

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE ONTARIO MEDIA DEVELOPMENT CORPORATION

AND

THE MINISTER OF CULTURE

1. DEFINITIONS

In this Memorandum of Understanding,

“**Act**” means the *Development Corporations Act*, R.S.O. 1990, c. D.10, as amended from time to time;

“**Board**” means the Board of Directors of the Ontario Media Development Corporation consisting of members appointed by the Lieutenant Governor in Council;

“**Chair**” means the designated Chair of the Board;

“**Chief Executive Officer**” means the Chief Executive Officer of the Ontario Media Development Corporation;

“**Deputy Minister**” means the Deputy Minister of Culture;

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

“**Management Board of Cabinet Directives**” and “**Ministry of Finance Directives**” means those directives, guidelines and policies listed in **Schedule 1** attached to this MOU;

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

“**MOU**” means this Memorandum of Understanding;

“**Regulation**” means the Ontario Regulation 672/00 made under the Act; and

“**TB/MBC**” means Treasury Board/Management Board of Cabinet.

2. PURPOSE

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

The Minister and the Ontario Media Development Corporation 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 Ontario Media Development Corporation under law. For greater certainty, this MOU shall not limit in any way the ability, authority and obligation of the Board to manage the Ontario Media Development Corporation in light of the best interests of the Ontario Media Development Corporation 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 AND MANDATE

The Ontario Media Development Corporation is governed by the Regulation. It has the following objects under the Regulation:

To stimulate employment and investment in Ontario,

- (a) by contributing to the continued expansion of a business environment in Ontario that is advantageous to the growth of the cultural media industry and to the growth of new employment, investment and production opportunities in Ontario;
- (b) by facilitating and supporting innovation, invention and excellence in Ontario's cultural media industry by stimulating creative production, format innovation and new models of collaboration among sectors of the cultural media industry;
- (c) by fostering and facilitating co-operation among entities within the cultural media industry and between the public and private sectors to stimulate synergies in product development and the creation of products with original Canadian content;
- (d) by assisting in the promotion and marketing of Ontario's cultural media industry as a world-class leader;
- (e) by administering provincial tax credit programs and such other programs and initiatives as may be required by legislation or a Minister of the Government of Ontario; and
- (f) by acting as a catalyst for information, research and technological development in the cultural media industry provincially, nationally and internationally.

Under the Regulation, the affairs of the Ontario Media Development Corporation are under the management and control of the Board of Directors consisting of up to seventeen (17) members appointed by the Lieutenant Governor in Council.

Pursuant to subsection 6(2) of the Regulation, the Lieutenant Governor in Council shall designate a Chair and Vice-Chair of the Board from among the members of the Board.

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

This MOU shall be in effect as of the date of its last signature for a period of not more than five (5) years. This MOU must be renewed or revised by the expiry date. However, this MOU shall remain in effect until a new MOU has first received the approval of TB/MBC and thereafter has been signed by the parties.

This MOU shall not be signed by the parties before it has been approved by TB/MBC.

This MOU shall be reviewed upon appointment of a new Minister or a new Chair. The purpose of the review is to ensure that the Minister or the Chair, as the case may be, is aware of this MOU and to give the Minister or the Chair the opportunity to initiate discussions on amending this MOU. Where the Minister and the Chair agree to continue this MOU without requiring any amendment, both parties must affirm the continuance in writing.

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 must be in writing and approved by both parties and TB/MBC before a revised MOU can be executed.

5. GUIDING PRINCIPLES

The Minister and the Chair agree that they will adhere to the following principles in their relationship:

- (a) The Ministry and the Ontario Media Development Corporation share a common vision, which is to foster the vitality, growth and development of Ontario's cultural media industries. To achieve this vision, the Ministry and the Ontario Media Development Corporation undertake supportive and complementary roles within government and with cultural media industry stakeholders.
- (b) The Ontario Media Development Corporation is a statutory entity which exercises powers and performs duties in accordance with its objects (also referred to herein as its "mandate") pursuant to the Act and Regulation.
- (c) The Ministry is responsible for supporting the Minister's role in the government's policy development process as it may affect the cultural media industries and related

matters. The Ministry will consult with the Ontario Media Development Corporation on the research and development of such policy matters as may be appropriate.

- (d) The Ontario Media Development Corporation operates at arm's-length from the government and operates within the policy parameters set out by the government.
- (e) The Ontario Media Development Corporation 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 Ontario Media Development Corporation.
- (f) As an agency of the government, the Ontario Media Development Corporation 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, and openness and transparency.
- (g) The Ministry and the Ontario Media Development Corporation are committed to working collaboratively.
- (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.

