

VISION MINISTRIES CANADA  
HOW TO INCORPORATE YOUR CHURCH OR ESTABLISH A DECLARATION OF TRUST

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### **Preamble**

It is important that a local church meet all the requirements of governing authorities and is also organized legally in the most functional way. Accordingly this paper has to do with how the church structures itself legally and the requirements to maintain such structure.

There are two types of structures that would satisfy the legal requirements of Canada. One is "Incorporation" and the other is "Declaration of Trust." Both are valid options. The advantages and disadvantages are listed below. It is to be noted that we are attempting to separate and harmonize the legal requirements for a church and the pastoral operations thereof.

These structures provide a legal framework that allows the church to operate effectively and relate simply to governing bodies, insurance companies and other professionals. They serve to protect and be a helpful vehicle to serve our Biblical view of the church. Legal structures should not dictate the shape of our church governance but should be adaptable to serve it well.

### **Advantages of Incorporation**

1. Because the incorporation creates a legal identity separate from the individual members, trustees or leaders, it gives the church a continuing legal existence. Under the law a corporation is treated separately from the members.
2. It allows the church to enter into legal contracts, own property, lease property, etc, in its own name, without trustees having to do so on behalf of the congregation.
3. It provides significant protection for individual church members from personal liability for the debts and legal obligations of the church (unless personal guarantees are given). Directors and Officers of the corporation could still be liable if they fail to meet their legal duties and standards of care. This is why most incorporated organizations acquire officer's and director's insurance.
4. It allows the church to initiate or defend legal actions in its own name rather than involving individual members or trustees.

### **Disadvantages of Incorporation**

1. More costly
  - Processing incorporation: \$ 1,100
  - Obtaining charitable status: \$ 1,500
  - Preparation of annual minutes: \$ 175

*The actual fees are set out on the template documents for incorporation.*
2. Filing requirements
  - Filing of notice whenever directors or officers change.
  - Maintenance of corporate minutes for both member's and director's meetings. (Unless maintained by a member or officer of the corporation.)
  - Filing of financial statements and depending on the total amount of charitable receipts, these statements may have to be audited

### **Advantages of Declaration of Trust**

Less costly. The church can prepare it internally without legal assistance

Trust must still pay fee of \$1500.00 for obtaining charitable status.

More easily set up

No requirement to have minutes of member's and director's meetings (See note below)

## **Disadvantages of Declaration of Trust**

- Does not provide the corporate protection for the trustees or leaders of the church. Any suit against the church requires a suit against the leaders and members personally.
- Church cannot hold property in its own right.
- Mortgaging property creates the appearance of liability for the trustees and may affect their credit rating.
- May be difficult (costly) to obtain adequate insurance protection against a large claim.

Note: Filing of Return for Charitable Organizations (T3010B): Both incorporated churches and churches organized under a Declaration of Trust are required to file this annual return within six months after their fiscal year end.

## **Two Common Models of Church Incorporation**

When churches incorporate, there are 2 common models that churches use. One could be called the "Eldership Model" and the other the "Congregational Model". Each has its advantages and disadvantages. Neither is perfect. But the one which best suits the philosophy of the church, and its leadership, is the best one for that particular church.

The bylaw which you see on Vision Ministry Canada's web site is a bylaw which could be used for those churches wishing to adopt the Eldership Model. In this model the members of the corporation are the board/elders and pastoral staff only. Membership in the corporation does not include members of the congregation.

This does not mean that this model excludes the congregation from meaningful input into the decision making process. Effective church leaders always find a way to engage congregation so that harmony and direction are maintained. They may have congregational meetings, town hall meetings, focus groups, surveys etc.

Even though members of the church are not members of the legal corporation with this model, churches may adopt other forms of church membership that are more or less formal. Some churches wish to have a traditional more formal membership or church covenant while others adopt more informal approaches. These forms of church membership are not the subject of church incorporation.

VMC recommends the Eldership Incorporating model for several reasons. Most of the churches VMC works with are elder led churches. This is our history. When an elder led church adopts a congregational model of incorporation there is confusion about governance. The Eldership Corporate Model brings consistency and simplicity to governance. We believe that making the members of the congregation also the members/owners of the corporation brings confusion to many.

The Eldership Model is also less costly.

In the Congregational Model the bylaw is much more complex. It has to deal with things like voting, admission of many members, and their removal and discipline in more complicated ways. It seems that every church wants to do these things in their own way! The process of calling pastors, appointing elders/deacons/others is different for every church. Consequently, the fee for those wishing to use the Congregational Model cannot be set in advance but will usually cost at least twice as much as the Eldership Model.

## **RECOMMENDATIONS:**

1. Whenever possible we recommend that a church should be incorporated and it is suggested that the incorporation be under the laws of Canada, as opposed to provincially. Provincial incorporation adds levels of government to the approval process and usually takes one to two months longer unless standard pre-approved objects that the province has prepared are used. Note: If a church incorporates provincially, the objects set out in Exhibit "A" will not apply.
2. The elders, or their delegates, will be the members of the corporation. This distinguishes the members of the congregation from the members of the corporation. It allows the church to deal with membership in the congregation separately from the incorporation documents. It is far easier to maintain the corporate membership list with a small number.
3. The elders, or their delegates, will also be the directors of the corporation.
4. Pastoral staff, by virtue of their position, may be members of the corporation but cannot be directors.

If you would like to complete a Declaration of Trust, see Exhibit I.

If you would like to proceed with Incorporation, continue.

## **INCORPORATION**

If you would like to take advantage of the special arrangements Vision Ministries Canada has made for a solicitor to process the incorporation of the church:

1. Complete AN APPLICATION FOR INCORPORATION
2. Forward the completed questionnaire together with a cheque for \$500, to the Solicitor.
3. The balance is payable when the work is completed.

