

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**McMICHAEL CANADIAN ART COLLECTION**  
**AND**  
**THE MINISTER OF TOURISM AND CULTURE**

**1. DEFINITIONS**

In this Memorandum of Understanding,

“**Act**” means the *McMichael Canadian Art Collection Act*, R.S.O. 1990, c.M.4, as amended from time to time;

“**Board**” means McMichael Canadian Art Collection’s Board of Trustees consisting of up to twenty-three (23) trustees appointed by the Lieutenant Governor in Council;

“**CEO**” means the Chief Executive Officer and Executive Director of McMichael appointed by the Board pursuant to subsection 5(1) of the Act who is responsible for the management and administration of McMichael;

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

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

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

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

“**Government**” means the Government of Ontario;

“**McMichael**” means the corporation known as the McMichael Canadian Art Collection continued under the Act;

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

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

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

## 2. PURPOSE

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

This MOU sets out the framework for accountability between the Minister and the Chair and meets the requirements of the *Agency Establishment and Accountability Directive*.

The Minister and the Board shall act according to the responsibilities set out for each in this MOU. This MOU shall not affect, modify or interfere with the responsibilities of either the Minister or the Board under law. For greater certainty, this MOU shall not limit in any way the ability, authority and obligation of the Board to manage McMichael in light of the best interests of McMichael and the Government and in accordance with the other legal duties and responsibilities of the Board, including, without limitation, any duties of care or fiduciary duties. These legal duties and responsibilities shall prevail over any provision of this MOU in the event of any conflict between the provisions of this MOU and the legal duties and responsibilities of the Board.

## 3. LEGISLATIVE AUTHORITY, MANDATE, and AGENCY CLASSIFICATION

McMichael is a corporation without share capital continued under and governed by the Act.

McMichael has the following objects under the Act:

- (a) to acquire and preserve art works, objects and related documentary materials for the collection, by or about artists who have made or are making a contribution to the development of Canadian art, with a focus on the Group of Seven and their contemporaries and on the aboriginal peoples of Canada;
- (b) to exhibit art works, objects and documentary materials, including but not limited to the collection;
- (c) to conduct research on and provide documentation for the collection;
- (d) to stimulate interest in the collection;
- (e) to conduct activities in order to enhance and complement the collection;
- (f) to hold, maintain and use the land described in the Schedule to the Act as a permanent site for a public gallery and related facilities for the collection; and
- (g) to hold and maintain the parcel of land established as a cemetery, as described in the Order Approving Cemetery certification no. 68-2-2 issued under *The Cemeteries Act*, being chapter 46 of the Revised Statutes of Ontario, 1960, in accordance with the *Funeral, Burial and Cremation Services Act, 2002* and any other application legislation.

In accordance with section 3 of the Act, the affairs of McMichael are managed and controlled by the Board.

McMichael is designated as an Operational Enterprise agency in accordance with the TB/MBC Directive entitled *Agency Establishment and Accountability*, and is subject to and shall comply with all existing Ministry of Finance and TB/MBC Directives applicable to an Operational Enterprise agency as set out in **Schedule 1** to this MOU.

Where such Directives are amended, or new directives are created by the Ministry of Finance or TB/MBC, the Deputy Minister shall advise the CEO in writing of the applicability of these directives to McMichael, and these directives shall be deemed to form part of Schedule 1. McMichael shall comply with all directives in Schedule 1 and any directives deemed to form part of Schedule 1.

#### **4. DURATION OF MOU and PROCESS FOR REVIEW & AMENDMENT OF MOU**

This MOU shall be in effect as of the date of the Minister's signature and shall expire five years from the date of the Minister's signature. This MOU will remain in force for no more than six additional months until a signed MOU is provided to the Secretary, MBC.

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

Upon a change in the Minister or the Chair, this MOU must be affirmed by the new party to the MOU. A letter of affirmation must be provided to the Secretary, MBC, within six months of the new party's commencement.

This MOU may be amended from time to time with the agreement of the Minister and the Chair. Either the Minister or the Chair may propose amendments to this MOU. All amendments shall be in writing and shall be approved by both parties and TB/MBC before a revised MOU can be executed.

#### **5. GUIDING PRINCIPLES**

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

- (a) McMichael is a statutory entity which exercises powers and performs duties in accordance with its mandate under the Act.
- (b) McMichael operates at arm's length from the Government, and operates within the policy parameters set out by the Government.
- (c) McMichael is accountable to the Minister and, through the Minister, to the Legislative Assembly in fulfilling its mandate. Accountability is a fundamental principle to be observed in the management, administration and operations of McMichael.

