



TO: Business Board

SPONSOR: Felix Chee
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DATE: March 26, 2003 for Meeting of April 7, 2003

AGENDA ITEM: 6(b)

**ITEM IDENTIFICATION: University of Toronto Asset Management Corporation:
By-Law Amendments**

JURISDICTIONAL INFORMATION:

By-Law Number 1 of the University of Toronto Asset Management Corporation (UTAM), states that “The Board of Directors may enact and re-enact by-laws or repeal, amend, alter or add to the by-laws or any of them, provided that no such enactment, reenactment, repeal, amendment, alteration or addition shall be enforced or acted upon . . . until approved by the Governing Council or its duly authorized Board”

PREVIOUS ACTION TAKEN:

On October 25, 1999, the Business Board recommended to the Governing Council the establishment of an investment management corporation, including the proposed By-Law Number 1 of that Corporation. That recommendation was approved by the Governing Council on November 4, 1999.

HIGHLIGHTS:

It is proposed that the Business Board approve four amendments to UTAM’s By-Law.

- The size of the Board would be reduced from fourteen to ten. The intention is to make the Board more nimble and better able to handle its increased responsibilities, for example, for monitoring the asset mix in the endowment and pension funds.
- The number of ex officio members would be reduced by one in order to retain a majority of external members who are appointed for reason of their specific expertise in investment matters. The current ex officio members include a member of the Governing Council and a member of the Business Board; those positions would be combined. To provide increased flexibility and continuity, the position would be open to both current and former members of Council or the Business Board.

HIGHLIGHTS (Cont'd)

- The drafting of the By-Law would be clarified to make it unambiguous that recommendations from the Compensation Committee are made to the Board of Directors.
- UTAM would henceforward be permitted to amend those parts of its own By-Law dealing with its internal operations without Business Board approval. For specific, key clauses, the need for Business Board approval would be retained to protect the University's interests.

RECOMMENDATION:

Subject to their approval by the Board and the members of the University of Toronto Asset Management Corporation,

THAT the following amendments to By-Law Number 1 of the University of Toronto Asset Management Corporation be approved:

- (i) THAT clause 3, "Board of Directors," be amended to read as follows:

The number of directors of the Corporation is hereby reduced from fourteen to ten (including three ex officio directors as hereinafter provided), and the affairs of the Corporation shall hereafter be managed by a board of ten directors, each of whom at the time of his or her election or within ten days thereafter and throughout his or her term of office shall be a voting member of the Corporation.

- (ii) THAT clause 6, "Ex Officio Directors" be amended to read as follows:

The following persons shall be nominated ex officio for election to the board and elected as such by the voting members:

- (i) the President of the University;
- (ii) the senior officer of the University responsible for financial matters as so designated by the President of the University ("senior financial officer"); and
- (iii) a member or former member of the Governing Council or the Business Board of the Governing Council having investment experience or expertise as approved and nominated by the Executive Committee of the Governing Council on the recommendation of the President of the University.

Ex officio directors shall have the same rights, powers and duties as other members of the board.

RECOMMENDATION (Cont'd)

- (iii) THAT clause 25, sub-clause (c), be amended from “reviewing and recommending annual adjustments to base salaries, if and as required, taking into account latest market data” to “reviewing and recommending to the board of directors annual adjustments to base salaries, if and as required, taking into account latest market data”;
- (iv) THAT clause 25, sub-clause (d), be amended from “reviewing and recommending annual performance bonus awards for the President and the senior officers and senior staff of the Corporation, based on corporate and individual performance against benchmarks” to “reviewing and recommending to the board of directors annual performance bonus awards for the President and the senior officers and senior staff of the Corporation, based on corporate and individual performance against benchmarks”; and
- (v) THAT clause 66 be amended to read as follows:

The board of directors may enact and re-enact by-laws or repeal, amend, alter or add to the by-laws or any of them, provided:

- (a) that no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon until sanctioned and confirmed at an annual or special general meeting of the voting members of the Corporation called for the purpose of considering the same; provided also
- (b) that notice of any enactment or repeal of, or amendment, alteration or addition to, the by-laws shall first have been given in writing to the directors at least five days before the day of the meeting at which it is proposed to enact the same; and provided also
- (c) that, in the case of clauses 3 to 9 inclusive, 16, 17, 22, 25, 30, 41, 59, 64 and 66 hereof, no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon until approved by the Business Board of Governing Council.



March 26, 2003

TO: Business Board

From: Felix Chee

Subject: **University of Toronto Asset Management Corporation:
By-Law Amendments**

On October 25, 1999, the Business Board recommended to the Governing Council the establishment of an investment management corporation, including the proposed By-Law Number 1 of that Corporation. That recommendation was approved by the Governing Council on November 4, 1999. The University of Toronto Asset Management Corporation (UTAM) began operations on May 1, 2000. I am writing to propose that the Business Board approve four amendments to that basic By-Law. The first, second and fourth parts of the proposals, if they meet with the approval of the Business Board, will also be subject to the approval of the members and directors of UTAM. (They have already approved the third part of the proposal, which is a minor drafting change.)

(1) Reduction in Board Size

The proposal for approval of a revised University Funds Investment Policy contains the following statement:

The revised policy, unlike the current one, does not specify an asset mix. It focuses instead on the return and risk objectives. This puts the accountability for the specific choice of asset classes and the resultant asset mix on UTAM, which will also be responsible for portfolio diversification, categories and subcategories of investments, use of derivatives and investment restrictions. A requirement that UTAM develop, approve and review these policies will be incorporated into the service agreement.

To enable the UTAM Board to assume this more active role and to do so successfully, it will be important that the Board be smaller and therefore more nimble. It is therefore proposed that the size of the Board be reduced from fourteen to ten, including the ex officio members.

