

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ONTARIO HERITAGE TRUST
AND
THE MINISTER OF TOURISM AND CULTURE

1. DEFINITIONS

In this Memorandum of Understanding,

“Act” means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18;

“Board” means the Ontario Heritage Trust’s board of directors consisting of not fewer than twelve (12) persons appointed by the Lieutenant Governor in Council;

“Chair” means the designated Chair of the board of directors;

“Deputy Minister” means the Deputy Minister of Tourism and Culture;

“Directives” means those Ministry of Finance and Treasury Board/ Management Board of Cabinet directives listed in Schedule 1 attached to and forming part of this MOU;

“Executive Director” means the Executive Director of the Ontario Heritage Trust;

“fiscal year” means the period of time commencing on April 1 in each year and ending on March 31 in the following year;

“Government” means the Government of Ontario;

“Minister” and **“Ministry”** respectively mean the Minister of Tourism and Culture and the Ministry of Tourism and Culture;

“MOU” means this Memorandum of Understanding;

“Operational Enterprise agency” means an agency whose primary function is to sell goods or services to the public in a commercial manner (including, but not necessarily, in competition with the private sector);

“TB/MBC” means Treasury Board/Management Board of Cabinet; and

“Trust” means the corporation without share capital continued under the name Ontario Heritage Trust under the *Ontario Heritage Act*.

2. PURPOSE

The purpose of this MOU is to clarify the operational, accountability, financial, administrative, auditing and reporting relationships between the Minister and the Trust.

This MOU sets out the framework for accountability between the Minister and the Chair and this MOU meets the requirements of the *Agency Establishment and Accountability Directive*.

The Minister and the Trust shall act according to the responsibilities set out for each in this MOU. This MOU shall not affect, modify or interfere with the responsibilities of either the Minister or the Board under law. For greater certainty, this MOU shall not limit in any way the ability, authority and obligation of the Board to govern the Trust in light of the best interests of the Trust and the Government and in accordance with the other legal duties and responsibilities of the Board, including, without limitation, any duties of care or fiduciary duties. These legal duties and responsibilities shall prevail over any provision of this MOU in the event of any conflict between the provisions of this MOU and the legal duties and responsibilities of the Board.

3. LEGISLATIVE AUTHORITY, MANDATE and AGENCY CLASSIFICATION

The Trust is governed by the Act. Its objects, as provided for in section 7 of the Act, are:

- (a) To advise and make recommendations to the Minister on any matter relating to the conservation, protection and preservation of the heritage of Ontario;
- (b) To receive, acquire and hold property in trust for the people of Ontario;
- (c) To support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;
- (d) To preserve, maintain, reconstruct, restore and manage property of historical, architectural, archaeological, recreational, aesthetic, natural and scenic interest; and to
- (e) To conduct research, educational and communications programs necessary for heritage conservation, protection and preservation.

In accordance with section 5 of the Act, the Trust is governed by the Board consisting of not fewer than twelve (12) persons who are appointed by the Lieutenant Governor in Council.

The Trust is a Crown agent pursuant to subsection 11(1) of the Act.

The Trust may enter into agreements with donors and conduct fundraising programs.

The Trust is designated as an Operational Enterprise agency in accordance with TB/MBC's *Agency Establishment and Accountability Directive* and is subject to and shall comply with all existing Ministry of Finance and TB/MBC Directives applicable to Operational Enterprise agencies as set out in **Schedule 1** to this MOU.

Where such Directives are amended, or new Directives are issued by the Ministry of Finance or TB/MBC, the Deputy Minister shall advise the Trust in writing of the applicability of these Directives to the Trust, and these Directives shall be deemed to form part of Schedule 1. The Trust shall comply with all Directives in Schedule 1 and any Directives deemed to form part of Schedule 1.

4. DURATION OF MOU and PROCESS FOR REVIEW & AMENDMENT OF MOU

This MOU shall be in effect as of the date of the Minister's signature and shall expire five years from the date of the Minister's signature. This MOU will remain in force for no more than six additional months or until a signed MOU is provided to the Secretary, MBC.

This MOU shall not be executed by the parties before it has been approved by the Board, the Minister and TB/MBC.

Upon a change in the Minister or the Chair, this MOU must be affirmed by both parties to the MOU. A letter of affirmation must be provided to the Secretary, MBC, within six months of the new party's commencement.

This MOU may be amended from time to time with the agreement of the Minister and the Chair. Either the Minister or the Chair may propose amendments to this MOU. All amendments shall be in writing and shall be approved by both parties and TB/MBC before a revised MOU can be executed.

5. GUIDING PRINCIPLES

This MOU is guided by the following principles:

- (a) The Ministry and the Trust share a common objective, which is the conservation, protection and preservation of the heritage of Ontario. To achieve this objective, the Ministry and the Trust have separate but complementary roles and relationships both within the Government and with heritage stakeholders.
- (b) The Trust is a statutory entity which exercises powers and performs duties in accordance with its mandate under the Act.
- (c) The Ministry is responsible for supporting the Minister's role in administering the Act and in determining policies, priorities and programs for the conservation, protection and preservation of the heritage of Ontario. The Ministry will consult with the Trust on the research and development of such matters as may be appropriate. As set out in subsection 10(1) of the Act, the Trust is responsible for the development of programs

and services in support of the Minister's policies and priorities for the conservation, protection and preservation of the heritage of Ontario.

