

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE OWEN SOUND
TRANSPORTATION COMPANY, LIMITED**

AND

**THE MINISTRY OF NORTHERN
DEVELOPMENT AND MINES**

THIS MEMORANDUM OF UNDERSTANDING

made as of the 12 day of February, 2013

BETWEEN:

THE OWEN SOUND TRANSPORTATION COMPANY, LIMITED

AND

THE MINISTRY OF NORTHERN DEVELOPMENT AND MINES

WHEREAS the Government of Ontario has established The Owen Sound Transportation Company, Limited (the “**OSTC**”) to provide safe, efficient and reliable ferry transportation in the province of Ontario;

AND WHEREAS the Minister of Northern Development and Mines pursuant to a sole shareholder declaration in accordance with section 108 of the *Business Corporations Act*, R.S.O. 1990, c. B.16, exercises control over the OSTC’s Board of Directors, who are responsible for the administration of the business of the OSTC;

AND WHEREAS it is necessary for the Parties to enter into a Memorandum of Understanding that reflects the policies of the Government of Ontario as they pertain to the mandate, operation and funding requirements of the OSTC;

NOW THEREFORE the Parties agree as follows:

ARTICLE 1 PURPOSE

- 1.1 **Purpose.** The purpose of this Memorandum of Understanding is to set out the accountability relationship between the Parties. The MOU shall:
- a) Clarify the roles and responsibilities of the Minister, the Deputy Minister, the Board, the Chair and the President/CEO of OSTC; and
 - b) Set out the operational, administrative, financial, auditing and reporting arrangements between the OSTC and the Ministry.

ARTICLE 2 DEFINITIONS

- 2.1 **Definitions.** In this Memorandum of Understanding, terms shall have the following meanings:
- (a) **“Act”** means the Ontario *Business Corporations Act*, R.S.O. 1990, chapter B.16, as amended from time to time;
 - (b) **“Auditor General”** means the Auditor General of Ontario appointed pursuant to the *Auditor General Act*, R.S.O. 1990, c. A.35;
 - (c) **“Board”** means the members of the Board of Directors of the OSTC;
 - (d) **“By-laws”** means the by-laws of the OSTC as may be duly passed or amended by the Board and approved by the Minister as the Sole Shareholder of the OSTC from time to time;
 - (e) **“Business Day”** means a day other than a Saturday, Sunday or any statutory holiday in the Province of Ontario.
 - (f) **“Business Plan”** means the OSTC’s multi-year business plan submitted annually by the OSTC to the Province;
 - (g) **“Cabinet”** means the Executive Council of the Province of Ontario;
 - (h) **“Capital Plan”** means the OSTC’s annual capital plan submitted annually by the OSTC to the Province;
 - (i) **“Chair”** means the Chair of the OSTC;
 - (j) **“Contribution Agreement”** means an annual funding and service level agreement between the Ministry and the OSTC;

- (k) “**Crown Agency**” means a Crown agency under the *Crown Agency Act*, R.S.O. 1999, c. C.48;
- (l) “**Deputy Minister**” means the Deputy Minister of Northern Development and Mines
- (m) “President/CEO” means the President/CEO of the OSTC or anyone acting in this capacity;
- (n) “**Legislative Assembly**” means the Legislative Assembly of Ontario;
- (o) “**Letters Patent**” means the letters patent of the OSTC dated March 10, 1921 and the supplementary letters patent of the OSTC dated August 5, 1949;
- (p) “**Minister**” means the Minister of Northern Development and Mines
- (q) “**Ministry**” or “**MNDM**” means the Ministry of Northern Development and Mines;
- (r) “**MOU**” means this Memorandum of Understanding;
- (s) “**OFA**” means the Ontario Financing Authority, a corporation without share capital established under the *Capital Investment Plan Act, 1993*, S.O. 1993, c. 23;
- (t) “**OSTC**” means The Owen Sound Transportation Company, Limited;
- (u) “**OSTC Corporate Documents**” means the By-laws, Letters Patent and Sole Shareholder Declaration of the OSTC;
- (v) “**Party**” or “**Parties**” means a signatory or the signatories to this MOU as the context requires;
- (w) “**PSOA**” means the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, sched. A;
- (x) “**Province**” means the Province of Ontario;
- (y) “**Quarterly Operating and Financial Reports**” means the operating and financial reports prepared quarterly by the President/CEO and submitted to the Board for approval, which reports include without limitation:

- i) financial statements, including a Balance Sheet, Statement of Revenues and Expenses, and Statement of Changes in Financial Position,
 - ii) line of credit and other financing activities, and
 - ii) actual and projected variances in all income statement and balance sheet items from the approved Business Plan and an explanation of these variances;
- (z) **“Significant Variances”** means variances of the financial position of the OSTC of 10 per cent or more from the approved operating or capital budget allocation for the OSTC;
- (aa) **Sole Shareholder Declaration**” means the declaration made by the Minister of Northern Development and Mines as the sole shareholder for the OSTC pursuant to section 108 of the *Business Corporations Act*, R.S.O. 1990, c. B.16; and
- (bb) **TB/MBC**” means the Treasury Board/ Management Board of Cabinet of Ontario;

ARTICLE 3 LEGISLATIVE AUTHORITY AND MANDATE

- 3.1 **Legal Authority.** The legal authority of the OSTC is set out in the Act and the Letters Patent. The MOU, the Act and the OSTC Corporate Documents should be read together to determine how the OSTC should govern itself. The MOU and the OSTC Corporate Documents shall not affect, modify, limit or interfere with the responsibilities of the Parties under the Act or any other applicable law. In the event of a conflict between the MOU, or the OSTC Corporate Documents and any law, the law takes precedence.
- 3.2 **Mandate.** The mandate of the OSTC is to provide safe, efficient and reliable ferry transportation in the province of Ontario as directed by the Government of Ontario through the Minister from time to time. The prescribed services are set out at Schedule B to this MOU (the **“Prescribed Services”**). The levels at which the Prescribed Services must be delivered will be set out in the Contribution Agreement. Any changes to the Prescribed Services will be directed by the Minister in writing to the OSTC

**ARTICLE 4
CROWN AGENCY CLASSIFICATION**

- 4.1 **Crown Agency Status and Classification.** The OSTC is a Crown Agency within the meaning of the *Crown Agency Act*, classified by TB/MBC as an Operational Enterprise Agency. The OSTC will comply with the policies and procedures set out in applicable TB/MBC directives as may be amended from time to time.