(2) Reduction in Ex Officio Membership

The membership of the Board currently includes four ex officio members:

- the President of the University;
- the “senior officer of the University responsible for financial matters as so designated by the President of the University”, i.e. the Vice-President, Business Affairs;
- the Chair or a member of the Business Board, as approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University; and
- a member of the Governing Council having investment experience or expertise as approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University.

In addition, the Ontario Corporations Act provides that the President of any corporation without share capital be elected by and from among the directors of the corporation. The effect therefore is a fifth ex officio member: the President and C.E.O. of UTAM.

If the size of the Board is to be reduced to ten, the other directors, who are appointed for reason of their specific expertise in investment matters, would lose their majority position on the Board. To remedy that, I propose that the current ex officio positions for the member of the Governing Council and the Chair or member of the Business Board be combined. Further, to provide increased flexibility and to provide for continuity in the case where a valuable incumbent completes her/his term on the Governing Council or the Business Board, I propose that the position be open to both current and former members of Governing Council or the Business Board.

If these proposals are approved, the membership of the UTAM Board would be as follows:

- the President of the University;
- the “senior officer of the University responsible for financial matters as so designated by the President of the University”, i.e. the Vice-President, Business Affairs;
- a member or former member of the Governing Council or the Business Board having investment experience or expertise, as approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University;
- the President and C.E.O. of UTAM; and
- six other members with investment expertise, as approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University.

(3) Compensation Committee: Drafting Change

The first Chair of the Compensation Committee, Mr. H. G. Emerson, noted an ambiguity in the drafting of the By-Law provision concerning the reporting of the Compensation Committee. It is recommended that new wording be approved that will make it unambiguous that the Committee's recommendations are made to the UTAM Board.

(4) Authority to Approve Future By-Law Amendments

The UTAM By-Law currently states that no By-Law amendment "shall be enforced or acted upon . . . until approved by the Governing Council or its duly authorized Board"

While it is clearly appropriate to continue the requirement for Business Board approval of major by-Law amendments affecting the interests of the University, such a requirement serves no useful purpose for amendments that affect only the internal functioning of the UTAM Board. The need for the Business Board approval for the drafting change in (3) above is an example.

The University of Toronto Innovation's Foundation's By-Law gives the Foundation's members and directors the authority to amend most of the Foundation's By-Law, reserving the need for Business Board approval only for those By-Law provisions where the University's interests are involved. I propose that the UTAM members and directors similarly be permitted to amend UTAM's By-Law, apart from specified sections, where Business Board approval would continue to be required. The protected sections would include:

- the specification of the Board's membership, including: (a) the requirement that the membership include, ex officio, the President of the University; the University's chief financial officer, and (proposed) a member or former member of the Governing Council or the Business Board; (b) the requirement that all members be approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University; and (c) the requirement that the Board remove any member when so directed by the Executive Committee of Governing Council on the recommendation of the President (clauses 3-8);
- specification of the Board's quorum and the minimum number of its meetings each year (clause 9);
- provisions concerning the Chair of the Board, including the requirement that the Chair be approved and nominated by the Executive Committee of Governing Council on the recommendation of the President of the University (clause 16);

(3) Authority to Approve Future By-Law Amendments (Cont'd)

- provisions concerning the President of the Corporation, including the requirement that she/he be approved and nominated by the President of the University (clause 17);
- the requirement that UTAM's compensation policies be reviewed and approved by the Senior Salary Committee of Governing Council (clause 22);
- provisions for the Compensation Committee, including the membership of the President of the University and the requirement for the President's review and approval of the terms of the employment contract for the President of UTAM (clause 25);
- the requirement that the voting members of the corporation be approved and nominated by the Executive Committee of Governing Council on the recommendation of the President (clause 30; in Ontario corporations without share capital, the members take the place of the shareholders in other corporations; in all three of the University's incorporated ancillaries, the members and directors are the same individuals);
- the requirement for the removal / expulsion of members on the direction of the Executive Committee of Governing Council on the recommendation of the President of the University (clause 41);
- provision for the appointment of auditors in accordance with the agreement with the University (clause 59; the current agreement specifies that UTAM shall appoint the same auditors as the University);
- provision that upon any dissolution of UTAM, its assets, after payments of debts, will go to the University (clause 64); and
- provision for enactment or amendment of By-Laws, including the requirement for University approval of all or, as I propose, specified amendments (clause 66).

As noted above, the By-Law currently states that amendments require the approval of "Governing Council or its duly authorized Board, committee or officer." The proposed amended version is more precise, specifying that the approval required is that of the Business Board, which is the "duly authorized Board."

RECOMMENDATION:

Subject to their approval by the Board and the members of the University of Toronto Asset Management Corporation,

THAT the following amendments to By-Law Number 1 of the University of Toronto Asset Management Corporation be approved:

- (i) THAT clause 3, “Board of Directors,” be amended to read as follows:

The number of directors of the Corporation is hereby reduced from fourteen to ten (including three ex officio directors as hereinafter provided), and the affairs of the Corporation shall hereafter be managed by a board of ten directors, each of whom at the time of his or her election or within ten days thereafter and throughout his or her term of office shall be a voting member of the Corporation.

- (ii) THAT clause 6, “Ex Officio Directors” be amended to read as follows:

The following persons shall be nominated ex officio for election to the board and elected as such by the voting members:

- (i) the President of the University;
- (ii) the senior officer of the University responsible for financial matters as so designated by the President of the University (“senior financial officer”); and
- (iii) a member or former member of the Governing Council or the Business Board of the Governing Council having investment experience or expertise as approved and nominated by the Executive Committee of the Governing Council on the recommendation of the President of the University.

Ex officio directors shall have the same rights, powers and duties as other members of the board.