- (d) The Trust operates at arm's length from the Government, and within the policy parameters set out by the Government.
- (e) The Trust is accountable to the Minister and, through the Minister, to the Legislative Assembly in fulfilling its mandate. Accountability is a fundamental principle to be observed in the management, administration and operations of the Trust.
- (f) As an agency of the Government, the Trust shall conduct itself according to the management principles of the Government. These principles include ethical behaviour, accountability, excellence in management, wise use of public funds, value for money, equitable access to high-quality service to the public, and openness and transparency.
- (g) The Ministry and the Trust are committed to working collaboratively toward the achievement of their common objective while having regard for their separate but complementary roles.
- (h) The Minister and the Chair commit to avoid any duplication of services and agree to ensure that all services are consistent with the Government's policy direction and the Act.

6. CONSULTATION AND COMMUNICATIONS

The Minister and the Chair recognize that the timely exchange of information and consultation is essential to success in discharging their respective responsibilities, and they agree to act according to the Ministry's **Communications Protocol for Agencies** attached to this MOU as **Schedule 2**. They therefore agree that:

- (a) The Chair and the Minister will keep each other advised of issues or events, including contentious matters that concern or can reasonably be expected to concern the Chair and the Minister in the exercise of their responsibilities. They will advise each other immediately of any contentious matters.
- (b) The Minister will ensure that the Chair is consulted, as appropriate, on initiatives proposed to: amend the legislation which governs the Trust's mandate or operations; or which otherwise will have significant impact on the Trust. This commitment includes consultation on any review of the Trust's mandate or assessment of the continuing public need for its services.
- (c) The Trust is one of the key mechanisms by which the Government provides support to the heritage sector. The Trust will advise the Ministry of any operational communications with any level of government (i.e., the federal government and its agencies, other Government ministries and their agencies, other provincial governments and their agencies, regional and municipal governments, and governments of other nations) where such communications could be perceived as representing the policies, opinions, views or position of the Ministry or the Government.

In addition, communications with any level of government (as identified above) or the public related to new strategic directions, new program opportunities, or new initiatives, that are not identified in the Trust's business plan, are subject to this provision.

For greater certainty, communications related to the day-to-day business of the Trust are not subject to this provision.

- (d) The Ministry and the Trust will work collaboratively and proactively consult each other on policy and program design, development and delivery applicable to the heritage sectors, as appropriate.
- (e) Subject to section 6(c) of this MOU, the Trust may communicate and consult with other ministries as appropriate regarding matters of mutual interest and concern related to the heritage sector and the Trust's legislated mandate and its programs and services.
- (f) The Minister and the Chair will consult with each other on public communication strategies and publications, as set out in the Communications Protocol, and will keep each other informed of the results of stakeholder and other public consultations and discussions.
- (g) The Minister and the Chair will meet annually, or more often as needed, to discuss issues relating to the delivery of the Trust's mandate. The Deputy Minister will meet with the Executive Director monthly, or more often as needed, to discuss issues relating to the efficient operation of the Trust.
- (h) The Ministry and Trust staff will maintain a Senior Liaison Committee which will meet not less than two times a year, as the agenda warrants, to discuss matters of mutual interest. The agenda and minutes will be prepared by the Ministry in consultation with Trust staff.

7. ACCOUNTABILITY RELATIONSHIP

The accountability relationship is as follows:

- (a) **Minister** - The Minister is accountable to the Legislative Assembly for the Trust's fulfilment of its mandate, its compliance with Government policies and for reporting to the Legislative Assembly on the Trust's affairs.
The Minister is accountable to Cabinet for the performance of the Trust and its compliance with the Government's operational policies and broad policy directions.
- (b) **Chair** - The Chair is accountable to the Minister for the performance of the Trust in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Chair by the Act, Directives and this MOU.
- (c) **Board** – The Board, through the Chair, is accountable to the Minister for governing the affairs of the Trust in accordance with its mandate.

- (d) **Deputy Minister** - The Deputy Minister is accountable to the Minister for carrying out the roles and responsibilities with respect to the Trust as assigned to him/her by the Minister, Directives, the Act and this MOU.
- (e) **Executive Director** - The Executive Director is accountable to the Board, through the Chair, for the management and administration of the Trust, and for carrying out the roles and responsibilities assigned by the Board, Directives, the Act and this MOU. The Executive Director is also accountable to the Board for the accuracy of financial projections and meeting operational and financial targets. The Executive Director works under the direction of the Chair in implementing policy and operational decisions and must report agency performance results to the Chair in implementing Board policies and directions working within the Directives, the Act and this MOU.

The Executive Director is also accountable to the Deputy Minister for the management of the Trust's employees and for carrying out the roles and responsibilities assigned by Directives, the Act and this MOU.

