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VINTNERS QUALITY ALLIANCE ONTARIO

GENERAL BY-LAW NO. 1

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VINTNERS QUALITY ALLIANCE ONTARIO

GENERAL BY-LAW NO. 1

A By-Law relating generally to the transaction of the business and affairs of the Vintners Quality Alliance Ontario

BE IT ENACTED as a by-law of the Vintners Quality Alliance Ontario as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions In this by-law and all other by-laws and special resolutions of VQA Ontario, unless the context otherwise requires:

“Act” means the *Corporations Act*, R.S.O, 1990, c.C. 38;

“board” means the board of directors of VQA Ontario;

“by-laws” means this by-law and all other by-laws of VQA Ontario from time to time in force and effect;

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“large VQA class winery” means a winery that sells annually 750,000 litres or more of VQA wine, or such other amount of VQA wine determined by the board from time to time and approved by the members;

“letters patent” means the letters patent incorporating VQA Ontario, as from time to time amended and supplemented by supplementary letters patent;

“meeting of members” means an annual meeting of members or a general meeting of members;

“mid-sized VQA class winery” means a winery that sells annually less than 750,000 litres but more than 100,000 litres of VQA wine, or such other amount of VQA wine determined by the board from time to time and approved by the members;

“Rules” means rules within the meaning of section 5 of the *Vintners Quality Alliance Act, 1999*;

“sells annually” means sells in Ontario and outside Ontario during the financial year of VQA Ontario as set out in Article 2.2;

“small VQA class winery” means a winery that sells or intends to sell annually 100,000 litres or less of VQA wine, or such other amount of VQA wine determined by the board from time to time and approved by the members;

“special resolution” means a resolution passed by the board and confirmed with or without variation by at least two-thirds of the votes cast at a meeting of members of VQA Ontario duly called for that purpose;

“viticultural area” means a geographic area in Ontario defined in the Rules;

“VQA Ontario” means the corporation without share capital incorporated under the Act by letters patent dated November 26, 1998 and named the “Vintners Quality Alliance Ontario”;

“VQA export class winery” means a winery that sells VQA wine exclusively outside of Ontario and that is not licensed under section 22 of the *Liquor Licence Act*;

“VQA wine” means VQA wine as defined in the *Vintners Quality Alliance Act, 1999*;

“winery member” means a large VQA class winery, a mid-sized VQA class winery, a small VQA class winery or a VQA export class winery that is a member of VQA Ontario.

1.2 Interpretation This by-law, unless the context otherwise requires, shall be construed and interpreted in accordance with the following:

- (a) words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders; words importing persons include individuals, corporations, partnerships, trusts and unincorporated organizations;
- (b) the headings used in this by-law are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions;
- (c) in the event of any dispute, the intent or meaning of any word shall be that given to it by the board, and
- (d) any reference in this by-law to any statute shall, unless otherwise expressly stated, be deemed a reference to such statute as the same may from time to time be amended, restated, re-enacted or replaced.

ARTICLE 2

BUSINESS OF VQA ONTARIO

- 2.1 Corporate Seal Until changed, the corporate seal of VQA Ontario shall be in the form impressed on this page.
- 2.2 Financial Year Until otherwise changed by resolution of the board, the financial year of VQA Ontario shall end on March 31 in each year, commencing April 1.
- 2.3 Execution of Instruments Deeds, transfers, licenses, assignments, contracts, obligations, certificates and other instruments and engagements may be signed on behalf of VQA Ontario by any two officers together. In addition, the board may from time to time direct the manner in which and the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any person authorized to sign an instrument on behalf of VQA Ontario may affix the corporate seal to it.
- 2.4 Banking Arrangements The banking business of VQA Ontario shall be transacted with such banks, trust companies or other financial institutions as may from time to time be designated by or under the authority of the board. Banking business or any part of it shall be transacted under the agreements, instructions and delegations of powers as the board may from time to time prescribe or authorize.
- 2.5 Borrowing Arrangements The board may from time to time:
- (a) borrow money on the credit of VQA Ontario;
 - (b) issue, sell or pledge securities of VQA Ontario;
 - (c) charge, mortgage, hypothecate or pledge all or any of the property of VQA Ontario, including book debts and unpaid calls, rights, powers, franchises and undertaking to secure any securities or any money borrowed, or other debt, or any other obligations or liability of VQA Ontario;
 - (d) delegate the powers under this clause to an officer or officers of VQA Ontario as the board considers appropriate.
- 2.6 Facsimile Signatures The signature of any director or officer may be printed, engraved or otherwise mechanically reproduced in facsimile under such conditions as the board may authorize and such signature shall have the same force and effect as if signed in the handwriting of such director or officer.

