

Amended and Restated By-Law No. 4 ("AC Board Composition")

Being a by-law relating generally to the composition of OMERS Administration Corporation

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

WHEREAS Section 33 of the *Ontario Municipal Employees Retirement System Act, 2006* provides that the composition of OMERS Administration Corporation and the method of choosing its members is to be as specified by by-law of OMERS Sponsors Corporation.

NOW THEREFORE be it enacted as a by-law of the Corporation as follows:

ARTICLE 1 **INTERPRETATION**

1.1 Definitions

- (a) "**AC Board Chair**" means the independent chair of the Administration Corporation appointed in accordance with the provisions of Article 5;
- (b) "**Act**" means the *Ontario Municipal Employees Retirement System Act, 2006* or any statute which may be substituted therefor, including any regulations made thereunder, as amended from time to time;
- (c) "**AC Member**" means a member of the Administration Corporation;
- (d) "**Administration Corporation**" means OMERS Administration Corporation, as continued under Section 32(1) of the Act;
- (e) "**Arbitrator**" means the arbitrator appointed pursuant to Section 4.4 of this By-Law;
- (f) "**Background Check**" means a background check performed by an agency approved by the Corporation's Chief Executive Officer with respect to criminal, financial, media, litigation, professional and other matters deemed relevant by the Corporation's Chief Executive Officer;
- (g) "**CGC**" means the Corporation's Corporate Governance Committee;
- (h) "**Corporation**" means OMERS Sponsors Corporation as established pursuant to Section 22(1) of the Act;
- (i) "**Member**" means a member of the Corporation;
- (j) "**NAC**" means the Nomination Advisory Committee established pursuant to Section 3.1 of this By-Law;

- (k) **“Retiree Group”** shall consist of Ontario Retired Fire Fighters Association, The Municipal Retirees Organization of Ontario, The Police Pensioners Association of Ontario, and/or such other Ontario municipal employee retiree organizations as may be designated by majority vote of the Members from time to time;
- (l) **“Seat”** means the position of an AC Member. References to the Seat of a Sponsor Organization means the AC Member position which is occupied by a nominee of such Sponsor Organization; and
- (m) **“Sponsor Organizations”** means the following organizations:
 - (i) The Association of Municipalities of Ontario (**“AMO”**);
 - (ii) The Canadian Union of Public Employees (Ontario) (**“CUPE”**);
 - (iii) Electricity Distributors Association (**“EDA”**);
 - (iv) The Ontario Association of Children’s Aid Societies (**“OACAS”**);
 - (v) Ontario Association of Police Services Boards (**“OAPSB”**);
 - (vi) Ontario Catholic School Trustees’ Association (**“OCSTA”**);
 - (vii) Ontario Professional Fire Fighters Association (**“OPFFA”**);
 - (viii) Ontario Public School Boards’ Association (**“OPSBA”**);
 - (ix) Ontario Public Service Employees Union (**“OPSEU”**);
 - (x) Ontario Secondary School Teachers’ Federation (**“OSSTF”**);
 - (xi) The Police Association of Ontario (**“PAO”**);
 - (xii) The Retiree Group; and
 - (xiii) The City of Toronto (**“Toronto”**).

ARTICLE 2

COMPOSITION OF ADMINISTRATION CORPORATION

2.1 Composition of Administration Corporation

There shall be fifteen (15) AC Members, fourteen (14) of whom shall occupy the Seats of Sponsor Organizations, and one of whom shall be the AC Board Chair. CUPE and AMO have two (2) Seats. OCSTA and OPSBA have one (1) Seat between them and shall nominate on an alternating basis pursuant to Section 2.2. Each other Sponsor Organization has one Seat.

2.2 OPSBA/OCSTA

OPSBA and OCSTA have one (1) Seat between them. Accordingly, on the expiry of the term of the AC Member nominated by OCSTA, his or her successor will be nominated by OPSBA pursuant to Section 4.1 and on the expiry of the term of the AC Member nominated by OPSBA, his or her successor will be nominated by OCSTA.