**ARTICLE 5
GUIDING PRINCIPLES**

- 5.1 **Guiding Principles.** The Parties share the following principles in their relationship:

- (a) The Minister recognizes that the OSTC is a corporation which exercises powers and performs duties in accordance with its mandate as set out in the law, the OSTC Corporate Documents and this MOU. As an Operational Enterprise Agency, the OSTC has an ability to make decisions which enable it to operate its businesses in a commercially competent environment. As with any Board of private concern, the Board must have sufficient authority to meet its responsibilities for the efficient management of the OSTC and its businesses;
- (b) The Minister acknowledges that the OSTC plays a meaningful role in the delivery of ferry transportation services to Ontario residents;
- (c) The Minister acknowledges that as long as the OSTC:
 - (i) meets basic standards of organizational behaviour,
 - (ii) acknowledges accountability to the Ministry,
 - (iii) abides by the management principles established by the Province of Ontario, which include: ethical behaviour, accountability, excellence in management, prudent, efficient and lawful use of public resources, high quality service to the public fairness and openness and transparency to the extent allowed under law, and
 - (iv) abides by the TB/MBC directives and policies set forth in Schedule C and any other applicable directives or policies, and applicable law,it should be free to determine its own managerial practices;
- (d) The acquisition of services, supplies and equipment by the OSTC is governed by the Province's principles of competitiveness, transparency

and fairness in the marketplace with the objective of obtaining the best value for the funds to be expended;

- (e) Although the Province must be concerned with the determination of broad policy objectives for OSTC, the Board should be relatively free to decide on the strategies which the OSTC will adopt in attempting to meet its goals;
- (f) The Chair and the OSTC acknowledge that accountability is a fundamental principle to be observed in the management, administration and operations of the OSTC; and
- (g) The OSTC and the Ministry agree to avoid duplication of services wherever possible.

ARTICLE 6 ACCOUNTABILITY RELATIONSHIPS

6.1 **Minister.** The Minister is accountable:

- (a) to Cabinet and the Legislative Assembly for reporting and responding to the Legislative Assembly on the affairs of the OSTC;
- (b) for attesting, reporting and responding to TB/MBC on the OSTC's performance and compliance with the Province's applicable directives and operational policies;
- (c) to Cabinet for the performance of the OSTC and its compliance with the Province's operational policies and broad policy directions; and
- (d) for accepting the Annual Report and transmitting to the Lieutenant Governor for tabling and distribution in the House, with subsequent public release by the agency.

6.2 **Deputy Minister.** The Deputy Minister is responsible to the Minister and the Secretary of Cabinet for the performance of the Ministry in providing support to the OSTC and for carrying out the roles and responsibilities assigned to him/her by the Minister, TB/MBC and Ministry of Finance Directives and any applicable legislation and this MOU, including coordinating TB/MBC approval of OSTC's Business Plan and Capital Plans.

6.3 **The Chair.** The Chair is accountable:

- (a) to the Minister for ensuring that the OSTC fulfills its mandate and complies with and carries out the roles and responsibilities assigned to it under the Act and other applicable legislation, the OSTC Corporate Documents, this MOU and applicable TB/MBC, Public Service Commission and Ministry of Finance directives;
- (b) for reporting to the Minister, as requested, on the OSTC's activities;
- (c) for ensuring timely communications with the Minister regarding any issue that affects or can reasonably be expected to affect, the Minister's responsibilities for the OSTC; and
- (d) to the Minister for the overall management, administration, financial performance and operations of the OSTC.

6.4 **The Board.** The Board is accountable to the Minister through the Chair for the oversight, direction and governance of the OSTC, setting goals, objectives and strategic direction for the OSTC within its mandate, and for carrying out the roles and responsibilities assigned to it by the OSTC Corporate Documents, the Act and any other applicable legislation, applicable TB/MBC, Public Service Commission, and Ministry of Finance directives, and this MOU.

6.5 **The President/CEO** is accountable:

- (a) to the Board for the management of the OSTC's operations and the management and supervision of OSTC staff;
- (b) the Chair for implementing policy and operational decisions as directed by the Chair and reporting performance results to the Chair;
- (c) to the Board for the accuracy of financial projections and meeting operational and financial targets; and
- (e) to the Board for the management of the OSTC's operations and staff.

ARTICLE 7 ROLES AND RESPONSIBILITIES

7.1 **The Minister.** The Minister is accountable to Cabinet and to the Legislative Assembly for:

- (a) Recommending and obtaining the necessary authority from the Province, as may be required from time to time, to enable the OSTC to carry out its mandate;

