

**THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA**

**RULES OF THE SOCIETY**

December 2022



# SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA **RULES**

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## 1. DEFINITIONS

- 1.01 “Act” means the Notaries Act, R.S.B.C., C. 334 and any amendments.
- 1.02 “Accredited financial institution” means:
- a) a bank included in Schedule I or II to the Bank Act (Canada);
  - b) a trust company which is insured by the Canada Deposit Insurance Corporation and has not been declared by the Society as unacceptable for use by a Member; and
  - c) a credit union approved by the Credit Union Deposit Insurance Corporation of B.C. for the receipt of trust funds.
- 1.03 “Board” means the Board of Directors of The Society of Notaries Public of British Columbia.
- 1.04 “Client” includes a person, or other entity to which a Member, in their capacity as a Notary Public, provides a service or gives advice regardless of whether a fee or reward is expected, charged, or paid.
- 1.05 “Completion of Registration”, for the purposes of these Rules only, means evidence that a satisfactory post-filing index search has been made in a Land Title Registry or that a registration number has been granted by the Manufactured Home Registry or the Personal property Registry or any other Registry or public agency.
- 1.06 “Deficiency Report” means the written report of an auditor appointed by the Society to conduct an audit on the trust accounts of a Member.
- 1.07 “Disbursements”, may include but are not limited to the following: title agent’s fees, Land Title Office fees, any other Registry fees or service provider fees, courier fees, Goods & Services Tax (GST), Provincial Sales Tax (PST), other taxes, Land Title Surveyor fees, Trust Administration Fee, and Transactional Insurance Premiums.
- 1.08 “Money” means and includes currency, government or bank notes, cheques, electronic funds transfer, orders drawn on a credit union, drafts, and negotiable securities but does not include any form of crypto currency.

- 1.09 “Notary Corporation” means a Company as defined under the Business Corporations Act.
- 1.10 “Permit” means a permit issued by the Secretary to a Notary Corporation under the terms and conditions as defined in the Act.
- 1.11 “Rule” means a rule made by the Board under the authority of Section 55 (2) of the Act.
- 1.12 “Secretary” includes a person designated by the Secretary to perform any of the duties assigned to the Secretary in this regard, unless the context indicates otherwise.
- 1.13 “Self-Audit Report” means the written report prepared once a year by each Member, confirming the activities of all of the Member’s trust accounts, and Estate accounts if any during the prior year.
- 1.14 “Trust Accounts” means a trust account maintained by a Member with an accredited financial institution under Section 23(2) of the Act for monies received in trust.

## 2. MEMBERSHIP

- 2.01 Admission to Membership shall be subject to the Membership and Admissions Policies published by the Society.
- 2.02 Every Member in the active class shall actively practice as a Notary Public and provide independent professional legal advice to clients.
- 2.03 Section 2.02 does not apply to a roving notary, Members who are employees of another Member, and Members who are employees of the Society.

### Non-practicing Class of Members

- 2.04 Any Member of the Society, who is in good standing, may become a non-practicing Member by:

- a) Making application to the Society on the application form as approved and amended by the Board from time to time; and
  - b) Giving an undertaking in writing to the Society that the Member will not provide Notarial Services while in the non-practising class of Membership.
- 2.05 A non-practicing Member applying for reinstatement after one year must, before reinstatement, complete 6 approved continuing education credits.
- 2.06 A non-practicing Member applying for reinstatement after two years must, before reinstatement,
- a) complete 6 continuing education credits;
  - b) complete and pass an accounting course approved by the Board of Directors; and
  - c) complete one week of mentoring with an approved notary public.
- 2.07 A non-practicing Member applying for reinstatement after three years must, before reinstatement,
- a) complete 6 continuing education credits;
  - b) complete and pass an accounting course approved by the Board of Directors; and
  - c) successfully complete a return to practice examination of Notarial Procedures as set by the Board of Examiners.
- 2.08 A Member who was a practicing Member for less than five years upon entering the non-practicing class who, upon their return, will not be practicing with another Member must enter a supervisory arrangement satisfactory to the Society.
- 2.09 The Executive Director may approve the form of non-practicing membership applications for approval and for reinstatement.
- 2.10 Every Member must provide contact information to the Society including but not limited to residential and business address, mobile and business telephone numbers, personal and business email addresses, and must advise the Society of the address at which a practice inspection, audit, or review of records may take place.



- 2.11 Every Member must advise the Society of any change of contact information as required by these Rules and, if applicable, employment information without delay.
- 2.12 No Member shall resign from the Society without the consent of the Board, which may attach conditions to the granting of its consent.

### 3. MANDATORY CONTINUING PROFESSIONAL DEVELOPMENT

- 3.02 To maintain membership in good standing, a Member must complete, in each membership year, qualified continuing professional development as follows:
- |        |  |                     |
|--------|--|---------------------|
| a) .01 | Members with two (2) years of practice experience or less      | 9 Approved Credits  |
| b)     | Members with greater than two (2) years of practice experience | 12 Approved Credits |
| c)     | Members enrolled as Roving Notaries                            | 9 Approved Credits  |
- 3.03 Based on date of commission and prior to the end of the membership year in the year following the commissioning of the Member, the Member must attend an education session for new notaries.
- 3.04 The process for approving continuing professional development is as follows:
- The Society will determine the courses and programs that qualify for credit and the number of credits that will be awarded a qualifying course or program;
  - The Member shall be responsible for keeping an accurate record of their credits and for submitting their accredited education courses to the Society; and
  - Education credits must be earned and reported to the Society annually during the Membership year of July 1st to June 30th.
- 3.05 A Member who fails to comply with the continuing education requirements must:
- In addition to the annual requirement, complete any outstanding hours from the previous year not later than March 1 of the following year;
  - Provide the Society with the required proof of completion; and
  - Pay an administrative monetary penalty of \$ 225.00.

- 3.06 The membership status of a Member who fails to comply with Rule 3.04 will be “not in good standing” until all required education credits are completed.
- 3.07 The Society or their delegate must provide the Member with:
- a) notice that the Member is not in good standing and not eligible to provide legal service to clients;
  - b) notice of suspension;
  - c) the date on which the suspension will take effect; and
  - d) the required number of education credits for the Member to be reinstated.
- 3.08 Under special circumstances, the Secretary or their delegate may at their discretion order the Member not be suspended or a suspension be delayed for a specified period of time.
- 3.09 The appeal provisions set out in these Rules will apply to suspensions as a result of failing to obtain the required continuing professional development credits.

#### Notice of Action against a Member to Insurer

- 3.10 Every Member must give notice in writing to the insurer of any Summons, Writ, Statement of Claim or Small Claim Court Notice served upon the Member that may involve a claim against the Member’s professional indemnity insurance.

#### Notice of Action against a Member to Society

- 3.11 Every Member must give notice in writing to the Society of any investigation into the conduct of the Member by another regulatory body or agency.
- 3.12 Every Member must give notice in writing to the Society of any proceeding, event, or development which, in the reasonable judgment of the Member, might result in a claim against the Special Fund of the Society.
- 3.13 Upon receiving notice under section 3.10 and 3.11 the Society may request that the Member:
- a) provide a copy of any documents related to the matter;
  - b) provide authorization to the Society to collect or obtain information from a Court, Registry, regulatory body, agency, or organization; and

- c) provide explicit written permission to a Court, Registry, regulatory body, agency, or organization to release information to the Society.

