant to paragraph 18;
  - e. "Articles" means any instrument that incorporates the Corporation or modifies its incorporating 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 special act;
  - f. "By-law" means any by-law of the Corporation from time to time in force and effect;
  - g. "Chair" means the chair of the board of directors of the Corporation;
  - h. "Dealer member" has the meaning attributed thereto in paragraph 44;
  - i. "elected director" means a member of the board of directors of the Corporation elected by the members of the Corporation;
  - j. "MVD Act" means the *Motor Vehicle Dealers Act, 2002* S.O. 2002, c. 30, Sched. B as from time to time amended and every statute that may be substituted therefore and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the MVD Act shall be read as references to the substituted provisions therefore in the new statute or statutes;
  - k. "MVD Legislation" means collectively the MVD Act and the MVD Regulations;

- l. "MVD Regulations" means the regulations made under the MVD Act as from time to time amended and every regulation that may be substituted therefore and, in the case of such substitution, any reference in the By-laws of the Corporation to provisions of the MVD Regulations shall be read as references to the substituted provisions therefore in the new regulations;
  - m. "Minister" means the Minister responsible for the administration of the MVD Act, or of the SCSA Act, as the case may be;
  - n. "Ministry" means the Ministry responsible for the MVD Act, or the SCSA Act, as the case may be;
  - o. "motor vehicle dealer" shall have the same meaning as in the MVD Act;
  - p. "Ordinary Resolution" means a resolution that, is submitted to a members' meeting and passed at the meeting, with or without amendment, by at least a majority of the votes cast, or is consented to by each member entitled to vote at a members' meeting or the member's attorney;
  - q. "salesperson" shall have the same meaning as in the MVD Act;
  - r. "SCSA Act" means the *Safety and Consumer Statute Administration Act, 1996*, S.O., 1996, c. 19 and where the context requires, includes the regulations made under it, as from time to time amended and every statute that may be substituted therefor and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the SCSA Act shall be read as references to the substituted provisions therefor in the new statute or statutes;
  - s. "Special Resolution" means a resolution that is submitted to a special members' meeting duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least two-thirds (2/3) of the votes cast, or consented to by each member entitled to vote at a members' meeting or the member's attorney;
  - t. "telephonic or electronic means" means any means that uses the telephone or any other electronic or other technological means to transmit information or data, including telephone calls, voice mail, fax, e-mail, automated touch-tone telephone system, computer or computer networks;
  - u. "Vice-Chair" means the vice-chair of the board of directors of the Corporation.
3. **Interpretation** - This By-law shall be, unless the context otherwise requires, construed and interpreted in accordance with the following:
- a. all terms which are contained in the By-laws of the Corporation and which are defined in the Act shall have the meanings given to such terms in the Act;
  - b. words importing the singular number only shall include the plural and vice versa; words importing gender shall include all genders; and the word "person" shall include individuals, bodies corporate, corporations, companies, partnerships, syndicates, trusts, unincorporated associations and any number or aggregate of persons; and
  - c. 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.

## **REGISTERED OFFICE**

4. **Registered Office** - The registered office of the Corporation shall be in the City of Toronto, in the Province of Ontario provided that:
- a. the location of the registered office within the City of Toronto may be made by resolution of the board of directors; and
  - b. relocating the registered office to another place in Ontario shall be authorized by Special Resolution.

## **SEAL**

5. **Seal** - The seal, an impression of which is stamped in the margin hereof, shall be the seal of the Corporation.

## **DIRECTORS**

**Orders of the Minister** - This By-law is subject to any orders of the Minister made under the SCSA Act. The Corporation shall amend this By-law as necessary to comply with any orders of the Minister.

6. **Duties** - The affairs of the Corporation shall be managed by a board of directors who may be known and referred to as directors.

7. **Qualifications**

- a. An individual is disqualified from being a director if they:
  - i. are under eighteen (18) years old;
  - ii. are a person who has been found under the *Substitute Decisions Act*, 1992 or under the *Mental Health Act* to be incapable of managing property;
  - iii. are a person who has been found to be incapable by any court in Canada or elsewhere;
  - iv. have the status of a bankrupt.
- b. An individual elected or appointed to hold office as a director shall consent in writing to such election or appointment before or within ten (10) days after the election or appointment unless such director has been re-elected or reappointed where there is no break in the Director's term of office. If an elected or appointed director consents in writing after the ten (10) day period referred to in this paragraph, the election or appointment is valid.
- c. A Board decision as to whether or not an individual is qualified to be a Director is final.