- (b) Advising the Public Appointments Secretariat of the appointment and reappointment of individuals to the Board and otherwise following any process for ministers' appointments as may be established by the Public Appointments Secretariat and TB/MBC;
- (c) Receiving the OSTC's annual report, tabling it in the Legislative Assembly and ensuring that the annual report is made available to the public after tabling it in the Legislative Assembly;
- (d) Reporting and responding to the Legislative Assembly on the affairs of the OSTC;
- (e) Attesting, reporting and responding to TB/MBC on the OSTC's performance in delivering its mandate, and its compliance with applicable TB/MBC directives, the Province's operational policies and policy directions;
- (f) Informing the Chair of the Province's priorities and policy directions for the OSTC and consulting, as appropriate, with the Chair and others on significant new directions and / or when the Province is considering significant new directions for the OSTC;
- (g) Where required, reviewing and recommending to TB/MBC as appropriate any change to the OSTC mandate or dissolution of the OSTC, and any related changes to the OSTC Corporate Documents or any powers to be given or revoked from the OSTC;
- (h) Reviewing and approving annually the OSTC's Business Plan and Capital Plan;
- (i) At a minimum of once every three years, recommending to TB/MBC the approval of the OSTC's Business Plan and Capital Plan;
- (j) Reviewing and recommending to TB/MBC and Cabinet for approval as appropriate, those documents relating to the fulfilment of the OSTC mandate under the OSTC Corporate Documents, the Act and other applicable law and this MOU;
- (k) When appropriate or necessary, taking action or directing that corrective action be taken in respect of the OSTC's interpretation of its mandate or the OSTC's operations or administration;
- (l) Developing an MOU with the Chair, recommending approval to TB/MBC before it is signed by the parties, and signing it into effect after it has been signed by the Chair;

- (m) Recommending to TB/MBC any provincial funding to be allocated to the OSTC;
- (n) Reviewing the advice or recommendation of the Chair on candidates for re-appointment to the Board;
- (o) Determining at any time the need for a review or audit of the OSTC, and recommending to TB/MBC any changes to the governance or administration of the OSTC resulting from any such review or audit; and
- (p) Directing the Chair to undertake periodic reviews of OSTC and making subsequent recommendations to TB/MBC as may be required; and
- (q) Apprising the Office of the Provincial Controller at the Ministry of Finance of any external audit requested of the OSTC.

7.2 **Deputy Minister.** The responsibilities of the Deputy Minister or any designate or delegate, are to:

- (a) Provide the Minister with advice and assistance to meet his or her assigned responsibilities regarding the OSTC;
- (b) Advise the Minister on the requirements of the Agency Establishment and Accountability Directive, the Government Appointees Directive and other directives that apply to the OSTC;
- (c) Establish a framework for reviewing and assessing the OSTC Business Plans, Capital Plans and other reports with consultation with the OSTC as considered desirable in the Deputy Minister's sole discretion;
- (d) Advise the Minister on agency documents submitted to the Minister for review, approval or both;
- (e) Keep the Minister advised in respect of issues or events that fall within the responsibilities of the OSTC;
- (f) Ensure consultation and communication mechanisms are established between the Ministry and the OSTC to achieve the objectives and priorities of the Province, and provide for efficient, effective and accountable operations for the OSTC, including facilitating regular briefings and consultations between the Chair and the Minister, and between Ministry staff and OSTC staff;

- (g) Consult with the-Chair, as needed, on matters of mutual importance, including on any services provided by the Ministry and compliance with TB/MBC directives and Ministry policies and priorities
- (h) Communicate the Province's policies and priorities to the President/CEO of the OSTC and provide direction on same;
- (i) Undertake and/or cooperate with any reviews of the OSTC as may be directed by the Minister or TB/MBC;
- (j) Monitor the OSTC on behalf of the Minister while respecting its authority, and where warranted identify needs for corrective action and recommend to the Minister ways of resolving issues;
- (k) Negotiate a draft MOU with the Chair as directed by the Minister;
- (l) Ensure an accountability framework, including but not limited to an approved MOU, Business Plan, Capital Plan and Contribution Agreement, is in place in accordance with applicable directives of the Province;
- (m) Arrange for administrative, financial, and other support to OSTC as specified in the MOU;
- (n) Advise the President/CEO of required timelines for OSTC to submit its Business Plan, Capital Plan and operating budget to the Ministry and any special requirements with respect to these documents;
- (o) Ensure the submission to MNDM of the OSTC operating and capital requests with the OSTC Business Plan and Capital Plan as part of the Ministry business plan and capital plan submissions;
- (p) Apprise the OSTC of decisions of the Province with respect to OSTC's annual allocation, any other Cabinet direction and any potential impact on delivery of services as reflected in the OSTC's Business Plan and Capital Plan;
- (q) Approve, on behalf of the Minister and within 60 days of receiving Cabinet direction on the OSTC operating and capital request, an annual Contribution Agreement between the Ministry and the OSTC setting out:
 - i) any Cabinet direction received with respect to OSTC,
 - ii) the approved annual operating subsidy, capital funding, service levels and performance measures for services, and

- iii) if appropriate, any changes as may be required in the OSTC Business Plan and Capital Plan to reflect direction of the Province.
- (r) Recommend to the Minister, as may be necessary, the evaluation or review, including a risk-based review, of the OSTC or any of its programs, or changes to the management framework or operations of the OSTC;
- (s) Attest to TB/MBC as required, to the OSTC's compliance with the mandatory accountability requirements set out in the Agency Establishment and Accountability Directive;
- (t) Ensure that the Ministry and the OSTC have the capacity and systems in place for ongoing risk-based management, including appropriate oversight of the OSTC;
- (u) Ensure that the OSTC has an appropriate risk management framework and a risk management plan in place, and submit to the Minister, as part of the annual planning process, a risk assessment and management plan for each risk category;
- (v) Undertake timely risk-based reviews of the OSTC, its management or operations as may be directed by the Minister or TB/MBC;
- (w) Support the Minister in reviewing the performance targets, measures and results of the OSTC;
- (x) Meet with the Chair as needed or as directed by the Minister;
- (y) Inform the Chair in writing of new Provincial directives and any exceptions to or exemptions in whole or in part from TB/MBC directives or Ministry administrative policies; and
- (z) When required, submit a report to the secretaries of TB/MBC on the wind-down of the OSTC, the disposition of any assets, the completion of any outstanding responsibilities by the OSTC and the termination of any appointments.

