

TERMS AND CONDITIONS OF ACCREDITATION AGREEMENT

WHEREAS Her Majesty the Queen in right of Canada (hereinafter referred to as “Her Majesty” or the “Crown”), as represented by the Minister has made the Canadian General Standards Board (hereinafter called “the CGSB”), part of the Department of Public Works and Government Services, responsible for the administration of certain accreditation programs;

WHEREAS the CGSB has further to its mandate established accreditation programs for purposes of ascertaining whether an Applicant’s product is capable of meeting standards that form the subject of that program;

WHEREAS the Operating Authority wishes to participate in and be listed under the Accreditation Program for Operating Authorities – Municipal Drinking-Water Systems with respect to those of its Drinking-Water Systems that are listed in the attached Schedule “B”;

WHEREAS the Operating Authority has made an Application to the CGSB representing that its products meet the requirements of the Drinking Water Quality Management Standard (hereinafter called “the Standard”) as well as the Accreditation Program Handbook; and

WHEREAS the CGSB is prepared to list the Operating Authority under the Accreditation Program upon the terms and conditions and for the consideration set out herein.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. This non-exclusive Accreditation Agreement (hereinafter called the “Agreement”) shall be for a term of three years commencing the 23rd day of June, 2009 and expiring on the 23rd day of June 2012.
2. The following listed documents form part of and are incorporated into this Agreement as fully and effectively as if they were set forth at length in this Agreement:
 - (a) These articles of Agreement;
 - (b) Schedule “A” – “Application”;
 - (c) The Accreditation Handbook relating to the Accreditation Program. The Operating Authority acknowledges receipt of a copy of this Handbook. The CGSB will forward any amendments to the Handbook to the Program Participant, on a timely basis. The term “Accreditation Handbook”, whenever used in this Agreement, refers to the most current version of the Accreditation Handbook, as amended from time-to-time by the CGSB;
 - (d) Schedule “B” — “Drinking Water Systems and Facilities”.

In the event of any discrepancy, inconsistency or ambiguity between the wording contained in one contractual document with the wording of another contractual document, the wording of the document that first appears on the above list shall prevail.

In the event that a document on the list is internally inconsistent or ambiguous the wording in the document, that first appears, shall prevail over any subsequent wording in the document.

Application

3. The CGSB declares, and the Operating Authority acknowledges that the CGSB’s decision to enter into this Agreement is based in part upon the Program Participant’s representations and undertakings that are set out in the Application previously executed and submitted by the Operating Authority.

Listing in the Accreditation Program

4. Wherever Accreditation Program or Accreditation Handbook is referenced in this Agreement, the reference shall be to the latest issue of the Accreditation Program or the Accreditation Handbook as the case may be, complete with any issued amendment.
5. During the term of this Agreement and subject to the conditions set out herein, the CGSB shall list the Operating Authority as a participant in the Accreditation Program provided that the Operating Authority satisfies on an ongoing basis the terms, conditions and other requirements of the Accreditation Program as detailed in the Accreditation Handbook .
6. The Operating Authority agrees and covenants that it will comply with, and perform all its obligations in accordance with the terms, conditions, specifications, representations, undertakings and other requirements of the Standard, the Accreditation Handbook, , during the term of this Agreement, including taking responsibility for ensuring:
 - (i) That the Operating Authority continues to respect the representations made by the Operating Authority in that document continue to be accurate, the whole throughout the term of this Agreement; and
 - (ii) That the Program Participant's operations, its facilities and its procedures for informing the CGSB on an ongoing basis of any complaints, incidents or reported problems as well as the corrective actions or procedures taken or adopted by the Operating Authority as a result of any complaint, incident or reported problem, all comply with the requirements of the Accreditation Program, as set out in the Accreditation Handbook, including (without limitation) all inspection and testing requirements that are set out in the Standard and in the Accreditation Handbook.
7. The CGSB also reserves the right to change the Accreditation Handbook, and the right to change the requirements of the Accreditation Program at any time, for any good reason, and the CGSB may require that the Operating Authority confirm that it complies with the revised Standard or that the Program Participant's quality systems and facilities comply with the new requirements relative to the Accreditation Program. Failure to bring a Listed facility into conformance with the revised Standard or Accreditation Handbook within a reasonable time as set by the CGSB, or failure by the Operating Authority to confirm compliance with the revised Standard shall be, at the option of the CGSB, either grounds for de-listing or a default under this Agreement.

