

# By-Law Number 1

A by-law relating generally to the conduct of the affairs of

## Evangelical Lutheran Foundation of Eastern Canada

(the "Corporation")

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

### Section 1 – General

#### 1. Definitions

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

- a) "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;
- b) "articles" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;
- c) "board" means the board of directors of the Corporation and "director" means a member of the board;
- d) "by-law" means this by-law and any other by-law of the Corporation as amended

- and which are, from time to time, in force and effect;
- e) "Director" (when upper-case is used) means the individual appointed under section 281 of the Act;
  - f) "Eastern Synod" means the Eastern Synod of the Evangelical Lutheran Church in Canada, or its successor body;
  - g) "meeting of members" includes an annual meeting of members or a special meeting of members; "special meeting of members" includes a special meeting of all members entitled to vote at an annual meeting of members;
  - h) "ordinary resolution" means a resolution passed by a majority of not less than 50% plus 1 of the votes cast on that resolution;
  - i) "proposal" means a proposal submitted by a member of the Corporation that meets the requirements of section 163 (Shareholder Proposals) of the Act;
  - j) "public accountant" means the public accountant appointed for the corporation under paragraph 127(1)(e) or subsection 181(1) or 186(1) or who fills a vacancy under subsection 184(2) or 185(1);
  - k) "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time;
  - l) "special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution; and
  - m) "Synod Council" means the Council of the Eastern Synod.

## **2. Interpretation**

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.

Other than as specified above, words and expressions defined in the Act have the same meanings when used in these by-laws.

## **3. Corporate Seal**

The seal, an impression of which is stamped in the margin of this document, shall be the seal of the Corporation. The Secretary of the Corporation shall be the custodian of the corporate seal.

## **4. Amendment of By-Laws**

Notwithstanding subsection 152(2) of the Act, any by-law made, amended or repealed by

the directors shall require confirmation at the next meeting of the members by a majority of not less than two-thirds (2/3) of the votes cast on the resolution.

## **5. Parliamentary Authority**

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Corporation in all cases to which they are applicable and in which they are not inconsistent with the by-laws and any special rules of order the Corporation may adopt.

# **Section 2 – Membership**

## **6. Conditions of Membership**

Subject to the articles, there shall be one class of members in the Corporation. Membership in the Corporation shall be available only to individuals who are interested in furthering the Corporation's purposes, are directors of the Corporation and/or are members of the Synod Council, and have applied for and been accepted into membership in the Corporation by ordinary resolution of the board or in such other manner as may be determined by the board. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendments to this section of the by-laws if those amendments affect membership rights and/or conditions described in paragraphs 197(1)(e), (h), (l) or (m).

## **7. Membership Dues**

There shall be no membership dues or fees unless otherwise directed by the board of directors.

## **8. Termination of Membership**

A membership in the Corporation is terminated when:

- a) the member dies, or, in the case of a member that is a corporation, the corporation is dissolved;
- b) a member fails to maintain any qualifications for membership described in the section on conditions of membership in these by-laws;
- c) the member resigns by delivering a written resignation to the Chair of the board of the Corporation in which case such resignation shall be effective on the date specified in the resignation;
- d) the member is expelled by a vote of three-quarters (3/4) of the votes cast at a meeting of the members held for that purpose;
- e) the member's term of membership expires; or
- f) the Corporation is liquidated or dissolved under the Act.

Subject to the articles, upon any termination of membership, the rights of the member, including any rights in the property of the Corporation, automatically cease to exist.

#### **9. Membership Transferability**

Membership is non-transferable.

### **Section 3 –Meetings of Members**

#### **10. Calling Members' Meetings**

The board of directors may call, at any time, a meeting of the members of the Corporation. The board of directors shall call a special meeting of the members on written requisition of members carrying not less than 20% of the voting rights.

#### **11. Notice of Members' Meetings**

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting and to the public accountant by the following means:

- a. by mail or personal delivery to each member entitled to vote at the meeting, during a period of 21 to 60 days before the day on which the meeting is to be held; or

- b. by telephonic, electronic or other communication facility to each member entitled to vote at the meeting, during a period of 21 to 35 days before the day on which the meeting is to be held.