8. **Number** - The board of directors of the Corporation shall consist of nine (9) directors, provided that:
- a. effective July 1, 2023, no more than thirty-four percent (34%) of directors on the board of directors shall be drawn from among any of the following classes of persons (provided that, for greater certainty, the number of directors of the board of directors includes any vacant positions such that, for example, if there were eight (8) director positions filled and one (1) director position vacant, the thirty-four percent (34%) would be calculated with reference to the Corporation's nine (9) director board):
    - i. motor vehicle dealers.
    - ii. salespersons.
    - iii. individuals who are directors, officers, employees, members or agents of registered motor vehicle dealers.
    - iv. individuals who are directors, officers, employees, members or agents of an industry association representing the interests of motor vehicle dealers or salespersons.
    - v. individuals who within the one-year period before becoming a director of the board of the Corporation met the description in any of clauses i through iv; and
  - b. subject to subparagraph 8(a), (3) of the nine (9) directors on the board of directors shall be drawn from among any of the following classes of persons:
    - i. motor vehicle dealers.
    - ii. salespersons.
    - iii. individuals who are directors, officers, employees, members or agents of registered motor vehicle dealers.
    - iv. individuals who are directors, officers, employees, members or agents of an industry association representing the interests of motor vehicle dealers or salespersons.

9. **Elected Directors**

- a. Subject to subparagraph 9(b) and paragraph 11, elected directors of the Corporation shall hold office for a term of three (3) years calculated from the date of the annual meeting at which they are elected until the third (3<sup>rd</sup>) annual meeting following such annual meeting, or until their successors have been elected and qualified, and shall retire in rotation.
- b. The elected directors of the Corporation shall be elected and hold office for terms that result in one-third (1/3) of the elected directors retiring at each annual meeting and directors being elected in their stead at such annual meeting.

10. **Governance and Nominating Committee** - The governance and nominating committee of the Corporation shall be composed of the Chair of the board and three (3) other directors, including at least one (1) director appointed by the Minister under subsection 8(1) of the SCSA Act. The governance and nominating committee shall:

- a. solicit applications for, and prepare a slate of one (1) or more qualified candidates for, each elected director's office which will be vacant and for which an election is to be held at an annual meeting of members.

The governance and nominating committee shall establish from time to time qualifications and criteria, in addition to the qualifications set out in the Act and the By-laws, to be applied to each applicant equally, which must be satisfied by an applicant in order for such applicant to be included for consideration to be on the slate of candidates for a director's office, prepared by the governance and nominating committee, provided that:

A. such qualifications and criteria must include that all members of the board of directors shall have the following competency: possess a positive orientation for proactive consumer protection initiatives;

B. such qualifications and criteria shall not include a requirement that a candidate for election to the board of directors must be a member of an industry association representing the interests of motor vehicle dealers or salespersons. For greater certainty, this does not preclude nominees from being a member of these relevant industries; and

C. any other such qualifications and criteria established by the governance and nominating committee must be ratified by resolution by the board of directors.

For purposes of carrying out the foregoing, the deadline for receipt by the governance and nominating committee of nominations for candidates to stand for election to the Corporation's Board of Directors shall be a date no earlier than sixty (60) days prior to the date on which the Corporation must give notice to the members of the annual meeting and special meeting as required by this By-law;

- b. circulate to members of the Corporation not less than thirty (30) days prior to the annual meeting of members the names of the candidates for election to the board of directors at such annual meeting. The slate of candidates so proposed by the governance and nominating committee shall be ratified by resolution by the board of directors prior to its circulation to the members; and
- c. make recommendations to the board of directors of the names of individuals to fill vacancies on the board of directors that occur from time to time.

11. **Re-election and Term Limit** – An elected director, if otherwise qualified, is eligible for re-election to the board of directors of the Corporation upon the expiration of such director's term, provided that an elected director shall not be reappointed or re-elected if the director has served an aggregate of nine (9) or more years in office.

12. **Elections** - At each annual meeting of members a number of elected directors equal to the number of elected directors retiring shall be elected by the members eligible to vote from among the slate of candidates for office proposed by the governance and nominating committee. Notwithstanding any other provision of the By-laws, the board of directors of the Corporation shall at all times include those directors appointed from time to time by the Minister pursuant to SCSA Act and the Administrative Agreement.

