Electrical Safety Authority

Continuous Safety Services Program

Terms & Conditions

1. Facilities

The facilities identified by the Applicant in Schedule "B" are subject to the terms and conditions of the Continuous Safety Services ("CSS") program as contained herein.

2. Applicant's Obligations

a. Compliance

The Applicant agrees to comply with all provisions of the Ontario Electrical Safety Code (the "Code") including filing applications for inspection for electrical work beyond the scope of work covered by the CSS program as provided in the Code. The Applicant acknowledges that the CSS program does not alleviate the Applicant from any legal obligations nor does it allow for any deviation from any legal requirements under the Code or the *Electricity Act, 1998* (the "Act").

The Applicant agrees to comply with all provisions of the CSS program as provided in the application and these Terms and Conditions.

b. Inspector Access and Authority

The Applicant agrees to provide the Electrical Safety Authority ("ESA") Inspector(s) access to their facilities and to the corresponding electrical systems, electrical equipment, electrical devices and other things that are relevant to the inspection;

The Applicant will provide a person knowledgeable of the maintenance activities to accompany the Inspector at each of the facilities being inspected; and

The Applicant will permit the recording of information, including but not limited to photographic records, as required by the Inspector during the inspection process.

c. Record of Electrical Work

The Applicant is required to record all electrical maintenance work conducted at the facilities in a format acceptable to ESA in accordance with Rule 2-003 of the Code. Any work not recorded in this manner is considered outside the scope of the CSS program. Applicants must provide copies of ALL electrical maintenance work to ESA upon request.

d. Ownership of Maintenance Records

The Applicant agrees that the ESA retains ownership of any logbook system provided to the Applicant and may request these records as required.

e. Correction of Defects

The Applicant agrees that all hazards, including deficiencies or situations of non-compliance with the Code, as identified and reported by the ESA will be remedied on a timely basis in accordance with Rule 2-018 of the Code and as required by the ESA. Any non-compliance with the Code identified by ESA as Life and/or Property hazards shall be remedied immediately and the repair status reported to ESA within 14 days.

f. Equipment Stoppage

The Applicant understands the ESA may require that electrical systems or equipment be stopped or de-energized in order to conduct an inspection. ESA will confer with the Applicant prior to taking such action except in the circumstances where, in the opinion of the ESA Inspector, the system or equipment poses a serious safety hazard

in which case the ESA Inspector may require immediate stoppage or de-energizing of the electrical system or equipment.

g. Terms of Payment

Net 30 days from the invoice date.

Overdue amounts will be subject to late payment charge of 1.5% per month which equals an effective annual rate of 19.56%.

3. ESA's Obligations

a. Inspections

The ESA will periodically inspect, to the standards as prescribed by the Code, the facilities listed in Schedule "B" in accordance with the electrical work identified in the logbook system provided or as agreed to by the ESA. Unless otherwise agreed in writing, all services will be performed during ESA's normal service delivery hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding statutory holidays.

b. Visual Review

ESA Inspectors will conduct a visual review of the work recorded by the Applicant.

c. Reporting

The ESA will provide a report to the Applicant on non-compliance(s) and non-conformance(s) with the Code as identified by the Inspector at the time of inspection.

d. Confidentiality

The ESA will maintain confidentiality of the Applicant's information in accordance with its Access and Privacy Policy.

4. Fees and Payment

The Applicant agrees to pay the ESA fees in accordance with the fee schedule set forth in Schedule "A" attached hereto.

5. Liability, Force Majeure and Indemnity

ESA does not warrant or guarantee through its inspection process the identification of all defects or non-compliances with the Code. In no event shall ESA be liable for damages in contract, tort (including, without limitation, negligence), or any other breach of duty whatsoever, strict liability or any other legal theory of any kind, arising in respect of this Agreement or the services performed hereunder. ESA shall not be liable for any special, indirect, incidental, punitive, exemplary or consequential damages, business interruption, loss of income and profits, reduction of earnings or loss of use of any property, even if advised of the possibility of such loss or damage in advance.

The limitations and exclusions on liability expressed in this Agreement will apply even in the case of the fault, negligence or strict liability of ESA, and will extend to the benefit of ESA's officers, directors, employees, agents, representatives, subconsultants and affiliates.

ESA shall not be subject to any liability or penalty arising from or in connection with the failure to deliver, delay or interruption of service due to force majeure, including, without limitation, weather conditions, fire, accident, work stoppage or slowdown or other reasons beyond the reasonable control of ESA.

Furthermore, the Applicant agrees to indemnify, defend and hold harmless ESA for any third party claims, actions, proceedings, liabilities, losses, damages or costs that it suffers or incurs in connection with the Services.

6. CSS Program Membership Term

The Applicant's membership in the CSS program will commence on the date shown in Schedule "A" and shall continue until terminated in accordance with these Terms and Conditions.

7. Termination

Membership in the CSS program is not guaranteed. The ESA reserves the right to terminate the CSS membership immediately without notice in the event the Applicant has breached these Terms and Conditions. Either party may terminate the CSS membership for any reason whatsoever with thirty (30) days prior written notice. The Applicant will pay to ESA all outstanding fees prorated to the date of termination.

8. ESA is Not a Contractor

ESA's role is to regulate the safe use of electricity and equipment as well as govern public electrical safety in Ontario through the administration and enforcement of the Act, corresponding Regulations and the Ontario Electrical Safety Code. ESA is not an electrical contracting business and does not provide or perform electrical contracting services. Furthermore, it is recognized and agreed that the ESA is neither an "owner" nor "contractor" within the meaning of the *Occupational Health and Safety Act 1990* for the purpose of any remedial work which may be required as a result of any deficiencies identified from participation in the CSS program and inspection work completed pursuant to this Agreement.

9. General

These terms and conditions along with the Application to the Continuous Safety Services Program, terms therein and schedules attached thereto, is the entire agreement (the "Agreement") between the parties and there are no representations, conditions, undertakings or warranties except as expressly contained in the foregoing documents. Any amendment to this Agreement must be in writing and signed by both of the parties.

No waiver by either party of any breach of this Agreement will be binding unless made in writing and any such waiver will extend only to the specific breach waived and not to any future breach.

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

This Agreement may not be assigned without the written consent of both parties. This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of this Agreement shall remain operative and binding on the Parties.

These Terms and Conditions are non-negotiable. ESA reserves the right, at its discretion, to change, modify, add, or remove portions of these Terms and Conditions at any time without notice. The Applicant's continued participation in the CSS Program following the posting of any changes to these Terms and Conditions will constitute acceptance of those changes.