In all cases, notice shall be sent to the last mailing address, fax or telephone number, or electronic mail address, as the case may be, shown in the records of the Corporation.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

## **12. Persons Entitled to be Present at Members' Meetings**

The only persons entitled to be present at a meeting of members shall be those entitled to vote at the meeting, the directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, articles or by-laws of the Corporation to be present at the meeting. Any other person may be admitted only by ordinary resolution of the members.

## **13. Quorum at Members' Meetings**

A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be a majority of the members entitled to vote at the meeting. If a quorum is present at the opening of a meeting of members, the members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

## **14. Proposals by Members**

A member entitled to vote at an annual meeting of members has the right to submit a proposal in accordance with Section 163 of the Act. The member who submitted the proposal shall pay the cost of including the proposal and any statement in the notice of meeting at which the proposal is to be presented unless otherwise provided by ordinary resolution of the members present at the meeting.

### **15. Participation by Electronic Means at Members' Meetings**

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 means of such telephonic, electronic or other communication facility in the manner provided by the Act. A person participating in a meeting by such means is deemed to be present at the meeting. Notwithstanding any other provision of this by-law, any person participating in a meeting of members pursuant to this section who is entitled to vote at that meeting may vote, in accordance with the Act, by means of any telephonic, electronic or other communication facility that the Corporation has made available for that purpose.

### **16. Members' Meeting Held Entirely by Electronic Means**

If the directors or members of the Corporation call a meeting of members pursuant to the Act, those directors or members, as the case may be, may determine that the meeting shall be held, in accordance with the Act and the Regulations, entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

### **17. Chair of Members' Meetings**

Meetings of the members will be chaired by the Chair of the board or, in his/her absence or disability, the Vice-chair. If neither attends the meeting within fifteen minutes of the appointed starting time, the members may choose one of their number present to chair the meeting.

### **18. Votes to Govern**

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 question. The chair of the meeting may, but is not obligated to, cast a single vote whenever his vote will affect the outcome. The chair shall not have a second or casting vote.

## **19. Absentee Voting at Members' Meetings**

Pursuant to section 171(1) (Absentee Voting) of the Act, a member entitled to vote at a meeting of members may vote by means of a telephonic, electronic or other communication facility if the Corporation has a system that:

- a. enables the votes to be gathered in a manner that permits their subsequent verification, and
- b. permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each member voted.

Voting by proxy is not permitted.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change this method of voting by members not in attendance at a meeting of members.

## **20. Error or Omission in Notice**

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.

# **Section 4 – Directors**

## **21. Number of Directors**

The board shall consist of the number of directors specified in the articles as determined from time to time by the members by ordinary resolution or, if the ordinary resolution empowers the directors to determine the number, by resolution of the board.

## **22. Qualifications**

In addition to the qualifications set out in section 126(1) of the Act, directors must:

- a. be a member of the Corporation at the time of their election or become a member within thirty days thereafter; and
- b. not hold a paid position with the Corporation or enter into a contract for services with the Corporation.

At least two-thirds of the directors must be members in good standing of a congregation of the Eastern Synod, as such term is defined in the by-laws of the congregation.

### **23. Responsibilities**

Every director and officer of the Corporation shall have the duties and responsibilities set out in Section 148 of the Act.

### **24. Election and Term**

At the first election of directors following the approval of this by-law, one-third (1/3) of the directors shall be elected for a three-year term, one-third (1/3) of the directors shall be elected for a two-year term and one-third (1/3) of the directors shall be elected for a one-year term. Thereafter, except where an election is held to fill the unexpired portion of a term, newly elected directors shall be elected for three-year (3) terms.

In accordance with Section 132 of the Act, a quorum of directors may appoint a director to fill a vacancy among the directors. A director thus appointed shall hold office for the unexpired term of his predecessor.

### **25. Term Limits**

A director may serve a maximum of two consecutive terms. In applying this rule:

- a. service for less than two years shall not be counted as a term;
- b. terms will be considered consecutive if the interval between them is less than twelve months.

## **Section 5 – Meetings of Directors**

### **26. Minimum Number**

There shall be at least one (1) meeting per year of the board of directors.

### **27. Calling of Meetings**

Meetings of the board may be called by the Chair of the board, the Vice-chair of the board or any two (2) directors at any time.