#### Annual Fees, Dues, and Other Payments

- 3.14 A Member must, on or before the deadline established by the Board:
  - a) pay any annual fees, dues, or premiums;
  - b) pay any assessments, deductibles, or levies;
  - c) pay any fines, special assessments, costs, or other amounts owing the society; and
  - d) submit an annual accounting report and other reports as required by the Society.
- 3.15 The Board may establish different deadlines for fines, administrative monetary penalties, or assessments.
- 3.16 The deadline for payment of an annual fee may not be earlier than 31 days before the expiration of the Society's fiscal year.
- 3.17 The Society must provide notice of any annual fee not less than 60 days before the end of the Society's fiscal year.
- 3.18 The first day of the fiscal year for the Society is July 1 and the last day is June 30 each year.
- 3.19 Fines and penalties shall be imposed in accordance with these Rules.
- 3.20 The Society must notify every Member who has not paid an annual or other fee along with any fines or penalties that they shall cease to be Members of the Society on the date given in the notice.
- 3.21 The Rules in this section, including the provisions for fines and penalties, apply to an annual accounting report or other reports as required by the Society.

#### 4. MEMBER ACCOUNTS

- 4.01 Every Member must make and keep, in connection with the Member's notarial practice, contemporaneous records including records of accounts showing and readily distinguishing:

- a) the name or names of each client from whom the Member received or paid money into or out of trust;
  - b) all money received for and/or paid on behalf of others and the true balance of money held on behalf of others at any given time; and
  - c) money received and paid on the Member's own behalf.
- 4.02 Every Member who receives trust funds must maintain at least one trust account with an accredited financial institution.
- 4.03 A Notary Corporation that receives trust funds must maintain at least one trust account with an accredited financial institution and is subject to all of the trust account rules as they apply to a Member.
- 4.04 Every Member negotiating a transaction in which trust funds are involved must pay such funds into the Member's trust accounts.

#### Notice of Trust Accounts

- 4.05 Each Member must:
- a) within one month of opening a trust account, inform the Society in writing that an account has been opened by providing the financial institution name, number, branch transit number, and account number;
  - b) in compliance with Section 54(3) of the Act, instruct the financial institution to pay interest to The Notary Foundation on such trust accounts by providing the institution with an authorisation letter of direction in the form supplied by the Notary Foundation; and
  - c) register as a professional trustee or file an annual report with each bank or trust company for each "pooled" trust account maintained by the Member in accordance with the Canada Deposit Insurance Act so that each client's funds, rather than the account itself, are insured up to the limit of CDIC Insurance.

#### Limits on Deposits

- 4.06 No Member shall deposit money in excess of \$2,500.00 received in trust in the course of a single transaction in a trust account unless such money consists of institutional draft(s), electronic transfer of funds by the financial institution wire transfer sent or received pursuant to these rules, cheque(s) certified by Members

themselves; or trust cheque(s) issued by a Notary, solicitor, or BC Real Estate brokerage.

#### Electronic Funds Transfers

- 4.07 A Member may receive money by electronic fund transfer into a trust account and may send money from a trust account between or with any of the following:
- a) A regulated Financial Institution;
  - b) Client or clients or to pay out any registered mortgagee;
  - c) A Canadian Lawyer, Law Firm, or Quebec Notary;
  - d) Another Member;
  - e) A BC Real Estate Brokerage;
  - f) Any Canadian or Provincial government agency;
  - g) A third-party payment platform authorized by the Society.
- 4.08 A Member must not transfer funds to a third-party payment platform that has not been authorized by the Society
- 4.09 Whenever money is being sent by electronic funds transfer from a trust account a record of the information about the electronic trust fund transfer as required by the Society must be completed and a copy of the information must be kept with the client's file.
- 4.10 Where funds are transferred to a third-party payment platform, in addition to the prescribed information required for an electronic trust fund transfer, the Member must:
- a) have authorization by the client to send trust funds to the third party;
  - b) make a record of the instructions given to the third-party payment platform for the disposition of the fund; and
- 4.11 A record made under this section for the disposition of funds must include the name of the client, file reference number, the amount of money to be transferred into each account, bank transit and account numbers for each account money is to be transferred into, the reason for the payment.

#### Multifactor and Dual Authentication Required for Electronic Funds Transfers

- 4.12 When sending funds electronically, a process in which the transaction is created using credentials that are separate and distinct from the credentials that a Member uses to authorize the transaction must be used.
- 4.13 Only a Member or a person legally authorized may authorize an electronic funds transaction.

#### Electronic Funds Transfer of Net Sales or Net Mortgage Proceeds

- 4.14 A Member may only transfer net sale proceeds or net mortgage proceeds by electronic funds transfer to those persons or corporations named or listed on the land ownership title.
- 4.15 A Member, who of special necessity or circumstance, needs to conduct a transaction that is not contemplated by these rules must obtain specific approval for the transaction from the Society.

#### Other Forms of Money

- 4.16 Cheques or drafts given to a Member or a Notary Corporation in trust must be deposited and cleared through the Member's or Notary Corporation's trust accounts.
- 4.17 With the exception of mortgage funds received on behalf of others which cannot be deposited until the completion, every Member shall, not later than the next banking day following receipt, pay into the Member's trust account:
  - a) all monies received on behalf of others; and
  - b) money, a part of which belongs to others and is held on behalf of others and part of which belongs to the Member.

#### Documenting Trust Account Transactions

- 4.18 Every Member must ensure that each trust transaction is recorded in the Member's trust books, and records, and accounts shall be promptly entered and properly posted not later than one week after the date of the transaction.

- 4.19 The Member must retain in their files and their accounting records a printed or electronic copy of the following:
- a) the LTSA electronic Payment Authorization form or forms submitted to the Electronic Filing System;
  - b) the Property Transfer Tax return; and
  - c) the transaction receipt provided by the LTSA Electronic Filing system.
- 4.20 A Member, when paying money for services rendered on behalf of a client from the Member's trust account to the Member's operating account, must make a record of the name of each client, the cheque number or transaction number, and the file reference number in the Member's records prior to paying such funds from trust.

#### Rules Regarding Cheques

- 4.21 All cheques drawn on a Member's trust account must be signed by a Member, or by a person appointed under a Power of Attorney, provided that such a person is a Member in good standing of The Society of Notaries Public of British Columbia or The Law Society of British Columbia, a court appointed custodian or other person legally authorized.
- 4.22 A facsimile or rubber stamp signature of a Member is not permitted on trust account cheques.
- 4.23 A Member may make or authorize the withdrawal of funds from a pooled or separate trust account by electronic transfer using the Electronic Filing System of the Land Title Branch for the purpose of the payment of Property Transfer Tax on behalf of a client.
- 4.24 A Member must not sign blank trust cheques.
- 4.25 All cheques drawn on a Members' trust account must be clearly marked "trust account".
- 4.26 All trust account bank statements must be clearly marked "trust account".
- 4.27 Trust cheques, other than for fees or commissions, payable to a notary or a solicitor must be made out to the payee "in trust".

### Signing a Cheque with a Digital Signature

- 4.28 A Member may sign a cheque using their Juricert digital signature provided that all of the terms and conditions of use of the Juricert digital signature are complied with and the Member personally affixes their digital signature on the cheque.
- 4.29 A Member must not permit anyone else to use the Member's digital signature to sign a cheque.
- 4.30 No money shall be transferred from a Member's trust account except:
- a) money payable to a client or to be paid on behalf of a client to a third party from funds on deposit in the Member's trust account to the client's credit;
  - b) money required to pay the Member for services rendered to the Member's client or to reimburse the Member for disbursements made on behalf of a client;
  - c) money paid into the trust account by mistake; or
  - d) money paid to a third-party payment platform authorized by the Society.

