

Preface:

Goals of a Cooperative Agreement with Conservation Ontario in Relation to the Canada-Ontario Agreement on Hydrometric Monitoring

- 1. Recognize common goals amongst Ministry of Natural Resources and Forestry (MNRF), Environment Canada (EC) and conservation authorities (CAs) for creating and maintaining a strong hydrometric network in Ontario.**
- 2. Articulate Ontario CAs' relationship to the Canada-Ontario Agreement on Hydrometric Monitoring (Cost Share Agreement), attached in Appendix A.**
 - 2.1. Determine a protocol around CA site visits to stream gauges included in "Schedule C" of the Cost Share Agreement, outside of any Third Party Assist Operator Agreement.
 - 2.2. Determine a protocol to resolve any remote access issues, including decisions to switch phone numbers or move to satellite transmission.
 - 2.3. Determine a protocol to be followed by both Parties in relation to access to data, products and appropriate forms of dissemination (note, setting out these policies and procedures will require clarification on what data is readily available, what information and data may need to be provided from time to time, and at what cost, if any).
 - 2.4. Provide a reference to the protocol for installation and management of peripheral devices on stream gauges included in "Schedule C" of the Cost Share Agreement (document still in development at the OHPCC level, but will be added as a reference within the Cooperative Agreement when completed).
- 3. Set out requirements and methods of communication between the two Parties for network planning (i.e. how CAs should inform or should be informed of stream gauge installations, discontinuations, etc., and how the two Parties should work together to create plans ensuring business continuity within the Ontario hydrometric network – could be achieved through the inclusion of a CA representative on the OHPCC)**
- 4. Plan for dispute resolution between the Parties and flexibility of the Cooperative Agreement, including protocol for renewing or terminating the Agreement.**

Who are the Parties involved?

It is proposed by the MNRF that this agreement be signed between Conservation Ontario, on behalf of Ontario's CAs, and the MNRF on behalf of the Province.

To represent the PFFWC CAs on the OHPCC, a representative will be chosen by the CAs, out of PFFWC CA membership, with agreement by both MNRF and EC.

A sub-committee is to be created out of PFFWC membership, including CA, MNRF and EC representatives, to discuss the implementation of the Cost Share Agreement as it pertains to CAs and their activities. Results and decisions generated by the PFFWC Cost Share Agreement sub-committee will be reflected in this Cooperative Agreement and, where appropriate, recommended to the OHPCC to be incorporated into the Cost Share Agreement compendium.

Communication and report-back methods that the CA representative on the OHPCC will follow will be created by the CAs that sit on the PFFWC.

THIS AGREEMENT (the "Agreement") made in triplicate, for the Operation of the Ontario Hydrometric Network under the Canada-Ontario Agreement on Hydrometric Monitoring (the "Cost Share Agreement") is effective as of September 29, 2014 ("Effective Date").

Agreement made in triplicate this September 29, 2014

BETWEEN:

HER MAJESTY THE QUEEN in right of Ontario, as represented by the Minister of Natural Resources and Forestry, hereinafter referred to as the "Ministry"

■ and -

CONSERVATION ONTARIO representing the Ontario conservation authorities, hereinafter referred to as "Conservation Ontario"

WHEREAS the Ministry and Conservation Ontario agree that the collection and preservation of standardized hydrometric data is critical to support informed decision making on water related issues of health, safety, community stability, protection of property, economic stability and conservation of the environment;

AND WHEREAS the Ministry and Conservation Ontario are committed to work in cooperation to operate and maintain an effective and efficient Provincial hydrometric network;

AND WHEREAS the Ministry and Conservation Ontario recognize the value of cooperative activities in matters of policy, standards, agreements, criteria, funding, training requirements, other components of the Provincial Flood Forecasting and Warning program, and other applicable projects and programs; and

AND WHEREAS Ministry and Conservation Ontario are committed to providing input and direction to flood forecasting and warning, and other applicable projects and programs.

NOW THEREFORE the Ministry and Conservation Ontario agree as follows:

**ARTICLE 1
INTERPRETATION AND DEFINITIONS**

1.1 Interpretation

For the purposes of interpretation:

- (a) words in the singular include the plural and vice-versa;
- (b) words in one gender include all genders;

- (c) the background and the headings do not form part of the Agreement; they are for reference only and shall not affect the interpretation of the Agreement;
- (d) any reference to dollars or currency shall be to Canadian dollars and currency; and
- (e) “include”, “includes” and “including” shall not denote an exhaustive list.

1.2 Definitions

Terms in this Agreement have the meaning given to them in the Cost Share Agreement, along with the following:

“Agreement” means this agreement, entered into between the Ministry and Conservation Ontario;

“Parties” means the Parties to this agreement, which are the Province of Ontario, represented by the Ministry of Natural Resources and Forestry (Ministry) and Conservation Ontario, representing the Ontario conservation authorities (CAs);

“Cost Share Agreement on Hydrometric Monitoring” or **“Cost Share Agreement”** means the agreement attached to and included in this Agreement as Appendix A, between Environment Canada (EC), on behalf of the Federal Government of Canada, and the Ministry, on behalf of the Provincial Government of Ontario, for cost sharing the Ontario Hydrometric Network and for laying out the role of the Province of Ontario within the context of the larger National Hydrometric Program (NHP);

“Peripherals” means non-standard hydrometric devices as designated under the Cost Share Agreement that are physically linked to the hydrometric stations such as, but not limited to, climate and weather monitoring devices;

“Provincial Network” means hydrometric stations maintained in Ontario under the Cost Share Agreement;

“Hydrometric Data” means hydrometric data limited to surface water levels and flows;

“Ministry Stations” means hydrometric stations designated as Provincial, MNRF within the Cost Share Agreement;

“Federal Stations” means hydrometric stations designated as Federal within the Cost Share Agreement;

“Federal/Provincial Stations” means within the Cost Share Agreement stations that are funded 50% Ministry and 50% EC;

“Other Stations” means hydrometric stations not within the Cost Share Agreement operated by the Parties;

“Ontario Hydrometric Program Coordinating Committee” or “OHPCC” means a committee established under the Cost Share Agreement which facilitates and coordinates operational strategies for the Province of Ontario, in order to help provide a coherent water data and information program within Ontario and the larger context of Canada;

“Provincial Flood Forecasting And Warning Committee” or “PFFWC” means a committee formed of Ministry, EC, CA and other interested partners, to provide a program link between agencies responsible for flood forecasting and warning, flow measurement and data collection, and partners, to address policy and implementation needs and issues;

“Third Party Assist Operator” means a third Party (a person or unincorporated association, not signatory to the Cost Share Agreement) that assists in the maintenance, operation and/or funding of a certain monitoring site or sites and conducts these activities to National Standards and in accordance to the Cost Share Agreement;

“Third Party Data Contributor” means a third Party (a person or unincorporated association, not signatory to the Cost Share Agreement) that contributes data to the two Parties of the Cost Share Agreement, from gauges not covered under the Cost Share Agreement;

“Third Party Assist Operator Agreement” means an agreement between the Ministry and a conservation authority for the maintenance of one or more stream gauges in Ontario;

“National Standards” means performance, procedural and instrumentation standards, as approved by the National Administrators Table (NAT) in accordance with the provisions of the Cost Share Agreement. More specifically, National Standards include the performance, procedural and instrumentation by which hydrometric and sediment surveys are conducted using Water Survey of Canada (WSC) standards under the ISO quality management system. They include data that has been observed, recorded and computed by trained technicians and the publishing standards. Data contributed by another agency must conform to or exceed the National Standards to be acceptable for publication by WSC as contributed data, or be clearly tagged as data that is to a lesser and identified standard;

“Data and Information” means instantaneous, average or other hydrometric values and metadata that describes a Monitoring Site or the nature of the operation of a Monitoring Site; Information can refer to data as well as well as any other information, for example, but not limited to, meeting minutes and relevant correspondence, etc.; and

“Monitoring Site” or “Station” means a location where Hydrometric surveys are conducted or Hydrometric Data (as defined in Schedule F of the Cost Share Agreement) is collected.