13. **Election Method** - Where:

- a. the number of candidates nominated to be elected to the board of directors is equal to the number of offices to be filled, the chair of the meeting shall cast a single ballot electing that number of candidates for the offices on the board of directors to be so filled; and
- b. the number of candidates nominated to be elected to the board of directors is greater than the number of offices to be filled, the election to fill such offices shall be by ballot.

14. **Ballot Forms** - The board of directors may prescribe from time to time the form of ballot to be used for the election of directors.

15. **Vacancies** - The office of a director shall automatically be vacated if:

- a. the director does not qualify for the position pursuant to paragraph 7;
- b. the director by notice in writing to the Chair or the Vice-Chair of the Corporation resigns office, which resignation shall be effective at the time it is received by the Chair or the Vice-Chair of the Corporation or at the time specified in the notice, whichever is later;
- c. an Ordinary Resolution is passed by the members at a special meeting removing an elected director before the expiration of the elected director's term of office;
- d. the director dies;
- e. the director is an appointed director, the Minister revokes the appointment; or
- f. the Minister appoints a director drawn from among any of the following classes of persons:
  - i. motor vehicle dealers;
  - ii. salespersons;
  - iii. individuals who are directors, officers, employees, members or agents of registered motor vehicle dealers;
  - iv. individuals who are directors, officers, employees, members or agents of an industry association representing the interests of motor vehicle dealers or salespersons

and such appointment results in there being a greater percentage of directors on the board of directors drawn from those classes of persons than is permitted by subparagraph 8(a), the elected director drawn from those classes of persons most recently elected shall immediately cease to be a director, effective as of the date of the Minister's said appointment, provided that if it cannot be determined which of such elected directors drawn from those classes of persons was most recently elected, the elected director drawn from those classes of persons whose current term of office ends latest shall immediately cease to be a director, effective as of the date of the Minister's said appointment.

16. **Filling Vacancies** - A vacancy occurring among the elected directors on the board of directors shall be filled as follows:

- a. a vacancy among the elected directors on the board of directors may be filled for the remainder of the term by the directors then in office, if they shall see fit to do so, so long as there is a quorum of directors in office, provided that if there is not a quorum of directors, the remaining directors shall forthwith call a meeting of the members to fill the vacancy, and, in default or if there are no directors then in office, the meeting may be called by any member; or
- b. otherwise such vacancy shall be filled at the next annual meeting of the members at which directors are elected.

17. **Committees** - In addition to the governance and nominating committee contemplated in paragraph 10, the board of directors may from time to time appoint any committee or committees, as it deems necessary or appropriate for such purposes and 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 of directors. The board of directors may fix any remuneration for committee members who are not also directors of the Corporation.
18. **Advisory Council** – On or before September 1, 2023, the board of directors shall establish an Advisory Council composed of members representing the interests of motor vehicle dealers and salespersons. The Advisory Council shall include members who are directors, officers, employees, members or agents of industry associations representing the interests of motor vehicle dealers or salespersons, as well as one (1) member from the Corporation's board of directors who has been drawn from the motor vehicle dealer or salesperson sector. In addition, the Advisory Council may include members from any of the following classes of persons:
- a. motor vehicle dealers.
  - b. Salespersons.
  - c. individuals who are directors, officers, employees or agents of registered motor vehicle dealers.

The Advisory Council's role is strictly advisory and any decision made by the Advisory Council shall not bind the Corporation. The chair of the Advisory Council shall be a director on the Corporation's board of directors who has been drawn from the motor vehicle dealer or salesperson sector. The Advisory Council may formulate its own rules of procedure, subject to such regulations or directions as the board may from time to time make. Any Advisory Council member may be removed by resolution of the board of directors. The board of directors may fix any remuneration for Advisory Council members who are not also directors of the Corporation.

19. **Remuneration of Chair, Vice-Chair and Directors** - The Chair, the Vice-Chair and the other directors shall be paid such remuneration for their services as the board of directors may from time to time by resolution determine and shall also be entitled to be reimbursed for reasonable expenses incurred by them in the performance of their duties.

### **MEETING OF DIRECTORS**

20. **Place of Meeting** - Meetings of the board of directors may be held either at the registered office or at any place within Ontario.
21. **Notice** - A meeting of directors may be convened by the Chair, the Vice-Chair or any two (2) directors at any time. The notice of meeting convened as aforesaid need not specify the purpose of or the business to be transacted at the meeting. Notice of any such meeting shall be served in the manner specified in paragraph 63 of this By-law not less than two (2) days (exclusive of the day on which the notice is delivered or sent but inclusive of the day for which notice is given) before the meeting is to take place; provided always that a director may in any manner and at any time waive notice of a meeting of directors and attendance of a director at a meeting of directors shall constitute a waiver of notice of the meeting except where a director 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; provided further that meetings of directors may be held at any time without notice if all the directors are present (except where a director 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) or if all of the absent directors waive notice before or after the date of such meeting.