6. CONSULTATION AND COMMUNICATIONS

The Minister and the Chair recognize that the timely, candid and confidential exchange of information and consultation is essential to success in discharging their respective responsibilities, as appropriate. They therefore agree that:

- (a) The Chair will ensure the Minister is advised immediately of issues or events, including contentious matters, that concern or can reasonably be expected to concern the Minister in the exercise of the Minister's responsibilities and the Chair will ensure the Ontario Media Development Corporation adheres to communications policies established by the Minister or government from time to time, including the **Communications Protocol** attached to this MOU as **Appendix A**.
- (b) Since the Ontario Media Development Corporation is one of the key mechanisms by which the Ontario government provides support to the cultural media industries, the Ontario Media Development Corporation will advise the Ministry, on an informational basis only, of any operational communications with any level of government (i.e. the federal government and its agencies, other Ontario government ministries and their agencies, and municipal governments) where such communications could be perceived as representing the policies, opinions, views or position of the Ministry or the Ontario government.

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

For greater certainty, communications related to the day-to-day business of the Ontario Media Development Corporation are not subject to this provision. Furthermore, any information related to the processing of individual Ontario tax credits is not subject to this provision.

- (c) The Minister will consult with the Chair as appropriate on initiatives proposed to amend legislation or the Regulation which governs the Ontario Media Development Corporation's mandate or operations or which otherwise will have significant impact on the Ontario Media Development Corporation. This commitment includes consultation on any review of the Ontario Media Development Corporation's mandate or assessment of the continuing public need for its services.
- (d) The Minister and the Chair will consult with each other on public communication strategies and publications.
- (e) The Minister and the Chair will keep each other informed of the results of stakeholder and other public consultations and discussions.
- (f) The Minister and the Chair will meet semi-annually, and as needed, to discuss issues relating to the delivery of the Ontario Media Development Corporation's mandate. The Minister and the Board will meet annually. The Deputy Minister will meet with the Chief Executive Officer or the Chair monthly, or as needed, to discuss issues relating to the efficient operation of the Ontario Media Development Corporation.
- (g) Ministry and the Ontario Media Development Corporation staff will maintain a Senior Liaison Committee which will meet as needed to discuss matters of mutual interest. The agenda and minutes will be prepared in consultation with both the Ministry and the Ontario Media Development Corporation.
- (h) The Ministry and the Ontario Media Development Corporation will work collaboratively, and will proactively consult each other on policy and program design, development and delivery applicable to the cultural media industries, as appropriate.
- (i) The Ministry, as well as the Ontario Media Development Corporation, may communicate and consult with other ministries as appropriate regarding matters of mutual interest and concern related to the cultural media industries and the Ontario Media Development Corporation's legislated mandate and its programs and services. The Ministry and the Ontario Media Development Corporation will keep each other informed of the results of these consultations.

- (j) The Ministry and the Ontario Media Development Corporation have in place and commit to maintain for the duration of this MOU a Memorandum of Understanding between the Ministry, the Ontario Media Development Corporation and the Ministry of Finance which sets out roles and responsibilities for the administration of the province's tax credits to cultural industries.

7. ACCOUNTABILITY RELATIONSHIP

The accountability relationship is as follows:

- (a) The **Minister** is accountable to the Legislative Assembly for the Ontario Media Development Corporation's fulfilment of its mandate, its compliance with government policies and for reporting to the Legislative Assembly on the Ontario Media Development Corporation's affairs. The Minister is also accountable to Cabinet for the performance of the Ontario Media Development Corporation and its compliance with the government's operational policies and broad policy directions.
- (b) The **Deputy Minister** is accountable to the Minister for the performance of the Ministry in respect of this MOU and for carrying out the roles and responsibilities assigned to him/her by the Minister and by TB/MBC Directives.
- (c) The **Chair** is accountable to the Minister for the performance of the Ontario Media Development Corporation in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Chair by the Act, the Regulation, Ministry of Finance and TB/MBC Directives, and this MOU.
- (d) The **Chief Executive Officer** is accountable to the Deputy Minister for:
- the management and administration of the Ontario Media Development Corporation;
 - Ontario Media Development Corporation's compliance with Ministry of Finance and TB/MBC Directives, the Act, the Regulation and this MOU; and
 - carrying out his/her roles and responsibilities under the *Public Service of Ontario Act, 2006*.
- (e) The Chief Executive Officer is, subject to paragraph 7(d), accountable to the Board, through the Chair, for the management and administration of the Ontario Media Development Corporation; governance of the Ontario Media Development Corporation; compliance with the directions of the Board; and carrying out the roles and responsibilities assigned to him/her by the Board.
- (f) The Chief Executive Officer's annual performance objectives will be approved by the Deputy Minister in consultation with the Chair on behalf of the Board. The Chief Executive Officer's annual performance evaluation will be conducted by the Deputy Minister in consultation with the Chair on behalf of the Board.

- (g) The **Board**, through the Chair, is accountable to the Minister for governing the affairs of the Ontario Media Development Corporation within its mandate as set out in the Regulation.