Withdrawal by the Program Participant

8. The Operating Authority may, at any time, inform the CGSB in writing that it is withdrawing from Accreditation Program. The Operating Authority shall no longer use the CGSB Accreditation Number. The CGSB shall not be obligated to repay any payment or portion of any payment made by the Operating Authority and that corresponds to a period of time extending beyond the withdrawal of the Program .

Significance of Accreditation

9. The Operating Authority understands and agrees that the CGSB's execution of this Agreement, the CGSB's listing of the Operating Authority as a participant in the Accreditation Program, the listing of the Operating Authority has demonstrated to the satisfaction of the CGSB that it is capable of conforming with the Standard. The Operating Authority shall make no other implied or express representation as to the meaning of such listing and legal agreement. The Operating Authority understands and agrees that the listing of the Operating Authority under the Accreditation Program in no way endorses the efficacy of, nor relieves the Operating Authority of the duty to maintain a continuing systematic and diligent program and a quality system to ensure that the Operating Authority meets or exceeds the standard of quality and character imposed by the law or the requirements of the Standard.

Agreement to use the CGSB Accreditation Number

10. Subject to the terms and conditions set out herein, the CGSB hereby grants the Operating Authority the right to use the CGSB Listing and in accordance with "Use of the CGSB Name and Accreditation Number" section of the Accreditation Handbook, the whole during the term of this Agreement.

11. The CGSB shall have the right to preview and approve the use of its name, or the CGSB Accreditation Number, or any other representation of its Accreditation Program before publication, printing, or other use by the Program Participant. This right includes the right to preview any other claim or representation made by the Operating Authority in advertising, promotional materials, or on labels, which have not been assessed and listed by the CGSB.
12. The Operating Authority acknowledges that the CGSB Accreditation Number is the exclusive property of the CGSB and that all the use of the CGSB Accreditation Number by the Operating Authority shall inure to the benefit of the CGSB. If the CGSB notifies the Operating Authority that it objects to a use of the CGSB Accreditation Number by the Program Participant, the Operating Authority agrees to cease such use promptly. The Operating Authority agrees that it will do nothing inconsistent with the CGSB's ownership, that it will not attack the validity of this License, or the CGSB's title to the CGSB Accreditation Number. Nothing in this Agreement shall give the Operating Authority any right, title or interest in the CGSB Accreditation Number other than the right to use the number in accordance with this Agreement.
13. The failure of the Operating Authority to conform to the terms, conditions and covenants contained in this Agreement shall entitle the CGSB, at the CGSB's sole discretion to terminate the accreditation granted herein. The Operating Authority agrees that the breach of any term, condition, or covenant contained in the "Use of the CGSB Name and Accreditation Number" section of the Accreditation Handbook, or Articles 10 to 13 of this Agreement, or any unlicensed use of the CGSB Accreditation Number, may cause irreparable injury to the CGSB for which there is no adequate remedy at law, and therefore agrees that, in the event of any such breach or unlicensed use, and notwithstanding any provision to the contrary in this Agreement, the CGSB shall be entitled to obtain in any competent jurisdiction preliminary and permanent injunctive relief preventing the Program Participant's continued use of the CGSB Accreditation Number.
14. The Operating Authority shall immediately notify the CGSB of any apparent infringement of, or challenge or claim by any person relating to the CGSB Accreditation Number. The CGSB shall have the exclusive right to control as it sees fit, in its sole discretion, any settlement, litigation, or other proceeding relating to such infringement, challenge, or claim, or otherwise relating to the CGSB Accreditation Number.