ARTICLE 2 TERM OF THE AGREEMENT

2.1 This agreement shall commence on September 29, 2014

2.2 This agreement shall be subject to review as deemed necessary by the Parties, with CA, Conservation Ontario, Ministry and EC representatives present, and may not be amended or modified in any way except by written agreement signed by both Parties.

- 2.3** This agreement may be terminated by either Party provided that Party provides one year notice at the beginning of the Ministry fiscal year.

ARTICLE 3 BACKGROUND

- 3.1** The collection of hydrometric data is critical to the understanding of the availability, variability and distribution of our water resources and provides the basis for responsible decision making on the management of this resource. Historic hydrometric data provides the basis for understanding the potential extent and limitation of this resource and as such supports such activities as policy development, infrastructure design, water rights licensing, ecosystem protection and scientific study. Current and real-time hydrometric data supports flood and drought forecasting and ongoing decision-making regarding the management, use and sharing of our water resources.
- 3.2** The hydrometric monitoring program in Ontario is part of a Canada-wide program that provides accurate, timely and standardized data and information on the current and historic availability of surface water. The main guidance document for this program is the Cost Share Agreement, which is signed between the Ministry, representing the Province of Ontario and EC, representing the Federal Government of Canada. The Cost Share Agreement is contained within this agreement as Appendix A for reference. The main objectives of the Cost Share Agreement include:
- Collection, maintenance and dissemination of hydrometric data for the Province of Ontario;
 - Establish a framework for an effective and efficient hydrometric monitoring program in Ontario;
 - Set out the means by which the Parties will determine their respective responsibilities and contributions to the Ontario hydrometric monitoring program; and
 - Recognize the value of cooperative water monitoring activities involving federal and provincial agencies, for reasons including operational and cost efficiencies.
- 3.3** Data and information from the Cost Share Agreement stations are required by CAs, EC and the Ministry to fulfill program requirements. The Parties to this agreement and to the Cost Share Agreement have made considerable investments in the construction and operation of hydrometric stations in Ontario for the purposes of, but not limited to:
- Flood Forecasting and Warning;
 - Reservoir Operations;
 - Source Water Protection;
 - Low Water/Drought Monitoring and Programming;
 - Information to support the development of standards; and
 - Other uses that may be appropriate.
- 3.4** Many of the stations operated under the Cost Share Agreement are located within CA jurisdictions. With this in mind, and in order to encourage operational efficiencies, the Cost Share Agreement allows the Ministry or EC to use third Party assist operators to operate or conduct activities on either Party's behalf or to have a third Party operate its stations to the

standard.

- 3.5 The Cost Share Agreement also allows the Ministry or EC the opportunity to request the participation of third Parties (who have an interest or are stakeholders in the Provincial Hydrometric Network) on OHPCC. For more information, please refer to Section 4.5 of the Cost Share Agreement, located in Appendix A of this Agreement.

ARTICLE 4 OBJECTIVES

Objectives of this Agreement (within the provisions of the Cost Share Agreement):

- 4.1 Enable the Ministry to partner and contract with CAs for the implementation of third Party functions as described within the Cost Share Agreement. For more information, please refer to both sections 4.11 and F11 of the Cost Share Agreement, located in Appendix A of this Agreement.
- 4.2 Recognize CAs as being “Third Parties” under the Cost Share Agreement and indicate the Administrators’ consent under the Cost Share Agreement to allowing CAs to join the Coordinating Committee established under that agreement.
- 4.3 Enable CAs to contribute data from stations they operate that are external to the Cost Share Agreement as Third Party Data Contributors.
- 4.4 Provide for data and information sharing between the Parties from hydrometric stations:
- 4.4.1 For stations operated and maintained through the Cost Share Agreement, the Parties will work within the Cost Share Agreement framework. For stations operated outside of the Cost Share Agreement, the Parties will endeavor to advocate and recommend standard approaches to their operation. Any documentation created on how data is to be contributed from stations outside of the Cost Share Agreement will be laid out by OHPCC according to National Standards, approved through the PFFWC and included as an appendix to this agreement for reference.
- 4.4.2 The CAs represented under this agreement will endeavor to make available to the Ministry, EC and other PFFWC members all data and information from hydrometric stations operated externally to the Cost Share Agreement.
- 4.4.3 The Ministry will endeavor to make available to CAs, according to the provisions of the Cost Share Agreement, any data and information resulting from the Cost Share Agreement, such as National Standards, policies and procedures, and any other relevant items passed down from the NAT, NHPCC or the OHPCC.
- 4.4.4 The Parties may conduct training and coordination sessions regarding the operations of the Provincial Network.
- 4.5 Provide a means for the Parties to work together towards the sustainability of the hydrometric network in Ontario.

ARTICLE 5 WORKING COOPERATIVELY

The Parties to this Cooperative Agreement Concur that:

- 5.1** There is a common interest amongst the Province, as represented by the Ministry, Canada, as represented by EC, and CAs, as represented by Conservation Ontario, for having a strong hydrometric network in Ontario and a common spirit of cooperation that all three would like to work within.
- 5.2** The collection of hydrometric data is critical to the understanding of the availability, variability and distribution of our water resources and provides the basis for responsible decision making on the management of this resource. Historic hydrometric data provides the basis for understanding the potential extent and limitation of this resource and as such supports such activities as policy development, infrastructure design, water rights licensing, ecosystem protection and scientific study. Current and real-time hydrometric data supports flood and drought forecasting and ongoing decision-making regarding the management, use and sharing of our water resources;
- 5.3** The Parties must have an open and transparent relationship with each other respecting each Party's need for hydrometric data and information and to need to sustain the network into the long term future;
- 5.4** The Parties must endeavor to work together to ensure the sustainability and functionality of the hydrometric network to meet the needs of Ontario, including network planning and design in accordance with the Cost Share Agreement.
- 5.5** The Parties will work together towards an effective hydrometric monitoring system within CAs and the Province of Ontario as a whole, which means:
 - 5.5.1** The Parties will consult with each regarding the addition or deletion of hydrometric stations within the Cost Share Agreement and develop protocols for additions, deletions and restorations.
 - 5.5.2** Any proposed addition of peripherals by CAs to any stations covered under the Cost Share Agreement shall be subject to approval by the OHPCC.
 - 5.5.3** The Parties may conduct research, develop guidelines and performance standards, and conduct training or coordination sessions regarding the planning of the Provincial network.
 - 5.5.4** The Parties will work together toward establishing the purpose and functionality of the stations within the Provincial network.
 - 5.5.5** Through the inclusion of a CA representative at OHPCC, as outlined in Article 7 – Designated Representatives, the Parties will:
 - 5.5.5.1** Ensure the province is able to achieve effective network planning;

- 5.5.5.2** Determine a protocol for CA site visits to stream gauges included in “Schedule C” of the Cost Share Agreement, outside of any Third Party Assist Operator Agreement, including the necessary forms of compensation for CAs;
 - 5.5.5.3** Determine a protocol to resolve any remote access issues, including decisions to switch phone numbers or move to satellite transmission;
 - 5.5.5.4** Determine a protocol for the addition and installation of peripherals proposed by CAs to stations included in “Schedule C” of the Cost Share Agreement in accordance with Section 5.5.2;
 - 5.5.5.5** Determine a protocol to be followed by both Parties in relation to access to data, products and appropriate forms of dissemination;
 - 5.5.5.6** Ensure observance of the protocol for installation and management of peripheral devices on stream gauges; and
 - 5.5.5.7** Include the products, outlined in 5.5.5.1. – 5.5.5.5. as an appendix to this document for reference.
- 5.6** Continuing investments of resources are required to ensure the sustainability of the network and accordingly, the availability of data and information.
- 5.7** It is recognized that, from time to time, the financial and resource capabilities of both Parties may be challenged and, in other cases, allow for network enhancements.

