



CANADIAN RIGHT OF WAY EDUCATION FOUNDATION

(the "Corporation")

By-law No. 9

BE IT ENACTED as a by-law of the Corporation as follows:

1. **Definitions:**

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

"**Act**" means the *Canada Not-For-Profit Corporations Act* S.C. 2009, c. 23, including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time.

"**Articles**" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation.

"**Board**" means the board of directors of the Corporation.

"**By-law**" or "**By-laws**" means this by-law and any other by-law of the Corporation as amended and that are, from time to time, in force and effect.

"**Director**" means a member of the Board.

"**IRWA**" means the International Right of Way Association.

"**Meeting of Members**" includes an annual general meeting of Members or a special meeting of Members; "special meeting of Members" includes a meeting of any class or classes of Members and a special meeting of all Members entitled to vote at an annual general meeting of Members.

"**Member**" means a member of the Corporation.

"**Officer**" means an officer of the Corporation.

"**Ordinary Resolution**" means a resolution passed by a majority of the votes cast on that resolution.

"**Regulations**" means the regulations made under the Act, as amended, restated or in effect from time to time.

"**Special Resolution**" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

2. **Interpretation:**

- (a) In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust and unincorporated organization.
- (b) Other than as specified above, words and expressions defined in the Act have the same meanings when used in these By-laws.
- (c) The headings used in these 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.

3. **General:**

- (a) **Registered Office:**

The registered office of the Corporation shall be situated in the province or territory specified in the Articles at such address as the Board may determine from time to time.

- (b) **Corporate Seal:**

The Corporation may have a corporate seal in the form approved from time to time by the Board. If a corporate seal is approved by the Board, the Secretary/Treasurer of the Corporation, as defined in Section 7(b) of these By-laws, shall be the custodian of the corporate seal.

- (c) **Execution of Documents:**

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

4. **Financial Matters:**

- (a) **Financial Year:**

The financial year end of the Corporation shall be the 30th day of June in each year unless changed by Ordinary Resolution of the Board.

(b) Banking Arrangements:

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the Board of Directors may designate, appoint or authorize from time to time by resolution. The banking business or any part of it shall be transacted by one (1) Officer or Officers of the Corporation and/or other persons as the Board of Directors may by resolution from time to time designate, direct or authorize.

(c) Public Accountant:

The Corporation shall be subject to the requirements relating to the appointment of a public accountant and the level of financial review required by the Act.

(d) Authorization to Support IRWA:

From time to time the Board may, by resolution:

- (i) authorize the Corporation to contribute to IRWA such funds as it may request for its education and course development purposes, such sum or sums not to exceed a total of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00) CAD in any one financial year of the Corporation (the “IRWA Funds”); and
- (ii) delegate to the President (as defined in Section 7(b) of these By-laws) or to another Officer or Officers of the Corporation authority to pay the IRWA Funds to IRWA.

The Board shall report any IRWA payments made during the financial year to the Members at the next annual general Meeting of Members.

(e) Annual Financial Statements:

The Corporation may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) of the Act to the Members, publish a notice to the Members stating that the annual financial statements and documents of the Corporation are available at the registered office of the Corporation and that any Member may, on request, obtain a copy free of charge at the registered office or by mail.

5. Members:

(a) Membership Class and Conditions:

- (i) Pursuant to the Articles there shall be one (1) class of Members for the Corporation.
- (ii) Membership in the Corporation shall only be available to persons who are and continue to be members of IRWA, who reside in Canada on a full-time basis and who work as a right of way professional in Canada.
- (iii) A membership year (“Membership Year”) shall be established by the Board and membership in the Corporation shall be for a term of one (1) Membership Year.

- (iv) Members of the Corporation have the right to receive notice of, attend, speak and participate at all Meetings of Members and the right to one (1) vote at all Meetings of Members.
- (v) There shall be no membership fees or dues unless otherwise directed by the Board.

(b) Termination of Membership:

Membership in the Corporation terminates when:

- (i) the Member dies;
- (ii) the Member resigns;
- (iii) the Member ceases to meet the qualification to be a Member set out under Section 5(a) as determined in the sole discretion of the Board;
- (iv) the Member is removed by the Board in accordance with Section 5(c) or their Membership is otherwise terminated in accordance with the Articles or By-laws;
- (v) the Member's term of membership expires; or
- (vi) the Corporation is liquidated and dissolved under the Act.