Mr. Warren Griffin,  
Giesbrecht, Griffin, Funk & Irvine  
Barristers, Solicitors and Notaries Public,  
60 College Street,  
Kitchener, Ontario  
N2H 5A1

Telephone: (519) 579-4300  
Fax: (519) 579-8745  
E-mail: wgriffin@ggfilaw.com

There are five main components to the incorporating documents and sample examples are attached which are simple and can be used when incorporating. These samples have generally been accepted by the government authorities. The components are as follows:

- Exhibit A - The objects of the corporation (Its purpose)
- Exhibit B - The ancillary objects (the kind of activities the church will use to carry out its Objects)
- Exhibit C - The exercise of its powers (what it will do to function as a corporation)
- Exhibit D - Special provisions (other matters related to the corporation)
- Exhibit E – By-Law No. 1 (That which regulates the operation of the corporation)

In addition to the incorporating documents the members and directors are required to meet annually and maintain minutes of their meetings. Certain decisions and approvals are required at these meetings. Sample minutes are also attached to this paper as follows:

Exhibit F - Sample Board of Director's Meetings Minutes

Exhibit G - Sample Members' Meetings Minutes

Exhibit H- Sample Board of Director's Meeting to Appoint Officers

We recommend that a solicitor be retained to handle the legal process of forming the corporation and obtaining status as a Registered Charity. We have made special arrangements with Warren Griffin, in the firm of Giesbrecht, Griffin, Funk & Irvine, listed on the previous page, to provide economical and speedy processing of incorporation documents and applications for registration as a charitable organization.

The fees arranged, as at January, 2012 are as follows:

Incorporation (not including disbursements)	\$ 1,100
Obtaining charitable status	\$ 1,500
Trustee indenture	
Annual minutes of members and directors' meetings (if done by the lawyer's office)	\$ 175

Notes:

1. Most churches will keep their own minute book; sample minutes are attached.
2. Incorporation should be completed within 1 month of the application being made for incorporation.
3. Obtaining charitable status usually takes 3-6 months after the application for registration as a charity is submitted.
4. It will take about 1 year for the whole process to be completed and the church is operating smoothly under the corporate umbrella.
5. The attached questionnaire should be completed and e-mailed to the solicitor.
6. Additional information may be required by the solicitor, such as an annual budget and statement of activities, but the questionnaire will start the process and the solicitor's office will contact you for such other information.

If you would like to take advantage of Warren Griffin's expertise in processing the Application for Incorporation, and application for status as a Charity with CRA, please complete the following questionnaires and e-mail or mail it to him at the address mentioned in the preceding pages.

**APPLICATION FOR INCORPORATION**

**Name of Church:** \_\_\_\_\_

**Address of Head Office:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Fiscal year end of the corporation:** \_\_\_\_\_

**Incorporating members and directors**

The names, addresses and occupations of the elders who are the incorporating members and who will also be the directors of the corporation are as follows:  
(Note: Paid Pastoral staff may not be directors)

1. _____ _____ _____	2. _____ _____ _____
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Occupation

Occupation

\_\_\_\_\_

\_\_\_\_\_

3. _____ _____ _____	4. _____ _____ _____
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Occupation

Occupation

\_\_\_\_\_

\_\_\_\_\_

5. _____ _____ _____	6. _____ _____ _____
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Occupation

Occupation

\_\_\_\_\_

\_\_\_\_\_

7. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Occupation

\_\_\_\_\_

8. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Occupation

\_\_\_\_\_

The officers of the corporation will be as follows:

President: \_\_\_\_\_

Secretary: \_\_\_\_\_

Treasurer: \_\_\_\_\_

## EXHIBIT A

### THE OBJECTS OF THE CORPORATION

The objects of the corporation, unless otherwise directed, will be as follows:

**Paragraph (a)** To operate a local Christian Church founded on the principles outlined in the New Testament of the Bible for the purpose of:

Worshiping God  
Edifying Christians  
Communicating the Gospel of Jesus Christ to others  
Relieving poverty, distress and human suffering of all kinds  
Advancing the Christian faith

## EXHIBIT B

### THE ANCILLARY OBJECTS

(the kind of activities the church will use to carry out its objects)

**Paragraph (b)** To carry out all the activities reasonably ancillary to the objects specified in paragraph (a) (see above), including, without limitation:

1. To conduct regular services or meetings for the purpose of the worship of God, prayer, instruction in the Christian faith, evangelism and other related activities.
2. To perform pastoral and missionary work and carry on other similar activities.
3. To carry on specialized ministries and programs, on a basis consistent with the objects described in paragraph (a) (See Exhibit A), directed to a specific group of individuals, including without limitation, children, teenagers, single parents, families, senior citizens, and other specialized groups.
4. To establish, operate, maintain and manage, on a basis consistent with the objects set out in paragraph (a), programs and facilities for educational or recreational purposes, for the purpose of providing child care services, or for other similar purposes.
5. To provide and maintain buildings, premises or other facilities for the purpose of carrying out the objects otherwise described in this paragraph.
6. To publicly promote, advocate, and foster the Christian faith and principles and practices consistent therewith.
7. To otherwise minister to the spiritual and practical needs of others.