ARTICLE 6 FINANCIAL ARRANGEMENTS

- 6.1** This Agreement will not impose any financial responsibilities on the Parties; each Party will be responsible for the expenses it incurs. For example, each member is expected to cover its travel costs to meetings, training events and workshops.
- 6.2** Costs for services, exchange of resources, and non-financial contributions for services performed by CAs with respect to Cost Share Agreement Third Party Assist Operators, will be negotiated between the Parties in accordance with Section 5.5.5.2.
- 6.3** Any contractual arrangements between the Parties for the purposes of this agreement will be governed by the laws and procurement policies of the Provincial Government of Ontario.

ARTICLE 7 DESIGNATED REPRESENTATIVES

- 7.1** For the purposes of this Agreement, the Parties may act through any individual designated by their respective Party.
- 7.2** The CA members of the PFFWC will select a representative from their number to be a sitting member of the OHPCC. That individual, from time to time, may designate an alternate to represent them at meetings. The alternate shall be granted the same status as the member that he or she is representing.
- 7.3** For the purposes of this agreement, the Parties may create committees, working groups and conduct training.

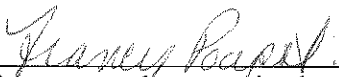
**ARTICLE 8
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

- 8.1** The Parties acknowledge that the Ministry is bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Ministry in connection with the Agreement may be subject to disclosure in accordance with that Act.
- 8.2** The Parties are responsible to identify any information which is confidential at the time that it is provided to the other Party.

**ARTICLE 9
SIGNATURES**

IN WITNESS WHEREOF the Parties hereto have executed this Agreement


SIGNED, SEALED AND DELIVERED)
in the presence of)


Witness as to the execution by)


(signature of witness only required if)
Authority did not use an official seal))

Matthew Millar
Conservation Ontario

HER MAJESTY THE QUEEN
in right of Ontario


Peter Hulsman
Manager, Land and Water Services Section
Ontario Ministry of Natural Resources and
Forestry

Conservation Ontario


Kim Gavine
General Manager
Conservation Ontario

APPENDIXA – The Canada-Ontario Agreement on Hydrometric Monitoring
("Cost-Share Agreement")

**CANADA - ONTARIO AGREEMENT ON HYDROMETRIC
MONITORING**

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by THE MINISTER
OF THE ENVIRONMENT ("Canada")

AND

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as represented by THE
MINISTER OF NATURAL RESOURCES ("Ontario")

(each of which is a "Party" and, collectively, the "Parties")

WHEREAS the Governor in Council, by Order in Council No. P.C. ~~2008-615~~, dated
the 3 day of ~~April~~, 2009 has authorized the Minister of the Environment to deliver and
execute this Agreement on behalf of Her Majesty the Queen in right of Canada subject to the
allocation of funds by the Government of Canada;

AND, WHEREAS the Minister of Natural Resources has the authority to execute and
deliver this Agreement on behalf of Her Majesty the Queen in right of the Province of Ontario
subject to the allocation of funds by the Government of Ontario;

AND WHEREAS this Agreement supersedes the Memorandum of Agreement dated
Twelfth Day of June 1975, between the Government of Canada and the Government of Ontario,
Governor-in-Council Order in Council No. PC 1975-1/172 dated January 28, 1975 and Ontario
Lieutenant Governor-in-Council, Order in Council No. 1030/75 dated April 16, 1975.

THEREFORE the Parties agree to the following:

PREAMBLE

Lakes, rivers and streams provide our communities, farms and industry with water required for drinking, recreation, crops, industrial processes and the generation of electricity. Water also supports countless life forms, both in water and on land. Over the past century, Canada and Ontario have built an extensive infrastructure to better utilize our water resources for such purposes as supplying domestic and industrial uses, irrigating crops, reducing the risks of floods and drought, generating electricity, and facilitating transportation. The management and operation of this infrastructure requires knowledge of the availability, variability and distribution of our water resources.

The collection of Hydrometric data is critical to the understanding of the availability, variability and distribution of our water resources and provides the basis for responsible decision making on the management of this resource. Historic Hydrometric data provides the basis for understanding the potential extent and limitation of this resource and as such supports such activities as policy development, infrastructure design, water rights licensing, ecosystem protection and scientific study. Current and real-time Hydrometric data supports flood and drought forecasting and ongoing decision-making regarding the management, use and sharing of our water resources.

The Hydrometric monitoring program in Ontario is part of a Canada-wide program that provides accurate, timely and standardized data and information on the current and historic availability of surface water. The Parties recognize the value of cooperative water monitoring activities involving federal and provincial/territorial agencies, for reasons including operational and cost efficiencies.

BACKGROUND

In 1975, Canada and Ontario signed the Canada-Ontario Agreement for Water Quantity Surveys thus harmonizing the collection, processing, publication and distribution of Hydrometric data for Ontario. In the same year, similar Agreements were signed with all provinces and with Indian and Northern Affairs Canada on behalf of the territories. These Agreements have provided the basis for the development of a standardized national archive of data and information on the availability and variability of surface water within Canada.

The evolution of the needs of the Parties and monitoring approaches since 1975 have created the need for the renewal of all of the 1975 Agreements. This new Agreement provides the structure and flexibility to ensure that the Parties are provided with an effective and efficient Hydrometric monitoring service that supports public health and safety, economic development and the sustainability of our natural environment.

DEFINITIONS

In this Agreement,

Asset, means any item owned by a Party that is used to perform or support Hydrometric monitoring program activities, including, but not limited to, structures, vehicles, scientific instruments, computer hardware, and computer software.

Fiscal Year, means the twelve month period from April 1 until March 31 of the following year.

Hydrometric, means of, or related to, the measurement of the velocity, discharge, volume and other physical parameters of surface waters and surface water bodies.

Monitoring Site, means a location where Hydrometric surveys are conducted or Hydrometric Data (as defined in Schedule F) is collected. In this Agreement, Monitoring Sites are sometimes referred to as "stations".

National Standards, means performance, procedural and instrumentation standards, as approved by the National Administrators Table in accordance with the provisions of this Agreement.

Third Party, means an agency, organization, individual, corporations or contractor deemed by a Party to this Agreement to have an interest or be a stakeholder in Hydrometric Monitoring.

1. OBJECTIVES

The objectives of this Agreement are:

- 1.1 to support informed decision-making on water-related issues which affect the security of life, property and the environment, support economic activity and provide for sustainable utilization of the resource in Ontario;
- 1.2 to establish a framework for an effective and efficient Hydrometric monitoring program, and
- 1.3 to set out the means by which the Parties will determine their respective contributions to the Hydrometric monitoring program.

2. SCOPE

The Hydrometric Monitoring Program (Program) encompasses the following:

- 2.1 Monitoring, including, but not limited to, the collection of level, velocity, discharge, volume and physical survey Data from surface waters and the processing of these Data into information products;
- 2.2 Archive management, including, but not limited to, the ongoing systematized storage and inventory of the Data and information products referenced in 2.1;
- 2.3 Data and information services, including, but not limited to, the exchange and delivery of monitoring Data and information products between the Parties;
- 2.4 Standards and quality assurance management, including, but not limited to, the development, implementation and maintenance of national performance, procedural and instrumentation standards for the activities referenced in 2.1, 2.2 and 2.3 and the establishment and implementation of methods to ensure that those National Standards are being met;
- 2.5 Network planning and evaluation, including, but not limited to, the design and ongoing assessment of the network of Monitoring Sites in Ontario to ensure that the needs and mandates of the Parties are met;
- 2.6 Life cycle management of Assets, including, but not limited to, the testing, evaluation, purchase, implementation, maintenance and replacement of instrumentation, equipment, and computer software and systems, and the design, purchase, construction, installation, maintenance, replacement and decommissioning of physical structures used to perform the activities described in 2.1, 2.2, and 2.3;
- 2.7 Research and development, including, but not limited to, the investigation, research and development of new or modified National Standards, methods, processes, tools, and Data and information products as described in 2.1 through 2.6; and,
- 2.8 Program management, including, but not limited to, the establishment of direction for the activities described in 2.1 through 2.7, determining protocols for the equitable sharing of the costs of those activities, and planning for human resource management needs.

