

Ontario Tourism Marketing Partnership Corporation

Corporate By-Law No. 6

Adopted by the Board of Directors

October 4, 2006

Amended, February 27, 2012

BY-LAW No. 6

Being a by-law relating generally to the conduct of the affairs of the:

ONTARIO TOURISM MARKETING PARTNERSHIP CORPORATION

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BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the Ontario Tourism Marketing Partnership Corporation as follows:

Repeal

- 1.1 Repeal - By-law Number 4 of the Corporation is hereby repealed and substituted by By-law Number 6. Any other by-laws inconsistent herewith are repealed to the extent that they are inconsistent. All resolutions with continuing effect passed under By-law Number 4 shall continue and be valid except to the extent that they are inconsistent with this by-law.

Interpretation

- 2.1 Definitions and Interpretation – In this by-law, unless the context otherwise requires:

- (a) "Board" means the Board of Directors of the Corporation;
- (b) "By-laws" means this by-law and all other by-laws of the Corporation from time to time in force and effect;
- (c) "Corporation" shall mean the Ontario Tourism Marketing Partnership Corporation as established by Ontario Regulation 618/98 Amended O.Reg. 271/04 made under section 5 of the *Development Corporations Act*, R.S.O. 1990, c. D.10, as amended;
- (d) "Direction" means a policy direction to the Board issued at any time by the Minister;
- (e) "Memorandum of Understanding" means the memorandum of understanding between the Minister and the Corporation, as amended from time to time;
- (f) "Minister" means the Minister of Tourism, or such other member of the Executive Council to whom the administration of the Corporation is assigned under the *Executive Council Act*;
- (g) "Ministry" means the Ministry of Tourism, or such other Ministry over which the Minister presides;
- (h) "Non-business day" means Saturday, Sunday and any other day that is a holiday as defined in the *Interpretation Act* (Ontario), as from time to time amended;
- (i) "Regulation" means Ontario Regulation 618/98 Amended O.Reg. 271/04 that establishes the Corporation.

- 2.2 Words, Expressions - Except as set out in Section 2.1, words defined in the Regulation have the same definition when used herein. Where the context so requires or permits, 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 references to persons shall include firms and corporations.

- 2.3 Headings – 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 such terms or provisions.

General

- 3.1 The proceedings, conduct and management of the Corporation shall at all times be carried out and implemented in a manner consistent and in compliance with the Regulation, Directions and the Memorandum of Understanding. If any by-law of the Corporation is inconsistent with or in conflict with any of the Regulation, Directions or the Memorandum of Understanding, the Regulation, Directions and the Memorandum of Understanding shall prevail.

Business of the Corporation

- 4.1 Head Office – The Head Office of the Corporation shall be in the City of Toronto in the Province of Ontario as the directors may from time to time determine.
- 4.2 Corporate Seal – Until changed by resolution of the Board, the corporate seal impressed in the margin shall be the corporate seal of the Corporation.
- 4.3 Fiscal Year – Unless changed by resolution of the Board, the fiscal year of the Corporation shall terminate on the 31st of March each year.
- 4.4 Auditor – In accordance with the Regulation, the accounts and financial transactions of the Corporation shall be audited annually and subject to review by BDO Canada LLP.
- 4.5 Execution of Instruments – Contracts, documents or any other instruments in writing requiring the signature of the Corporation shall be signed by such person or persons as the Board may from time to time by resolution designate. In the absence of an express designation as to the persons authorized to sign either contracts, documents, or instruments in writing generally or to sign specific contracts, documents or instruments in writing, any of the directors and any two officers of the Corporation may sign contracts, documents or instruments in writing on behalf of the Corporation. All contracts, documents and instruments so signed shall be binding upon the Corporation without any further authorization or formality. Where necessary or convenient, the Secretary shall affix the seal of the Corporation to such instruments as require the same.
- 4.6 Banking Arrangements – The banking business of the Corporation (but specifically excluding the borrowing of money or the giving of security therefore except as herein provided), shall be transacted with such chartered bank or banks of Canada and trust companies as the Board may by resolution from time to time determine.

All cheques, bills of exchange or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be 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. Any one of such officers or agents may alone endorse notes and drafts for collection on account of the Corporation through its bankers, and endorse notes and cheques for deposit with the Corporation's bankers for the credit of the Corporation, or the same may be endorsed for such deposit by means of a stamp bearing the Corporation's name.