- (iii) THAT clause 25, sub-clause (c), be amended from “reviewing and recommending annual adjustments to base salaries, if and as required, taking into account latest market data” to “reviewing and recommending to the Board of Directors annual adjustments to base salaries, if and as required, taking into account latest market data”;

RECOMMENDATION (Cont'd)

(iv) THAT clause 25, sub-clause (d), be amended from “reviewing and recommending annual performance bonus awards for the President and the senior officers and senior staff of the Corporation, based on corporate and individual performance against benchmarks” to “reviewing and recommending to the Board of Directors annual performance bonus awards for the President and the senior officers and senior staff of the Corporation, based on corporate and individual performance against benchmarks”; and

(v) THAT clause 66 be amended to read as follows:

The board of directors may enact and re-enact by-laws or repeal, amend, alter or add to the by-laws or any of them, provided:

(a) that no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon until sanctioned and confirmed at an annual or special general meeting of the voting members of the Corporation called for the purpose of considering the same; provided also

(b) that notice of any enactment or repeal of, or amendment, alteration or addition to, the by-laws shall first have been given in writing to the directors at least five days before the day of the meeting at which it is proposed to enact the same; and provided also

(c) that, in the case of clauses 3 to 9 inclusive, 16, 17, 22, 25, 30, 41, 59, 64 and 66 hereof, no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon until approved by the Business Board of Governing Council.

Attached is a copy of By-Law Number 1 of the University of Toronto Asset Management Corporation, showing the proposed amendments.

UNIVERSITY OF TORONTO ASSET MANAGEMENT CORPORATION

BY-LAW NO. 1

being a by-law relating generally to the transaction of the affairs of the Corporation.

BE IT AND IT IS HEREBY ENACTED as a by-law of University of Toronto Asset Management Corporation (herein called the "Corporation") as follows:

Head Office

1. The head office of the Corporation shall be in the City of Toronto, in the Province of Ontario, and at such place therein as the directors may from time to time determine by resolution.

Seal

2. The seal, an impression whereof is stamped at the end hereof, shall be the corporate seal of the Corporation.

Board of Directors

3. The number of directors of the Corporation is hereby ~~increased from three to fourteen~~reduced from fourteen to ten (including ~~four~~three ex officio directors as hereinafter provided), and the affairs of the Corporation shall hereafter be managed by a board of ~~fourteen~~ten directors, each of whom at the time of his or her election or within ten days thereafter and throughout his or her term of office shall be a voting member of the Corporation.

Term of Office

4. Each director shall be elected to hold office until the first annual meeting of the voting members after he or she shall have been elected or until his or her successor shall have been duly elected. The whole board shall retire at each annual meeting of the voting members, but retiring directors shall be eligible for re-election if otherwise qualified.

Qualifications of Directors

5. Each director shall have been approved and nominated for election to the board by the Executive Committee of The Governing Council of the University of Toronto ("Governing Council") on the recommendation of the President of the University of Toronto ("University"), and no person shall be elected or appointed to the board who has not been so approved and nominated. The Chair of the Board, the President and/or the board of the Corporation may submit recommendations to the President of the University of persons to be nominated for election as directors of the Corporation. One director shall be a member or retired member of the academic staff or the administrative staff of the University, to be so approved and nominated after appropriate consultation. That director, and a majority of the other directors who are not ex officio directors, shall have investment experience or expertise.

Ex Officio Directors

6. The following persons shall be nominated ex officio for election to the board and elected as such by the voting members:

- (i) the President of the University;
- (ii) the senior officer of the University responsible for financial matters as so designated by the President of the University (“senior financial officer”); and
- (iii) a member or former member of the Governing Council or the Chair or a member of the Business Board of the Governing Council having investment experience or expertise as approved and nominated by the Executive Committee of the Governing Council on the recommendation of the President of the University; ~~and~~
- ~~(iv) a member of the Governing Council having investment experience or expertise as so recommended, approved and nominated.~~

Ex officio directors shall have the same rights, powers and duties as other members of the board.

Removal of Directors

7. The members of the Corporation may, with the prior approval of the Executive Committee of the Governing Council, by resolution passed by at least two-thirds of the votes cast at a general or special meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his or her term of office and may, by a majority of the votes cast at such meeting, elect any qualified person approved and nominated by the Executive

Committee of the Governing Council as aforesaid in his or her stead for the remainder of his or her term of office. When so directed by the Executive Committee of the Governing Council, on the recommendation of the President of the University, the members of the Corporation shall remove any director specified by the said Executive Committee.

Vacancies

8. The board of directors may exercise its powers notwithstanding any vacancy on the board, however caused, so long as a quorum of directors is in office. Vacancies on the board, however caused, may so long as a quorum of directors remains in office, be filled by the directors from among qualified persons approved and nominated as aforesaid, if the directors shall see fit to do so; otherwise, such vacancy shall be filled at the next annual meeting of the voting members at which directors are to be elected. If there is not a quorum of directors remaining in office, the remaining directors shall forthwith advise the President of the University, and upon a qualified person or persons being approved and nominated by the Executive Committee of the Governing Council as aforesaid, the remaining directors shall forthwith call a meeting of the voting members to fill the vacancy or vacancies. If the number of directors is increased between annual meetings, a vacancy or vacancies, to the number of the authorized increase, shall thereby be deemed to have occurred, which may be filled in the manner above provided.

Quorum, Meetings and Notice

9. A majority of the directors in office shall constitute a quorum for the transaction of business at any meeting of the board. Except as otherwise required by

law, the board may hold meetings at such place or places as it may from time to time determine. No formal notice of any such meeting shall be necessary if all the directors are present, or if those absent have signified their consent to the meeting being held in their absence. The board may appoint a day or days in any month or months for regular meetings at an hour to be named and of such regular meetings, no notice need be given. Meetings of directors may be called by the Chair of the Board or by the Secretary on the direction of the Chair or on the direction in writing of two directors. Notice of such meetings shall be delivered, telegraphed, telexed or sent by facsimile or electronic transmission to each director not less than forty-eight (48) hours before the time at which the meeting is to take place or shall be mailed to each director not less than five days before the meeting is to take place. The statutory declaration of the Secretary that notice has been given in accordance with this by-law shall be sufficient and conclusive evidence of the giving of such notice. A meeting of the directors may also be held, without notice, immediately following the annual meeting of the voting members of the Corporation at which directors are elected.