8. ROLES AND RESPONSIBILITIES

8.1. Minister

The Minister is responsible for:

- (a) the administration of the Act;
- (b) ensuring the activities of the Trust are monitored to ensure that its mandate is being fulfilled and that it is in compliance with relevant Government policies;
- (c) reporting and responding to the Legislative Assembly on the affairs of the Trust and reporting and responding to Cabinet on the Trust's performance and compliance with applicable Ministry of Finance and TB/MBC Directives and the Government's operational policies and broad policy directions;
- (d) establishing and communicating to the Trust, in writing, changes in the Government policy parameters within which the Trust is required to operate;
- (e) reviewing, approving, presenting and recommending the annual allocation for the Trust as part of the Government's business planning process;
- (f) reviewing and approving the Trust's multi-year and annual plans, including the business plan and reports in accordance with section 12 of this MOU;
- (g) reviewing and recommending to TB/MBC the provincial funding to be given to the Trust;
- (h) reviewing and approving certain by-laws of the Trust as provided for in section 8 (2) of the Act, and approving the exercise of certain powers of the Trust in accordance with section 10 of the Act;

- (i) receiving the agency's annual report and tabling the report in the Legislative Assembly within 60 days of receipt from the Trust, and making it available to the public;
- (j) recommending appointments and reappointments pursuant to the process for agency appointments by the Lieutenant Governor in Council which are established by legislation or TB/MBC, after consultation with the Chair as appropriate, to ensure that the requirements of the Act are met;
- (k) consulting with the Chair as appropriate on significant new directions or when the Government is considering regulatory or legislative changes that could impact the Trust;
- (l) when appropriate or necessary, taking action or directing/recommending that corrective action be taken with respect to the Trust's mandate or operations;
- (m) determining the need for any review and making recommendations to TB/MBC regarding the elimination or consolidation of the Trust or any changes to the Trust's mandate;
- (n) ensuring the development of this MOU with the Chair and signing it into effect upon approval by TB/MBC; and
- (o) meeting with the Chair annually or more often as needed.

8.2. Deputy Minister

The Deputy Minister is responsible for:

- (a) providing support and assistance to the Minister in the execution of the Minister's duties with regard to the Trust;
- (b) providing a framework for assessing whether the Trust is fulfilling its mandate, in accordance with Government policies;
- (c) undertaking assessments on behalf of the Minister on whether the Trust is fulfilling its legislative mandate in accordance with Government policies; identifying any need for corrective action; and recommending to the Minister ways to resolve any issues that are identified;
- (d) advising the Minister on the operation of the Trust, or its consolidation or elimination;
- (e) ensuring that the Trust has an appropriate risk management framework and mitigating strategy in place for managing risks that the Trust may encounter in meeting its program or service delivery objectives;
- (f) consulting with the Chair or the Executive Director as directed by the Minister regarding matters of mutual importance, including matters regarding TB/MBC Directives and Ministry policies;

- (g) establishing a framework for reviewing and assessing the Trust's business plans and other reports, and advising the Minister on the Trust's documents submitted to the Minister for review and/or approval;
- (h) ensuring that the planning and reporting requirements as set out in section 12 of this MOU have been met;
- (i) ensuring that such services as may be outlined in any service agreement between the Ministry and the Trust are provided to the Trust;
- (j) consulting with the Chair on all matters related to the hiring or termination of the Executive Director;
- (k) on an annual basis, in consultation with the Chair on behalf of the Board, approving the Executive Director's performance objectives and conducting the Executive Director's performance evaluation and assessing the Executive Director's performance for merit compensation purposes;
- (l) informing the Chair and the Executive Director in writing of the Directives and policies of the Ministry and the Government that apply to the Trust;
- (m) advising the Minister on the requirements of Ministry of Finance and TB/MBC Directives that may affect the Trust;
- (n) maintaining an open and cooperative working relationship with the Trust through meetings with the Executive Director as required or directed;
- (o) cooperating with any periodic review of the Trust directed by the Minister or TB/MBC;
- (p) meeting with the Executive Director or the Chair annually or more often as directed by the Minister;
- (q) negotiating this MOU with the Trust as directed by the Minister; and
- (r) undertaking such other responsibilities as the Minister or TB/MBC may require.

8.3. The Board

The Board is responsible for:

- (a) governing the affairs of the Trust within its mandate as set out in the Act, the Trust's by-laws, its approved business plan as described in section 12 of this MOU, and the policy parameters established and communicated in writing by the Minister;
- (b) establishing the goals, objectives and strategic directions for the Trust, consistent with its objects in the Act and within any policy parameters established and communicated by the Minister;
- (c) passing by-laws, subject to the approval of the Minister if required under the Act, governing the conduct and management of the Trust's affairs;

