



ENERGY SAFETY CANADA CERTIFIED AUDITOR'S AGREEMENT

This Agreement is made

BETWEEN:

_____ (hereinafter, "the Auditor")

NAME

ADDRESS

AND: ENERGY SAFETY CANADA, a non-profit corporation

IN CONSIDERATION of Energy Safety Canada granting or maintaining the Auditor's Energy Safety Canada Petroleum Industry Health and Safety Auditor Certification, and for other good and valuable consideration that the Parties deem to be sufficient, the Parties hereby agree to be bound as follows:

ARTICLE I **Definitions**

1.1 As used in this Agreement, the following terms have the following meanings:

"Agreement" means this Energy Safety Canada Certified Auditor's Agreement;

"Approved Energy Safety Canada Audit Protocol" means the audit standard developed, endorsed, and revised from time to time by Energy Safety Canada as a Certifying Partner that is applicable to the type of Audit being performed and that provides the necessary technical specifications to successfully complete an Audit. Approved Energy Safety Canada Audit Protocols include the following:

- (i) Certificate of Recognition Health & Safety Audit Protocol ([SAC-CFT-014](#));
- (ii) Small Employer Health & Safety Audit Protocol ([SAC-CFT-016](#));



- (iii) Return to Work/Injury Management Large Employer Audit Tool ([SAC-CFT-015](#));
- (iv) Partnerships Audit Standard Equivalency approved audit; and
- (v) Additional protocols that may be provided by Energy Safety Canada to the Auditor from time to time in electronic or hard copy.

"Arbitrator" means an individual who is independent of the Parties and impartial as between them and whose name appears on the List of Approved Arbitrators;

"Audit" means an evaluation of an organization's health and safety management system against an approved standard, carried out by an Energy Safety Canada-certified Auditor;

"Auditor Performance Management Procedure" means the procedures set out under Auditor Performance Management in the Energy Safety Canada Safety Audits and Certifications Manual ([SAC-MNL-001](#));

"Basic Safety Program Audit Protocol" means the protocol contained within the Industry Recommended Practice Volume 9, Basic Safety Program, prior to May 1, 2010, developed and maintained under the auspices of Energy Safety Canada.

"Certified Health and Safety Auditor Program" means the manual provided to all Energy Safety Canada Certified Auditors in the course of their certification training as well as revisions and updates to that manual provided by Energy Safety Canada;

"Certifying Partners" means all organizations offering a Certificate of Recognition Program under the Alberta Employment and Immigration Partnerships in Injury Reduction program or the WorkSafeBC Partners in Injury and Disability Prevention (Certificate of Recognition) Program;

"Day" means calendar day;

"Disciplinary Process" means the entire process of receiving and investigating complaints, imposing disciplinary measures, and providing appeals, in accordance with the Auditor Performance Management Procedure, for any complaint or allegation of Auditor conduct that is prohibited by the Energy Safety Canada Auditor Code of Ethics ([SAC-CFT-002](#)) or serious, unaddressed, or repeated shortcomings in audit quality as determined by the Energy Safety Canada Safety Audits and Certifications Manual ([SAC-MNL-001](#)), the Approved Energy Safety Canada Audit Protocol ([SAC-CFT-014](#)), or the Certified Health and Safety Auditor Program;

"Energy Safety Canada Auditor Code of Ethics" means the Code of Ethics ([SAC-CFT-002](#)) developed by Energy Safety Canada with which the Auditor must comply, as amended from time to time;



"Energy Safety Canada Decision-Makers" means the Program Managers, Managers, and any other senior management personnel functioning within or on behalf of the Energy Safety Canada Health and Safety Certification Program;

"Energy Safety Canada Safety Audits and Certifications Manual" means all procedures, guidelines, and standards officially adopted by Energy Safety Canada and formally captured and made available under this document title, as amended from time to time.

"List of Approved Arbitrators" means the roster of Arbitrators maintained by Energy Safety Canada that includes the names of persons to be chosen by the Parties in the event of an appeal to an Arbitrator as provided for in the Auditor Performance Management Procedure;

"Manager" means an individual assigned by Energy Safety Canada the duties and designation of a Manager;

"Parties" means Energy Safety Canada and the Auditor, and their respective successors and permitted assigns; and "Party" means either one of them.

ARTICLE II **Audit Process**

2.1 Audit Process

- (a) The Auditor hereby agrees:
- (i) to comply with the Approved Energy Safety Canada Audit Protocol (**SAC-CFT-014**), as it is amended from time to time;
 - (ii) to conduct him or herself at all times in a professional manner and in accordance with the Energy Safety Canada Auditor Code of Ethics (**SAC-CFT-002**), as it is amended from time to time; and
 - (iii) to comply with all of the Energy Safety Canada audit standards, guidelines and procedures that are made available as the Energy Safety Canada Safety Audits and Certifications Manual (**SAC-MNL-001**), as amended from time to time.



