

**ELECTRICAL SAFETY AUTHORITY**

**GENERAL BY-LAW NO. 1**

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February 4, 1999

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## ELECTRICAL SAFETY AUTHORITY

### GENERAL BY-LAW NO. 1

A By-Law relating generally to the Transaction of the Business and affairs of the Electrical Safety Authority

BE IT ENACTED as a by-law of the Electrical Safety Authority, as follows:

#### ARTICLE 1

#### INTERPRETATION

1.1 Definitions In this by-law and all other by-laws and special resolutions of ESA, unless the context otherwise requires:

“Act” means the *Corporations Act*, R.S.O., 1990, c 38;

“board” means the board of directors of ESA;

“by-laws” means this by-law and all other by-laws of ESA from time to time in force and effect;

“ESA” means the corporation without share capital incorporated under the Act by letters patent dated, 1998 and named the “Electrical Safety Authority”;

“letters patent” means the letters patent incorporating ESA, as from time to time amended and supplemented by supplementary letters patent;

“meeting of members” means an annual meeting of members or a general meeting of members;

“special resolution” means a resolution passed by the board and confirmed with or without variation by at least two-thirds of the votes cast at a meeting of members of ESA duly called for that purpose.

1.2 Interpretation This by-law, unless the context otherwise requires, shall be construed and interpreted in accordance with the following:

- (a) words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders; words importing persons include individuals, corporations, partnerships, trusts and unincorporated organizations;
- (b) the headings used in this by-law are inserted for reference purposes only

and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions;

- (c) in the event of any dispute, the intent or meaning of any word shall be that given to the board, and
- (d) any reference in this by-law to any statute shall, unless otherwise expressly stated, be deemed a reference to such statute as the same may from time to time be amended, restated, re-enacted or replaced.

## ARTICLE 2

### BUSINESS OF ESA

- 2.1 Corporate Seal Until changed in accordance with the Act, the corporate seal of ESA shall be in the form impressed on this page.
- 2.2 Financial Year Until otherwise changed by resolution of the board, the financial year of ESA shall end on March 31 in each year, commencing March 31, 1999.
- 2.3 Execution of Instruments Deeds, transfers, licenses, assignments, contracts, obligations, certificates and other instruments and engagements may be signed on behalf of ESA by any two officers together. In addition, the board may from time to time direct the manner in which and the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any person authorized to sign an instrument on behalf of ESA may affix the corporate seal to it.
- 2.4 Banking Arrangements The banking business of ESA shall be transacted with such banks, trust companies or other financial institutions as may from time to time be designated by or under the authority of the board. Banking business or any part of it shall be transacted under the agreements, instructions and delegations of powers as the board may from time to time prescribe or authorize.
- 2.5 Borrowing Arrangements The board may from time to time:
  - (a) borrow money on the credit of ESA;
  - (b) issue, sell or pledge securities of ESA;
  - (c) charge, mortgage, hypothecate or pledge all or any of the property of ESA, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other

obligations or liability of ESA;

- d) delegate the powers under this clause to an officer or officers of ESA as the board considers appropriate

- 2.6 Facsimile Signature The signature of any director or officer may be printed, engraved or otherwise mechanically reproduced in facsimile under such conditions as the board may authorize and such signature shall have the same force and effect as if signed in the handwriting of such director or officer.

### ARTICLE 3

#### DIRECTORS

- 3.1 Board of Directors The affairs of ESA shall be managed by a board of directors of such number as may be determined from time to time by the letters patent or by special resolution as the case may be. Despite vacancies on the board, the remaining directors may continue to act if they still constitute a quorum
- 3.2 Ex Officio Directors The board shall also include any ex officio directors provided for pursuant to the letters patent.
- 3.3 Administer Affairs The board shall manage and administer the affairs of ESA in all things, and may perform or direct the performance of all such acts as may be necessary or of advantage to the attainment of the objects and proper operation of ESA and may make or cause to be made for ESA, in its name, any kind contract which ESA 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 ESA is by its letter patent or otherwise may from time to time deem proper and appropriate, subject to the Act and to the letters patent and by-laws of ESA.
- 3.4 Removal of Directors The members may, by special resolution remove any director before the expiration of his or her term of office and may, by majority vote at that meeting, elect any person in his or her stead for the remainder of the term.
- 3.5 Termination of Office The position of a person as a director on the board shall automatically be terminated if:
- (a) the director makes an assignment under the *Bankruptcy and Insolvency Act (Canada)* or a receiving order is made against the director.
  - (b) the director becomes of unsound mind or is adjusted by a qualified medical practitioner to be mentally incompetent person or incapable of managing his or her affairs