Annual Legal Agreement Fee; Program Management Charges

15. Each year during the term of this Agreement, in consideration of the non-exclusive accreditation granted by the CGSB hereby, and in consideration of the CGSB's activities relating to its management of the Accreditation Program and its listing of the Operating Authority as a participant, the Operating Authority shall pay to Her Majesty fees and charges as detailed in the "Costs" section of the Accreditation Handbook.
16. Payment of the said Fees and Charges shall be made in the manner set forth in the "Costs" section of the Accreditation Handbook.

Interest on Late Payments

17. The Operating Authority shall be liable to pay to Her Majesty simple interest at the Bank Rate, plus one and one quarter percent (1.25%), on any amount owing that is overdue from the date such amount became overdue until the date prior to the date of payment, inclusively.
18. For the purposes of Article 18:
 - (a) An amount is "due and payable" when it is due and payable by the Operating Authority to Her Majesty pursuant to the terms of this Agreement;
 - (b) An amount is "overdue" when it is unpaid on the first day following the day upon which it is due and payable;
 - (c) "Date of payment" means the date on which the payment of the Fees and Charges detailed in the "Costs" section of the Accreditation Handbook is received by the CGSB; and

- (d) "Bank Rate" means the discount rate of interest set by the Bank of Canada and shall be the one that is prevailing at the opening of business on the date the amount of the Fees and Charges detailed in the "Costs" section of the Accreditation Handbook become overdue.

Termination for Default

19. The CGSB may terminate this Agreement, upon giving written notice to the Program Participant:
- (a) In the event that the Operating Authority fails, refuses or neglects or is unable to comply with any of the provisions of this Agreement; or
 - (b) In the event that the Operating Authority fails to comply with the provisions of the Application for Listing that was executed by the Operating Authority; or
 - (c) In the event that the Operating Authority fails to comply with the requirements of the Standard (as revised from time to time) or the Accreditation Program, as set out in the Accreditation Handbook (as revised from time-to-time), a copy of which the Operating Authority acknowledges having received; or
 - (d) In the event that the Operating Authority fails to respect any of the periods stipulated or referred to in this Agreement; or
 - (e) To the extent permitted by the laws of Canada, in the event that the Operating Authority is in a situation where it:
 - i. Applies for or consents to the appointment of a receiver, receiver-manager, trustee or liquidator for itself or any of its property; or
 - ii. Is unable, or admits its inability, to pay its debts as they become due; or
 - iii. Makes a general assignment for the benefit of creditors; or
 - iv. Is adjudicated bankrupt or insolvent; or
 - v. Files a voluntary petition in bankruptcy or a petition seeking reorganization or arrangement with creditors or takes advantage of any insolvency law or admits to the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or initiates a corporate action for the purpose of effecting any of the foregoing, or if an order is made or resolution passed for the winding up of the Program Participant; or
 - (f) In the event that any amount payable by the Operating Authority to Her Majesty under the terms of this Agreement is overdue by 60 days.
20. Except where prohibited by law, this Agreement shall terminate, without notice, upon the occurrence of any event detailed above under Article 20(e), and all rights and License accorded to the Operating Authority under this Agreement shall be deemed terminated.
21. The Operating Authority shall be liable to Her Majesty for all loss and damage that may be suffered by Her Majesty by reason of any default on the part of the Program Participant.
22. Notwithstanding anything herein to the contrary, upon termination of this Agreement for any reason of default by the Program Participant, all Fees and Charges that are owing pursuant to the terms of this Agreement shall immediately become due and payable, and in no event shall the CGSB become obligated to repay any payment made or any portion of a payment that has been made and that corresponds to a period of time that extends beyond the date of termination by reason of default.

Termination by Either Party

23. (a) The Operating Authority may, at the option of the Program Participant, terminate this Agreement by giving 60 days written notice to the Minister in the manner set forth and at the address described in Article 29.
- (b) The CGSB may, at the option of the CGSB, and in addition to the provisions of Article 20 herein, terminate this Agreement by giving 60 days written notice to the Operating Authority in the manner set forth and at the address described in Article 29.
24. In the event that this Agreement is terminated by Her Majesty for any reason other than the Program Participant's default in respecting any of its obligations hereunder, the Annual Legal Agreement Fee will be prorated based on the number of days of the then-current year during which this Agreement is in effect, and the remaining portion of the Annual Legal Agreement Fee for that year will be reimbursed to the Program Participant. In the event, however, that the Operating Authority terminates this Agreement pursuant to Article 24(a) hereof, then the Operating Authority shall not be entitled to reimbursement of any portion of the Annual Legal Agreement Fee.