7.3 The Chair. The responsibilities of the Chair of the OSTC are to:

- (a) Exercise powers and perform duties in accordance with the mandate of the OSTC and ensure the implementation of actions that support the goals, objectives, and strategic direction of the OSTC;
- (b) Implement policies and priorities of the Province as they pertain to the OSTC;

- (c) Ensure that written directions from the Minister are carried out by the OSTC including ensuring that the OSTC Business Plan and Capital Plan accurately reflect direction that may be received from the Minister or Cabinet;
- (d) Ensure that the OSTC operates in accordance with all applicable TB/MBC, Public Service Commission and Ministry of Finance directives, as well as applicable Ministry financial and administrative policies and procedures and any Cabinet direction that may be issued from time to time;
- (e) Provide leadership and oversight to the Board and monitor the Board's performance;
- (f) Monitor the overall performance of the OSTC including without limitation the operating and financial performance of the OSTC;
- (g) Keep the Minister advised in a timely fashion of issues or events relating to the OSTC that may concern or be reasonably expected to concern the Minister in the exercise of his or her responsibilities;
- (h) Account to the Minister for the overall operating and financial performance of the OSTC and ensure that an evaluation of operating and financial performance is submitted to the Minister on an annual basis or more frequently as required;
- (i) Keep the Ministry informed of any financial or operational variances in the OSTC Business Plan and Capital Plan and provide this information within 10 days of being reported to the OSTC Board;
- (j) Review and approve the OSTC's Business Plan, budget, annual report and financial reports, and submit them to the Minister in accordance with the timelines specified in the applicable TB/MBC and Ministry of Finance directives, and this MOU;
- (k) Cooperate with any review or audit of the OSTC directed by the Minister or TB/MBC;
- (l) Ensure that an internal audit program is in place for the OSTC;
- (m) Develop the OSTC's MOU with the Minister and sign it as authorized by the Board;
- (n) Arrange for the preparation and submission to the Minister of all reports, plans, strategies and programs required under the Act, this MOU or the

OSTC Corporate Documents in accordance with prescribed or required timelines, or as otherwise requested by the Minister;

- (o) Approve, on behalf of the OSTC, an annual Contribution Agreement between the Ministry and the OSTC;
- (p) Notify the Minister of upcoming appointment vacancies and provide recommendation for appointments or reappointments;
- (q) Review and approve claims for per diems and expenses of Board members;
- (r) Together with the Board, establish performance criteria for the President/CEO, and evaluate the performance of the President/CEO in consultation with the Board and pursuant to those performance criteria;
- (s) Seek and comply with strategic policy direction for the OSTC from the Minister;
- (t) Consult with the Minister in advance regarding any activity which may have an impact on the Province and Ministry's policies, directives or procedures, or on the OSTC's mandate, powers or responsibilities as set out in the Act, the OSTC Corporate Documents or this MOU;
- (u) Report to the Minister as requested on the OSTC's activities within agreed upon timelines;
- (v) Ensure that the OSTC operates within its approved budget allocation in fulfilling its mandate;
- (w) Provide both the Minister and the Minister of Finance with a copy of every audit report, a copy of the OSTC's response to each report, and any recommendations in the report within the prescribed or required timelines or as otherwise directed by the Minister;
- (x) Advise the Minister annually on any outstanding audit recommendations;
- (y) Fulfill the role of ethics executive for public servants who are government appointees to the OSTC promoting ethical conduct and ensuring that Board members are informed of their responsibilities under the PSOA and the regulations and directives made under that Act, including with regard to the rules of ethical conduct (Part IV of the PSOA), including the political activity rules (Part V of the PSOA);

- (z) Carry out effective public communications and relations for the OSTC as its chief spokesperson, including making sure a process for responding to and resolving complaints from the public and OSTC customers is in place; and
- (aa) Consult with the Deputy Minister, as needed, on matters of mutual importance including on any services as provided by the Ministry and on TB/MBC directives and ministry policies.

7.4 The Board. The responsibilities of the Board are to:

- (a) Direct the affairs of the OSTC and set overall priorities so as to fulfill its mandate and ensure that the OSTC manages its affairs in compliance with applicable laws, TB/MBC directives and any Cabinet directions;
- (b) Establish a risk management framework to improve the effectiveness and consistency of the OSTC's risk management process;
- (c) Direct the preparation of, approve, and through the Chair, recommend to the Minister for approval the OSTC's Business Plans, Capital Plans and annual reports and any other approval required under the OSTC Corporate Documents and this MOU;
- (d) Direct the development of policies to ensure that the OSTC operates within its approved budget;
- (e) Set policies whereby, and to ensure that that the OSTC uses public funds:
 - (i) prudently and only for the business of the OSTC based on the principles of value for money, and in compliance with applicable legislation and TB/MBC directives,
 - (ii) in conformance with the Act, the Pension Benefits Act, other applicable legislation, the OSTC Corporate Documents and this MOU, and
 - (iii) with integrity, honesty, fairness and effective controllership;
- (f) Establish performance measures and targets for OSTC and management systems for monitoring and assessing the OSTC's performance;
- (g) Conduct regular assessments with respect to the effectiveness of the Board as a whole and the contribution of each and each individual Board member
- (h) Conduct annual assessment of the Board to ensure compliance with this MOU and other obligations of the Board;