- (c) the director dies;
  - (d) by notice in writing to ESA the director resigns his or her office (which resignation shall be effective at the time it is received by the President or Secretary, or otherwise in accordance with its term, whichever is later); or
  - (e) the director is removed from office by resolution of the members as provided in section 3.4
- 3.6 Vacancies Subject to the letters patent, a vacancy on the board except for a director appointed by the Minister, howsoever caused, may be filled for the remainder of its term of office either by the members at a meeting of members called for the purpose or, provided the remaining directors constitute a quorum, by the board, or at the next annual meeting of members at which directors are elected.
- 3.7 Limitation of Consecutive Terms Effective following the first annual meeting, no director with the exception of the Chief Executive Officer and Minister appointed directors, shall be entitled to serve greater than three consecutive three year terms in office as a director.
- 3.8 Nomination Committee The board shall establish a Nomination Committee responsible for the identification of qualified persons for consideration by the members in the election of directors.
- 3.9 Removal of Minister Appointed Directors Notwithstanding section 3.4, the members may not remove any director appointed by the Minister without the receipt of notice from the Minister by ESA.

#### **Article 4**

##### **Meeting of Directors**

- 4.1 Meetings of the Board Meetings of the board shall be held from time to time at the call of either the Chair, the President or not less than one- third of the directors on the board. Notice of the time and place of every meeting so called shall be given to each director not less than 48 hours (excluding Saturdays, Sundays and statutory holidays) before the time when the meeting is to be held, except that no notice of a meeting shall be necessary if all the directors are present or if those absent waive notice of or otherwise signify their consent to such meeting being held.
- 4.2 First Meeting of New Board Provided a quorum of directors is present, each newly elected board may without notice hold its first meeting immediately following the meeting of members at which such board is elected.



- 4.3 Regular Meetings The board may appoint a day in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the board so fixing the place and time of regular meetings of the board shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting.
- 4.4 Place of Meeting Meetings of the board shall be held at the head office of ESA or elsewhere in Ontario or, if the board so determines, at some place outside Ontario.
- 4.5 Electronic Participation Subject to terms of the Act and the common law, if all the directors of ESA consent, a meeting of directors may be held by means of such telephonic, electronic or other communication facilities 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.
- 4.6 Quorum A majority of the board shall constitute a quorum.
- 4.7 Votes to Govern At all meetings of the board every question shall be determined by a majority of the votes cast on the motion. In case of any equality of votes, the Chair of the meeting shall not be entitled to a second or casting vote. Voting may be by a show of hands unless a ballot is demanded by any director. A declaration by the Chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. No director may vote by proxy at any meeting of the board.
- 4.8 Resolution in Writing Any by-law or resolution during the board's first year of existence signed by all the directors in writing without their meeting together shall be valid and effective as if passed at a meeting of the board duly called, constituted and held for that purpose.
- 4.9 Errors in Notice The accidental omission to give notice to any director or the non-receipt of any notice by a director or an error in any notice not affecting the substance thereof shall not invalidate any action taken at or resulting from a meeting held pursuant to such notice.
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- 4.10 Powers The board shall have full power with respect to all affairs of ESA and no by-law or resolution passed or enacted by the board, or any other action taken by the board, requires confirmation or ratification by the members in order to become valid or to bind ESA, unless such confirmation or ratification is required by statute.
- 4.11 Delegated Authority Where action is required to be taken urgently at a time when board meeting cannot be conveniently convened, authority rest either with the Executive Committee, if there is one, or with the Chair in consultation with other officers.