- (d) As an agency of the Government, McMichael shall conduct itself according to the management principles of the Government. These principles include ethical behaviour, accountability, excellence in management, wise use of public funds, value for money, equitable access to high-quality service to the public, and openness and transparency.
- (e) The Minister and the Chair shall commit to avoid any duplication of services and agree to ensure that all services are consistent with the Government's policy direction.

## 6. CONSULTATION AND COMMUNICATIONS

The Minister and the Chair recognize that the timely exchange of information and consultation is essential to success in discharging their respective responsibilities, and agree to act according to the Ministry's **Communications Protocol** for agencies attached to this MOU as **Schedule 2**. They therefore agree that:

- (a) The Chair will keep the Minister advised of issues or events, including contentious matters that concern or can reasonably be expected to concern the Minister in the exercise of the Minister's responsibilities. The Chair will advise the Minister immediately of those contentious issues.
- (b) The Minister will ensure that the Chair is consulted, as appropriate, on initiatives proposed to amend the legislation which governs McMichael's mandate or operations or which otherwise will have significant impact on McMichael. This commitment includes consultation on any review of McMichael's mandate or assessment of the continuing public need for its services.
- (c) The Minister and the Chair will consult with each other on public communication strategies and publications, and will keep each other informed of the results of stakeholder and other public consultations and discussions.
- (d) The Minister and the Chair will meet annually, or more often as needed, to discuss issues relating to the delivery of McMichael's mandate. The Deputy Minister will meet with the Chair or the CEO annually, or more often as needed, to discuss issues relating to the efficient operation of McMichael.
- (e) The Ministry and McMichael staff will maintain a senior liaison committee which will meet two times a year or as the agenda warrants, to discuss matters of mutual interest. The agenda and minutes will be prepared in consultation with both the Ministry and McMichael staff.

## 7. ACCOUNTABILITY RELATIONSHIP

The accountability relationship is as follows:

- (a) **Minister** - The Minister is accountable to the Legislative Assembly for McMichael's fulfilment of its mandate, its compliance with Government policies and for reporting to the Legislative Assembly on McMichael's affairs.

The Minister is accountable to Cabinet for the performance of McMichael and its compliance with the Government's operational policies and broad policy directions.

- (b) **Chair** - The Chair is accountable to the Minister for the performance of McMichael in fulfilling its mandate and for carrying out the roles and responsibilities assigned to the Chair by the Act, Directives, and this MOU.
- (c) **Board** - The Board, through the Chair, is accountable to the Minister for governing the affairs of McMichael within its mandate.
- (d) **Deputy Minister** - The Deputy Minister is accountable to the Minister for carrying out the roles and responsibilities with respect to the Board as assigned to the Deputy Minister by the Minister, the Act, Directives, and this MOU.
- (e) **CEO** - The CEO is accountable to the Board, through the Chair, for the management and administration of McMichael, the supervision of McMichael's staff, and for carrying out the roles and responsibilities assigned by the Board, the Act, Directives, and this MOU. The CEO is also accountable to the Board for the accuracy of financial projections and meeting operational and financial targets. The CEO works under the direction of the Chair in implementing policy and operational decisions and must report agency performance results to the Chair.

## 8. ROLES AND RESPONSIBILITIES

### 8.1. Minister

The Minister is responsible for:

- (a) ensuring the activities of McMichael are monitored to ensure that its mandate is being fulfilled and that it is in compliance with relevant Government policies;
- (b) reporting and responding to the Legislative Assembly on the affairs of McMichael and reporting and responding to Cabinet on McMichael's performance and compliance with applicable Ministry of Finance and TB/MBC Directives and the Government's operational policies and broad policy directions;
- (c) establishing and communicating to McMichael, in writing, changes in the Government policy parameters within which McMichael is required to operate;
- (d) reviewing, approving, presenting and recommending the annual allocation for McMichael as part of the Government's business planning process;
- (e) reviewing and approving McMichael's multi-year and annual plans, including the business plan and reports in accordance with section 12 of this MOU;
- (f) reviewing and recommending to TB/MBC the provincial funding to be given to McMichael;
- (g) receiving the agency's annual report and ensuring that the annual report is made available to the public after tabling it in the Legislative Assembly;
- (h) the administration of the Act;

- (i) recommending appointments and reappointments pursuant to the process for agency appointments by the Lieutenant Governor in Council established by legislation or TB/MBC, after consultation with the Chair as appropriate, to ensure that the requirements of the Act are met;
- (j) meeting with the Chair annually or more often as needed;
- (k) consulting with the Chair as appropriate on significant new directions or when the Government is considering regulatory or legislative changes that could impact McMichael;
- (l) when appropriate or necessary, taking action or directing/recommending that corrective action be taken in respect of McMichael's mandate or operations;
- (m) determining the need for any review and making recommendations to TB/MBC regarding the elimination or consolidation of McMichael or any changes to McMichael's mandate; and
- (n) developing this MOU with the Chair and signing it into effect upon approval by TB/MBC.

