

CONSTITUTION OF THE TORONTO COMMERCIAL ARBITRATION SOCIETY

ARTICLE 1 – LEGAL STATUS

- 1.1 The name of the organization is The Toronto Commercial Arbitration Society. In this document and from time to time, the abbreviation “TCAS” may be used to describe the organization.
- 1.2 TCAS is an unincorporated not-for-profit association of members governed by this Constitution.

ARTICLE 2 – PURPOSES & OBJECTIVES

- 2.1 The following are the purposes and objectives of TCAS:
 - (a) To further the use of arbitration as a means of resolving commercial disputes and to promote excellence in the practice of arbitration;
 - (b) To promote and develop Toronto as a pre-eminent location for international commercial arbitration;
 - (c) To develop and promote a common set of rules and standards for the practice of commercial arbitration;
 - (d) To encourage continuing education among the members and to provide a forum for the exchange of ideas on all aspects of international and domestic arbitration.

ARTICLE 3 – MEMBERSHIP

- 3.1 All members of TCAS shall be required to attain a designation equivalent to or higher than the Qualified Arbitrator designation conferred by the ADR Institute of Canada (ADRIC) by May 12, 2018 or, in the case of new members, within two years of becoming a member. Such designations include, but are not limited to, Qualified Arbitrator (Q. Arb.) or Chartered Arbitrator (C. Arb.) from ADRIC or Membership (MCIArb) or Fellowship (FCIArb) in the Chartered Institute of Arbitrators, subject to the ability of the TCAS Membership and Finance Committee to exercise its discretion pursuant to Article 3.3(b).
- 3.2 No new member of TCAS shall be listed on the website roster until the required designation has been obtained.
- 3.3 After May 12, 2016, an individual shall become a member of TCAS by:
 - (a) submitting to the TCAS Membership and Finance Committee an application for membership in a form to be determined by the Executive Committee from time-to-time;
 - (b) providing evidence to the TCAS Membership and Finance Committee of having met the requirements of Article 3.1 or indicating a commitment to do so within

two years. The TCAS Membership and Finance Committee shall have the discretion to waive the designation requirement in the case of members who have demonstrated experience and proficiency in commercial arbitration, and such waiver shall apply to retired members of the judiciary;

- (c) paying the requisite annual membership fee as determined by the Executive Committee from time-to-time; and
 - (d) having his/her membership accepted by the TCAS Membership and Finance Committee in accordance with Article 3.1 and the standards or practices for membership determined by the Executive Committee from time-to time.
- 3.4 A member of TCAS, including Founding Members, will cease to be a member under the following conditions:
- (a) upon ceasing to have the qualifications described in Article 3.1;
 - (b) upon a majority vote of the Executive Committee of TCAS; or
 - (c) upon any lapse in paying the annual membership fee.
- 3.5 Only members in good standing shall be eligible to vote at meetings or hold a position in TCAS, including on the Executive Committee.
- 3.6 Annual membership fees shall be proposed by the Executive Committee, for approval by a majority vote of the membership in attendance at a general meeting. Memberships shall expire annually on the last day of the calendar year. Annual membership fees are due at the first meeting of TCAS held in each subsequent calendar year.

ARTICLE 4 – POWERS OF THE EXECUTIVE COMMITTEE

- 4.1 The Executive Committee (“EC”) will have full authority to act solely for and on behalf of TCAS and to govern the day-to-day affairs of the organization.
- 4.2 The EC will appoint from all qualified members in good standing, at the first meeting following their election, four committees, including the chairs of such Committees responsible for the following areas of the organization with the mandate of each committee to be determined by the EC:
- (i) Finance and membership;
 - (ii) Communications and Marketing;
 - (iii) Education and program;
 - (iv) Liaison.
- 4.3 The EC may set terms of reference for the committees, create additional committees and appoint the chair and membership of such committees, as they deem expedient for the proper functioning or benefit of the organization.

ARTICLE 5 –COMPOSITION AND ELECTION OF THE EXECUTIVE COMMITTEE & ANNUAL MEETINGS

- 5.1 The EC will consist of five members of the organization. Until the first annual meeting following the ratification of this Constitution, the membership of the EC will be composed of: Earl A. Cherniak, Sonia Bjorkquist, Brian Casey, John Judge, and J.L. McDougall.
- 5.2 The EC will be elected at the annual meeting of the organization which will be held within one year of the ratification of this Constitution and each year thereafter within 18 months of the last annual general meeting. Following the first election, the term of 3 EC members shall be 2 years and the term of the other 2 EC members shall be one year. In each subsequent year, the election of EC members shall alternate so that no more than 3 EC members are elected in any single year and all members thereafter will serve for a 2 year term.
- 5.3 The EC shall elect a Chair from among the five members of the EC. The Chair shall be elected at the first meeting of the EC following the annual general meeting in each year.
- 5.4 The EC, or a committee if so delegated, shall be responsible for giving notice to the members at least 30 days in advance of the annual general meeting and for receiving nominations from eligible members for election to the EC as well as for conducting all elections to the EC in a fair and judicious manner.
- 5.5 Following the nomination deadline, every candidate for election will have ten days to accept or decline the nomination, after the expiration of that time he/she will forfeit his/her nomination.
- 5.6 If the number of nominated candidates does not exceed the number of available seats on the EC, than each qualified candidate shall be acclaimed.
- 5.7 Election voting will be by secret ballot.
- 5.8 The nominees with the most votes win election in rank order based on the number of available positions on the EC. For example, if three positions on the EC are being elected then the first, second, and third ranking candidates, based on the votes cast, shall be elected.
- 5.9 The EC of TCAS shall be entitled to vote at all meetings of the general membership and, in the event of a tie, the Chair shall be entitled to cast a second tie-breaking vote.
- 5.10 The EC or a designate shall count the ballots, tally the votes, and announce the names of the elected members. The used ballots will be destroyed following the meeting.
- 5.11 Should a vacancy occur in the EC, the remaining members of the EC will appoint an eligible member of the general membership to fill the vacancy until the expiration of the term of the vacating member at which time the appointed member may stand for re-election.
- 5.12 The EC will meet every two months or as needed, to discuss issues that have risen.
- 5.13 The Chair of the EC or his/her designate shall preside at all meetings of TCAS.