(c) Discipline of Members:

- (i) The Board shall have authority to suspend or expel any Member from the Corporation for any one or more of the following grounds:
 - (A) violating any provision of the Articles, By-laws or policies of the Corporation;
 - (B) carrying out any conduct which may be detrimental to the Corporation as determined by the Board in its sole discretion;
 - (C) for any other reason that the Board in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.
- (ii) In the event that the Board determines that a Member should be expelled or suspended from Membership in the Corporation, the President, or such other Officer as may be designated by the Board, shall provide twenty (20) days' notice of suspension or expulsion to the Member and shall provide reasons for the proposed suspension or expulsion. The Member may make written submissions to the President, or such other Officer as may be designated by the Board, in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the President, the President, or such other Officer as may be designated by the Board, may proceed to notify the Member that the Member is suspended or expelled from membership in the Corporation. If written submissions are received in accordance with this Section, the Board will consider such submissions in arriving at a final decision and shall notify the Member

concerning such final decision within a further twenty (20) days from the date of receipt of the submissions. The Board's decision shall be final and binding on the Member, without any further right of appeal.

(d) Notice of Meeting of Members:

Notice of the time and place of a Meeting of Members shall be given to each Member entitled to vote at the Meeting of Members by the following means:

- (i) by mail, courier or personal delivery to each Member entitled to vote at the Meeting of Members, during a period of 21 to 60 days before the day on which the Meeting of Members is to be held; or
- (ii) by telephonic, electronic or other communication facility to each Member entitled to vote at the Meeting of Members, during a period of 21 to 35 days before the day on which the Meeting of Members is to be held.

Notice of a Meeting of Members shall also be given to each Director and to the public accountant of the Corporation during a period of 21 to 60 days before the day on which the Meeting is to be held.

(e) Place of Meetings of Members:

Meetings of Members may be held at any place within Canada as the Board may determine. A Meeting of Members may be held at a place outside Canada if all the Members entitled to vote at the Meeting of Members agree that the meeting is to be held at that place. A Member who attends a Meeting of Members held outside Canada is deemed to have agreed to it being held outside Canada except when the Member attends the Meeting for the express purpose of objecting to the transaction of any business on the grounds that the Meeting is not lawfully held.

(f) Participation at Meetings of Members by Electronic Means:

- (i) If the Corporation chooses to make available a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during a Meeting of Members, any person entitled to attend such meeting may participate in the meeting by such means in the manner provided by the Act. A person participating in a Meeting of Members by such means is deemed to be present at the meeting.
- (ii) Notwithstanding Section 5(f)(i), participation at the annual general Meeting of Members may not be by telephonic, electronic or other communication facility.

(g) Persons Entitled to be Present at Meeting of Members:

Members, non-Members, Directors and the public accountant of the Corporation are entitled to be present at a Meeting of Members. However, only those Members entitled to vote at the Meeting of Members according to the provisions of the Act, Articles and By-laws are entitled to cast a vote at the meeting.

(h) Quorum at Meeting of Members:

A quorum at any Meeting of Members shall be ten Members present in person or, subject to Section 5(f)(ii), by telephonic or electronic means, and entitled to vote at the meeting.

(i) Votes to Govern at Meeting of Members:

At any meeting of Members every question shall, unless otherwise provided by the Articles or By-laws or by the Act, be determined by a majority of the votes cast on the questions. In case of an equality of votes, the President, in addition to an original vote, shall have a second or casting vote.

6. Directors:

(a) Powers:

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

(b) Borrowing Powers

Subject to the limitations set out in the Act, the Articles and this By-law, the Board may:

- (i) borrow money on the credit of the Corporation;
- (ii) issue, reissue, sell, pledge or hypothecate debt obligations of the Corporation;
- (iii) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and
- (iv) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any debt obligation of the Corporation.

(c) Number of Directors:

The Board shall consist of seven (7) Directors, as specified in the Articles.