### Transferring Money Due for Services Rendered

- 4.31 A Member must transfer money due for their services rendered on behalf of a client from their trust account to the Member's operating account no later than 30 days from the completion date of the transaction.
- 4.32 No Member shall transfer funds from the Member's trust account for professional fees unless:
- a) a statement of adjustments or an invoice for the fee has been delivered to the client; and
  - b) the client acknowledges the statement of adjustments or invoice.
- 4.33 A client's acknowledgement of the statement of adjustments or invoice shall be deemed evidence that an account has been rendered.

### Float Amounts in Pooled Trust Accounts

- 4.34 Within a pooled trust account under their name, a Member may operate a "float" account to be used for miscellaneous charges and small errors that do not exceed \$500.00. The balance of the float account must not exceed \$500.00 and must not



include any disbursements and fees that have been paid to the Member and are being held in the account.

#### Completion of Submission Prior to Transfer

- 4.35 No Member shall transfer funds from the Member's trust account in connection with matters requiring registration in a Land Title Registry, the Manufactured Home Registry, the Personal Property Registry, or any other public registry before completion of the submission.
- 4.36 A client's signature on the property transfer tax return or such other authorization by the Member's client to submit the Property Transfer Tax electronically shall be considered sufficient authority to meet the requirements of this section.

#### Trust Fund Errors and Reconciliations

- 4.37 A Member must at all times maintain on deposit in the Member's trust accounts sufficient funds to meet the gross trust liability in respect of trust funds deposited in that account. If a Member, for any reason, is unable to maintain sufficient funds to meet the gross trust liability, the Member must notify the Secretary of the Society within five (5) days of becoming aware of such shortage.
- 4.38 A Member who discovers a client trust shortage must immediately pay funds into the account sufficient to eliminate the shortage, and where the trust shortage is greater than \$5,000, the Member must immediately report the shortage and the circumstances surrounding it to the Secretary in writing.
- 4.39 A Member must, at least once in every calendar month, reconcile the gross trust liability in respect of trust funds with the funds on deposit in each trust account operated by the Member. Trust account reconciliation records shall be kept for a minimum of ten years.
- 4.40 Errors discovered must be corrected on a timely basis and no later than the next reconciliation period.
- 4.41 A Member who discovers that they are or will be unable to deliver any trust funds held by the Member when due must immediately report that fact and the reasons for it to the Society in writing.

### Separate Interest-Bearing Trust Accounts

- 4.42 A Member who makes or authorizes the transfer of funds from a pooled trust account to a separate interest-bearing trust account must ensure that the transfer is authorized in writing, signed by a Member and authorised by the client
- 4.43 A Member who makes or authorizes the withdrawal of funds from a separate interest-bearing trust account, must do so by transferring the funds into the Member's pooled trust account.
- 4.44 All interest that has been earned while a client's funds have been invested in a separate interest-bearing trust accounts must be recorded prior to the Member transferring the funds into the Member's pooled trust accounts.

### Timely Payment of Disbursements

- 4.45 If a Member incurs a debt on behalf of a client or clients as "disbursements" those debts must be paid within 30 days. Any undue delay in the payment of disbursements shall be considered a misuse of trust funds.

### Unclaimed Trust Funds

- 4.46 A Member who has held funds in a trust account on behalf of a client and the Member has been unable to locate or contact the client for a period of more than two years may pay those funds to the Society by submitting the funds together with the submission of the prescribed reporting form to the Society.

### Power to Inquire and Cooperation of the Member

- 4.47 All powers accorded to the Board in the Act and the Bylaws concerning the auditing of a Member's trust books and accounts and the dispositions and payment of costs connected and arising from an audit are also the powers of the Discipline Committee. Without restricting the generality of the foregoing, the Board or the Discipline Committee acting on their own motion or upon a written complaint received by the Society may at any time require an investigation to be made by:
- a) a chartered professional accountant; or
  - b) any person designated by the Society or the Discipline Committee.

- 4.48 The Member must produce without delay to the investigating person all trust books, records, and other information required for the purpose of an investigation or audit.
- 4.49 When it is established by the auditor or other person employed by the Society that a Member's books, records and accounts concerning the Member's trust accounts were not kept as required by the Act, or these Rules, the Member will bear the cost of such audit, which must be paid to the Society within 30 days after having received the assessment notice and the Society's request for payment.

#### Administrative Monetary Penalty for Breach

- 4.50 A Member who has committed any infractions or breaches of the accounting Rules is subject to a fine or administrative monetary penalty of \$1,000 for each infraction or breach.

#### Annual Self Audit Report

- 4.51 Every Member must deliver to the Society, not later than 60 days after receipt from the Society office, the Self-Audit Report form posted on the Society Member website to be completed, as required.

#### Member Trust Audits

- 4.52 Every Member must provide an Auditor engaged by the Society with all account records and all accounting information when requested by such Auditor including any and all general accounts in the name of the Member, any and all accounts held by a Notary Corporation in which the Member holds voting shares, and/ or any and all accounts held by a Partnership.
- 4.53 A Member must respond within 30 days to a request from The Society's Auditor with respect to an audit that has been or is scheduled to be conducted at the Member's office.

#### Action on Receiving Audit Reports

- 4.54 Audit reports submitted by the Society's auditors will indicate a result of either "Satisfactory" or "Unsatisfactory". The Audit Committee will conduct a review of "Unsatisfactory" reports to determine whether or not an audit re-inspection is

required. Members are responsible for all the costs incurred as a result of a re-inspection audit conducted by the Society's auditors and the costs are payable upon receipt of invoice from the Society.

- 4.55 Where a Member has had two consecutive re-inspection audits, the details and the Member's file shall be forwarded to the Discipline Committee for review.
- 4.56 The Society may, following a review of the reports received, when such reports note contraventions of the Act, the Bylaws or Rules:
- a) accept the Member's explanation and reasons, in which case the Member shall be deemed to have complied with these Rules;
  - b) accept the Member's explanation and reasons subject to the Member fulfilling conditions specified by the Audit Committee in which case, the Member shall, upon fulfilment of these conditions, be deemed to have complied with these Rules; or
  - c) deliver the unacceptable Self-Audit or Deficiency Report together with any explanatory letter on to the Discipline Committee for further action.
- 4.57 Except where an extension has been granted, if a Self-Audit Report, is not received by the Society by the due date, the Member shall be subject to the fines as set out in these Rules and be classified as not in good standing.

#### Trust Administration Fee Records and Premiums

- 4.58 Every Member must deliver to the Society a completed Trust Administration Fee Remittance Form on or before the last day of the month following the month of remittance declaring the total number of trust transactions on which they received funds or will be directing funds to the client.
- 4.59 Members must keep a list of each trust transaction, which must be made available for audit purposes and must record the Trust Administration Fee in accordance with these Rules.
- 4.60 A trust transaction means any file where the Member has been retained to act for a client and has received funds from the client to complete such transaction or will be directing funds to the client.

- 4.61 Such transactions include but is not limited to the following:
- a) conveyance transaction acting for a buyer;
  - b) conveyance transaction acting for a seller;
  - c) conveyance transaction involving a mortgage refinance; and
  - d) any other transaction that involves the receipt of funds to be “held in trust.”
- 4.62 In unusual and individual cases, a Member may apply to the Secretary to decide if particular transaction qualifies as a trust transaction.
- 4.63 The Trust Administration Fee is \$20.00 per individual trust transaction. Only one Trust Administration Fee is payable if:
- a) The Member acts for joint clients in a single transaction; and
  - b) more than one Member in a partnership or firm is involved in the same file.
- 4.64 A Member who does not remit the Trust Administration Fee and/or file the Trust File Administration Fee Report and Remittance Form within the prescribed period shall be subject to administrative monetary penalties set out in these Rules.