## EXHIBIT C

### THE EXERCISE OF ITS POWERS

What it will do to function as a Corporation

**Paragraph (c)** To exercise any of the powers, from time to time, afforded the Corporation by the Corporations Act or by any other statute, statutes or laws, from time to time, applicable to the Corporation but as ancillary to the attainment of the objects set out in paragraphs (a) and (b), including, without limitation:

1. To give or distribute, from time to time, the funds of the corporation for such charitable purposes to or for any organization or organizations whose objects are exclusively charitable and are similar to those of the Corporation.
2. To accumulate, from time to time, the fund or funds of the Corporation and/or the income there from and invest and reinvest the same in such manner as may, from time to time, be determined. In making such investments, the Corporation shall be restricted to investments authorized by law for trustees.
3. To acquire, accept, solicit or receive by purchase, lease, contract, donation, legacy, gift, grant, bequest or otherwise, any kind of real or personal property; and to enter into and carry out agreements, contracts and undertakings incidental thereto.
4. To hold, manage, sell or convert any of the real or personal property, from time to time, owned by the Corporation, and to invest and reinvest such investments authorized by law for the investment of trust funds.
5. To exercise all voting rights and to authorize and direct the execution and delivery of proxies in connection with any securities in any company or corporation held by the Corporation.
6. To pursue recovery of all sums of money that may become due and payable to the Corporation, and to apply the said sums for the objects of the Corporation, and generally to sue and be sued.
7. To acquire by purchase, lease, devise, gift and other title, and to hold any real property necessary for the carrying on of its undertaking and to sell, dispose of and convey the same or any part thereof as may be considered advisable.
8. To acquire, accept, solicit or receive any gift of real or personal property, either as an annual or other contribution or as an addition to the fund or funds of the Corporation.
9. To employ and pay such assistants, clerks, agents, representatives and employees, and to procure, equip and maintain such offices and other facilities, and to incur such reasonable expenses, as may be necessary, provided that no director shall receive any remuneration in any capacity whatsoever.

The foregoing objects shall be pursued subject to the Charitable Gifts Act and the Charities Accounting Act.

## EXHIBIT D

### SPECIAL PROVISIONS

Other matters related to the corporation

The special provisions are:

1. The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promotion of its objects.
2. The directors shall serve, without remuneration, in any capacity whatsoever. No director shall directly or indirectly receive any profit from his position. However, a director may be paid reasonable expenses incurred by him in the performance of his duties.
3. Nothing shall prevent the Corporation from paying reasonable salaries or providing normal employee benefits to any officer or employee of the Corporation engaged in the service of the Corporation to carry out its objects.
4. The borrowing powers of the Corporation, pursuant to any by-law passed and confirmed in accordance with section 59 of the Corporations Act, shall be limited to borrowing money for current operating expenses. However, the borrowing power of the Corporation shall not be so limited if it borrows on the security of real or personal property, or the borrowing is made for the purpose of financing the purchase of real property.
5. Upon the dissolution of the Corporation and after payments of debts and liabilities, its remaining property shall be distributed or disposed of to charitable organizations, with objects similar to those of the Corporation. The members of the Corporation may, by resolution, designate the charitable organizations to which the remaining property of the Corporation shall be distributed upon the dissolution of the Corporation.

## EXHIBIT E

### BY-LAW NO. 1

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

[NAME OF CORPORATION]

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

#### SECTION 1 - GENERAL

##### 1.01 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-laws of the Corporation as amended and which are, from time to time, in force and effect;
- e. "meeting of members" includes an annual 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 meeting of members;
- f. "ordinary resolution" means a resolution passed by a majority of not less than 50% plus 1 of the votes cast on that resolution;
- g. "proposal" means a proposal submitted by a member of the Corporation that meets the requirements of section 163 (Shareholder Proposals) of the Act;
- h. "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time; and
- i. "special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

## **1.02 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 in 1.01 above, words and expressions defined in the Act have the same meanings when used in these by-laws.

## **1.03 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 of the Corporation shall be the custodian of the corporate seal.

## **1.04 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 (if any) 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.

## **1.05 Financial Year End**

The financial year end of the Corporation shall be determined by the board of directors.

## **1.06 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.

## **1.07 Annual Financial Statements**

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

## **1.08 Borrowing Powers**

### ***Option 1***

If authorized by special resolution of the members or a majority vote of the members at a meeting duly called, the directors of the Corporation may, from time to time:

- a. Borrow money on the credit of the Corporation;
- b. Issue, reissue, sell, pledge or hypothecate debt obligations of the Corporation; and
- c. 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 obligations of the Corporation.

Any such resolution may provide for the delegation of such powers by the directors to such officers or directors of the Corporation to such extent and in such manner as may be set out in the resolution.

Nothing herein limits or restricts the borrowing of money by the Corporation on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Corporation.

### ***Option 2***

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; and
- c. 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 obligations of the Corporation.

## **SECTION 2 - MEMBERSHIP**

### **2.01 Membership Conditions**

***[Option 1: Choose this provision if you want a single class of individual members]***

Subject to the articles, there shall be one class of members in the Corporation. Membership in the Corporation shall be available only to individuals interested in furthering the Corporation's purposes and who have applied for and been accepted into membership in the Corporation by 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).

***[Option 2: Choose this provision if you want two classes of members]***

Subject to the articles, there shall be two classes of members in the Corporation, namely, Class A members and Class B members. The board of directors of the Corporation may, by resolution, approve the admission of the members of the Corporation. Members may also be admitted in such other manner as may be prescribed by the board by resolution. The following conditions of membership shall apply:

**Class A Members**

- a. Class A voting membership shall be available only to ***[describe category of persons (consider whether individuals or other entities) who should have a right to vote in the Corporation]*** and who have applied and have been accepted for Class A voting membership in the Corporation.
- b. The term of membership of a Class A voting member shall be annual, subject to renewal in accordance with the policies of the Corporation.
- c. As set out in the articles, each Class A voting member is entitled to receive notice of, attend and vote at all meetings of members and each such Class A voting member shall be entitled to one (1) vote at such meetings.

**Class B Members**

- a. Class B non-voting membership shall be available only to ***[describe category of persons (consider whether individuals or other entities) who should not have a right to vote in the Corporation]*** and who have applied and have been accepted for Class B non-voting membership in the Corporation.
- b. The term of membership of a Class B non-voting member shall be annual, subject to renewal in accordance with the policies of the Corporation.
- c. Subject to the Act and the articles, a Class B non-voting member shall not be entitled to receive notice of, attend or vote at 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).