If the first meeting of the board of directors following the election of directors by the members is held immediately thereafter, then for such meeting or for a meeting of the board of directors at which a director is appointed to fill a vacancy in the board, no notice shall be necessary to the newly elected or appointed directors or director in order to legally constitute the meeting, provided that a quorum of the directors is present.

22. **Error or Omission in Giving Notice** - No error or accidental omission in giving notice of any meeting of directors shall invalidate such meeting or make void any proceedings taken at such meeting.
23. **Adjournment** - Any meeting of directors may be adjourned from time to time by the chairperson of the meeting, with the consent of the meeting, to a fixed time and place. Notice of any adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The directors who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. 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.
24. **Regular Meetings** - The board of directors may appoint a day or days in any month or months for regular meetings of the board of directors at a place or hour to be named by the board of directors and a copy of any resolution of the board of directors fixing the place and time of regular meetings of the board of directors shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meetings.
25. **Quorum** - Five (5) directors shall form a quorum for the transaction of business. Notwithstanding any vacancy among the directors, a quorum of directors may exercise all the powers of directors.
26. **Voting** - Each director is authorized to exercise one (1) vote. Questions arising at any meeting of directors shall be decided by a majority of votes. In case of an equality of votes: the chairperson of the meeting shall not have a second or casting vote; and the relevant motion shall be defeated.
27. **Telephone Participation** - If all the directors of the Corporation consent, a meeting of directors may be held by means of such telephonic or electronic means as permit all persons participating in the meeting to hear each other simultaneously and instantaneously, and a director participating in such meeting by such means is deemed to be present at that meeting.

### **POWERS OF DIRECTORS**

28. **Administer Affairs** - The board of directors of the Corporation may administer the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the Corporation is by its Articles or otherwise authorized to exercise and do.
29. **Expenditures** - The board of directors shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate, by resolution, to an officer or officers of the Corporation, the right to employ and pay salaries or other remuneration to assistants, clerks, agents, representatives and employees and to procure, equip and maintain such offices and other facilities, and to incur such reasonable expenses as may be necessary. The board of directors shall have the power to make expenditures for the purpose of furthering the objects of the Corporation.



30. **Borrowing Power** - The board of directors of the Corporation may from time to time:
- a. borrow money on the credit of the Corporation;
  - b. issue, sell or pledge debt obligations (including bonds, debentures, debenture stock, notes or other like liabilities whether secured or unsecured) of the Corporation;
  - c. 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
  - d. delegate the powers conferred on the board of directors under this paragraph to such officer or officers of the Corporation and to such extent and in such manner as the directors shall determine.

The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the Corporation possessed by its directors or officers independently of this By-law.

31. **Board Authorized Signatories** - From time to time the board of directors may authorize any director, officer or employee of the Corporation or any other person to make arrangements with reference to the money so borrowed or to be borrowed and 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 of directors may authorize, and generally to manage, transact and settle the borrowing of money by the Corporation.
32. **Agents and Employees** - The board of directors may appoint such assistants, clerks, agents and representatives and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board of directors at the time of such appointment.

### **OFFICERS**

33. **Appointment** - If the Minister does not appoint a chair under the SCSA Act, the board of directors shall annually or more often as may be required, appoint a Chair from among themselves. The board of directors shall also annually, or more often as may be required, appoint a Vice-Chair from among themselves. The board of directors may from time to time appoint such other officers and agents as it shall deem necessary who shall have such authority and shall perform such duties as may from time to time be prescribed by the board of directors. A director may be appointed to any office of the Corporation but none of the said officers except the Chair and the Vice-Chair need to be a director of the Corporation.
34. **Vacancies** - Notwithstanding the foregoing, each incumbent officer shall continue in office until the earlier of:
- a. that officer's resignation, which resignation shall be effective at the time the written resignation is received by the Corporation or at the time specified in the resignation, whichever is later;
  - b. the appointment of a successor;
  - c. that officer ceasing to be a director or member if such is a necessary qualification of appointment;
  - d. the meeting at which the directors annually appoint the officers of the Corporation;

- e. that officer's removal; and
- f. that officer's death.

If the office of any officer of the Corporation shall be or become vacant the board of directors by resolution may appoint a person to fill such vacancy.