#### Other Transactional Records and Premiums

- 4.65 Where the insurer requires Members to track, report, and remit a premium, each Member must:
- a) keep a record of every conveyance file on which a transaction insurance premium, as defined by the insurer, applies;
  - b) keep a record of every Will file on which a transactional insurance premium applies; and
  - c) report and remit premiums, through an electronic portal or by submitting a written report with payment on or before the last day of the month following the month of remittance.
- 4.66 Members must keep a list of each applicable transaction and must record the transactional records in accordance with these Rules.
- 4.67 A Member who does not remit a transaction report and premium within the prescribed period shall be subject to administrative monetary penalties set out in these Rules.

## 5. MEMBER RECORDS

### Requirement to Make and Keep Records

- 5.01 A Member must make and maintain records and comply with the document retention periods as set out in these Rules.
- 5.02 The nature and the extent of a record is at the discretion of a Member.
- 5.03 Notwithstanding the foregoing, a record along with a Member's contemporaneous notes must document a transaction sufficiently so that the nature and the complexity of a matter will be clear to an independent third party reviewing the record.
- 5.04 Records may be stored in a form at the discretion of a Member but must be produced, in their entirety at the request of the Society.
- 5.05 A Member must make records available, upon request, to the Society, a practice inspector, or a trust auditor.
- 5.06 A Member must ensure that any storage system is secure and the files and records that are stored digitally have suitable protection from unauthorized access.

### Ensure Access to Records for Custodial Purposes

- 5.07 A Member must ensure that, in the event of a custodianship, the Custodian will be able to access the records.

### Reporting Unauthorized Access

- 5.08 A Member must report to the Society immediately upon becoming aware of unauthorized access to records.

## 6. BANKRUPTCY

- 6.01 In this part, "Member" shall include an applicant for Membership, a Notary Corporation, or a Limited Liability Partnership.

- 6.02 Upon the happening of any of the following events, a Member shall immediately notify the Society:
- a) the service of a Petition in Bankruptcy upon a Member;
  - b) the filing of an Assignment in Bankruptcy by a Member;
  - c) the presentation of a Proposal in Bankruptcy by a Member; or
  - d) an Application for a Consolidation Order or Orderly Payment of Debts of a Member.
- 6.03 In the event of the service, filing, presentation or application described above, a Member must provide all materials and information relevant to such proceeding to the Society. Failure by a Member to provide this notification within seven (7) days of such event shall be deemed conduct unbecoming a Member of the Society.

#### Member Suspended on Bankruptcy

- 6.04 The Member shall be suspended under section 25 of the Act and may make application to the Discipline Committee for leave to continue practice. Suspension shall continue until leave is obtained.
- 6.05 An application to obtain leave to continue practice may be made at any time prior to, or after, the commencement of any of the above proceedings.
- 6.06 A Member may appear personally or with counsel and show cause why they should not be suspended or continue to be suspended, as the case may be. A Member shall provide to the Society any and all information and material related to the proceedings, including financial statements, and records.
- 6.07 Sections 27 and 28 of the Act will apply to a hearing before the Discipline Committee. The Board of Directors, after receiving the report of the Discipline Committee may decide that the Member shall not be suspended upon the occurrence of any of the said proceedings under the Bankruptcy Act.
- 6.08 An Audit of the Member's accounts under section 24 of the Act must be conducted.
- 6.09 The auditor must segregate trust holdings and personal holdings and cooperate and provide information to a trustee or other individual entitled to information.

- 6.10 Any order made by the Society may continue in effect before, during, or after any disposition of the affairs of the Member pursuant to the provisions of the Bankruptcy Act.
- 6.11 Section 40 of the Act applies to a suspension under this part.
- 6.12 No Member, in the event of the service, filing, presentation, or application described above is eligible or can continue to be a Director of the Society.

## 7. SPECIAL FUND

- 7.01 A person making a claim under Section 20 of the Act shall file, by way of statutory declaration on the form prescribed by the Society a notice of claim or pecuniary loss due to misappropriation or wrongful conversion by a Member or former Member.
- 7.02 A person making a claim must provide reasonable evidence as the Society may deem necessary.

### Secretary to Report Special Fund Claims

- 7.03 Upon having received the statutory declaration, the Secretary must report to the Special Fund Committee, which shall, without delay, decide whether to conduct an inquiry.

### Action by the Special Fund Committee

- 7.04 If the Special Fund Committee decides that an inquiry is not warranted, it must submit a written report to the Board.
- 7.05 Section 34 of the Act applies to the Board receiving a report from the Special Fund Committee.
- 7.06 If the decision of the Special Fund Committee is confirmed by the Board, written reasons for the decision must be provided to the person.
- 7.07 An inquiry conducted by the Special Fund Committee will seek to determine whether a Member or former Member has misappropriated or wrongful converted money or other property entrusted to the Member or received by the Member in the capacity as a Notary.



### Special Committee to Report to the Board

- 7.08 If the Special Fund Committee finds that there has been a misappropriation or wrongful conversion, and the person making a claim has sustained pecuniary loss by reason of such misappropriation or wrongful conversion, the Special Fund Committee must submit a written report to the Board.

### Conditions on Reimbursement

- 7.09 If the Board decides to reimburse a person from the special fund, either in whole or in part, the person may, as a condition of such reimbursement, be required to assign to the Society the whole or any part of their claim against the Member.
- 7.10 Where a person has chosen to take action in a court of law, the Society shall make no payment out of the special fund until the court has made an order.
- 7.11 Any person claiming under Section 20 of the Act, may be required by the Board to obtain or furnish, or provide to the Board as a condition of reimbursement, evidence of judgment obtained.
- 7.12 Any judgment obtained by a person must be assigned, in whole or in part to the Society before any payment may be made out of the special fund of the Society.
- 7.13 No payment from the special fund will include amounts for interest accrued to or any costs incurred by the person, except as determined by the Board.
- 7.14 No payment from the special fund shall be made until the time for an appeal of a decision from the Society in respect of such misappropriation or wrongful conversion has passed or, if an appeal, until the appeal is dismissed.

### Action After Payment From Special Fund

- 7.15 Where a payment is made out of the special fund, the Society shall:
- a) advise local police authorities or crown counsel in the area where the offence occurred; and
  - b) unless it has already been done or the Board directs otherwise, arrange for the laying of information against the Member or Former Member under the appropriate provisions of the Criminal Code of Canada.

7.16 If the Secretary issues a notice under section 20(2) of the Act, the notice must include the amount each Member must pay in each practice year and the date that the first payment is due and payable.

## 8. MANDATORY INSURANCE REQUIREMENT

8.01 Every Member shall participate in an insurance program through a provider approved by the Board.

8.02 Every Member must:

- a) pay any base premium established by the insurer;
- b) pay any transactional premiums; and
- c) pay within thirty (30) days of an invoice any deductible that may arise as the result of a claim.

### Requirement to Give Notice

8.03 Every Member shall give to the insurer immediate notice in writing of;

- a) any Summons, Writ, Statement of Claim or Small Claim Court Notice served upon the Member; and
- b) any proceeding, event, or development which, in the reasonable judgment of the Member, might result in a claim against the Member's insurance.