3. PRINCIPLES

The activities set out in section 2 will reflect:

- 3.1 Cooperation: Planning and delivery of the Hydrometric monitoring program will be managed through cooperative arrangements;
- 3.2 Mandates respected: Cooperative arrangements will respect the mandates of the Parties;
- 3.3 Effectiveness and efficiency: Planning and delivery of the Hydrometric monitoring program will be done in a way that makes the best use of public resources;
- 3.4 Sustainability: The Hydrometric monitoring program will adapt to changes in technology and the structures and mandates of the Parties;
- 3.5 Standards: Parties will comply with National Standards, and will work cooperatively to develop new National Standards as appropriate to facilitate the effectiveness of the Hydrometric monitoring program and to protect historical records;
- 3.6 Communication of information: There will be open, transparent and timely reporting of Data and information between the Parties and to Third Parties and the public; and
- 3.7 Full cost accounting: Each Party will be permitted to charge all shareable costs incurred under this Agreement in accordance with the cost-sharing procedures set out in Schedule B.

4. MANAGEMENT, ADMINISTRATION AND IMPLEMENTATION

Administrators

- 4.1 Each Party will designate an Administrator for this Agreement (an “Administrator”), who will represent that Party at the National Administrators Table. Each Party may replace its Administrator from time to time on notice to the other Party. The Administrators shall be responsible for:
 - 4.1.1 reviewing progress, addressing issues that may arise from time to time and effectively administering the requirements of this Agreement;
 - 4.1.2 approving annually the Monitoring Sites subject to this Agreement and the operational considerations, deliverables and the responsibilities of the Parties to those sites under section 4.7, and making the related changes to Schedule C as set out in Section 5.0;
 - 4.1.3 approving annually the activities to be conducted under this Agreement;
 - 4.1.4 approving annually the payment and exchange of resources to cover shareable costs as determined by the procedures set out in Schedule B, and making the related changes to Schedule D as set out in Section 5;

- 4.1.5 reviewing this Agreement and its schedules, recommending amendments that support the sustainability of this Agreement, making changes to Schedule F, and developing and approving additional schedules as set out in section 5; and,
- 4.1.6 developing and approving an implementation plan to address program impacts resulting from any changes to funding..

All decisions of the Administrators with respect to the subject matter of this Agreement shall be made by consensus.

National Administrators Table (“NAT”)

- 4.2 The membership and method of operation of the NAT are set out in Schedule E.
- 4.3 The NAT shall:
 - 4.3.1 provide direction to Program activities in Canada;
 - 4.3.2 develop, approve and maintain National Standards related to monitoring, archive management, Data and information services, quality assurance management, and life-cycle management of Assets;
 - 4.3.3 review and approve, as may be required, the list of cost shareable items set out in Schedule A and recommend amendments to Schedule A accordingly;
 - 4.3.4 review and approve, as may be required, appropriate procedures for determining the Parties’ respective contributions to the costs incurred while conducting Program activities and recommend amendments to Schedule B accordingly;
 - 4.3.5 review and approve, as may be required, the membership and method of operation of the NAT as set out in Schedule E and recommend amendments to Schedule E accordingly; and,
 - 4.3.6 address any other issues relevant to the agreements on Hydrometric Monitoring.

Coordinating Committee (Ontario)

- 4.4 Administrators for this Agreement shall appoint members from Ontario to a Coordinating Committee for that province.
- 4.5 Third Parties whose participation may benefit the Program may be invited to join this Coordinating Committee upon the mutual consent of the Administrators.
- 4.6 The Coordinating Committee shall be responsible for:
 - 4.6.1 implementing the decisions and directions of the Administrators in Ontario;
 - 4.6.2 monitoring and ensuring that the activities conducted under this Agreement comply with the appropriate National Standards;

- 4.6.3 preparing annual plans and cost estimates for the activities to be conducted under this Agreement;
- 4.6.4 prepare annually, draft amendments to Schedules C and D to this Agreement that identify the sites, responsibilities, operational considerations and Deliverables, and that outline the payment and sharing of resources to be approved by the Administrators;
- 4.6.5 preparing draft amendments to Schedule F on the request of the Administrators or as the Coordinating Committee considers appropriate;
- 4.6.6 reviewing, annually, costs incurred to conduct activities;
- 4.6.7 preparing and maintaining appropriate records of activities conducted under this Agreement and ensuring that minutes of committee meetings are kept; and,
- 4.6.8 reporting, as required, to the Administrators on activities conducted under this Agreement and other items that the Administrators may deem to be relevant.

Sharing of Resources

- 4.7 Each Monitoring Site that is subject to this Agreement for the Fiscal Year 200_/200_ and the operational considerations, Deliverables and responsibilities of the Parties for each of these sites are identified in Schedules C and F. The sites, responsibilities, operational considerations and Deliverables may change from year to year as may be agreed upon by the Administrators.
- 4.8 Costs incurred for activities under this Agreement shall be shared by the Parties as determined annually by the application of the procedures set out in Schedule B. These shareable costs include those costs incurred for items listed in Schedule A that are related to activities under this Agreement and that are agreed upon by the Administrators.
- 4.9 The exchange of resources between Parties to cover shareable costs for Fiscal Year 200_/200_ are set out in Schedule D. The exchange of resources for subsequent Fiscal Years shall be determined as may be agreed upon by the Administrators according to the application of the procedures set out in Schedule B..

Implementation

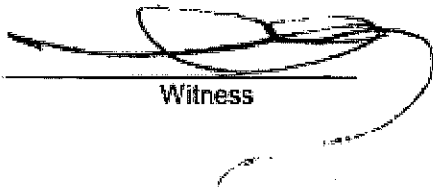
- 4.10 The Party responsible for operating a particular Monitoring Site as identified in Schedule C shall be responsible for:
 - 4.10.1 ensuring that monitoring, archive management, Data and information service, quality assurance management, and life-cycle management of Assets are carried out to National Standards; and
 - 4.10.2 maintaining appropriate records of the site and making such records available to the other Party as may be required.
- 4.11 By joint agreement either Party may request the other Party, or a Third Party, to conduct activities under this Agreement on its behalf. Either Party may disclose this Agreement to a Third Party for purposes of negotiating access to Third Party Data or Third Party services.
- 4.12 Following each Fiscal Year, the Parties shall prepare a report on their activities and expenditures. This report shall contain sufficient detail to justify actual expenditures against estimated costs.
- 4.13 Complete records of all shareable expenditures made by each Party pursuant to this Agreement shall be kept and that Party shall make these records available to the other Party upon request.
- 4.14 The roles and responsibilities of the Parties are set out in greater detail in Schedule F.

5. TERM AND AMENDMENT OF AGREEMENT


- 5.1 This Agreement shall take effect on the 2 day of February 2009.
- 5.2 This Agreement shall be amended by the Parties as follows:
 - 5.2.1 Schedules A, B and E in accordance with the recommendations of the NAT under sections 4.3.3, 4.3.4 and 4.3.5 respectively;
 - 5.2.2 Schedules C, D and F in accordance with the agreement of the Administrators under section 4.1.2, 4.1.4, and 4.1.5 respectively;
 - 5.2.3 any amendment to this Agreement shall be in writing and signed by both Parties before such amendment takes effect;
 - 5.2.4 the Parties understand that Canada may require Governor in Council Approval before an amendment to this Agreement can take effect.
- 5.3 This Agreement may be terminated by either Party on March 31 of any year during the term of this Agreement by giving the other Party at least twelve (12) months prior written notice of termination.

IN WITNESS WHEREOF, this Agreement has been executed on the 2 day of Feb,
2009.

Her Majesty the Queen in right of Canada, as represented by the Minister of the Environment



Witness



Minister of Environment

IN WITNESS WHEREOF, this Agreement has been executed on the _____ day of _____,
200 .

