

OTTAWA INTERNET EXCHANGE

BY-LAW NO. 1

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BY-LAW NO. 1

A by-law relating generally to the transaction of the business and affairs of

OTTAWA INTERNET EXCHANGE

(hereinafter referred to as the “Corporation”)

DEFINITIONS AND INTERPRETATION

1. In this By-law No. 1 and in all other By-Laws and resolutions of the Corporation, unless the context otherwise specified or requires, the following terms shall have the following meanings:
 - 1.1 **“Act”** shall mean the *Canada Corporations Act*, as amended from time to time;
 - 1.2 **“Board”** shall mean the board of directors of the Corporation;
 - 1.3 **“By-laws”** shall mean this By-law No. 1 and all other by-laws of the Corporation in effect from time to time.
 - 1.4 **“Director”** or **“Directors”** shall mean any one or more persons, respectively, who from time to time have been duly elected by the Members to serve on the Board;
 - 1.5 **“Member”** or **“Members”** shall mean any one or more persons, respectively, who have been admitted to membership of the Corporation in accordance with the By-laws; and
 - 1.6 **“Officer”** or **“Officers”** shall mean any one or more persons, respectively, who have been appointed as officers of the Corporation in accordance with the By-laws.
2. In the By-laws, unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and reference to persons shall include firms and corporations.

BUSINESS OF THE CORPORATION

3. **Corporate Seal.** The seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Corporation until changed from time to time by resolution of the Board.
4. **Head office.** Until changed in accordance with the Act, the head office of the Corporation shall be in the City of Ottawa, in the Province of Ontario.
5. **Books and Records.** The Board shall see that all necessary books and records of the Corporation required by the By-laws or by any applicable statute or law are regularly and properly kept.
6. **Financial Year.** Unless otherwise ordered by the Board, the financial year end of the Corporation shall be December 31st.
7. **Official Languages.** The official languages of the Corporation shall be English and French.

BOARD OF DIRECTORS

8. The property and business of the Corporation shall be managed by the Board consisting of a minimum of three (3). The number of Directors shall be determined from time to time by resolution of the Directors of the Corporation. Directors must be individuals, at least 18 years of age, with power under law to contract. Directors need not be Members.
9. The applicants for incorporation shall become the first Directors of the Corporation whose term of office on the Board shall continue until their successors are elected.
10. At the first meeting of Members, the Board then elected shall replace the provisional directors named in the letters patent of the Corporation.
11. Directors shall be elected for a term of *one (1) year by the Members at an annual meeting of Members.
12. The office of Director shall be automatically vacated:
 - 12.1 if a Director by notice in writing to the Secretary of the Corporation resigns from office, which resignation shall be effective at the time it is received by the Secretary of the Corporation or at the time specified in the notice, whichever is earlier;
 - 12.2 if the Director is found by a court of law to be of unsound mind;

- 12.3 if the Director becomes bankrupt or suspends payment or compounds which such Director's creditors;
- 12.4 if at a special meeting of the Members a resolution is passed by three-quarters (3/4) of the Members present at the meeting that the Director be removed from office;
- 12.5 on the death of such Director;

provided that if any vacancy shall occur for any reason set out in this paragraph, the Board by majority vote, if a quorum remains in office, may, by appointment, fill the vacancy with a Member of the Corporation.

13. Meetings of the Board may be held at any time and place, within or outside of Canada, to be determined by the Directors provided that 48 hours' written notice of such meeting shall be given, other than by mail (which includes, but is not limited to, personal delivery and electronic means), to each Director. Notice by mail shall be sent at least 14 days prior to the date of any meeting of the Board. There shall be at least one (1) meeting per year of the Board. No error or omission in giving notice of any meeting of the Board or any adjourned meeting of the Board shall invalidate such meeting or make void any proceedings taken thereat, and any Director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. Each Director is authorized to exercise one (1) vote.

14. A majority of the Directors in office, from time to time, but no less than two Directors, shall constitute a quorum at any meeting of the Board.

