

S-A-01:2002 - Appendix 2 - Sample Agreement for Organizations Accredited to Perform Inspections Pursuant to the Weights and Measures Act [revised 2005-04-01]

ACCREDITATION AGREEMENT

This Agreement made the day of, 2005,

Between:

HER MAJESTY THE QUEEN in Right of Canada
as represented by the
Minister of Industry

(hereafter "the Minister")

- and -

(Full legal name and address of the organization)

(Registered under *Companies Act* - Number

(hereafter "the Company")

WHEREAS the Minister, pursuant to section 7 of the *Department of Industry Act*, has the authority to designate inspectors to carry out inspections under the *Weights and Measures Act*;

AND WHEREAS the Minister wishes to designate the Company as an inspector to carry out certain limited functions of an inspector on behalf of the Minister;

AND WHEREAS the Company agrees to perform the work of an inspector in accordance with the terms of this Agreement and the *Weights and Measures Act*;

NOW, THEREFORE, in consideration of the mutual terms and conditions herein specified, the parties agree as follows:

1. DESIGNATION AS AN INSPECTOR

The Minister hereby designates the Company as an inspector to carry out inspections pursuant to the *Weights and Measures Act*, subject to the limitations set out in this Agreement.

2. INSPECTION POWERS

The Company shall only exercise the inspection powers that are strictly required to conduct inspections of devices for use in trade. Such inspections shall only be conducted on the device types listed in Schedule A and performed by the employees named in Schedule A, as amended from time to time.

For greater clarity, the powers of the Company as an inspector under this Agreement do not include any power set out in the *Weights and Measures Act* of entry, detention, inspection of conveyances, seizure or detention.

3. DURATION

This Agreement shall be in effect from the date of execution. This Agreement may be terminated by mutual agreement of the parties with a 90 day notice and in accordance with section 17 of the Agreement.

4. AMENDMENTS TO SCHEDULE A

The Minister or his representatives may amend Schedule A by:

- ▶ revoking the approval of an employee named in Schedule A;
- ▶ changing the types of devices that may be inspected by an employee named in Schedule A;
- ▶ changing physical standard types or groups of product that may be used to carry out inspections by an employee named in Schedule A; and
- ▶ amending the location at which an employee may provide inspection services.

The Company may request the Minister or his representatives to amend Schedule A to:

- ▶ add or remove an employee from Schedule A;
- ▶ amend the types of devices that may be inspected by an employee named in Schedule A;
- ▶ changing physical standard types or groups of product that may be used to carry out inspections by an employee named in Schedule A; and
- ▶ change the location at which the employee may provide inspection services.

Where the Minister or his representatives approves a request by the Company or otherwise modifies Schedule A in accordance with this section, the Minister shall provide the Company with a revised copy of Schedule A in either electronic or paper form, at the election of the Company. In instances where Schedule A is modified to include a new employee or to add device types, the fees set out in the standard *Criteria for the Accreditation of Organizations to Perform Inspections Pursuant to the Electricity and Gas Inspection Act and the Weights and Measures Act (S-A-01:2002)* shall apply. The Minister's copy of Schedule A is at all times the official version.

5. DUTIES OF THE COMPANY

The Company shall carry out inspections as requested by the Minister in accordance with the practices and standards set out in the following documents, as amended from time to time:

- ▶ the standard *Criteria for the Accreditation of Organizations to Perform Inspections Pursuant to the Electricity and Gas Inspection Act and the Weights and Measures Act (S-A-01:2002)*, attached hereto as Schedule B; and applicable Measurement Canada's interpretation bulletins;
- ▶ the *Weights and Measures Act and Regulations*;
- ▶ the applicable Measurement Canada specifications and bulletins;
- ▶ the Company's quality manual on which accreditation was based; and
- ▶ the applicable standard test procedures.

6. SEALS AND MARKINGS

Upon completion of inspection, the Company shall affix to the device, in the manner prescribed seals, inspection markings and verification stickers in the form set out in Schedule C. When the device does not comply with the requirements of the *Weights and Measures Act and Regulations* and can not be brought to compliance immediately, the Company shall affix to the device a non-compliance tag (Warning), in the form set out in Schedule C.

7. REVIEW OF OPERATIONS AND COMPLIANCE

Representatives of the Minister and the Company shall meet periodically at the request of the Minister to review the operation of this Agreement and to discuss compliance by the Company with the accreditation standard set out in Schedule B and other matters of mutual interest.

8. ACCESS TO DOCUMENTS AND RIGHT OF ENTRY

The Company shall at all times provide reasonable access to the Minister or his representatives, for the purpose of verifying how the Company is carrying out its obligations under this Agreement:

- ▶ to its premises;
- ▶ to any record or document, including an electronic and encoded record or document, that relates directly or indirectly to the operation of this Agreement; and
- ▶ to its personnel.

9. AUDITS

The Company will, at its own expense, preserve and make available for audit and examination by the Minister or the Minister's representatives the books, accounts and records of the Company and of the information necessary to ensure compliance with the terms and conditions of this Agreement. The Minister or his representative may audit or conduct spot checks of the books, accounts and records of the Company without prior notice to the Company.

10. SUSPENSION AND REVOCATION OF THE AGREEMENT

Where the Minister or his representatives has reasonable grounds to believe that the Company has breached any of the terms and conditions of this Agreement, the Minister may immediately:

- ▶ suspend or revoke the accreditation of the Company as inspector;
- ▶ amend the terms and conditions of that agreement to restrict the types of devices that may be inspected, the physical standard types or groups of product that can be used to carry out the inspections and the persons who may carry out the inspections; and
- ▶ revoke the approval of any employee of the Company listed in Schedule A.