Her Majesty the Queen in right of Ontario, as represented by the Minister of Natural Resources



Witness



Minister of Natural Resources

SCHEDULE A

SHAREABLE COSTS

- A1. Costs incurred while engaged in approved activities under this Agreement on Hydrometric Monitoring are shareable between the Parties.
- A2. The National Administrators Table approves cost shareable activities for Canada-wide application.
- A3. The cost shareable activities approved by the National Administrators Table are:
 - A3.1 Hydrometric network operations targeted at the collection, production, distribution and archiving of Data and information including
 - A3.1.1 field related activities which include, but are not limited to, measurement and physical surveying, instrument servicing, minor infrastructure maintenance, travel preparation, travel, and site reconnaissance; and
 - A3.1.2 office related activities which include, but are not limited to, Data capture, record computation, record approval, Data and information services, and local archive management.
 - A3.2 Life cycle management of Assets (LCM) activities including, but not limited to construction and major maintenance, infrastructure design, testing and inspection, and site decommissioning and re-mediation.
 - A3.3 Program supervision and day-to-day management activities including, but not limited to, work planning, purchasing, warehousing, inventory management, financial management, reporting, quality assurance management, and training for cost-shared activity related skills.
 - A3.4 Projects agreed to by Administrators at either the bilateral or national level.
- A4. The Administrators of this Agreement may approve additional activities for cost sharing under this Agreement.

Costs Shareable Items

- A5. Expenditures for cost-shareable activities are to be itemized under the categories of salary, operations and maintenance (O&M) and capital. Specific items recognized as falling within these costing categories include, but are not limited to:
 - A5.1 Salary
 - Base salary, benefits, Isolated Post Allowance provisions, and over time for all full-time, term, casual or student staff.
 - A5.2 O&M
 - A5.2.1 travel, meals, board and lodging
 - A5.2.2 mail, shipping, transportation
 - A5.2.3 utility services to Monitoring Sites

- A5.2.4 utility services to offices and warehouses (provided these costs are charged directly to the Party's operational budget)
- A5.2.5 telephone services to Monitoring Sites, offices and warehouses
- A5.2.6 consumable goods and services
- A5.2.7 operation and maintenance of vehicles, instruments and other equipment
- A5.2.8 Third Party service contracts
- A5.2.9 equipment and aircraft rentals
- A5.2.10 software licenses and minor software purchases
- A5.2.11 land leases and land access fees
- A5.2.12 office and warehouse rental (provided that these are charged directly to the Party's operational budget)
- A5.2.13 costs related to Isolated Post Allowance provisions
- A5.2.14 staffing and removal (upon the approval of a human resources plan under this Agreement)
- A5.2.15 training tuition
- A5.2.16 finance and administration charges (provided that these are charged directly to the Party's operational budget)

A5.3 Capital

- A5.3.1 vehicle, boat, motor, snowmobile, and ATV purchases
- A5.3.2 computer and peripheral equipment purchases
- A5.3.3 instrument (loggers, sensors, survey instruments, meters, etc.) purchases
- A5.3.4 purchase of large tools
- A5.3.5 major construction and maintenance projects
- A5.3.6 major software purchases

SCHEDULE B

PROCEDURE FOR DETERMINING AND DISTRIBUTING SHAREABLE COSTS

- B1. This Schedule outlines the procedures for distributing shareable costs for activities under this Agreement. The items for which costs are shareable are set out in Schedule A. Shareable costs may only be incurred for activities approved by the Administrators and set out in Schedule D.
- B2. Definitions
- B2.1 Station designation: Each Monitoring Site shall be designated as federal (F), federal-provincial (F/P), federal-territorial (F/T), provincial (P), territorial (T) or Third-Party/commercial (C) according to guidelines developed by the National Administrators Table. Costs for sites designated federal shall be borne fully by Canada. Costs for sites designated provincial shall be borne fully by the Province. Costs for sites designated territorial shall be borne fully by the Territory. Costs for sites designated federal-provincial or federal-territorial shall be shared between the interested Parties in accordance with this Schedule. Costs for sites designated commercial shall be borne fully by a Third Party.
- B2.2 Station equivalent: For each Monitoring Site designated federal, provincial or territorial the interested Party will be assigned one (1) station equivalent. For each Monitoring Site designated federal-provincial or federal-territorial the interested Parties will be assigned the fraction of one (1) station equivalent divided by the number of interested Parties.
- B2.3 Station unit: is a relative measure of the total resources required to operate a Monitoring Site and compute the record from it. Station units for conventional access sites are defined to be: 1.0 for an annual flow site; 0.4 for an annual water level site; 0.75 for a seasonal flow site; and, 0.25 for a seasonal water level site. Administrators may apply a factor to these values to account for local variances regarding Monitoring Site access, period of record, or requested level of service.
- B3. Activity Categories
- B3.1 Direct operations: are activities considered to relate directly to the operation of Monitoring Sites and the production and delivery of Data and information from those sites. These activities include the collection, compilation, computation and approval of Data; the submission and verification of Data to the national archive; regional archiving of Data and information; the provision of Data, information and services; minor Monitoring Site maintenance; training; and, Compumod/Newleaf (or equivalent software) informatics.
- B3.2 Indirect operations: are activities considered to be attributable to the collection and production of Data and which are distributed over the entire network (i.e. not attributable to a given Monitoring Site). These activities include day-to-day program, financial and human resource management; warehousing and inventory control; QAMS management; and training for cost-shared activity related skills,
- B3.3 Construction operations: are activities associated with the construction, maintenance, decommissioning, and assessment and clean up of Monitoring Sites. These activities include reconnaissance, design, planning, and preparation; on and off-site fabrication; and purchasing, contract management, reporting, and record keeping.

- B3.4 Projects – are activities that will benefit the Hydrometric monitoring program that the Administrators (nationally or bilaterally) have agreed to fund on a project basis.

B4. Amortization Approaches

Administrators may choose to pay for a capital purchase as a lump sum in the year that the purchase is made, or to distribute the purchase cost over a number of years. For the sake of simplicity, straight-line distribution is applied to the full purchase cost of each item. Distribution periods are established as being 6 years for light duty trucks; 3 years for field, laptop and desktop computers and peripherals; 3 years for computer servers; and, 5 years for field instrumentation.

B5. Share Distribution Methods

- B5.1 Individual site costing: Costs are distributed on a site-by-site basis. Full cost is attributed to the interested Party for each F, P, T or C site, and equal shares are attributed to each interested Party for each F/P or F/T site.
- B5.2 Station unit distribution: Individual Party shares are calculated as total cost multiplied by the ratio of station units assigned to that Party to the total number of station units in the network.
- B5.3 Station equivalent distribution: Individual Party shares are calculated as total cost multiplied by the ratio of station equivalents assigned to that Party to the total number of station equivalents in the network.
- B5.4 Equal shares: Each interested Party will be assessed an equal share of the total cost.
- B5.5 Pro-rata distribution: This method is used to distribute a current cost based on the historic interest that the Parties have held in a site. For the number of years in question, station equivalents will be determined and distributed to the interested Parties. Individual Party shares will equal the total cost multiplied by the ratio of station equivalents assigned to that Party to the total number of station equivalents determined.
- B5.6 One Party contribution: Total cost is borne by a single Party.

B6. Cost-share Determination Process

- B6.1 The steps used to determine each Party's share of the costs are:

B6.1.1 Assemble all costs: All shareable costs are assembled and grouped as salary, O&M and capital expenditures.

B6.1.2 Determine activity: The shareable costs are grouped as direct operations, indirect operations, construction or projects.

B6.1.3 Apply distribution method: For each activity, apply the appropriate share distribution method.

B6.1.4 Summation: For each Party, sum the shares calculated for each activity.