- (d) providing information to the Minister that is needed for the Minister to exercise approval authority of the Trust's powers under subsection 10(2) of the Act;
- (e) providing advice to the Chair in the appointment of an Executive Director;
- (f) ensuring that the Executive Director is responsible and accountable to the Board, through the Chair, for the day-to-day management of the Trust;
- (g) ensuring the preparation of the Trust's annual business plan, annual report and other reports in keeping with TB/MBC requirements;
- (h) approving the Trust's plans, reports and reviews for submission to the Minister in a timely manner;
- (i) approving the MOU on behalf of the Trust in a timely manner and authorizing the Chair to sign it on behalf of the Trust;
- (j) ensuring the development and implementation of an effective performance measurement and management system for assessing the Trust's performance;
- (k) establishing performance measures and targets for the Trust;
- (l) ensuring the implementation of an annual performance review system for staff;
- (m) monitoring the use of funds and assets to ensure that they are used with integrity and honesty and that the Trust operates within its approved budget;
- (n) ensuring that the Trust is managed in an efficient, effective and fiscally responsible manner according to accepted business and financial practices and in accordance with Government requirements for Operational Enterprise agencies;
- (o) ensuring an annual audit of the financial statements or management, or both, of the Trust be conducted by the Auditor General and providing the Minister with a copy of the auditor's report, audited financial statements and related note disclosures;
- (p) ensuring corrective action to be taken in response to auditor's report if needed;
- (q) ensuring the development of an appropriate risk management framework and mitigating strategy for the Trust for managing risks that the Trust may encounter in meeting its program or service delivery objectives;
- (r) consulting with stakeholders, as appropriate;
- (s) engaging in fundraising work in accordance with the Trust's approved plans;
- (t) co-operating with periodic reviews initiated by either TB/MBC or the Minister; and
- (u) ensuring compliance with Directives and Ministry policies and procedures.

8.4. Chair

The Chair is responsible for:

- (a) providing oversight for the Trust and providing strategic leadership to the Board;
- (b) convening and chairing meetings of the Board;
- (c) communicating the Board's policy and strategic directions to the Executive Director;
- (d) advising the Deputy Minister on all matters related to the hiring and termination of the Executive Director;
- (e) in consultation with the board, recommending performance objectives for the Executive Director to the Deputy Minister; communicating the Executive Director's performance objectives to the Executive Director; and reviewing the performance of the Executive Director with the Deputy Minister in relation to those performance objectives;
- (f) ensuring the development of the MOU with the Minister and signing after Board and TB/MBC approval;
- (g) ensuring that the Minister is provided with such information regarding the Trust as the Minister may require in order to carry out the Minister's responsibilities;
- (h) advising and making recommendations to the Minister on behalf of the Board on any heritage matter as identified in the Act;
- (i) monitoring the Trust's performance and accounting to the Minister for the overall operating and financial performance of the Trust, and ensuring that an evaluation of operating and financial performance is submitted to the Minister on an annual basis or as otherwise required;
- (j) in consultation with the Board, reviewing the Trust's business plans, budget and reports as described in section 12 of this MOU and submitting the same to the Minister once approved by the Board;
- (k) ensuring that the business plans, budget and reports as described in section 12 of this MOU are submitted and approved in accordance with the timelines prescribed by this MOU or as otherwise requested by the Minister;
- (l) ensuring that any significant additions, deletions or amendments to the Trust's plans and reports referred to in clause (k) are communicated appropriately to the Minister;
- (m) ensuring implementation of systems for agency performance measurement and reporting to be used for assessing the Trust's performance;
- (n) co-operating with any periodic review initiated by either TB/MBC or the Minister;
- (o) ensuring that the Trust complies with all applicable Directives, guidelines and policies;

- (p) ensuring that all members of the Board are informed of and comply with all relevant conflict-of-interest guidelines, the Trust's by-laws and applicable Directives;
- (q) notifying the Minister of appointment vacancies and making recommendations to the Minister on appointments or reappointments to the Board;
- (r) consulting with the Minister in advance and receiving the Minister's approval if the Trust plans to embark on any enterprise or activity which impacts on the Government's policies;
- (s) ensuring Board members are informed of their roles, responsibilities and obligations and ensuring that all Board members receive any necessary training to carry out their responsibilities;
- (t) carrying out the specified responsibilities under the *Public Service of Ontario Act, 2006* and its regulations as the "ethics executive" for the members of the Board in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (u) recording any declared or apparent conflicts of interest by Board members in the minutes of Board meetings;
- (v) reviewing and approving claims for expenses of Board members;
- (w) ensuring that appropriate management systems are in place (financial, information technology, human resources) for the effective administration of the Trust;
- (x) within 30 days of receipt, providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of the Trust's response to each audit report, and any recommendations in the report;
- (y) advising the Minister annually on any outstanding audit recommendations;
- (z) meeting with the Minister annually or more often as needed;
- (aa) leading the development of fundraising plans and work of the Board;
- (bb) attending and/or making presentations before Cabinet or committees of Cabinet or the Legislative Assembly on matters concerning the affairs of the Trust when requested to do so; and
- (cc) ensuring that an appropriate process for responding to and resolving complaints from the public and agency clients/customers is in place.

8.5. Executive Director

The Executive Director is responsible for:

- (a) managing the day-to-day operations and financial affairs of the Trust and the fulfilment of its mandate in accordance with all applicable Legislation and Directives and accepted business and financial practices;