## **2.02 Notice of Meeting of Members**

### ***[Option 1: Notice sent by mail or electronic means]***

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

- a. by mail, courier 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.

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.

### ***[Option 2: Notice sent by electronic means only]***

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting 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. If a member requests that the notice be given by non-electronic means, the notice will be sent by mail, courier or personal delivery.

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.

### ***[Option 3: Notice affixed to a notice board]***

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting by affixing the notice, no later than 30 days before the day on which the meeting is to be held, to a notice board on which information respecting the corporation's activities is regularly posted and that is located in the main facilities or club house 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.

### ***[Option 4 Notice sent by mail or published in a newspaper]***

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

- a. in the case of a corporation that has more than 250 members, by publication
  - i. at least once in each of the three weeks immediately before the day on which the meeting is to be held in one or more newspapers circulated in the municipalities in which the majority of the members of the corporation reside as shown by their addresses in the register of members, or

- ii. at least once in a publication of the corporation that is sent to all its members, during a period of 21 to 60 days before the day on which the meeting is to be held; or
- b. by mail, courier 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.

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.

### **2.03 Absentee Voting**

#### ***[Option 1: by Mail Ballot]***

Pursuant to section 171(1) (Absentee Voting) of the Act, a member entitled to vote at a meeting of members may vote by mailed-in ballot 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.

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.

#### ***[Option 2: By Electronic Ballot]***

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.

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.

#### ***[Option 3: By Mailed-in or Electronic Ballot]***

Pursuant to section 171(1) (Absentee Voting) of the Act, a member entitled to vote at a meeting of members may vote by mailed-in ballot or 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.

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.

***[Option 4: By Proxy]***

Pursuant to Section 171(1) of the Act, a member entitled to vote at a meeting of members may vote by proxy by appointing in writing a proxy holder, and one or more alternate proxy holders, who are not required to be members, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by it subject to the following requirements:

- a. a proxy is valid only at the meeting in respect of which it is given or at a continuation of that meeting after an adjournment;
- b. a member may revoke a proxy by depositing an instrument or act in writing executed or, in Quebec, signed by the member or by their agent or mandatory
  - i. at the registered office of the corporation no later than the last business day preceding the day of the meeting, or the day of the continuation of that meeting after an adjournment of that meeting, at which the proxy is to be used, or
  - ii. with the chairperson of the meeting on the day of the meeting or the day of the continuation of that meeting after an adjournment of that meeting;
- c. a proxy holder or an alternate proxy holder has the same rights as the member by whom they were appointed, including the right to speak at a meeting of members in respect of any matter, to vote by way of ballot at the meeting, to demand a ballot at the meeting and, except where a proxy holder or an alternate proxy holder has conflicting instructions from more than one member, to vote at the meeting by way of a show of hands;
- d. if a form of proxy is created by a person other than the member, the form of proxy shall
  - i. indicate, in bold-face type,
    - A. the meeting at which it is to be used,
    - B. that the member may appoint a proxy holder, other than a person designated in the form of proxy, to attend and act on their behalf at the meeting, and
    - C. instructions on the manner in which the member may appoint the proxy holder,
  - ii. contain a designated blank space for the date of the signature,
  - iii. provide a means for the member to designate some other person as proxy holder, if the form of proxy designates a person as proxy holder,
  - iv. provide a means for the member to specify that the membership registered in their name is to be voted for or against each matter, or group of related matters,

identified in the notice of meeting, other than the appointment of a public accountant and the election of directors,

- v. provide a means for the member to specify that the membership registered in their name is to be voted or withheld from voting in respect of the appointment of a public accountant or the election of directors, and
  - vi. state that the membership represented by the proxy is to be voted or withheld from voting, in accordance with the instructions of the member, on any ballot that may be called for and that, if the member specifies a choice under subparagraph (iv) or (v) with respect to any matter to be acted on, the membership is to be voted accordingly;
- e. a form of proxy may include a statement that, when the proxy is signed, the member confers authority with respect to matters for which a choice is not provided in accordance with subparagraph (d)(iv) only if the form of proxy states, in bold-face type, how the proxy holder is to vote the membership in respect of each matter or group of related matters;
  - f. if a form of proxy is sent in electronic form, the requirements that certain information be set out in bold-face type are satisfied if the information in question is set out in some other manner so as to draw the addressee's attention to the information; and
  - g. a form of proxy that, if signed, has the effect of conferring a discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting must contain a specific statement to that effect.

Pursuant to Section 197(1) of the Act, a special resolution of the members (and if Section 199 applies, a special resolution of each class of members) is required to make any amendment to the articles or by-laws of the Corporation to change this method of voting by members not in attendance at a meeting of members.

#### **2.04 Membership Transferability [OPTIONAL]**

A membership may only be transferred to the Corporation [*family member, etc.*]. Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to add, change, or delete this section of the by-laws.

#### **2.05 Members Calling a Members' Meeting [OPTIONAL]**

##### **[Option 1]**

The board of directors shall call a special meeting of members in accordance with Section 167 of the Act, on written requisition of members carrying not less than 5% of the voting rights. If the directors do not call a meeting within twenty-one (21) days of receiving the requisition, any member who signed the requisition may call the meeting.

##### **[Option 2]**

The board of directors shall call a special meeting of members in accordance with Section 167 of the Act, on written requisition of members carrying not less than [\_\_\_\_%] (to be established at the time of incorporation) of the voting rights. If the directors do not call a meeting within twenty-one (21) days of receiving the requisition, any member who signed the requisition may call the meeting.