SCHEDULE C

LIST OF MONITORING SITES, OPERATING STANDARDS AND DELIVERABLES

CANADA – ONTARIO AGREEMENT ON HYDROMETRIC MONITORING

For

Fiscal Year 2006 - 2007

In this Schedule:

1. In the future, additional definitions will be added as required by the Parties.
2. The column headings, symbols and acronyms used in the following table on Monitoring Sites have the following meanings

Column heading, symbol or acronym	Meaning
Station ID	the unique Water Survey station number for a monitoring station
Station name	The name of a station (including geographic details if more than one station is on the same waterway)
Count	The number of years of historical record at a station.
Class	the funding code assigned by the coordinating committee i.e. C=Commercial; F= Federal; F/P= Federal/Provincial; P= Provincial.
Funding	identifies the agency or agencies that fund(s) or pay(s) for operation of the station.
Regulation	describes whether the station's flow is controlled by a man-made structure i.e. dam
Operation	describes how the station Data is computed and for what period. i.e. discharge, water level, composite, contributed. For example, 12 QRC means 12 months of discharge (Q), recording (R), continuous (C).
Sediment	indicates whether or not suspended sediment Data is collected at that station.
Real time	whether the station can be remotely accessed for current water level Data.
Planned visits	the estimated number of times the station will be visited in a year.
Response time	how a station will be addressed in a problem situation. (this has yet to be implemented in Ontario Region)
Total units	a value assigned for costing purposes. i.e. 1.0 for conventional discharge; 0.4 water level in a lake or river; 1.5 for remote access discharge.
MSC-O	Meteorological Service of Canada – Ontario Region.
OMNR	Ontario Ministry of Natural Resources.
OPGI	Ontario Power Generation Incorporated.
LWCB	Lake of the Woods Control Board.
PWGSC	Public Works and Government Services Canada
PARKS-TRENT	Trent Severn Waterway Parks Canada
ECB	Environmental Conservation Branch

Column heading, symbol or acronym	Meaning
GL POWER	Great Lakes Power Corporation
PLACER DOME MINING	Placer Dome Mining Company
DURHAM	Regional Municipality of Durham
SSEA	Severn Sound Environmental Association
WATERLOO	Regional Municipality of Waterloo
ROTHSAY CONCENTRATES	Rothsay Concentrates Company
Period	the length in months the station is operated in a year.
Composite	the addition of a number of upstream stations to produce records at a downstream site.
Contributed	Data that is contributed from another agency conforming to National Standards and Hydat database.
QRC	discharge recording continuous
QRS	discharge recording seasonal
HRC	water level recording continuous
HMC	water level manual continuous
QMS	discharge manual seasonal
QMC	discharge manual continuous
QPC	discharge power plant continuous
QSC	discharge summation (composite) continuous

NOTE THE LIST OF HYDROMETRIC GAUGES INCLUDED IN “SCHEDULE C” IN THIS COPY OF *THE CANADA-ONTARIO AGREEMENT ON HYDROMETRIC MONITORING* HAS BEEN REMOVED IN ORDER TO MAINTAIN THE EFFECIENCY WITHIN “SCHEDULE A” OF THIS *AGREEMENT OF COOPERATION IN THE OPERATION OF ONTARIO’S HYDROMETRIC NETWORK*. FOR ACCESS TO “SCHEDULE C” IN ITS ENTIRETY, PLEASE CONTACT THE COORDINATOR OF THE SURFACE WATER MONITORING CENTRE IN THE ONTARIO MINISTRY OF NATURAL REASOURCES.

SCHEDULE D

CONTRIBUTIONS BY PARTIES

CANADA -ONTARIO AGREEMENT ON HYDROMETRIC MONITORING

For

Fiscal Year 20__ - 20__

<u>Activity</u>	<u>DOE</u>	<u>Costs</u> <u>MNR</u>	<u>Third Party</u>
Direct Operations			
Indirect Operations			
Construction			
Projects			
Total:			



Administrator for Ontario
Minister of Natural Resources

Administrator for Canada
Environment Canada

SCHEDULE E

MEMBERSHIP AND METHOD OF OPERATION FOR THE NATIONAL ADMINISTRATORS TABLE

E1. **Membership:** The members of the National Administrators Table (NAT) shall be:

E1.1 The Administrators of the MOU's/Agreements on Hydrometric Monitoring; and,

E1.2 One "National Administrator" designated by Canada.

E2. **Meetings:**

E2.1 The members of NAT shall meet no less than once per year.

E2.2 Meetings of the NAT may be held in person, via teleconference or any other method agreed upon by the members of NAT.

E3. **Method of Operation:**

E3.1 Meetings will be co-chaired by the National Administrator and a provincial/territorial Administrator.

E3.2 The NAT shall make decisions by consensus.

E3.2.1 **Consensus:** Consensus decision reflects the position of all parties and thus provides a result that all can accept. All parties recognize that achieving consensus depends heavily on good will and a desire and commitment by participants to reach a decision and implement the outcome. The record will reflect the position of all Parties.

E3.2.2 **Implementation:** The NAT will accommodate the schedules and needs of all parties by agreeing to clear and reasonable time lines for reaching a decision and implementing the outcome. All Parties recognize that different approaches may be taken to achieve the outcome of a NAT decision. The responsibility to demonstrate to the NAT that the outcome has been achieved lies with the Party implementing the decision.

E3.2.3 **Information availability:** All parties will have equal access to relevant information and the opportunity to be engaged effectively throughout the decision making process. The NAT co-chairs will ensure that all Parties receive detailed information pertaining to the making of a decision in both official languages at least two (2) weeks prior to a meeting.

E3.2.4 **Participation:** It is incumbent upon each Party to keep abreast of issues and to participate in any decisions that may affect them. The Parties may participate in the making of a decision by the NAT in person, by telephone conference call, by proxy or otherwise. In the exceptional circumstance that a Party is not able to participate in the making of a decision, that Party will make known its position prior to the meeting.

E3.2.5 **Non participation:** In the event that a Party fails to participate in the making of a decision of the NAT after having been provided with reasonable notice of a meeting (E3.6) and information on the subject matter (E3.2.3), such non-participation shall be considered to be the Party's support of the decision and an indication that the Party is committed to implement the outcome.

- E3.3 A NAT member may, from time to time, designate an alternate to represent him/her at meetings. Alternates shall be granted full status.
- E3.4 The NAT may create work groups of its members or assign a task to one or more of its members.
- E3.5 The NAT shall prepare and maintain appropriate records of its decisions and activities.
- E3.6 The Co-chairs shall give best effort to provide four (4) weeks prior notice of meetings to NAT members.

SCHEDULE F

EXCHANGE OF RESOURCES, PROGRAM MANAGEMENT AND OPERATION OF MONITORING STATIONS

This Schedule F describes the management of the Parties' Hydrometric monitoring program in Ontario, the operation of Monitoring Sites, including the operation of peripheral devices that may be added to the Monitoring Sites, the exchange of Data and other information, goods and services between the Parties and with Third Parties and the public, and the Parties' rights in and to Data and Monitoring Sites.

DEFINITIONS

In this Agreement,

Data	means instantaneous, average or other Hydrometric values and metadata that describes a Monitoring Site or the nature of the operation of a Monitoring Site;
Deliverables	means any Data, other information (such as that found on Hydat-CDs and in maintenance records for Monitoring Sites and in lists of Third Party Operators and lists of Third Parties with access to monitoring stations), tools and Assets that are shared or transferred between the Parties or produced by a Third Party Operator for the purposes of this Agreement, and any funding and services to be provided by a Party or a Third Party in accordance with this Agreement, and including without limitation all such additions and changes to the foregoing as the Administrators may agree from time to time.
Derivative Products	means any research study, report, survey, summary or other document or work that analyses, summarizes, evaluates, makes use of, or critiques Data.
Discontinued Site	means a Monitoring Site at which operation has been terminated, the Assets have been removed, and the site has been restored to natural conditions.
Operations	means the activities described in section 2 of the main body of this Agreement as monitoring, Data and information services and lifecycle management of Assets.
Quality Assured Data	means Data that has been subject to review and in-depth quality control to verify that it meets or exceeds National Standards for accuracy and precision.
Raw Data	means Data that has not been quality assured. Raw Data may be available directly from a Monitoring Site electronically through mechanisms such as telephone dial-up. Raw Data is sometimes referred to as "real-time data".