- (b) applying policies established by the Board so that public funds are used with integrity and honesty;
- (c) establishing systems to ensure the Trust operates within its approved business plan;
- (d) translating the policy and strategic direction approved by the Board into operational plans and activities in accordance with the approved business plan;
- (e) providing leadership, guidance and management to the Trust's employees, including human and financial resources management, in accordance with the approved business plan, accepted business and financial practices and standards, the Act and Directives and Guidelines;
- (f) ensuring that the Trust has an appropriate risk management framework and mitigating strategy in place, as directed by the Chair or the Board, to help provide the proper level of assurance that program or service delivery objectives are met;
- (g) keeping the Board, through the Chair, informed of the implementation of their policy directions and the operations of the Trust;
- (h) providing the Chair and the Board with advice and assistance in meeting their responsibilities;
- (i) advising the Chair and the Board on compliance with Directives and Ministry policies and procedures;
- (j) ensuring the Trust complies with the requirements of applicable Directives and Ministry policies and procedures;
- (k) preparing the annual report, business plan, and financial reports as directed by the Board for its approval;
- (l) developing and implementing an effective performance measurement system for the Trust;
- (m) meeting the performance objectives set by the Deputy Minister in consultation with the Chair;
- (n) preparing and implementing a performance review system for employees of the Trust;
- (o) ensuring effective communication with the Deputy Minister and employees of the Ministry, including consulting with the Deputy Minister and Ministry employees as needed on matters of mutual importance and seeking advice and support from the Ministry as appropriate;
- (p) monitoring of the Trust's operational performance and reporting on this to the Board through the Chair;
- (q) undertaking reviews, evaluations and reports of the Trust's activities at the request of the Chair or the Board and advising the Chair and the Board of the results;

- (r) ensuring the Ministry is provided with such information regarding the Trust as the Minister may require or request in order to carry out his/her responsibilities, such as the approvals of the exercise of the Trust's powers under subsection 10(2) of the Act;
- (s) keeping the Deputy Minister and the Chair advised of issues or events, including contentious matters, that concern the Minister, the Deputy Minister and the Chair in the exercise of their respective responsibilities (e.g. issues of wrongdoing or impropriety, litigation, allegations of conflict of interest or workplace harassment, police investigations, legal charges or complaints to the Human Rights Tribunal of Ontario or to the Ombudsman);
- (t) supporting the Chair in orienting the members of the Board with respect to their roles and responsibilities;
- (u) ensuring that the Trust's employees are informed of and comply with all conflict of interest guidelines or policies of the Trust and the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations;
- (v) carrying out the specified responsibilities under the *Public Service of Ontario Act, 2006* and its regulations as the “ethics executive” for employees of the Trust in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (w) cooperating with any periodic review directed by the Minister or by TB/MBC;
- (x) meeting with the Deputy Minister monthly or more often as needed; and
- (y) establishing a system for the retention of the Trust's documents and for appropriately making such documents publicly available.

9. ADMINISTRATION AND STAFFING

- (a) The Trust is an Operational Enterprise agency subject to the financial, human resources and administrative policies, guidelines, and directives established by TB/MBC that impact on Operational Enterprise agencies.
- (b) Subject to clause (a) above, the Board has full financial and administrative authority over the operations of the Trust, and may delegate such authority to the Executive Director or other officers and employees of the Trust as it sees fit.
- (c) If the Trust provides any transfer payments, the Trust is subject to TB/MBC's *Transfer Payment Accountability Directive* in the provision and administration of such transfer payments.
- (d) The Chair is responsible for ensuring that clear policies are established related to transfer payment recipients, and for ensuring effective diligence when setting up and monitoring transfer payment contracts to ensure public services are delivered, commitments are fulfilled, and the right controls are in place to ensure the prudent use of taxpayers' money.

- (e) The Trust is prescribed as a “Commission public body” in accordance with Ontario Regulation 146/10 made under the *Public Service of Ontario Act, 2006*.
- (f) Employees of the Trust are appointed under Part III of the *Public Service of Ontario Act, 2006*. All TB/MBC human resources directives apply to the employees of the Trust.
- (g) Employees of the Trust are members of the Public Service Pension Plan.
- (h) The Trust is responsible for providing its own administrative services except for legal services, payroll services, human resources services associated with the Workplace Information Network (WIN) and mail and telecommunications services (collectively the “Corporate Services”). The provision of Corporate Services by the Ministry and the Shared Services Bureau, as the case may be, will be addressed in a separate Corporate Services agreement between the Ministry and the Trust.
- (i) The Trust is exempt from any Management Board of Cabinet requirement that the Trust utilize the Ontario Realty Corporation for the provision of realty services in carrying out its mandate and for its accommodation needs.
- (j) Legal Services for the Trust are provided by the Ministry of the Attorney General (“MAG”) in accordance with MAG’s *Corporate Operating Policy on Acquiring and Using Legal Services*.
- (k) The Trust is subject to the *Pay Equity Act*, the *French Language Services Act* and the *Freedom of Information and Protection of Privacy Act*.

10. FINANCIAL

- (a) The Trust receives funding through transfer payments from the Ministry derived from the Consolidated Revenue Fund based on the Government’s budget planning and allocation process, and are subject to adjustments made by the Minister, TB/MBC or the Legislative Assembly. In each fiscal year, the transfer payments are subject to the approval of TB/MBC and to an appropriation authorized by the Legislative Assembly.
- (b) In accordance with s.10 of the Act, the Trust may acquire money, securities or other property, real or personal, by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such money, securities or other property in the promotion of its objects, subject to the terms, if any, upon which the money, securities or other property were made.
- (c) The Trust shall provide all information and advice as requested to support the Minister throughout the Government’s business planning process. As may be permitted, the Ministry will provide the Trust with information about government business planning and requirements.
- (d) The Trust may set the level of funding allocated to programs and services, consistent with its annual business plan as approved by the Minister.