## 8.2. **Deputy Minister**

The Deputy Minister is responsible for:

- (a) providing support and assistance to the Minister in the execution of the Minister's duties with regard to McMichael;
- (b) providing a framework for assessing whether McMichael is fulfilling its mandate in accordance with Government policies, and undertaking assessments of whether McMichael is fulfilling its legislative mandate in accordance with Government policies and identifying any need for corrective action and/or recommending to the Minister ways to resolve any issues that are identified;
- (c) advising the Minister on the operation of McMichael, or its consolidation or elimination;
- (d) ensuring that McMichael has an appropriate risk management framework and mitigating strategy in place for managing risks that McMichael may encounter in meeting its program or service delivery objectives;
- (e) consulting with the Chair or the CEO as directed by the Minister regarding matters of mutual importance, including matters regarding TB/MBC Directives and Ministry policies;
- (f) establishing a framework for reviewing and assessing the Board's business plans and other reports, and advising the Minister on the Board's documents submitted to the Minister for review and/or approval;
- (g) ensuring that the planning and reporting requirements as set out in section 12 of this MOU have been met;
- (h) informing the Board in writing of the Directives and policies of the Ministry and the Government that apply to McMichael;

- (i) maintaining an open and cooperative working relationship with McMichael through meetings with the CEO as required or directed;
- (j) cooperating with any periodic review of McMichael directed by the Minister or TB/MBC;
- (k) advising the Minister on the requirements of Ministry of Finance and TB/MBC Directives that may affect McMichael;
- (l) meeting with the Chair or the CEO annually or more often as directed by the Minister;
- (m) negotiating this MOU with McMichael as directed by the Minister; and
- (n) undertaking such other responsibilities as the Minister or TB/MBC may require.

### 8.3. **Board**

The Board is responsible for:

- (a) governing the affairs of McMichael within its mandate as set out in the Act, McMichael's by-laws, its approved business plan as described in section 12 of this MOU, and the policy parameters established and communicated in writing by the Minister;
- (b) establishing policy and strategic directions for McMichael, consistent with its objects in the Act and within any policy parameters established and communicated by the Minister;
- (c) through the Chair, providing the Minister with information, materials or advice on policy matters relevant to McMichael's objects when needed or requested;
- (d) passing by-laws governing the conduct and management of McMichael's affairs;
- (e) appointing a CEO and ensuring that the CEO is accountable to the Board, through the Chair, for the management and administration of McMichael;
- (f) developing performance objectives for the CEO and reviewing the performance of the CEO in relation to those objectives;
- (g) directing the preparation of McMichael's annual business plan, annual report and other reports in keeping with TB/MBC requirements;
- (h) approving McMichael's plans, reports and reviews for submission to the Minister in a timely manner;
- (i) approving the MOU on behalf of McMichael in a timely manner and authorizing the Chair to sign it on behalf of McMichael;
- (j) ensuring the development and implementation of an effective performance measurement and management system for assessing McMichael's performance;
- (k) establishing performance measures and targets for McMichael and directing that the CEO establish a performance review system for staff;

- (l) monitoring the use of funds and assets to ensure that they are used with integrity and honesty and that McMichael operates within its approved budget;
- (m) ensuring that McMichael is managed in an efficient and effective manner according to accepted business and financial practices and in accordance with Government requirements for Operational Enterprise agencies;
- (n) arranging for an annual audit of the financial transactions or management, or both, of McMichael to be conducted by an auditor and providing the Minister with a copy of the audit report;
- (o) directing corrective action to be taken in response to audits if needed;
- (p) directing the development of an appropriate risk management framework and mitigating strategy for McMichael for managing risks that McMichael may encounter in meeting its program or service delivery objectives;
- (q) reviewing business cases for major initiatives, exhibits, programs, products and services;
- (r) consulting with stakeholders, as appropriate;
- (s) co-operating with periodic reviews initiated by either TB/MBC or the Minister; and
- (t) ensuring compliance with Directives and Ministry policies and procedures.