### **SECTION 3 - MEMBERSHIP DUES, TERMINATION AND DISCIPLINE**

#### **3.01 Membership Dues [OPTIONAL]**

Members shall be notified in writing of the membership dues at any time payable by them and, if any are not paid within one (1) calendar month of the membership renewal date, the members in default shall automatically cease to be members of the Corporation.

#### **3.02 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 Section 2.01 of 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 in accordance with Section 3.03 below or is otherwise terminated in accordance with the articles or by-laws;
- 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.

#### **3.03 Discipline of Members [OPTIONAL]**

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 written 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.

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.

## **SECTION 4 - MEETINGS OF MEMBERS**

### **4.01 Persons Entitled to be Present**

#### ***[Option 1: Members only]***

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 on the invitation of the chair of the meeting or by resolution of the members.

#### ***[Option 2: Open to the Public]***

Members, non-members, directors and the public accountant of the Corporation are entitled to be at the meeting of members. However, only those members entitled to vote at the members' meeting according to the Act, articles and by-laws are entitled to cast a vote at the meeting.

### **4.02 Chair of the Meeting**

In the event that the chair of the board and the vice-chair of the board are absent, the members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

### **4.03 Quorum**

A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be [      % or 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.

#### **4.04 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. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall **[not?]** *(to be established at the time of incorporation)* have a second or casting vote.

#### **4.05 Place of Members' Meeting**

Subject to compliance with Section 159 of the Act, meetings of the members may be held at any place within Canada determined by the board of directors or, if all of the members entitled to vote at such meeting so agree, outside Canada.

### **SECTION 5 - DIRECTORS**

#### **5.01 Number of Directors**

The board shall consist of the number of directors specified in the articles. If the articles provide for a minimum and maximum number of directors, the board shall be comprised of the fixed number of directors 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. In the case of a soliciting corporation the minimum number of directors may not be fewer than three (3), at least two of whom are not officers or employees of the Corporation or its affiliates.

#### **5.02 Election and Term**

##### ***[Option 1: Fixed term]***

The directors shall be elected to hold office for a term expiring not later than the close of the [next – second – third – fourth] annual meeting of members following the election.

##### ***[Option 2: Rolling term]***

At the first election of Directors following the approval of this by-law, one-third (1/3) directors shall be elected for a three-year term, one-third (1/3) directors shall be elected for a two-year term and one-third (1/3) 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.

## **SECTION 6 - MEETINGS OF DIRECTORS**

### **6.01 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; provided that, for the first organization meeting following incorporation, such meeting may be called by any director or incorporator.

### **6.02 Notice of Meeting**

Notice of the time and place for the holding of a meeting of the board shall be given in the manner provided in Section 8.01 of this by-law to every director of the Corporation not less than 7 days before the time when the meeting is to be held. 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.

### **6.03 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.

### **6.04 Votes to Govern**

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 *[not?] (to be established at the time of incorporation)* have a second or casting vote.

### **6.05 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.

## SECTION 7 - OFFICERS

### 7.01 Appointment

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. A director may be appointed to any office of the Corporation. An officer may, but need not be, a director unless these by-laws otherwise provide. Two or more offices may be held by the same person.

### 7.02 Description of Offices

Unless otherwise specified by the board which may, subject to the Act modify, restrict or supplement such duties and powers, the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

- a. **Chair of the Board** - The chair of the board, if one is to be appointed, shall be a director. The chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The chair shall have such other duties and powers as the board may specify.
- b. **Vice-Chair of the Board** - The vice-chair of the board, if one is to be appointed, shall be a director. If the chair of the board is absent or is unable or refuses to act, the vice-chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The vice-chair shall have such other duties and powers as the board may specify.
- c. **President** – If appointed, the president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation.
- d. **Secretary** – If appointed, the secretary shall attend and be the secretary of all meetings of the board, members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
- e. **Treasurer** - If appointed, the treasurer shall have such powers and duties as the board may specify.

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 president requires of them. The board may, from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

### **7.03 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)
- 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 8 - NOTICES**

### **8.01 Method of Giving Notices**

Any notice (which term includes any communication or document) to be given (which term includes sent, delivered or served), other than notice of a meeting of members or a meeting of the board of directors, pursuant to the Act, the articles, the by-laws or otherwise to a member, director, officer or member of a committee of the board or to the public accountant shall be sufficiently given:

- a. 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 sent by the Corporation in accordance with section 128 (Notice of directors) or 134 (Notice of change of directors); or
- b. if mailed to such person at such person's recorded address by prepaid ordinary or air mail; or
- c. if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
- d. if provided in the form of an electronic document in accordance with Part 17 of the Act.

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 means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary 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 to be reliable. The declaration by the secretary 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.

## **8.02 Invalidity of any provisions of this by-law**

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.

## **8.03 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.

## **SECTION 9 - DISPUTE RESOLUTION [OPTIONAL]**

### **9.01 Mediation and Arbitration**

Disputes or controversies among members, directors, officers, committee members, or volunteers of the Corporation are as much as possible to be resolved in accordance with mediation and/or arbitration as provided in Section 9.02 of this by-law.

### **9.02 Dispute Resolution Mechanism**

In the event that a dispute or controversy among members, directors, officers, committee members or volunteers of the Corporation arising out of or related to the articles or by-laws, or out of any aspect of the operations of the Corporation is not resolved in private meetings between the parties, then without prejudice to or in any other way derogating from the rights of the members, directors, officers, committee members, employees or volunteers of the Corporation as set out in the articles, by-laws or the Act, and as an alternative to such person instituting a law suit or legal action, such dispute or controversy shall be settled by a process of dispute resolution as follows:

- a. The dispute or controversy shall first be submitted to a panel of mediators whereby the one party appoints one mediator, the other party (or if applicable the board of the Corporation) appoints one mediator, and the two mediators so appointed jointly appoint a third mediator. The three mediators will then meet with the parties in question in an attempt to mediate a resolution between the parties.
- b. The number of mediators may be reduced from three to one or two upon agreement of the parties.
- c. If the parties are not successful in resolving the dispute through mediation, then the parties agree that the dispute shall be settled by arbitration before a single arbitrator, who shall not be any one of the mediators referred to above, in accordance with the provincial or territorial legislation governing domestic arbitrations in force in the province or territory where the registered office of the Corporation is situated or as otherwise agreed upon by the parties to the dispute. The parties agree that all proceedings relating to arbitration shall be kept confidential and there shall be no

disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.