ARTICLE 3

DIRECTORS

3.1 Board of Directors The affairs of VQA Ontario shall be managed by a board of 12 directors being those persons referred to in Article 3.2 and those directors ex officio in Article 3.3. Despite vacancies on the board, the remaining directors may continue to act if they still constitute a quorum.

3.2 Directors elected from winery members. The following persons shall be directors:

1. Three (3) persons elected by winery members from those persons nominated by and from among the large VQA class wineries.

2. Three (3) persons elected by winery members from those persons nominated by and from among the mid-sized VQA class wineries.

3. Three (3) persons elected by winery members from those persons nominated by and from among the small VQA class wineries.

A person may not nominate himself or herself or be nominated by a person from the winery member that they represent.

The nine persons elected by the winery members shall be such that at least one person represents a winery located in the Niagara Peninsula viticultural area and at least one person represents a winery, where such a winery exists, located either in the Lake Erie North Shore viticultural area or the Pelee Island viticultural area.

Where a winery member or ex officio member holds more than 25% of the equity shares of any other winery member or members, only one representative from such related winery members may be elected to the Board.

All winery members in good standing are entitled to vote to elect Directors in all classes.

3.3 Ex Officio Directors The three members referred to in Article 7.3 and the immediate past-Chair shall be directors ex-officio. Ex-officio directors shall declare any equity interest in any winery member of VQA Ontario.

3.4 Administer Affairs The board shall manage and administer the affairs of VQA Ontario in all things, and may perform or direct the performance of all such acts as may be necessary or of advantage to the attainment of the objects and proper operation of VQA Ontario and may make or cause to be made for VQA Ontario, in its name, any kind of contract which VQA Ontario may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as VQA Ontario is by its letters patent or otherwise may from time to time consider proper and appropriate, subject to the Act and to the letters patent and by-laws of VQA Ontario.

- 3.5 Suspension of Office The position of a person as a director on the board shall automatically be suspended if the winery member that the person represents has been suspended as a member of the VQA Ontario and the person shall not attend or vote at any meeting of the Board until the suspension of the winery is no longer in effect.
- 3.6 Termination of Office The position of a person as a director on the board shall be automatically terminated if:
- (a) the director makes an assignment under the *Bankruptcy and Insolvency Act* (Canada) or a receiving order is made against the director.
 - (b) the director becomes of unsound mind or is judged by a qualified medical practitioner to be a mentally incompetent person or incapable of managing his or her affairs;
 - (c) the director dies;
 - (d) by notice in writing to VQA Ontario, the director resigns his or her office (which resignation shall be effective at the time it is received by the President or Secretary, or otherwise in accordance with its term, whichever is later);
 - (e) in the opinion of the board, expressed by a majority of the directors in office and confirmed by the members, the director consistently fails to perform the duties reasonably requested of a director;
 - (f) the winery that the person represents has ceased to be a winery member or the person ceases to be employed by or otherwise have authority from the winery.
 - (g) in the case of an ex-officio member, the person ceases to hold the position by virtue of which he or she holds ex-officio membership.
- 3.7 Vacancies Subject to the letters patent, a vacancy on the board howsoever caused, may be filled for the remainder of its term of office either by the members at a meeting of members called for the purpose or, provided the remaining directors constitute a quorum, by the board, or at the next annual meeting of members at which directors are elected.
- 3.8 Term All directors, other than directors ex officio, shall be elected and retire in rotation so that at the first annual meeting of members held for the election of directors, nine directors shall be elected, three of whom shall hold office until the third annual meeting after such date, three of whom shall hold office until the second annual meeting after such date, and three of whom shall hold office until the first annual meeting after such date, and thereafter at each annual meeting directors shall be elected to fill the positions of such directors whose term of office has expired and each director so elected shall hold office until the third annual meeting after his or her election. Each rotation of three directors shall include one director elected from a large VQA class winery, one from a mid-sized VQA class winery and one from a small VQA class winery. Where the sales of the winery changes so that the winery falls into a different VQA class of winery while a director that represents that winery is in office, the director may continue to represent that class of winery for which he or she was elected until the director's term expires or is otherwise terminated in accordance with this bylaw.