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. 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 and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians by the Board shall be fully protected in acting in accordance with the directions of the Board and shall in no event be liable for the due application of the securities withdrawn from deposit or the proceeds thereof.

- 4.7 Borrowing Powers – The Board shall not authorize borrowing in any manner on account of the Corporation nor pledge the assets of the Corporation except as may be authorized pursuant to the Regulation.

- 4.8 Minutes of Meetings – Minutes shall be kept at all meetings of the Board and of any Committee of the Corporation. All minutes shall be approved with or without amendment and signed by the Chair and Secretary of that meeting and shall constitute the record of the Corporation's proceedings and shall be admissible in evidence as prima facie proof of the proceedings.

Board of Directors

- 5.1 Number of Directors – As provided in the Regulation, the Board shall consist of a minimum of three directors as appointed by the Lieutenant Governor in Council. The members of the Corporation form and are its Board.
- 5.2 Appointment, Term, Vacancies – Directors may be appointed for such a term, not exceeding three years, and for any vacancy which may occur in the Board, as may be determined by the Lieutenant Governor in Council.
- 5.3 Action by the Board – The Board shall manage and control the affairs of the Corporation in the manner as provided in the Regulation, Directions and the Memorandum of Understanding. The powers of the Board may be exercised at a meeting at which quorum is present or by resolution in writing signed by all the directors entitled to vote on that resolution at a meeting of the Board. Where there is a vacancy in the Board, the remaining directors may exercise all powers of the Board as long as a quorum remains in office.
- 5.4 Duties – Every director and officer of the Corporation in exercising their powers and discharging their duties shall:
- (a) act honestly and in good faith with a view to the best interest of the Corporation;
 - (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- 5.5 Chair, Vice Chair – As provided in the Regulation, the Lieutenant Governor in Council shall designate one of the directors to be the Chair of the Board, and one director to be Vice-Chair of the Board. The Chair shall preside at all meetings of the Board and shall have such powers and perform such duties as may from time to time be assigned to him or her by the Board. The Chair with the Secretary or another officer shall sign all by-laws of the Corporation. In the Chair's absence, the Vice-Chair shall have all the powers and perform the duties of the Chair. If the Chair and Vice-Chair are both absent, the directors present shall designate one of their number to be Chair for that meeting. The Chair shall provide supervision and mentorship for the Chief Executive Officer.
- 5.6 Calling of Meetings – Meetings of the Board shall be held from time to time at such time and at such place as the Board, the Chair of the Board, the Secretary on direction of the Chair or any two directors may determine.
- 5.7 Notice of Meetings – Notice of the time and place of each meeting of the Board shall be given in the manner provided in Section 8.1 to each director not less than two (2) days before the time the meeting is to be held. A notice of a meeting of the Board need not specify the purpose or the business to be transacted at the meeting. Meetings of the Board may be held at any time without formal notice being given if all the directors are present, or if those directors who are absent have signified their consent to the meeting being held in their absence. The Board may appoint a day or days in any month or months for regular meetings at an hour named and of such regular meeting no notice need be sent.
- 5.8 Minimum Number of Meetings – The Board shall meet at least four (4) times in each financial year.
- 5.9 Restriction of Powers – The Board shall observe any limitation on its powers as may be stipulated by the Regulation, Directions and the Memorandum of Understanding.
- 5.10 Adjourned Meeting – Except for absent directors, notice of an adjourned meeting of the Board is not required if the time and place of the adjourned meeting is announced at an original meeting.
- 5.11 Quorum – As provided in the Regulation, a majority of the directors shall constitute a quorum for the transaction of business. Provided however, in determining whether a quorum exists at any time, any director who is not

entitled to vote on any matter due to a conflict of interest shall be deemed to be not in attendance for that part of the meeting of the Board.

- 5.12 Votes to Govern – At all meetings of the Board every question shall be decided by a majority of the votes cast on the question. The exceptions to the majority rule are: the initial approval of the Corporation's annual business and marketing plans and budgets, and any changes or amendments to corporate by-laws, which must be decided by two-thirds of the votes cast. Each director is entitled to one (1) vote. In case of an equality of votes, the Chair of the meeting shall be entitled to a second or casting vote.