Suspended Site	means a Monitoring Site at which operation has been suspended. The site Assets may remain in whole or in part at the site.
Third Party Operator	means a person or unincorporated association, not signatory to this Agreement, who conducts operations or other activities in accordance with this Agreement.

F1. Ownership, Communication and Distribution of Data and Information

- F1.1 The Parties acknowledge and agree that the collection and production of Data and information pursuant to this Agreement is a collaborative effort. Therefore:
 - F1.1.1 Subject to section F1.4 of this Schedule, all Data and information produced as a result of activities under this Agreement are jointly owned by the Parties;
 - F1.1.2 Subject to sections F1.2.1 and F1.2.2 of this Schedule, either Party is entitled to use, distribute or otherwise deal with the Data and information as they see fit without interference from the other;
 - F1.1.3 The Parties acknowledge and agree that they wish to disclose Data and information to Third Parties and the Public and that such disclosure is in the public interest;
 - F1.1.4 Each Party will take such steps as may be required to demonstrate recognition of this joint ownership when Data or information is displayed or distributed to others;
 - F1.1.5 The Administrators will develop and approve acceptable forms of recognition provided for in F1.1.4 above;
 - F1.1.6 If a Party should change its mode of distribution of Data and information, that Party shall provide the other with reasonable notice of the change and engage in discussions on how to reduce any adverse consequences to the other Party; and
 - F1.1.7 No later than nine months following the end of each fiscal year, Canada shall deliver to Ontario a Hydat-CD, or other data and information storage device as may be agreed upon by the Parties, that contains all of the previous year's Data required for the purposes of, and shared pursuant to, this Agreement and, if applicable, the software required to abstract the Data contained therein.
- F1.2 With respect to section 3.6 of this agreement "Communication of Information":
 - F1.2.1 Within ninety (90) days following the signing of this Agreement by both Parties, the Administrators will develop, approve and implement policies and procedures to govern how the Parties and Third Parties will share and exchange the Data and information produced under this Agreement, including, but not limited to, Raw Data and Quality Assured Data from current or historic events in real-time or other time frames. Until such policies and procedures have been approved, the Parties agree to notify each other of any requests for non-routine distribution of Data and, prior to such distribution, to discuss appropriate mechanisms for such distribution that accommodate the program needs of both Parties.

- F1.2.2 Subject to the policies and procedures described in section F1.2.1, neither Party shall sell any Data or compilations thereof without the prior written consent of the other Party.
- F1.2.3 As part of the policies and procedures to be implemented under section F1.2.1, the Administrators will develop, approve and implement a risk management program respecting the disclosure of Data to each other, to Third Parties and to the public. Such program will include mutually-agreed forms of disclaimer, waiver and release from liability and directions with respect to the use of such forms.
- F1.3 The Parties acknowledge and agree that all Data and information compiled pursuant to this Agreement are governed by legislation respecting privacy and access to information (in particular, the *Freedom of Information and Protection of Privacy Act* (Ontario), the *Access to Information Act* (Canada) and the *Personal Information Protection and Electronic Documents Act* (Canada), as amended or replaced from time to time. The Parties agree that their respective legislation applies to all Data, information and records, including records held by a Party, records created by a Party in the course of providing the Deliverables, and records provided to a Party. In the event that there is an inconsistency between these Acts and this Agreement, the provisions of the Acts shall prevail.

- F1.4 The Parties acknowledge and agree that any Derivative Products, including all intellectual property rights therein, that are created by a Party shall be owned by that Party alone, unless both Parties otherwise agree in writing. If a Derivative Product is created jointly by the Parties, that product, including all intellectual property rights therein, shall be owned jointly by the Parties. Neither Party shall have any responsibility for, or liability in respect of, Derivative Products created by the other Party, unless both Parties otherwise agree in writing.
- F1.5 The Parties shall consult one another in a timely manner with respect to their development of Derivative Products so that each Party may be aware of the other's activities in this area. Within ninety (90) days following the signing of this Agreement by both Parties, the Administrators will develop, approve and implement policies and procedures governing such consultation and the use and dissemination of Derivative Products by each Party.

F2. Financial Arrangements

- F2.1 Canada or the Province, depending on their respective operating responsibilities, will submit invoices to the other for one-quarter of the annual payment on July 1st, October 1st, January 1st and March 1st of each Fiscal Year in accordance with the annual payment set out in Schedule D. There will be no other charges unless agreed to in writing by the Administrators.
- F2.2 A Party who receives an invoice from the other Party shall approve or reject the invoice within fifteen (15) business days and payment shall be made within thirty (30) business days of such approval. In the event that the Party who receives the invoice rejects the invoice, it shall so advise the other Party promptly in writing, and the other Party shall provide additional information as required to substantiate the invoice. A Party who receives an invoice from the other Party may hold back payment or set off against payment if, in its reasonable opinion, the other Party has failed to comply with the requirements of this Agreement.
- F2.3 Each Party will provide the staff and other resources required to meet its responsibilities under this Agreement.
- F2.4 Where a Party requests the other Party to conduct activities under this Agreement, the Party conducting the activities warrants that activities and services shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations and furthermore that all activities will be provided in accordance with (a) the Agreement and (b) all requirements of law. The Party conducting activities shall do everything that the Agreement requires it to do, including the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Agreement. In an instance where a Party is conducting activities in a manner that does not meet National Standards, or if a Party is not meeting the level of service agreed to by the Administrators, that Party shall make the necessary adjustments to meet such standards or level of service.
- F2.5 The Parties will not place any mark-up on the actual costs that they incur in the determination of shareable costs or each Party's share of those costs.
- F2.6 The Party that contracts with a Third Party Operator to conduct activities under this Agreement is responsible for the payment of any fees and costs associated with that contract.

- F2.7 A Party conducting activities under this Agreement shall maintain all necessary records to substantiate: (a) all charges and payments under this Agreement; and, (b) that the activities requests were conducted in accordance with this Agreement and with the requirements of law. The Party conducting activities shall assist the Party requesting those activities in conducting audits to verify (a) and (b) above. The Party requesting the audit shall provide the other Party with at least ten (10) business days prior notice of its requirement for such audit. A Party's obligations under this paragraph shall survive the termination of this Agreement.
- F2.8 The Administrators will continue to research methods to control Hydrometric program costs. Any costs incurred to conduct such research will be shared in an equitable manner as determined by the Administrators.
- F2.9 The Parties understand that events beyond the control of the Administrators may impact the capabilities of one or both of the Parties to undertake activities under this Agreement. Under these circumstances, the Administrator's will develop a plan to address the program impacts that may result.
- F2.10 The Ontario Ministry of Natural Resources hereby certifies that the Deliverables of this Agreement are required for the use of the Crown in Right of Ontario and are therefore not subject to the federal Goods and Services Tax.
- F2.11 Environment Canada hereby certifies that the Deliverables of this Agreement are required for the use of the Crown in Right of Canada and are therefore not subject to provincial taxation.

F3. Monitoring Sites

- F3.1 Employees of either Party may access, on site or via remote means, any Monitoring Site listed on Schedule C. On the consent of the funding Party, third Parties may be granted access to such sites as well. Within ninety (90) days following the signing of this Agreement, the Coordinating Committee will develop and implement policies and procedures governing such access so as to protect the continuity of site operation. The Coordinating Committee will maintain a list of persons who are not signatories to this Agreement and who have been granted access to the Monitoring Sites listed in Schedule C.
- F3.2 The funding Party or Parties shall determine the design and configuration of each Monitoring Site. Requests for changes to a site's design, configuration or the use of non-Hydrometric monitoring device must be submitted through the Coordinating Committee for approval. Operation of non-Hydrometric devices will be the operational and financial responsibility of the Party that requested the use of such devices. The use of non-Hydrometric devices shall be subject to the same conditions for the use of Third Party Devices that are set out in section F11.2 of this Schedule.
- F3.3 Each Party will endeavor to provide the other Party with not less than 6 months prior notice of withdrawing funding for a Monitoring Site.
- F3.4 To fulfill mandate needs, the Parties may transfer the operation, funding or ownership of Monitoring Sites that are described in Schedule C to each other and, on the consent of both Parties, to Third Parties. If a Party decides to suspend or cease operations of a Monitoring Site, the other Party shall be given the option of assuming operations at that site on

commercially reasonable terms. Ownership of equipment from a Suspended Site or a Discontinued Site, and any repayment by one Party to the other with respect to such equipment, shall be determined by the Administrators on a case-by-case basis, recognizing each Party's equitable interest in such equipment at the time the site was suspended or discontinued.