8. ROLES AND RESPONSIBILITIES

8.1 Minister

The Minister is responsible for:

- (a) reporting and responding to the Legislative Assembly on the affairs of the Ontario Media Development Corporation and reporting and responding to Cabinet on the Ontario Media Development Corporation's performance and compliance;
- (b) ensuring that the Deputy Minister monitors the performance of the Ontario Media Development Corporation to ensure that its mandate is being fulfilled and that it is in compliance with relevant government policies;
- (c) establishing and communicating to the Ontario Media Development Corporation, in writing, changes in the government policy parameters within which the Ontario Media Development Corporation is required to operate;
- (d) reviewing, approving, presenting and recommending to TB/MBC the annual allocation for the Ontario Media Development Corporation as part of the Ontario government's business planning process;
- (e) reviewing and approving the Ontario Media Development Corporation's annual business plan, and other reports and documents in accordance with section 12 of this MOU;
- (f) recommending to TB/MBC, at least once every three (3) years, the approval of the Ontario Media Development Corporation's multi-year business plan;
- (g) reviewing and recommending to TB/MBC the provincial funding to be given to the Ontario Media Development Corporation;
- (h) tabling the Ontario Media Development Corporation's annual report in the Legislative Assembly within 60 days of receiving the annual report from the Ontario Media Development Corporation;
- (i) the administration of the Regulation;
- (j) reviewing and approving the Ontario Media Development Corporation's by-laws;
- (k) recommending appointments and reappointments pursuant to the process for agency appointments by the Lieutenant Governor in Council established by legislation or by

TB/MBC, after consultation with the Chair as appropriate, to ensure that requirements of the Regulation are met;

- (l) meeting with the Chair semi-annually and with the Board annually, and as further needed;
- (m) when necessary, addressing issues, concerns or new opportunities with respect to the Ontario Media Development Corporation's mandate;
- (n) determining the need for any review and making recommendations to TB/MBC regarding the elimination or consolidation of the Ontario Media Development Corporation or any change to the Ontario Media Development Corporation's mandate; and
- (o) developing this MOU with the Chair and signing it into effect upon approval by MB/TBC.

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 Ontario Media Development Corporation;
- (b) negotiating this MOU with the Ontario Media Development Corporation as directed by the Minister;
- (c) providing a framework for assessing whether the Ontario Media Development Corporation is fulfilling its mandate, consistent with government policies;
- (d) undertaking assessments on behalf of the Minister as to whether the Ontario Media Development Corporation is fulfilling its legislative mandate consistent with approved government policies, while respecting the Ontario Media Development Corporation's authority, and where warranted, identifying any need for corrective action and recommending to the Minister ways to resolve any issues that are identified;
- (e) advising the Minister on the operation of the Ontario Media Development Corporation, or its consolidation or elimination;
- (f) ensuring that the Ontario Media Development Corporation has an appropriate risk management framework and mitigating strategy in place for managing risks that the Ontario Media Development Corporation may encounter in meeting its program or service delivery objectives;

- (g) ensuring that all accountability and reporting requirements as set out in sections 7 and 12 of this MOU have been met;
- (h) establishing a framework for reviewing and assessing the Ontario Media Development Corporation's business plans and other reports;
- (i) advising the Minister on the Ontario Media Development Corporation's documents submitted to the Minister for review and/or approval;
- (j) informing the Ontario Media Development Corporation, in writing, of the application of (or the exemption from) TB/MBC Directives or Ministry policies to the Ontario Media Development Corporation;
- (k) advising the Minister on the requirements of TB/MBC's *Agency Establishment and Accountability Directive* and any other Ministry of Finance or TB/MBC Directives that may affect the Ontario Media Development Corporation;
- (l) co-operating with any periodic review of the Ontario Media Development Corporation directed by the Minister or by TB/MBC;
- (m) meeting with the Chair or Chief Executive Officer monthly or as needed;
- (n) on an annual basis, in consultation with the Chair on behalf of the Board, approving the Chief Executive Officer's performance objectives and conducting the Chief Executive Officer's performance evaluation and assessing the Chief Executive Officer's performance for merit compensation purposes; and
- (o) undertaking such other responsibilities as the Minister or TB/MBC may require.

8.3 Board

The Board is responsible for:

- (a) managing and controlling the affairs of the Ontario Media Development Corporation within its mandate as set out in the Regulation, the Ontario Media Development Corporation'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) setting the goals, objectives and directions for the Ontario Media Development Corporation, consistent with its objects and within any policy parameters established and communicated by the Minister;
- (c) making by-laws necessary or incidental to carrying out the objects of the Ontario Media Development Corporation and for the conduct and management of its affairs, including

- establishing and collecting fees as permitted under the Regulation, subject to the approval of the Minister;
- (d) ensuring the Chief Executive Officer is accountable to the Chair for the management and administration of the Ontario Media Development Corporation;
 - (e) on an annual basis, for the Deputy Minister's approval, making recommendations through the Chair for the Chief Executive Officer's performance objectives and performance evaluation;
 - (f) directing the preparation of the Ontario Media Development Corporation's annual business plan, annual report and other reports and documents required under this MOU and for corrective action to be taken if needed;
 - (g) approving all documents required under this MOU for submission to the Minister in a timely manner;
 - (h) approving this MOU on behalf of the Ontario Media Development Corporation in a timely manner and authorizing the Chair to sign on behalf of the Ontario Media Development Corporation;
 - (i) monitoring the use of funds and assets to ensure they are used in a fiscally appropriate and responsible manner, and that the Ontario Media Development Corporation operates within its approved budget;
 - (j) ensuring that the Ontario Media Development Corporation is managed in an efficient and effective manner according to accepted business and financial practices and in accordance with government requirements for Operational Service agencies;
 - (k) arranging for annual audit of the financial transactions or management, or both, of the Ontario Media Development Corporation to be conducted by the Auditor General and providing the Minister with a copy of the audit;
 - (l) directing the development of an appropriate risk management framework and mitigating strategy for the Ontario Media Development Corporation for managing risks that the Ontario Media Development Corporation may encounter in meeting its program or service delivery objectives;
 - (m) establishing performance measures and targets for the Ontario Media Development Corporation;
 - (n) ensuring the implementation of an annual performance review system for staff;
 - (o) ensuring that it, the Chair, Chief Executive Officer and staff engage in strategic outreach to and consultation with the Ministry and stakeholders, as appropriate;