- (i) Arrange for audits and reviews, including risk-based audits and reviews of the OSTC as needed and cooperate with and share any relevant information on any risk-based or periodic review directed by the Minister or TB/MBC;
- (j) Make decisions consistent with the Business Plan approved for OSTC and ensure that the OSTC operates within its allocations;
- (k) Approve the MOU for OSTC in a timely manner and authorize the Chair to sign it on behalf of the OSTC;
- (l) Approve, for submission to the Minister in a timely manner, OSTC's plans, reports, and reviews;
- (m) Direct corrective action to be taken if needed with respect to the effectiveness of the OSTC and the OSTC's compliance with all applicable laws, policies and directives;
- (n) Ensure that written directions from the Minister are implemented promptly and efficiently;
- (o) Consult, as appropriate, with stakeholders on the OSTC's goals, objectives, strategic directions, rules, and procedures, etc.;
- (p) provide advice to the Province, through the Chair, on issues within or affecting the OSTC's mandate or operations;
- (q) approve at the next Board meeting following the end of each quarter the Quarterly Operating and Financial Reports provided by the President/CEO and deliver the Quarterly Operating and Financial Reports to the Deputy Minister within twenty Business Days following the Board meeting; and
- (q) where applicable, ensure that conflict of interest rules that the OSTC is required to follow, as set out in Ontario Regulation 381/07 (or as have been approved and published by the Conflict of Interest Commissioner) are in place for the members of the Board and employees of the OSTC;

7.5 **The President/CEO.** The responsibilities of the President/CEO of the OSTC are to:

- (a) Provide leadership and management to the OSTC staff including financial resource management;

- (b) Manage the day-to-day activities of the OSTC in accordance with its mandate, sound business and financial management practices and applicable TB/MBC and Ministry of Finance directives;
- (c) Ensure that written directions from the Minister are carried out by the OSTC including ensuring that the OSTC's Business Plan and Capital Plan accurately reflect direction that may be received from the Minister or Cabinet;
- (d) Upon approval of the Board, establish appropriate systems and procedures for the administration of the OSTC, monitoring performance and taking corrective action when problems are identified;
- (e) Prepare a Business Plan, annual operating budget and annual Capital Plan for approval by the Board, within timelines required by the Ministry
- (f) Establish systems to ensure that the OSTC operates within its approved Business Plan and Capital Plan and budgets;
- (g) Establish management reporting and analysis systems to improve management planning, risk management, and performance assessments and ensure proper action is taken, resulting from these analyses;
- (h) Keep the Chair and the Board informed of the OSTC's operational matters;
- (i) Prepare annual reports for the OSTC as directed by the Board;
- (j) Prepare and provide to the Board for approval at the next Board meeting following the end of each quarter the Quarterly Operating and Financial Reports;
- (k) Establish a system for the retention of OSTC documents (to include but not be limited to the audited financial statements, annual reports, Business Plans, and Capital Plans) and for appropriately making such documents publicly available;
- (l) Apply policies so that public funds are used with integrity and honesty;
- (m) Establish and apply a financial management framework to support decision-making;
- (n) Support the Chair and the Board in meeting their responsibilities;

- (o) Carry out in-year monitoring of OSTC's operational performance and report on it to the Chair and the Board;
- (p) Advise the Chair and Board on the requirements of and compliance with the Agency Establishment and Accountability Directive as well as all other TB/MBC and Ministry of Finance directives and policies, Ministry policies and procedures, the OSTC Corporate Documents and OSTC policies;
- (q) Seek advice and support from the Ministry, as appropriate, in respect of management issues the Ministry might reasonably be expected to have an interest in;
- (r) Cooperate with any periodic review directed by the Minister or TB/MBC;
- (s) Prepare financial reports for approval by the Board;
- (t) Prepare, for approval by the Board, a performance review system for staff and implement the system;
- (u) Make sure that appropriate management systems are in place (financial, information technology, human resource) for the effective administration of the OSTC;
- (v) Establish a performance review system for staff;
- (w) Put in place and maintain a system for ensuring that the OSTC is kept informed of any applicable laws, policies and directives;
- (x) Ensure that a system is in place for the creation, collection, maintenance and disposal of records in accordance with section 20.1 of this MOU.
- (y) Make sure that an appropriate framework is in place for OSTC staff and appointees to receive adequate orientation and training;
- (w) Make sure that OSTC staff and appointees are aware of and comply with applicable TB/MBC and Ministry of Finance directives;
- (x) Ensure an appropriate conflict of interest policy is in place for staff of the OSTC;
- (z) Ensure the preparation of the OSTC operating and capital requests and submit those requests to the Ministry together with the OSTC Business Plan and Capital Plan;

- (aa) Fulfill the role of ethics executive for public servants, other than government appointees for the OSTC promoting ethical conduct and ensuring that staff are informed of their responsibilities under the PSOA and the regulations and directives made under that Act, including with regard to the rules of ethical conduct (Part IV of the PSOA), including the political activity rules (Part V of the PSOA); and
- (bb) Advise the Minister of any Significant Variances in the financial position of the OSTC within 24 hours of such a variance being tabled at the Board and provide an explanation thereof.

ARTICLE 8 EXCHANGE OF INFORMATION

8.1 **Exchange of Information.** The Parties recognize that the timely exchange of information regarding the operations and administration of the OSTC is essential to:

- (a) Enable the Minister to meet his responsibilities for reporting and responding to the Legislative Assembly on the affairs of the OSTC;
- (b) Enable the parties to discharge their respective responsibilities; and
- (c) Ensure the Chair is kept informed of the Province's initiatives and broad policy directions that may affect the OSTC's mandate and functions.

8.2 **Communication.** The Parties therefore agree that:

- (a) The Chair will keep the Minister advised through quarterly reports of all planned events and issues that concern or can be reasonably expected to concern the Minister in the exercise of his/her responsibilities, and the Chair must contact the Deputy Minister or his or her designate or delegate in the event of contentious or high profile issues as these develop;
- (b) The Minister and the Chair will keep each other informed on the results of stakeholder public consultations;
- (c) The Minister or his/her delegate and the Chair will meet at least once every six months to discuss the OSTC's progress on delivering, and issues relating to the delivery of the OSTC mandate, and for the Minister to advise the Chair of evolving priorities/ direction of the Province;

- (d) The Minister or a designate or delegate and the Chair will consult with each other on public communications strategies and publications. They will keep each other informed of the results of stakeholder and other public consultations and discussions;
- (e) The Deputy Minister or his/her delegate and the Chair will meet at least quarterly to discuss issues relating to the efficient operation of the agency and the provision of services by the Ministry to the OSTC;
- (f) The Chair and the Minister will follow the mutually-agreed to issues management protocol provided to the OSTC by the Deputy Minister from time to time for responding to media issues or other issues or events relating to the OSTC that may be reasonably expected to concern the Minister in the exercise of his or her responsibilities.