(d) Composition of the Board:

- (i) Three (3) Directors shall be elected by the Members at the Odd Year Meetings, as defined in Section 6(f)(iii) and shall also hold the Officer positions as President, Vice President and Secretary/Treasurer of the Corporation as specified by the Members at the time of election. As qualification requirements such persons must first have been nominated in accordance with the process described in the policies of the Corporation for election at the Meeting of Members.
- (ii) Four (4) Directors shall be elected by the Members at the Even Year Meetings, as defined in Section 6(f)(iii) and shall also hold the positions of Regional Chair and Regional Vice-Chair for the Corporation's Eastern and Western Regions. As qualification requirements such persons must first have been nominated by IRWA

in accordance with the process described in the policies of the Corporation for election at the Meeting of Members.

(e) Qualifications:

- (i) Each Director shall be an individual who is at least 18 years of age, has not been found by a court in Canada or elsewhere to be mentally incompetent, does not have the status of a bankrupt, is in full agreement with the governing documents of the Corporation and is a Member of the Corporation at the time of election (or within 10 days after election) and during the term of office.
- (ii) It is preferred, but not required, that each Director be a Senior Member or an International or Regional Officer of IRWA, as such terms are defined in IRWA's by laws from time to time.

(f) Election and Term:

- (i) Directors shall be elected by the Members by Ordinary Resolution at each annual general Meeting of Members at which an election of Directors is required.
- (ii) The Directors' term of office shall be two (2) years calculated from the date of the Meeting of Members at which they are elected until the close of the second (2nd) annual general Meeting of Members next following or until their successors are elected.
- (iii) Directors shall be elected in rotation as follows:
 - (A) At the annual general Meeting of Members taking place in 2017 and every other year thereafter (the "Odd Year Meetings"), three (3) Directors shall be elected from among the Members of the Corporation.
 - (B) At the next following annual general Meeting of Members and every other year thereafter (the "Even Year Meetings"), four (4) Directors shall be elected from among the Members of the Corporation.
- (iv) No person may hold office as both a Director described in Subsection 6(f)(iii)(A) and a Director described in Subsection 6(f)(iii)(B) at the same time.
- (v) The maximum number of terms for each Director is three (3) terms of two (2) years each. A Director will be eligible for re-election to the Board at the end of his or her term up to the maximum number of terms, provided that such Director continues to meet the qualification requirements to be a Director.
- (vi) The Board may, by Ordinary Resolution, allow a Director who has served the six (6) year maximum set out in Section (6)(f)(v) to be eligible for re-election to the Board for one (1) additional term of two (2) years.

(g) Nomination of Directors:

Subject only to the Act and the Articles, only persons who are nominated by or at the direction of the Board in accordance with such nomination policies of the Corporation that may be in place from time to time shall be eligible for election as Directors of the Corporation.

(h) Ceasing to Hold Office:

A Director ceases to hold office when the Director dies, resigns, is removed from office by the Members in accordance with the Act, or no longer fulfils all of the qualifications to be a Director set out in Section 6(e) as determined in the sole discretion of the Board.

(i) Remuneration:

As required by the Articles, Directors shall serve without remuneration, and no Director shall directly or indirectly receive any profit from his or her position as such, provided that a Director may be reimbursed for reasonable expenses incurred in performing his or her duties. A Director shall not be prohibited from receiving compensation for services provided to the Corporation in another capacity.

(j) Committees of the Board of Directors:

The Board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Board shall see fit. Unless otherwise determined by the Board, a committee shall have the power to fix its quorum, to elect its chair and to otherwise regulate its procedure. Any committee member may be removed by resolution of the Board.

(k) Meetings of Directors:

- (i) Meetings of the Board may be called by the President, the Vice-President or any two (2) Directors at any time.
- (ii) Notice of the time and place for the holding of a meeting of the Board shall be given in the manner provided in Section 10 of this By-law to every Director of the Corporation not less than forty-eight (48) hours before the time when the meeting is to be held. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. Notice of a meeting shall not be necessary if all the Directors are present and no-one objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Unless the by-law otherwise provides, no notice of meeting need specify the purpose or the business to be transacted at the meeting except that a notice of meeting of directors shall specify any matter referred to in subsection 138(2) of the Act that is to be dealt with at the meeting.

(l) Chair of the Meeting:

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

(m) Quorum

A majority of the number of Directors specified in the Articles constitutes a quorum at any meeting of the Board. For the purpose of determining quorum, a Director may be present in person, or, if authorized under this By-law, by teleconference and/or by other electronic means.