ARTICLE 3 NOMINATION ADVISORY COMMITTEE

3.1 Establishment of NAC

The Members hereby establish a Nomination Advisory Committee (the “NAC”) to assist the Members in the process of selecting candidates for consideration for appointment to Seats on the Administration Corporation Board. The NAC will have the following standing members:

- (a) The Chair, the Vice-Chair and the Chair of the CGC of the Corporation,
- (b) The AC Board Chair, the Chair of the Governance & Risk Committee and one other member of the Board of the Administration Corporation.

The Members of the Corporation shall approve the charter of the NAC from time to time by simple majority vote. For greater certainty, the charter shall not be amended by the NAC itself or any other committee of the Corporation.

ARTICLE 4 PROCESS TO FILL SPONSOR ORGANIZATION SEATS

4.1 Instruction to Nominate

The nomination and appointment process separates the nomination and interview of incumbent Directors from those individuals being nominated to the AC Board for the first time.

For incumbents whose terms are expiring and who are eligible to serve another term:

- (a) On or before September 30th in the year prior to the AC Member’s term expiration, the Corporation will instruct the Sponsor Organization whose Seat will become vacant to advise if the Sponsor Organization intends to reappoint such AC Member, together with an updated resume, by November 15 of the year prior to the Seat becoming vacant by reason of the expiry of the term of the AC Member.
- (b) For individuals being nominated to the AC Board for the first time due to the previous incumbent AC Member having served the maximum number of permitted terms, on or before January 31 of the year in which such AC Member’s maximum term limit is reached, the Corporation will instruct the Sponsor Organization whose Seat will become/has become vacant as a result of the foregoing to submit a list of up to three (3) nominees to fill such Seat, together with their resumes and current contact information by July 1 of that year.
- (c) If an AC Member resigns or is removed, the Corporation will immediately instruct the Sponsor Organization whose Seat has become vacant to submit a list of up to three (3) nominees to fill such seat, together with their resumes and current contact information, within ninety (90) days of receipt of the instructions where a Seat has become vacant.
- (d) All nominees will undergo a Background Check arranged by the Corporation’s Chief Executive Officer, and the results thereof will be reported to the CGC.
- (e) Sponsor Organizations will be provided with and encouraged to have regard for the current skills and competency matrix and/or gap analysis for AC Members prepared by the Administration Corporation.

- (f) For individuals being nominated to the AC Board for the first time, on or before February 28 of each year the NAC will hold a meeting to which all Sponsor Organizations whose Seats will become vacant due to maximum term limits at the end of that year will be invited. The purpose of such meeting will be to describe to each such Sponsor Organization the current roles and responsibilities of the Administration Corporation, the mandate and role of AC Members and the skill sets for AC Members desired by the Corporation, the Administration Corporation's time commitment and developmental expectations for AC Members, and the compensation and expense policies applicable to an AC Member. The NAC will have a further, separate meeting with any Sponsor Organization having a Seat that will become vacant at the end of the year or whose Seat has become vacant by reason of the resignation or removal of an AC Member if so requested by such Sponsor Organization.

4.2 Qualifications

To be appointed, an AC Member must:

- (a) be an individual who is eighteen years of age or older;
- (b) not have been found to be of unsound mind by a court in Canada or elsewhere;
- (c) not have the status of a bankrupt;
- (d) not have been previously removed as an AC Member by reason of ethical breach or malfeasance in accordance with the Administration Corporation's code of conduct;
- (e) have the qualities described in Section 4.3; and
- (f) not already have served four (4) or more terms (whether consecutive or non-consecutive) as a member or director of the Administration Corporation and its predecessor, provided that for purposes of this subsection 4.2(f), an initial partial term of two years or less will not be considered a "term".