15. 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.

16. If a majority of the Directors consent thereto, a Director may participate in a meeting of the Board or of a committee of the Board by means of such conference telephone or other communications facilities as permit all persons participating in the meeting to communicate adequately with each other, and a Director participating in such meeting by such means is deemed to be present at the meeting. The Directors shall be required to provide to the Secretary of the Corporation a phone number or e-mail address that are personal to such Directors and shall use their best efforts to ensure that such communication facilities are kept secure and available only to such Director. Further, if a majority of the Directors consent thereto, votes on any issue may be conducted electronically under the direction of the Secretary of the Corporation in such a manner as to permit the Directors to communicate adequately. Each Director shall be issued an identifier code by the Secretary of the Corporation and shall receive the same information and motions electronically. If any Director objects to the specific means of communication to be used for voting on a specific matter, then the electronic voting process shall not be followed. A majority of the number of Directors in office shall

respond electronically to the Secretary in order to constitute a quorum within seven (7) days from the date of transmission of the motion from the Secretary to that Director. Each Director will be requested to indicate whether such Director votes for or against the matter to be voted on. Lack of a response within the seven (7) day limit will be counted as an abstention. Every matter dealt with electronically shall be decided by a majority of votes cast on the matter. The Secretary shall inform each Director electronically and by fax of the outcome of all votes including the identity of the Directors voting for, against and abstaining with respect to the matter within seven (7) days of the tally of votes.

17. Every question arising at any meeting of the Board shall be decided by a majority of votes cast on the question. In the event of an equality of votes, the chairman of the meeting shall not be entitled to a second or casting vote.

18. The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from such Director's position as such; provided that a Director may be paid reasonable expenses incurred by such Director in the performance of such Director's duties, including reasonable costs and expenses incurred by a Director in attending at meetings of the Board. Nothing herein contained shall be construed to preclude any Director from serving the Corporation as an Office or in any other capacity and receiving compensation therefor.

19. A retiring Director's resignation may be effective immediately, provided that in the absence of a written notice specifying that such retiring Director's resignation is to be effective immediately, such retiring Director shall remain in office until the dissolution or adjournment of the meeting at which such Director's retirement is accepted and such Director's successor is elected.

20. The Board may appoint such agents, consultants and professional advisors 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.

21. A reasonable remuneration for all Officers, agents, consultants, professional advisors, employees and committee members, shall be fixed by the Board.

POWERS AND RESPONSIBILITIES OF THE BOARD

22. The Board 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 with 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 the Act, its charter or otherwise authorized to exercise and do.

23. The Board shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an Officer or Officers of

the Corporation the right to employ and pay salaries to employees. The Board shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the Corporation in accordance with such terms as the Board may prescribe.

24. The Board shall take such steps as it may deem requisite to enable the Corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the Corporation.
25. The directors of the Corporation may from time to time:
 - 25.1 borrow money upon the credit of the Corporation;
 - 25.2 limit or increase the amount to be borrowed;
 - 25.3 issue debentures or other securities of the Corporation;
 - 25.4 pledge or sell such debentures or other securities for such sums and at such prices as may be deemed expedient;
 - 25.5 secure any such debentures or other securities or any other present or future borrowing or liability of the Corporation by mortgage, hypothecate, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation and the undertaking and rights of the Corporation; and
 - 25.6 guarantee liabilities or obligations of any other person.

The Board may from time to time delegate any or all of the foregoing powers to such Officers or Directors of the Corporation to such extent and in such manner as the Board may from time to time determine. Nothing herein contained shall limit or restrict the borrowing of money by the Corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Corporation.

RULES AND REGULATIONS

26. The Board may prescribe such rules and regulations, not inconsistent with the By-laws, relating to the management and operation of the Corporation as the Board deems expedient, provided that such rules and regulations shall have force and effect only until the next annual meeting of the Members when they shall be confirmed, and failing such confirmation at such annual meeting of Members, shall at and from time to time cease to have any force and effect.