8.04 Every Member shall provide to the insurer copies of all documents received by the Member in connection with an event as described in Rule 8.03.

8.05 Every Member shall be deemed to have authorised the insurer to correspond directly with the Society and to disclose fully any claims against such Member's insurance under the terms of agreement between the Society and insurer.

## 9. DISCIPLINE

### Preliminary Inquiry

9.01 When a complaint is made against a Member the complaint shall be made in writing to the Society and the Society shall conduct a preliminary inquiry.

- 9.02 After conducting a preliminary inquiry the Society may dismiss the complaint if the subject of the complaint is not within the jurisdiction of the Society without referring the matter to the Discipline Committee.
- 9.03 The Society may conduct a preliminary inquiry and communicate, collect, and send information by electronic means.
- 9.04 The Society may send a copy of the complaint and any other relevant information to the Member or Members named in the complaint.

#### Cooperation of Member

- 9.05 The Member or Members must reply to a complaint or an inquiry made by the Society and provide any documents and records requested by the Society.
- 9.06 The Member's response must be in writing and be sent to the Society within three weeks after receiving notice of the complaint. The Society may send a copy of the Member's reply to a complainant.

#### Report to Discipline Committee

- 9.07 The Society shall provide to the Discipline Committee a complaint summary that includes details of the complaint, details of the reply (if any), and any recommendations to the Discipline Committee.
- 9.08 The Discipline Committee may dismiss the matter or conduct an inquiry into the complaint under the section 27 and 28 of the Act.

#### Member Conduct in Dealing with Another Legal Professional

- 9.09 A Member must not, in dealing with another Member or a lawyer, in an attempt to gain a benefit for a client, threaten, or advise a client to threaten:
  - a) to initiate or proceed with a criminal or quasi-criminal charge; or
  - b) to make a complaint to a regulatory authority.

### Publication of Member's Name in Discipline Decision

- 9.10 The name of a Member must be published in a discipline decision except in a circumstance in which the identity of a complainant or a third party may be determined or the Member will suffer undue harm. Harm to reputation is not to be considered as undue harm.
- 9.11 A Panel of the Board making a finding on a report of the Discipline Committee may consider the publication of a Member's name in its reasons for decision.
- 9.12 If a Panel has considered the matter of publication of a Member's name as part of the reasons for decision the following sections do not apply.

### Making Application for Redaction

- 9.13 A Member who is the subject of a finding by a panel of the Board may make application seeking the redaction of their name in a discipline decision.
- 9.14 To initiate an application under this section, the Member must apply in writing by sending a request for consideration of non-publication within 21 days after the decision is communicated to the Member.
- 9.15 The application must contain information regarding the reason for the request including evidence to establish the harm that would reasonably arise should the decision be published.
- 9.16 The Panel who issued the reasons for decision may, by reviewing written submissions or after a hearing, consider:
- a) Whether non-publication will undermine the transparency and integrity of the discipline process;
  - b) Whether publication will reasonably reveal confidential information of a third party, witness or Member who testified or provided information in the discipline proceeding;
  - c) Whether publication will harm another person who participated to the discipline proceeding; and

- d) Whether there is good reason to believe that a person reviewing the decision will unreasonably make use of the decision for a purpose other than education, deterrence, or transparency.
- 9.17 A Member may submit a request to the Society in writing for an extension for applying for a review in extraordinary circumstances beyond the control of the Member.
- 9.18 The Society, after reviewing the application, may confirm the extension deadline or submit the matter to the panel for determination.
- 9.19 On considering an application to extend the deadline for submissions, the panel may:
- a) confirm the publication of the decision without redaction;
  - b) request further information before determining the matter; or
  - c) order that a redacted version of the decision be published.
- 9.20 If a Panel orders that a redacted version be publishes, the reasons for the decision to redact must be included with the redacted version of the discipline report.
- 9.21 The Panel must notify the applicant and the Society, in writing, of the reasons for that decision.

## 10. FINES AND ADMINISTRATIVE MONETARY PENALTIES

- 10.01 The Board may establish fines, administrative monetary penalties, and assessments under these Rules.

### Administrative Monetary Penalty for Professional Misconduct

- 10.02 A Member who contravenes any provisions of the Act, Bylaws, or Rules of the Society regarding payment of annual dues, assessments, fines, or monetary penalties is deemed to be guilty under Section 28(1)(d) of the Act and will be assessed an administrative monetary penalty of \$500.
- 10.03 A Member who fails to file a Self-Audit Report or a statutory declaration in lieu of Self-Audit Report, trust administration fee, or insurance premium is deemed to be

guilty under Section 28(1)(d) of the Act and will be assessed an administrative monetary penalty of \$500.

- 10.04 In the event that a fine or administrative monetary penalty is not paid within 14 days, the Member shall be further assessed a penalty of \$100.00 per day until payment is made.
- 10.05 Penalties assessed under Rule 10.04 shall end on the date on which the required Self-Audit Report, or a proper statutory declaration in lieu of Self-Audit Report is received by the society.
- 10.06 The penalty assessed under Rule 10.04 applies on the first day after date of deadline submission.
- 10.07 The Board shall have the power to waive fines or penalties on the written application by a Member setting out the reasons for which the fines or penalties should be waived.

## 11. UNDERTAKINGS

- 11.01 An undertaking is a written or implied absolute and irrevocable covenant and commitment to act without fail upon certain circumstances, facts, deeds or evidence.
- 11.02 Only a Member may accept, confirm, or seek to amend an undertaking.

### Member Responsible for Undertakings

- 11.03 A Member is personally responsible for undertakings and for the breach of any undertaking accepted by them, including undertakings accepted through a Notary Corporation or a Limited Liability Partnership.
- 11.04 An undertaking can only be released or altered with the consent of both parties. Consent to amend an undertaking must be received in writing.
- 11.05 A Member who issues an uncertified trust cheque is undertaking that the cheque will be paid by the Member.

11.06 When a Member acting for a purchaser of real property accepts the purchase money in trust and receives a registerable conveyance from the vendor or the vendor's agent in favour of the Member's client as contemplated by the parties, then the Member is deemed to have undertaken to pay unconditionally the purchase money to the vendor or the vendor's agent upon registration.

#### Terms of Contract Apply to Holdback

11.07 When the parties have agreed to a holdback of funds, the Member must withhold the funds pursuant to the terms of the agreement or until advised by both parties that the condition related to the holdback has been fulfilled, altered, or waived.

#### Mortgage Discharge Center

11.08 A Member must deliver a report in a form approved by the Board within five (5) business days from when the Member delivers funds to:

- a) a lender to obtain a registerable discharge of mortgage; or
- b) another Notary or a lawyer on the undertaking of the lawyer or other Notary to obtain and register a discharge of mortgage; and
- c) if 60 days after the closing date of the transaction giving rise to the delivery of such funds, the Member has not received:
  - (i) a registerable discharge of mortgage from the lender; or
  - (ii) satisfactory evidence of the filing of a registerable discharge of mortgage as a pending application in the appropriate land title office from the other Notary or the lawyer.

11.09 An entry made by a Member or on behalf of a Member in the mortgage discharge centre within the specified time period complies with the requirements of Rule 11.08.

## 12. PROFESSIONAL CONDUCT

12.01 Every Member owes a duty to a client to represent that client competently and with undivided loyalty to the client. Consistent with those duties, a Member shall not act or continue to act for a client in relation to a matter:

- a) which is beyond the lawful practice of a Notary Public;
- b) outside the competence of the Member; or
- c) when there is or is likely to be a conflicting interest unless, after disclosure adequate to make an informed decision, the client or prospective client consents.