4.3 Appointment

- (a) For eligible incumbents, on or before December 15 of the prior year all of the nominee(s) put forward by Sponsor Organizations having seats that will become vacant will be interviewed by the CGC in accordance with a protocol approved by the Members from time to time. By February 28 of the year a Member's term expires, the CGC will make a recommendation to the Members with respect to each nominee it has interviewed. For individuals being nominated to the AC Board for the first time, on or before August 31 of the year the Sponsor Organization's Seat has reached the maximum term limit, individuals will be interviewed by the CGC in accordance with the protocol. By September 30 of that year, the CGC will make a recommendation to the Members with respect to each nominee it has interviewed.
- (b) Where a Sponsor Organization has been requested to submit nominees by reason of a Seat of such Sponsor Organization being vacated due to resignation or removal of the AC Member who occupied such Seat, such Sponsor Organization's nominees will be interviewed by the CGC in accordance with the protocol attached within sixty (60) days of the submission of the Sponsor Organization's nominee(s), and the CGC will within thirty (30) days thereafter report to the Members and make a recommendation with respect to such nominee(s).

- (c) The Corporation may, by a majority vote of the Members, appoint one (1) of each Sponsor Organization's nominees for its Seat as an AC Member. If none of the Sponsor Organization's nominees is appointed, the Chair shall provide written reasons why the nominee(s) were rejected, i.e. which of the qualifications is lacking.
- (d) The primary responsibility of an AC Member on any issue of a fiduciary nature coming before the Administration Corporation is to approve only such actions which the AC Member believes are in the best interests of the OMERS pension plans and in the best interests of OMERS pension plan members. Therefore, an AC Member must not only possess sufficient capacity to critically evaluate and decide on the business, pension and governance matters which come before AC Members but also have the independence to take such action regardless of the wishes of Administration Corporation management, the interests of the Sponsor Organization that nominated him/her, and any personal interests of the AC Member. Consequently, Members in making an appointment must be satisfied that the nominee possesses such qualities. The Administration Corporation has approved, and has communicated to the Corporation, a competency framework which identifies the attributes which it believes each AC Member must possess and the specific competencies that the Members of the Administration Corporation as a whole must adequately satisfy. Each AC Member is expected to satisfy a minimum number of these competencies. When deliberating on the appointment of AC Members, the Members shall take into account the competency framework and gap analysis communicated by the Administration Corporation.

4.4 Arbitration

- (a) Where none of a Sponsor Organization's nominees is appointed, such Sponsor Organization may within fifteen (15) days of receipt of the reasons, appeal to the Arbitrator by delivering a notice in writing to the Corporation setting forth briefly its grounds of appeal, or indicate to the Corporation that it intends to propose up to three (3) more nominees.
- (b) The Arbitrator shall be appointed for the term of the dispute by a majority vote of the Corporation or, failing a majority vote, the appointment shall be made by the Chief Justice of Ontario.
- (c) The arbitration shall be a summary proceeding in which the record on appeal will consist of the resume(s), background check(s), the reasons, and notice of appeal. The Arbitrator, after receiving submissions orally or in writing, in the Arbitrator's discretion, from the Sponsor Organization and the Corporation, shall determine whether the criteria of Sections 4.2 and 4.3 have been applied reasonably.
- (d) If the appeal is dismissed, the Sponsor Organization shall proceed in accordance with Section 4.5.
- (e) If the appeal is allowed, the nominee shall be appointed an AC Member for the appropriate term as provided for within this By-Law, namely, a three-year term if the nominee is replacing an incumbent whose term has expired or for the balance of a term if replacing an AC Board Member who has resigned or been removed.
- (f) The arbitration hearing shall be conducted within (fifteen) 15 days of service of the notice of appeal and the Arbitrator shall render a brief written decision within five (5) days.

- (g) The proceedings before the Arbitrator are confidential.
- (h) The costs of the Arbitrator shall be borne by the Corporation.
- (i) If a Sponsor Organization indicates in accordance with subsection 4.4(a) that it intends to propose up to three (3) more nominees then within thirty (30) days thereafter it will submit the name(s), resume(s) and Background Check(s) of up to three (3) more nominees and the process described in Section 4.3 will be repeated with respect to such nominee(s). Where none of such nominee(s) is appointed, the Sponsor Organization may within fifteen (15) days of receipt of the reasons appeal to the Arbitrator and the provisions of subsections 4.4(c) to (h) shall then apply.