- 35. **Remuneration of Officers** - The remuneration of all officers appointed by the board of directors shall be determined from time to time by resolution of the board of directors. All officers shall be entitled to be reimbursed for reasonable expenses incurred in the performance of their duties.
- 36. **Removal of Officers** - All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the board of directors at any time, with or without cause.
- 37. **Duties of Officers may be Delegated** - In case of the absence or inability to act of any officer of the Corporation or for any other reason that the board of directors may deem sufficient, the board of directors may delegate all or any of the powers of any such officer to any other officer or to any director for the time being.
- 38. **Powers and Duties** - All officers shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the board of directors. The duties of the officers shall include:
  - a. **Chair** - The Chair shall be a director and shall be vested with and may exercise all of the powers and perform all of the duties of a chairperson of the board including, without limitation, chairing all meetings of the board of directors and members.
  - b. **Vice-Chair** - The Vice-Chair shall be vested with all the powers and shall perform all the duties of the Chair in the absence or inability or refusal to act of the Chair. The Vice-Chair shall be vested with all the powers and shall perform all the duties of the Chair in the absence or inability or refusal to act of the Chair.
  - c. **Chief Executive Officer** - The board of directors may from time to time appoint a Chief Executive Officer and may delegate to that person full power to manage and direct the business and affairs of the Corporation (except such matters and duties as by law must be transacted or performed by the board of directors and/or by the members) and to employ and discharge agents, representatives and employees of the Corporation. The Chief Executive Officer shall conform to all lawful orders given by the board of directors of the Corporation and shall at all reasonable times give to the directors or any of them all information they may require regarding the affairs of the Corporation.

## **FOR THE PROTECTION OF DIRECTORS AND OFFICERS**

39. **For the Protection of Directors and Officers** - 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 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 willful neglect or default.

## **INDEMNITIES TO DIRECTORS AND OTHERS; INSURANCE**

### **40. Indemnities to Directors and Others; Insurance**

- a. every director or officer or former director or officer 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, shall be indemnified and saved harmless out of the Corporation's funds from and 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 may advance money to an individual referred to in subparagraph 40(a) for the costs, charges and expenses of an action or proceeding referred to in that subparagraph, but the individual shall repay the money if the individual does not fulfil the conditions set out in subparagraph 40(c).
- c. The Corporation shall not indemnify an individual under subparagraph 40(a) unless:
  - i. the individual acted honestly and in good faith with a view to the Corporation's best interests or other entity for which the individual acts or acted at the Corporation's request as a director or officer, or in a similar capacity, as the case may be; and
  - ii. if the matter is a criminal or administrative proceeding that is enforceable by a monetary penalty, the individual had reasonable grounds for believing that their conduct was lawful.
- d. Subject to the Act and applicable laws, the Corporation may purchase and maintain insurance for the benefit of an individual referred to in subparagraph 40(a), against any liability incurred by that individual in the individual's capacity as a director or an officer of the Corporation, or, in the individual's capacity as a director or officer, or in a similar capacity, of another entity if the individual acts or acted in that capacity at the Corporation's request.
- e. Nothing in this By-law shall limit the right of any person entitled to indemnity to claim indemnity apart from the provisions of this By-law to the extent permitted by the Act or law.

## **INTEREST OF DIRECTORS OR OFFICERS IN CONTRACTS OR TRANSACTIONS**

### **41. Declaration of Interest**

- a. Any director or officer who:
  - i. is a party to a material contract or transaction or proposed material contract or transaction with the Corporation; or
  - ii. is a director or officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation;

shall disclose to the Corporation or request to have entered in the minutes of meetings of directors the nature and extent of their interest.

- b. The disclosure required to be made, pursuant to subparagraph 41(a), by a director shall be made:
  - i. at the meeting at which a proposed contract or transaction is first considered;
  - ii. if the director was not then interested in a proposed contract or transaction, at the first meeting after such director becomes so interested;
  - iii. if the director becomes interested after a contract is made or transaction entered into, at the first meeting after the director becomes so interested; or
  - iv. if a person who is interested in a contract or transaction later becomes a director, at the first meeting after such person becomes a director.
- c. The disclosure required to be made, pursuant to subparagraph 41(a), by an officer who is not a director shall be made:
  - i. forthwith after the officer becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a Board meeting;
  - ii. if the officer becomes interested after a contract is made or transaction is entered into, forthwith after they become so interested; or
  - iii. if a person who is interested in a contract or transaction later becomes an officer, forthwith after they become an officer.
- d. In the event that the contract or transaction or proposed contract or transaction in respect of which a disclosure is required to be made for the purposes of subparagraph 41(a) is one that, in the ordinary course of the Corporation's business, would not require directors' or Members' approval, then the director or officer shall disclose to the Corporation or request to have entered in the board of directors meeting minutes the nature and extent of their interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction.
- e. Except as permitted by the Act, a director referred to in subparagraph 41(a) shall not attend any part of a board of directors meeting during which the contract or transaction is discussed and shall not vote on any resolution to approve the contract or transaction.

