

MEMORANDUM OF UNDERSTANDING

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AS REPRESENTED BY THE
MINISTER OF CONSUMER SERVICES**

- AND -

TECHNICAL STANDARDS AND SAFETY AUTHORITY

RECITALS

WHEREAS the Minister and the Corporation are required to enter into a memorandum of understanding pursuant to the *Technical Standards and Safety Act, 2000* as amended;

AND WHEREAS the Minister is accountable to the people of Ontario as a member of the Legislative Assembly and as a Minister of the Crown in right of Ontario;

AND WHEREAS the Corporation is accountable to the Minister and the government for activities under its statutory mandate;

Recognizing the Corporation administers the Act and regulations on behalf of the Minister and can provide valuable information to the government regarding the operational effectiveness of the Act and the regulations and that both parties acting in the public interest are dependent on a collaborative relationship.

Recognizing that the Minister is responsible for recommending legislative and regulatory changes to the Lieutenant Governor in Council.

Recognizing the Corporation is not funded by the government and that the Corporation is not self-regulating.

AND WHEREAS it is the intention of the Minister and the Corporation that they shall exercise their powers and duties under the Act and regulations in such a manner as to protect, enhance and improve public safety, public health and the environment and carry out and perform this agreement in a manner consistent with the objective and principle of ensuring a fair, safe and informed marketplace that supports a competitive economy;

NOW THEREFORE the parties hereby enter into this Memorandum of Understanding.

1. DEFINITIONS

(1) In this memorandum of understanding:

- a) “Act” means the *Technical Standards and Safety Act, 2000* as amended and its associated regulations;
- b) “Board” means the board of directors of the Corporation;
- c) “Chair” means the chair of the Board;
- d) “Corporation” means the Technical Standards and Safety Authority established under section 3.1 of the Act;
- e) “Crown” means Her Majesty the Queen in Right of the Province of Ontario as represented by the Minister;
- f) “CSRO” means the Chief Safety Risk Officer as defined under section 3.11 of the Act;
- g) “Minister” means the Minister responsible for the administration of the Act by Order in Council of the Lieutenant Governor;
- h) “MOU” means the Memorandum of Understanding entered into between the Minister and the Corporation and includes all attached schedules and any agreement or schedule in writing supplementing or amending this MOU or any schedule.

2. PURPOSE OF THE MOU

- (1) The MOU between the Minister and the Corporation clarifies the roles, duties, and responsibilities of the parties in relation to the administration of the Act and administrative matters under the Act.
- (2) The MOU clarifies the administrative, financial, auditing, accountability, legislative and regulatory development, and working and reporting relationships between the parties.

3. STATUTORY MANDATE

The statutory mandate of the Corporation are the objects of the Corporation as set out in subsections 3.6 (1) to (6) of the Act.

4. OBJECTS

- (1) The objects of the Corporation are set out in subsections 3.6 (1) to (7) of the Act.
- (2) Any additional objects of the Corporation shall be attached in Schedule "A" to the MOU.

5. NON-REGULATORY BUSINESS

- (1) Under section 3.6(7) of the Act the Minister has the authority to create additional objects permitting the Corporation to undertake non-regulatory business. Additional objects approved by the Minister are outlined in Schedule "A".
- (2) The Corporation shall only enter into new business arrangements that promote and enhance public safety. For this purpose the Corporation shall comply with Schedule "B".

6. ACCOUNTABILITY RELATIONSHIPS

- (1) The Minister is accountable to the legislature for the fulfilment of the statutory mandate by the Corporation and for reporting to the legislature on the affairs of the Corporation.
- (2) The Chair is accountable to the Minister for the performance of the Corporation. The Chair acknowledges that accountability to the government means accountability to the Minister.
- (3) The Board acknowledges that accountability to the government means accountability to the Minister through the Chair.

7. ROLES AND RESPONSIBILITIES OF THE PARTIES

The Minister

- (1) The Minister is responsible for overseeing the performance of the Corporation with respect to its statutory mandate. It is the Minister's role to report publicly on the Corporation's activities. For this purpose, the Minister requires timely access to information from the Corporation as set out in Schedule "C".

- (2) The Minister may conduct a review in accordance with section 3.21 of the Act.
- (3) In relation to the Act, the Minister is responsible for recommending regulatory changes to the Lieutenant Governor in Council or legislative changes in the legislature.
- (4) The Minister shall endeavour to engage the Corporation throughout the policy development process. The Minister shall endeavour to work with the Corporation to coordinate public and stakeholder communications regarding any proposed legislative, regulatory, or policy changes.
- (5) The Minister may issue policy directions to the Corporation under section 3.14 of the Act on giving reasonable notice to the Corporation in the circumstances. The parties acknowledge that a policy direction issued to the Corporation is binding on it.
- (6) The Minister shall make reasonable efforts to consult with the Corporation in respect of current or proposed Ontario government legislation or policy, which will directly impact on the Corporation's administration of the Act.
- (7) The Minister may, where the Minister deems appropriate, delegate, make or assign to the Corporation such additional authority, appointments or consents as are within the Minister's control and assist the Corporation in obtaining any additional authorities, appointments or consents, where the granting of such are not within the Minister's control.
- (8) The Minister may, where the Minister deems appropriate, work with other ministries in facilitating agreements and relationships with the Corporation.
- (9) The Minister may, where the Minister deems appropriate in consultation with the Corporation and as approved by the Lieutenant Governor in Council or such other government personnel or bodies as are required, conduct intergovernmental relations and negotiate trade and other binding intergovernmental agreements.
- (10) The Minister shall make best efforts to meet from time to time with the Chair.

The Corporation

- (11) The Corporation shall carry out its duties and responsibilities in accordance with the Act, this MOU, the law, and with the purpose of

protecting public safety, public health and the environment and advancing the principle of ensuring a fair, safe and informed marketplace that supports a competitive economy.

- (12) The Corporation is responsible for ensuring that it has adequate resources, including financial resources, to comply with the Act, this MOU, and in accordance with the business plan that it has provided to the Minister under clause 10(1)(b) of this MOU.
- (13) The Corporation is responsible for maintaining appropriate performance measurements, governance, and financial management processes with sound internal controls to conduct the Corporation's operations effectively, efficiently and economically. In addition, the Corporation shall maintain an effective system for responding to and assisting in the resolution of consumer and other complaints received by the Corporation related to the Act.
- (14) The Corporation is responsible for providing the Minister with timely information in relation to any matter requested by the Minister and shall also provide the information prescribed in Schedule "C".
- (15) The Corporation when able and appropriate shall facilitate any review required by the Minister under section 3.21 of the Act with its best efforts and provide a report on any such review.
- (16) It is the role of the Corporation when able and appropriate to coordinate its enforcement activities in relation to the investigation of serious incidents with the enforcement activities of other provincial and federal enforcement authorities.
- (17) The Corporation shall execute a protocol to be followed in the investigation of incidents under the Act as set out in Schedule "D".
- (18) The Corporation shall participate in the development of policy in a manner as requested by the Ministry with respect to proposed legislative, regulatory, or policy changes related to the Act or the administration of the Act. The Corporation shall work with the Ministry to coordinate public and stakeholder communications regarding any proposed legislative, regulatory, or policy changes.
- (19) The Corporation shall provide timely information to the Minister of any arising issues or concerns related to the administration of the Act that may require legislative, regulatory or policy changes to resolve.
- (20) The Corporation shall provide the CSRO with access to any information and records required to perform the duties of the CSRO.

8. BOARD COMPOSITION, APPOINTMENT, CHAIR AND VICE-CHAIR

Board Composition and Appointment of Directors

- (1) The Corporation shall maintain competency criteria for the Board, setting out the types of skills and competencies that are required on the Board, which shall be approved by the Minister as attached as Schedule "E". The Minister shall have regard to the competency criteria used by the Board when making appointments to the Board. The competency criteria shall be made available to the public and posted on the Corporation's website.
- (2) The Minister shall endeavour to make appointments to the Board in a timely manner.
- (3) The Minister may consult with the Corporation regarding any proposed changes to the composition of the Board.
- (4) The by-laws of the Corporation shall not grant to any person who is not a director, the right to notice of meetings of the Board nor the right to attend meetings of the Board.
- (5) The Corporation shall continue to demonstrate excellence in corporate governance and shall provide the Minister with reasonable advance notice of any by-law changes related to its governance structure.
- (6) The Board recognizes that members appointed by the Minister under subsections 3.7(3) and (4) of the Act may include representatives of consumer groups, business, government organizations or such other interests as the Minister determines.
- (7) Board members appointed by the Minister shall be paid by the Corporation in an amount and on a basis that is equivalent to all other members of the Board. Where such Board members are employed by the Crown the Board member shall not receive any remuneration.

Information required from the Board

- (8) The Board shall conduct a Board member evaluation no later than once every two (2) years in accordance with best practices. The review shall be facilitated by an independent third party and a copy of the review shall be provided to the Chair.
- (9) The Board shall adopt a binding code of conduct for its Board members, which addresses, among other matters, situations where actual or perceived conflict of interest exists, to limit the possibility of any Board

member advancing his or her personal or business interests or the interests of another organization, ahead of the interests of the Corporation. The code of conduct for Board members is subject to the approval of the Minister. Upon approval by the Minister, the code shall be attached to this MOU as Schedule "F".