- (p) co-operating with periodic reviews initiated by either TB/MBC or the Minister;
- (q) ensuring compliance with TB/MBC and Ministry of Finance Directives and relevant Ministry policies and procedures; and
- (r) protecting the legal, fiscal and other interests of the Ontario Media Development Corporation by ensuring the ongoing viability, integrity, preservation and security of all recorded information, created, commissioned or acquired by the Ontario Media Development Corporation.

8.4 Chair

The Chair is responsible for:

- (a) providing strategic leadership to the Board;
- (b) monitoring the performance of the Ontario Media Development Corporation;
- (c) ensuring that the Ontario Media Development Corporation operates within its approved budget allocation in fulfilling its mandate;
- (d) convening and chairing meetings of the Board;
- (e) communicating the Board's policies, strategic directions, and performance objectives to the Chief Executive Officer on an annual basis;
- (f) on behalf of the Board, consulting with the Deputy Minister on the Deputy Minister's development of performance objectives for the Chief Executive Officer; providing the Board with the approved objectives; asking the Board for its evaluation of the Chief Executive Officer's performance for the past year; reviewing with the Chief Executive Officer his/her performance during the past year in relation to such objectives; providing feedback to the Deputy Minister on the Chief Executive Officer's performance; and providing the Board with a copy of the performance evaluation;
- (g) developing and signing the MOU with the Minister after Board and TB/MBC approval;
- (h) ensuring that the Minister is provided with such information regarding the Ontario Media Development Corporation and its activities, including the substance and results of its ongoing consultations with stakeholders, as the Minister may require in order to carry out the Minister's responsibilities;
- (i) reporting to the Minister annually or more often as requested on the Ontario Media Development Corporation's activities and guidelines and on the practices under which

the Ontario Media Development Corporation operates and by which the Ontario Media Development Corporation's overall priorities are set;

- (j) reviewing the Ontario Media Development Corporation's plans and reports, including the business plan, as described in section 12 of this MOU and submitting the same to the Minister once approved by the Board;
- (k) ensuring that any significant additions, deletions or amendments to the Ontario Media Development Corporation's plans and reports referred to in clause (j) are communicated appropriately to the Minister;
- (l) notifying the Minister of appointment vacancies and making recommendations to the Minister on appointments or re-appointments of Board members;
- (m) consulting with the Minister in advance and receiving the Minister's approval if the Ontario Media Development Corporation plans to embark on any enterprise or activity which impacts on the government's policies;
- (n) ensuring that Board members are informed of their roles, responsibilities and obligations and ensuring that all Board members receive any necessary training to carry out their roles and responsibilities;
- (o) ensuring that Board members are aware of and comply with all applicable Ministry of Finance and TB/MBC Directives;
- (p) reviewing and approving claims for per diems and expenses of Board members;
- (q) carrying out the specified responsibilities under the *Public Service of Ontario Act, 2006* and its regulations as the "ethics executive" for members of the Board in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (r) ensuring that all Board members are informed and comply with all applicable conflict of interest directives, guidelines and policies (such as TB/MBC's *Government Appointees Directive*) and applicable conflict of interest provisions of the *Public Service of Ontario Act, 2006*;
- (s) recording any declared or apparent conflicts of interest by Board members in the minutes of the Board's meetings;
- (t) ensuring that appropriate management systems are in place (financial, information technology, human resources) for the effective administration of the Ontario Media Development Corporation;

- (u) within 60 days of receipt, providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of the Ontario Media Development Corporation's response to each audit report, and any recommendations in the report;
- (v) advising the Minister annually on any outstanding audit recommendations;
- (w) cooperating with any periodic reviews directed by the Minister or by TB/MBC; and
- (x) attending and/or making presentations before Cabinet or committees of Cabinet or the Legislative Assembly on matters concerning the affairs of the Ontario Media Development Corporation when requested to do so.