- 3.9 Consecutive Terms Directors may be elected for consecutive terms.
- 3.10 Nomination Committee The board shall establish a Nomination Committee responsible for consulting members of the large VQA class wineries, the mid-sized VQA class wineries and the small VQA class wineries and identifying nominees from each of those winery classes. The board shall designate a Chair of the Nominations Committee and shall ensure that there is a representative from a large VQA class winery, a representative from a mid-sized VQA class winery and a representative from a small VQA class winery on the committee.
- 3.11 Standards Development Committee The board shall establish a Standards Development Committee responsible for making recommendations to the board on Rules or modifications of Rules. The board shall designate a Chair of the Standards Development Committee and shall ensure that there is a representative from a large VQA class winery, a representative from a mid-sized VQA class winery and a representative from a small VQA class winery on the committee.
- 3.12 Executive Committee The board may establish an Executive Committee which shall exercise such powers as are authorized by the board. A member of the executive committee may be removed on a majority vote by a resolution of the board. The board shall by resolution establish the number of executive committee members required for a quorum for the transaction of business by the executive committee.
- 3.13 Notice re Change in Equity Shares Every winery member that is a corporation shall notify the Board in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock where such issue or transfer results in any shareholder that is a winery member, or that shareholder and any other shareholder that is a winery member associated with the shareholder, acquiring or accumulating at least 25 per cent of the total number of all issued and outstanding equity shares of such stock, or after such knowledge came to the attention of its officers or directors, whichever occurs first.
- 3.14 Calculation of Equity Shares In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this article, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equaling the total number of votes it carries.
- 3.15 Associated Shareholders For the purposes of article 3.13, a shareholder shall be deemed to be associated with another shareholder if,
- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
 - (b) one shareholder is a partnership of which the other shareholder is a partner;
 - (c) one shareholder is a corporation that is controlled directly or indirectly by the other shareholder;

(d) both shareholders are corporations and one shareholder is controlled directly or indirectly by the same individual or corporation that controls directly or indirectly the other shareholder;

(e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or

(f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

ARTICLE 4

MEETINGS OF DIRECTORS

- 4.1 Meetings of the Board Meetings of the board shall be held from time to time at the call of either the Chair, the President or not less than one-third of the directors on the board. Notice of the time and place of every meeting so called shall be given to each director not less than 48 hours (excluding Saturdays, Sundays and statutory holidays) before the time when the meeting is to be held, except that no notice of a meeting shall be necessary if all the directors are present or if those absent waive notice of or otherwise signify their consent to such meeting being held.
- 4.2 First Meeting of New Board Provided a quorum of directors is present, each newly elected board may without notice hold its first meeting immediately following the meeting of members at which such board is elected.
- 4.3 Regular Meetings The board may appoint a day in any month or months for regular meetings at a place and hour to be named. A copy of any resolution of the board so fixing the place and time of 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.
- 4.4 Place of Meetings Meetings of the board shall be held at the head office of VQA Ontario or elsewhere in Ontario or, if the board so determines, at some place outside Ontario.
- 4.5 Electronic Participation Subject to terms of the Act and the common law, if all the directors of VQA Ontario consent, a meeting of directors may be held by means of such telephonic, electronic or other communication facilities as permit all persons participating in the meeting to hear each other simultaneously and instantaneously and a director participating in such meeting by such means is deemed to be present at that meeting.
- 4.6 Quorum A majority of the board shall constitute a quorum and in any event shall include at least five directors elected from winery members such that there is a director representing large VQA class wineries, a director representing mid-sized VQA class wineries and a director representing small VQA class wineries, and one ex-officio member.

- 4.7 Persons Entitled to be Present The only persons entitled to attend a meeting of directors shall be the directors of VQA Ontario, and others who, although not entitled to vote, are entitled or required under any provision of the Act or the letters patent or by-laws to be present at a meeting. Any other person may be admitted only on the invitation of the Chair of the board or with the consent of the meeting.
- 4.8 Votes to Govern At all meetings of the board every question shall be determined by a majority of the votes cast on the motion. In case of any equality of votes, the Chair of the meeting shall not be entitled to a second or casting vote. Voting may be by a show of hands unless a ballot is demanded by any director. 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 prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. No director may vote by proxy at any meeting of the board.
- 4.9 Resolution in Writing Any by-law or resolution signed by all the directors in writing without their meeting together shall be valid and effective as if passed at a meeting of the board duly called, constituted and held for that purpose.
- 4.10 Errors in Notice The accidental omission to give notice to any director or the non-receipt of any notice by a director or an error in any notice not affecting the substance thereof shall not invalidate any action taken at or resulting from a meeting held pursuant to such notice.
- 4.11 Powers The board shall have full power with respect to all affairs of VQA Ontario and no by-law or resolution passed or enacted by the board, or any other action taken by the board, requires confirmation or ratification by the members in order to become valid or to bind VQA Ontario, unless such confirmation or ratification is required by statute.
- 4.12 Delegated Authority Where action is required to be taken urgently at a time when a board meeting cannot be conveniently convened, authority rests either with the Executive Committee, if there is one, or with the Chair in consultation with other officers.
- 4.13 Remuneration No remuneration shall be paid to a director, except any remuneration that may be due to a director by virtue of the fact that the director is an employee of VQA Ontario.
- 4.14 Special Remuneration The directors may by resolution award special remuneration to any director in undertaking any special services on VQA Ontario's behalf other than normal work ordinarily required of a director of a corporation.
- 4.15 Expenses The directors, officers and employees shall be entitled to be paid their travel and other reasonable out-of-pocket expenses properly incurred by them in performance of their duties, including attending meetings of the board and any committee thereof or meetings of members in connection with the affairs of VQA Ontario.