Notice of any meeting of the board shall be accompanied by a draft agenda and copies of such documentation as may be available and considered by the Chair of the Board, or the Secretary on the direction of two directors as the case may be, to be relevant and advisable to transmit. Where no notice of the meeting is required, the material that would otherwise accompany the notice shall be transmitted by the time prescribed for the giving of notice.

The board shall meet at least four times annually, exclusive of the meeting thereof to be held immediately following the annual meeting at which directors are elected.

Telephone Meetings

10. If all the directors or committee members (as the case may be) consent, a meeting of the directors or of any committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a person participating in such meeting by such means is deemed to be present at that meeting.

Voting

11. Questions arising at any meeting of directors shall be decided by a majority of votes. In case of an equality of votes, the Chair shall not have a second or casting vote. Votes at any such meeting shall be taken by ballot if so demanded by any director present, but if no such demand be made, the vote shall be taken by a show of hands. A declaration by the Chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prime facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Powers

12. Subject always to any terms, conditions, limitations and restrictions imposed by law or by any applicable contract or agreement or applicable policy of the University, the directors of the Corporation may administer the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any contract which the Corporation may lawfully enter into and, save as herein or otherwise by law, contract or agreement or such policy provided, generally may exercise all such

other powers and do all such other acts and things as the Corporation by its Letters Patent or otherwise is authorized to exercise and do.

Standard of Care

13. Every director and officer of the Corporation in exercising his or her powers and discharging his or her duties shall,

- (a) act honestly and in good faith with a view to the best interests of the University and the Corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Remuneration of Directors

14. The directors who are not full-time employees of the University shall receive such remuneration, if any, for acting as such as the board and the voting members may have expressly approved in accordance with the by-laws of the Corporation and directors may receive reimbursement for expenses reasonably and properly incurred on behalf or in connection with the affairs of the Corporation.

Officers

15. There shall be a Chair of the Board, a President and a Secretary and there may be one or more Vice-Chairs of the Board, one or more Vice-Presidents, a Treasurer and such other officers, including one or more assistants to any of the officers of the Corporation, as the directors may from time to time determine by resolution. One person may hold more than one office except that the offices of Chair of the Board, Vice-Chair of the Board, President and Secretary shall be held by separate persons. The Chair of the Board, the Vice-Chair or Vice-Chairs, if any, and the President shall be

elected by the directors of the Corporation from among their number. The other officers of the Corporation may but need not be directors or members thereof, and in the absence of written agreement to the contrary, the election or appointment of all officers shall be during the pleasure of the board and the terms of their employment shall be settled from time to time by the board. Officers of the Corporation who are not to be elected as aforesaid shall be appointed by the directors at the first meeting of the board after the annual meeting of the voting members at which directors are elected, provided that in default of any such election or appointment, the then incumbent officers, being otherwise qualified, shall hold office until their successors are elected or appointed.

If more than one Vice-Chair or more than one Vice-President be appointed, their seniority shall be determined by any word or designation denoting seniority and forming part of the title when appointed, or if no such word or designation be attached to the title, by the order of their appointment.

Chair of the Board

16. Notwithstanding the provisions of clause 15 hereof, the Chair of the Board shall be approved and nominated by the Executive Committee of the Governing Council on the recommendation of the President of the University, and no person shall be elected or serve as Chair who has not been so approved and nominated. The retiring Chair of the Board, the President and/or the board may submit recommendations to the President of the University of persons to be nominated for election as Chair of the Board.

The Chair of the Board shall, when present, preside at all meetings of the members of the Corporation and of its board of directors. He or she shall have the general oversight of the affairs of the Corporation and of its other officers, shall provide general direction and guidance to the board and to the President, consistent with the

provisions of any agreement subsisting between the University and the Corporation, and shall, together with the President, formulate the long-range policies, objectives and development plans of the Corporation for consideration by the board and assess the implementation thereof. He or she shall also have and perform such other powers and duties as may from time to time be lawfully assigned to him or her by the board or as are incident to the office. During the absence or inability of the Chair, his or her duties and powers shall be performed and exercised by the senior Vice-Chair who is available and able to act or if there be no such Vice-Chair, by such other director as the board may from time to time appoint for the purpose. If such Vice-Chair or other director exercises any such duty or power, the absence or inability of the Chair shall be presumed with reference thereto.

President

17. Notwithstanding the provisions of clause 15 hereof, the President shall be approved and nominated by the President of the University of Toronto, and no person shall be elected or serve as President who has not been so approved and nominated.

The President shall be the chief executive officer of the Corporation and shall, subject to the general policy directions and authority of the board and the Chair, be charged with the management of and shall exercise direction and supervision over the operations and affairs of the Corporation. The President shall provide the directors, either monthly or quarterly as directed by the board, with unaudited operating statements and other financial information in such form as the board may from time to time prescribe. He or she shall, together with such other officer or person as required, sign such contracts, documents and instruments in writing on behalf of the Corporation as require his or her signature and shall have and perform such other powers and

duties as may from time to time be lawfully assigned to him or her by the board or the Chair.

Secretary

18. The Secretary shall be ex officio clerk of the board of directors. He or she shall attend all meetings of the members, the board and the committees thereof and shall enter or cause to be entered in the books for that purpose, minutes of all proceedings thereat. He or she shall give or cause to be given all notices required to be given to members, directors and members of committees, shall be the custodian of the seal of the Corporation and of its corporate and statutory books, records and registers, shall sign, certify or attest such contracts, documents and instruments in writing of or issued by the Corporation as require his or her signature, and shall have and perform such other powers and duties as may from time to time be lawfully assigned to him or her by the board or as are incident to the office.