8.5 Chief Executive Officer

The Chief Executive Officer of the Ontario Media Development Corporation is responsible for:

- (a) managing the day-to-day operations of the Ontario Media Development Corporation and the fulfilment of its mandate;
- (b) carrying out his/her roles and responsibilities under the *Public Service of Ontario Act, 2006*;
- (c) applying policies established by the Board so that public funds are used in a fiscally appropriate and responsible manner;
- (d) interpreting the goals, objectives, and directions of the Board into operational plans and activities in accordance with the approved business plan;
- (e) establishing systems to ensure that the Ontario Media Development Corporation operates within its approved business plan;
- (f) providing leadership, direction, guidance and management to the Ontario Media Development Corporation's staff, including human and financial resources management, in accordance with the approved business plan, accepted business and financial practices and standards, the Act, the Regulation, TB/MBC and Ministry of Finance Directives;
- (g) establishing and applying a financial management framework to support decision-making;
- (h) ensuring that the Ontario Media Development Corporation 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;

- (i) keeping the Board informed of the implementation of the Board's policy directions and the operations of the Ontario Media Development Corporation;
- (j) providing the Board with advice and assistance in meeting its responsibilities, including advising the Board on strategic directions and on policy matters which may affect the operations of the Ontario Media Development Corporation;
- (k) advising the Board on compliance with Ministry of Finance and TB/MBC Directives and Ministry policies and procedures; and ensuring the Ontario Media Development Corporation complies with such directives, policies and procedures;
- (l) preparing the annual report, business plan, and financial reports, as directed by the Board for its approval;
- (m) developing and implementing an effective performance measurement system for the Ontario Media Development Corporation;
- (n) meeting the performance objectives set by the Deputy Minister;
- (o) ensuring effective communication with the Deputy Minister and staff of the Ministry, including early identification of potential issues and opportunities;
- (p) monitoring and reporting to the Board on the Ontario Media Development Corporation's performance targets;
- (q) undertaking reviews, evaluations and reports of the Ontario Media Development Corporation's activities at the request of the Board and advising the Board of the results;
- (r) cooperating with any periodic review directed by the Minister or by TB/MBC;
- (s) ensuring the Ministry is provided with such information regarding the Ontario Media Development Corporation as the Minister may require or request in order to carry out her responsibilities;
- (t) keeping the Board, the Chair and the Deputy Minister, 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 Commission or to the Ombudsman);
- (u) ensuring that all employees of the Ontario Media Development Corporation are informed of and comply with all conflict of interest provisions of the *Public Service of Ontario Act, 2006* and any conflict of interest guidelines or policies of the Ontario Media Development Corporation;

- (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 Ontario Media Development Corporation in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (w) supporting the Chair in orienting members of the Board with respect to their roles and responsibilities;
- (x) implementing a performance review system for staff and conducting staff performance evaluations;
- (y) establishing an information management system for the retention of the Ontario Media Development Corporation’s documents and for appropriately making such documents publicly available and:
 - (i) ensuring that managers follow appropriately defined processes of retention and disposal consistent with the *Management of Recorded Information Directive* (June 1992), the *Archives and Recordkeeping Act, 2006*, and other legislation as applicable;
 - (ii) ensuring that managers and staff create full, accurate and reliable records that document and support significant business transactions, decisions, events, policies and programs;
 - (iii) holding managers accountable for managing the recorded information that is under their control and custody;
 - (iv) ensuring that recorded information identified during retention scheduling as having permanent value is safeguarded so as to protect its ongoing accessibility and integrity; and ensuring that information identified as not having permanent value is disposed of in a timely manner; and
 - (v) establishing responsibilities, in consultation with the Archivist of Ontario, for identifying and preserving records of permanent value and ensuring that, if and where required by the Archivist of Ontario, these records are transferred to the Archives of Ontario at the end of their scheduled operational use.

9. AGENCY CLASSIFICATION, CROWN AGENT STATUS, ADMINISTRATION AND STAFFING

- (a) The Ontario Media Development Corporation is classified as an Operational Service agency subject to those financial, human resources and administrative policies, guidelines, and directives as are established by TB/MBC and the Ministry of Finance, as amended from time to time, and which are listed in **Schedule 1** attached to this MOU.

Where directives are amended or new directives are created, the Deputy Minister shall advise the Chief Executive Officer in writing of the applicability of these directives to the Ontario Media Development Corporation and these directives shall be deemed to form part of Schedule 1. The Ontario Media Development Corporation shall comply with all directives listed in Schedule 1 and those directives deemed to form part of Schedule 1.

- (b) Pursuant to section 3 of the Regulation, the Ontario Media Development Corporation is a Crown agency within the meaning of the *Crown Agency Act*.
- (c) The Ontario Media Development Corporation is subject to the requirements of the *French Language Services Act*.
- (d) Subject to clause (a) above and subsection 8(1) of the Regulation, the Board has full financial and administrative authority over the operations of the Ontario Media Development Corporation, and may delegate such authority to the Chief Executive Officer or other officers and employees of the Ontario Media Development Corporation as it sees fit.
- (e) The Ontario Media Development Corporation is a corporation without share capital and is not subject to the *Corporations Act* or the *Corporations Information Act*. The Ontario Media Development Corporation is subject to section 132, subsection 134(1) and section 136 of the *Business Corporations Act*.
- (f) The Ontario Media Development Corporation is subject to TB/MBC's *Transfer Payment Accountability Directive* (August 2007) in the provision and administration of transfer payments.
- (g) The Chair is responsible for ensuring that clear expectations are established for 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.
- (h) The Ontario Media Development Corporation is prescribed as a "Commission public body" in accordance with Ontario Regulation 374/07 made under the *Public Service of Ontario Act, 2006*.
- (i) Employees of the Ontario Media Development Corporation 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 Ontario Media Development Corporation.
- (j) Employees of the Ontario Media Development Corporation are members of the Public Service Pension Plan.