- f. If no quorum exists for the purpose of voting on a resolution to approve a contract or transaction or proposed contract or transaction in respect of which a disclosure is required only because a director is not permitted to be present at the meeting by reason of subparagraph 41(e), the remaining directors are deemed to constitute quorum for the purposes of voting on the resolution.
- g. Subject to the provisions of the Act, if all directors are required to make such disclosure, the contract or transaction or proposed contract or transaction may only be approved by the members.
- h. A contract or transaction for which disclosure is required under subparagraph 41(a) is not void or voidable, and the director or officer is not accountable to the Corporation or the members for any profit or gain realized from the contract or transaction, because of the director's or officer's interest in the contract or transaction or because the director was present or was counted to determine whether a quorum existed at the board of directors or committee meeting that considered the contract or transaction, if:
  - i. disclosure of the interest was made in accordance with this paragraph;
  - ii. the board of directors approved the contract or transaction; and
  - iii. the contract or transaction was reasonable and fair to the Corporation when it was approved.
- i. For the purposes of this paragraph 41, a general notice to the directors by a director or officer declaring that the director or officer is a director or officer of or has a material interest in a person, or that there has been a material change in the director's or officer's interest in the person, and is to be regarded as interested in any contract or transaction entered into with that person is sufficient declaration of interest in relation to any contract or transaction so made.
- j. The provisions of this paragraph 41 are in addition to any conflict of interest policy adopted by the board of directors from time to time.

42. **Submission of Contracts or Transactions to Members for Approval** - The board of directors in its discretion may submit any contract, act or transaction with the Corporation for approval or ratification at any annual meeting of the members or at any special meeting of the members called for the purpose of considering the same and, subject to the provisions of Section 41 of the Act, any such contract, act or transaction that shall be approved or ratified or confirmed by a resolution passed by a majority of the votes cast at any such meeting (unless any different or additional requirement is imposed by the Act or by the Articles) shall be as valid and as binding upon the Corporation and upon all the members as though it had been approved, ratified or confirmed by every member of the Corporation.

### **MEMBERS**

43. **Members** - There shall be one (1) class of members in the Corporation, namely, Dealer members, which shall be issued membership in the Corporation in accordance with the provisions of the By-laws and the rules for membership in the Corporation which have been approved by resolution of the board of directors of the Corporation.

44. **Dealer Members** - A Dealer member shall:

- a. be a motor vehicle dealer in good standing in all respects which has been issued membership under the rules for membership in the Corporation which have been approved by resolution of the board of directors of the Corporation; and
- b. be entitled to receive notice of, attend and vote at all meetings of members and each Dealer member will be entitled to one (1) vote per member or such other number of votes as shall be determined in accordance with the rules for membership in the Corporation.

45. **Termination of Membership** - The interest of a member in the Corporation is not transferable and, as determined by the Board or a committee of the directors, lapses and ceases to exist:

- a. upon death or dissolution of the member;
- b. when the member's period of membership expires (if any);
- c. when the member's registration under the MVD Legislation either:
  - i. expires and is not renewed for any reasons whatsoever; or
  - ii. is revoked for any reason whatsoever; or
  - iii. is voluntarily terminated by the member; or
  - iv. is suspended for any reason whatsoever, provided that such suspended member shall be reinstated once such suspension has expired and such member has satisfied all other conditions attached to such reinstatement.

46. **Registration and Other Fees** - Members shall be notified in writing of the registration or other fees at any time payable by them in respect of either their registration under the MVD Legislation and, if any such fees are not paid when due, as the case may be, the members in default shall thereupon cease to be members of the Corporation.

47. **Membership Cards and Certificates** - The Corporation may from time to time issue to its members such cards, certificates and other forms of identification, in such form, as the board of directors may from time to time approve by resolution.