- (10) The annual general meeting, where the Board shall present its annual report and audited financial statements, and report to the members of the Corporation on the affairs of the Corporation for the immediately preceding year, shall be open to the general public and the Board shall make reasonable efforts to inform the general public of such meeting.

Minister's Appointment of Chair and Vice-Chair

- (11) The Minister shall appoint the Chair and Vice-Chair of the Board from among the directors of the Board as soon as practical in advance of the annual general meeting and for this purpose the Minister may consider the views of the Board, competency criteria, succession planning, and any other matter the Minister considers advisable in the circumstances.
- (12) The term of the Chair and Vice-Chair of the Board shall be concurrent with their term as director of the Board.
- (13) The first Chair and Vice-Chair of the Board shall be appointed after the first annual general meeting occurring after the signing of this MOU and thereafter the Minister shall appoint the Chair in advance of the annual general meeting.

Regulatory Affairs Oversight

- (14) The Board shall be responsible for carrying out the following regulatory governance functions:
 - a) Review the adequacy and effectiveness of the Corporation's safety framework to ensure compliance with the Act;
 - b) Review implementation of and reporting on the safety framework;
 - c) Provide strategic advice on potential or proposed policy changes.

9. STATUTORY DIRECTORS

- (1) The Corporation shall make and maintain all statutory appointments required by the Act.

- (2) The Corporation agrees that the position and functions of the statutory director under the Act shall be exercised by an appointee of the Corporation and will not be exercised by the Board or a member of the Board or the President and CEO, or the CSRO.
- (3) The Corporation acknowledges that the inspectors, investigators, statutory directors and other officers exercising statutory and regulatory duties require independent decision-making and, for that purpose, the Corporation agrees that the Board, and the President and CEO, shall not interfere with the independent exercise of these statutory functions but reserves the right to review how those functions are carried out, consistent with its duty to supervise the management of the business affairs of the Corporation and ensure it is consistent with the Corporation's statutory mandate and objects. In addition the CSRO and the Minister shall not interfere with the independent exercise of these statutory functions.

10. CORPORATE REPORTING: STRATEGIC PLAN, BUSINESS PLAN and ANNUAL REPORT

- (1) The Corporation shall:
 - a) provide the Minister each year, not later than one hundred twenty (120) days before the end of its fiscal year, a strategic plan for the forthcoming year (as described in Schedule "G") in a format acceptable to the Minister;
 - b) provide the Minister each year, not later than one hundred twenty (120) days after the end of its fiscal year, a business plan for the forthcoming year (as described in Schedule "G") in a format acceptable to the Minister;
 - c) provide the Minister each year, not later than one hundred twenty (120) days after the end of its fiscal year, an annual report for the preceding year (as described in Schedule "G") in a format acceptable to the Minister;
 - d) provide the Minister with at least thirty (30) days to review and comment on the documents referred to in clauses (a), (b), and (c) after approval of the Board but prior to publication.
 - e) make all publications referred to in clauses (a), (b), and (c) available to the public including posting on the Corporation's website.

- (2) The Corporation's business plan shall set out the means by which services related to the administration are provided in the French language and the Corporation's annual report shall account for how these French language services were provided.
- (3) The Corporation's business plan shall set out the means by which complaints related to the administration are responded to and resolved and the Corporation's annual report shall account for how these complaints were responded to and resolved.
- (4) The Corporation shall conduct a client satisfaction / value survey of its clients and stakeholders at least once every two (2) years. The client satisfaction / value survey shall be facilitated by an independent third party. A summary of the survey produced by the third party shall be shared with the Ministry and posted to the Corporation's website.
- (5) The Corporation's annual report shall include a section on data integrity, data quality, and implementation of data quality control and assurance processes and procedures throughout the organization.
- (6) The Corporation shall provide to the Minister such performance measures as agreed upon regarding the administration on a quarterly basis each year. These measures will be based on a stable set of performance metrics that will reflect all regulated sectors and enable a year to year comparison. Where a year to year comparison is not possible because of a change in performance metrics, the Corporation shall provide to the Ministry sufficient information to enable a comparison.

11. CORPORATION AND THE AUDITOR GENERAL

- (1) The Auditor General appointed under the *Auditor General Act*, R.S.O. 1990, c.A.35, may conduct a value for money audit of the Corporation as set out in section 3.22 of the Act.
- (2) Upon the Auditor General conducting an audit under subsection 11(1) of this MOU, the Corporation shall provide the Auditor General and its employees access to all records and any information required to conduct the audit, as referenced in Schedule "H".
- (3) Each party shall forthwith notify the other party upon receiving notice from the Auditor General of an audit conducted on the Corporation.
- (4) In the event that the Auditor General conducts an audit, the Minister shall assist the Corporation in responding to the audit.

12. FINANCIAL ARRANGEMENTS

- (1) The Corporation acknowledges that fines imposed by a court under the Act further to proceedings taken by the Corporation under the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33 as amended, cannot be collected or retained as revenue by the Corporation.
- (2) The Corporation shall develop fees, costs or other charges related to its duties, roles and responsibilities under the Act in accordance with the process and criteria approved by the Minister, to be set out in Schedule "I".
- (3) The Corporation agrees to pay to the Minister such amounts as set out in Schedule "I".
- (4) Any payments by the Corporation to the Minister shall be made by cheques payable to the Minister of Finance drawn on the account of the Corporation on a timely basis and on the terms as set out in Schedule "J".
- (5) The Minister shall charge interest on any late payments on the terms set out in Schedule "J".
- (6) The Corporation shall report to the Minister at the earliest opportunity if there is any reason for concern about the financial state of the Corporation.

13. RECORDS, PRIVACY ACCESS

- (1) All records obtained, created, or maintained by the Corporation in the course of carrying out its duties are the property of the Corporation and the Corporation is the sole owner and custodian of such records and information and may use them for its legitimate purposes in the administration of the Act.
- (2) The Corporation shall have an access and privacy code addressing issues of access to information, protection of personal information, and effective procedural remedies. The Code shall protect privacy and provide access in accordance with the principles of the *Freedom of Information and Protection of Privacy Act*, and provide effective remedies. Upon approval by the Minister the code shall be attached to this MOU as Schedule "K".

14. THE CHIEF SAFETY AND RISK OFFICER

Appointment

- (1) The Board shall appoint the CSRO with the consent of the Minister. For this purpose the Minister shall provide the consent in writing, in advance of the appointment.
- (2) In determining whether to consent to the appointment of the proposed CSRO, the Minister shall consider whether the proposed CSRO:
 - a) Has appropriate credentials and competencies to effectively discharge the duties of the position;
 - b) Has demonstrated experience in the area of public safety;
 - c) Has exhibited the ability to work with impartiality, objectivity and integrity:
 - d) Is not a current employee or has not been a past employee, officer or director of the Corporation within four (4) years; and,
 - e) Any other matter the Minister considers appropriate, on giving reasonable notice to the Board.
- (3) The CSRO shall be appointed for a term of at least three (3) years and up to five (5) years. The CSRO may only be removed from the position with good and sufficient cause by the Board. The Board shall advise the Minister of any action it proposes to take under this provision.

Accountability

- (4) The CSRO shall report directly to the Board.
- (5) The Board and the Minister acknowledge that the CSRO exercises an independent role, pursuant to the Act and that the duties of the CSRO requires independent decision making. For this purpose the Board and the Minister shall not interfere with the independent exercise of the CSRO's role. For this purpose the parties acknowledge that it is the explicit employment duty of the CSRO to report to the Board or the Minister, as the case may be, any interference in the CSRO's discharge of its duties.

Duties and Responsibilities

- (6) The CSRO shall independently review the Corporation's activities or proposed activities related to the public safety responsibilities assigned to the Corporation pursuant to the Act, including comments on the Corporation's annual safety performance report.
- (7) The CSRO may, subject to subsection 14(11) of this MOU, prepare a report on any matter related to the activities of the Corporation or proposed activities if the CSRO considers it in the public interest to do so.
- (8) The CSRO shall, subject to subsection 14 (11) of this MOU, prepare a report on an annual basis as required by subsection 3.11 (4) of the Act and such other reports as may be requested by the Board or the Minister. Where either the Board or the Minister requests a report, the CSRO shall provide the report within the time indicated by the Board or the Minister as the case may be. The annual report shall include an overview of the CSRO's activities and operations, highlight key recommendations arising out of any other report issued by the CSRO in the preceding year, and any other matter the CSRO considers relevant.
- (9) The reports prepared by the CSRO shall be made available at the Corporation's annual meeting and shall be made available to the public by such means as determined by the CSRO.
- (10) The CSRO shall be an advocate for public safety issues and shall take a forward looking approach in this role based on current best practices and trends.
- (11) The CSRO shall not at any time accept or engage in any of the following duties:
 - a) Report or comment on any finding of liability or fact or on any investigation, whether initiated by the Corporation or another enforcement body, any legal proceeding, or reasonably foreseeable legal proceeding involving the Corporation or the Ministry;
 - b) Report or comment on any action, or decision, by a statutory director under the Act, nor interfere in any duty, or power of a statutory director;
 - c) Investigate or review specific incidents, or individual complaints;
 - d) Accept any statutory, regulatory, administrative, or enforcement responsibilities.

15. MINISTER'S POWER TO AMEND THE MOU

- (1) The Minister may amend the MOU as established under subsection 3.15 (2) of the Act. For this purpose the Minister may consult with the Corporation where advisable regarding any amendment to the MOU. The Minister shall provide reasonable notice of any amendment in writing to the Chair.
- (2) The Minister shall endeavour to make best efforts to ensure that the Corporation has sufficient time to comply with the amended terms of the MOU.