All votes at such meeting shall be taken by ballot if so demanded by any director present, but if no demand is made, the vote shall be taken in the usual way by assent or dissent. Directors may vote by written proxy at any meeting for which they are not physically present. Such written proxy vote must clearly indicate the relevant agenda item and the director's vote, and must be filed with the Secretary or the Chair twenty-four (24) hours prior to the date of the relevant meeting of the Board.

- 5.13 Resolution in Writing – 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.

- 5.14 Meeting by Telephone – If all the directors of the Corporation attending a meeting of the Board consent, a director may participate in that meeting of the Board by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other, and a director participating in such a meeting by such means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board.

- 5.15 Remuneration of Directors – In accordance with the Regulation, remuneration and expense allowance to be paid by the Corporation to directors who are not public servants within the meaning of the *Public Service Act* shall be fixed from time to time by the Lieutenant Governor in Council.

Officers

- 6.1 Appointment – The Board may by resolution appoint a Chief Executive Officer, a Treasurer, a Secretary and other such offices as the Board may determine. One person may hold more than one office.

- 6.2 Function of Officers – The officers shall have those functions set out in this by-law and any other applicable by-laws of the Corporation, those functions assigned to them by the Board, the Chief Executive Officer, and those functions normally associated with their respective offices.

- 6.3 Delegation of Duties – In accordance with this by-law and subject to the Regulation, Directions and Memorandum of Understanding, the Board may delegate powers assigned to officers of the Corporation, provided that such delegation of authority is consistent with directives and policies of the Government of Ontario that apply to the Corporation.

- 6.4 Chief Executive Officer – The Chief Executive Officer shall be charged with the management and administration of the affairs and operations of the Corporation, subject to the supervision of the Chair and to the authority and direction of the Board. The Chief Executive Officer shall report on the activities of the Corporation to the Board annually or more frequently, if requested. The Chief Executive Officer shall also perform such duties and have such powers as may from time to time be assigned by the Board.

- 6.5 Secretary – The Secretary shall be ex officio clerk of the Board. The Secretary shall attend all meetings of the Board and shall enter or cause to be entered in books kept for that purpose, minutes of all proceedings of such meetings. The Secretary shall give, or cause to be given, as and when instructed, all notices required to be given to directors and members of Committees, provided that the validity of any notice shall not be affected by reason only of the fact that it is sent by some person other than the Secretary. The Secretary shall, subject to

any specific appointment to the contrary, be the custodian of the corporate seal of the Corporation and of all books, papers, records, documents and other instruments belonging to the Corporation. The Secretary shall have such other powers and duties as the Board or the Chief Executive Officer may specify.

6.6 Treasurer – The Treasurer shall keep full and accurate accounts of all receipts and disbursements of the Corporation in proper books of account and shall deposit all monies or other valuable effects in the name and to the credit of the Corporation in such bank or banks as may from time to time be designated by the Board. The Treasurer shall disburse the funds of the Corporation in accordance with the provisions of this by-law and taking proper vouchers thereof and shall render to the Board at the regular meetings thereof or whenever required, an account of all his or her transactions as Treasurer, and of the financial position of the Corporation. The Treasurer shall make available to the Provincial Auditor such information, reports or materials which the Provincial Auditor may from time to time request. The Treasurer shall have such other powers and duties as the Board or the Chief Executive Officer may specify.

6.7 Powers and Duties of Other Officers – The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the Board or the Chief Executive Officer requires of them, or as set out in a delegation of authority between the Board and the corporate officers.

Committees

7.1 Board Committees – the Board may appoint two or more directors of the Corporation to any of three Standing Committees; the Chair shall lead the Executive Committee and be an ex-officio member of all other Standing Committees. There shall be three Standing Committees of the OTMPC Board, each of which shall meet no less than three times each fiscal year:

(i) Executive Committee: to assist the Board with the performance of their duties and a mandate to:

- establish criteria to develop and evaluate strategic directions;
- conduct preliminary reviews of operational plans, policies and procedures;
- provide oversight of Board committees, priorities and resource allocation;
- deal with all matters affecting OTMPC between Board meetings and discharge all duties imposed on the Committee by the Board;
- support communications between the Ministry and OTMPC management;
- review and advise the government on executive management practices, within the context that management are Ontario Public Service employees;
- advise the government on recruiting and monitor the performance of the OTMPC President;
- support the identification of talent within and outside of OTMPC with a view to potential succession planning; and
- act in an expedient manner on issues of urgency if/when in the opinion of the Chair, time does not permit the calling of regular or special meeting of the Board.
- the OTMPC President & CEO shall serve as a resource to the Executive Committee