### **MEMBERS' MEETINGS**

48. **Annual Meeting** - Subject to compliance with section 52 of the Act, the annual meeting of the members shall be held on such day in each year and at such time as the directors may by resolution determine at any place within Ontario or, in the absence of such determination, at the place where the registered office of the Corporation is located, for the purpose of:

- a. hearing and receiving the reports and statements required by the Act to be read at and laid before the members at an annual meeting, including, without limitation, the Corporation's annual report;
- b. electing such directors as are to be elected at such annual meeting;
- c. appointing the auditor and fixing or authorizing the board of directors to fix the remuneration therefor; and
- d. transacting any other business properly brought before the meeting.

**48.1 Meetings and Voting by Telephonic or Electronic Means** - A meeting of the members may be held by telephonic or electronic means, or by a hybrid of these means and in-person, and a member who by telephonic or electronic means votes at the meeting or establishes a communications link to the meeting is deemed to be present at the meeting.

**48.2 Voting by Telephonic or Electronic Means** - Any member participating in a meeting of members and entitled to vote at that meeting may vote, and that vote may be held, by means of the telephonic or electronic means that the Corporation has made available for that purpose.

49. **Special Meetings** - Other meetings of the members may be convened by order of the Chair or the Vice-Chair or by the board of directors at any date and time and at any place within Ontario or, in the absence of such determination, at the place where the registered office of the Corporation is located. The board of directors shall call a special meeting of members on written requisition of not less than one-tenth of the members.
50. **Notice** - Thirty (30) days' written notice shall be given in the manner specified in paragraph 63 to each member of any annual or special meeting of members. Notice of any meeting where special business will be transacted should contain sufficient information to permit the member to form a reasoned judgment on the decision to be taken. Reasonable efforts will also be made to provide the general public with notice of the time, place and date of any annual meeting of the members of the Corporation.
51. **Waiver of Notice** - A member and any other person entitled to attend a meeting of members may in any manner waive notice of a meeting of members and attendance of any such person at a meeting of members shall constitute a waiver of notice of the meeting except where such person attends a meeting for the express purposes of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
52. **Error or Omission in Giving Notice** - No error or omission in giving notice of any annual or special meeting or any adjourned meeting of the members of the Corporation shall invalidate any resolution passed or any proceedings taken at any meeting of members.
53. **Quorum** - A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act, the Articles or a By-law) shall be persons present being not less than two in number. No business shall be transacted at any meeting unless the requisite quorum be present at the time of the transaction of such business. If a quorum is not present at the time appointed for a meeting of members or within such reasonable time thereafter as the members present may determine, the persons present and entitled to vote may adjourn the meeting to a fixed time and place but may not transact any other business and no notice of such adjournment need be given to the members.
54. **Chairperson of the Meeting** - In the event that the Chair is absent and the Vice-Chair is also absent, the persons who are present and entitled to vote shall choose another director as chairperson of the meeting and 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 chairperson.
55. **Adjournment** - The chairperson of any meeting 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.
56. **Voting of Members at Meetings of Members** - Every question submitted to any meeting of members shall be decided in the first instance on a show of hands by a majority of votes unless otherwise specifically provided by the Act or by these By-laws. In case of an equality of votes: the chairperson of the meeting shall not have a second or casting vote; and the relevant motion shall be defeated.

At any meeting unless a poll is demanded a declaration by the chairperson of the meeting that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

A poll may be demanded either before or after any vote by show of hands by any person entitled to vote at the meeting. If at any meeting a poll is demanded on the election of a chairperson or on the question of adjournment it shall be taken forthwith without adjournment. If at any meeting a poll is demanded on any other question or as to the election of directors, the vote shall be taken by ballot in such manner and either at once, later in the meeting or after adjournment as the chairperson of the meeting directs. The result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A demand for a poll may be withdrawn.

57. **Person Entitled to be Present** - The persons entitled to be present at a meeting of the members shall be those entitled to vote thereat, being Dealer members, the directors and auditors of the Corporation and others who, although not entitled to vote, are entitled or required under any provision of the Act, the Articles, the By-laws or the Administrative Agreement to be present at the meeting. Any other person or persons may be admitted as determined from time to time by the board of directors or on the invitation of the chairperson of the meeting or with the consent of the meeting.
58. **Rules of Order** - All meetings of the members of the Corporation shall be conducted in accordance with the rules of order set out in Robert's Rules of Order, as revised, amended or supplemented from time to time, provided that if any such rule of order conflicts with the provision of the Act, the Articles or the By-laws, the provision set out in the Act, the Articles or the By-laws shall govern and prevail.
59. **Voting by Mail or by Telephonic or Electronic Means** – The Corporation may conduct a members' vote by mail or by telephonic or electronic means only if:
- a. the votes may be verified as having been made by members entitled to vote; and
  - b. the Corporation is not able to identify how each member voted.