16. APPOINTMENT OF ADMINISTRATOR

The parties recognize that the Minister has the power under section 3.23 of the Act to appoint an administrator if the Minister considers it in the public interest to do so.

17. INSURANCE

- (1) The Corporation shall at all times maintain adequate insurance against liability arising out of the Corporation's carrying out its administration of the Act or its duties under the Act, or this MOU.
- (2) The Corporation shall arrange for the completion and submission of a certificate of liability insurance which shall include a provision requiring the insurer to give prior notice to the Minister in the manner set forth in the policy conditions in the event that the policy is changed or cancelled.
- (3) The Corporation shall take all reasonable steps to protect itself from and against all claims which might arise from the carrying out of its duties under the Act by the Corporation, its officers, employees and agents where bodily injury (including personal injury), death or property damages is caused and for this purpose shall, without restricting the generality of the foregoing, maintain comprehensive general liability insurance acceptable to the Minister and subject to limits of not less than \$25 million inclusive per occurrence of bodily injury, (including personal injury), death and damage to property including loss of the use thereof, and automobile liability insurance (owned and non-owned or hired units).
- (4) The policies of liability insurance shall include as an additional insured Her Majesty the Queen in Right of Ontario as represented by the Minister but only in respect of and during the performance of the Corporation of its administration of the Act or duties under the Act and not in respect of any

act or omission of the Crown including its directors, appointees, officers, employees or agents. In addition, the policy of liability shall contain a cross-liability clause or endorsement. The parties recognize that the requirement for the Crown to be named as an additional named insured does not apply to a policy of insurance in respect of Errors and Omissions.

- (5) In the event that the Minister imposes an obligation on the Corporation by way of legislative or regulatory amendments or otherwise, which gives rise to exposure to liability on the part of the Corporation for which the Corporation cannot reasonably obtain appropriate liability insurance, the Corporation shall provide immediate notice to the Minister in writing of the uninsured risk and the Corporation and the Minister shall identify appropriate measures to resolve the issue to the satisfaction of both parties.

18. INDEMNITY AND RELEASE

- (1) The Corporation shall, at all times, indemnify and save harmless the Crown, including its directors, appointees, officers, employees and agents, from and against any and all claims, demands, losses, costs, damages, actions, suits or other proceedings suffered or incurred by or brought against the Crown:
- (a) attributable to anything done or omitted to be done by the Corporation, its directors, appointees, officers, employees or agents in connection with the carrying out of the administration of the Act or its duties under the Act, the Act, a Minister's order or this MOU, or
 - (b) in respect of any Post Period Claim.
- (2) The Crown will, at all times, indemnify and save harmless the Corporation, its directors, appointees, officers, employees and agents, from and against any and all claims, demands, losses, costs, damages, actions, suits or other proceedings suffered or incurred or brought against the Corporation:
- (a) attributable to anything done or omitted to be done by the Crown, its directors, appointees, officers, employees or agents related to this MOU, the Act or the administration of the Act, or
 - (b) in respect of any Prior Period Claim.
- (3) The indemnification in subsection 18(1) and (2) of this MOU survive termination of this MOU for the maximum period permitted by law or

contract and the Corporation shall be required to have insurance and/or bonding for this purpose and shall provide the Minister with proof of same

- (4) The Corporation agrees that the Crown is not liable for any losses, bodily or personal injury or property damage of any nature whatsoever that may be suffered or sustained by the Corporation, its directors, appointees, officers, employees or agents related to, occasioned by, or in any way attributable to the Corporation's carrying out the administration of the Act or its duties under the Act, or this MOU and the Act, unless the loss, injury, or damage is caused by the negligence or wilful misconduct of a Crown employee while acting within the scope of his/her employment.
- (5) The Minister agrees that the Corporation is not liable for any loss, bodily injury or property damage of any nature whatsoever that may be suffered or sustained by the Crown, including its directors, appointees, officers, employees or agents, under this MOU and the Act, unless the loss, injury, or damage is caused by the negligence or wilful misconduct of the Corporation, its directors, appointees, officers, employees or agents.

19. LITIGATION

- (1) Notwithstanding the amendments made to the Act the following provisions address the litigation arising as a result of the Corporation's designation under the *Safety and Consumer statutes Administration Act, 1996*, as well as litigation arising after the amendments to the Act. For this purpose the Administrative Authority means the Corporation.
- (2) Civil and administrative litigation, including inquests, related to the Act in which the Crown is a defendant or an interested party, which was commenced prior to the date of designation of the Administrative Authority or which was commenced after that date but which relates in whole or in part to any event, act or omission, or to any alleged act or omission, occurring prior to that date, shall be defended or otherwise carried out by the Crown unless the parties expressly agree otherwise, and the Crown shall be responsible for all costs of the litigation and for the payment of any damages, subject to order of the court or agreement of the parties otherwise. The parties agree that the Corporation reserves its right to defend or otherwise carry out any such litigation on its own behalf and at its own cost where it determines that it has an independent interest in the litigation.
- (3) The Corporation shall cooperate with the Crown as the case may be for the purpose of the Crown's defence or other participation in the litigation referred to in subsection 19 (2) of this MOU including, without limiting the

- generality of the foregoing, providing documentation or information and providing witnesses in such litigation, where appropriate.
- (4) Civil and administrative litigation, including inquests, related to the Act in which the Crown is a defendant or an interested party, as a result of any alleged act or omission of the Corporation in its administration of any of the delegated Act and which was commenced after the date of designation of the Administrative Authority, shall be defended or otherwise carried out by the Corporation (with full right and power to choose legal counsel and with full right and power to reach a settlement which binds the Corporation and, with the Crown's consent, binds the Crown), unless the parties expressly agree otherwise. The Corporation shall be responsible for all costs of the litigation and for the payment of any settlement costs agreed to and payable by it and any damages awarded against it, as a result of any act, omission or fault of the Corporation, subject to order of the court or agreement of the parties otherwise. The parties agree that the Crown reserves its right to defend or otherwise carry out any such litigation on its own behalf and at its own cost where it determines that it has an independent interest in the litigation.
- (5) Any proceedings, and any civil, criminal or administrative litigation, including inquests, not related to the Corporation's administration of the Act, in which the Crown is a defendant or an interested party, arising from or in any way connected with any activity undertaken by, or alleged act or omission of the Corporation, shall be defended or otherwise carried out by the Corporation. The Corporation shall be responsible for all costs of the proceedings or litigation and for the payment of any settlement costs agreed to and payable by it and any damages awarded against it. The parties agree that the Crown reserves its right to defend or otherwise carry out any such proceedings or litigation on its own behalf and at its own cost where it determines that it has an independent interest in the proceedings or litigation.
- (6) The Minister or the Crown shall cooperate with the Corporation for the purpose of the Corporation's defence or other participation in the litigation referred to in subsection 19 (4) including, without limiting the generality of the foregoing, providing documentation or information and providing witnesses in such litigation, where appropriate.
- (7) For greater certainty, the Corporation shall have authority to and may carry out all prosecutions related to the Act on behalf of and in the name of the Crown, all in accordance with, pursuant to and in furtherance of the obligations of the Corporation, hereunder and under the Act, to administer the Act.

- (8) The Minister or the Crown shall keep the Corporation informed of any litigation by or against the Crown or in which the Crown is an interested party that may affect the interests of the Corporation.
- (9) The Corporation shall keep the Minister informed of any litigation by or against the Corporation or in which the Corporation is an interested party that may affect the interests of the Minister or the Crown.

20. JURISDICTION

This agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

21. CONFLICT

In the event of a conflict between the provisions of the MOU and the Act, the Act prevails.

22. ENTIRE AGREEMENT

The Minister and the Corporation agree that this MOU and any schedules hereto, as amended from time to time in accordance with section 15 of this MOU and subsection 3.15 (2) of the Act form the entire MOU between the parties and supersede any prior understanding or agreement, collateral, oral or otherwise, existing between the parties at the date of the execution of the MOU.

23. PUBLIC DOCUMENT

The parties agree that this MOU, including the Schedules hereto, and any amendments, shall be made available to the public by either party upon request to that party by any member to the public and that each party will post the MOU, schedules and any amendments to that party's website.

24. TERM OF AGREEMENT

- (1) This MOU comes into effect on the date of execution of this MOU by both parties and continues until such time as this MOU is replaced.
- (2) The parties shall conduct a review of the MOU every five (5) years. Despite the foregoing, either party may initiate a review of the MOU when advisable in the public interest upon giving notice to the other.

Signed at Toronto, Ontario.