COMMITTEES

27. The Board may appoint committee whose members will hold their offices on such committees at the will of the Board. The Board shall determine the duties of such committees and may fix any remuneration to be paid.

MINUTES OF MEETINGS OF THE BOARD

28. The minutes of the meetings of the Board shall not be available to the Members but shall be available to the Directors, each of whom shall receive a copy of such minutes if the Director so requests of the Secretary.

OFFICERS

29. The Officers of the Corporation shall consist of a President, Vice-President, Secretary and Treasurer and any such other Officers as the Board may by by-law determine. Any two offices may be held by the same person. Officers need not be Directors nor Members.

30. Officers of the Corporation shall be appointed by resolution of the Board at the first meeting of the Board following the annual meeting of Members at which Directors are elected.

31. The Officers of the Corporation shall hold office for a period of * [one(1)] * year from the date of appointment or election or until their successors are elected or appointed. Officers shall be subject to removal at any time by a resolution of the Board.

DUTIES OF OFFICERS

32. The President shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Board. The President shall have the general and active management of the affairs of the Corporation. The President shall see that all orders and resolutions of the Board are carried into effect.

33. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and shall perform such other duties as shall from time to time be imposed upon the Vice-President by the Board.

34. The Treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of

the Corporation in such chartered bank or trust company, or in the case of securities, with such registered dealer in securities as may be designated by the Board from time to time. The Treasurer shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the President and Directors at a regular meeting of the Board, or whenever the Board may require it, an accounting of all the transactions and a statement of the financial position of the Corporation. The Treasurer shall also perform such other duties as may from time to time be directed by the Board.

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

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

EXECUTION OF DOCUMENTS

37. Contracts, documents or any instruments in writing requiring the signature of the Corporation, shall be signed by any directors and all contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The Board shall have power from time to time by resolution to appoint an Officer or Officers on behalf of the Corporation to sign specific contracts, documents and instruments in writing. The Board may give the Corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds and other contracts, documents and instruments in writing signed as aforesaid or by any Officer or Officers appointed by resolution of the Board.

INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

38. Every Director or Officer of the Corporation or other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any corporation controlled by it, and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times be indemnified and saved harmless out of the funds of the Corporation from and against:

- 38.1 all costs, charges and expenses which such Director, Officer or other person sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against such Director, Officer or other person, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by such Director, Officer or other person, in or about the execution of the duties of such Director's, Officer's or other person's office or in respect of any such liability;
- 38.2 all other costs, charges and expenses which a Director, Officer or other person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by such Director's, Officer's or other person's own wilful neglect or default.

CONDITIONS OF MEMBERSHIP

39. Membership in the Corporation shall be limited to persons interested in furthering the objects of the Corporation and shall consist of anyone whose application for admission as a Member has received the approval of the Board.
40. There shall be no membership fees or dues unless otherwise directed by the Board.
41. Any Member may withdraw from the Corporation by delivering to the Secretary of the Corporation a written resignation.
42. Any Member may be required to resign as a Member of the Corporation by a vote of three-quarters (3/4) of the Members at an annual general meeting or special meeting of the Members, provided that such Member shall be granted an opportunity to be heard at such meeting.

MEETINGS OF MEMBERS

43. The annual or any other general or special meeting of the Members shall be held at the head office of the Corporation or at any place in Canada as the Board may determine and on such day as the Board shall determine. The Members may resolve that a particular meeting of Members be held outside Canada.
44. Each Member shall be entitled to receive notice of, attend and vote at every meeting of the Members.
45. At every annual general meeting of Members, in addition to any other business that may be transacted: (a) the report of the Board, the financial statements and the report of the auditors shall be presented to the Members and, (b) the auditors of the Corporation shall be appointed by the Members for the ensuing year and, (c) the Directors shall be

elected (provided that the term of one or more Directors has expired in the year of such annual general meeting of Members). The Members may consider and transact any business either special or general at any meeting of the Members.