Treasurer

19. The Treasurer shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation in proper books of account and shall deposit or cause to be deposited all moneys and negotiable instruments in the name and to the credit of the Corporation in such bank or banks or other institutions or repositories as may from time to time be designated by the board. He or she shall disburse the funds of the Corporation or cause them to be disbursed under the direction of the board, causing proper vouchers to be taken therefor, and shall render to the board at the meetings thereof or whenever required of him or her an account of all financial transactions and of the financial position of the Corporation. He or she shall also have and perform such other powers and duties as may from time to time be lawfully assigned to him or her by the board or as are incident to the office.

Additional Duties and Powers

20. Officers shall, in addition to the duties and powers prescribed in the by-laws, perform such duties and exercise such powers and authority as may from time to time be prescribed by the board.

Delegation of Powers of Officers

21. In the event of the absence or disability of any officer of the Corporation or for any other reason that the board deems sufficient, the board may delegate all or any of the powers of such officer to any other officer of the Corporation or to any director, and for such length of time as it deems necessary, and any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the board or the President otherwise directs.

Compensation

22. The compensation of the directors, senior officers and senior staff of the Corporation shall be determined in accordance with programs and policies that have been submitted for review to and approved by the Senior Salary Committee of the University in accordance with the University's Policy on Appointments and Remuneration as amended from time to time.

Executive Committee

23. There shall be an Executive Committee of the board, composed of (i) the Chair of the Board, (ii) the senior financial officer of the University and (iii) the Chair of the Business Board of the Governing Council or the member of that Board who has been nominated for election to the board by the Executive Committee of the Governing Council. Two members of the Committee shall constitute a quorum for the transaction

of business at any meeting thereof. The Chair of the Committee shall be appointed by the board.

The Committee shall have power and authority to act only in the event of unusual circumstances or an emergency, as to the occurrence of which the declaration of the Chair of the Board, with the concurrence of the senior financial officer of the University, shall be conclusive for all purposes. While such declaration continues in effect, (i) the Committee may exercise such powers of the board as are delegated to it, subject to such restrictions and regulations as may from time to time be imposed by the directors; and (ii) in the absence of such restrictions or regulations, the Executive Committee shall possess and may exercise, during the intervals between the meetings of the board of directors and subject to the by-laws of the Corporation, all the powers of the board of directors in the management and direction of the property, operations and affairs of the Corporation, save and except only in respect of:

- (a) the establishment of classes or categories of non-voting members;
- (b) the admission of individuals to be voting members of the Corporation;
- (c) the filling of any vacancy occurring in the board;
- (d) the removal of directors or members;
- (e) the dissolution or winding up or surrender of the Letters Patent of the Corporation;
- (f) the enactment, repeal and amendment of by-laws;
- (g) the sale, lease, exchange or disposal of the undertaking of the Corporation or any part thereof as an entirety or substantially as an entirety;
- (h) an application for the issue of supplementary letters patent;
- (i) such powers as are delegated by the board to other committees; and
- (j) such acts as must by law be performed by the directors themselves,

in such manner as the Executive Committee shall deem best in the interests of the University and the Corporation in all cases in which specific direction shall not have been given by the board of directors. Subject to any regulations imposed from time to time by the directors, the Executive Committee shall have power to determine its own rules of procedure from time to time and to hold its meetings at the office of the Corporation or at any other place in Ontario or elsewhere determined by it. The Committee shall cause minutes to be kept of its meetings in which shall be recorded all action taken by it, which minutes shall be submitted as soon as practicable to the board of directors, and not later than at its next meeting.

When (i) in the opinion of the Chair of the Board, concurred in by the senior financial officer of the University, the unusual circumstances or emergency which have been the subject of the declaration aforesaid no longer continue, or (ii) the board so resolves, the Chair of the Board shall so declare and the power and authority of the Executive Committee shall thereupon be suspended until any further declaration of such circumstances or emergency is made, and so on from time to time.

Audit and Compliance Committee

24. There shall be an Audit and Compliance Committee of the board composed of three directors, two of whom shall constitute a quorum for the transaction of business at any meeting thereof. The Chair of the Committee shall be appointed by the board. The Committee shall meet at least twice annually and its duties shall include the following:

- (a) establishing audit policies and monitoring the execution thereof and compliance therewith;
- (b) establishing compliance policies and monitoring the execution thereof;

- (c) subject to the provisions of the by-law of the Corporation, establishing conflict of interest policies and guidelines and monitoring the execution thereof and compliance therewith;
- (d) recommending the appointment of the auditors of the Corporation, their mandate and fee arrangements;
- (e) reviewing the annual report of the auditors of the Corporation; and
- (f) following up on the implementation of the recommendations of the auditors.

Compensation Committee

25. There shall be a Compensation Committee of the board composed of three directors, one of whom shall be the President of the University, and two of whom shall constitute a quorum for the transaction of business at any meeting thereof. The Chair of the Committee shall be appointed by the board. The Committee shall meet at least twice annually and its duties shall include the following:

- (a) subject to the provisions of the by-laws of the Corporation, establishing the compensation programs and policies of the Corporation and monitoring the execution thereof;
- (b) reviewing and approving changes to the compensation policy and scheme;
- (c) reviewing and recommending to the Board of Directors annual adjustments to base salaries, if and as required, taking into account latest market data;
- (d) reviewing and recommending to the Board of Directors annual performance bonus awards for the President and the senior officers and

senior staff of the Corporation, based on corporate and individual performance against benchmarks;

- (e) reviewing and recommending to the board and the President of the University the terms of employment contracts for the President; and
- (f) reviewing and recommending to the board the terms of employment contracts for other senior officers and senior staff of the Corporation.