- 4.16 Validity of Actions No act or proceeding of any director or the board shall be deemed invalid or ineffective by reason of the subsequent ascertainment of any irregularity in regard to such act or proceeding or the qualifications of such director or the board.

ARTICLE 5

OFFICERS

- 5.1 Corporate Officers The board shall, not less than annually, elect a Chair and President from among themselves. In addition, the board shall appoint a Secretary and such other officers as the board may determine from time to time, none of whom are required to be members of the board. One person may hold more than one office. Each officer will hold office until removed by the board or until his or her successor is elected or appointed. The remuneration of such officers, if any, shall be established by resolution of the board from time to time.
- 5.2 Duties of Officers may be Delegated In case of the absence or inability to act of any officer of VQA Ontario or for any other reason that the board of directors may deem sufficient, the board of directors may delegate all or any of the powers of any such officer to any other officer or to any director for the time being.
- 5.3 Powers and Duties All officers shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the board. The duties of such of the following officers as may be elected from time to time, shall include:
- (a) Chair of the Board The Chair shall be elected as such from among the members of the board. The Chair shall, when present, preside at all meetings of the board of directors and the members. The Chair shall set the agenda for meetings of the board, shall liaise between the board and the Executive Director of VQA Ontario and perform such other duties as may be assigned to the position by the board.
 - (b) Vice-Chair If the Chair of the board is absent or is unable to act, the Vice-Chair of the board, if any, shall, when present, preside at all meetings of the board of directors and the members.
 - (c) President Unless otherwise determined by resolution of the board, the President shall perform any or all duties customarily borne by a president of a corporation such as VQA Ontario as well as such other duties as may be assigned to the position by the board.

- (d) Secretary The Secretary shall give or cause to be given notices for all meetings of the board of directors, its committees, if any, and of members when directed to do so, and have charge of the corporate seal of VQA Ontario, the minute books of VQA Ontario and of the documents and registers referred to in section 300 of the Act.
- (e) Treasurer The Treasurer shall keep or cause to be kept an accurate account of all receipts and disbursements of the Corporation in proper books of account and shall deposit or shall cause to be deposited all monies or other valuable effects in the name and to the credit of the Corporation in such bank or banks as may be designated from time to time by the board. The Treasurer shall disburse or cause to be disbursed the funds of the Corporation under the direction of the board, receiving proper vouchers therefor and render to the board at its regular meetings or whenever required, an account of all transactions as Treasurer, and of the financial position of the Corporation.

5.4 Agents and Employees The board may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the board, including in the case of the Executive Director or inspectors appointed under the *Vintners Quality Alliance Act, 1999*, exercising such statutory authority as has been properly delegated by the Board. The Executive Director or any inspector appointed under the *Vintners Quality Alliance Act, 1999* shall not be an employee of a manufacturer or manufacturer's agent, a trade association or an organization holding trade-marks related to wine.

ARTICLE 6

PROTECTION OF DIRECTORS AND OFFICERS

6.1 Limitation of Liability No director, officer or employee of VQA Ontario shall be liable for acts, receipts, neglects or defaults of any other director, officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to VQA Ontario through the insufficiency or deficiency of title to any property acquired by order of the board for or on behalf of VQA Ontario, or for the insufficiency or deficiency of any security in or upon which any of the monies of VQA Ontario shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any of the monies, securities or effects of VQA Ontario shall be deposited, or for any loss, damage or misfortune whatever which shall happen in the execution of the duties of his or her office or in relation thereto unless the same are occasioned by his or her own willful neglect or default.