### **28. Notice of Meetings**

Notice of the time and place for the holding of a meeting of the board shall be given by regular mail, fax or electronic mail to every director of the Corporation not less than seven (7) days before the time when the meeting is to be held. In all cases, notice shall be sent to the last mailing address, fax or telephone number, or electronic mail address, as the case may be, shown in the records of the Corporation.

Notice of a meeting shall not be necessary if all of the directors are present, and none 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. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original 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) (Limits on Authority) of the Act that is to be dealt with at the meeting.

### **29. Error or Omission in Notice**

The accidental omission to give any notice to any director or officer, 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.

### **30. Regular Meetings**

The board may appoint a day or days in any month or months for regular meetings of the board at a place and hour to be named. A copy of any resolution of the board fixing the place and time of such 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 except if subsection 136(3) (Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

### **31. 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 chair of the meeting may, but is not obligated to, cast a single vote whenever his vote will affect the outcome. The chair shall not have a second or casting vote.

### **32. Non-Directors at Meetings**

The directors may invite or permit any person to attend or to speak at any meeting of the board of directors.

### **33. Committees**

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. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the board may from time to time make. Any committee member may be removed by resolution of the board of directors.

### **34. Indemnities to Directors and Others**

Every director and officer of the Corporation 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;

- a. all costs, charges and expenses whatsoever which such director or officer sustains

- or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, omission, matter or thing whatsoever, made, done or permitted by him in or about the execution of the duties of his office or in respect of any such liability;
- b. all other costs, charges and expenses which he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own willful neglect or default.

## Section 6 – Officers

### 35. Description of Offices

The officers of the Corporation shall be a Chair, Vice-chair and Secretary. The directors may designate other offices of the Corporation, appoint such officers on an annual or more frequent basis, and specify their duties.

The Chair shall:

- a. when present and able, preside at all meetings of the members and of the board of directors;
- b. sign all documents requiring his/her signature; and
- c. perform any other duties as shall from time to time be imposed upon him/her by the board of directors.

The Vice-chair shall:

- a. in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair; and
- b. perform such other duties as shall from time to time be imposed upon him/her by the board of directors.

The Secretary shall:

- a. attend and be the secretary of all meetings of the board, members and committees of the board;
- b. enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings;

- c. give, or cause to be given, as and when instructed, notices to the Director appointed under the Act, members, directors, the public accountant, and members of committees;
- d. be the custodian of all books, papers, records, documents, registers and other instruments belonging to the Corporation.

### **36. Election of Chair and Vice-Chair**

The directors shall elect the Chair and Vice-chair from among themselves, at a meeting following the annual meeting of members at which directors are elected. The Chair and Vice-chair of the Corporation shall hold office for one year from the date of their election or until their successors are elected or appointed in their stead.

### **37. Election of Secretary**

The directors shall elect a Secretary, who may be, but need not be, a director or member. The Secretary shall hold office until a successor is elected or appointed. If the Secretary is not a director, his/her remuneration may be fixed by resolution of the directors.

### **38. 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:

- a. the officer's successor being appointed,
- b. the officer's resignation,
- c. such officer ceasing to be a director (if a necessary qualification of appointment),  
or
- d. such officer's death.

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

## **Section 7 – Administration**

### **39. 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) of its officers or directors. In addition, 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 to the document. 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.

### **40. 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 an 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.

### **41. Borrowing Powers**

The directors of the Corporation may, without authorization of the members,

- a. borrow money on the credit of the corporation;
- b. issue, reissue, sell, pledge or hypothecate debt obligations of the corporation;
- c. give a guarantee on behalf of the corporation; and
- d. 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.

### **42. Power of Attorney for Securities**

The directors 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 securities of the Corporation.

**43. Financial Year End**

Unless otherwise ordered by the board of directors, the fiscal year end of the Corporation shall be December 31 of each year.

**44. Auditor**

Members of the Corporation shall appoint a public accountant to audit the financial statements in accordance with sections 179-196 of the Act.

**Section 8 – Effective Date****45. Effective Date**

Subject to matters requiring a special resolution of the members under the Act, this by-law shall be effective when made by the board.

CERTIFIED to be By-Law No. 1 of the Corporation, as enacted by the directors of the Corporation by resolution on the 20th day of June, 2013 and confirmed by the members of the Corporation by special resolution on the 22nd day of November, 2013.

Dated as of the 22nd day of November, 2013.

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Susan Heard, Chair