- d. All costs of the mediators appointed in accordance with this section shall be borne equally by the parties to the dispute or the controversy. All costs of the arbitrators appointed in accordance with this section shall be borne by such parties as may be determined by the arbitrators.

## **SECTION 10 - EFFECTIVE DATE**

### **10.01 Effective Date**

Subject to matters requiring a special resolution, 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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and confirmed by the members of the Corporation by special resolution on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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***[Indicate name of director/officer]***

**EXHIBIT F**

**SAMPLE MINUTES OF DIRECTORS' MEETINGS**

MINUTES of a meeting of the Board of Directors of \_\_\_\_\_ (Name of Corporation) held at \_\_\_\_\_ (Place of meeting, including Province), on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (Year) at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ (A.M. or P.M.)

**PRESENT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Being a quorum of the Directors of the Corporation.

**FINANCIAL STATEMENTS**

The chair presented to the meeting the financial statements of the Corporation for the year ended \_\_\_\_\_ and the report of the auditors thereon and requested the Secretary to read to the meeting the report of the auditors. Moved by \_\_\_\_\_, seconded by \_\_\_\_\_, the Financial Statements were approved. All were in favor indicated by the raising of hands. The following two directors are approved to sign the balance sheet of the Corporation on behalf of the Board of Directors:

\_\_\_\_\_  
\_\_\_\_\_

**TERMINATION**

There being no further business the meeting then terminated.

\_\_\_\_\_  
Secretary of the meeting

\_\_\_\_\_  
Chair of the meeting

**EXHIBIT G**

**SAMPLE MINUTES OF MEMBERS' MEETINGS**

MINUTES of the Annual Meeting of the Members of \_\_\_\_\_ (Name the Corporation) held at \_\_\_\_\_ (Place of meeting) on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (Year) at the hour of \_\_\_\_\_ o'clock (Time) \_\_\_\_\_ (A.M. or P.M.)

**PRESENT IN PERSON**

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**REPRESENTED BY PROXY**

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**PRESENT BY INVITATION**

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The President of the Corporation took the chair and the Secretary of the Corporation acted as Secretary of the meeting.

A quorum of the members of the Corporation being present in person or represented by proxy and notice of the meeting having been duly sent to all the directors, members and the Auditors of the Corporation, the meeting was declared to be regularly constituted. A copy of the notice calling the meeting was directed to be annexed to these minutes.

**FINANCIAL STATEMENTS**

The chair presented to the meeting the financial statements of the Corporation for the year ended \_\_\_\_\_ and the report of the auditors thereon and requested the Secretary to read to the meeting the report of the auditors. Moved by \_\_\_\_\_, seconded by \_\_\_\_\_, the Financial Statements were approved. All were in favor indicated by the raising of hands.

**ELECTION OF DIRECTORS**

The following persons were nominated as directors of the Corporation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

No member having demanded a ballot, the Chair conducted the election of directors by a show of hands. The election, having been held, the Chair declared those nominated to be duly elected directors of the Corporation, to hold office until the next annual meeting of directors or until their successors are elected, subject to the provision of the by-laws of the Corporation.

**APPOINTMENT OF AUDITORS**

It was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that \_\_\_\_\_, Chartered Accountants, be appointed auditors of the Corporation until the next annual meeting of the members or until a successor is appointed, at such remuneration as may be fixed by the directors, and the directors be authorized to fix such remuneration. The Secretary was directed to give the Corporation’s auditors written notice of their appointment.

**APPOINTMENT OF AUDIT COMMITTEE**

It was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the following persons serve without remuneration as members of the Audit Committee.

\_\_\_\_\_

**TERMINATION**

There being no further business the meeting then terminated.

\_\_\_\_\_  
Secretary of the meeting

\_\_\_\_\_  
Chair of the meeting

**EXHIBIT H**

**SAMPLE MINUTES: BOARD OF DIRECTOR'S MEETING TO APPOINT OFFICERS**

MINUTES of a meeting of the Board of Directors of \_\_\_\_\_ (Name of Corporation) held at \_\_\_\_\_ (Place of meeting, including Province), on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (Year) at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ (A.M. or P.M.)

**PRESENT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Being a quorum of the Directors of the Corporation.

**APPOINTMENT OF OFFICERS**

Moved by \_\_\_\_\_, seconded by \_\_\_\_\_, and carried unanimously by a show of hands, it was resolved that the following persons be appointed officers of the Corporation to hold office until the next annual meeting of the Board of Directors:

President \_\_\_\_\_  
Secretary \_\_\_\_\_  
Treasurer \_\_\_\_\_

**TERMINATION**

There be no further business, the meeting then adjourned

\_\_\_\_\_  
Secretary of the meeting

\_\_\_\_\_  
Chair of the meeting

## EXHIBIT I

### EXPLANATIONS AND PROCEDURES FOR CHURCHES COMPLETING A DECLARATION OF TRUST

The attached “Declaration of Trust” is designed for churches that are not incorporated and that have identifiable leaders who govern the church. The term “church” could be:

1. A Church Plant with a leading church planter
2. A group of people desiring to start a church
3. A mature unincorporated church with elders who govern

In a mature church where elders are in place it is ideal for the elders to be the Trustees. This arrangement is not essential but is preferred because of the requirements issued by the office of the Attorney General detailed below.