- F3.5 The Party funding a Monitoring Site is responsible for costs to discontinue or suspend that site. In instances where both Parties have had a share in the past funding of a site, the costs to discontinue or suspend the site will be distributed using the pro-rata method described in section B5.2 of Schedule B.
- F3.6 Assets purchased with funds from both Parties will be distributed on an equitable basis as determined by the Administrators.
- F3.7 If a Party transfers operation of a Monitoring Site to the other Party, or ceases to operate a Monitoring Site, the first Party shall deliver to the other Party the documentation, and perform those acts, that are required under subsections F13.2.1 through F13.2.4 below, and the references to termination of the Agreement shall be read as "transfer of the Monitoring Site."
- F3.8 If one Party ceases to provide a service to the other Party with respect to a Monitoring Site, the first Party shall promptly (i) deliver to the other such records and other information respecting the service and the First Party's performance of the service until cessation of service as the other Party requires, acting reasonably, and (ii) comply with any reasonable requests to facilitate the transfer of its service obligations to another person.
- F3.9 Prior to the beginning of each fiscal year, subject to availability of resources, the Coordinating Committee shall prepare a life cycle maintenance plan that addresses asset maintenance, repairs and updates necessary to ensure that Operations can be conducted to National Standards. The costs and work to carry out the life cycle maintenance plan shall be reflected in Schedule D for approval by the Administrators.

F4. Terms of reference for Coordinating Committee

The Administrators shall develop terms of reference for the Coordinating Committee to meet the responsibilities outlined in section 4.6 in his Agreement, including without limitation the composition, size, membership terms, minimum meeting requirements, financial review and reporting obligations and other responsibilities of the Coordinating Committee, with a view to ensuring that the Coordinating Committee functions in an effective and efficient manner and in accordance with the management principles set out in the main body of this Agreement. The Administrators may amend such terms of reference from time to time to reflect changing circumstances and needs of the Parties and the Committee.

F5. Standards of performance

The Parties agree to conduct activities under this Agreement according to National Standards. The Coordinating Committee shall develop strategies for the adoption and implementation of any new or amended National Standards that are approved by the NAT.

F6. Benchmark National Standards

For the purpose of this Agreement, the Parties recognize that on October 8, 2003, the NAT adopted the Water Survey of Canada standards for Hydrometric monitoring as the National Standards. The Parties agree to accept these National Standards for the purpose of this Agreement together with any amendment or additions to these standards received by the Coordinating Committee from the NAT from time to time.

F7. Relationship of the Parties

The Party conducting activities will not hold itself out as an employee or agent of the Party requesting activities. Nothing in this Agreement will have the effect of creating an employment, agency or partnership relationship between the Party conducting activities and the Party requesting activities or constitute an appointment under the *Public Service Act*, R.S.O. 1990, c. P.47, or the *Public Service Employment Act*, R.S., c. P-32, s. 1, as they may be amended or replaced from time to time. For the purposes of this paragraph the Party conducting activities includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors.

F8. Condonation not waiver

Any failure by the Party requesting activities to insist, in one or more instances, upon strict performance by the Party conducting activities of any of the terms or conditions of this Agreement shall not be construed as a waiver by the Party requesting activities of its right to require strict performance of any such terms or conditions, and the obligations of the Party conducting activities with respect to such performance shall remain in full force and effect.

F9. Requirements of law

This Agreement is governed by the requirements of law including, without limitation, legislation of the provincial and federal governments such as the *Canada Labour Code* and occupational health and safety legislation.

F10. No conflicts of interest

The Parties shall not engage in any activity or provide any goods or services where such activity or provision of such goods or services creates a conflict of interest with the Party's obligations under this Agreement. Each Party shall disclose to the other Party without delay any actual or potential situation that is or may reasonably be perceived to be, either a conflict of interest or a potential conflict of interest.

F11. Relationships with Third Parties

F11.1 With regard to section 4.11 of this Agreement, the Party that contracts with a Third Party to conduct activities is responsible to ensure that those activities are conducted according to the provisions of this Agreement.

F11.2 It is recognized that Third Parties may wish to take advantage of existing Hydrometric monitoring infrastructure by attaching or housing their own devices at specific Monitoring Sites. Third Parties may be granted permission to do so by the Coordinating Committee, subject to the following conditions:

F11.2.1 The funding Party agrees to the installation of the Third Party device.

F11.2.2 All Data coming from Third Party devices will be made available to the Parties;

F11.2.3 Third Party devices will not interfere with the operation of the Monitoring Site;
and,

F11.2.4 Third Party employees will comply with the access protocols referred to in section 3.1 of this Schedule.

F11.3 A Third Party may contribute Data and information from Monitoring Sites that the Third Party owns and operates to the National Hydrometric Program. Any Data contributed by Third Parties shall pass through the Coordinating Committee and must be demonstrated to meet National Standards.

F12. Force Majeure and acts and omissions

F12.1 Neither Party shall be liable for damages caused by delay or failure to perform its obligations under the Agreement where such delay or failure is caused by an event beyond its reasonable control. The Parties agree that an event shall not be considered beyond one's reasonable control if a reasonable person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the Parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a Party seeks to excuse itself from its obligations under this Agreement due to a force majeure event, that Party shall immediately notify the other Party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) consecutive business days, the other Party may immediately terminate the Agreement by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating Party under the Agreement, at law or in equity. For purposes of this Agreement, a "business day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day on which Ontario or Canada has elected to be closed for business.

F12.2 Each Party is liable to the other for the acts and omissions of its officers, employees, agents, volunteers and subcontractors insofar as such acts or omissions relate to the responsibilities of the Parties under this Agreement.

F13. Termination of this Agreement

F13.1 In addition to the right of termination without cause set out in Section 5.3 of this Agreement, either Party may terminate this Agreement on written notice to the other Party upon the occurrence of either of the following events:

F13.1.1 the other Party is in material breach of any of its obligations under this Agreement and does not cure the default within thirty (30) days following receipt from the terminating Party of written notice of the default; or

F13.1.2 an appropriation to which provincial or federal payments hereunder can be charged is not available.

The above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law.

F13.2 If this Agreement is terminated each Party shall:

- F13.2.1 provide the other Party with a report detailing (i) the current state of the provision of Deliverables by that Party at the date of termination; and (ii) any other information requested by the other Party, acting reasonably, pertaining to the provision of the Deliverables and performance of the Agreement;
 - F13.2.2 execute such documentation as may be required by the other Party to give effect to the termination of the Agreement;
 - F13.2.3 comply with any other instructions provided by the other Party, including but not limited to instructions for facilitating the transfer of its obligations to another person;
 - F13.2.4 facilitate the return of Assets between the Parties according to principles determined jointly by the Administrators and the requirements of law; and,
 - F13.2.5 ensure all costs associated with operation of the respective Parties network in the respective Fiscal Year are recovered, including costs associated with but not limited to staff reductions, training, relocation of staff and infrastructure decommission or closure.
- F13.3 The Parties shall only be responsible for the payment of the Deliverables provided under the Agreement up to and including the effective date of any termination. Termination shall not relieve the Parties of their warranties and other responsibilities relating to the Deliverables performed or money paid. In addition to its other rights of hold back or set off, the terminating Party may hold back payment or set off against any payments owed if the other Party fails to comply with its obligations on termination.