



**THE BOARD OF GOVERNORS OF THE
MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY**

BY-LAW NO. 2

(Deposit of Securities for Safekeeping and Borrowing by the College.)

BE IT ENACTED as a BY-LAW of THE BOARD OF GOVERNORS OF THE MOHAWK COLLEGE OF APPLIED ARTS AND TECHNOLOGY (hereinafter called the “corporation”) as follows:

DEPOSIT OF SECURITIES FOR SAFEKEEPING

1. The securities of the College shall be deposited for safekeeping with one or more bankers, trust companies or other financial institutions to be selected by the Board of Governors. Any and all securities so deposited may be withdrawn, from time to time, only upon the written order of the College signed by such officer or officers, agent or agents of the College and in such manner as shall, from time to time, be determined by resolution of the Board of Governors, and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians by the Board of Governors shall be fully protected in acting in accordance with the directions of the Board of Governors and shall, in no event, be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof. The foregoing is to be in accordance with By-Law No. 1, clause 14.8.1.

BORROWING

2. The Board of Governors may, from time to time:
 - a) borrow money on the credit of the College;
 - b) issue, sell or pledge securities of the College; or
 - c) charge, mortgage or pledge all or any of the real or personal property of the College, including book debts, rights, powers, franchises and undertakings, to secure any securities or any money

borrowed, or other debt, or any other obligation or liability of the College.

From time to time, the Board of Governors may authorize any Governor, officer or employee of the College, or any other person, to make arrangements with reference to the monies borrowed or to be borrowed, as aforesaid, and as to the terms and conditions of the loan thereof, and as to the securities to be given therefore, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any monies borrowed or remaining due by the College, as the Governors may authorize and generally to manage, transact and settle the borrowing of money by the College.

Before any arrangements to borrow money are finalized, the Board Chair must submit a letter to the Minister of Training, Colleges and Universities requesting a Section 28 approval under the *Financial Administration Act* from the Minister of Finance. The letter must include the following information:

- Indication of the need for the loan or other debt instrument.
- Type of debt (loan/mortgage, etc.) and the lending source.
- Amount of the loan, the terms and conditions of the loan, repayment terms, other outstanding debts, impact of loan payments on the college's yearly operating revenues and an indication of any provincial capital or funding available to assist in the repayments.
- Confirmation that the college will be solely responsible for the debt and that the lending agreement will limit the lender's recourse exclusively to college assets. If collateral will be pledged, the letter must identify the nature of the collateral. Where appropriate, there should be confirmation that no provincial guarantee is being requested.
- Confirmation that the lending was arranged through competitive process and that the lender is an eligible institution for the college to engage as set out in the *Financial Administration Act*.

The following attachments must accompany the letter:

- A financial forecast with pro forma statements for the next five years, including projected enrolment levels and assumptions used to develop the financial forecasting.
- A Business Plan for the current year, if not already submitted.
- For project-oriented funding, cash flow statements outlining the sources and uses of funding for the full duration of the project.
- The Business Case conducted to approve the project, if applicable.

When the Section 28 approval has been granted, the Board may exercise its rights and obligations pertaining to borrowing as outlined above.

Enacted by the Board of Governors of The Mohawk College of Applied Arts and Technology and sealed with the corporate seal this 10th day of January, 2007.