#### 8.4. **Chair**

The Chair is responsible for:

- (a) providing oversight for McMichael and strategic leadership to the Board;
- (b) convening and chairing meetings of the Board;
- (c) communicating the Board's policy and strategic directions to the CEO;
- (d) leading the Board discussion on the development of performance objectives for the CEO for the approval of the Board; communicating the performance objectives to the CEO; and reviewing the performance of the CEO on behalf of the Board in relation to those performance objectives;
- (e) developing and signing the MOU with the Minister, after Board and TB/MBC approval;
- (f) ensuring that the Minister is provided with such information regarding McMichael as the Minister may require in order to carry out the Minister's responsibilities, including issues or events that may concern the Minister;
- (g) monitoring McMichael's performance and accounting to the Minister for the overall operating and financial performance of McMichael, and ensuring that an evaluation of operating and financial performance is submitted to the Minister on an annual basis or as otherwise required;



- (h) ensuring that McMichael operates within its approved budget allocation in fulfilling its mandate;
- (i) reviewing the McMichael's business plans, budget and reports as described in section 12 of this MOU and submitting the same to the Minister once approved by the Board;
- (j) ensuring that the business plans, budget and reports as described in section 12 of this MOU are submitted and approved in accordance with the timelines prescribed by this MOU or as otherwise requested by the Minister;
- (k) ensuring that any significant additions, deletions or amendments to McMichael's plans and reports referred to in clause (j) are communicated appropriately to the Minister;
- (l) implementing systems for agency performance measurement and reporting including specific performance indicators and targets to be used for assessing McMichael's performance;
- (m) co-operating with any periodic review initiated by either TB/MBC or the Minister;
- (n) ensuring that McMichael complies with all applicable Ministry of Finance and TB/MBC Directives, guidelines and policies;
- (o) ensuring that all Board trustees and employees are informed of and comply with any McMichael conflict-of-interest policies, McMichael's by-laws, and applicable Ministry of Finance and TB/MBC Directives;
- (p) carrying out the specified responsibilities under the *Public Service of Ontario Act, 2006* and its regulations as the "ethics executive" for Board trustees in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (q) recording any declared or apparent conflicts of interest by Board trustees in the minutes of Board meetings;
- (r) notifying the Minister of Board appointment vacancies and making recommendations to the Minister on appointments or reappointments to the Board;
- (s) consulting with the Minister in advance and receiving the Minister's approval if McMichael plans to embark on any enterprise or activity which impacts on the Government's policies;
- (t) ensuring that Board trustees are informed of their roles, responsibilities and obligations and ensuring that all the Board trustees receive any necessary training to carry out their responsibilities;
- (u) reviewing and approving claims for per diems and expenses of the CEO and Board trustees;
- (v) ensuring that appropriate management systems are in place (financial, information technology, human resources) for the effective administration of McMichael;
- (w) ensuring that an appropriate process for responding to and resolving complaints from the public and agency clients/customers is in place.

- (x) within 30 days of receipt, providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of McMichael's response to each audit report, and any recommendations in the report;
- (y) advising the Minister annually on any outstanding audit recommendations;
- (z) meeting with the Minister annually or more often as needed; and
- (aa) attending and/or making presentations before Cabinet or committees of Cabinet or the Legislative Assembly on matters concerning the affairs of McMichael when requested to do so.

## 8.5. **CEO**

The CEO is responsible for:

- (a) managing the day-to-day functions and financial affairs of McMichael and the fulfilment of its mandate in accordance with all applicable Ministry of Finance and TB/MBC Directives and accepted business and financial practices;
- (b) applying policies established by the Board so that public funds are used with integrity and honesty;
- (c) establishing systems to ensure McMichael operates within its approved business plan;
- (d) translating the policy and strategic direction of the Board into operational plans and activities in accordance with the approved business plan;
- (e) providing leadership, guidance and management to McMichael employees, including human and financial resources management, in accordance with the approved business plan, accepted business and financial practices and standards, the Act, and Directives;
- (f) ensuring that McMichael has an appropriate risk management framework and mitigating strategy in place, as directed by the Chair or the Board, to help provide the proper level of assurance that program or service delivery objectives are met;
- (g) ensuring that all initiatives regarding exhibits, programs, products and services which may be undertaken, implemented or continued by McMichael, are accompanied by appropriate business cases which are based on defensible and accurate financial projections;
- (h) providing the Board with the business cases described in clause (g) for all major initiatives, exhibits, programs, products and services proposed by McMichael staff for continuation or implementation by McMichael;
- (i) keeping the Board, through the Chair, informed of the implementation of their policy directions and the operations of McMichael;
- (j) providing the Chair and the Board with advice and assistance in meeting their responsibilities;
- (k) advising the Chair and the Board on compliance with Directives and Ministry policies and procedures;