#### **The Religious Organizations’ Lands Act**

The Religious Organizations’ Land Act is designed only for the holding of property. The leadership of the church can appoint trustees, whose function is to hold the property in trust for the church. Section 3 supports the role of the leaders of the church as being the ones with authority to appoint, remove and empower such trustees.

The term “Religious Organization” in section 3 adopts the governance structure of the church and therefore empowers the primary Church leadership body to govern through the terms of the Act.

The Church should have a statement in its constitution that is worded similar to the following:

The primary church leadership group (the Trustees) may appoint trustees to hold assets on behalf of the church. In this appointment they also superintend the retirement or removal of trustees and for the appointment of their successors. They also delineate the responsibilities of the trustees and empower them to serve. The Trustees will be the elders and in the cases where elders have not been appointed (Example – early stages of church plants) they will be the primary church planter plus two other support leaders. This will change to be the elders when they are appointed. Carried.

**Note:** We have used the term “Trustees” (with a capital “T”) to indicate the Primary Leaders of the church who are appointed as “Trustees”. When the word “trustees” (with a small “t”) is used it is referring to appointments of people who have been empowered by the “Trustees” to perform such duties as are delegated to them by the primary Leaders of the church (Trustees) and are accountable to them.

The qualifications to serve as Trustees are as follows:

1. The qualifications required for Directors of Corporation are also required for Trustees. These include the following
  - a. The majority of Trustees must be residents of Canada
  - b. Must be 18 years of age or older
  - c. Must not be an undischarged bankrupt
  - d. Must be of a sound mind
2. All the qualifications required for leadership as defined by the Church Constitution will apply to Trustees.
3. Trustees must be actively involved in the ministry of the church.

The Ontario Ministry of the Attorney General explains the law as follows:

“Directors and Trustees are expected to be actively involved in the charity's decision-making process. They should be selected on the basis of their experience, skills and knowledge. They will be ensuring that the charity operates effectively and within the law. Directors and trustees are sometimes referred to as charitable fiduciaries.”

#### **Procedures for implementing a “Declaration of Trust”**

1. Appoint the Trustees at a meeting of the church, subject to the guidelines and qualifications noted above.
2. Maintain minutes of that meeting and record the motion with a record of who moved and who seconded the motion.
3. There should be a clear description of what the Trustees are empowered to do and how they are accountable to the church.
4. Make sure that there is a statement in the church’s constitution, even if it is preliminary, as noted above.
5. Have the “Declaration of Trust” signed by the Trustees with witnesses to their signatures as provided on the document.
6. Keep the document in a safe and secure location.

**A DECLARATION OF TRUST**

\_\_\_\_\_ **Church**

**Article 1 – Declaration of Trust**

This Declaration of Trust was made on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

We, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

all of the Province of \_\_\_\_\_, hereby declare that we have agreed with each other to act as Trustees of a fund established hereunder to be used to carry out the charitable purposes set out herein and to be known as \_\_\_\_\_ Church.

**Article 2 – Interpretation**

2.1 Definitions

**“Church” shall mean \_\_\_\_\_ Church**

“Trustee” or “Trustees” shall mean an individual or the individual or individuals referred to in Article 1 and any successor or successors thereof, from time to time, hereinafter also called “elders.”

“Income Tax Act” or any reference to a specific provision or specific provisions thereof, shall mean the Income Tax Act, Revised Statutes of Canada, 1985, Chapter 1 (5<sup>th</sup> Supplement), as amended, or such provision or provisions as the case may be, of the said Act as amended from time to time.

“Capital” shall mean any contribution or donation of property to \_\_\_\_\_ Church whether in the form of cash or in any other form which may be received by the Trustees, and accumulations of income, if any, from the investment of such capital.

“Registered Charity” has the meaning set out in subsection 248(1) of the Income Tax Act or within the meaning of any similar provision of any legislation of the Parliament of Canada from time to time in force of like or similar effect.

2.2 Applicable Law

This Declaration of Trust shall be construed in accordance with the laws of the Province of \_\_\_\_\_.

### **Article 3 – Objects**

The objects of the church are:

3.1 To operate a local Christian Church founded on the principles outlined in the New Testament of the Bible for the purpose of:

Worshiping God  
Edifying Christians  
Communicating the Gospel of Jesus Christ to others  
Relieving poverty, distress and human suffering of all kinds  
Advancing the Christian faith

3.2 To maintain a place of worship to serve the people of the community and carry out the objects listed in 3.1

### **Article 4 – Principle Office**

4.1 The Church shall be located at \_\_\_\_\_ in the City of \_\_\_\_\_, in the Province of \_\_\_\_\_.

### **Article 5 – Powers and duties of Trustees/Elders**

The Trustees will apply the capital of the church solely for the advancement of objects of the church and, for this purpose, the Trustees will exercise the following powers provided that such powers are not contrary to the statutes and common law relating to charities.

The Trustees' role is pursuant to the Church's constitution and more specifically includes the following:

- 5.1 to engage the services of such individuals as the Trustees, in their unfettered discretion, determine to be required to carry out the objects of the Church from time to time;
- 5.2 to appoint such officers as the Trustees in their unfettered discretion determine to be required to carry out the objects of the church from time to time and determine the duties and responsibilities of such officers;
- 5.3 to apply the capital of the Church to pay for the services of the individuals referred to in 5.1 and other costs incurred in connection with the advancements of the objects of the Church;
- 5.4 to invest or reinvest the capital of the Church in investments authorized by law for trustees to the extent that such capital is not required at that time to carry out the objects of the Church provided that any investments acquired by the Trustees by way of gift or bequest will be retained for so long as they determine notwithstanding that such investments may not be in the form of investments in which the Trustees are authorized to invest trust funds, and the Trustees shall not be responsible for any loss which may be realized by reason of the retention of such investments;

