

MEMORANDUM OF UNDERSTANDING

Between:

The MINISTER OF LABOUR
(hereinafter referred to as the “Minister”)

and

The CHAIR,
Workplace Safety and Insurance Appeals Tribunal
(hereinafter referred to as the “Chair”)

Charles Sousa
Minister of Labour

Date

Ian J. Strachan
Chair, Workplace Safety and Insurance Appeals Tribunal

Date

MEMORANDUM OF UNDERSTANDING

Workplace Safety and Insurance Appeals Tribunal

PREAMBLE:

The *Workplace Safety and Insurance Act, 1997* (the “Act”) requires the Ontario workplace safety and insurance system to be a financially viable insurance plan, which is oriented toward the prevention of workplace injuries and occupational diseases, the promotion of return to work and labour market re-entry where possible and the provision of compensation as required for workplace injuries and occupational diseases in Ontario.

The Workplace Safety and Insurance Board (the “Board”) is responsible for the administration of the workplace safety and insurance system. The Minister is responsible for setting workplace safety and insurance legislative standards. The Workplace Safety and Insurance Appeals Tribunal (“Tribunal”) is a quasi-judicial adjudicative agency that hears, decides and makes determinations on the disposition of worker and employer appeals of Board decisions in accordance with the Act.

The Tribunal is an adjudicative agency of the Government of Ontario and is a public body as defined by the *Public Service of Ontario Act, 2006* (“PSOA”) and its employees are public servants.

The workplace safety and insurance system is based on, and the Tribunal is guided by, the following principles:

- the provision of fair benefits for workplace injuries and occupational diseases,
- greater certainty and less complexity, litigation and duplication in its administration, including a streamlined dispute resolution system based upon single adjudicator hearings and the use of mediation where appropriate,
- a commitment to superior quality service to workers, employers and other stakeholders, and
- effective and efficient co-ordination in the administration of this system.

MEMORANDUM OF UNDERSTANDING

Workplace Safety and Insurance Appeals Tribunal

In accordance with these principles, the Act continues the Tribunal as one of several agencies (i.e. the Offices of the Employer Adviser and Worker Adviser, the Board) in the workplace safety and insurance system.

1. PURPOSE

The purpose of this Memorandum of Understanding (“MOU”) is to clarify the operational, administrative, financial, auditing and reporting relationships between the Tribunal and the Ministry of Labour (“Ministry”). Further, it establishes the necessary management and administrative practices for the efficient operation of the Tribunal, ensuring fair and expeditious adjudication and resolution of appeals of Board decisions within a framework which recognizes the Tribunal’s role as an independent adjudicative body. The MOU establishes:

- the roles and responsibilities of the Minister and the Chair;
- the necessary financial management and administrative practices for the effective and efficient operation of the Tribunal, including staffing;
- the extent to which specific Management Board of Cabinet (“MBC”) Directives and Guidelines apply to the Tribunal;
- reporting requirements;
- commitments to implementing a performance measurement plan; and,
- accountability and audit relationships.

Legislative Authority and Mandate:

The Tribunal was established by section 32 of the *Workers’ Compensation Amendment Act*, S.O. 1984, c. 58 and is continued by subsection 173(1) of the Act.

The Tribunal is an independent quasi-judicial appeal body rendering final decisions within the Workplace Safety and Insurance System in accordance with its statutory mandate and the provisions of the Act and administrative law principles.

2. DURATION OF AGREEMENT AND EFFECTIVE DATE

- 2.1 This MOU becomes effective upon the signing by the Chair and the Minister.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

2.2 This MOU shall remain in effect for 5 years from the date of signing.

3. PROCESS FOR REVIEW AND AMENDMENTS

3.1 This MOU shall be reviewed at the request of any of the parties to it, or in the event that the Tribunal's governing legislation is amended or a new Minister or a new Chair is appointed.

3.2 Either of the parties to this agreement may initiate amendments to this MOU. Requests for amendments shall be in writing.