- (l) ensuring McMichael complies with the requirements of applicable Directives and Ministry policies and procedures;
- (m) preparing the annual report, business plan, and financial reports as directed by the Board for its approval;
- (n) developing and implementing an effective performance measurement system for McMichael;
- (o) preparing and implementing a performance review system for McMichael's employees;
- (p) meeting the performance objectives approved by the Board;
- (q) ensuring effective communication with the Deputy Minister and employees of the Ministry, including consulting with the Deputy Minister and Ministry employees as needed on matters of mutual importance and seeking advice and support from the Ministry as appropriate;
- (r) monitoring of McMichael's operational performance and reporting on this to the Board through the Chair;
- (s) undertaking reviews, evaluations and reports of McMichael's activities at the request of the Chair or the Board and advising the Chair and the Board of the results;
- (t) ensuring the Ministry is provided with such information regarding McMichael as the Minister may require or request in order to carry out his or her responsibilities;
- (u) keeping the Deputy Minister and the Chair advised of issues or events, including contentious matters, that concern the Minister, the Deputy Minister and the Chair in the exercise of their respective responsibilities (e.g. issues of wrongdoing or impropriety, litigation, allegations of conflict of interest or workplace harassment, police investigations, legal charges, or complaints to the Human Rights Tribunal of Ontario or to the Ombudsman);
- (v) supporting the Chair in orienting the trustees of the Board with respect to their roles and responsibilities;
- (w) ensuring that McMichael's employees are informed of and comply with any conflict of interest guidelines or policies of McMichael and the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations;
- (x) carrying out the specified responsibilities under the *Public Service of Ontario Act, 2006* and its regulations as the "ethics executive" for employees of McMichael in the areas of conflict of interest, political activity rights and disclosures of wrongdoing;
- (y) establishing a system for the retention of McMichael's documents and for appropriately making such documents publicly available;
- (z) cooperating with any periodic review directed by the Minister or by TB/MBC; and
- (aa) meeting with the Deputy Minister annually or more often as needed.

## **9. CROWN AGENT STATUS, ADMINISTRATION AND STAFFING**

- (a) McMichael is a Crown agent as provided for in section 6 of the Act.
- (b) Subject to the financial, human resources, and administrative Directives, guidelines and policies established by Ministry of Finance or TB/MBC that impact on Operational Enterprise agencies, the Board has full financial and administrative authority over the operations of McMichael, and may delegate such authority to the CEO or other officers and employees of McMichael as it sees fit.
- (c) McMichael is responsible for providing all of the business operations of McMichael, including recruiting, hiring and terminating employees. McMichael will provide its own administrative, financial, legal, internal audit and information technology services.
- (d) Employees of McMichael are appointed by McMichael and are not public servants for the purposes of Part III of the *Public Service of Ontario Act, 2006*. Employees are public servants for the purposes of Parts I, IV, V and VI of the *Public Service of Ontario Act, 2006*.
- (e) Employees of McMichael are designated as “Crown employees” for the purposes of the *Crown Employees Collective Bargaining Act, 1993*.
- (f) McMichael is prescribed as a “public body” in accordance with Ontario Regulation 374/07 made under the *Public Service of Ontario Act, 2006*.
- (g) Employees of McMichael are not members of the Public Service Pension Plan.
- (h) McMichael is subject to the requirements of the *French Language Services Act*.

## **10. FINANCIAL**

- (a) McMichael receives funding through transfer payments from the Ministry, derived from the Consolidated Revenue Fund based on the Government’s budget planning process, and subject to adjustments made by the Minister, TB/MBC or the Legislative Assembly. In each fiscal year, the transfer payments are subject to the approval of TB/MBC and to an appropriation authorized by the Legislative Assembly.
- (b) As provided in subsection 7(2) of the Act, real property owned, leased to or occupied by McMichael is not liable to taxation for municipal or school purposes if that real property is used and occupied for the purposes of McMichael.
- (c) In accordance with section 9 of the Act, the Board may establish and maintain funds it considers necessary and appropriate for the management of McMichael. Sections 27 to 31 of the *Trustee Act* apply, with necessary modifications, to the investment of money of McMichael.
- (d) As provided for in subsection 7(3) and section 12 of the Act, McMichael shall not borrow money unless a guarantee is provided by the Lieutenant Governor in Council.
- (e) McMichael shall provide all information and advice as requested to support the Minister throughout the Government’s business planning process.