ARTICLE 6 – FINANCE & MEMBERSHIP COMMITTEE

- 6.1 The Finance & Membership Committee Chair shall receive all monies payable to TCAS. She/he shall deposit such funds to accounts that have been approved by the EC. The Finance & Membership Committee Chair will, with the co-signing of one other EC member, pay all bills and expenses, and conduct all other financial matters of TCAS.
- 6.2 The Finance & Membership Committee Chair shall deposit all cheques and monies within three working days of receipt.
- 6.3 The EC may appoint an auditor or accountant to oversee the books and records kept by the Finance & Membership Committee.
- 6.4 All reasonable expenses incurred by the EC in its work on behalf of TCAS will be paid by TCAS upon the presentation of receipts. No major expenses will be incurred without the approval of the membership at a general meeting.

ARTICLE 7 - INDEMNIFICATION

- 7.1 Every member of the EC and all committees of TCAS and their heirs, executors, administrators and other legal personal representative shall, from time to time, be indemnified and saved harmless by TCAS from and against,
 - (a) all costs, charges and expenses whatsoever that are sustained or incurred in or about any action, suit or proceeding that is brought, commenced or prosecuted against him/her, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him/her, in or about the execution of the ordinary duties of the office; and
 - (b) all other costs, charges and expenses that are sustained or incurred in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his/her own willful neglect or default;

provided that no person acting on behalf of TCAS shall be indemnified by it in respect to any liability, costs, charges or expenses that are sustained or incurred in or about any action, suit or other proceeding as a result of which that person is adjudged to be in breach of, or in substantial breach of any duty or responsibility imposed upon him/her under any statute.

- 7.2 TCAS may purchase and maintain such insurance for the benefit of the EC and designates as it may from time to time determine.

ARTICLE 8 – MEETINGS

- 8.1 A general meeting shall be called by the EC at least two times during a calendar year, or more often if deemed necessary by the EC. At least one shall be the annual general meeting.
- 8.2 General meetings may be called at any time by the EC, the Chair or at the written request of not less than fifteen (15) members.

- 8.3 For a regular general meeting, a written notice will be given by email to each member at least one week in advance. An agenda will be distributed with the notice of the upcoming meeting. The agenda will list all matters to be voted on at the general meeting.
- 8.4 At each general meeting, the Finance & Membership Committee Chair will present a financial statement. The EC will review and adopt the minutes from the last general meeting.
- 8.5 An emergency meeting of the EC may be called without prior notice or motion where a matter arises which, in the opinion of the Chair, requires urgent consideration.

ARTICLE 9 – QUORUM

- 9.1 Twenty-five members attending in person or by proxy shall constitute a quorum for all votes of the general membership.
- 9.2 A majority of the EC shall constitute a quorum for all votes of the EC.
- 9.3 In the event that a meeting has been called following all due procedures but at which there is no quorum or if the EC determines that it needs to act immediately on an issue requiring a vote of the membership, such a vote may, at the decision of the EC, be decided by an electronic or paper mailed ballot.

ARTICLE 10 – AMENDMENTS TO CONSTITUTION

- 10.1 Amendments to this Constitution will be effective if approved by a vote of not less than two-thirds (2/3) of those voting. All votes must occur at a duly called general meeting of members occurring on no less than 14 days notice given to the members with specific notice given as to the vote in question.

ARTICLE 11 – RULES OF MEETINGS/CONDUCT

- 11.1 Only issues posted on the agenda will be moved on at general or special meetings.
- 11.2 When a member wishes to speak, the member will require the recognition of the Chair, and shall confine remarks to the question before the floor. The Chair may ask members to announce their names before speaking. All questions/answers must be directed to the Chair.
- 11.3 Meetings shall be conducted in accordance with the then most current version of *Robert's Rules of Order*.
- 11.4 The Chairperson will ask for a motion from the floor to take a vote on an agenda item after due discussion or after taking into account time factors.
- 11.5 Questions may be decided by a show of hands, but a ballot vote may be demanded by not less than thirty percent of the members present.

ARTICLE 12 – RATIFICATION

- 12.1 This Constitution will be effective at the time it is approved by a vote of not less than two-thirds (2/3) of the Founding Members who attend a duly called meeting occurring on no less than 14 days notice given to the Founding Members with specific notice given as to the ratification vote in question.
- 12.2 This Constitution shall continue in force until amended or revoked in accordance with the procedures for amendment herein.

Amended as of May 12, 2016

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