3.3 This MOU must be reviewed at the expiry of its term.

4. ROLES AND RESPONSIBILITIES

Minister

4.1 The Minister recognizes that the Tribunal operates at "arm's length" from the government.

4.2 The Minister is accountable for the Tribunal to the Government of Ontario and is responsible for representing the Tribunal in Cabinet, the Legislative Assembly and before Committees of the Legislature and the public.

4.3 The Minister and the Chair recognize that the Board is the administrator of the workplace safety and insurance system, and as such, is responsible for the formulation of policy under the Act. The Tribunal shall exercise its powers and render adjudicative decisions in accordance with the provisions of the Act and administrative law principles and other relevant law.

4.4 The Minister is accountable for the coordination of the various agencies falling within his or her jurisdiction to ensure there is no duplication of effort or inconsistency among agencies.

4.5 The Minister recognizes that the Tribunal is a statutory entity which exercises its powers and performs its duties in accordance with its mandate

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

under the Act, with the authority to make independent adjudicative decisions.

Deputy Minister

- 4.6 The Deputy Minister is responsible for providing advice and assurance to the Minister concerning the applicability of and compliance with MBC Directives and Guidelines; ensuring that the Minister is aware of any amendments to the Tribunal's policies or operational initiatives which affect the Tribunal's mandate; providing advice on issues impacting on the workplace insurance system; and, providing administrative support as described in Schedule A.
- 4.7 On behalf of, and in conjunction with the Minister, the Deputy Minister shall assess whether the Tribunal is fulfilling its legislative mandate, and recommend to the Minister ways to resolve any issues or problems that are identified as barriers to the delivery of the Tribunal's mandate.
- 4.8 The Deputy Minister is responsible for providing a framework for assessing whether the Tribunal's business planning, performance measurement processes and goals are developed and implemented in accordance with approved government policies.
- 4.9 The Deputy Minister is responsible for ensuring that all accountability and reporting requirements as provided for by this MOU are met.

Chair

- 4.10 The Chair as the Chief Executive Officer of the Tribunal is responsible for the operations of the Tribunal and the fulfillment of the Tribunal's mandate, including the management and administration of the Tribunal and its staff and resources in accordance with subsections 173(3) (4) and (5) of the Act and Article 1 of this MOU.
- 4.11 The Chair is responsible for ensuring compliance by the Tribunal with the Act, this MOU and applicable MBC Directives and Guidelines.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

- 4.12 The Chair is responsible for attesting to the Tribunal's compliance with the mandatory requirements set out in the MBC's Agency Establishment and Accountability Directive, upon request by the Deputy Minister.
- 4.13 The Chair recognizes that accountability to the Government of Ontario in the exercise of the Tribunal's mandate is a fundamental principle to be recognized in its operations, management and administration, within the framework of the workplace safety and insurance system as set out in the Act.
- 4.14 The Chair acknowledges that, in order for the Minister to perform the duties set out in this MOU, the Minister must be informed of the existence or emergence of issues relating to the Tribunal's mandate, and the Chair shall inform the Minister of such issues upon their emergence and on a regular basis as required.
- 4.15 The Tribunal shall work with the Ministry and the Board in the development, reporting and ongoing evaluation of performance targets and operational measures aimed at improving the adjudication of claims and appeals in the workplace safety and insurance system.
- 4.16 The Tribunal shall also work with the Ministry and other agencies in the workplace safety and insurance system in the evaluation and improvement of these performance targets and operational measures.
- 4.17 The Tribunal, as an agency of government, must conduct itself according to the management principles of the Government of Ontario. Such principles include ethical behaviour, prudent and lawful use of funds from the Board, high quality service to the public, fairness and equity, and openness and transparency.
- 4.18 The Chair is the Ethics Executive for Vice-Chairs and Members of the Tribunal pursuant to the PSOA as described in Article 7.5 of this MOU.