- (f) McMichael may set the level of funding allocated to programs and services, consistent with its annual business plan as approved by the Minister.
- (g) Financial and accounting procedures of McMichael shall follow generally accepted accounting principles, as set out by the Canadian Institute of Chartered Accountants and its Handbook.
- (h) McMichael shall manage its financial activities, including borrowing, leasing, investing, banking and management of cash, financial assets, financial risks and financial liability, under the policy direction of the Ontario Financing Authority.
- (i) In accordance with Ontario's *Financial Administration Act*, if McMichael proposes to enter into any financial arrangements that could increase the Government's direct, indirect or contingent liabilities or affect the Government's financial, cash or debt management policies, McMichael shall obtain the prior written approval, via the Minister, of the Minister of Finance.
- (j) McMichael shall acknowledge the financial support of the Government in all of its financial, educational, and promotional materials in accordance with TB/MBC Directives, including the *Visual Identity Directive*, and McMichael shall refer to itself by its full name, "McMichael Canadian Art Collection", in all formal documents.
- (k) McMichael is required to pay the Harmonized Sales Tax.

## **11. AUDITING**

- (a) As provided in section 14 of the Act, the financial transactions and accounts of McMichael shall be audited annually by an auditor appointed by the Board, and a report of the audit shall be made to the Board and to the Minister.
- (b) The Minister may direct that the Ministry's or other auditors conduct an internal audit of the financial transactions or management, or both, of McMichael.
- (c) The Chair may request an internal audit of the financial transactions or management, or both, of McMichael, and McMichael shall be responsible for the cost of the audit.
- (d) McMichael agrees to provide promptly to the Minister its responses to any comments and recommendations made by the auditor, in advance of its formal reply to the auditor. McMichael shall advise the Minister, at the Minister's request, on the status of any outstanding audit recommendations.
- (e) The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee. In addition, the Auditor General of Ontario may, at any time, audit any aspect of the operations of McMichael in accordance with the *Auditor General Act*.

## 12. PLANNING AND REPORTING

- (a) **Annual Report** – On behalf of the Board, the Chair will submit an annual report on the affairs of McMichael (including the audited financial statements for the fiscal year) to the Minister for tabling in the Legislative Assembly within 120 days of McMichael’s fiscal year end. The annual report shall be in accordance with the requirements as set out in the *Agency Establishment and Accountability Directive*.
- (b) **Business Plan** – The Board, through the Chair, will ensure that an annual business plan is prepared, approved by the Board, and submitted to the Minister for review and approval as directed by the Ministry in accordance with the timelines of the Ministry’s planning cycle. The business plan will cover the next three (3) fiscal years and shall be in accordance with the requirements as set out in the *Agency Establishment and Accountability Directive*.

The Board, through the Chair, shall ensure that McMichael implements a system of performance measurement including annual baseline reporting. The performance measurement system shall include commitments to attaining specific performance indicators and targets. The performance measurement system and reporting shall be included in the annual business plan.

The Board will provide the Ministry with a draft business plan prior to the final business plan submission, in keeping with established deadlines, to provide an opportunity for Ministry review and comment. The Minister shall review, and approve if satisfactory, McMichael’s business plan and shall advise the Board as to whether or not he or she approves the overall directions envisaged by McMichael and if not, where and in what ways the overall directions of the business plan are at variance with the Government’s or the Ministry’s policies and priorities.

The Board shall inform the Minister of any intended activities that may result in significant additions, deletions or amendments to its approved business plan in sufficient time for the Minister to consider the intended activities before McMichael enters into any binding financial or operational commitments with respect thereto.

The Chair of TB/MBC may require the Minister to submit the business plan for review at any time.

- (c) **Other Reports & Documents** - The Board shall submit the following reports and documents to the Ministry for review in a timely manner:
  - (i) quarterly capital funding reports;
  - (ii) copies of all agendas and minutes of Board meetings within 30 days following Board approval of its minutes;
  - (iii) monthly attendance data of visitors to McMichael;
  - (iv) any promotion or information materials of McMichael (for information only);
  - (v) quarterly financial reports prepared on an accrual basis (as defined by the Public Sector Accounting Board), due 60 days after the end of each quarter, and that shall include: (1) a balance sheet; (2) segmented/departmental information describing actual vs. budgeted information regarding revenues and expenses; and

(3) a statement of changes in cash position. The quarterly financial reports shall also contain:

- year-to-date expenditures of McMichael for its operating budget;
- an explanation to the satisfaction of the Minister regarding any significant variances from McMichael's approved operating budget; and
- the fiscal year-end financial forecast of McMichael's revenues and expenditures.

(d) The Board will submit its plans and reports in a timely fashion to enable the Minister to meet his or her annual estimates requirements, and the Minister will provide advance notice of deadlines as far in advance as is possible.