- (e) Financial and accounting policies of the Trust shall follow generally accepted accounting principles, as set out by the Canadian Institute of Chartered Accountants and its Handbook.
- (f) The Trust is required to pay the Harmonized Sales Tax but may apply for a rebate of the amount paid.
- (g) The Trust shall manage its financial activities, including borrowing, leasing, investing, banking and management of cash, financial assets, financial risks and financial liability, in accordance with the Act and, where applicable, the *Trustee Act*, and subject to any policy direction of the Ontario Financing Authority.
- (h) In accordance with Ontario's *Financial Administration Act*, if the Trust proposes to enter into any financial arrangements that could increase the Government's direct, indirect or contingent liabilities or affect the Government's financial, cash or debt management policies, the Trust shall obtain the prior written approval, via the Minister, of the Minister of Finance.
- (i) The Trust shall acknowledge the financial support of the Government in all of its financial, educational, and promotional materials in accordance with TB/MBC Directives, including the *Visual Identity Directive*, and the Trust shall refer to itself by its full name "Ontario Heritage Trust" in English and "Fiducie du patrimoine ontarien" in French in all formal documents.
- (j) Surplus funds in any given fiscal year shall be applied to the Trust's programs in the following fiscal year(s).

11. AUDITING

- (a) As provided for in s.16 of the Act, the Auditor General shall conduct an audit of the financial transactions or management, or both, of the Trust, and a report of the audit shall be promptly provided to the Trust and the Minister. The Trust will not be responsible for the cost of the audit.
- (b) The Minister may direct that the Ministry's or other auditors conduct an internal audit of the financial transactions or management, or both, of the Trust. The Trust will not be responsible for the cost of the audit.
- (c) The Chair may request an internal audit of the financial transactions or management, or both, of the Trust and the Trust shall be responsible for the cost of the audit.
- (d) The report of the Auditor General will be provided to the Minister annually. The Trust agrees to provide promptly to the Minister its responses to any comments and recommendations made by the Auditor General, in advance of its formal reply to the Auditor General. The Trust shall advise the Minister, at the Minister's request, on the status of any outstanding audit recommendations.
- (e) The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee. The Trust will not be responsible for the cost of the audit.

12. PLANNING AND REPORTING

- (a) **Annual Report** – The Chair, on behalf of the Board, will submit an annual report on the affairs of the Ontario Heritage Trust (including the audited financial statements signed by the Chair and one other Board director) to the Minister for tabling in the Legislative Assembly within 120 days of its fiscal year end. If the Board has not received its annual audit report in such time from the Auditor General, the Board will notify the Minister that the annual audit report has not been received and the Board will then submit the annual report to the Minister within 60 days from the Board's receipt of the annual audit report from the Auditor General. The annual report shall be in accordance with the requirements as set out in the *Agency Establishment and Accountability Directive*.
- (b) **Business Plan** - The Board, through the Chair, will ensure that an annual business plan is prepared, approved by the Board, and submitted to the Minister for review and approval as directed by the Ministry in accordance with the timelines of the Ministry's planning cycle. The business plan will cover the next three (3) fiscal years and shall be in accordance with the requirements as set out in the *Agency Establishment and Accountability Directive*.

The Board, through the Chair, shall ensure that the Trust implements a system of performance measurement including annual baseline reporting. The performance measurement system shall include commitments to attaining specific performance indicators and targets. The performance measurement system and reporting shall be included in the annual business plan.

The Executive Director will provide the Ministry with a draft business plan prior to the final business plan submission, in keeping with established deadlines, to provide an opportunity for Ministry review and comment.

The Minister will review, and approve if satisfactory, the Trust's business plan and will advise the Board as to whether or not he or she approves the overall directions envisaged by the Trust and if not, where and in what ways the overall directions of the business plan are at variance with Government's or the Ministry's policies and priorities.

The Board, through the Chair, shall inform the Minister of any intended activities that may result in significant additions, deletions or amendments to its approved business plan in sufficient time for the Minister to consider the intended activities before the Trust enters into any binding financial or operational commitments with respect thereto.

The Chair of TB/MBC may require the Minister to submit the business plan for review at any time.

- (c) **Other Reports & Documents** - The Chair will submit on behalf of the Board the following reports and documents to the Minister for review in a timely manner:
 - (i) any other reports or documents as the Minister may require from time to time;

- (ii) copies of agendas and minutes of the Board's meetings within 30 days following Board approval of its minutes;
 - (iii) any promotion or information materials of the Trust (for information only);
 - (iv) quarterly financial reports prepared on an accrual basis (as defined by the Public Sector Accounting Board), due **30 calendar days** after the end of each quarter, and such reports shall include: (1) a balance sheet; (2) segmented/departmental information describing actual vs. budgeted information regarding revenues and expenses; and (3) a statement of changes in cash position. The quarterly financial reports shall also contain:
 - year-to-date expenditures of the Trust for its operating and capital budgets and;
 - the fiscal year-end financial forecast of the Trust's revenues and expenditures; and
 - an explanation to the satisfaction of the Minister regarding any significant variances from the Trust's approved operating budget.
- (d) The Board shall submit its plans and reports in a timely fashion to enable the Minister to meet his/her annual estimates requirements, and the Minister will provide notice of deadlines as far in advance as is possible.