The Tribunal Director

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

4.18 The Tribunal Director is prescribed as the Ethics Executive under the PSOA for public servants, other than government appointees, of the Tribunal as described in Article 7.5 of this MOU. The Tribunal Director will ensure that Tribunal staff are familiar with the applicable conflict of interest rules and will promote ethical conduct by Tribunal staff pursuant to section 64 of the PSOA.

5. MANAGEMENT BOARD OF CABINET DIRECTIVES AND GUIDELINES

5.1 Agency Establishment and Accountability Directive

5.1.1 The Tribunal is classified as an adjudicative agency under the provisions of MBC's Agency Establishment and Accountability Directive. The Tribunal shall adhere to all the Directives and Guidelines of MBC and the Ministry of Finance, which are applicable to adjudicative agencies to the extent that they are consistent with the operation of subsection 173(5) of the Act. This includes any new MBC Directives and Guidelines or subsequent additions or amendments to existing ones made after this MOU comes into effect.

5.1.2 Schedule B, which forms part of this Memorandum of Understanding, provides a list of applicable MBC Directives. The Tribunal must comply with all applicable directives, whether or not a directive is specifically listed in Schedule B.

5.1.3 Schedule C, which forms part of this Memorandum of Understanding, contains a list of statutes that are applicable to the Tribunal. The Tribunal must comply with all applicable statutes, whether or not it is specifically listed in Schedule C.

Staffing and Appointments

5.1.4 The Chair, Vice-Chair(s) and Members of the Tribunal are appointed by the Lieutenant Governor in Council by Order in Council pursuant to subsections 173(3) and 174(1) of the Act.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

- 5.1.5 Under subsection 173(3) of the Act, the Chair is the Chief Executive Officer of the Tribunal, and may under subsection 173(5) of the Act, on behalf of the Tribunal employ such persons as s/he considers necessary for the carrying out of the mandate of the Tribunal.
- 5.1.6 As such, employees of the Tribunal are not appointed under the PSOA. Under subsection 173 (5) of the Act, the terms and conditions of employment for employees of the Tribunal must conform to such guidelines as may be established by MBC.

Financial Arrangements

- 5.1.7 Under subsection 173 (6) of the Act, the operating costs of the Tribunal are expenses of the Board.
- 5.1.8 The Tribunal, pursuant to the funding arrangements with the Board, may acquire all goods and services necessary for its efficient and effective operation with the exception of real property and accommodation, for which the Tribunal is subject to the MBC Directive on Real Property and Accommodation, September 1998.

5.2 MBC Requirements

- 5.2.1 In accordance with the Agency Establishment and Accountability Directive, the Chair shall prepare an Annual Report for review by the Minister.
- 5.2.2 The Report shall identify and report on the Tribunal's operations and quality service measures, standards, targets, commitments and achievements; and, provide audited financial statements of the Tribunal prepared in accordance with the Agency Establishment and Accountability Directive.
- 5.2.3 The Tribunal shall retain the services of an external auditor in accordance with the Agency Establishment and Accountability Directive to provide for attestations of assets, liabilities and financial statements, as part of the Annual Report.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

- 5.2.4 The Minister shall present the report to the Assembly in accordance with the standing orders of the Assembly and the Chair shall not release the report publicly until the Minister has laid the Report before the Assembly.
- 5.2.5 The Tribunal is subject to periodic review and value-for-money audits by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division.
- 5.2.6 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.
- 5.2.7 Regardless of any external audits described in Article 5.2.3, the Minister may direct that the Tribunal be audited by an external auditor.
- 5.2.8 The Tribunal shall provide the information, material and access necessary for the conduct of any audit.
- 5.2.9 The Tribunal will promptly provide a copy of every report from any audit to the Minister, the Deputy Minister and the Minister of Finance. The Tribunal will also provide a copy of its response to the audit report and any recommendations therein. The Tribunal will advise the Minister annually on any outstanding audit recommendations.