### **13. PERIODIC REVIEW**

McMichael is subject to periodic review initiated at the discretion and direction of the Minister or TB/MBC. McMichael agrees to co-operate with any such periodic review.

In requiring a periodic review, the Minister or TB/MBC, as the case may be, shall determine the timing and responsibility for conducting the review, the roles of the Chair and the Minister, and how any other parties shall be involved.

In the event of a periodic review initiated at the direction of the Minister, the Minister shall submit any recommendations regarding McMichael to TB/MBC.

### **14. CONFLICT OF INTEREST**

The trustees of the Board are subject to the conflict of interest provisions of the *Government Appointees Directive* (November 1994) and the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations that are applicable to Government appointees.

Trustees shall not use any information gained as a result of his/her appointment to the Board for personal gain or benefit. A trustee who has reasonable grounds to believe that he/she has a conflict of interest in a matter before the Board, or a committee of the Board, shall disclose the nature of the conflict to the Chair at the first opportunity and shall refrain from further participation in the consideration of the matter. The Chair shall cause to be recorded any declared conflict of interest in the minutes of the meeting of the Board.

Employees of McMichael are subject to the conflict of interest provisions of the *Public Service of Ontario Act, 2006* and its regulations, unless McMichael has submitted its own conflict of interest rules to the Conflict of Interest Commissioner and has received approval of those rules by the Commissioner.

### **15. APPOINTMENTS**

Trustees are appointed by the Lieutenant Governor in Council for a term not exceeding three (3) years pursuant to section 3 of the Act. Trustees may be re-appointed for one or more further terms. The Chair and Vice-Chair are designated by the Lieutenant Governor in Council.

## **16. CREATION, COLLECTION, MAINTENANCE AND DISPOSAL OF RECORDS**

McMichael shall ensure that there is an information management system for the retention of McMichael's records. The Board, through the Chair, is also responsible for ensuring that McMichael complies with the *TB/MBC Management of Recorded Information Directive*.

Until such time as McMichael is designated as an institution in the regulations to the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), McMichael shall handle all of its records in a manner that is consistent with FIPPA.

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

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

In circumstances where McMichael receives approval to commission the creation of information, including "personal information" as that term is defined in FIPPA, McMichael shall ensure that every contract it enters into for data collection and processing contains specific references to the sources of the information; the entities involved; and the transfer of information from the collection phase to the destruction phase. Such contracts shall be subject to a Threat Risk Assessment and a Privacy Impact Assessment before they are signed by the parties.

## **17. CUSTOMER SERVICE**

McMichael shall develop and implement a formal process for responding to complaints and issues raised by the public or by stakeholders regarding quality of service. This process shall be consistent with the quality service initiative of the Government. McMichael's business plan shall include performance measure(s) and targets for customer service and for McMichael's response to complaints.

## **18. FUNDRAISING**

McMichael acknowledges that it is a separate entity from any of the persons, organizations or associations that may undertake fundraising activities from time to time on its behalf.

McMichael agrees that where persons, organizations or associations undertake fundraising activities on behalf of McMichael, McMichael shall enter into agreements with these parties that set out the expectations and obligations of each party.



**19. LIABILITY PROTECTION AND INSURANCE**

McMichael is covered under the Government's protection program for claims by third parties for bodily injury, property damage, personal injury and advertising liability.

McMichael is covered under the Government's automobile insurance policies. McMichael pays the necessary premiums on an annual basis.

McMichael is responsible for purchasing and maintaining liability insurance coverage for its trustees, officers, employees, volunteers and members of any its committees.

McMichael is responsible for purchasing and maintaining sufficient insurance for the buildings on the premises and for the art that McMichael owns.

McMichael is responsible for purchasing and maintaining sufficient insurance for art that is loaned to McMichael.

McMichael is responsible for purchasing and maintaining directors' and officers' errors and omissions insurance.

*Original signed by the Minister of Tourism, Culture and Sport and the Board Chair of McMichael Canadian Art Collection.*

## SCHEDULE 1

### **Ministry of Finance and Treasury Board/Management Board of Cabinet Directives applicable to McMichael Canadian Art Collection\***

(\*Where a Directive applies, all associated policies, procedures and guidelines also apply. Guidelines or policies are only listed where there is no corresponding Directive.)