As originally signed by Elizabeth Dowdeswell

Chair of the Board
Technical Standards and Safety Authority

April 16, 2013

Date

As originally signed by Tracy MacCharles

The Honourable Minister Tracy MacCharles
Ministry of Consumer Services

April 24, 2013

Date

SCHEDULE "A" – SUMMARY ADDITIONAL OBJECTS OF THE CORPORATION

1. Provide safety related services that are related or similar to those matters assigned to the Corporation under the *Technical Standards and Safety Act 2000*.
 - a. To the federal government or any of its agencies, boards, commissions, or its other entities, where all aspects of the work occurs within Ontario.
 - b. To a municipality within Ontario even if that municipality is subject to the *Technical Standards and Safety Act 2000*
 - c. To a First Nation, with that First Nation's consent, for work occurring on a reserve within the meaning of the *Indian Act* (Canada), provided that the reserve is located within Ontario
 - d. To a person or entity for the purposes of that person or entity complying with Canadian federal or provincial law, and provided that, for work occurring after December 31, 2013, all aspects of the work occurs within Ontario
2. Work related to issuing "Quality Assessed Facility" designation to a person for property located in Ontario, or educational institution in Ontario, even if the property, person or educational institution, as the case may be, is subject to the *Technical Standards and Safety Act* and provided that all aspects of work occurs within Ontario.
3. Work in relation to issuing certificates of authorization for the purposes of a person complying with Canadian Standards Association code CSA-N285 (or a successor to that code), whether the Corporation conducts the work within Canada or in a jurisdiction outside of Canada.
4. Work in relation to highway tanks, portable tanks and mobile processing units for the transportation of dangerous goods for the purposes of a person complying with Canadian Standards Association code CSA-B620 (or a successor to that code), whether the Corporation conducts the work within Canada or the United States of America.

Technical Standards and Safety Authority

[As Originally signed by Elizabeth Dowdeswell](#)

Chair of the Board
Elizabeth Dowdeswell

[April 16, 2013](#)

Date:

Ministry of Consumer Services

[As Originally signed by Tracy MacCharles](#)

The Honourable Tracy MacCharles
Minister of Consumer Services

[April 24, 2013](#)

Date:

SCHEDULE “B” – NON- REGULATORY BUSINESS POLICY

AUTHORITY

The statutory mandate of the Technical Standards and Safety Authority (the Corporation) are the objects of the Corporation as set out in subsections 3.6 (1) to (6) of the Act.

Under subsection 3.6 (7) of the Act the Minister has the authority to create additional objects (set out in subsections 3.6 (1) to (7) of the Act) permitting the Corporation to undertake non-regulatory business, that is business in addition to the Corporation’s statutory mandated business.

POLICY

The Corporation will only enter into non-regulatory business arrangements that promote and enhance public safety and are consistent with its vision and mission. It will operate in compliance with the principles outlined in this Policy. The Corporation will ensure that all its employees are aware of and act in compliance with this policy.

POLICY PRINCIPLES

- Commitment to Core Responsibilities and Regulatory Integrity: The Corporation will continue at all times to conduct itself in a manner that maintains its ability to effectively, with high standards of integrity and in a non-conflicted manner, deliver its statutory mandate.
- Fair Business Practices: The Corporation will not use its authority as a regulator to create an unfair business advantage.
- Fair Competition: The Corporation will ensure that all contracts, agreements or understandings are consistent with competition law.
- Financial Independence: The Corporation will deliver non-regulatory business services that enhance safety and revenues generally to the benefit – but never to the detriment – of its regulatory responsibilities. The Corporation will ensure independent financial management and reporting of non-regulatory business services.

COMPLIANCE

The Corporation will submit the following to the Minister:

- annual statements, no later than May 31, outlining all non-regulatory business arrangements conducted within Ontario during the Corporation’s previous fiscal year; and
- a statement for each non-regulatory business arrangement conducted outside of Ontario. This statement shall be provided to the Minister within ten (10) business days after entering into a legally binding contract;

The statement(s) shall contain

- confirmation that the service will not negatively impact the Corporation’s statutory mandate;
- confirmation that the service is consistent with the principles of this policy;

- confirmation that the service is authorized under the objects outlined in Schedule A to the Memorandum of Understanding (MOU) between the Minister and the Corporation;
- the parties of the arrangement; and
- the nature and duration of the work.

Where the Corporation engages in an activity authorized by object “3”, as ordered by the Minister and as outlined in Schedule “A” paragraph 3, where the work is conducted outside of Ontario, the Corporation must include in the statement described above an analysis that demonstrates how the activity benefits a business in Ontario.

The Corporation will communicate its Non-Regulatory Business Policy to its stakeholders to ensure a broad base of understanding. The Corporation will monitor its business development activities to ensure this policy is being consistently applied.

The Corporation will implement this policy so as to ensure appropriate treatment of confidential information, proper disclosure of the Corporation’s role, and decision-making that is fair and sound.

The Corporation will engage a third party to conduct an annual review of compliance with this Policy. In addition a summary of findings of the review will be made available to the public, including posting on the Corporation’s website.

REQUEST FOR NEW OBJECTS

Where the Corporation intends to enter into an agreement that is not covered by the objects outlined in Schedule A, it shall provide the Minister with a proposal regarding the proposed new non-regulatory business with supporting material necessary to review the proposal, and shall request that the Minister add an additional object permitting the new business. The Minister will respond to the Corporation’s request within forty-five (45) calendar days.

Technical Standards and Safety Authority

Ministry of Consumer Services

As Originally signed by Elizabeth Dowdeswell

Chair of the Board
Elizabeth Dowdeswell

As Originally signed by Tracy MacCharles

The Honourable Tracy MacCharles
Minister of Consumer Services

April 16, 2013

Date:

April 24, 2013

Date:

SCHEDULE “C” – INFORMATION SHARING

This Schedule outlines information sharing protocols recognizing that the Technical Standards and Safety Authority (the Corporation) shall respond in an expeditious manner to all requests made by the Minister relating to:

- (a) the governance of the Corporation;
- (b) the administration of this Act and the regulations by the Corporation;
- (c) the memorandum of understanding under section 3.15 of the Act; or
- (d) a policy direction issued by the Minister under section 3.14 of the Act.

This Schedule outlines information sharing protocols not already specified in the MOU or other Schedules to the MOU (e.g. Corporate Planning and Reporting, Fee Setting Process and Criteria, Auditing Arrangements).

Unless specifically outlined in this Schedule, when making information requests of the Corporation the Ministry shall inform the Corporation of the timeframe in which the information is needed.

To facilitate information sharing the Corporation and the Ministry will seek to achieve a “one-window” policy with the Corporation’s Public Relations and Communications Department and the Ministry’s Sector Liaison Branch being the access points.

In addition, the Corporation’s Public Relations and Communications Department and the Ministry’s Sector Liaison Branch shall make reasonable efforts to meet quarterly to discuss current issues, needs and other matters necessary for the proper administration of the Schedule C.

Description	Responsibility	
	Ministry	Corporation
Information requests made by the Ministry of the Corporation	The Ministry shall make best efforts to share with the Corporation the context in which the request for information is being made.	The Corporation shall respond in an expeditious manner to all requests made by the Minister.
Cabinet Submissions		
All issues	Policy develops submission in cooperation with Sector Liaison.	Corporation is consulted where appropriate.
Correspondence		
<i>The Ministry and the Corporation will work together to issue responses whenever possible in a timely fashion respecting the requirement for the Ministry to respond to all correspondence in five (5) business days.</i>		

On all subjects directed to the Minister or Ministry	Actioned to Sector Liaison which actions to Corporation or drafts reply indicating referred to Corporation for direct response or drafts reply.	Responds directly under Corporation's own signature and copies Sector Liaison or supplies Sector Liaison with information required to reply.
Briefing Notes		
For Minister or Ministry meetings with the Corporation's stakeholders	Sector Liaison/Policy coordinates preparation of material, makes reasonable effort to notify the Corporation of the meeting, and discusses with the Corporation.	Provides Sector Liaison with relevant information on stakeholder/issues.
For Corporation's meetings with Ministry stakeholders (e.g. other ministries or agencies)		The Corporation makes reasonable effort to notify Sector Liaison of the meeting, and discusses with Sector Liaison.
Issue Notes		
<i>The Ministry and the Corporation will work together to issue responses in a timely fashion respecting the requirement for the Ministry to respond to all requests for Issues Notes within the timeframe specified (timelines could be as short a 30 mins to 1 hr and requests could be issued as early as 7 am).</i>		
On any subject (Designed for use in the Legislature)	Sector Liaison prepares issues note and supplies to Ministry Communications. Requests for information to develop issues notes will be accompanied by a deadline for response.	Corporation provides information to Sector Liaison within timeframe specified.
Issues Management		
Emergencies, accidents and fatalities	When the Ministry is informed by the Corporation or through media reports, refer to "Emergency and Serious Incident Communication Protocol".	Corporation informs Sector Liaison in accordance with the "Emergency and Serious Incident Communication Protocol" as established between the two parties.
Other possible contentious items: (e.g stakeholder grievances/concerns, corporate restructuring, etc.)	Sector Liaison informs Ministry Communications.	Corporation informs Sector Liaison and provides relevant details, key messages and response strategy.
Media Relations		
Requests made to the Ministry for interviews and background material on the Corporations operational issues	Ministry Communications notifies Sector Liaison who, as appropriate, refers the request to Corporation or obtains the required information.	Corporation provides the required information or responds directly and advises Sector Liaison of the outcome from the media engagement.
Media releases issued by the Corporation	Sector Liaison shares a copy of the media release with Ministry	TSSA prepares and shares copy of same to Sector Liaison

	Communications.	at its earliest opportunity and before release is issued to media.
Speeches/Speaking Notes		
All Ministry speeches/speaking notes (any topic)	Ministry Communications prepares, Sector Liaison advises the Corporation.	Supplies Sector Liaison with information.
Minister's Scorecard		
Metrics and performance measure results	Sector Liaison will make request for metrics and performance measure results from the Corporation from time to time to facilitate the publication of the Minister's Scorecard.	Supplies Sector Liaison with metrics and performance measure results as available at the time when requested.
Other		
Information concerning Board member competencies	Sector Liaison will make requests for information as and when required.	The Corporation shall provide, at least once annually, and as requested: Board member names; tenure; and a competencies analysis.
Information concerning communications campaigns/activities undertaken by the Corporation	Sector Liaison makes request to Corporation for information regarding planned communications campaigns/activities.	Provides information on key communication activities to Sector Liaison on a quarterly basis and on request.