ARTICLE 9 FINANCIAL ARRANGEMENTS

- 9.1 **Funding.** The OSTC is funded from the Consolidated Revenue Fund pursuant to an appropriation authorized by the Legislative Assembly.
- 9.2 **Estimates.** The President/CEO will prepare the estimates of the OSTC's expenditures for approval by the Board and, if approved by the Board, inclusion in the Ministry's Results Based Plan. The President/CEO will deliver the Board approved estimates to the Minister in sufficient time to be analyzed and approved by the Minister. The estimates may, after appropriate consultation with the President/CEO, be altered as the Ministry may require.
- 9.3 **OSTC Financial Procedures.** The financial procedures of the OSTC must be in accordance with TB/MBC and Ministry of Finance directives and guidelines and other applicable direction of the Province.
- 9.4 **Contribution Agreement.** The Parties agree to enter into an annual Contribution Agreement which will set out:
 - (a) any Cabinet direction received with respect to OSTC,
 - (b) the approved annual operating subsidy, capital funding, service levels and performance measures for prescribed services, and
 - (c) any changes as may be required in the OSTC Business Plan and Capital Plan to reflect direction of the Province.

- 9.5 **Approval of the Contribution Agreement.** The terms and conditions of the Contribution Agreement will be reviewed each year and confirmed in writing by the Chair and the Deputy Minister.
- 9.6 **Separate Account.** Allocations to the OSTC pursuant to the Contribution Agreement will be deposited into an account, which will be separate from the Consolidated Revenue Fund and will be under the control and direction of the OSTC in accordance with the provisions of this MOU.
- 9.7 **Funding Schedule.** The operating and capital allocation will be disbursed according to the Contribution Agreement.
- 9.8 **Surplus Funding.** When ordered to do so by the Minister of Finance, pursuant to Section 16.4 of the *Financial Administration Act*, the OSTC shall pay into the Consolidated Revenue Fund any money that the Minister of Finance determines is surplus to its requirements.
- 9.9 **Contingent Liability.** Pursuant to Section 28 of the *Financial Administration Act*, the OSTC shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Province of Ontario without the written approval of the Minister of Finance. The Minister's approval is required before seeking statutory approval from the Minister of Finance.
- 9.10 **Financial Arrangements in Excess of Approved Budget.** The OSTC will not enter into financial arrangements or commitments which exceed the capacity of its approved budget, or affect the financial, cash and similar debt management policies of the Province, or undertake any other similar activity without the prior approval of the Minister and the Minister of Finance of Ontario, and Cabinet as appropriate.
- 9.11 **Fiscal Year.** The fiscal year of the OSTC will commence on the 1st day of April in each year and will end on the 31st day of March in the succeeding year.
- 9.12 **Salary Disclosure.** The OSTC will submit to the Ministry of Finance its salary information according to the *Public Sector Salary Disclosure Act*.
- 9.13 **HST.** The OSTC charges and remits HST to the federal government on the taxable goods and services that it provides, as required. HST is paid on goods and services purchased by the OSTC and claims input tax credits that are rebated back 100% from the federal government.

ARTICLE 10
AUDIT, REPORTING AND REVIEW ARRANGEMENTS

- 10.1 **Annual Financial Statements.** The Chair will provide to the Minister audited annual financial statements, and will include them as part of the OSTC's annual report. The statements will be provided in a format that is in accordance with the province's stated accounting policies issued by the Office of the Provincial Controller.
- 10.2 **Periodic Review.** The OSTC is subject to periodic review and value-for-money audit by the Auditor General under the *Auditor General Act* or by the Ontario Internal Audit Division.
- 10.3 **The Auditor General of Ontario.** The OSTC will furnish the Auditor General with the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General requires. The Auditor General will have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to the OSTC that the Auditor General needs to perform his or her duties.
- 10.4 **The Ontario Internal Audit Division.** 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.
- 10.5 **Minister May Direct Audit.** Regardless of any annual external audit, the Minister may direct that the OSTC be audited at any time.
- 10.6 **Copy of Audit Report.** The OSTC will promptly provide a copy of every report from an audit to the Minister and the Minister of Finance. The OSTC will also provide a copy of its response to the audit report and any recommendations therein. The OSTC will advise the Minister annually on any outstanding audit recommendations.
- 10.7 **Chair may Request.** The Chair may request an external audit of the financial transactions or management controls of the OSTC at the OSTC's expense.
- 10.8 **Annual Report.** The Board through the Chair shall ensure that an annual report is submitted to the Minister within 120 Business Days of OSTC's fiscal year end. The annual report will contain:
- (a) analysis of the OSTC's operational and financial performance;
 - (b) discussion of performance targets achieved/ not achieved and of action to be taken;

- (c) names of appointees, when each was appointed and when the current term of appointment expires;
- (d) the audited financial statements of the OSTC, prepared in accordance with generally accepted accounting principles (PSAB for GNFPO)
- (e) Risk Assessment as indicated in the AEAD and
- (f) the Auditor General of Ontario's report on the financial statements, addressed to the Minister and the OSTC.