- (a) Accountability Directive (Sept. 1997)
- (b) Advertising Content Directive (Sept. 2001)
- (c) Agency Establishment and Accountability Directive (January 2010)
- (d) Government Appointees Directive (May 2011)
- (e) Procurement Directive (April 2011 as it applies to “Other Included Entities”)
- (f) Travel, Meal and Hospitality Expenses Directive (revised April 1, 2010)
- (g) Visual Identity Directive (Revised Sept. 2006) with exemption from the Agency/Program Logo requirement
- (h) Internal Audit Directive (November 2002)
- (i) Cash Management Directive
- (j) Disclosure of Wrongdoing Directive – Public Bodies (2007)
- (k) Management of Recorded Information Directive (June 1992)
- (l) Emergency Evacuation Planning Directive (January 1991)
- (m) Managing, Distributing and Pricing Government Information (Intellectual Property) Directive (August 1998)
- (n) Perquisites Directive (effective June 1, 2011)

The Ministry will inform McMichael of amendments or additions to Directives, policies and guidelines that apply to McMichael.

## **SCHEDULE 2: COMMUNICATIONS PROTOCOL FOR AGENCIES**

### **MINISTRY OF TOURISM AND CULTURE**

#### **1. PURPOSE**

The purpose of this communications protocol is to set out a framework for the Ministry and Agency to collaborate on public communications opportunities.

Clear and direct lines of communication between the Ministry and its agencies are essential. This communications protocol will support both the Agency's implementation of its legislated mandate and the promotion of the work it does. It also supports the Minister's accountability to the Legislature and to Cabinet for the same.

#### **2. DEFINITIONS**

a. "Public communications" means any material that is communicated to the public, either directly or through the media in:

- Oral form, such as a speech or public presentation
- Printed form, such as a news release or hardcopy report
- Electronic form, such as a posting to a website.

b. A "contentious issue" is a matter that is, or may reasonably be expected to be, of concern to the legislative assembly or the public, and is likely to result in inquiries directed to the minister or government. Contentious issues may be raised by:

- Members of the Legislative Assembly
- The public
- Media
- Stakeholders
- Service delivery partners.

#### **3. PRINCIPLES**

a. All communications planning processes between the Ministry and its agencies are to be handled in a confidential manner, respecting each organization's approval deadlines.

b. The Ministry and the Agency will appoint persons to serve as public communications "leads".

c. The Agency will identify, and share with the Ministry, appropriate opportunities for the inclusion of messaging on government priorities and to enhance the government's profile. The Agency will also make the Ministry aware of contentious issues. Similarly, the Ministry will identify appropriate opportunities for Agency involvement (for example, cross-Ministry opportunities), and will make the Agency aware of contentious issues.

- d. The Agency will comply with the government’s Visual Identity Directive and identify itself in all media responses, news releases and on its Web site as an Agency of the Government of Ontario.
- e. Agency communications that are related to the day-to-day business of the Agency and do not have direct implications for either the Ministry or the government include, but are not limited to, items such as:
- brochures and promotional items
  - information kits
  - reports (other than those required to be submitted to the Ministry)
  - routine web site updates
  - communications between the Agency and its stakeholders
  - responses on day-to-day operational matters
  - program communications (e.g., information regarding application guidelines and deadlines)

It is neither feasible nor necessary for Ministry involvement in these items. This category does not include contentious issues, media responses, or news releases that announce new grants or programs.

- f. Agency communications that are related to the following activities may have direct implications for either the Ministry or the government:
- grant announcements
  - program announcements (i.e. program launch, promotion of success stories)
  - milestone events (i.e. opening of new program/exhibit, anniversary awards)
  - contentious issues

These activities should be shared with the Ministry in advance. The Ministry’s involvement in public communications products (media releases, backgrounders, web updates, etc.) related to these activities could include Minister participation, inclusion of provincial or ministerial messaging on government priorities, or opportunities for local MPP announcements. The Ministry and Agency will discuss opportunities for Ministry participation in Agency communications in these areas in advance of any planned event or media release.

#### **4. PROCESS**

Day-to-day operational matters between the Agency and the Ministry will be detailed in a separate Schedule, to be agreed upon by both parties.

This schedule will include, but may not be limited to, the following items:

- Designating a communications ‘lead’ for both the Ministry and Agency
- Communications planning and protocols
- Products requiring Minister’s approval
- Timelines for the submission and review of public communications products, where appropriate.

**- END OF SCHEDULE 2 -**

### **SCHEDULE 3**

#### **List of General Legislation applicable to McMichael Canadian Art Collection**

*Accessibility for Ontarians with Disabilities Act, 2005*

*Crown Employees Collective Bargaining Act, 1993*

*Emergency Management and Civil Protection Act*

*Financial Administration Act*

*French Language Services Act*

*Human Rights Code*

*Management Board of Cabinet Act*

*Pay Equity Act*

*Public Sector Salary Disclosure Act, 1996*

*Public Service of Ontario Act, 2006*

**-- END OF SCHEDULE 3 --**