Committees – General

26. Committees of the board may meet for the transaction of business, adjourn and otherwise regulate their meetings as they see fit, subject to any regulations or restrictions imposed from time to time by the directors. A committee may invite such officers, directors, employees and members of the Corporation and such consultants and professional advisers as it may see fit from time to time to attend at meetings of the committee and to assist thereat in the discussion and consideration of the affairs of the Corporation. The board may from time to time remove a member or members of a committee and may fill any vacancy or vacancies in any committee, and the members of committees shall continue in office until removed or until their successors are appointed by the board.

Other Committees

27. The board may from time to time constitute and appoint such other committees as it may determine, to assist the directors in managing and directing the operations and affairs of the Corporation and in carrying out its objects. The persons appointed to any such other committee may be directors or members of the Corporation or others. The board may define and limit the powers and duties of such committees

Execution of Documents

28. Deeds, leases, transfers, licences, contracts, agreements, assignments and engagements on behalf of the Corporation shall be signed by the Chair of the Board and the President or by either of them together with another director or officer, and the Secretary shall affix the seal of the Corporation to such instruments as require the same; provided that the board may at any time and from time to time by resolution direct the manner in which and the person or persons by whom any particular instrument, contract or obligation, or any class of instruments, contracts or obligations of the Corporation may or shall be executed.

In particular, the persons designated in this clause, or any persons from time to time designated by the board, may transfer any and all shares of stock, bonds or other securities from time to time standing in the name of the Corporation and may accept in the name and on behalf of the Corporation transfers of shares or stock and bonds or other securities from time to time transferred to it, and may affix the corporate seal to any such transfers or acceptances of transfers and may make, execute and deliver under the corporate seal any and all instruments in writing necessary or proper for such purpose, including the appointment of an attorney or attorneys to make or accept transfer of shares of stock, bonds or other securities on the books of any company or corporation.

Books and Records

29. The directors shall see that all necessary books and records of the Corporation required by the by-laws or by any applicable statute or law are regularly and properly kept.

Members

30. The applicants for incorporation of the Corporation and such other individuals as may by resolution be admitted by the board to general membership in the Corporation shall be known as voting members; provided that all the voting members shall at all times be individuals who have been approved and nominated for membership by the Executive Committee of the Governing Council on the recommendation of the President of the University. The number of voting members shall not exceed the authorized number of directors.

31. No membership fees shall be payable by voting members.

32. The board may, from time to time by resolution establish other classes or categories of members, including members ex officio, (all of whom shall be known as ordinary members or otherwise as the board may from time to time determine) as may be deemed appropriate and may also from time to time by resolution admit to ordinary membership in the Corporation, in one of such classes or categories so established, such individuals, firms, societies, organizations, corporations and agencies as subscribe to the purposes and objects of the Corporation and as the directors in their discretion determine to accept into membership. Each member shall be promptly informed by the Secretary of his, her or its admission as a member.

33. Classes and categories of ordinary members may be established and ordinary members admitted to membership in the Corporation upon such terms and conditions and for such period of time and with such rights, privileges, duties and obligations as the directors may from time to time determine and in particular, classes and categories of ordinary members may be established for whom the right to vote at meetings is restricted or prohibited.

34. A member who has voting rights may vote by means of an instrument of proxy in favour of an individual who is also a voting member of the Corporation.

35. The membership fees, if any, for each class or category of ordinary membership shall be such as are from time to time prescribed by the board. The Secretary or the Treasurer shall notify the ordinary members of the fees payable.

Termination of Membership

36. The interest of a member in the Corporation is not transferable and lapses and ceases to exist upon his or her death, bankruptcy, insolvency, mental incompetency, dissolution or winding-up or when the member ceases to be a director or ceases to be a member by resignation or withdrawal or by the termination of the membership or when the term of the membership expires and is not renewed, or otherwise in accordance with the by-laws of the Corporation.

37. A member may at any time resign and withdraw from membership in the Corporation by resignation in writing addressed and delivered or mailed to the Chair of the Board or to the Secretary.

38. Unless some other term of membership for any member or class of members shall have been determined by the board, the term of membership of each member of the Corporation other than a director who has been elected or re-elected and remains in office shall automatically terminate at the time of each annual meeting of the voting members of the Corporation (unless sooner terminated in accordance with the by-laws of the Corporation) but the directors may, in their discretion, renew any such membership from year to year upon payment of all fees and fulfilment of all obligations prescribed for the member concerned.

39. In the case of resignation, a member shall remain liable for payment of any fees or financial assessments or other sums properly levied or which became payable by the member to the Corporation prior to his, her or its resignation.

40. If any dues, fees or other financial assessments properly levied are not paid within thirty days of the date of notification thereof by the Secretary or the Treasurer, a member in default shall thereupon automatically cease to be a member of the Corporation, but any such member may, upon payment of all arrears, be reinstated by the board.

41. The membership of any member may be terminated and the member may be removed and expelled before the expiration of his, her or its term of membership, by a resolution passed by at least two-thirds of the votes cast at a special general meeting of the voting members of the Corporation of which notice specifying the intention to pass such a resolution has been given; provided that in the case of a voting member, such action shall be taken only with the prior approval of the Executive Committee of the Governing Council. When so directed by the Executive Committee of the Governing Council, on the recommendation of the President of the University, the members of the Corporation shall remove and expel any member specified by the said Executive Committee.

Meetings of Members

42. The annual and any other general meeting of the voting members of the Corporation shall be held at the head office of the Corporation or elsewhere in Ontario and on such day as the directors may determine. The directors may at any time call a special general meeting of the voting members at such time and place as they may appoint, for the transaction of any business, the general nature of which is specified in the notice calling the meeting.

43. No public notice or advertisement of meetings of the voting members, annual or special, shall be required, but notice of the time and place of every such meeting shall be given to each voting member by sending the notice by prepaid mail, telegraph, telex, facsimile or electronic transmission not less than ten days before the date of the meeting; provided that meetings of the voting members may be held at any time and place without notice if all such members are present thereat or represented by proxy duly appointed or have waived in writing notice of such meeting.