- 4.12 Remuneration The directors may by resolution determine the remuneration to be paid to each director, other than a director who is an employee of ESA, to attend board meetings of the board or a committee of the board personally, by telephone, electronically or some other means permitted by the by-laws.
- 4.13 Annual Payment to Chair and Vice-Chair The directors may by resolution determine that the Chair and Vice-Chair of the board shall receive an annual payment in addition to any remuneration paid pursuant to paragraph 1.1.
- 4.14 Ability to Decline Remuneration Any director, as a result of an employment or other obligation, may decline any remuneration payable under paragraphs 1.1 or 1.2 by advising an officer of ESA.
- 4.15 Special Remuneration The directors may by resolution award special remuneration to any director in undertaking any special services on ESA's behalf other than normal work ordinarily required of a director of a corporation.
- 4.16 Expenses The directors, officers and employees shall be entitled to be paid their travel and other reasonable out-of-pocket expenses properly incurred by them in performance of their duties, including attending meetings of the board and any committee thereof or meetings of members in connection with the affairs of ESA.
- 4.17 Validity of Actions No act or proceeding of any director or the board shall be deemed invalid or ineffective by reasons of the subsequent ascertainment of any irregularity in regard to such act or proceeding or the qualifications of such director or the board.

## ARTICLE 5

### OFFICERS

- 5.1 Corporate Officers The board shall, not less than annually, elect a Chair and, subject to section 5.3(b), President from among themselves. In addition, the board shall appoint a Secretary and such other officers as the board may determine from time to time, none of whom are required to be members of the board. One person may hold more than one office. Each officer will hold office until removed by the board or until his or her successor is appointed. The remuneration of such officers shall be established by resolution of the board from time to time.
- 5.2 Duties of Officers may be Delegated In case of the absence or inability to act of any officer of ESA 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.

5.3 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. The duties of such of the following officers as may be elected from time to time, shall include:

- (a) Chair of the Board The position of the Chair shall be a non-executive position. The Chair shall be elected as such from among the members of the board, but shall not hold any other office of ESA. The Chair shall perform any or all duties customarily borne by a Chair of a corporation such as ESA as well as such other duties as may be assigned to the position by the board.
- (b) President Unless otherwise determined by resolution of the board, the President shall be the chief executive officer of ESA and shall perform any or all duties customarily borne by a president and chief executive officer of a corporation such as ESA as well as such other duties as may be assigned to the position by the board.
- (c) Secretary The Secretary shall give or cause to be given notices for all meetings of the board of directors, its committees, if any and of members when directed to do so and have charge of the corporate seal of ESA, the minute books of ESA and of the documents and registers referred to in the Act.

5.4 Agents and Employees The board may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board at the time of such appointment.

## ARTICLE 6

### PROTECTION OF DIRECTORS AND OFFICERS

6.1 Limitation of Liability No director or officer of ESA shall be liable for acts, receipts, neglects or defaults of any other director or officer or employee, or for jointing in any receipt or other act for conformity, or for any loss, damage or expense happening to ESA through the insufficiency or deficiency of title to any property acquired by order of the board for or on behalf of ESA, or for the insufficiency or deficiency of any security in or upon which any of the moneys of ESA shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the moneys, securities or effects of ESA shall be deposited, or for any loss, damage or misfortune whatever which shall happen in the execution of the duties of his or her office or in relation thereto unless the same are occasioned by his or her own willful neglect or default.

- 6.2 Indemnity Every director or officer of ESA or other person who has undertaken or is about to undertake any liability on behalf of ESA or any company controlled by it and his or her heirs, executors and administrators and estate and effects, respectively, shall from time to time at all times be indemnified and saved harmless out of the funds of ESA from and against:
- (a) all costs, charges and expenses whatsoever that such director, officer or other person sustains and incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him or her in or about the execution of the duties of his or her office; and
  - (b) all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs of ESA, except such costs, charges or expenses as are occasioned by his or her own willful neglect or default.
- 6.3 Directors' Reliance Any director may rely upon the accuracy of any statement or report prepared by ESA's auditors and shall not be responsible or held liable for any loss or damage resulting from acting upon such statement or report.