13. PERIODIC REVIEW

The Trust is subject to periodic review initiated at the discretion and direction of the Minister or TB/MBC. The Trust agrees to co-operate with any such periodic review.

In requiring a periodic review, the Minister or TB/MBC, as the case may be, shall determine the timing and responsibility for conducting the review, the roles of the Chair and the Minister, and how any other parties may be involved.

In the event that a periodic review is initiated at the discretion of the Minister, the Minister shall submit any recommendations regarding the Trust to TB/MBC.

14. APPOINTMENTS

Members of the Board, including the Chair and Vice-Chair, are appointed by the Lieutenant Governor in Council for terms of up to three (3) years pursuant to section 5 of the Act.

15. CONFLICT OF INTEREST

The members of the Board are subject to the conflict of interest provisions of the *Government Appointees Directive* (dated November 1994) and the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations that are applicable to government appointees.

Members shall not use any information gained as a result of his/her appointment to the Board for personal gain or benefit. A member who has reasonable grounds to believe that he/she has a conflict of interest in a matter before the Board, or a committee of the Board, shall disclose the nature of the conflict to the Chair or the Committee Chair at the first opportunity and shall refrain from further participation in the consideration of the matter. The Chair or Committee Chair shall cause to be recorded any declared conflict of interest in the minutes of the meeting of the Board.

Employees of the Trust are subject to the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations.

16. CREATION, COLLECTION, MAINTENANCE AND DISPOSAL OF RECORDS

The Board, through the Chair, is responsible for ensuring that the Trust complies with the *Archives and Recordkeeping Act, 2006*. The Board, through the Chair, is also responsible for ensuring that the Trust complies with the TB/MBC *Management of Recorded Information Directive*.

The Trust is designated as an “institution” in the regulations to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) and the Trust shall handle all of its records in accordance with FIPPA.

The Trust shall ensure there is an information management system for the retention of the Trust’s documents.

The Trust shall maintain and manage all non-financial documents and records relating to funding provided by the Ministry or otherwise related to the activities of the Trust, including any records it receives or creates about individuals who have participated in research focus group studies, in a confidential manner consistent with all applicable laws.

Any information collected by the Trust to inform its decision-making may only be obtained from sources determined to be reliable by the Trust. The Ministry reserves the right to review the type of sources that the Trust is obtaining such information from and to advise the Trust when it believes that the quality of information obtained may be compromised or unreliable.

In circumstances where the Trust receives approval to commission the creation of information, including “personal information” as that term is defined in FIPPA, the Trust shall ensure that every contract it enters into for data collection and processing contains specific references to the sources of the information; the entities involved; and the transfer of information from the collection phase to the destruction phase. Such contracts shall be subject to a Threat Risk Assessment and a Privacy Impact Assessment before they are signed by the parties.

17. CUSTOMER SERVICE PLAN

The Trust shall develop and implement a formal process for responding to complaints and issues raised by the public or by stakeholders regarding quality of service. This process shall be consistent with the quality service initiative of the Government. The Trust's business plan shall include performance measure(s) and targets for customer service and for the Trust's response to complaints.

18. LIABILITY PROTECTION AND INSURANCE

The Trust is covered under the Government's protection program for claims by third parties for bodily injury, property damage, personal injury and advertising liability.

Original signed by the Minister of Tourism, Culture and Sport and the Board Chair of Ontario Heritage Trust.

SCHEDULE 1

Ministry of Finance and Treasury Board / Management Board of Cabinet Directives applicable to the Ontario Heritage Trust *

(* Where a Directive applies, all associated policies, procedures and guidelines also apply, as do any future revisions of these same Directives). Guidelines or policies are only listed where there is no corresponding Directive.)

Accountability and Governance

- (a) Accountability Directive (September 1997)
- (b) Advertising Content Directive (Sept 2001)
- (c) Agency Establishment and Accountability Directive (January 2010)
- (d) Cash Management Directive
- (e) Delegation of Authority Directive (March 2000)
- (f) General Expenses Directive (Oct 1997 revised Nov 2004)
- (g) Government Appointees (September 2006)
- (h) Internal Controls Management Directive (February 2006)
- (i) Internal Audit Directive (2002)
- (j) Risk Management Policy (April 2002)

Business Planning and Financial Management

- (k) Expenditure Management Directive (April 2000)
- (l) Capital expenditure Evaluation Directive (November 1994)
- (m) Indemnification Directive
- (n) Non-Tax Revenue Directive (August 1991)
- (o) Real Property and Accommodation Directive (September 1998)
- (p) Travel, Meal and Hospitality Expenses Directive (revised April 2010)
- (q) Staffing Management and Control Directive (September 1992)

Procurement

- (r) Establishment and Use of Central Common Services Directive (August 1994)
- (s) Procurement Directive (July 2009)
- (t) Procurement Directive on Advertising, Media and Public Relations and Creative Communications Services (July 2009)

Information and IT Management

- (u) Enhancing Privacy: Computer Matching of Personal Information Directive (May 1994)
- (v) Freedom of Information and Protection of Privacy Directive (Feb 1991)
- (w) Communications in French Directive (May 2010)
- (x) Government Publications Directive (Sept 1997)
- (y) Information and Information Technology and Security Directive (2005)
- (z) Management of Recorded Information Directive (June 1992)
- (aa) Managing, Distributing and Pricing Government Information (Intellectual Property) (August 1998)

- (bb) Visual Identity Directive (revised September 2006) with exemption from the Agency/Program Logo requirement

Human Resources Management

(Note: Employees of the Ontario Heritage Trust are appointed under Part III of the *Public Service of Ontario Act, 2006*, and therefore all TB/MBC human resources directives apply.)