- 6.2 Indemnity Every director, officer or employee of VQA Ontario or other person who has undertaken or is about to undertake any liability on behalf of VQA Ontario or any company controlled by it and his or her heirs, executors and administrators and estate and effects, respectively, shall from time to time at all times be indemnified and saved harmless out of the funds of VQA Ontario from and against:
- (a) all costs, charges and expenses whatsoever that such director, officer, employee or other person sustains and incurs in or about any action, suit or proceeding that 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 that he or she sustains or incurs in or about or in relation to the affairs of VQA Ontario, except such costs, charges or expenses as are occasioned by his or her own willful neglect or default.
- 6.3 Directors' Reliance Any director may rely upon the accuracy of any statement or report prepared by VQA Ontario's auditors and shall not be responsible or held liable for any loss or damage resulting from acting upon such statement or report.

ARTICLE 7

MEMBERS

- 7.1 Members The members of VQA Ontario shall consist of the wineries that meet the criteria set out in Article 7.2 and the ex officio members referred to in Article 7.3.
- 7.2 Winery members The winery members of VQA Ontario shall consist of large VQA class wineries, mid-sized VQA class wineries, small VQA class wineries and VQA export class wineries,
- (a) that have applied to the VQA Ontario in a form provided by the VQA Ontario, which application shall acknowledge that the winery is responsible for understanding the requirements of the *Vintner's Quality Alliance Act, 1999*, rules and regulations thereunder and bylaws of VQA Ontario.
 - (b) that have paid the required fees to the VQA Ontario set out in Schedule A;
 - (c) where the winery sells wine in Ontario, that holds a manufacturer's licence under section 22 of the *Liquor Licence Act* and has provided proof satisfactory to the Board that the winery is a holder of such a licence; and
 - (d) where the winery is an export class winery, that it has, at its own expense, undergone a site inspection and, upon request from VQA Ontario, provided any information to VQA Ontario that VQA Ontario determines is necessary to verify VQA production standards and volumes or the ability to produce VQA products.

The class of winery will be determined based on sales during the most recent 12 month period for which volume statements are available from the Liquor Control Board of Ontario.

A person who signs an application form for membership in VQA Ontario on behalf of a winery member shall be an owner, officer or director of the winery.

7.3 Ex officio members The following persons shall be members ex officio:

1. A senior official or other person approved by the Minister;
2. A director or officer of the Ontario Restaurant, Hotel and Motel Association representing licensed establishments;
3. A director of the Ontario Grape Growers Marketing Board designated by the Ontario Grape Growers Marketing Board.

The Minister means the Minister responsible for the administration of the *Vintner's Quality Alliance Act, 1999*, or as the case may be, acting for and on behalf of the Crown

7.4 Suspension of membership A membership in VQA Ontario is suspended,

- (a) if the member has not paid the required fees referred to in clause (b) of article 7.2 when they are due or has not paid any other costs or charges payable to the VQA Ontario that relate to the administration of the *Vintners Quality Alliance Act, 1999* and the regulations thereunder within twenty (20) business days following the issuance of a notice to the member by the VQA Ontario that such fees, costs or charges are due;
- (b) if the VQA Ontario receives notice from the Alcohol and Gaming Commission of Ontario that the member's manufacturer's licence under section 22 of the *Liquor Licence Act* has been suspended; or
- (c) if the member has been issued a compliance order under section 9 of the *Vintners Quality Alliance Act, 1999* and the time for appeal of the compliance order under that Act has expired or upon an appeal being heard the compliance order has been upheld.

7.5 Consequences of suspension Where membership of a winery in VQA Ontario has been suspended for any reason the winery, while the membership is suspended,

- (a) as of the date of the suspension, may not apply for approval to use VQA Ontario terms, descriptions and designations;
- (b) as of the date of the suspension, may not attend or vote at any meeting of members; or
- (c) may continue to sell a product for which terms, descriptions and designations were approved by VQA Ontario prior to the date of suspension provided that all fees, costs and charges associated with the approved product have been paid in accordance with the Rules and by-laws of VQA Ontario and where the sale of such product is not prohibited under a compliance order made under subsection 9 (1) of the *Vintners Quality Alliance Act, 1999* or under any other legislation.

7.6 Term of suspension A member suspended under,

- (a) clause (a) of Article 7.4, shall remain suspended until the outstanding fees, costs, charges, and any interest charges thereon, as set out in the Rules and this By-law are paid and the member is notified in writing by the VQA Ontario that the suspension of the member in VQA Ontario has been lifted;
- (b) clause (b) of Article 7.4, shall remain suspended until the suspension of the manufacturer's licence by the Alcohol and Gaming Commission of Ontario has been lifted; or
- (c) clause (c) of Article 7.4, shall remain suspended until an inspector under the *Vintners Quality Alliance Act, 1999* considers the compliance order to be fulfilled and the inspector issues a notice of such to the member.