## ARTICLE 7

### MEMBERS

- 7.1 Members The members shall consist of the members of the board from time to time and all persons who are from time to time elected, appointed or by virtue of their office are members of the board shall, effective upon such election, appointment, or taking office, be and be deemed to be members of ESA.
- 7.2 Termination Membership in ESA is not transferable and lapses and ceases to exist:
- (a) upon the death of the member; or
  - (b) if the member ceases to be a member of the board for any reason

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## ARTICLE 8

### MEETING OF MEMBERS

- 8.1 Annual Meetings The annual meeting of the members shall be held at such time and on such day in each year as the board may from time to time determine for the purpose of receiving the reports and statements required by the Act to be placed before the annual meeting, electing directors, appointing auditors and fixing or authorizing the board to fix their remuneration, and for the transaction of such other business as may properly be brought before the meeting.

- 8.2 General Meetings The board or the Chair of the board shall have power to call a general meeting of members at any time.
- 8.3 Place of Meetings Meetings of members shall be held at the head office of ESA or elsewhere in the municipality in which the head office is situated or, if the board shall so determine, at some other place in Ontario.
- 8.4 Notice of Meetings Notice of the time and place of each meeting and the general nature of the business to be transacted at the meeting shall be given not later than the close of business 10 days before the day on which the meeting is to be held to each member. The auditors of ESA are entitled to receive all notices and other communications relating to any meetings that any member is entitled to receive.
- 8.5 Meetings without Notice A meeting of members may be held at any time and place without notice if all the members entitled to vote there are present in person or represented by proxy, or if those not present or represented by proxy either before or after the meeting waive notice or otherwise consent to such meeting being held, and at such meeting any business may be transacted which ESA at a meeting of members may transact provided that a quorum of the members is present.
- 8.6 Persons Entitled to be Present The only persons entitled to attend a meeting of members shall be the members of the ESA, the auditors of ESA and others who, although not entitled to vote, are entitled or required under any provision of the Act or the letters patent or bylaws to be present at this meeting. Any other person may be admitted only on the invitation of the Chair of the board or the meeting or with the consent of the meeting.
- 8.7 Quorum A quorum for the transaction of business at any meeting of members shall consist of not less than two persons in person and representing in person or by proxy not less than 50% of the aggregate of the members. No business shall be transacted at any meeting of members unless a quorum is present at the commencement of and throughout the meeting.
- 8.8 Right to Vote At any meeting of members every member shall be entitled to one vote and he or she may vote by proxy.
- 8.9 Votes to Govern At any meeting of members every question shall, unless otherwise required by the letters patent or bylaws, be determined by a majority of the votes duly cast on the motion.
- 8.10 Proxies Votes at meetings of the members may be given either personally or by proxy. A person appointed by proxy must be a member. A proxy shall be executed by the member or the member's attorney authorized in writing. At every meeting at which a member is entitled to vote, every member and every person appointed by proxy to represent one or more members who is present in person shall have one vote on a show of hands. Upon a poll and subject to provisions, if any, of the letters patent, every member who is entitled to vote at the meeting and who is present in person or represented by an



individual so authorized shall have one vote and every person appointed by proxy shall have one vote for each member who is entitled to vote at the meeting and who is represented by such proxy.

- 8.11 Deposit of Proxies The board may from time to time make regulations regarding the deposit of proxies at some place or places other than the place at which a meeting or adjourned meeting of members is to be held and for particulars of such proxies to be sent by facsimile or in writing for the meeting or adjourned meeting to ESA or any agent of ESA for the purpose of receiving such particulars and providing that proxies so deposited may be voted upon as though the proxies themselves were produced at the meeting or adjourned meeting and votes given in accordance with such regulation shall be valid and shall be counted. The Chair of any meeting of members may, subject to any regulations made aforesaid, in the Chair's discretion accept facsimile (including telecopies) or written communication as to the authority of any person claiming to vote on behalf and to represent a member notwithstanding that no proxy conferring such authority has been deposited with ESA, and any votes given in accordance with such facsimile or written communication accepted by the Chair of the meeting shall be valid and shall be counted.
- 8.12 Show of Hands Every question at a meeting of members shall be decided by a show of hands unless, after a show of hands, a poll thereon is required or demanded as hereinafter provided. Upon a show of hands every person who is present and entitled to vote shall have one vote. Whenever a vote by show of hands shall have been taken upon a question, unless a poll thereon is so required or demanded, a declaration by the Chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and the result of the vote so taken shall be the decision of the members upon the said question.
- 8.13 Polls After a show of hands has been taken on any question, the Chair may require or any person entitled to vote on the question may demand, a poll thereon. A poll so required or demanded shall be taken in such manner as the Chair shall direct. A demand for a poll may be withdrawn at any time prior to the taking of the poll. Upon a poll, each member present in person or represented by proxy and entitled to vote shall have one vote and the result of the poll shall be the decision of the members upon the said question.
- 8.14 No Casting Vote In case of an equality of votes at any meeting of members either upon a show of hands or upon a poll, the Chair of the meeting shall not be entitled to an additional or casting vote.
- 8.15 Chair, Secretary of Meeting of Members The Chair of the board, or in his or her absence the President of ESA, shall preside as Chair at all meetings of the members. If both such persons are absent fifteen minutes after the time fixed for holding a meeting of members, the members present shall choose one of their number to be chair. The Secretary shall act as Secretary of the meeting. In the Secretary's absence, the Chair shall