6. BUSINESS PLANNING AND ALLOCATION PROCESS

- 6.1 Each year, the Minister shall advise the Chair of government and ministry priorities and directions for inclusion in the Tribunal's business plan.
- 6.2 By October 31st of each year the Chair shall submit the business plan for the upcoming year to the Minister for review and approval.
- 6.3 The business plan shall be in accordance with the Agency Establishment and Accountability Directive, and outline the following:
1. the previous year's expenditures, forecast expenditures for the current year and the proposed budget for the upcoming year;

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

2. the Tribunal's proposed performance measures and expected outcomes for the upcoming year;
 3. the Tribunal's proposed client service initiatives for the upcoming year;
 4. the Tribunal's case management strategy for the upcoming year, in accordance with subsections 127 (1), (2), (3) of the Act, including the projected number of applications to the Tribunal, the targets for the number of decisions to be rendered with the time required to render a decision from the time of hearing and detailed strategies for meeting those targets;
 5. detailed human resource, cash flow and information technology plans associated with meeting the performance goals and client services initiatives.
 6. a risk assessment and risk management plan in accordance with the Agency Establishment and Accountability Directive to assess risks and develop and maintain necessary records.
- 6.4 In developing the Tribunal's business plan, the Tribunal shall:
- ensure that performance measures and goals are consistent with other agencies in the workplace insurance system; and,
 - ensure a coordinated approach to client service initiatives that address management of dispute resolution and adjudication of appeals under the Act.
- 6.5 Upon approval by the Minister of the Tribunal's business plan, the Minister shall advise the Chair of the approved budget level and any conditions associated with the approval.
- 6.6 The Tribunal shall provide the Ministry with reports on the implementation of its business plan on a quarterly or as required basis.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

6.7 The Minister shall advise the Chair of the Board of the approved budget level.

7. INFORMATION EXCHANGE

7.1 Requirements for Information Exchange

7.1.1 The Minister and the Chair recognize that timely information exchange concerning the operations and administration of the Tribunal is critical in enabling the Minister to be accountable for the Tribunal in the Legislative Assembly, and ensuring the consistency of Tribunal operational initiatives and service standards with the strategic directions of the Ontario government.

7.1.2 The Minister and the Chair shall share information with each other in a timely fashion, concerning any issue that affects Tribunal operations and which requires the Minister's attention. This includes:

- initiatives which may have significant impact on clients or stakeholders;
- initiatives which may have a significant operational or financial impact on the workplace safety and insurance system;
- initiatives which may raise questions in the Legislature, by the media or by stakeholders;
- policy or operational initiatives which the Chair believes should be implemented to support the Tribunal in achieving its mandate; or
- initiatives which may require reports to Cabinet, Treasury Board/Management Board of Cabinet, other Cabinet Sub-committees or other government agencies.

The Chair shall provide information to the Minister, at his/her request, in a timely manner.

7.2 Meetings

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

7.2.1 The Minister and the Chair shall meet on a regular basis to review matters provided for in this MOU and in the Tribunal's business plan; initiatives and issues that affect the Tribunal's and the Ministry's common stakeholder communities; and any other issue considered appropriate.

7.2.2 The Deputy Minister and the Chair shall meet on a regular basis to review issues of importance to the workplace safety and insurance system.

7.3 Consultations and Communications

7.3.1 The Tribunal may consult with the Ministry on communication strategies and publications, and shall co-operate with the Ministry and Board to ensure consistent and coordinated communications to stakeholders and the public regarding workplace safety and insurance.

7.3.2 The Ministry, wherever possible, shall consult with the Tribunal as appropriate on initiatives that are being undertaken to amend the legislation or regulations which may affect the Tribunal's mandate or operations. This commitment includes, wherever possible, consultation on any review of the Tribunal's mandate or any consideration of alternative means of delivery of its services. The Minister shall advise the Chair of those policy decisions of the Government of Ontario relevant to the administration of the Tribunal's operations.

7.3.3 The Tribunal shall consult, as required, with the Ministry and the Board to promote cooperation and information exchange across the workplace safety and insurance system to ensure that their clients' needs are met effectively and efficiently.

7.3.4 The Minister and the Chair shall consult with each other with respect to the release to the public, via the media or otherwise, of any policy or operational initiative.