(ii) Audit, Finance & Risk Committee: to assist the Board with the performance of their duties and a mandate to:

- identify and monitor the principal risks that could affect reliability of financial reporting;
- monitor the integrity of the financial reporting process and system of internal control over financial reporting and accounting compliance;
- assume direct responsibility for overseeing the work of the external auditor, including monitoring independence and performance;
- monitor OTMPC's compliance with applicable legal and regulatory requirements affecting financial reporting; and
- provide effective communication among the audit committee, external auditor, management, the internal auditor and the Board.
- the head of Corporate Services shall serve as a staff resource to the Audit, Finance & Risk Committee.

(iii) Governance & Nominations Committee: to assist the Board with the performance of their duties and a mandate to:

- maintain a target skills matrix for Board composition;
- monitor the current skills of Board members;
- identify the skills required to close any potential gaps between desired and current states;
- develop a potential candidate pool for the consideration of the Minister;
- annually review and monitor individual committee terms of reference;
- manage evaluations of Board, Committees, the Chair and Director performance;
- ensure appropriate Board orientation and ongoing professional development;
- articulate roles and responsibilities for the Board, its committees, the Chair and individual Directors and recommend changes if needed;
- prepare and update a Board manual containing all documents relevant to the Board's governance structure; and provide oversight to OTMPC's codes of conduct and ethics.

The Board may from time to time establish by resolution Committees and may appoint any of the directors of the Corporation to such Committees, as it may deem advisable. The members of such Committees need not be members of the Corporation but shall be appointed by resolution of the Board. The Board may delegate to a Committee any powers of the Board subject to any restrictions which may be imposed by the Board. Each such Committee shall be governed by and shall operate in accordance with its respective Terms of Reference established and approved by the Board. The size, composition, duration and responsibilities of each Committee at a minimum shall be set out in the Terms of Reference. Committees whose Terms of Reference include control of fiscal budgeting or auditing or both shall consist solely of directors.

- 7.2 Procedure – Unless otherwise determined by the Board, each Committee shall have power to fix its quorum at not less than a majority of its members, to elect its chair and to regulate its procedures. To the extent that the Board or the Committee does not establish rules to regulate the procedure of the Committee, the provisions of this by-law applicable to meetings of the Board shall apply *with necessary modifications*.

Notices

- 8.1 Method of Giving Notices – Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served) a director, officer, auditor or other person shall be sufficiently given if delivered personally to the person to whom it is to be given or if delivered to his or her recorded address by prepaid or registered mail, or by facsimile or other similar means of electronic communication that provides a hard-copy confirmation of successful transmission of the communication. A notice so delivered shall be deemed to have been given when it is delivered personally or at the recorded address as aforesaid; a notice so mailed shall be deemed to have been given five (5) days (exclusive of non-business days) after deposited in a post office or public letter box; and a notice sent by any means of transmitted or recorded communication shall be deemed to have been given when transmitted (provided the party sending the communication electronically obtains a hard-copy confirmation of successful transmission of the communication) if delivered or transmitted, respectively, during regular business hours. Notice received after regular business hours shall be deemed given the next business day. The Secretary may change or cause to be changed the recorded address of any director, officer, auditor or other person in accordance with any information believed by him or her to be reliable.
- 8.2 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.
- 8.3 Omissions and Errors – The accidental omission to give any notice to any director, officer, auditor or other person or the non-receipt of such notice by such person or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.
- 8.4 Waiver of Notice – Any director, officer, auditor or other person may at any time waive any notice, or waive or abridge the time for any notice, required to be given to him or her under the by-law or otherwise. Such a waiver

or abridgement, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in the giving or the time of such notice, as the case may be. Any such waiver or abridgment may be given in any manner, whether in writing or otherwise.

ENACTED AND PASSED by the board of directors and sealed with the corporate seal this 27th day of February, 2012.

Antoni Cimolino
Chair of the Board of Directors
Ontario Tourism Marketing Partnership Corporation

Bill Kenny
Vice-President Industry Relations
With delegated authority for Corporate Services
Ontario Tourism Marketing Partnership Corporation