- (k) Legal services for the Ontario Media Development Corporation are provided by the Ministry of the Attorney General (“MAG”) in accordance with MAG’s *Corporate Operating Policy on Acquiring and Using Legal Services*.

10. FINANCIAL

- (a) The Ontario Media Development Corporation is funded through transfer payments from the Ministry derived from the Consolidated Revenue Fund based on the Ontario Government’s results-based planning process, and subject to adjustments made by the Minister, TB/MBC or the Legislative Assembly. For each fiscal year, such transfer payments are subject to the approval of TB/MBC and to an appropriation by the Legislative Assembly.
- (b) As provided for in subsection 8(1) of the Regulation, the Ontario Media Development Corporation has the capacity, rights, powers and privileges of a natural person for carrying out its objects, except as limited by the Regulation.
- (c) As provided for in subsection 8(2) of the Regulation, the Ontario Media Development Corporation may establish and collect fees related to the delivery of any services arising from the exercise of its powers or the carrying out of its objects.
- (d) As provided for in subsection 8(3) of the Regulation, the Ontario Media Development Corporation shall not, except with Lieutenant Governor in Council approval:
 - (a) borrow money, guarantee the borrowing of money by another person or pledge the assets of the Ontario Media Development Corporation;
 - (b) acquire, hold or dispose of any interest in real property;
 - (c) incorporate a subsidiary corporation;
 - (d) maintain an account in any name other than its own or in any institution other than,
 - (i) the Province of Ontario Savings Office,
 - (ii) a bank listed in Schedule I or II to the *Bank Act* (Canada), or
 - (iii) a trust company registered under the *Loan and Trust Corporations Act*;or
 - (e) invest in any investment other than:
 - (i) securities issued or guaranteed as to principal and interest by Ontario, Canada, or another province or territory of Canada,
 - (ii) guaranteed investment certificates of a trust company that is registered under the *Loan and Trust Corporations Act*, or

- (iii) deposit receipts, term deposits, deposit notes, certificates of deposit or investment, banker's acceptances or other similar instruments issued, guaranteed or endorsed by a bank listed in Schedule I or II to the *Bank Act* (Canada).
- (e) The Ontario Media Development Corporation 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 Ontario Media Development Corporation with information about government business planning and requirements.
- (f) The Ontario Media Development Corporation shall submit to the Minister quarterly financial reports of revenues and expenditures, actual as compared to budget, with an explanation of significant variances.
- (g) The Ontario Media Development Corporation shall set the level of funding allocated to programs and services, consistent with its annual business plan as approved by the Minister.
- (h) Financial and accounting procedures of the Ontario Media Development Corporation shall be in accordance with TB/MBC Directives and Ministry of Finance Directives.
- (i) The Ontario Media Development Corporation is GST exempt in accordance with the Reciprocal Tax Agreement between the Ontario government and the Government of Canada.
- (j) The Ontario Media Development Corporation shall manage its financial activities, including borrowing, leasing, investing, banking and management of cash, financial assets, financial risks and financial liability, under the policy direction of the Ontario Financing Authority.
- (k) As required by the *Financial Administration Act*, if the Ontario Media Development Corporation proposes to enter into any financial arrangements that could increase the Ontario government's direct, indirect or contingent liabilities or affect the Ontario government's financial, cash or debt management policies, the Ontario Media Development Corporation shall obtain the prior written approval of the Minister of Finance.
- (l) The Ontario Media Development Corporation shall acknowledge the financial support of the Ontario government in all its financial, educational, grant and promotional materials in accordance with TB/MBC Directives, including the *Visual Identity Directive*, and shall refer to itself by its full name, "Ontario Media Development Corporation", in all formal documents.

- (m) The revenues of the Ontario Media Development Corporation shall be deposited into accounts permitted by clause 8(3)(d) of the Regulation or invested in accordance with clause 8(3)(e) of the Regulation and shall be applied solely for carrying out the objects of the Ontario Media Development Corporation. As specified in subsection 9(3) of the Regulation, if the Minister of Finance determines that the Ontario Media Development Corporation has a surplus of revenue, the Minister of Finance may direct that the surplus be paid into the Consolidated Revenue Fund. “Revenue” is defined in subsection 9(1) of the Regulation to include “all money or money’s worth received by the Corporation, whether by grant, gift, contribution, profit or otherwise”.

11. AUDITING

- (a) In accordance with section 14 of the Regulation, the Auditor General shall conduct an audit on an annual basis of the financial transactions or management, or both, of the Ontario Media Development Corporation. The Ontario Media Development Corporation shall submit the annual audit report to the Minister within 60 days of receiving it from the Auditor General.
- (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 Ontario Media Development Corporation. 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.
- (c) The Chair of the Ontario Media Development Corporation may request an internal audit of the financial transactions or management, or both, of the Ontario Media Development Corporation and the Ontario Media Development Corporation shall be responsible for the cost of the audit.
- (d) The Ontario Media Development Corporation 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 Ontario Media Development Corporation shall advise the Minister annually and as requested on the status of any outstanding audit recommendations.