4.5 Next Steps Following Arbitrator's Decision

In the event of arbitration pursuant to Section 4.4, the Sponsor Organization will have forty-five (45) days from the receipt of the reasons or from the date of the Arbitrator's decision in which to submit another list of up to three (3) nominees to the Corporation. The nominees will then be presented to the Members of the Corporation at the next meeting of Members who may appoint one (1) of the Sponsor Organization's nominees as an AC Member by a majority vote of the Members of the Corporation. If none of the Sponsor Organization's nominees are appointed, the selection process described in the foregoing provisions of Sections 4.1 and 4.3 (but not the arbitration process) will be repeated continually until one of the Sponsor Organization's nominees has been appointed by a majority vote of the Members of the Corporation. A Sponsor Organization submitting nominees may not submit a nominee if such nominee has been rejected by the Corporation on two prior occasions during the appointment process which is then ongoing. (For certainty, the foregoing shall not preclude the submission of a nominee who has been rejected by the Corporation on two or more occasions in prior appointment processes.)

ARTICLE 5 AC BOARD CHAIR

5.1 Search Process

- (a) When the maximum term limit for the AC Board Chair has been reached, or if the AC Board Chair resigns, dies, or is removed from the Administration Corporation Board, the Corporation and the Administration Corporation will work cooperatively to establish and carry out a process for the identification of suitable candidates for the role of the AC Board Chair, which shall be undertaken with the advice and assistance of an executive search firm engaged by the Corporation and which shall, at a minimum, include the steps set out in this Section 5.1.
- (b) The Corporation will in conjunction with the Administration Corporation establish an eight-person working group (the "Joint Working Group"). The Joint Working Group will be comprised of eight members, four of whom will be the Corporation's Chair, Vice-Chair and the chairs of the CGC and the Corporation's Human Resources and Compensation Committee, and the remainder of whom will be AC Members selected by the Administration Corporation.
- (c) At least 180 days prior to the expiry of the then-current term of the AC Board Chair, the Chair and Vice-Chair of the Corporation shall discuss with the AC Board Chair his or her

intention to serve for an additional term, provided that the IBC has not advised that he or she does not intend to serve for an additional term. If the IBC advises that he or she does not wish to serve an additional term, the Joint Working Group shall, with the advice and assistance of an executive search firm engaged by the Corporation with the approval of the Joint Working Group, initiate and conduct a process for the identification of suitable candidates for the role of his/her successor.

- (d) The Joint Working Group will identify, through a 2/3 vote, a preferred candidate for the role of AC Board Chair. The Joint Working Group will request the Administration Corporation to confirm its support and endorsement of the preferred candidate so identified and will recommend a candidate to the Corporation for appointment.

5.2 Appointment of the AC Board Chair

At least sixty (60) days before the expiry of the term of appointment of the incumbent AC Board Chair, the Corporation will, by a two-thirds vote of the Members, appoint the AC Board Chair.

5.3 Incumbent

The Corporation may by a two-thirds vote of the Members re-appoint for a further successive term the incumbent AC Board Chair, and in such event the procedures set out in Section 5.1 shall not be followed.

5.4 Term

The term of appointment of each subsequent AC Board Chair will be three calendar years, to a maximum of four (4) terms.

ARTICLE 6 SUCCESSIVE APPOINTMENTS

6.1 Term

Subject to Section 5.4, Section 6.3 and Section 6.4, the term of appointment of an AC Member appointed pursuant to Article 4 or Article 5 shall be three (3) years and shall commence on January 1 of a calendar year and end on December 31 of a calendar year.