ARTICLE 11 INDEMNIFICATION AND INSURANCE

- 11.1 **Indemnification.** Directors and officers of the OSTC will be indemnified in accordance with the indemnity dated November 12, 2002 approved by the Minister of Finance pursuant to section 28 of the *Financial Administration Act* (the "**Indemnity**").
- 11.2 **Insurance.** The OSTC will maintain Director's and Officer's liability insurance with a private sector insurer in accordance with the requirements set out in the Indemnity.
- 11.3 **The Act.** Subsection 134(1) and section 136 of the Act apply to the OSTC.

ARTICLE 12 OPERATING RELATIONSHIPS

- 12.1 **In the Absence of the Chair.** In the absence of the Chair or in the event that the office of Chair is vacant, the Vice-Chair has all the powers and shall perform all the duties of the Chair.
- 12.2 **Quorum.** A majority of the members of the Board from time to time forms a quorum.
- 12.3 **Changes to Operations.** The Chair of the OSTC will give the Minister reasonable notice in writing of any plan to effect significant changes to any part of the OSTC operations.

- 12.4 **Minister May Direct.** The Minister may direct the OSTC to amend any aspect of its planned changes to any part of the OSTC operations upon receipt of the notice from the Chair to effect changes and the OSTC will comply with such direction, as communicated to the Chair in writing.

ARTICLE 13 ADMINISTRATIVE RELATIONSHIPS

- 13.1 **Compliance with Directives.** The OSTC shall operate in accordance with all applicable TB/MBC, Public Service Commission, and Ministry of Finance directives, as well as applicable Ministry financial and administrative policies and procedures and any Cabinet direction that may be issued from time to time. Schedule "C" to this MOU provides a list of some of the applicable directives and policies.
- 13.2 **Financial, Administrative and Legal Services.** The OSTC will provide its own financial, legal and administrative services, including internal audit services.
- 13.2 **Retention of Outside Services.** The OSTC may retain outside consulting and legal assistance when it requires expertise unavailable from staff. Legal services are to be provided in accordance with the Ministry of the Attorney General's Corporate Operating Policy on Acquiring and Using Legal Services.
- 13.3 **OSTC Staff.** OSTC staff are hired by the OSTC and are not members of the Ontario Public Service.

ARTICLE 14 CONFLICT OF INTEREST

- 14.1 **No Conflict of Interest.** A Board member shall not use any information gained as a result of his or her appointment to the OSTC for personal benefit or act in any other way that may cause an actual or perceived conflict of interest as set out in the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A.
- 14.2 **Disclosure of Conflict.** A Board member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the OSTC, or a committee of the OSTC, shall disclose the nature of the conflict to the Chair of the OSTC at the first opportunity and shall refrain from further participation in the consideration of the matter.
- 14.3 **Record.** The Chair shall cause to be recorded any declared conflict of interest in the minutes of the OSTC.

- 14.4 **Chair Responsible.** The Chair is responsible for ensuring that appointees and staff of the OSTC are informed of the ethical rules to which they are subject, including the rules on conflict of interest, political activity and protected disclosure of wrongdoing that apply to the OSTC.

ARTICLE 15 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

- 15.1 **FIPPA.** The OSTC shall comply with the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31.
- 15.2 **All Documents and Records.** All documents or records in the custody or under the control of the OSTC will be subject to, and will be maintained and disposed of in accordance with, FIPPA and applicable TB/MBC directives relating thereto.
- 15.3 **Head.** The President/CEO is the institution head for the purposes of FIPPA.

ARTICLE 16 STAFFING AND APPOINTMENTS

- 16.1 **Appointment.** A Board member is appointed by the Minister as sole shareholder of the OSTC under the Sole Shareholder Declaration.
- 16.2 **Chair and Vice-Chair.** The Chair and Vice-Chair are designated by the Minister.
- 16.3 **Employees.** OSTC employees are employed under authority of the Ontario Business Corporations Act, and supported by the agency's by-laws

ARTICLE 17 CUSTOMER SERVICE QUALITY REVIEW PROCESS

- 17.1 **Complaints Process.** The OSTC will develop and implement a formal process for responding to complaints and issues raised by the public or northern Ontario stakeholders about quality of service. This process will be consistent with the Ministry's and the Province's service quality standards.
- 17.2 **OPS Service Directive.** The Chair will ensure that the OSTC delivers its services at a quality standard that reflects the principles and requirements of the OPS Service Directive

- 17.3 **Business Plan.** The OSTC's annual business plan will include performance measures and targets for customer service and the agency's response to complaints.

ARTICLE 18 AGREEMENTS WITH THIRD PARTIES

- 18.1 **Agreements with Third Parties.** The Chair is responsible for ensuring that the legal, financial and other interest of the Province are protected in any contract that the agency may enter into with a third party.
- 18.2 **Procurement.** The OSTC will ensure the Province's Procurement Directive is followed in all situations when procurement of goods or services is required.

ARTICLE 19 INTELLECTUAL PROPERTY

- 19.1 **Intellectual Property.** The President/CEO is responsible for ensuring that the legal, financial and other interests of the Province in intellectual property are protected in any contract that the agency may enter into with a third party that involves the creation of intellectual property.
- 19.2 **Definition.** The OSTC is to be guided by the definition of intellectual property as set out in the Managing, Distributing and Pricing Government Information (Intellectual Property) Directive.

ARTICLE 20 CREATION, COLLECTION, MAINTENANCE AND DISPOSITION OF RECORDS

- 20.1 **OSTC Responsible.** The OSTC is responsible for ensuring that a system is in place for the creation, collection, maintenance and disposal of records. Such a system must comply with all provincial and federal regulations guiding the retention of records.
- 20.2 **OSTC Accounts and Records.** The OSTC will cause books of account and records in relation thereto to be kept in accordance with Public Sector Accounting Board (PSAB)for Government not for profit Organizations (GNFPO) generally accepted accounting principles and efficient and effective financial management controls, information systems and management practices to be maintained.