44. A special general meeting of the voting members of the Corporation may be called by any four voting members thereof upon giving written notice to the Secretary of the Corporation specifying in detail the exact nature of the business that is to come before the meeting. Such special general meeting shall be held within thirty days of receipt of such notice, and notice of the meeting shall be given to the voting members in the manner herein provided.

45. At every annual meeting of the voting members, in addition to any other business that may be transacted, the report of the directors on the affairs of the Corporation for the previous year, the balance sheet and financial statements, including a statement of income and expenditure for the financial year ending on the date of such balance sheet, and the report of the auditors thereon shall be presented, directors shall be elected as herein provided and auditors for the ensuing year shall be appointed and their remuneration fixed or authority given to the directors to fix such remuneration.

46. At any meeting of the voting members, annual or special, a majority of the voting members, either present in person or represented by proxy, shall constitute a quorum for the transaction of business, provided that in no case shall any meeting of voting members be held unless there are two individual voting members present in person.

47. At all meetings of the voting members, each voting member shall be entitled to one vote and may vote in person or by proxy duly authorized. No member shall be entitled to vote at any meeting either in person or by proxy unless all dues, fees and other financial assessments, if any, then payable in respect of such membership shall have been paid.

48. A proxy shall be appointed in writing and the directors may prescribe the form of appointment of proxy and conditions governing the use thereof.

49. At all meetings of members, every question shall be decided by a majority of the votes of the voting members present in person or represented by proxy, unless otherwise required by the provisions of the Corporations Act, the Letters Patent or the by-laws of the Corporation. Every question shall be decided in the first instance by a show of hands unless a poll be demanded by any member. Upon a show of hands, every member having voting rights present in person or represented by proxy as aforesaid shall have one vote and unless a poll be demanded, a declaration by the Chair that a resolution has been carried or carried unanimously or by a particular majority or not carried or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn, but if a poll be demanded and not withdrawn, the question shall be decided by a majority of votes cast by the voting members present in person or represented by proxy as aforesaid and the votes shall be taken in such manner as the Chair directs, and the result of the poll shall be deemed the decision of the meeting upon the matter in question. In case of an equality of votes at any meeting of the members, whether upon a show of hands or at a poll, the Chair shall not be entitled to a second or casting vote.

50. The directors may from time to time determine the basis upon and purpose for which meetings of members of the Corporation other than voting members, or meetings of particular classes or categories of members other than voting members may be held and the dates, times, places and frequency and the form and manner of giving notice thereof and the procedures thereat. Unless otherwise prescribed by the board, the procedures at any such meeting shall be regulated by analogy to the provisions of this by-law relating to meetings of voting members.

Error or Omission in Notices

51. No error or irregularity in or omission to give notice or non-receipt of notice of any meeting of the members or directors or of a committee of the directors or of any adjourned meeting thereof shall invalidate any such meeting or make void any action or proceedings taken thereat and any director or member may at any time, either before or after the meeting, waive notice thereof and may ratify, approve and confirm any or all proceedings taken or had thereat.

Adjournments

52. Any meetings of the members or of the directors may be adjourned at any time and from time to time with the consent of the meeting and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjourned meeting and such adjournment may be made notwithstanding that no quorum is present.

Financial Year

53. Unless otherwise provided by resolution of the directors, the financial year of the Corporation shall end on the 31st day of December in each year.

Cheques and Banking Arrangements

54. All cheques, bills of exchange and other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the board, and any one of such officers or agents may alone endorse notes and drafts for collection on account of the Corporation through its bankers and may endorse notes and cheques for deposit with the Corporation's bankers for the credit of the Corporation, or the same may be endorsed for collection or for deposit with the bankers of the Corporation by using a rubber stamp adopted by the Corporation for the purpose. Any one of such officers or agents so appointed may also arrange, settle, balance and certify all books and accounts between the Corporation and its bankers and may receive all paid cheques and vouchers and sign the bank's forms of settlement of balances and release or verification slips.

Deposit of Securities for Safekeeping

55. The securities of the Corporation shall be deposited for safekeeping with one or more banks, trust companies or other financial institutions or repositories as may be selected by the board. Any and all securities so deposited may be withdrawn from time to time only upon the written order of the Corporation signed by such directors, officers, employees or agents of the Corporation and in such manner as shall from time to time be designated by resolution of the board, and such authority may be general or confined to specific instances. The institutions which may be so selected by the board to act as custodians shall be fully protected in acting in accordance with the directions of the board and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

Indemnities to Directors and Others

56. Except in respect of an action by the Corporation to procure a judgment in its favour, every (i) director or officer of the Corporation, or (ii) other person who has undertaken or is about to undertake any liability on its behalf, and (iii) his or her heirs, executors, administrators and estate and effects, respectively, shall from time to time and at all times be indemnified and saved harmless out of the funds of the Corporation from and against:

- (a) all costs, charges and expenses whatsoever (including amounts paid to settle an action or satisfy a judgment and fines and other monetary penalties) which such director, officer or other person sustains or incurs in or about any civil, criminal or administrative action, suit or proceeding which is brought, commenced or prosecuted against him or her for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him or her in or about the execution of the duties of his or her office; and
- (b) all other costs, charges and expenses which he or she sustains or incurs on or about or in relation to the affairs thereof,

except such costs, charges or expenses as are occasioned by his or her own wilful neglect or wilful default.

Insurance

57. The Corporation may purchase and maintain insurance for the benefit of any person referred to in clause 56 hereof against any liability incurred by him or her in his or her capacity as a director or officer of the Corporation, except where the liability

relates to his or her failure to act honestly and in good faith with a view to the best interests of the Corporation.