- 5.5 to acquire by purchase, lease, devise, gift, or otherwise, real property, and to hold such real property or interest therein if such property is required for the actual use and occupation for carrying on its charitable undertaking, and when no longer necessary, to sell, dispose of and convey the same or any part thereof;
- 5.6 to acquire, accept, solicit or receive by purchase, lease, contract, donation, legacy, gift, grant, bequest or otherwise, any kind of real or personal property; and to enter into and carry out agreements, contracts and undertakings incidental thereto;
- 5.7 to solicit and receive by way of gift, bequest or devise or in any other manner, monies and other property, rights or interests, real or personal, of any kind or nature and to apply such monies or property exclusively for the purposes of the Church;
- 5.8 to pay out the capital of the church as the Trustees in their unfettered discretion shall from time to time determine, for all just and reasonable expenses incurred by the Trustees in the course of administering the church or otherwise incurred by the Trustees for the purposes of the church including the cost of insuring the Trustees against any loss that might be incurred in connection with carrying out their duties and responsibilities herein;
- 5.9 to accumulate from time to time part of the fund or funds of the Trustees or the income therefrom subject to any statutes or laws from time to time applicable;
- 5.10 to do any other acts which, in the unfettered discretion of the Trustees, will advance the objects of the Church.

#### **Article 6 – Decisions, Retirement, Removal and Appointment of Successor Trustees**

- 6.1 The powers of the Trustees will be exercised by a majority of the Trustees;
- 6.2 The Trustees will open and operate an account or accounts at a chartered bank or trust company; will deposit any cash received therein; will draw, make, endorse, deposit or deal in cheques, bills of exchange, promissory notes, drafts, or any other commercial or security documents of any nature or kind in connection with such account or accounts and will enter into contracts or agreements of any nature and kind with such bank or trust company and for such purposes, notwithstanding the provisions of paragraph (6.1) of the Article, all the Trustees may designate, in writing, any Trustee or Trustees or any other person or persons as the signing authority or authorities for any such accounts;
- 6.3 The Trustees will execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, powers of attorney, receipts, documents and any other instruments in writing necessary or appropriate, in the opinion of the Trustees, for the administration of this trust;
- 6.4 Any Trustee may be removed for any reason whatsoever by notice in writing given to such Trustee by remaining Trustees of \_\_\_\_\_ Church.

- 6.5 A successor Trustee or additional Trustee(s) may be appointed by instrument under seal executed by the remaining Trustees and such appointment will require the written approval of the remaining Trustees of \_\_\_\_\_ Church so that at all times there will be a minimum of three (3) Trustees and no decisions shall be made by the Trustees, other than the appointment of a successor Trustee or successor Trustees, while there is less than three (3) and for greater certainty, if, for any reason including the death or retirement of any Trustee or Trustees, there is at any time only one (1) Trustee, he or she may and shall appoint two (2) successor Trustees and such appointments will require the written approval at a congregational meeting of \_\_\_\_\_ Church;
- 6.6 Every successor Trustee appointed in accordance with 6.5 shall be a resident of Canada and shall cease to be a Trustee when such individual ceases to be resident in Canada.
- 6.7 Trustees as the primary leaders of the church will be affirmed as Trustees every \_\_\_\_\_ years at a congregational meeting of \_\_\_\_\_ Church.

#### **Article 7 – Annual Statement**

Within 90 days following the close of each calendar year the Trustees will prepare financial statements with respect to the immediately preceding calendar year including a statement of revenues and expenditures, a statement of changes in financial position and a balance sheet, and such statements will be made available on request to any donor or prospective donor to the Church.

#### **Article 8 – Amendments to Declaration of Trust**

The Trustees may at any time, in writing, amend the provisions of this Declaration of Trust whether by varying or deleting existing provisions or by substituting or inserting other provisions, provided that no amendment of the provision of this Declaration of Trust shall be valid to the extent it would

- 8.1 permit the distribution, diversion or application of any capital of the Church to or for objects other than the objects for which such capital was contributed by donors;
- 8.2 permit the distribution, diversion or application of any capital of the Church to or for objects other than those which, by law, are exclusively charitable; or
- 8.3 entitle the Minister of National Revenue or his successor or successors to revoke the registration of the Church as a registered charity within the meaning of subsection 248(1) of the Income Tax Act or within the meaning of any similar provision of any legislation of the Parliament of Canada from time to time in force of like or similar effect.

**Article 9 - Termination of Declaration of Trust**

The Trustees may, at a congregational meeting of \_\_\_\_\_ Church, by memorandum in writing

- 9.1 transfer all of the capital, after the payment of or provision for all liabilities and debts of the church, to a corporation formed with exclusive charitable objects which are substantially the same as those of the Church provided that such corporation is a registered charity within the meaning of subsection 248(1) of the Income Tax Act or within the meaning of any similar provision of any legislation of the Parliament of Canada from time to time in force of like or similar effect; or
- 9.2 dissolve the church; and
- 9.3 on the dissolution of the Church whether pursuant to the foregoing provisions of paragraph 9.1 or otherwise by law, the capital of the Church after the payment of all liabilities and debts of the Church will be forthwith distributed to another charity or charities that is or are registered charity or charities within the meaning of subsection 248(1) of the Income Tax Act or within the meaning of any similar provision of any legislation of the Parliament of Canada from time to time in force of like or similar effect which has or have objects similar to the church.

IN WITNESS WHEREOF the Trustees have herewith set their hands and seals.  
SIGNED, SEALED AND DELIVERED

In the presence of

_____	Witness	_____	, Trustee
_____	Witness	_____	, Trustee
_____	Witness	_____	, Trustee
_____	Witness	_____	, Trustee
_____	Witness	_____	, Trustee