7.3.5 Prior to embarking upon the preparation and/ or release of any public discussion papers and/or research papers, the Chair shall consult with the Minister.

MEMORANDUM OF UNDERSTANDING

Workplace Safety and Insurance Appeals Tribunal

7.3.6 Article 7.3.5 of this MOU does not apply to Medical Discussion Papers that have been prepared by medical specialists retained by the Tribunal for the purposes of providing background information concerning medical conditions. It is understood that these papers do not contain personal information and that the Tribunal is responsible for addressing all obligations and responsibilities arising under the *Freedom of Information and Protection of Privacy Act* with respect to these papers.

7.4 Conflict of Interest

7.4.1 The Chair is responsible for ensuring that Tribunal Vice-Chairs and Members and Tribunal employees are aware of the applicable conflict of interest rules under the PSOA. If the Tribunal decides to adopt its own conflict of interest rules, instead of the rules in the PSOA, the Tribunal will provide the Deputy Minister with a copy of the proposed conflict of interest rules before they are submitted for approval to the Conflict of Interest Commissioner.

7.4.2 The Chair is also responsible for ensuring that Tribunal Vice-Chairs and Members and Tribunal employees are aware of their obligations and rights under the PSOA related to political activity and the disclosure and investigation of wrongdoing.

7.4.3 The Chair shall ensure that conflict of interest matters regarding Tribunal Vice-Chairs and Members are dealt with in accordance with the MBC Directive on Government Appointees.

7.5 The Role and Responsibility of the Ethics Executive

7.5.1 The Ethics Executive for public servants of the Tribunal is the person prescribed in Ontario Regulation 147/10 made under the PSOA. The Tribunal Director is the Ethics Executive for public servants, other than government appointees, at the Tribunal. If the Tribunal Director receives a disclosure of wrongdoing from one of these persons, or becomes aware of a disclosure of wrongdoing filed with the Integrity Commissioner, the Tribunal Director will notify the Deputy Minister, where appropriate, of the

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

disclosure and provide as much information about the disclosure as may be appropriate in the circumstances. The Tribunal Director will notify the Deputy Minister, where appropriate, of the outcome of the disclosure of wrongdoing.

7.5.2 The Tribunal Director will notify the Deputy Minister, where appropriate, when he or she makes a disclosure of wrongdoing to the Conflict of Interest Commissioner or the Integrity Commissioner, with as much information about the disclosure as may be appropriate in the circumstances. The Tribunal Director will notify the Deputy Minister, where appropriate, of the outcome of the disclosure of wrongdoing.

7.5.3 The Chair is the Ethics Executive for Tribunal Vice-Chairs and Members. If the Chair receives a disclosure of wrongdoing from one of these persons, or becomes aware of a disclosure of wrongdoing filed with the Integrity Commissioner, the Chair will notify the Minister, where appropriate, of the disclosure and provide as much information about the disclosure as may be appropriate in the circumstances. The Chair will notify the Minister, where appropriate, of the outcome of the disclosure of wrongdoing.

7.5.4 The Chair will notify the Minister, where appropriate, when he or she makes a disclosure of wrongdoing to the Conflict of Interest Commissioner or the Integrity Commissioner, with as much information about the disclosure as may be appropriate in the circumstances. The Chair will notify the Minister, where appropriate, of the outcome of the disclosure of wrongdoing.

8. GENERAL ADMINISTRATION

8.1 General Administration

8.1.1 All Tribunal records are governed by the *Archives and Recordkeeping Act, 2006* and the MBC Directive on Management of Recorded Information Directive.

8.1.2 The Ministry is responsible for the Tribunal's property leases, and works with the Ontario Realty Corporation on behalf of the Tribunal. The Ministry shall provide advice on planning for leasehold property and

MEMORANDUM OF UNDERSTANDING

Workplace Safety and Insurance Appeals Tribunal

accommodations. The Tribunal shall be responsible for making its own arrangements with the vendor in terms of purchase and maintenance of furnishings and shall do so in a co-ordinated fashion with the Ministry, as appropriate.