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 Media Development Corporation (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 Chair, on behalf of the Board, 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 will be in accordance with the requirements of the *Agency Establishment and Accountability Directive*.

The Chair, on behalf of the Board, will ensure that the Ontario Media Development Corporation implements a system of performance measurement including annual baseline reporting. The performance measurement system will include commitments to attaining specific performance indicators and targets. The performance measurement system and reporting will be included in the annual business plan.

The Minister will review, and approve if satisfactory, the Ontario Media Development Corporation's business plan and will advise the Board as to whether or not he/she approves the overall directions envisaged by the Ontario Media Development Corporation and if not, where and in what ways the overall directions of the plan are at variance with the Ontario government's or the Ministry's policies and priorities. Pending and in the absence of the Minister's response to the business plan, the Board may implement the business plan until such time as the Minister indicates approval of the overall directions or indicates where and in what ways the overall directions of the business plan are at variance with the Ontario government's or the Ministry's policies and priorities.

The Board 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 Ontario Media Development Corporation enters into any binding financial or operational commitments with respect thereto.

Once every three (3) years on a rotational basis and by the end of the government's fiscal year, the Ministry will submit the Ontario Media Development Corporation's three-year business plan to TB/MBC.

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 changes to official reports as the Minister may require from time to time;

- (ii) annual capital funding reports;
 - (iii) copies of agendas and minutes of Board meetings within 30 days following Board approval of its minutes;
 - (iv) any promotion and information materials of the Ontario Media Development Corporation (for information only); and
 - (v) quarterly financial reports prepared on an accrual basis (as defined by the Public Sector Accounting Board), due 30 business days after the end of each quarter (or at such other time as the Ministry may require), and that 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 Ontario Media Development Corporation for its operating and capital budget;
 - the fiscal year-end financial forecast of the Ontario Media Development Corporation's revenues and expenditures; and
 - an explanation to the satisfaction of the Minister regarding any major variances from the Ontario Media Development Corporation's approved operating budget.
- (d) The Board shall submit its plans and reports in a timely fashion and the Minister will provide notice of deadlines as far in advance of the deadline as is possible.

13. PERIODIC REVIEW

The Ontario Media Development Corporation may periodically have to undergo a periodic review or program evaluation. Such a review or program evaluation will be initiated at the discretion and direction of either TB/MBC or the Minister.

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 Deputy Minister, and how any other parties shall be involved.

In the event of a review initiated at the direction of the Minister, the Minister shall submit any recommendations regarding the Ontario Media Development Corporation to TB/MBC for approval.

14. CUSTOMER SERVICE PLAN

The Ontario Media Development Corporation will ensure that there continues to be in place an up-to-date formal written Customer Service Plan and a process to respond to complaints about

the quality of service received by customers/clients of the Ontario Media Development Corporation, consistent with the government's quality service initiative.

15. CONFLICT OF INTEREST

Pursuant to subsection 7(4) of the Regulation, the Ontario Media Development Corporation and its members of the Board are subject to sections 132, 134(1), and 136 of the *Business Corporations Act*, which pertain to disclosure of conflicts of interest and indemnification of Board members.

The members of the Board are subject to the conflict of interest provisions of the *Government Appointees Directive* issued by TB/MBC. Members are also subject to the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations that are applicable to Ontario Government appointees.

The Chair will ensure that there is a formal written corporate by-law, which shall be approved by the Minister, setting out the Ontario Media Development Corporation's conflict of interest policies as they pertain to the members of the Board.

Board members shall not use any information gained as a result of his/her appointment to the Board for personal gain or benefit. A Board 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 at the first opportunity and shall refrain from further participation in the consideration of the matter. The Chair shall cause to be recorded any declared conflict of interest in the minutes of the meeting of the Board.

The Ontario Media Development Corporation's employees are subject to the conflict of interest provisions in the *Public Service of Ontario Act, 2006* and its regulations unless the Ontario Media Development Corporation has submitted its own conflict of interest rules to the Conflict of Interest Commissioner and has received approval of those rules by the Commissioner.

The Chief Executive Officer shall ensure that employees of the Ontario Media Development Corporation are informed of, and comply with, all conflict of interest rules and policies.

16. CREATION, COLLECTION, MAINTENANCE AND DISPOSAL OF RECORDS

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

The Ontario Media Development Corporation is designated as an institution in the regulations to the *Freedom of Information and Protection of Privacy Act* ("FIPPA"). The Ontario Media Development Corporation shall handle all of its records in a manner that is consistent with FIPPA.

The Ontario Media Development Corporation shall maintain and manage all non-financial documents and records relating to funding from the Ministry or otherwise related to the activities of the Ontario Media Development Corporation, including any records it receives or creates about individuals who have participated in research or focus group studies, in a confidential manner consistent with all applicable laws and in accordance with the *Management of Recorded Information Directive*.