appoint such person to act as Secretary of the meeting. In this by-law, reference to the "Chair", unless otherwise indicated, refer to the chairperson of a meeting of members.

- 8.16 Adjournment The Chair of any meeting of the members or of the board may with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and from place to place and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place and such adjournment may be made notwithstanding that no quorum is present. No notice shall be required of any such adjournment.
- 8.17 Resolution in Writing Any resolution during the corporation's first year of existence signed by all the members in writing without their meeting together shall be valid and effective as if passed at a meeting of the members duly called, constituted and held for that purpose.

## ARTICLE 9

### RESTRICTION ON DIRECTORS, OFFICERS AND MEMBERS

- 9.1 Conflicts of Interest Every director or officer who is in any way directly or indirectly interested in a proposed contract or a contract with ESA shall declare his or her interest at a meeting of the directors. A general notice given to the directors by a director or officer to the effect that he or she is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director or officer takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.
- 9.2 Additional Restriction ESA shall not knowingly, directly or indirectly, purchase from or lend money to any directors, officers or members, or any persons who are in a non-arms-length relationship with the directors, officer

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## ARTICLE 10

### NOTICES

- 10.1 Notice Whenever under the provisions of the by-laws, notice is required to be given, unless otherwise provided herein, such notice may be given either personally or by telecopy or depositing same in a post office or a public letterbox, postage prepaid, addressed to the director, officer or member at such person's address as the same last appears on the books of ESA. A notice or other document so sent by post shall be deemed to be given at the time and when the same was so deposited, or if telecopied shall be deemed to be given when the same was transmitted. A declaration by the Secretary or the

Chair that any such notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. Any person entitled to receive and such notice may waive such notice either before or after the meeting to which such notice \ refers.

- 10.2 Computation of Time In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving the notice shall be excluded and the date of the meeting or other event shall be included.
- 10.3 Omissions and Errors The accidental omission to give any notice to any member, director, officer or auditor or the non-receipt of any notice by any member, director, officer or auditor or any error in any notice not affecting the substance thereof of any meeting or any adjourned meeting shall not invalidate such meeting or any action taken at any meeting held pursuant to such notice or otherwise founder thereon.
- 10.4 Waiver of Notice Any member, director, officer or auditor may waive any notice required to be given to him or her under any provision of the Act, the letters patent, the by-laws or otherwise and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice.

## ARTICLE 11

### AUDITORS

- 11.1 Auditors The members shall at each annual meeting, appoint an auditor to audit the accounts of ESA and to hold office until the next annual meeting, provided that the directors may fill any casual vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the board of directors.

## ARTICLE 12

### AMENDMENTS OF BY-LAWS

- 12.1 Amendment of By-Laws By-laws of ESA may be enacted, and may be repealed or amended by further by-law enacted, by a majority of the directors at a meeting of the board and sanctioned by an affirmative vote of at least two-thirds of the eligible voting members at a meeting duly called for the purpose of considering the said by-law.

## ARTICLE 13

### EFFECTIVE DATE

- 13.1 Effective Date This by-law shall come into force when confirmed by the members in accordance with the Act.



PASSED by the directors and sealed with the corporate seal the <sup>th</sup> day of February, 1999.

President

Secretary

CONFIRMED by the members the <sup>th</sup> day of February, 1999.

Secretary