- 8.1.3 The Tribunal shall be responsible for the provision of its own human resources services, information technology arrangements and financial processing services.
- 8.1.4 The Tribunal recognizes and supports the Ministry's endorsement of the purposes of the *Environmental Bill of Rights, 1993* ("EBR"), which include protecting and conserving the environment. The Tribunal also recognizes and supports the Ministry's commitment to environmentally sound practices and the Ministry's support and promotion of the "greening" of its programs, practices and activities of all its employees (e.g. the 3R's: reduce, reuse and recycle, in all daily transactions and work activities). The Tribunal will make reasonable efforts to integrate consideration of the purposes of the EBR and utilize environmentally sound practices when conducting its business.
- 8.1.5 The Tribunal is subject to applicable MBC Directives and Guidelines and the Ministry's Emergency Plan mandated by the *Emergency Management and Civil Protection Act* (EMCPA), including the Ministry's Business Continuity Plan for Downtown Toronto. Therefore, the Tribunal and the Ministry agree to develop and maintain necessary mutual arrangements to ensure continuity of the Ministry's business services as may be required in the event of an emergency as defined in the EMCPA.

8.2 Freedom of Information and Protection of Privacy

- 8.2.1 The Minister has delegated all of his or her powers and duties under the *Freedom of Information and Protection of Privacy Act* ("FOIPPA") to the Chair with respect to the Tribunal pursuant to a delegation document dated December 11, 2008, as amended from time to time. The Chair recognizes that the Minister is ultimately responsible and accountable to the Legislature for ensuring compliance with the FOIPPA.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

- 8.2.2 If the Tribunal or the Chair becomes aware of a breach, potential breach or allegation of a breach of the FOIPPA, it shall be reported to the Freedom of Information and Privacy Office of the Ministry which may provide assistance in assessing the breach, potential breach or allegation of a breach. The Freedom of Information and Privacy Office may report the breach, potential breach or allegation of a breach to the Office of the Chief Information and Privacy Officer at the Ministry of Government Services, as required.
- 8.2.3 The Ministry's Freedom of Information and Privacy Office shall coordinate an annual meeting with the Tribunal and the Chair to review the Tribunal's privacy and information management practices and any issues related to the application and administration of the FOIPPA.

8.3 MOL Support Services

- 8.3.1 The Ministry of Labour shall provide support services to the Tribunal as described in Schedule A, attached.

8.4 Co-location and Shared Services

- 8.4.1 The Tribunal has entered into a Co-Location and Shared Services Agreement with the Pay Equity Hearings Tribunal, the Ontario Labour Relations Board and the Human Rights Tribunal of Ontario dated April 2007. The agreement provides for shared common services, including hearing and meeting room scheduling, security, library services, mail room services and printing services.
- 8.4.2 The Ministry shall be consulted on and given the opportunity to provide advice and support to the Tribunal in the continued operation of the Co-Location and Shared Services Agreement.
- 8.4.3 The Chair may enter into additional Letters of Understanding or Service Agreements with the Chairs of other agencies who co-locate to establish terms and conditions regarding shared facilities, resources and assets.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

8.4.4 The Tribunal and the Ministry shall ensure an appropriate segregation of budgets and expenditures in recognition of their separate and distinct financial accounts, that ensures the Tribunal's costs are charged to the Insurance Fund in accordance with the *Act* and that the other government co-located agencies' costs are charged to the Consolidated Revenue Fund.

8.5 Intellectual Property

8.5.1 The Tribunal shall manage its intellectual property in a manner consistent with the principles set out in MBC's Managing, Distributing and Pricing Government Information (Intellectual Property) Directive. In particular, the Tribunal shall,

- (a) manage intellectual property assets efficiently, effectively and consistently;
- (b) make intellectual property available for use outside the Tribunal when such use conforms to the mandate of the Tribunal or the purpose of the intellectual property;
- (c) provide access to intellectual property fairly and equitably; and
- (d) protect intellectual property through its development and lifespan.