### Conflict of Interest

- 12.02 The terms “conflict of interest” and “conflicting interest” mean an interest or appearance of an interest:
- a) that would reasonably be expected to adversely affect the Member’s judgment on behalf of, or the undivided loyalty to, a client or prospective client; or
  - b) that a Member might reasonably be expected to prefer an interest of one client or prospective client over that of another.

### Acting for More than One Party

- 12.03 Except as otherwise provided in this Rule, no Member shall act or continue to act for more than one party where there is or might reasonably be a conflict of interest between any of the parties.
- 12.04 Where a Member is asked to act for more than one party with different interests in a conveyance transaction, the Member must recommend that each party have independent representation.
- 12.05 If, after being advised to obtain independent representation, such parties continue to request that the Member represent two or more of them jointly, the Member may act for two or more such parties jointly only if:
- a) the transaction between vendor and purchaser is a simple conveyance involving only the assumption of one or more existing mortgages or agreements for sale where the vendor has received a release from the lender under the vendor’s covenants, and the payment of the cash balance, if any; the payment of all cash for clear title; the discharge of one or more existing mortgages or agreements for sale, and the payment of the cash balance, if any; or
  - b) the transaction is a simple conveyance coupled with a mortgage for an institutional lender such as bank, trust company, life insurance company or credit union; or



- c) the transaction is the transfer of a leasehold interest where there are no changes to the terms of the lease.

12.06 The exceptions described above do not apply to:

- a) the sale and purchase of a business or any conveyance resulting from the sale or purchase;
- b) a lease other than as set out above;
- c) a conveyance where there is a mortgage back from the purchaser to the vendor, or an agreement for sale;
- d) an assumption of mortgage or agreement for sale where the vendor has not been released from the personal covenant contained in the document; or
- e) circumstances where there is reason to believe that one or more of the parties upon whose behalf the Member is asked to act jointly is incapable of giving informed consent or vulnerable to manipulation or coercion by another party.

#### Acting When There May be a Conflict of Interest

12.07 Prior to acting for a client or clients in circumstances in which there is, or might reasonably be, a conflicting interest, the Member shall:

- a) fully inform the client or clients of the conflict or potential conflict;
- b) advise the client to obtain independent legal representation or advice;
- c) advise the client how a conflict of interest will be addressed if one arises; and
- d) if the client or clients, fully informed with respect to the matter, still wish to retain the Member, obtain the written acknowledgement and consent of the client or clients.

#### Acting When There is More Than One Client

12.08 Prior to representing more than one client the Member must:

- a) inform each such party in writing in advance or as soon as possible that the Member acts for more than one party and that should a conflict arise which cannot be resolved, the Member cannot act for any party;
- b) advise that no information received in connection with the matter from one party can be treated as confidential so far as any of the other parties is concerned;
- c) raise all issues which may be of importance to any party, and explain the effect and consequences of these issues to all parties; and

- d) must make contemporaneous detailed records documenting the advice given to the parties.

#### Unrepresented Parties

- 12.09 Where the Member acts for one or more parties in a matter in which one or more other parties are not represented, the Member shall advise any such unrepresented parties to obtain independent legal advice or representation.
- 12.10 If any such unrepresented party does not want or refuses to obtain independent representation or advice, the Member may allow the unrepresented party to execute the necessary documents in the Member's presence as a witness or officer if the Member advises the party in writing that:
- a) the party should obtain independent representation but has chosen not to do so;
  - b) the Member does not act for the party or represent the party with respect to the transaction; and
  - c) the Member has not advised the party with respect to the transaction but has only attended to the execution and attestation of the documents.
- 12.11 If the Member witnesses the execution of the necessary documents as set out in (c) above, it shall not be necessary for the Member to obtain the consent of the other party or parties for whom the Member acts.
- 12.12 If one party to a conveyance transaction is otherwise unrepresented but wants the Member representing another party to the transaction to act for the party to remove existing encumbrances, the Member may act for the party for those purposes only and may allow the party to execute the necessary conveyance documents in the Member's presence as witness if the Member advised the party in writing that:
- a) the party should obtain independent representation but has chosen not to do so;
  - b) the Member's engagement is of a limited nature; and
  - c) if a conflict of interest arises, the Member will be unable to continue to act for the party.

#### Disclosure Required for Finders Fees

- 12.13 Any Member acting as a Notary shall not accept from an institution or investor a finder's fee or similar remuneration unless the Member:

- a) makes full disclosure in writing to the client; and
- b) the client acknowledges the disclosure and instructs in writing the Member on the disposition of the funds; or
- c) pays the fee received over to the client or credits the finder's fee received against the Member's own account to the client.

12.14 Every Member must have undivided loyalty to their client and must disclose to a client any attempt, offer, receipt, or bargaining for compensation from any sources except the Member's client.

#### Marriage Contracts and Separation Agreements

12.15 No Member shall engage in:

- a) the practice of drafting marriage contracts or separation agreements, or witness such documents as a Notary;
- b) the sale of real estate unless it is in conjunction with the Member's normal practice and the sale of real estate is incidental to the services the Member provides to clients; and
- c) the duties of acting as an executor of an estate, in their personal capacity, without having successfully completed the appropriate education program as approved by the Society.

#### Sale of Real Estate

12.16 Where a Member engages in the sale of Real Estate in accordance with 12.16(b), the Member may:

- a) allow an employee to arrange for maintenance and repairs of any property under the care and control of the Member; and
- b) allow an employee to place or remove signs, and other advertising material.

12.17 Where a Member engages in the sale of Real Estate in accordance with 12.16(b), the Member must ensure that:

- a) advertising with respect to real estate trading must be in the name of the Member and the name of the Member firm must be included in any advertisement and signs;

- b) only the Member's phone number or the firm's phone number may be on the advertisement;
  - c) only the Member conducts any open houses; an employee is not permitted to display or show the client's property.
- 12.18 A Member may provide for an employee to attend at a property in order to unlock and to let prospective buyers and/or real estate licensees view the property, but they may not show the property to Members of the public or communicate any information about the property being accessed.

### 13. SUPERVISION OF EMPLOYEES

#### Member Responsible for Service Rendered

- 13.01 A Member is completely responsible for all business entrusted to them. The Member must maintain personal and actual control and management of their practice and their office.
- 13.02 The Member must supervise and is responsible for tasks and functions delegated to staff and assistants.
- 13.03 A Member must ensure that all matters requiring a Notary Public's professional knowledge, skill and judgment are dealt with by a Member and that legal advice is not given by unauthorized persons, whether in the name of the Member or otherwise.
- 13.04 Every Member must ensure that any person, who is not a practising Notary Public, who is authorized to sign and signs correspondence including electronic correspondence must indicate their status or designation of the signing person in the correspondence.

#### Delegation of Tasks Permitted

- 13.05 Subject to the Rules in this section, a legal/notarial assistant may perform any task delegated and supervised by a Member.
- 13.06 The Member must maintain a direct relationship with the client and the Member has full professional responsibility for the services and advice provided.

- 13.07 A Member may delegate tasks or functions to a legal/notarial assistant if:
- a) the training and experience of the legal/notarial assistant is appropriate to protect the interest of the client; and
  - b) the provision is made for the professional legal judgment from a Notary Public to be exercised whenever it is required.
- 13.08 A Member must not permit a legal/notarial assistant to:
- a) perform any function reserved to Notaries Public, including but not limited to giving legal advice;
  - b) give or receive undertakings;
  - c) do anything that a Notary Public is not permitted to do;
  - d) act finally and without reference to the Notary Public in matters involving professional legal judgment; and
  - e) be held out as a Notary Public or be identified other than as a legal/notarial assistant when communicating with clients, Notaries Public, lawyers, public officials, or with the public generally.