Indemnity

25. Without limiting Her Majesty's remedies and recourses at law, the Operating Authority covenants and agrees to indemnify and save harmless Her Majesty, the Minister and their servants and agents from and against:
- (a) Any damages, costs or expenses or any claim, action, suit or other proceeding which they or any of them may at any time incur or suffer as a result of or arising out of any injury to persons (including injuries resulting in death) or loss of or damage to property of others that may be or be alleged to be caused by or suffered as a result of:
- i. Production or sale of a Listed Product by or for the Program Participant;
 - ii. The production or sale of any other product by or for the Operating Authority in connection with which the CGSB Accreditation Number is used, whether such use is authorized or unauthorized;
 - iii. The operation or use of any facility by or for the Operating Authority and in connection with which the CGSB Accreditation Number is used, whether such use is authorized or unauthorized; or
 - iv. Any other act or omission of the Program Participant;
- (b) Any and all liability, loss, cost, damages, legal fees, and expenses of whatever kind or nature that Her Majesty may sustain or incur by reason, or in consequence of any act or omission of the Operating Authority in respect of the right granted herein to use the CGSB Accreditation Number or display the company certificate issued by the CGSB, or the right to use or the use of the CGSB Accreditation Number in connection with any product and/or facilities, whether authorized or unauthorized; and
- (c) Any costs that may be sustained or incurred by Her Majesty in making any investigation on account of any such liability, loss, cost, damage, legal fees, or expense in defending or prosecuting any action, suit or other proceeding that may be brought in connection therewith or in obtaining a release from liability in connection therewith, or in enforcing any of the obligations herein contained.

The Minister shall give notice to the Operating Authority of any claim, action, suit or proceeding referred to above and the Operating Authority shall, to the extent requested by the Attorney General of Canada, at its own expense participate in or conduct the defence of any such claim, action, suit or proceeding and any negotiations for settlement of the same, but the Operating Authority shall not be liable to indemnify Her Majesty for payment of any settlement unless it has consented to the settlement.

Assignment

26. This Agreement is personal to the Operating Authority and shall not be assigned or otherwise encumbered by the Operating Authority or by operation of law, in whole or in part. Any purported assignment or encumbrance of this Agreement by the Operating Authority shall be null and void.

Time is of the Essence

27. Time shall be of the essence of this Agreement.

Notice

28. (a) Any notice shall be in writing and may be delivered by hand or by courier, by registered mail, or by facsimile or other electronic means that provides a paper record of the text of the notice, addressed to the Party for whom it is intended at the address set out below. Any notice shall be deemed to be effective on the day it is received at that address:

FROM/TO:

Manager of Engineering
The Corporation of the Town of Pelham
20 Pelham Square
Fonthill, Ontario
L0S 1E0

TO/FROM:

Manager, Conformity Assessment Division
Canadian General Standards Board
11 Laurier Street, Place du Portage
Phase III, 6B1
Gatineau, Quebec
(Canada)
K1A 1G6

- (b) Either party may, by written notice to the other, change its address for purposes of this section. In the event that any notice sent to the address set out in this section, or in the latest address change notice received by the party sending the notice, shall be returned undelivered by reason of the fact that the party to whom it was addressed has moved or does not occupy the designated address, such notice shall nevertheless be deemed to have been received by such party on the date it was sent.

Miscellaneous

29. This Agreement shall be governed by and construed in accordance with the laws in effect in the Province of Ontario.
30. No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.
31. (a) In this section:
- “contingency fee” means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a government Contract or negotiating the whole or part of its terms;
- “employee” means a person with whom the Operating Authority has an employer-employee relationship;
- “person” includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return

with the registrar pursuant to Section 5 of the *Lobbyist Registration Act*, R.S.1985, c. 44 (5th Supplement) as the same may be amended from time to time.