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

In circumstances where the Ontario Media Development Corporation receives approval to commission the creation of information, including “personal information” as that term is defined in FIPPA, the Ontario Media Development Corporation 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. LIABILITY PROTECTION AND INSURANCE

Section 12 of the Regulation provides that no director, officer or employee of the Ontario Media Development Corporation or any other person acting on behalf of the Ontario Media Development Corporation is personally liable for anything done or omitted in good faith in the exercise or purported exercise of the powers and duties conferred by the Regulation.

Subsection 7(4) of the Regulation provides that subsection 134(1) [standard of care] and section 136 [indemnification and liability insurance] of the *Business Corporations Act* apply to the Ontario Media Development Corporation with necessary modifications.

The Ontario Media Development Corporation is covered under the Government’s protection program for claims by third parties for bodily injury, property damage, personal injury and advertising liability. The protection program includes coverage for the Ontario Media Development Corporation for third party property damage.

Original Signed by the Minister

The Honourable Aileen Carroll
Minister of Culture

Original Signed by the Chair

Kevin Shea
Chair
Ontario Media Development Corporation

Originally signed on November 19, 2009

Date

Original Signed on October 14, 2009

Date

Approved by Treasury Board/Management Board of Cabinet on: September 17, 2009

Schedule 1

*List of TB/MBC and Ministry of Finance Directives that apply to the Ontario Media Development Corporation **

(* If a Directive is listed, the Policy and Guideline also apply. Guidelines or Policies are listed only if there is no corresponding Directive)

Accountability and Governance

- (a) Accountability Directive (Sept. 1997)
- (b) Advertising Content Directive (Sept 2001)
- (c) Agency Establishment and Accountability Directive (Feb 2000)
- (d) Delegation of Authority Directive (March 2000)
- (e) Disclosure of Wrongdoing Directive – Employees & Appointees of Public Bodies (2007)
- (f) Government Appointees Directive (November 1994)
- (g) Internal Audit Directive (November 2002)
- (h) Transfer Payment Accountability Directive (August 2007)

Business Planning and Financial Management

- (i) Capital Expenditure Evaluation Directive (November 1994)
- (j) Cash Management Directive
- (k) Emergency Management and Security Directive (Jan. 2007)
- (l) Expenditure Management Directive (April 2000)
- (m) General Expenses Directive (Oct 1997 revised Nov 2004)
- (n) Indemnification Directive (March 2001)
- (o) Internal Controls Management Directive (December 2002)
- (p) Non-Tax revenue Directive (August 1991)
- (q) Real Property and Accommodation Directive (September 1998)
- (r) Relocation Expenses Directive (Revised April 2000)
- (s) Revenue Management Directive (November 1997)
- (t) Risk Management Policy (Ministry of Finance - April 2002)
- (u) Staffing Management and Control Directive (September 1992)
- (v) Travel, Meal and Hospitality Expenses Directive (revised July 2009)

Procurement

- (w) Procurement Directive on Advertising, Media and Public Relations and Creative Communications Services (revised July 2009)
- (x) Procurement Directive (revised July 2009)
- (y) Establishment and Use of Central Common Services Directive (August 1994)

Information and IT Management

- (z) Enhancing Privacy: Computer Matching of Personal Information Directive (May 1994)
- (aa) Freedom of Information and Protection of Privacy Directive (Feb 1991)
- (bb) Government Publications Directive (Sept 1997)

- (cc) Information and Information Technology Directive (Aug. 2006)
- (dd) Information and Information Technology Security Directive (Aug. 2005)
- (ee) Management of Recorded Information Directive (June 1992)
- (ff) Managing, Distributing and Pricing Government Information (Intellectual Property) (August 1998)
- (gg) Visual Identity Directive (Feb 2002)

Human Resource Management

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

- (hh) Classification and Position Administration Directive (January 1991)
- (ii) Emergency Evacuation Planning Directive (Jan 1991)
- (jj) Employee Benefits Directive (January 1991)
- (kk) Employees Returning from Absence due to Illness or Injury Directive (March 1992)
- (ll) HIV Infection and Aids in the Workplaces Directive (January 1991)
- (mm) Hours of Work Directive (January 1991)
- (nn) Human Resources Management (February 1999)
- (oo) Merit Increase Directive (December 1996)
- (pp) Occupational Health and Safety Directive (July 2001)
- (qq) Retirement Directive (January 1991)
- (rr) Salary Rates/Ranges Directive (January 1991)
- (ss) Smoke-free Workplace Directive (January 1991)

The Ministry will inform the Ontario Media Development Corporation of amendments or additions to directives, policies and guidelines that apply to the Ontario Media Development Corporation.

- END OF SCHEDULE 1 -

APPENDIX A: COMMUNICATIONS PROTOCOL FOR AGENCIES

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 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 APPENDIX A -

APPENDIX B

List of General Legislation applicable to the Ontario Media Development Corporation

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

Ministry of Treasury and Economics Act

Pay Equity Act

Public Sector Salary Disclosure Act, 1996

Public Service of Ontario Act, 2006

-- END OF APPENDIX B --