### **EXECUTION OF INSTRUMENTS**

60. **Execution of Instruments** - Contracts, documents or instruments in writing shall be signed in accordance with the Corporation's policy regarding delegation of authority adopted by the board of directors from time to time. In addition to such policy, the board of directors shall have power from time to time by resolution to appoint any officer or officers or any person or persons on behalf of the Corporation either to sign contracts, documents and instruments in writing generally or to sign specific contracts, documents or instruments in writing.
- The term "contracts, documents or instruments in writing" as used in this By-law shall include but not be limited to deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property, real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper writings.

The seal of the Corporation when required may be affixed to any instruments in writing signed as aforesaid or by any officer or officers appointed by resolution of the board of directors.

### **BANKING ARRANGEMENTS**

61. **Board Designate Bankers** - The board of directors shall designate the Corporation's bank from time to time. Signing authority in relation to banking shall be in accordance with the Corporation's policy regarding delegation of authority adopted by the board of directors from time to time.



62. **Deposit of Securities** - The securities of the Corporation shall be deposited for safekeeping with one or more bankers, trust companies or other financial institutions to be selected by the board of directors. Any and all securities so deposited may be withdrawn, from time to time, only upon the written order of the Corporation signed by such officer or officers, agent or agents of the Corporation, and in such manner, as shall from time to time be determined by resolution of the board of directors and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians by the board of directors shall be fully protected in acting in accordance with the directions of the board of directors and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

### **NOTICES**

63. **Service** - Any notice or other document required by the Act, the Articles, or the By-laws to be sent to any member or director or to the auditor shall be delivered personally or sent by email, prepaid mail or courier to any such member or director at their 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 Corporation; provided always that notice may be waived or the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

64. **Date of Notice** - Date of notice will be the date on which the notice is delivered where the notice is delivered personally or couriered, the date on which the notice is sent where the notice is emailed, or five (5) Days after the date the mail is post-marked in the case of notice by prepaid mail.

65. **Proof of Service** - A certificate of an officer of the Corporation in office at the time of the making of the certificate as to facts in relation to the sending or delivery of any notice or other document to any member, director, officer or auditor or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every member, director, officer or auditor of the Corporation as the case may be.

### **AUDITORS**

66. **Auditors** - The members shall at each annual meeting appoint an auditor to audit the accounts of the Corporation for report to members who shall hold office until the next following annual meeting; provided, however, that the directors may fill any casual vacancy in the office of the auditor. If an appointment is not so made, the auditor in office must continue until a successor is appointed. The remuneration of the auditor shall be fixed by the members or by the directors if they are authorized to do so by the members and the remuneration of an auditor appointed by the directors shall be fixed by the directors. The members may by resolution passed by at least two-thirds (2/3) of the votes cast at a meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of the auditor's term of office and shall by a majority of the votes cast at that meeting appoint another auditor in such auditor's stead for the remainder of the term. Notwithstanding the foregoing, if the board of directors determines at any time that the auditor is either improperly or inadequately performing its duties, the directors may, by resolution, remove such auditor before the expiration of the auditor's term of office and appoint another auditor in such auditor's stead for the remainder of the term.

### **FINANCIAL YEAR**

67. **Financial Year** - The financial year of the Corporation shall terminate on the 31st day of December in each year or on such other date as the directors may from time to time by resolution determine.

### **DISSOLUTION**

68. **Not For Profit** - The Corporation shall be carried on without purpose of gain for its members, and any profits or other accretions to the Corporation shall be used in promoting the Corporation's objects.

69. **Dissolution** - Should the Corporation be dissolved or terminated or for any reason whatsoever surrender its charter, its remaining assets and property, after payment of or provision for all of the debts, liabilities and obligations of the Corporation, shall be distributed:
- a. to any successor Administrative Authority approved by the Minister; or
  - b. if there is no successor Administrative Authority, to a not-for-profit corporation approved by the Minister with similar or compatible objects and whose objects are beneficial to the community.

#### **AMENDMENT OF BY-LAWS**

70. **Enactment** - By-laws of the Corporation may be enacted, repealed, amended, altered, added to or re-enacted in the manner contemplated in, and subject to the provisions of, the Act.

#### **EFFECTIVE DATE**

71. **Effective on Passing** - This By-law shall come into force without further formality upon its enactment.