[As originally signed by George Irwin](#)
 Chair of the Board
 Technical Standards and Safety Authority

[April 27, 2010](#)
 Date

[As originally signed by Sophia Aggelonitis](#)
 The Honourable Minister Sophia Aggelonitis
 Ministry of Consumer Services

[April 28, 2010](#)
 Date

SCHEDULE “D” – INCIDENT INVESTIGATION PROTOCOL

PURPOSE

The MOU made between the Ministry of Consumer Services (MCS) and the Technical Standards and Safety Authority (TSSA), provides that the TSSA is to ensure the involvement of a government body or law enforcement agency other than the Corporation to assist with the investigation of serious incidents or fatalities as set out in clause 4 below and ensure the avoidance of conflict of interest, or the appearance of conflict of interest, regarding the conduct of an investigation. This protocol shall be subject to the approval of the Minister.

REQUIREMENTS OF THE TSSA

1. The TSSA will enter into an investigation Protocol agreement with the Ministry of Labour (MOL) regarding MOL monitoring of certain TSSA investigations. The Protocol agreement with MOL will clarify how MOL involvement will be initiated, the expectations on MOL involvement in terms of oversight and monitoring role of a TSSA investigation, and the fees payable to MOL.
2. The Protocol and any amendment is subject to the approval of the Minister.
3. The TSSA will provide MCS with a signed copy of the Protocol and the Protocol shall form part of this Schedule.
4. The TSSA agrees to invoke the Protocol regarding an incident in which all of the following three conditions exist:
 - a. The TSSA has previously inspected or authorized the equipment or facility involved;
 - b. The investigation relates to a serious incident or fatality; and
 - c. There is a conflict of interest, or a perceived conflict of interest arising out of the TSSA’s investigation.
5. In the event that MOL is unable to monitor a TSSA investigation for any reason, TSSA and MCS shall together ensure the involvement of a government body or law enforcement agency to monitor the investigation.

6. The Ministry retains the right to request that the TSSA invoke the Protocol in the circumstances described in paragraph 4, or for any other situation it may consider appropriate.

As originally signed by George Irwin
Chair of the Board
Technical Standards and Safety Authority

April 27, 2010
Date

As originally signed by Sophia Aggelonitis
The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

April 28, 2010
Date

SCHEDULE “E” – BOARD COMPETENCY CRITERIA

All Directors must meet the following competency criteria.

As a basic prerequisite, each Director shall be an individual who is not less than 18 years of age, has the power under law to contract, has not been found by a court in Canada or elsewhere to be mentally incompetent and does not have the status of a bankrupt.

Each Director brings unique skills and experience to the Board. In selecting new members, attention will be given to ensuring that the collective mix of skills and experience supports the Board’s ability to add strategic value to TSSA.

Collective Board Skills and Experience

At a minimum:

- at least three of the Directors shall have work experience from any of the following sectors: amusement devices, boilers and pressure vessels, elevating devices, natural gas, operating engineers, petroleum, propane, ski lifts or upholstered and stuffed articles; and
- at least three of the Directors shall not have work experience directly reflective of the sectors outlined above.

Collectively Board members should:

- possess a positive orientation for proactive public safety initiatives;
- provide strong participation that strives for excellence and supports consensus-building;
- be strategic thinkers who take a governance-focused approach to Board responsibilities; and demonstrate a willingness to proactively support TSSA’s mandate, vision and values.

A Minister appointed Director may include representatives of consumer groups, business, government organizations or such other interests as the Minister determines.

The Board will seek to achieve diversity in its membership.

Individual Knowledge and Experience

To foster its ability to provide strategic direction and fulfill its oversight responsibilities, the collective Board should include members with knowledge of and experience in the following areas:

- membership on Boards of Directors, including not-for-profit boards;
- possess diverse perspectives (in a management or advisory capacity), including business, regulated industries, and the public interest;
- risk management and analysis;
- public policy and government relations;

- regulatory environments;
- financial literacy (including members with a CA designation or equivalent);
- marketing, public relations and communications;
- executive management, human resources and compensation;
- re-engineering business processes;
- information technology; and
- building partnerships and strategic alliances.

As originally signed by George Irwin

Chair of the Board

Technical Standards and Safety Authority

April 27, 2010

Date

As originally signed by Sophia Aggelonitis

The Honourable Minister Sophia Aggelonitis

Ministry of Consumer Services

April 28, 2010

Date

SCHEDULE “F” – BOARD CHARTER, CODE OF CONDUCT AND COMPOSITION

Board Charter

Technical Standards and Safety Authority (TSSA's) Board of Directors (Board) has adopted this Charter as part of its commitment to high standards of corporate governance. This Charter describes the Board's mandate, accountability and composition, and sets out a Board-Specific Code of Conduct.

More detailed information about TSSA's corporate governance is set out in the by-laws and in corporate policies, notably the Terms of Reference for a Director, the Board Competency Criteria and the Delegation of Authorities. The Board's activities are outlined in an annual governance work plan and recorded in minutes of meetings.

Mandate

The Board is responsible for stewardship, including oversight of the organization and taking a leadership role in the development of the organization's strategic direction. More specifically, the Board's mandate includes:

- regularly reviewing with management the strategic environment, the emergence of new risks and opportunities and the implications for TSSA's strategic direction;
- approving strategic plans that take into account TSSA's major risks and opportunities and overseeing the management of those risks;
- appointing, coaching, monitoring and assessing the performance of the Chief Executive Officer (CEO);
- charging the CEO of the organization with the general management and direction of the business and affairs of the organization;
- appointing the CSRO of the Corporation upon the consent of the Minister and directing the CSRO to prepare reports pursuant to the MOU;
- overseeing the appointment, training, monitoring and succession planning for senior management;
- monitoring the external communications, including public disclosures, of the organization;
- monitoring the integrity of the organization's internal control and management information systems; and
- approving the business plan and budget, and ensuring the integrity of the organization's reported financial performance.

The Board oversees the performance of the CEO and management team in discharging the management and direction of TSSA's business as delegated to them by the *Technical Standards and Safety Act, 2000*. The Board recognizes that it shall not interfere with the independent decision-making of employees exercising statutory functions.

Accountability

The Chair is directly accountable to the Minister for the performance of the corporation and the Board acknowledges that accountability to the Minister is through the Chair.

The Board is committed to TSSA complying with both the letter and the intent of oversight processes established in support of the Minister's accountability to the Ontario public and to demonstrating excellence in corporate governance.

Board Composition

Composition of the Board is governed by the Act. TSSA is governed by a 13-member Board of Directors (unless changed in accordance with the Act). The Board consists of:

- seven elected directors; and
- six directors appointed by the Minister.

The CEO of TSSA shall not be a Director.

At least three directors shall have work experience from any of the following sectors: amusement devices, boilers and pressure vessels, elevating devices, natural gas, operating engineers, petroleum, propane, ski lifts or upholstered and stuffed articles. At least three elected directors will be not directly related to the sectors identified above.

Except in the case of a Director who is appointed as Chair by the Minister, all elected directors may serve a maximum of five consecutive two-year terms, and retire in rotation so that some directors are elected every year. In the case of the Director appointed as Chair, the Director may serve an additional two-year term.

The Minister and the Board approve Board Competency Criteria and the Governance, Safety and Human Resources Committee (GSHRC) broadly seeks nominations of qualified individuals from a number of sources, including from the Industry and Consumer Advisory Councils. (See Schedule E for Board Competency Criteria). The Board Competency Criteria will be reviewed at least every five years to ensure that it reflects the current needs of the Board. In nominating individuals for election, the GSHRC seeks to ensure that the Board has a mix of skills and experience to provide appropriate leadership and strategic direction to TSSA. In addition, all new directors receive an orientation session prior to attending their first meeting and are supported by an ongoing development program.

All directors participate in Board member evaluations no later than once every two years in accordance with best practices. The review is facilitated by an independent third party under the supervision of the GSHRC and a copy of the review is provided to the Chair. The evaluation determines compliance with this Charter, other Board policies, and the effectiveness of the Board, Board Chair,

Committee Chairs and individual directors and is considered in making nominations.

Board Specific Code of Conduct

The purpose of the Board Specific Code of Conduct is to establish a standard of conduct applicable to the Board members of TSSA. This standard of conduct is required for public confidence, to ensure the maintenance of the integrity of TSSA and the promotion of its strategic objectives.

Expectations of a Director

Every director is expected to:

- Diligently fulfil the legal requirements and obligations of a director;
- Comply with this Board Charter;
- enhance public confidence in TSSA's ability to act in the public interest and for long term public good;
- perform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny;
- devote sufficient time to Board affairs;
- assist TSSA in the achievement of corporate strategic objectives;
- ensure that he or she and the Board as a whole act in the best interests of TSSA rather than in the interests of an individual director or any other interests; and
- monitor his or her continued ability to meet these expectations.