46. The Board or the President or Vice-President shall have power to call, at any time, a general or special meeting of the Members, provided that in the event of the calling of a special meeting of the Members by the Board, the purpose of such special meeting shall be specified in the notice calling such special meeting. The Board shall call a special general meeting of the Members on written requisition of Members carrying not less than 5% of the voting rights.

47. Unless the Act or the By-laws otherwise provide, a majority of the Members present in person or represented by proxy shall constitute a quorum for any meeting of the Members.

48. At least fourteen (14) days' written notice, if sent by mail, or at least 48 hours' notice if sent other than by mail (which includes, but is not limited to, personal delivery or electronic means), shall be given to each voting Member of any annual general or special meeting of Members. Notice of any meeting where special business will be transacted shall contain sufficient Notice of each meeting of Members must indicate that each Member has the right to vote by proxy at such meeting of Members.

49. No error or omission in giving notice of any annual general meeting of Members or any adjourned meeting of Members, whether general or special, of the Members shall invalidate such meeting or make void any proceedings taken thereat, and any Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For purpose of sending notice to any Member, Director or Officer for any meeting or otherwise, the address of the Member, Director or Officer shall be the Members's, Director's or Officer's last address as recorded on the books of the Corporation.

50. If a majority of the Members consent thereto, a Member may participate in a meeting of the Members by means of such conference telephone or other communications facilities as permit all persons participating in the meeting to communicate adequately with each other, and a Member participating in such meeting by such means is deemed to be present at the meeting. The Members shall be required to provide to the Secretary of the Corporation a phone number or e-mail address that are personal to such Members and shall use their best efforts to ensure that such communication facilities are kept secure and available only to such Member. Further, if a majority of the Members consent thereto, votes on any issue may be conducted electronically under the direction of the Secretary of the Corporation in such a manner as to permit the Members to communicate adequately. Each Member shall be issued an identifier code by the Secretary of the Corporation and shall receive the same information and motions electronically. If any Member objects to the specific means of communication to be used for voting on a specific matter, then the electronic voting process shall not be followed. Unless the Act or the By-laws otherwise provide, a

majority of the number of Members shall respond electronically to the Secretary in order to constitute a quorum within seven (7) days from the date of transmission of the motion from the Secretary to that Member. Each Member will be requested to indicate whether such Member votes for or against the matter to be voted on. Lack of a response within the seven (7) day limit will be counted as an abstention. Every matter dealt with electronically shall be decided by a majority of votes cast on the matter. The Secretary shall inform each Member electronically and by fax the outcome of all votes including the identity of the Members voting for, against and abstaining with respect to the matter within seven (7) days of the tally of votes.

51. Each voting Member present at a meeting of Members shall have the right to exercise one vote. A Member may, by means of a written proxy, appoint a proxyholder to attend and act a specific meeting of Members, in the manner and to the extent authorized by the proxy. A proxy is good only for the meeting for which it is authorized. A proxyholder must be a Member of the Corporation.

VOTING OF MEMBERS

52. At all meetings of the Members every question shall be determined by a majority vote unless otherwise specifically provided by the Act, the By-laws or applicable law.

AUDITORS

53. **Appointment.** The Members shall at each annual general meeting of Members appoint an auditor to hold office until the termination of the next annual general meeting and to audit the accounts of the Corporation for report to the Members at the next annual general meeting. The auditor shall hold office until the next annual general meeting of Members provided that the Board may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the Board.

54. **Removal.** The Members, by a resolution passed by at least 2/3 of the votes cast at a general or special meeting of Members of which notice specifying the intention to pass such resolution was given, may remove any auditor of the Corporation before the expiration of such auditor's term of office and shall, by a majority of the votes cast at such meeting, appoint another auditor in such auditor's place for the remainder of such auditor's term.

RULES OF ORDER

55. The meetings of the Board and of the Members shall be conducted in accordance with *Wainberg's Society Meetings*.