(n) Participation at Meeting by Telephone or Electronic Means:

If all of the Directors consent, a Director may, in accordance with the Regulations, participate in a Board meeting, by means of a telephonic, electronic or other communications facility that permits all participants to communicate adequately with each other during the meeting. A Director participating in the meeting by such means shall be deemed for the purposes of the Act to have been present at that meeting.

(o) Votes to Govern at Meetings of the Board of Directors:

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

7. Officers:

(a) Officers:

The Board may designate the offices of the Corporation, appoint Officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such Officers the power to manage the affairs of the Corporation. The Board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any Officer. Only Directors are eligible to be Officers.

(b) Appointment of Officers:

- (i) At each Odd Year Meeting, each of the three (3) Directors elected by the Members in accordance with Section 6(f)(iii)(A) shall be deemed to have been elected to one of the Officer positions (President, Vice President, Secretary/Treasurer) respectively. Each of the said three (3) Directors shall hold the Officer position to which he/she was designated only during his/her Director term of office. A Director who vacates his/her Director term of office shall be deemed to resign from his/her corresponding Officer position. A vacancy in an Officer position shall be filled by means of filling the corresponding vacant Director position.

- (ii) The Board may designate other offices of the Corporation, appoint Officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such Officers the power to manage the affairs of the Corporation. A Director may be appointed to any office of the Corporation. An Officer shall be a Director. Two or more offices may not be held by the same person.

(c) Description of Offices:

The Officers shall have the following duties and powers as well as such other duties and powers as the Board may specify from time to time:

- (i) President - The President of the Board shall be a Director. The President shall preside at all meetings of the Board, committees of Directors, if any, and the Members.
- (ii) Vice-President of the Board - The Vice-President of the Board shall function in place of the President if the latter is absent or is unable to perform the duties of office. The Vice-President of the Board shall carry out such other duties, which may be assigned by the President from time to time.
- (iii) Secretary/Treasurer – The Secretary/Treasurer shall attend and be the secretary of all meetings of the Board, Members and committees of the Board, shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings, shall give, or cause to be given, as and when instructed, notices to Members, Directors, the public accountant and members of committees and shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation. The Secretary/Treasurer shall be responsible for the maintenance of proper accounting records in compliance with the Act as well as the deposit of money, the safekeeping of securities and the disbursement of funds of the Corporation. Whenever required, the Secretary/Treasurer shall render to the Board an account of all such person's transactions as Secretary/Treasurer and of the financial position of the Corporation.

(d) Terms of Offices:

Officers shall hold their position for a period of two (2) years, or, in those cases where an Officer is appointed by the Board to fill a vacancy during the year, until the first meeting of the Board immediately following the annual general Meeting of Members. Subject to the term maximums set out in Sections 6(f)(v) and (vi) for Directors, an Officer will be eligible for re-appointment on a consecutive basis.

(e) Vacancy in Office:

In the absence of a written agreement to the contrary, the Board may remove, whether for cause or without cause, any Officer of the Corporation. Unless so removed, an Officer shall hold office until the earlier of the Officer's term of office expires, the Officer's successor is appointed, the Officer resigns, the Officer ceases to be a Director or the Officer dies. If the office of any Officer of the Corporation shall be or become vacant, the Board may appoint a person to fill such vacancy.

8. Regional Directors:

- (a) At each Even Year Meeting, each of the four (4) Directors elected by the Members in accordance with Section 6(f)(iii)(B) shall be deemed to have been elected to one of the positions of Eastern Region Chair, Eastern Region Vice-Chair, Western Region Chair or Western Region Vice-Chair, respectively.
- (b) Such Directors shall have such duties and powers as the Board may specify from time to time and shall represent the following regions respectively:
 - (A) Eastern Region - comprising the geographic region from Ontario to Newfoundland and Labrador;
 - (B) Western Region - comprising the geographic region from Manitoba to British Columbia including Nunavut, the Northwest Territories and the Yukon.

9. Protection of Officers and Directors:

- (a) Indemnity of Officers and Directors:

Subject to the Act, the Corporation shall indemnify a Director or Officer of the Corporation, a former Director or Officer of the Corporation or another individual who acts or acted at the Corporation's request as a Director or Officer or in a similar capacity of another entity, and such person's heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by such person in respect of any civil, criminal, administrative or investigative or other proceeding in which the individual is involved because of that association with the Corporation or other entity if,

- (i) the individual acted honestly and in good faith with a view to the best interests of the Corporation or, as the case may be, to the best interests of the other entity for which the individual acted as Director or Officer or in a similar capacity at the Corporation's request; and
- (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

The Corporation shall indemnify such person in all such other matters, actions, proceedings and circumstances as may be permitted by the Act or the law. 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.