#### Limits on Delegation of Tasks

- 13.09 A Member must not delegate to a legal/notarial assistant:
- a) Attending on the client to advise;
  - b) Taking instruction on all substantive matters;
  - c) Reviewing title search reports;
  - d) Reviewing documents before signing;
  - e) Attending on the client to review documents;
  - f) Reviewing and signing the title opinion and/or reporting letter to the client following registration;
  - g) Reviewing all written material prepared by the legal/notarial assistant before it leaves the Notary Public's office, other than documents and correspondence relating to routine administration; and
  - h) Signing all correspondence except as permitted by these rules.

#### 14. WILLS

- 14.01 Every Member must only draw and supervise the execution of Wills as provided for by Section 18 of the Act.

## 15. ADVERTISING

- 15.01 A Member may advertise to the public the location(s) of their practice and the fields of work performed.
- 15.02 Advertising and promotional material must not be false or misleading.
- 15.03 A Member may indicate preference or limited practice in particular fields, such as "Practice limited to Land Transfers" or "Preferred Area of Practice: Land Conveyancing and Wills".

### Member's Name Required on all Media

- 15.04 The name or names of all Members must appear on all forms of media except exterior signage.
- 15.05 A Member, when using the Society Seal, must ensure that the word "Member" appears beneath the Society Seal.
- 15.06 When a Member shares accommodation with another business, all advertising must clearly indicate that a specific person is a Notary Public.
- 15.07 Electronic communications are subject to federal and provincial laws and must comply with the legislation and any regulations made with respect to that legislation.
- 15.08 Any form of advertising or promotion offering a prize, inducement, or any form of payment to a third party to induce such party to encourage people to use the services of a Member is prohibited.

## 16. INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS

- 16.01 In this section "Notary Corporation" also refers to a "Limited Liability Partnership"

### Naming of a Notary Corporation

- 16.02 Where a Member intends to form a Notary Corporation, the name of a Notary Corporation must be similar to name on the Member's commission certificate and as approved by the Secretary.

- 16.03 Where more than one Member intends to form a Notary Corporation the form of the name of the Notary Corporation must include the names or the last names of the Members.
- 16.04 A Notary Corporation shall not use a name which:
- a) is identical with that of another Notary Corporation;
  - b) so closely resembles the name of another Notary Corporation that it is likely to confuse or mislead the public.

#### Application for Certificate of Corporate Name

- 16.05 A Member who intends to practise in a Notary Corporation, alone or with others, shall apply to the Society, in a form approved by the Board, for certification that the Society does not object to the intended name of the intended Corporation.
- 16.06 Upon receipt of an application under Rule 16.05, and after considering the application, the Secretary must:
- a) advise the Member in writing that the Secretary is satisfied that the intended name complies with these Rules; or
  - d) reject the application and give written reasons to the Member(s) of the decision.

#### Review of the Secretary's Decision

- 16.07 A Member whose application for the name of a Notary Corporation is rejected under may apply to the Board for a review. The Rules respecting an appeal apply.
- 16.08 A panel of the Board shall, after considering any submissions received from the Member and from the Society may:
- a) direct the Secretary to issue a certificate to the Member if it is satisfied that the intended name complies with the Rules; or
  - b) reject the application and provide written reasons to the Member and the Secretary of its decision.

### Application for Permit

- 16.09 A Notary Corporation may apply to the Society for a permit to carry on the business of providing notarial services to the public by delivering to the Secretary:
- a) a completed permit application in a form approved by the Board;
  - b) a true copy of the Certificate of Incorporation of the Notary Corporation and any other certificates which reflect a change in the name or status;
  - c) a true copy of the acknowledgement from the corporate registry that the limited liability partnership has been registered; and
  - d) the sum of \$200.00 as a fee for issuance of the permit.
- 16.10 Trade names or Doing Business As names will not be approved by the Society nor will the Society undertake to approve them.

### Issuance of Permit

- 16.11 The Secretary shall, subject to Section 58(1) and Section 63 of the Act, issue a Permit to a Notary Corporation which has complied with the Act and these Rules.
- 16.12 A permit issued under 16.11 is valid from the effective date shown on it until June 30 of the next year.
- 16.13 Notwithstanding Rule 16.12, a permit issued to a Notary Corporation ceases to be valid if:
- a) it is revoked under Section 62(1) of the Act; or
  - b) a Member of the Society who is the sole voting shareholder in the Notary Corporation dies or ceases to be a Member of the Society, and no provision is made in the articles of the Notary Corporation for immediate and automatic disposition of that Member's shares to another Member or Members; or
  - c) another Notary Corporation which is a voting shareholder in the Notary Corporation ceases to hold a valid permit under the Act, and these Rules, and no provision is made in the articles of the Notary Corporation for the immediate and automatic disposition of the other Notary Corporation's shares; or



d) it is surrendered by the Corporation to the Secretary.

16.14 Any Member or Notary Corporation wishing to form a Limited Liability Partnership must apply to the Society for a permit that will allow the Limited Liability Partnership to provide Notarial services to the public. Sections 57 to 62 of the Act apply to the formation of a Limited Liability Partnership.

#### Notary Corporation Change of Name

16.15 A Notary Corporation which intends to change its name shall apply to the Secretary, in a form approved by the Board.

16.16 The Rules regarding making an application for a Notary Corporation apply to an application to change the name of a Notary Corporation.

16.17 The Secretary must issue a new permit to a Notary Corporation which:

- a) has received a decision from the Secretary that the Society does not object to the intended name change;
- b) has delivered to the Secretary a true copy of the Certificate of the Registrar of Companies showing the change of name and the date it is effective; and
- c) has remitted the sum of \$200.00 as a fee for a permit.

16.18 A permit issued under this section is valid until the date on which the replaced permit would have expired.

#### Disclosure of Corporate Status

16.19 A Notary Corporation or Limited Liability Partnership which carries on the business of providing notarial services to the public must disclose on all media that the notarial services are being provided by a Notary Corporation or Limited Liability Partnership.

16.20 If a Limited Liability Partnership has a Notary Corporation as a partner the names of all partners and voting shareholders must be disclosed on all media.

- 16.21 The name and shareholder/partnership status of any non-Member, non-voting shareholders may not be disclosed in any media. Media may contain a reference to the name and designation of the person who is not a shareholder or partner.

#### Disclosure of Notary Corporate Information

- 16.22 The Society may disclose the following information upon request to any person:
- a) the name of a Notary Corporation;
  - b) a Notary Corporation's address for the place of business;
  - c) whether a Notary Corporation has a valid permit issued under Section 58 of the Act;
  - d) whether a specific Member of the Society practices through a Notary Corporation; and
  - e) whether a Notary Corporation is a voting shareholder of a Notary Corporation.

#### Renewal of Permit

- 16.23 A Notary Corporation which intends to continue to provide notarial services to the public shall apply to the Secretary for a renewal of the permit;
- 16.24 A renewal application shall include:
- a) a completed permit renewal application in a form approved by the Board;
  - b) payment of the annual permit fee; and
  - c) a confirmation by way of providing a search and a date-stamped Annual Report proving that the Notary Corporation or Limited Liability Partnership, is in good standing with the Registrar of Companies.
- 16.25 The Secretary shall, subject to Section 59 of the Act, issue to a Notary Corporation, which has made application under these Rules and is in compliance with the Act and these Rules, a permit entitling the Notary Corporation to carry on the business of providing notarial services to the public.
- 16.26 A permit is valid until June 30 of the next year.