7.7 Revocation of membership Membership in VQA Ontario is not transferable and lapses and ceases to exist:

- (a) if the member sells wine in Ontario, is required to hold a manufacturer's licence under section 22 of the *Liquor Licence Act* and the member's manufacturer's licence is revoked by the Alcohol and Gaming Commission of Ontario;
- (b) if the member fails to provide records and information required by VQA Ontario;
- (c) where non-payment is the reason for the suspension, if the member has not paid the required fees referred to in clause (b) of Article 7.3 or any other costs or charges payable to the VQA Ontario that relate to the administration of the *Vintners Quality Alliance Act, 1999* and the regulations thereunder, within ninety (90) days of the suspension of the winery as a member of VQA Ontario;
- (d) if the winery has been subject to three (3) compliance orders under subsection 9 (1) of the *Vintners Quality Alliance Act, 1999* within any twelve (12) month period and the time for appeal of the compliance orders under that Act has expired or upon an appeal being heard the compliance orders have been upheld; or
- (e) if the winery member has been convicted of an offence under section 10 of the *Vintners Quality Alliance Act, 1999* and remains in contravention.

7.8 Consequences of revocation Where membership of a winery in VQA Ontario has been revoked under Article 7.7, the winery, while the membership is revoked,

- (a) shall not apply for approval to use VQA Ontario terms, descriptions and designations;
- (b) shall not attend or vote at any meeting of members; and

- (c) may continue to sell a product for up to one year for which terms, descriptions and designations were approved by VQA Ontario prior to the date of suspension or revocation, whichever occurs first, provided that all fees, costs and charges associated with the approved product are paid in accordance with the Rules and by-laws of VQA Ontario and where the sale of such product is not prohibited under a compliance order made under subsection 9 (1) of the *Vintners Quality Alliance Act, 1999* or under any other legislation.
- 7.9 Notice of suspension or revocation Where the VQA Ontario intends to suspend or revoke the membership of a winery in VQA Ontario, the Executive Director of VQA Ontario shall issue or cause to be issued a notice of suspension or revocation to the member. A notice of suspension or revocation shall state the reasons for the suspension or revocation, the effective date of the suspension or revocation, the consequences of the suspension or revocation and the procedures for appeal. The Executive Director shall give or cause to be given, a copy of the notice of suspension or revocation to the board, to the inspectors appointed under the *Vintners Quality Alliance Act, 1999*, the Alcohol and Gaming Commission of Ontario and the Liquor Control Board of Ontario. The Executive Director shall report to the board at the next regularly scheduled meeting of the board on the status of the member to whom the notice of suspension or revocation has been issued and on the findings of any appeal of the suspension or revocation.
- 7.10 Appeal procedure for suspension or revocation A member to whom a notice of suspension or revocation of membership has been issued, may require that the Tribunal designated under the *Vintners Quality Act, 1999* hold a hearing on the matter in accordance with the same timeframes and procedures used to request and conduct a hearing in accordance with the regulations under that Act.
- 7.11 Reapplication for membership Where a membership of a winery in VQA Ontario has been revoked under Article 7.7, the winery may not apply for membership in VQA Ontario until at least twelve (12) months have elapsed from the date of the revocation. Where a membership of a winery in VQA Ontario has been revoked two or more times within a period of 5 years or less, the winery is not eligible for membership in VQA Ontario until at least 5 years has elapsed from the date of revocation.
- 7.12 Resignation A member may resign as a member of VQA Ontario by giving the Board one month's notice in writing of its intention to do so and provided that the member so resigning pays to the VQA Ontario all amounts that may be owing the VQA Ontario at the date of the giving of such notice. A member who resigns shall, upon having resigned, forfeit any rights and claims in VQA Ontario or to any funds of VQA Ontario. A member who resigns may, as of the date of the resignation, continue to sell a product for up to one year for which terms, descriptions and designations were approved by VQA Ontario prior to the date of resignation, provided that all fees, costs and charges associated with the approved product are paid in accordance with the Rules and by-laws of VQA Ontario and where the sale of such product is not prohibited under a compliance order made under subsection 9 (1) of the *Vintners Quality Alliance Act, 1999* or under any other legislation..