- (b) The Operating Authority certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay a contingency fee for the solicitation, negotiation or obtaining of this Agreement to any person other than an employee acting in the normal course of the employee's duties.
 - (c) All accounts and records of the Operating Authority pertaining to payment of fees or other compensation for the solicitation, negotiation or obtaining of this Agreement shall be open to audit, inspection and examination by the authorized representatives of the CGSB, who may make copies and take extracts therefrom. The Operating Authority shall provide all facilities for such audits and inspections and shall furnish all such information as the representatives of the CGSB may from time to time require with respect to such accounts and records.
 - (d) If the Operating Authority certifies falsely under this section or is in default of the obligations contained therein, the CGSB may either terminate this Agreement for default in accordance with the termination for default provisions of the Agreement or recover from the Operating Authority the full amount of the contingency fee.
32. (a) From time to time, in compliance with United Nations obligations or other international agreements, Her Majesty imposes restrictions on trade, financial transactions or other dealings with a foreign country or its nationals. These sanctions may be implemented by regulation under the *United Nations Act*, R.S.C. 1985, c. U-2 ("UNA"), the *Special Economic Measures Act*, S.C. 1992, c. 17 ("SEMA") or the *Export and Import Permits Act*, R.S.C. 1985, c. E-19 ("EIPA"). The Operating Authority undertakes and agrees that it will, in the performance of this Agreement, comply with any such regulations that are in force on the effective date of the Agreement.
- (b) The Operating Authority agrees that the CGSB relies on the Program Participant's undertaking in Subarticle 33 (a) to enter into this Agreement, and that any breach of the undertaking shall entitle the CGSB to terminate this Agreement under the provisions of this Agreement relating to default by the Program Participant, and to recover damages from the Operating Authority arising out of such breach or termination.
33. This Agreement represents the entire agreement between Her Majesty and the Operating Authority relating to the subject matter of the Agreement and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in the Agreement. There are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in the Agreement.
34. If any provision of the Agreement is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from the Agreement and all other provisions of the Agreement shall remain in full force and effect.
35. This Agreement shall inure to the benefit of, and shall be binding upon, the successors and permitted assignees of Her Majesty and of the Program Participant.
36. All of the Program Participant's representations and warranties set out in this Agreement as well as the provisions concerning indemnity against third party claims shall survive the expiry of the Agreement or the termination of the Agreement for default, for convenience, or by mutual consent, as shall any other provision of the Agreement that, by the nature of the rights or obligations set out therein, might reasonably be expected to be intended to so survive.

37. No amendment or modification to this Agreement shall be valid and binding unless it is incorporated into the Agreement by written amendment executed by the authorized representatives of both Her Majesty and the Program Participant.

Notwithstanding any thing to the contrary in this Agreement, the Program Participant, may at any time, subject to the terms and conditions of the Accreditation Handbook make an application to the CGSB to amend its scope of accreditation. Such amendment shall be deemed effective immediately.

38. No waiver shall be valid, binding or affect the rights of the Parties unless it is made in writing by, in the case of a waiver by Her Majesty, the CGSB and, in the case of a waiver by the Program Participant, the authorized representative of the Program Participant. The waiver by a Party of a breach of any term or condition of the Agreement shall not prevent the enforcement of that term or condition by that Party in the case of a subsequent breach, and shall not be deemed or constituted a waiver of any subsequent breach. Every right, remedy, power and discretion vested in or acquired by the CGSB, the Minister or the Crown under this Agreement or by law shall be cumulative and non-exclusive.

IN WITNESS WHEREOF this Accreditation Agreement has been executed by the Licencee this 20 day of JULY, 2009.

Cheryl Milette Town Clerk
(Signing Authority For Company - Signature and Title)

CWERYL MILETTE, TOWN CLERK
(Signing Authority For Company - Name and Title, please print)

Nancy J. Bozzato
Signature of Witness

NANCY J. BOZZATO DEPUTY CLERK
Name and Title of Witness (please print)

at the Town of PELHAM on this 20th day of July 2009

** - signed original must be forwarded to CGSB.