- 16.27 A Notary Corporation that has failed to pay the permit renewal fee and any applicable taxes, or any portion of the fee will be subject to a late payment fee of \$500.00.
- 16.28 Where a Notary Corporation does not pay the permit renewal fee by the date it is due, the permit ceases to be valid and the Corporation shall:
- a) immediately surrender its permit to the Society; and
  - b) cease providing Notarial Services to the public.

#### Application for New Permit after Failing to Renew

- 16.29 If a Notary Corporation wishes to obtain a new permit, it may apply to the Secretary under the provisions of this part of the Rules.

#### Notification of Change in Corporate Information

- 16.30 The President of a Notary Corporation, or that person's designate shall promptly advise the Society in writing of any changes to the Notary Corporation.

#### Termination of a Notary Corporation

- 16.31 A Member who no longer wishes to practice through a Notary Corporation; or practices through a Notary Corporation and is retiring from membership in the Society is required to give notice to the Society in writing and within 60 days of the date of the notice deliver to the Society documentation showing that:
- a) the name of the company has been changed to remove the reference to a Notary Corporation the Business Corporations Act; or
  - b) the Notary Corporation has been dissolved pursuant to the Business Corporations Act.
- 16.32 Failure by a Member or a Notary Corporation to comply with these Rules will result in the revocation of the permit.
- 16.33 The Secretary must inform the Registrar of Companies of any revocation.

## 17. DOCUMENT RETENTION AND DESTRUCTION

- 17.01 A Member must make and keep documents in accordance with this Rule
- 17.02 A Member may make and keep documents in an electronically readable format.
- 17.03 A Member must ensure that documents and records are accessible and that readable, useable copies can be produced.
- 17.04 The minimum retention and disposition of documents is set out in [Schedule 1](#).

## 18. PRACTICE INSPECTIONS

- 18.01 The objectives of the Practice Inspections are as follows:
  - a) to develop recommended standards of practice for Members;
  - b) to identify Notaries who do not meet accepted standards of practice; and
  - c) to recommend remedial measures to assist those Notaries in improving their practice standards.
- 18.02 A Practice Inspection shall be conducted on the following basis:
  - a) random inspection of Member practices on a regular rotation;
  - b) newly commissioned Notaries;
  - c) as directed by the Chief Executive Officer/Secretary; or
  - d) as ordered by the discipline Committee

### Member Must Cooperate with Practice Inspection

- 18.03 A Member whose practice is being inspected under this Rule must:
  - a) permit the inspection and answer any inquiries;
  - b) provide the practice inspector with any information, files, records, and notes in the Member's possession or power; and
  - c) permit the practice inspector to obtain printed or electronic copy of any information as the Practice Inspector deems necessary.

### Report of Practice Inspection

- 18.04 After completing an inspection, the practice inspector must deliver to the Society a written report of their findings along with recommendations if any.
- 18.05 A copy of the report and recommendations must be provided to the Member.
- 18.06 The Member may respond to the report in writing. A copy of the Member's response shall form part of the report and shall be provided to the Discipline Committee if the report is referred to the Committee.
- 18.07 The Report including any recommendations, and the response of the Member if any will form part of the Society's practice inspection records.

### Action by the Society on Consideration of Report

- 18.08 After its consideration of a report the Society may do any of the following:
  - a) accept the report as satisfactory;
  - b) identify deficiencies in practices standards and order a follow-up inspection within a stated time period;
  - c) request that the Member to enrol or otherwise arrange a suitable education plan that will address the deficiencies outlined in the report; and/or
  - d) refer the report to the Discipline Committee for consideration.

### Cost for Reinspection

- 18.09 Where a follow-up inspection of the Member is ordered the Society may set the fee and the date by which the Member must pay the fee for the cost of the inspection
- 18.10 A Member who has not paid the amount owing by the date is in breach of these Rules and may be subject to discipline.

### Retention of Practice Inspection Records

- 18.11 The following information will become a permanent part of a Member's record:

- a) the date that the practice inspection review took place;
- b) the list of the recommendations provided to the Member at that time; and
- c) record of remedial action(s) taken by the Member.

18.12 The appeal provisions in these Rules shall apply to Practice Inspections.

## 19. APPEALS

- 19.01 A person who is a Member, an Applicant approved in principle, or a Notarial Candidate, may make application for an appeal of a decision made by a Committee or official of the Society where it is alleged that the Committee or official has erred in a decision.
- 19.02 This appeal process does not apply to decisions involving decisions of the Board made under Section 35 of the Act to which the rights of appeal are set out in Section 41 of the Act.
- 19.03 Any three Members of the Board shall constitute a Panel. A Member of the Board who is, or was, a Member of a Committee of which the decision is being appealed shall not participate as a Member of the Panel considering the appeal.
- 19.04 The Panel may establish Rules for a review including whether:
- a) the review is a review of the record;
  - b) to receive and consider evidence;
  - c) to conduct a hearing and the nature of the hearing.
- 19.05 An appeal under this section must be brought within thirty (30) days of the person receiving the decision. The time limit shall be calculated from the date when the decision complained of was delivered to the person filing the appeal. The Panel may grant an extension of time to file.
- 19.06 A notice of appeal must be served upon the Executive Director and may be served by electronic means, registered mail, or courier.

- 19.07 The notice of appeal shall set out the grounds of appeal and state the nature of the changes that the person filing the appeal desires the Panel to make.
- 19.08 The Society, upon being served with a Notice of Appeal, shall within a reasonable time, advise the person filing the appeal of the nature of the review and, if a hearing, the time and date and location of the hearing.
- 19.09 If the Panel holds a hearing, the person filing the appeal may be represented by counsel and may appear, present their case and adduce evidence.
- 19.10 If the person filing the appeal is to be represented by counsel, the person shall notify the Executive Director at least twenty-four days prior to the date set for the hearing.
- 19.11 The person must submit, together with any notice of appearance, a sum of \$750.00 towards the costs of the appeal. That amount shall be forfeited to the Society if the appeal is dismissed, but it shall be returned to the person if the appeal is allowed.
- 19.12 Where a person appealing a decision fails to comply with any provisions of this section, the panel may dismiss the appeal.

## 20. SCHEDULES

### Schedule 1 Retention of Documents

|    |  |  |
|----|--|--|
| a) | Notarizations<br>(Notarization does not include property ILA or Family Transfers)  | 2 years from date of issue   |
| b) | Real Property Transactions<br>Documents such as:<br>Residential and Commercial Conveyances<br>Lease/Sublease/Licence to Occupy<br>Option to Purchase/Right of First Refusal<br>Mortgage/Debenture  | 10 years after State of Title Certificate received.                    |
| c) | Any other Conveyances or Contracts   | 10 years after closing.  |
| d) | Review of Title and Opinion including Independent Legal Advice   | 10 years after closing.  |
| e) | Real Property Development<br>Phased Strata Development<br>Real Estate Prospectus<br>Easement/Right-of-Way/Restrictive Covenant<br>Subdivision/Single Plan Strata Development<br>Building Contracts | 10 years after closing.  |
| f) | Will Files   | 10 years from date of probate or 10 years from age 110 if not probated |
| g) | Personal Planning Documentation  | 10 years from date of revocation                                       |