6.2 Vacancy

If a Seat of a Sponsor Organization has become vacant due to the resignation or removal of an AC Member or due to the failure of the relevant Sponsor Organization to submit nominees to fill such Seat in accordance with the instructions of the Corporation as set out in Section 4.1 hereof, then such Seat shall remain vacant until filled in accordance with the provisions of this By-Law. If the Seat of the AC Board Chair becomes vacant due to his/her resignation or removal, the process set out in Article 5 will be initiated and until a replacement AC Board Chair has been appointed, the Seat of the AC Board Chair shall remain vacant and the AC Members may appoint an interim chair of the Administration Corporation from among the AC Members. If an AC Member's term is expiring and the Seat occupied by such AC Member has not been filled (notwithstanding, in the case of a Seat of a Sponsor Organization, the relevant Sponsor Organization's compliance with the Corporation's written instructions given

pursuant to Section 4.1), then the term of such AC Member shall automatically be extended until the earlier of:

- (a) the resignation of such AC Member;
- (b) the removal of such AC Member pursuant to Article 8; and
- (c) the appointment of a replacement pursuant to Article 4 or Article 5, as applicable.

6.3 Term on Replacement

An AC Member who has been appointed to replace an AC Member who has resigned or been removed pursuant to Article 8 shall remain in office only until the expiry of the original term of the AC Member who resigned or was replaced unless the circumstances described in the final sentence of Section 6.2 apply.

ARTICLE 7 VOTING

7.1 No Weighted Voting

Each AC Member, including the AC Board Chair, shall on all matters to be decided by the AC Members have one (1) vote. The AC Board Chair will not have a second or casting vote.

ARTICLE 8 REMOVAL OF AN AC MEMBER

8.1 Removal at the Request of a Sponsor Organization or Administration Corporation

A Sponsor Organization may submit to the Corporation a request that the AC Member currently occupying such Sponsor Organization's Seat be removed, and the Administration Corporation may submit to the Corporation a request that any AC Member be removed. Any such request by a Sponsor Organization shall be honoured. Any such request by the Administration Corporation will be submitted to the Corporation and will require a 2/3 vote of the Members for removal. If an AC member is removed, the process set out in Article 4 or Article 5, as applicable, of this By-Law will be initiated.

8.2 Removal by Corporation

Any AC Member, including the AC Board Chair may be removed by a two-thirds vote of the Members, whether or not the Administration Corporation has requested such removal. If an AC Member is removed, the process set out in Article 4 or Article 5, as applicable, of this By-Law will be initiated.

ARTICLE 9 MISCELLANEOUS

9.1 Severability

The invalidity of any provision of this By-Law shall not affect the validity of any other provision of this By-Law and any such invalid provision shall be deemed to be severable.

9.2 Amendments to By-Law

Any amendment to this By-Law will require an affirmative two-thirds (2/3) vote of the Members.

9.3 Time Periods and Dates

The Members may, in any particular circumstance, by an affirmative two-thirds (2/3) vote of the Members, shorten or lengthen (at the time of appointment) the term of appointment of an AC Member, and may accelerate, suspend, waive or extend any date specified herein.

The foregoing is **CERTIFIED** by the Chair and Corporate Secretary of the Corporation to be a true copy of By-Law No. 4 (formerly By-Law No. 13) of the Corporation, as validly enacted by vote of the Members at a duly convened meeting of the Members held February 23, 2021, with effect as of February 23, 2021.

Signed by

“original signed by”

Chair

“original signed by”

Corporate Secretary

Enacted on February 19, 2009
First Amendment and Restatement on April 22, 2009
Second Amendment and Restatement on June 28, 2012
Third Amendment and Restatement on April 25, 2013
Fourth Amendment and Restatement on September 18 & 20, 2013
Fifth Amendment and Restatement on May 27, 2014 (Background Checks)
Sixth Amendment on August 19, 2014 (Article 9.3, shorten/lengthen term limits)
Seventh Amendment on December 10, 2014 (Appendix C)
Eighth Amendment on January 19, 2016 (Article 6.4 (a)); Appendix C)
Ninth Amendment on April 26, 2016 (Article 4.1 and Article 4.3 (a))
Tenth Amendment on December 14, 2016 (Appendix C)
Eleventh Amendment on December 13, 2017 (Appendix C)
Twelfth Amendment on December 12, 2018 (Appendix C)
Thirteenth Amendment and Restatement on February 25, 2020
Fourteenth Amendment and Restatement on December 8, 2020
Fifteenth Amendment and Restatement on February 23, 2021