Any director who believes that his or her ability to meet these expectations is at risk, or may appear to be at risk, shall advise the Board Chair and together they will consider whether the director should offer to resign or to take a leave of absence.

The need to take such action may arise in the following circumstances:

- a change in affiliation or employment;
- accepting membership in a TSSA advisory council;
- adopting an adversarial position towards TSSA;
- being appointed a spokesperson for a regulated industry sector;
- being appointed to any other position that creates or appears to create inherently conflicting responsibilities;
- seeking an elected office; and
- being unable to attend meetings consistent with the established standard or participate in Board and committee meeting.

Specific Conduct as a Director

To enable the Board to discharge its collective responsibilities for stewardship, including oversight and strategic leadership, each director shall:

- maintain independence and objectivity;
- conduct himself or herself fairly, ethically and with integrity;

- contribute views based on his or her unique skills and experience;
- bring to the attention of the Board the perspective of a sector (if any) that he or she reflects, while continuing to act in the best interests of TSSA;
- act consistently with TSSA's statutory and contractual obligations related to the organization's delegated responsibilities;
- encourage disclosure of wrongdoing in the workplace (whistleblowing) in the context of ensuring that all TSSA's employees and those of all other individuals acting on behalf of TSSA exhibit TSSA's values;
- exercise authority as a Board member only at meetings of the Board or its committees or as specifically delegated by the Board;
- not step out of their official roles to assist private entities or persons in their dealings with TSSA where this would result in preferential treatment to any person or organization;
- not solicit or accept transfer of economic benefit, other than incidental gifts, customary hospitality, or other benefits as are reasonable in the circumstances from persons, groups or organizations having, or likely to have, dealings with TSSA;
- direct all external inquiries to the Board Chair and/or President and CEO; and
- address any requests of TSSA management to the CEO or to the Corporate Secretary.

To supplement and clarify provisions in its By-laws regarding the avoidance of conflicts of interest, members of TSSA's Board will not place themselves in any situations where they may be perceived to be in conflict of interest. A conflict of interest exists when there is the *potential* for a Board member's interests to be at odds with the *best* interests of the organization. The Board member's interests may be:

- Direct: a narrow legal conflict of interest exists when the individual or immediate family member has a personal or professional interest or obligation in a matter requiring a decision before TSSA;
- Indirect: when the financial gain is one step removed from the individual, (e.g. through potential benefit from participation in a sector); or
- Perceived: when someone outside of the organization perceives that an individual used their influence to get TSSA to make a decision that favoured someone or a group with whom the Board member has affinity.

Members of TSSA's Board will monitor potential conflicts of interest he or she may have regarding any matters before the Board and declare any potential conflicts promptly to the Board and abstain from discussion and voting on any related matter.

Every director is expected to maintain confidential all TSSA or third party information of a proprietary, confidential or sensitive nature which is communicated or disclosed to him or her or to which he or she has access in his or her capacity as a director.

Compliance

A director who has concerns about his or her own conduct or the conduct of another director regarding compliance with this Charter and Code should raise those concerns with the Board Chair. The Board Chair may seek the advice of the GSHRC and will communicate his or her decision directly to the director whose conduct is at issue.

If a director does not accept the decision of the Board Chair, he or she may request that the Board address the matter. In that event, the matter will be reviewed by the GSHRC, which will recommend to the Board a motion to approve, amend or replace the decision of the Board Chair.

TSSA's by-laws provide that a director may be removed by a special resolution of the members. With respect to Minister-appointed directors, this power is subject to the receipt of notice from the Minister.

Annual Affirmation and Review

Directors sign annually an affirmation that they have read and understood and will comply with this Charter and Code. The GSHRC reviews this Charter and Code annually and may recommend changes to enhance its effectiveness in ensuring achievement of the level of conduct expected of all Board members.

Requests for Clarification

Requests for clarification of this Charter and Code or of any other aspect of a TSSA Board Director's responsibilities should be directed to the Board Chair.

[As originally signed by George Irwin](#)

Chair of the Board
Technical Standards and Safety Authority

[June 24, 2012](#)

Date

[As originally signed by Margaret R. Best](#)

The Honourable Minister Margaret R. Best
Ministry of Consumer Services

[July 23, 2012](#)

Date

SCHEDULE “G” – CORPORATE PLANNING AND REPORTING

The Technical Standards and Safety Authority’s (the Corporation) planning and reporting documents are essential communications vehicles for demonstrating responsible stewardship of regulatory authority towards the achievement of public safety. As such, the Corporation will strive to continuously improve and strengthen linkages between strategic planning, business planning, operational planning and reporting.

Recognizing that these documents have a broad audience that includes government, industry stakeholders and the public, the Corporation will use plain language so that the objectives and performance of the Corporation are clear and easy for the average reader to understand.

Each of Corporation’s planning and reporting documents will support the accountability framework as laid out in the memorandum of understanding (MOU) between the Minister and the Corporation.

In addition to any requirements specified directly in the MOU, the Corporation’s planning and reporting documents shall include the following information, but not be limited to these requirements.

1. STRATEGIC PLAN REQUIREMENTS

The Corporation drafts a strategic plan based on a minimum 3 year cycle that identifies its key objectives, which are linked to its statutory mandate, vision and mission, and the performance outcomes associated with those objectives as demonstrated in the Corporation’s Balanced Scorecard to guide its resources and efforts.

Corporate Profile

A general overview of the Corporation, including its statutory obligations and mandate, its mission, vision and values. It will also describe the nature and scope of the relationship between the Corporation and the government and Ministry of Consumer Services.

Strategic Planning Overview

An explanation of the connection/linkages between the strategic plan, business plan and annual report.

Strategic Planning Context

Highlight key economic, industry, and operational factors that present the Corporation with challenges and/or opportunities in its strategic planning.

Objectives

The Corporation will make clear its objectives, for the planning period, and will list the following as it pertains to the target performance outcome:

- Objectives / Priorities (*a key goal or outcome the Corporation proposes to achieve*); and
- Strategies (*that will be employed to achieve the objective*).

In addition, quantifiable / measurable targets will be set for each year of the planning period. The plan will detail how these targets will be measured.

Measures should demonstrate the Corporation's effectiveness (in terms of both safety outcomes and organizational effectiveness), efficiency and level of customer value/satisfaction. These measures will be based on a stable set of performance metrics that will reflect all regulated sectors and enable a year to year comparison. Where a year to year comparison is not possible because of a change in performance metrics, the Corporation shall provide sufficient information to enable a comparison. The Corporation shall also include a reference that information on performance reporting, including compliance and safety outcomes, is provided on the Corporation's website.

Statement of Operations

The Statement of Operations will contain information on the company's financial state, including statements on revenue and expenses, etc. The purpose of including a Statement of Operations in the Strategic Plan is to establish a picture of the Corporation's current financial health and enable a comparison between the current state of the Corporation's finances and the planned revenue and expenses projections.

2. BUSINESS PLAN REQUIREMENTS

The Corporation drafts a business plan annually that identifies a coordinated set of activities for carrying out the objectives delineated in the strategic plan. The business plan, however, goes into greater detail than the strategic plan and states the specific activities that will be undertaken in the fiscal year as well as assesses the sufficiency of resources to achieve the Corporation's strategic objectives and successful delivery of safety services. The business plan shall include the following information, but not be limited to these requirements.

Corporate Overview

A general overview of the Corporation, including its statutory obligations and mandate, its mission, vision and values. It will also describe the Corporation's structure, services, regulated sectors/industries and a description of the nature and scope of the relationship between the Corporation and the government and Ministry of Consumer Services.

Business Planning Overview

An explanation of the connection/linkages between the business plan, strategic plan and annual report.

Objectives

The Corporation will make clear its objectives, for the planning period, in this section and will list the following as it pertains to the target performance outcome:

- Objectives / Priorities (*a key goal or outcome the Corporation proposes to achieve*);
- Strategies (*that will be employed to achieve the objective*); and
- Activities (*that will support the execution of the strategy and achievement of the objective*)

In addition, quantifiable/measurable targets will be set for the fiscal year. The plan will detail how these targets will be measured.

Measures should demonstrate the Corporation's effectiveness (in terms of both safety outcomes and organizational effectiveness), efficiency and level of customer value/satisfaction. These measures will be based on a stable set of performance metrics that will reflect all regulated sectors and enable a year to year comparison. Where a year to year comparison is not possible because of a change in performance metrics, the Corporation shall provide sufficient information to enable a comparison. The Corporation shall also include a reference that information on performance reporting, including compliance and safety outcomes, is provided on the Corporation's website.

The Corporation shall also note that the following are available on the Corporation's website:

- information on the Corporation's industry and consumer advisory councils; and
- information on performance reporting, including compliance and safety outcomes.

Resources Needed To Meet Objectives

Assess the adequacy of resources required by the Corporation to meet its objectives over the planning horizon. The section should link with the sections providing details on financial resources and human resources.

Financial Resources and Revenue Requirements

Anticipated revenues (derived from regulatory and non-regulatory business) and planned expenditures for the fiscal year.

3. ANNUAL REPORT REQUIREMENTS

The Corporation reports annually on its performance. The following items will be included in the Corporation's annual report. An explanation of the item is given for clarity where necessary. The annual report shall include the following information, but not be limited to these requirements.

Organization Overview

- Introduction
- Vision, Mission, Values
- Overview of the Organization
- Message From The Chair
- Message From The President And The CEO

Report On Performance

The Corporation shall report on how successful it has been at meeting its target performance outcomes for the planning/reporting period as set out in the business plan. The Corporation shall indicate if the target has been met. If the target has not been met the Corporation will explain why achievement was not possible in that fiscal year.