20.3 **OSTC Accounts and Records Management.** The books, records, system and management practices will be kept and maintained in such a manner so as to provide reasonable assurance to the Province that:

- (a) the assets of the OSTC are safeguarded and controlled;
- (b) the transactions of the OSTC are in accordance with the Act, the OSTC Corporate Documents and applicable TB/MBC requirements; and
- (c) the financial, human and physical resources of the OSTC are managed economically and efficiently and their operations are carried out effectively.

ARTICLE 21 MISCELLANEOUS

21.1 **Effective Date.** This MOU becomes effective upon the date of its signature by the Parties following the review and approval of TB/MBC and continues in effect for a period not to exceed five years from such date or until a new memorandum of understanding has been approved and signed (the “**Expiry Date**”), provided, however, that a review of the MOU and the negotiation of a new memorandum of understanding shall have been commenced at least three months prior to the completion of the five year period from the Effective Date.

21.2 **Review of the MOU.** This MOU must be renewed or revised by the Expiry Date. A full review of this MOU will be initiated at least three months prior to five years from the Effective Date. This MOU shall continue to apply until a new memorandum of understanding has been approved and signed.

21.3 **Change in Minister or Chair.** This MOU will be affirmed or revised by the Minister and the Chair on a change in either the Minister or Chair.

21.4 **Amendment.** All amendments to the MOU must be in writing, approved by TB/MBC and signed by the Parties.

21.5 **Compliance.** The OSTC shall at all times conduct its business and carry out its roles and responsibilities in accordance with this MOU, all applicable TB/MBC and Ministry of Finance directives, the Act and all other applicable legislation.

[continued on following page]

This Memorandum of Understanding will be in effect as of the 12th day of February, 2013.

**THE PROVINCE OF ONTARIO AS
REPRESENTED BY THE MINISTRY OF
NORTHERN DEVELOPMENT AND MINES**

By: _____

Rick Bartolucci
Minister

I have authority to bind the Province

**THE OWEN SOUND TRANSPORTATION
COMPANY, LIMITED**

By: _____

Name:

Title: Chair

I have authority to bind the Corporation

SCHEDULE "A"

THE OSTC BUSINESS PLAN

The OSTC will prepare a multi-year rolling Business Plan on an annual basis. This Business Plan will contain all of the elements as set out in Schedule D "Minimum Contents for a Business Plan" of the February 2000 Management Board of Cabinet *Agency Establishment and Accountability Directive*:

1. Agency mandate
2. Strategic direction
3. Overview of the OSTC's current and forthcoming programs/activities
4. Assessment of issues facing the OSTC (Environmental Scan)
5. Goals and objectives
6. Resources needed to meet goals and objectives
7. Summary of numbers of staff, impact of Business Plan on human resources, and compensation strategy
8. Proposed operating and capital expenditures, projected revenues and any funding requirements from the Province
9. Performance measures, targets and benchmarks, including results achieved to date
10. Implementation plan
11. Communications plan
12. Risk assessment and management issues and strategies
13. Initiatives involving third parties

SCHEDULE "B"

PRESCRIBED SERVICES OF THE OSTC

The operations of the OSTC shall be:

1. The Chi-Cheemaun ferry service between South Baymouth on Manitoulin Island and Tobermory on the Bruce Peninsula;
2. The Niska 1 ferry service between the Town of Moosonee and Moose Factory on the Moose River.
3. The provision of other provincial ferry services, or seasonal air services as may be required, under management agreement with the Ministry of Transportation, as may be negotiated and agreed to from time to time; and
4. Other related or incidental business as is consistent with the prescribed services as noted above.

SCHEDULE "C"

DIRECTIVES, POLICIES AND STATUTES APPLICABLE TO THE OSTC

TREASURY BOARD/ MANAGEMENT BOARD OF CABINET DIRECTIVES AND POLICIES APPLICABLE TO THE OSTC

Note: Amended, revised or success or directives continue to apply to the OSTC. Where a directive applies, all associated policies, procedures and guidelines also apply.

1. Accountability Directive
2. Advertising Content Directive
3. Agency Establishment and Accountability Directive
4. Business Planning and Allocations Directive (compliance required only to provide information as needed for business planning processes in accordance with the Directive)
5. Cash Management Directive
6. Communications in French Directive
7. Delegation of Authority Key Directive
8. Disclosure of Wrongdoing Directive Employees/appointees of public bodies - i.e. agencies
9. Freedom of Information and Privacy Directive
10. Government Appointees Directive
11. Indemnification Directive
12. Internal Audit Directive
13. Internal Controls Management Directive
14. Perquisites Directive
15. Procurement Directive
16. Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services
17. Revenue Management Directive
18. Transfer Payment Accountability Directive (applies only to the extent that the OSTC provides and administers transfer payments)
19. Travel, Meal and Hospitality Expenses Directive
20. Visual Identity Directive

ONTARIO STATUTES THAT APPLY TO THE OSTC

Note: In addition to all (other) statutes of general application, the following statutes apply to the OSTC.

1. Accessibility for Ontarians with Disabilities Act
2. Auditor General Act
3. Broader Public Sector Accountability Act
4. Emergency Management and Civil Protection Act
5. Employment Standards Act
6. Environmental Protection Act
7. Financial Administration Act
8. Freedom of Information and Protection of Privacy Act
9. French Language Services Act
10. Occupational Health and Safety Act
11. Human Rights Code
12. Public Sector Compensation Restraint to Protect Public Services Act
13. Public Sector Labour Relations Transition Act
14. Public Sector Salary Disclosure Act
15. Public Service of Ontario Act
16. Labour Relations Act
17. Workplace Safety and Insurance Act

The OSTC shall also comply with any new statute or TB/MBC Directive or policy that is enacted or published in future and, according to its terms, applies to the OSTC.