ARTICLE III Auditor Disciplinary Process

3.1 General Provisions

- (a) The Auditor hereby agrees:
 - (i) to be subject to the Auditor Performance Management Procedure (**SAC-PRO-041**) for the investigation of any complaint or allegation of Auditor conduct that is prohibited by the Energy Safety Canada Auditor Code of Ethics (**SAC-CFT-002**), and to be subject to any disciplinary measures taken by Energy Safety Canada against the Auditor in accordance therewith; and
 - (ii) to be subject to the Auditor Performance Management Procedure (**SAC-PRO-041**) for the investigation of any complaint or allegation of Auditor conduct that is prohibited by the Energy Safety Canada Safety Audits and Certifications Manual (**SAC-MNL-001**), and to be subject to any disciplinary measures taken by Energy Safety Canada against the Auditor in accordance therewith.

3.2 Disciplinary Measures and Appeals

- (a) The Auditor hereby acknowledges and agrees that:
 - (i) Energy Safety Canada Decision-Makers and Arbitrators have the authority to impose disciplinary measures on the Auditor, including, without limitation, the suspension or permanent revocation of the Auditor's Energy Safety Canada certification in accordance with the Auditor Performance Management Procedure (**SAC-PRO-041**);
 - (ii) the Auditor has the right to appeal disciplinary measures to the Manager or an Arbitrator, subject to and in accordance with the provisions of the Auditor Performance Management Procedure (**SAC-PRO-041**);
 - (iii) the decisions of the Arbitrator chosen by the Parties shall be final and binding on the Auditor;
 - (iv) for greater clarity, disciplinary decisions that arise out of the Disciplinary Process and any resulting disciplinary measures that are imposed on the Auditor, whether made by Energy Safety Canada Decision-Makers or an Arbitrator, shall not be within the jurisdiction of any arbitrator appointed under Article 5.5 of this Agreement; and
 - (v) if the Auditor is also an Energy Safety Canada Certified Instructor under a separate agreement with Energy Safety Canada, then if the Auditor is suspended as an Energy Safety Canada Certified Auditor under this Agreement, Energy Safety Canada may, in its absolute discretion, elect to



suspend the Auditor as an Energy Safety Canada Certified Instructor; and, if the Auditor is also an Energy Safety Canada Certified Instructor under a separate agreement with Energy Safety Canada, if the Auditor has been suspended as an Energy Safety Canada Certified Instructor under that separate agreement, Energy Safety Canada may, in its absolute discretion, elect to suspend the Auditor as an Energy Safety Canada Certified Auditor under this Agreement.

3.3 Notification of Disciplinary Measures

- (a) The Auditor acknowledges and agrees that notification of any disciplinary measures, including, without limitation, suspension or revocation of the Auditor's Energy Safety Canada certification, may be given to any or all organizations that have received an audit from the Auditor in the twenty-four (24) months prior to the date when the disciplinary measure is imposed on the Auditor.
- (b) The Auditor acknowledges and agrees that if he or she is suspended for a period of twelve (12) months or more as a result of the Disciplinary Process, all Certifying Partners will be notified of that suspension by Energy Safety Canada.

3.4 Documents Received and Reviewed

- (a) The Auditor acknowledges and agrees that, prior to signing this Agreement, the Auditor has received and reviewed a physical or electronic copy of the following documents, or has been provided with electronic access to the following documents:
 - (i) the Energy Safety Canada Auditor Code of Ethics ([SAC-CFT-002](#));
 - (ii) the Auditor Performance Management Procedure ([SAC-PRO-041](#));
 - (iii) the Energy Safety Canada Safety Audits and Certifications Manual ([SAC-MNL-001](#)), and
 - (iv) all Approved Energy Safety Canada Audit Protocols, including:
 - (A) Certificate of Recognition Health & Safety Audit Protocol ([SAC-CFT-014](#));
 - (B) Small Employer Health & Safety Audit Protocol ([SAC-CFT-016](#));
 - (C) Return to Work / Injury Management Large Employer Audit Tool ([SAC-CFT-015](#)); and
 - (D) Any other Audit Protocols that are approved by Energy Safety Canada from time to time.