Corporate Governance

The Corporation shall provide a summary on how it is governed. It will also provide the following information, which may alternatively be posted on its web site.

- Role Of The Board
- Election/Appointment Process
- Basic Qualifications
- Committees of the Board
- Code Of Conduct For Directors
- Board Of Directors (*including biographies*)
- Directors Retiring within the next five years
- Officers (*including biographies*)
- Organizational Chart

Management's Discussion and Analysis

A discussion and analysis intended to assist with an understanding of the material financial changes in the Corporation's operations over the past fiscal year, to be read along with the financial statements and accompanying notes. This discussion shall include a breakdown of regulatory and non-regulatory business.

Financial Statements and Notes

- Auditors' Report
- Statement Of Financial Position
- Statement Of Operations
- Statement Of Changes In Net Assets
- Statement Of Cash Flows
- Notes To The Financial Statements

As originally signed by George Irwin
Chair of the Board
Technical Standards and Safety Authority

April 27, 2010
Date

As originally signed by Sophia Aggelonitis
The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

April 28, 2010
Date

SCHEDULE “H” – AUDITING ARRANGEMENTS

AUDITING ARRANGEMENTS

As stipulated in the *Technical Standards and Safety Act, 2000* TSSA is subject to any audits by the Auditor General of Ontario as requested by the Minister or initiated by the Auditor General.

All of TSSA’s operations are subject to audit by the Auditor General including its accounts and financial transactions, other than those audits conducted under the Corporations Act.

The TSSA and the Ministry shall notify one another upon receiving notice from the Auditor General of an audit conducted on the Corporation.

The TSSA will direct all formal correspondence from the Corporation with the Auditor General in response to the findings, conclusions and recommendations of the Auditor General’s Report to the Minister at the same time as it is sent to the Auditor General.

The TSSA will advise the Minister semi-annually on implementation of audit recommendations and any outstanding audit recommendations.

INTERACTION WITH THE OFFICE OF THE AUDITOR GENERAL OF ONTARIO

When interacting with the Office of the Auditor General of Ontario the TSSA should follow the guidelines set out in the Handbook published by the Auditor’s Office, entitled *Interaction with the Office of the Auditor General of Ontario*.

It should be noted that nothing in this document limits or diminishes the rights, powers, privileges and remedies of the Auditor General under the *Auditor General Act* or any other applicable legislation.

[As originally signed by George Irwin](#)
Chair of the Board
Technical Standards and Safety Authority

[April 27, 2010](#)
Date

[As originally signed by Sophia Aggelonitis](#)
The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

[April 28, 2010](#)
Date

SCHEDULE "I" - FEE SETTING PROCESS AND CRITERIA

OBJECTIVES

Fees, costs or other charges (referred to as "fees") established under the Technical Standards and Safety Act, 2000 (the "Act") will be conducted consistent with the cost recovery approach, fee design principles and fee review process outlined below.

SCOPE

This policy applies to the Corporation's regulatory business.

COST RECOVERY APPROACH

Collectively fees established under the Act should:

- recover all direct and indirect service delivery costs associated with the delegated mandate;
- reflect a revenue margin not to exceed 5%; and
- reflect 3-year cost trends.

PRINCIPLES

Fees should:

- reduce cross subsidization by program through a reasonable transition period;
- reasonably reflect sector and service activity, such as Engineering and Inspection, within each program; and
- in addition to their direct and indirect costs, Licensing, Registration and Certification fees should recover safety infrastructure costs (including, standards and codes work, investigation, prosecutions, and re-investments in public safety).

FEE REQUIREMENTS

Fees should be designed to achieve the following:

- All parties regulated under the Act participate in cost recovery;
- Uniform application regardless of geographic location;
- Meet the customer needs;
- Premium fees may be charged for premium services;
- Encourage incentives / disincentives for high / low levels of compliance; and
- Accepted billing and collection business practices.

FEE REVIEW PROCESS

- No new fees or fee changes will come into effect until they have been subject to a fee review by TSSA.
- No fee change will be implemented until it has been approved by the Board and reviewed by the Minister.
- When informing the Minister of the results of a fee review or the intent to change fees, TSSA will forward the Minister a business case detailing the

- rationale for the change including the position of the industry and status, an analysis comparing the proposed fees with costs and set out percentile increase over the existing fee structure.
- In reviewing the business case for a proposed fee increase, the Minister's focus is on ensuring:
 - TSSA collects fees for services it renders on a cost recovery basis; and
 - No subsidization of fees from regulatory business to non-regulatory business.
 - No new or revised fee will be effective until 60 days notice has been given to the Minister and stakeholders.
 - TSSA will maintain a financial system that allows for the identification of direct and indirect costs attributable to each service for which a fee is intended to be established.
 - The fee review process will be simple and the TSSA will foster transparency by consulting: applicable Industry Advisory Council(s) and seeking the input of Consumer Advisory Council members before approving any fee changes or instituting new fees.
 - TSSA will demonstrate its diligence in seeking to increase the efficiency of its operations, while maintaining and enhancing public safety.

As originally signed by George Irwin

Chair of the Board
Technical Standards and Safety Authority

April 27, 2010

Date

As originally signed by Sophia Aggelonitis

The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

April 28, 2010

Date

**SCHEDULE "J" - PAYMENTS BY THE
TECHNICAL STANDARDS AND SAFETY AUTHORITY**

The Corporation agrees to make payments to the Minister for each fiscal year (May 1 to April 30) on the following terms:

1. The Corporation will pay an annual amount up to Six Hundred and Twelve Thousand dollars (\$612,000.00) ("the payment") for the costs of services provided by the Minister of Consumer Services that include, both fixed and variable costs billed in accordance with a list of charges developed by the Ministry to be used for the calculation of services rendered. The Ministry will share with the Corporation detailed information regarding the calculation upon request.
2. The Minister shall estimate the payment and it shall be subject to agreement by the Corporation on or before May 1 of each year. Any variance from actual costs shall be reconciled within 60 days of the end of each fiscal year. If, during the fiscal year, the costs for the services described in this paragraph exceed the payment amount, the Minister may, after reasonable notice and prior consultation with the Corporation, increase the payment amount accordingly.
3. The payment will be remitted to the Minister by cheque payable to the Minister of Finance by July 1 of each year.
4. Late payments will be subject to interest charged at the interest rate for unpaid debts to the Crown as fixed from time to time by the Lieutenant Governor in Council in accordance with subsection 1 O(4) of *the Financial Administration Act, R.S.O. 1990, c. F. 12*.
5. The Minister shall maintain records of costs incurred in carrying out the services referred to in section 1, and shall make such records of costs available to the Corporation on request.
6. These payments will be made for the Corporation's 2010/11 fiscal year and in all subsequent years.

As originally signed by George Irwin
Chair of the Board
Technical Standards and Safety Authority

April 27, 2010
Date

As originally signed by Sophia Aggelonitis
The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

April 28, 2010
Date

SCHEDULE “K” - ACCESS AND PRIVACY CODE

Purpose

Pursuant to the MOU, this Code establishes policy and practices regarding information in the custody and control of the Technical Standards and Safety Authority (TSSA), including:

- access to information collected by TSSA in the administration of its authority, including personal information;
- the protection of personal information, including the protection of personal information of TSSA employees;
- the collection, use and disclosure of personal and other information by TSSA in the administration of its authority; and
- effective and timely procedural remedies concerning the handling of personal and other information collected by TSSA in the administration of its authority.

Application – Regulatory Activity

This Code applies to information and personal information collected, used or disclosed by TSSA in the course of TSSA’s administration of the Act.

Definitions

In this Code:

access means access by an individual or an organization to a record of information in the custody of TSSA and under the control of TSSA.

Act means the legislation pursuant to the *Technical Standards and Safety Act, 2000* and the regulations under that Act, as amended from time to time.

administration of the Act means the regulatory responsibilities assigned under the Act and includes any activity related to an obligation under the Memorandum of Understanding.

bulk data means records requested in bulk or selective form that do not contain personal information and may have commercial value.

Enforcement activity includes investigation or law enforcement proceedings of TSSA or other provincial and federal enforcement bodies.

MOU means Memorandum of Understanding as entered into as stipulated by the *Technical Standards and Safety Act, 2000*.

personal information means a record of information about an identifiable individual, but does not include the name, title, business address or telephone.

public information means information other than personal information that TSSA determines is necessary to make available to the public in order to carry out its administration of the Act.

record means any record of personal information, however recorded, in the custody and under the control of TSSA as a result of commercial activity of TSSA, but does not include information related to a specific installation location or incident.

TSSA means the Technical Standards and Safety Authority, a corporation without share capital established under section 3.1 of the *Technical Standards and Safety Act, 2000* as amended.

1. Accountability

1.1 TSSA is responsible for all information in its custody and under its control. TSSA shall designate an individual or individuals who are accountable for compliance with this Code. The identity of the designated individual or individuals shall be made known upon request. The ongoing collection and processing of information may be the responsibility of other individuals within TSSA.

1.2 TSSA shall take reasonable steps to ensure that the personal information in its custody and under its control is accurate, complete and as up-to-date as is necessary for the purposes for which it is to be used. Where an individual provides TSSA with an amendment to his or her personal information, it shall be recorded by TSSA as soon as practically possible. Where third parties have access to the information in question, TSSA shall, when appropriate, transmit amended information to those third parties.