- 7.13 Notice A notice under Article 7 shall be provided to the member by regular mail, fax or electronic means and shall be deemed to be delivered on the date of transmission or mailing, as the case requires.
- 7.14 Lapse of membership A membership in VQA Ontario shall lapse if the member has not obtained an authorization to use terms, descriptions or designations for VQA wines during any consecutive period of 18 months.

ARTICLE 8

MEETINGS OF MEMBERS

- 8.1. Annual Meetings The annual meeting of the members shall be held at such time and on such day in each year as the board may from time to time determine for the purpose of receiving the reports and statements required by the Act to be placed before the annual meeting, electing directors, appointing auditors and fixing or authorizing the board to fix their remuneration, and for the transaction of such other business as may be properly brought before the meeting.
- 8.2 General Meetings The board or the Chair of the board shall have power to call a general meeting of members at any time.
- 8.3 Place of Meetings Meetings of members shall be held at the head office of VQA Ontario or elsewhere in the municipality in which the head office is situated or, if the board shall so determine, at some other place in Ontario.
- 8.4 Notice of Meetings Notice of the time and place of each meeting and the general nature of the business to be transacted at the meeting shall be given not later than the close of business 10 days before the day on which the meeting is to be held to each member. The auditors of VQA Ontario are entitled to receive all notices and other communications relating to any meetings that any member is entitled to receive.
- 8.5 Meetings without Notice A meeting of members may be held at any time and place without notice if all the members entitled to vote are present in person or represented by proxy, or if those not present or represented by proxy either before or after the meeting waive notice or otherwise consent to such meeting being held, and at such meeting any business may be transacted which VQA Ontario at a meeting of members may transact provided that a quorum of the members is present.
- 8.6 Persons Entitled to be Present The only persons entitled to attend a meeting of members shall be the members of VQA Ontario, the auditors of VQA Ontario and others who, although not entitled to vote, are entitled or required under any provision of the Act or the letters patent or bylaws to be present at such a meeting. Any other person may be admitted only on the invitation of the Chair of the board or with the consent of the meeting.
- 8.7 Quorum A quorum for the transaction of business at any meeting of members shall consist of not less than 2 persons in person and representing in person or by proxy not less than 15 members, including at least one person each representing a large class winery, a medium class winery, a small class winery and an ex-officio member. No business shall be

transacted at any meeting of members unless a quorum is present at the commencement of and throughout the meeting.

- 8.8 Right to Vote At any meeting of members every member shall be entitled to one vote and he or she may vote by proxy.
- 8.9 Votes to Govern At any meeting of members every question shall, unless otherwise required by the Act, letters patent or by-laws, be determined by a majority of the votes duly cast on the motion.
- 8.10 Proxies Votes at meetings of the members may be given either personally or by proxy. A person appointed by proxy does not need to be a member. A proxy shall be executed by the member or the member's attorney authorized in writing. At every meeting at which a member is entitled to vote, every member and every person appointed by proxy to represent one or more members who is present in person shall have one vote on a show of hands. Upon a poll and subject to provisions, if any, of the letters patent, every member who is entitled to vote at the meeting and who is present in person or represented by an individual so authorized shall have one vote and every person appointed by proxy shall have one vote for each member who is entitled to vote at the meeting and who is represented by such proxy.
- 8.11 Deposit of Proxies The board may from time to time make regulations regarding the deposit of proxies at some place or places other than the place at which a meeting or adjourned meeting of members is to be held and for particulars of such proxies to be sent by facsimile or in writing for the meeting or adjourned meeting to VQA Ontario or any agent of VQA Ontario for the purpose of receiving such particulars and providing that proxies so deposited may be voted upon as though the proxies themselves were produced at the meeting or adjourned meeting and votes given in accordance with such regulation shall be valid and shall be counted. The Chair of any meeting of members may, subject to any regulations made aforesaid, in the Chair's discretion accept facsimile (including telecopies) or written communication as to the authority of any person claiming to vote on behalf and to represent a member notwithstanding that no proxy conferring such authority has been deposited with VQA Ontario, and any votes given in accordance with such facsimile or written communication accepted by the Chair of the meeting shall be valid and shall be counted.
- 8.12 Show of Hands Every question at a meeting of members shall be decided by a show of hands unless, after a show of hands, a poll thereon is required or demanded as hereinafter provided. Upon a show of hands every person who is present and entitled to vote shall have one vote. Whenever a vote by show of hands shall have been taken upon a question, unless a poll thereon is so required or demanded, a declaration by the Chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and the result of the vote so taken shall be the decision of the members upon the said question.