8.6 Customer Service

8.6.1 The Chair will ensure that the Tribunal delivers its services in accordance with the principles and mandatory requirements, as appropriate, of the OPS Service Directive.

8.7 Liability Protection and Insurance

8.7.1 Pursuant to paragraph 3 of subsection 179(1) of the *Act*, no action or other proceeding for damages may be commenced against the Chair, Vice-Chairs, Members and employees of the Tribunal for an act or omission done or omitted by the person in good faith in the execution or intended execution of any power or duty under the *Act*. Pursuant to subsection 179(3) of the *Act*, this statutory immunity does not relieve the Crown of liability in respect of a tort committed by the Chair, Vice-Chairs, Members and employees of the Tribunal to which the Crown would otherwise be subject.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

8.7.2 The Tribunal self-insures with respect to occupier's liability. The Tribunal may also self-insure for any other liability to third parties where the statutory immunity in paragraph 3 of subsection 179(1) of the Act is not applicable.

8.8 Harmonized Sales Tax (HST)

8.8.1 Pursuant to applicable law where the Tribunal is required to do so, the Tribunal will charge and collect the Harmonized Sales Tax. The Tribunal will receive any rebates it may be entitled to directly from the Government of Canada.

8.9 Legal Services

8.9.1 The Tribunal shall supply its own legal services using rates of pay that are the same as, or less than, those of the Lawyers Compensation Plan of the Ontario Public Service.

8.9.2 The Ministry of the Attorney General's Operating Policy on Acquiring and Using Legal Services does not apply to the Tribunal.

8.9.3 The Tribunal may retain private sector counsel when it requires expertise or services not available to it from its staff counsel or when the use of staff counsel would result in a conflict of interest.

8.9.4 The hourly rates paid to private sector counsel must be within the approved fee schedule set out by the Ministry of the Attorney General. The Director of the Legal Services Branch at the Ministry of Labour may be consulted for further information about the fee schedule as needed.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

Schedule A: Administrative Services

As CEO, the Chair is accountable to the Minister for the administration of the Tribunal. The Ministry of Labour shall assist the Tribunal with the planning and/or maintenance and/or provision of administrative services to support the Tribunal's effective and efficient provision of services, as described below.

1. The Ministry shall inform the Tribunal of changes to MBC Directives and Guidelines if these are applicable to the Tribunal as an adjudicative agency of the Government.
2. Upon request, the Ministry shall arrange for the provision of advice on the planning for, and introduction of, information and systems technology. The Tribunal shall be responsible for making its own arrangements with vendors in terms of purchase and maintenance, and shall do so in a co-ordinated fashion with the Ministry, as appropriate.
3. Upon request, the Ministry shall provide information and advice to the Tribunal on classification and compensation systems in use in the OPS and the Ministry. The Ministry shall provide information and advice to the Tribunal on Ministry and Government human resources policies and practices, including supporting documents to implement new legislation, regulations or directive requirements applicable to the Tribunal.

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

Schedule B: Applicable Government Directives

The Tribunal must comply with all applicable MBC Directives, including, but not limited to, the following list:

- Advertising Content Directive
- Agency Establishment and Accountability Directive
- Disclosure of Wrongdoing Directive
- Freedom of Information and Privacy Directive
- Government Appointees Directive
- Management of Recorded Information Directive
- Procurement Directive
- Travel, Meal and Hospitality Expenses Directive

MEMORANDUM OF UNDERSTANDING
Workplace Safety and Insurance Appeals Tribunal

Schedule C: Applicable Statutes

The Tribunal must comply with all applicable statutes, including, but not limited to, the following list:

- Accessibility for Ontarians with Disabilities Act, 2005
- Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009 (if and when the provisions affecting the Tribunal are proclaimed into force)
- Archives and Recordkeeping Act, 2006
- Freedom of Information and Protection of Privacy Act
- French Language Services Act
- Pay Equity Act
- Public Service of Ontario Act, 2006