- (b) Insurance:

Subject to the Act, the Corporation may purchase and maintain insurance for the benefit of any person entitled to be indemnified by the Corporation pursuant to the immediately preceding Section as the Board may determine from time to time against any liability incurred by the individual:

- (i) in the individual's capacity as a Director or an Officer of the Corporation; or
- (ii) in the individual's capacity as a director or an officer, or in a similar capacity, of another entity, if the individual acts or acted in that capacity at the Corporation's request.

10. Notices:

- (a) Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served) pursuant to the Act, the Articles, the By-laws or otherwise to a Member, Director, Officer, member of a committee of the board, or the public accountant shall be sufficiently given:
 - (i) if delivered personally to the person to whom it is to be given or if delivered to such person's address as shown in the records of the Corporation or in the case of notice to a Director to the latest address as shown in the last notice that was filed by the Corporation in accordance with the Act and received by Corporations Canada;
 - (ii) if mailed to such person at such person's recorded address by prepaid ordinary or air mail;
 - (iii) if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
 - (iv) if provided in the form of an electronic document in accordance with the Act.
- (b) A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any facsimile, email or other electronic means, shall be deemed to have been given when it is received by the addressee or when the notice enters the information system designated by the addressee, whichever is earlier. The Secretary/Treasurer may change or cause to be changed the recorded address of any Member, Director, Officer, public accountant, or member of a committee of the board in accordance with any information believed by the Secretary/Treasurer to be reliable. The declaration by the Secretary/Treasurer that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice. The signature of any Director or Officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.
- (c) Omissions and Errors:

The accidental omission to give any notice to any Member, Director, Officer, member of a committee of the Board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the By-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

(d) Invalidity:

The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law.

11. Special Resolutions and Amendments to the By-Law:

(a) A Special Resolution of the Members is required to make any amendment to the Articles or the By-laws to:

- (i) change the Corporation's name;
- (ii) change the province in which the Corporation's registered office is situated;
- (iii) add, change or remove any restriction on the activities that the Corporation may carry on;
- (iv) create a new class or group of Members;
- (v) change a condition required for being a Member;
- (vi) change the designation of any class or group of Members or add, change or remove any rights and conditions of any such class or group;
- (vii) divide any class or group of Members into two or more classes or groups and fix the rights and conditions of each class or group;
- (viii) add, change or remove a provision respecting the transfer of a membership;
- (ix) subject to section 133 of the Act, increase or decrease the number of, or the minimum or maximum number of, Directors fixed by the Articles;
- (x) change the statement of the purpose of the Corporation;
- (xi) change the statement concerning the distribution of property remaining on liquidation after the discharge of any liabilities of the Corporation;
- (xii) change the manner of giving notice to Members entitled to vote at a meeting of Members;
- (xiii) change the method of voting by Members not in attendance at a Meeting of Members; or
- (xiv) add, change or remove any other provision that is permitted by the Act to be set out in the Articles.

(b) Subject to the Articles, the Board of Directors may, by resolution, make, amend or repeal any by-laws that regulate the activities or affairs of the Corporation. Any such by-law, amendment or repeal shall be effective from the date of the resolution of Directors until the next Meeting of Members where it may be confirmed, rejected or amended by the Members by Ordinary Resolution. If the by-law, amendment or repeal is confirmed or confirmed as amended by the Members it remains effective in the form in which it was confirmed. The by-law, amendment or repeal ceases to have effect if it is not submitted to the Members at the next Meeting of Members or if it is rejected by the Members at the meeting.

- (c) Section 10(b) does not apply to a by-law that requires a Special Resolution of the Members according to subsection 197(1) of the Act, as set out in Section 10(a), because such by-law amendments or repeals are only effective when confirmed by Members.

ENACTED by the Directors of the Corporation this _____ day of _____, 2017.

President (Chair of the Board)

Secretary/Treasurer

CONFIRMED by the Members of the Corporation this _____ day of _____, 2017.

Secretary/Treasurer