- 8.13 Polls After a show of hands has been taken on any question, the Chair may require or any person entitled to vote on the question may demand, a poll thereon. A poll so required or demanded shall be taken in such manner as the Chair shall direct. A demand for a poll may be withdrawn at any time prior to the taking of the poll. Upon a poll, each member present in person or represented by proxy and entitled to vote shall have one vote and the result of the poll shall be the decision of the members upon the said question.
- 8.14 No Casting Vote In case of an equality of votes at any meeting of members either upon a show of hands or upon a poll, the Chair of the meeting shall not be entitled to an additional or casting vote.
- 8.15 Chair, Secretary at Meetings of Members The Chair of the board, or in his or her absence the Vice-Chair of the board, shall preside as Chair at all meetings of the members. If both such persons are absent fifteen minutes after the time fixed for holding a meeting of members, the members present shall choose one of their number to be chair. The Secretary shall act as Secretary of the meeting. In the Secretary's absence, the Chair shall appoint such person to act as Secretary of the meeting. In this by-law, reference to the "Chair", unless otherwise indicated, refer to the chairperson of a meeting of members.
- 8.16 Adjournment The Chair of any meeting of the members or of the board may with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and from place to place 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 and such adjournment may be made notwithstanding that no quorum is present. No notice shall be required of any such adjournment.
- 8.17 Resolution in Writing Any resolution signed by all the members in writing without their meeting together shall be valid and effective as if passed at a meeting of the members duly called, constituted and held for that purpose.

ARTICLE 9

RESTRICTION ON DIRECTORS, OFFICERS AND MEMBERS

- 9.1 Conflicts of Interest Every director or officer who is in any way directly or indirectly interested in a proposed contract or a contract with VQA Ontario or in any other matter that may create a conflict of interest with respect to any fiduciary duty or standard of care owing to VQA Ontario, shall declare his or her interest at a meeting of the directors. A general notice given to the directors by a director or officer to the effect that he or she is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director or officer takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

- 9.2 Additional Restriction VQA Ontario shall not knowingly, directly or indirectly, purchase from or lend money to any directors, officers or members, or any persons who are in a non-arms-length relationship with the directors, officers or members. This article does not restrict the reimbursement to an officer, director or member of any reasonable expenses related to the hosting of a meeting of VQA Ontario at the premises of a member or the provision of services to VQA Ontario by an officer, director or member provided that such services do not relate to the duties of the person as an officer or director.

ARTICLE 10

NOTICES

- 10.1 Notice Whenever under the provisions of the by-laws, notice is required to be given, unless otherwise provided herein, such notice may be given either personally or by telecopy or depositing same in a post office or a public letterbox, postage prepaid, addressed to the director, officer or member at such person's address as the same last appears on the books of VQA Ontario. A notice or other document so sent by post shall be deemed to be given at the time and when the same was so deposited, or if telecopied shall be deemed to be given when the same was transmitted. A declaration by the Secretary or the Chair that any such notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. Any person entitled to receive and such notice may waive such notice either before or after the meeting to which such notice refers.
- 10.2 Computation of Time In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving the notice shall be excluded and the date of the meeting or other event shall be included.
- 10.3 Omissions and Errors The accidental omission to give any notice to any member, director, officer or auditor or the non-receipt of any notice by any member, director, officer or auditor or any error in any notice not affecting the substance thereof of any meeting or any adjourned meeting shall not invalidate such meeting or any action taken at any meeting held pursuant to such notice or otherwise founder thereon.
- 10.4 Waiver of Notice Any member, director, officer or auditor may waive any notice required to be given to him or her under any provision of the Act, the letters patent, the by-laws or otherwise 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.

ARTICLE 11

AUDITORS

- 11.1 Auditors The members shall at each annual meeting, appoint an auditor to audit the accounts of VQA Ontario and to hold office until the next annual meeting, provided that the directors may fill any casual vacancy in the office of the auditor. The remuneration of the auditor shall be fixed by the board of directors.

ARTICLE 12

AMENDMENT OF BY-LAWS

- 12.1 Amendment of By-Laws By-laws of VQA Ontario may be enacted, and may be repealed or amended by further by-law enacted, by a majority of the directors at a meeting of the board and sanctioned by an affirmative vote of at least two-thirds of the eligible voting members at a meeting duly called for the purpose of considering the said by-law.

ARTICLE 13

EFFECTIVE DATE

- 13.1 Effective Date This by-law comes into force when passed by the Board and ratified by the members.

PASSED by the directors and sealed with the corporate seal this 2nd day of May, 2000.

President

Secretary