- (cc) Classification and Position Administration Directive (January 1991)
- (dd) Delegation of Authority Directive (March 2000)
- (ee) Disclosure of Wrongdoing Directive (June 2008)
- (ff) Emergency Evacuation Planning Directive (January 1991)
- (gg) Employee Benefits Directive (January 2003)
- (hh) HIV Infection and Aids in the Workplaces Directive (January 1991)
- (ii) Hours of Work Directive (January 1991)
- (jj) Human Resources Management (February 1999)
- (kk) Merit Increase Directive (2008)
- (ll) Occupational Health and Safety Policy (June 2010)
- (mm) Relocation Expenses Directive (February 2003)
- (nn) Retirement Directive (January 1991) under review (mandatory retirement lifted Dec 2006)
- (oo) Salary Rates/Ranges Directive (January 1991)

The Ministry will inform the Ontario Heritage Trust of amendments or additions to Directives, policies and guidelines that apply to the Ontario Heritage Trust.

- END OF SCHEDULE 1 -

SCHEDULE 2

COMMUNICATIONS PROTOCOL FOR AGENCIES

MINISTRY OF TOURISM AND CULTURE

1. PURPOSE

The purpose of this communications protocol is to set out a framework for the Ministry and Agency to collaborate on public communications opportunities.

Clear and direct lines of communication between the Ministry and its agencies are essential. This communications protocol will support both the Agency's implementation of its legislated mandate and the promotion of the work it does. It also supports the Minister's accountability to the Legislature and to Cabinet for the same.

2. DEFINITIONS

- a. "Public communications" means any material that is communicated to the public, either directly or through the media in:
 - Oral form, such as a speech or public presentation
 - Printed form, such as a news release or hardcopy report
 - Electronic form, such as a posting to a website.
- b. A "contentious issue" is a matter that is, or may reasonably be expected to be, of concern to the legislative assembly or the public, and is likely to result in inquiries directed to the minister or government. Contentious issues may be raised by:
 - Members of the Legislative Assembly
 - The public
 - Media
 - Stakeholders
 - Service delivery partners.

3. PRINCIPLES

- a. All communications planning processes between the Ministry and its agencies are to be handled in a confidential manner, respecting each organization's approval deadlines.
- b. The Ministry and the Agency will appoint persons to serve as public communications "leads".
- c. The Agency will identify, and share with the Ministry, appropriate opportunities for the inclusion of messaging on government priorities and to enhance the government's profile. The

Agency will also make the Ministry aware of contentious issues. Similarly, the Ministry will identify appropriate opportunities for Agency involvement (for example, cross-Ministry opportunities), and will make the Agency aware of contentious issues.

- d. The Agency will comply with the government's Visual Identity Directive and identify itself in all media responses, news releases and on its Web site as an Agency of the Government of Ontario.
- e. Agency communications that are related to the day-to-day business of the Agency as per Section 10(1) of the Act and do not have direct implications for either the Ministry or the government include, but are not limited to, items such as:
 - brochures and promotional items
 - information kits
 - reports (other than those required to be submitted to the Ministry)
 - routine web site updates
 - communications between the Agency and its stakeholders
 - responses on day-to-day operational matters
 - program communications (e.g., information regarding application guidelines and deadlines)

It is neither feasible nor necessary for Ministry involvement in these items. This category does not include contentious issues, media responses, or news releases that announce new grants or programs.

- f. Ministry involvement is required on Agency communications activities related to activities including, but not limited to:
 - program and/or grant announcements
 - milestone events
 - contentious issues

The Ministry's involvement in public communications products (media releases, backgrounders, web updates, etc.) related to these activities could include, where appropriate and mutually agreed, Minister participation, inclusion of provincial or ministerial messaging on government priorities, or opportunities for local MPP announcements.

4. PROCESS

Day-to-day operational matters between the Agency and the Ministry will be detailed in a separate Schedule, to be agreed upon by both parties.

This schedule will include, but may not be limited to, the following items:

- Designating a communications ‘lead’ for both the Ministry and Agency
- Communications planning and protocols
- Products requiring Minister’s approval
- Timelines for the submission and review of public communications products, where appropriate.

- END OF SCHEDULE 2 -

SCHEDULE 3

List of General Legislation applicable to the Ontario Heritage Trust

Accessibility for Ontarians with Disabilities Act, 2005

Archives and Recordkeeping Act, 2006

Crown Employees Collective Bargaining Act, 1993

Emergency Management and Civil Protection Act

Financial Administration Act

Freedom of Information and Protection of Privacy Act

French Language Services Act

Human Rights Code

Management Board of Cabinet Act

Pay Equity Act

Public Sector Salary Disclosure Act, 1996

Public Service of Ontario Act, 2006

-- END OF SCHEDULE 3 --