Conflict of Interest and Disclosure

58. (1) A director or officer of the Corporation who,
- (a) is a party to a material contract or transaction or proposed material contract or transaction with the Corporation, or
 - (b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation,

shall disclose in writing to the Corporation or request to have entered in the minutes of meetings of directors the nature and extent of his or her interest.

- (2) The disclosure required by subclause (1) shall be made, in the case of a director,
- (a) at the meeting at which a proposed contract or transaction is first considered;
 - (b) if the director was not then interested in a proposed contract or transaction, at the first meeting after he or she becomes so interested;
 - (c) if the director becomes interested after a contract is made or a transaction is entered into, at the first meeting after he or she becomes interested; or
 - (d) if a person who is interested in a contract or transaction later becomes a director, at the first meeting after he or she becomes a director.

(3) The disclosure required by subclause (1) shall be made in the case of an officer who is not a director,

(a) forthwith after he or she becomes aware that the contract or transaction or proposed contract or transaction is to be considered at a meeting of directors;

(b) if the officer becomes interested after a contract is made or a transaction is entered into, forthwith after he or she becomes so interested; or

(c) if a person who is interested in a contract or transaction later becomes an officer, forthwith after he or she becomes an officer.

(4) Notwithstanding subclauses (2) and (3), where subclause (1) applies to a director or officer in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the Corporation's business, would not require approval by the directors or members, the director or officer shall disclose in writing to the Corporation or request to have entered in the minutes of meetings of directors the nature and extent of his or her interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction.

(5) A director referred to in subclause (1) shall not participate in the discussion of or vote on any resolution to approve the contract or transaction.

(6) For the purposes of this clause, a general notice to the directors by a director or officer disclosing that he or she is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. The contents of any such notice

shall be recorded in the minutes of the first meeting of the directors held after the giving of the notice.

(7) Where a material contract is made or a material transaction is entered into between the Corporation and a director or officer of the Corporation, or between the Corporation and another person of which a director or officer of the Corporation is a director or officer or in which he or she has a material interest,

(a) the director or officer is not accountable to the Corporation or its members for any profit or gain realized from the contract or transaction; and

(b) the contract or transaction is neither void nor voidable,

by reason only of that relationship or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors or committee of directors that authorized the contract or transaction, if the director or officer disclosed his or her interest in accordance with subclauses (2), (3), (4) or (6), as the case may be and did not participate or vote, and the contract or transaction was approved by the directors or the members and was reasonable and fair to the Corporation at the time it was so approved.

Auditors

59. One or more auditors shall be appointed at each annual meeting of the voting members and when appointed, shall hold office until the next annual meeting or until their successors are appointed, unless previously removed by resolution of the voting members in general meeting. Any such appointment shall be in accordance with and subject to any restrictions imposed by law or by the provisions of any applicable contract or agreement or applicable policy of the University. If the remuneration of the

auditor or auditors is not fixed by the voting members at the annual meeting, such remuneration shall and may be fixed by the board.

60. The auditors shall have access at all reasonable times to the books and accounts of the Corporation and all receipts, documents and vouchers relating thereto, and shall conduct an audit thereof and make an annual report to the voting members upon the balance sheet.

Notice

61. Except as herein or in other by-laws of the Corporation expressly provided otherwise, any notice, communication or other document to be given to any member, director, officer, committee member, auditor or employee of the Corporation shall be sufficiently given if delivered to his, her or its last address as recorded in the books of the Corporation or as known to the Secretary, or if mailed by prepaid ordinary or airmail in a sealed envelope addressed to him, her or it at the last address as so recorded or known, or if sent by any means of wire or wireless or other form of transmitted or recorded communication. The Secretary may change the address on the books of the Corporation of any such person in accordance with information believed by him or her to be reliable. A notice, communication or document so delivered shall be deemed to have been given when it is delivered personally or at the address aforesaid; and a notice, communication or document so mailed shall be deemed to have been given on the third business day after being deposited in a post office or public letter box, and a notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given on the next business day after being dispatched.

62. In computing the date when notice must be given under any provisions of the Letters Patent or the by-laws of the Corporation requiring a specified number of

days' notice of any meeting or other event, the date of giving the notice shall be included and the date of the meeting or other event shall be excluded, unless it is otherwise expressly provided.

63. Any member, director, officer, committee member, auditor or employee may waive any notice required to be given under any provision of the Act, the Letters Patent or the by-laws of the Corporation and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice.

Dissolution

64. Upon the dissolution of the Corporation and after the payment of all its debts and liabilities, its remaining property shall be distributed and disposed of to the Governing Council.

Interpretation

65. In this by-law and in all other by-laws of the Corporation hereafter passed, unless the context otherwise requires, words importing the singular number shall include the plural; references to persons shall include individuals, firms, companies and corporations; "board" shall mean the board of directors of the Corporation; "Letters Patent" or "Charter" shall mean the letters patent incorporating the Corporation and any supplementary letters patent; and "Corporations Act" or "the Act" shall mean the Corporations Act of Ontario as amended from time to time or any Act that may be substituted therefor.

Enactment and Amendment of By-laws

66. The board of directors may enact and re-enact by-laws or repeal, amend, alter or add to the by-laws or any of them, provided:

(a) that no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon until sanctioned and confirmed at an annual or special general meeting of the voting members of the Corporation called for the purpose of considering the same; provided also

(b) that notice of any enactment or repeal of or amendment, alteration or addition to the by-laws shall first have been given in writing to the directors at least five days before the day of the meeting at which it is proposed to enact the same; and provided also

(c) that in the case of clauses 3 to 9 inclusive, 16, 17, 22, 25, 30, 41, 59, 64 and 66 hereof, no such enactment, re-enactment, repeal, amendment, alteration or addition shall be enforced or acted upon and until approved by the Business Board of Governing Council or its duly authorized Board, committee or officer;

ENACTED AND PASSED by the directors and sealed with the corporate seal of the Corporation this 1430th day of May, 20002003.

Chair of the Board

Secretary