2. Access

2.1 Subject to the exceptions set out in section 3, every person has a right of access to his or her own personal information and to public information in the custody and control of TSSA.

2.2 Access Requirements and Procedure – Public Information

2.2.1 TSSA shall ensure that the public has ready access to public information. The information shall be available in various mediums for review and, where practicable, be posted on TSSA's website. TSSA's information materials, including its website, shall provide instructions on how the public can contact TSSA to obtain access to public information.

2.2.2 TSSA shall support access to information by disseminating public information relevant to public safety and as is required for its administration of the Act.

2.3 Access Requirements and Procedure – Personal Information

2.3.1 Within 30 days of receipt of a written request for personal information, TSSA shall advise an individual regarding the existence, use and disclosure of his or her personal information and, subject to the exceptions set out in section 3, provide the individual with access to his or her personal information in a generally comprehensible form.

2.3.2 The written request should include sufficient information to allow TSSA to identify the requester and his or her personal information. TSSA may prescribe the form such a request should take.

2.3.3 Where access is refused, TSSA shall provide written reasons for the refusal to the requester, if the request has been made in writing. The requester may file a complaint with TSSA concerning the access refusal, pursuant to section 7.1.

2.3.4 Before proceeding with any access request, TSSA shall provide the requester with the approximate cost, if any, of responding to the request, and then confirm whether the requester still wishes to proceed with the access request, or whether the request is to be withdrawn.

2.3.5 Where third parties have access to personal information on an ongoing basis in accordance with section 5.2(b), any amendments to such information shall be provided to the third parties.

3. Exceptions to Access

3.1 Mandatory Exception

Subject to sections 3.4 and 3.5, TSSA shall refuse a person access to a record where the record or part of the record would likely reveal personal information about another person, unless the other person consents to the access.

3.2 Discretionary Exceptions

Subject to sections 3.4 and 3.5, TSSA may refuse access to a record where giving access to the record or part of the record,

- (a) violates solicitor-client privilege;
- (b) violates a legally recognized privilege other than solicitor-client privilege;
- (c) may compromise an ongoing investigation or enforcement activity;
- (d) contains bulk data, or contains aggregate accident data or other sensitive aggregate data;
- (e) provides access to information that is the substance of deliberations by one or more of the following: TSSA's Board of Directors, TSSA

Committees, including Management Committees, Board Committees, Advisory Councils and Risk Reduction Groups or other like committees established by TSSA. The information may include, but is not restricted to: agenda, minutes, policy options and analysis, advice from staff or an external consultant, and advice to government;

(f) reveals confidential commercial, scientific, proprietary, technical, financial or labour relations information, if access to this information may result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations;

(g) reveals advice, recommendations or information provided by a TSSA inspector, engineer, manager or other employee in the course of his or her employment;

(h) provides access to information generated in the course of a formal dispute resolution process;

(i) is a report prepared in the course of law enforcement, an inspection or an investigation;

(j) provides access to information collected without knowledge or consent and for purposes related to an investigation as permitted by the exception under section 4.5;

(k) may be refused under subsection 14 (1) of the *Freedom of Information and Protection of Privacy Act*;

(l) is not in the public interest or could reasonably be expected to threaten the life, health or security of an individual;

(m) is information compiled by TSSA or supplied to TSSA for the purposes of risk management or risk informed decision making;

(n) is a report supplied by a regulatory enforcement body to TSSA in confidence; or

(o) violates a provision of the Act.

3.3 Despite sections 3.1 and 3.2, TSSA may release a record where not releasing the record would threaten an individual's life, health or security.

3.4 Where information that is exempted from an access request can be reasonably severed from that part of the record to which the requester can be given access, TSSA shall sever the exempted information and provide the requester with access to the remaining part of the record.

3.5 Section 3.4 does not apply where the record,

- (a) is protected by solicitor-client privilege;
- (b) was generated in the course of a formal dispute resolution process; or
- (c) was collected without knowledge or consent for purposes related to an investigation as permitted by the exception under section 4.5; or
- (d) is a report prepared in the course of law enforcement, an inspection or an investigation.

4. Collection of Personal Information

4.1 Collection of personal information shall be limited to that which is necessary for the carrying out of TSSA's administration of the Act or a consistent purpose.

4.2 Subject to the exception set out in section 4.5, where TSSA collects personal information, it shall,

- (a) only collect personal information directly from the individual to whom the information relates, unless the individual authorizes another manner of collection; and
- (b) explain to the individual the purpose for collecting the personal information and, at or before the time of collection, obtain his or her the consent for its collection, use and disclosure by TSSA for that purpose.

4.3 TSSA shall document the purpose for which personal information is collected and TSSA shall specify whether the personal information is being collected for the purpose of administration of the Act by TSSA.

4.4 Where TSSA wishes to use personal information for a purpose other than that for which consent has been granted, TSSA shall obtain consent to do so from the individual and document the new purpose.

4.5 Exceptions

Where personal information is collected for the purposes of the administration of the Act by TSSA, TSSA may collect the information without the knowledge or consent of the individual to whom the information relates if such collection is necessary for the administration of the Act.

5. Use and Disclosure of Personal Information

5.1 Subject to the exceptions set out under section 5.2, TSSA shall use or disclose personal information only with the prior knowledge and consent of the

individual to whom the information relates, and only for the purposes for which it was collected.

5.2 Exceptions

TSSA may use or disclose personal information without the prior knowledge or consent of the individual, or for purposes other than those for which it was collected, if,

- (a) the information is used or disclosed for purposes related to ongoing investigation and enforcement activity;
- (b) the information is subject to an agreement TSSA has entered into with a third party to manage or use TSSA records on its behalf, if such agreement requires the third party to comply with this Code and have in place security safeguards comparable to those used by TSSA; or
- (c) it is disclosed for the purpose for which it was obtained or for a consistent purpose.

6. Retention and Security of Personal Information

6.1 TSSA shall take all reasonable steps to ensure that personal information is kept secure from loss and theft.

6.2 TSSA shall retain personal information only as long as necessary to fulfil the purpose for which the information was collected; however, personal information that is the subject of an access request shall be retained for as long as necessary to allow the requester to exhaust any recourse under this Code.

6.3 TSSA shall develop procedures and practices to govern the period of time personal information is retained, and the methods by which it should be destroyed, erased or made anonymous once no longer required by TSSA.

6.4 TSSA shall publicly post on its corporate website, under “Release of Records”, said procedures and practices in the form of a Records Retention Policy.

6.5 Ongoing access to personal information under the control of TSSA shall be restricted to appropriate TSSA staff. TSSA shall adopt appropriate security mechanisms to prevent the unauthorized access, disclosure, use, copying or modification of personal information under its control.

7. Complaints and Remedies

7.1 TSSA shall develop and implement procedures and practices that establish a mechanism to deal with complaints regarding the release of records and personal information or the refusal to release such records or information to a

requester. If a complaint is found to be justified, TSSA shall take appropriate measures to rectify the problem, including where necessary, amending its procedures and practices.

7.2 Where a requester challenges the accuracy and completeness of his or her personal information, TSSA shall review the information and amend the information where appropriate. TSSA shall record any challenge that has not been resolved to the satisfaction of the requester. Where third parties have access to the information in question, TSSA shall, when appropriate, transmit any amended information and provide notice of any unresolved challenge to those third parties.

8. Fees

8.1 Public Information

Fees payable for access to public information will be in accordance with TSSA's fee policies.

8.2 Personal Information of Requester

Personal information shall be made available to the person to whom the information relates at minimal or no cost.

8.3 Other Personal Information

Personal information that does not relate to the requester, other than bulk data, shall be made available to the requester at a cost that reflects the total cost of providing the information in accordance with the fee charged by the Corporation. The cost of providing bulk data shall be determined on a case by case basis. In determining fees, TSSA shall make an effort to be consistent and base costs on publicly available criteria.

9. Administration

9.1 TSSA shall implement policies and practices required to give effect to this Code, including those relating to,

- (a) the procedure for receiving and responding to requests, complaints or injuries, and the form requests and complaints should take;
- (b) advising Board members, management and staff about the Code, and providing appropriate training to ensure compliance with the Code's provisions; and
- (c) the development of brochures or other documentation describing this policy and its related procedures and practices.

10. Effective Date and Review

10.1 This Code comes into effect on its signature.

10.2 TSSA shall make all reasonable efforts to enter into an agreement with the Archives of Ontario regarding management of records information as soon as practicable and in any event, within one year of signing this agreement subject to the agreement and cooperation of the Archives of Ontario.

10.3 TSSA shall initiate from time to time a review of this Code and all related policy and practices.

(a) a review and analysis of any complaints received by TSSA concerning access or privacy issues, and the manner in which those complaints were resolved;

(b) a request for input from TSSA stakeholders and staff on the effectiveness of TSSA access and privacy practises;

(c) an internal audit of TSSA record management practices as they relate to paragraph 9.1(c); and

(d) an assessment of recent developments in the law applicable to access and privacy in Ontario.

[As originally signed by George Irwin](#)

Chair of the Board
Technical Standards and Safety Authority

[April 27, 2010](#)

Date

[As originally signed by Sophia Aggelonitis](#)

The Honourable Minister Sophia Aggelonitis
Ministry of Consumer Services

[April 28, 2010](#)

Date