11. PUBLIC ACCREDITATION LIST

Upon accreditation, the name of the company shall be placed on a public accreditation list and, where accreditation is revoked, the revocation shall be noted on the public accreditation list.

12. AMENDMENTS

This Agreement may be modified by the mutual agreement of the parties given in writing. The Minister or his representatives may amend Schedule A at any time without the consent of the Company.

13. LIABILITY

The Minister shall not be responsible or liable for any claim, demand, action or cost that may arise, directly or indirectly, from any action or omission of the Company in the performance or non-performance of its duties under this Agreement. The Company will indemnify and hold harmless the Minister from any and all claims, demands, actions and costs that may arise, directly or indirectly, out of any action or omission of the Company in the performance or non-performance of its duties under this Agreement.

The Company shall protect itself from and against all claims for or involving bodily injury (including personal injury), death or property damage including, if a risk is identified, environmental damage that might arise from anything done or omitted by the Company or by any person acting in any capacity for it or on its behalf pursuant to this Agreement. The Company must for this purpose to maintain in force an adequate responsibility insurance without being lower than 1 million (1 000 000 \$) per event and this, for all the duration of the agreement. Conformity with this requirement is subject to verification by Measurement Canada.

14. LITIGATION

Where the Minister is named, or is likely to be named, in any action relating to this Agreement, the Company shall:

- (a) forthwith notify the Minister and forward him a copy of all relevant documents; and
- (b) in cooperation with the Attorney General of Canada (who will lead the matter) conduct the litigation with assistance, where appropriate, by counsel for the Company.

15. CONFIDENTIALITY

Subject to applicable laws, including the *Access to Information Act* the parties shall keep confidential all information exchanged between them with respect to the inspection services provided by the Company to third parties. In particular, except as required by law, the parties shall not disclose to any unauthorized third party any proprietary technology or trade secret or calibration or test result discovered or disclosed in the course of providing such services.

16. USE OF GOVERNMENT OF CANADA LOGO

The Company shall not use any name or logo of the Government of Canada except with the prior written approval of the Minister or his representatives.

17. CONTACTS

Any notice, information or document provided for under this Agreement shall be in writing and shall be delivered either personally or by registered or certified mail, or by facsimile with, in all cases, a return receipt. A notice shall be deemed to have been given immediately after it has been personally delivered, or if given by mail on the third business day following its transmission. Either one of the parties may notify the other party in the manner herein above provided of any change of address or contact person.

For the Minister
Alan E. Johnston
President
Measurement Canada
Industry Canada
Standards Building (#4)
Tunney's Pasture
Ottawa, Ontario
K1A 0C9
Fax: 613 957 - 1265

For the Company

18. GENERAL CONDITIONS

- 18.1 No Member of the House of Commons or the Senate, either directly nor indirectly shall be admitted to any share of this Agreement or to any benefit to arise therefrom
- 18.2 Neither this Agreement, nor any part thereof nor any amount thereunder will be assigned by the Recipient without the prior written consent of the Minister.
- 18.3 This Agreement is binding on the parties and their successors and permitted assigns.
- 18.4 Any provision of this Agreement prohibited by law or otherwise ineffective will be ineffective only to the extent of such prohibition or ineffectiveness and will be severable without invalidating or otherwise affecting the remaining provisions of the Agreement.
- 18.5 This Agreement may be signed in counterparts, each of which when taken together, will constitute an original Agreement.
- 18.6 The parties hereby declare that nothing in this Agreement shall be construed as creating a partnership, or a joint venture between the Minister and the Company. This Agreement shall create an agency relationship only for the purposes carrying out certain limited functions of an inspector on behalf of the Minister.
- 18.7 This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, negotiations, arrangement, engagement or understandings, oral or written.
- 18.8 This Agreement shall be governed, construed and interpreted in accordance with the Laws of the Province of and the Laws of Canada in force in that province.
- 18.9 The parties hereby agree that no inspection services will be performed by the Company prior to the execution of this Agreement.
- 18.10 (For use where English agreements are used for Quebec Companies).
Les parties aux présentes confirment que c'est selon leur volonté que cette convention de même que tous les documents, y compris les avis s'y rattachant, soient rédigés en anglais seulement. The parties hereto confirm that it is their wish that this Agreement as well as all other documents relating thereto, including notices, have been and will be drawn up in English only.

IN WITNESS WHEREOF the parties have executed this Agreement on the date and place herein above mentioned.

Her Majesty the Queen in Right of Canada,
As represented by the Minister of Industry

Per: Alan E. Johnston, President

Date:

For the Company

Per:

Date:

SCHEDULE A

(full legal name and address of the organization)

Recognized Technicians :

| | | | |
|--------------------------|----------------------|-------------------------------|--|
| Name: | | Number: | |
| Point of Service: | | Reporting Location: | |
| Device Type | Product Group | Physical Standard Type | |
| | | | |

| | | | |
|--------------------------|----------------------|-------------------------------|--|
| Name: | | Number: | |
| Point of Service: | | Reporting Location: | |
| Device Type | Product Group | Physical Standard Type | |
| | | | |

SCHEDULE B

Criteria for the Accreditation of Organizations to Perform Inspections Pursuant to the Electricity and Gas Inspection Act and the Weights and Measures Act (S-A-01:2002)

Available on Measurement Canada Website at the following URL address:

http://strategis.ic.gc.ca/epic/internet/inmc-mc.nsf/en/h_lm02109e.html

SCHEDULE C

Samples of rejection tag, verification stickers, seals and inspection markings used by the Company.