ARTICLE IV Waiver

4.1 Waiver of Rights

- (a) The Auditor covenants, acknowledges and agrees as follows:
- (i) With the sole exception of the Auditor's right of appeal to an Arbitrator pursuant to Article 3.2(a)(ii) of this Agreement, and all proceedings related thereto, the Auditor hereby waives any right the Auditor has, or will have, at law or in equity, to bring, commence or maintain any cause of action, suit, claim or any other legal proceeding ("Proceedings") against Energy Safety Canada, any Arbitrator chosen by the Parties, and the employers or related entities of any Arbitrator, and their respective directors, officers, employers, employees, agents, affiliates, successors, assigns, heirs, administrators, executors and estates, and any other individuals or entities involved in or associated with any level of the Disciplinary Process (collectively, the "Participants") either collectively or singularly arising out of or connected with the Disciplinary Process. This waiver shall act as a complete and total bar to the bringing, taking or maintaining of any such Proceedings in any competent jurisdiction or other administrative or quasi-judicial forum (collectively "Forum"), and may be and is intended to be presented to any Forum as a complete and total ban to such Proceedings. The Auditor further covenants and agrees not to bring, take or maintain any Proceedings in relation to the subject matter of this waiver against any other person or legal entity that might result in a claim for indemnity or contribution against the Participants;
 - (ii) The foregoing waiver shall extend to and include all Proceedings for, or by reason of, or arising from, any matters now existing and known, or hereafter arising or discovered by reason or in respect of any fact or matter whatsoever or howsoever arising, in relation to the Disciplinary Process, whether or not any such fact or matter is now known to the Auditor;
 - (iii) The Participants shall be entitled to rely on this Agreement as an estoppel against any such Proceedings commenced by the Auditor against one or more of the Participants; and
 - (iv) Notwithstanding this Article, the Participants may pursue those Proceedings for which specific provision has been made in Article 5.5 of this Agreement.



ARTICLE V General

5.1 Governing Law

This Agreement shall be subject to the law of the Province of Alberta.

5.2 Term of Agreement

- (a) The term of this Agreement commences on the date of execution of this Agreement and terminates on the earliest of the following dates: (i) when the Auditor informs Energy Safety Canada in writing that he or she will no longer be performing Audits, (ii) when the Auditor ceases to comply with the requirements to maintain certification as an Energy Safety Canada-certified Auditor, (iii) when Energy Safety Canada informs the Auditor in writing that his or her certification as an Energy Safety Canada-certified Auditor has been revoked in accordance with the Disciplinary Process, and (iv) when Energy Safety Canada informs the Auditor in writing that Energy Safety Canada is terminating this Agreement; and
- (b) Notwithstanding Article 5.2(a), the provisions of this Agreement that, by their nature, are intended to survive the termination, cancellation, expiration or completion of this Agreement, including all definitions, interpretation provisions, Article III, Article IV, and such other terms and conditions that are necessary to give effect to these provisions shall survive any termination, cancellation, expiration or completion of this Agreement for so long as may be required to ensure that any obligations prescribed by such provisions have been completely discharged.

5.3 Successors and Assigns

- (a) This Agreement shall be binding on the Parties, their respective successors, executors, administrators, heirs and permitted assigns; and
- (b) The Auditor shall not assign or otherwise transfer the Auditor's interest in this Agreement.

5.4 Independent Legal Advice and Acknowledgement

- (a) The Auditor acknowledges and agrees that the Auditor has been advised by Energy Safety Canada to obtain independent legal advice with respect to this Agreement, and specifically with respect to the Auditor's execution of the Waiver of Rights specified in Article IV of this Agreement, and that the Auditor has obtained such advice or has waived the need for such independent legal advice; and
- (b) The Auditor acknowledges and agrees that the Auditor has read and understood the terms of this Agreement.



5.5 Arbitration

- a) If any dispute regarding this Agreement should arise between Energy Safety Canada and the Auditor, the aggrieved Party shall inform the other Party in writing that it wishes to arbitrate the dispute. It is expressly provided in this Agreement that all disputes between Energy Safety Canada and the Auditor regarding this Agreement shall be finally settled by arbitration in accordance with the Alberta *Arbitration Act*, based upon the following:
- (i) the arbitration panel shall consist of one arbitrator, who will be appointed by mutual agreement of the Parties within seven (7) Days following delivery of the written notice to arbitrate, or, in the event of failure to agree, either Party may apply to a judge of the Court of Queen's Bench of Alberta to appoint an arbitrator, in accordance with section 10 of the Alberta *Arbitration Act*. The arbitrator shall be qualified by education and training to pass upon the particular matter to be decided;
 - (ii) the arbitrator shall be instructed that time is of the essence in the arbitration proceeding;
 - (iii) after written notice is given to refer any dispute to arbitration, the Parties will meet within ten (10) Days of the delivery of the notice and will negotiate in good faith to agree upon the rules and procedures for the arbitration, in an effort to expedite the process and otherwise ensure that the process is appropriate, given the nature of the dispute and the values at risk, consistent with the purposes of arbitration in accomplishing fair, speedy and cost effective resolution of the dispute. Failing such agreement, the rules and procedures for the arbitration shall be determined by the arbitrator;
 - (iv) the arbitration shall take place at a location that is mutually agreeable to the Parties, but failing agreement, the arbitrator shall determine the location of the arbitration;
 - (v) except as otherwise decided by the arbitrator, the fees and other costs associated with the arbitrator shall be shared equally by the adverse Parties and each Party shall be responsible for its own costs;
 - (vi) the arbitration award shall be given in writing, shall provide reasons for the decision, and shall be final and binding on the Parties, not subject to any appeal, shall be deemed to be a judgment rendered by the Courts of the Province of Alberta, and shall deal with the question of costs of arbitration and all related matters;
 - (vii) judgment upon any award may be entered in any court having jurisdiction, or application may be made to the court for a judicial recognition of the award or an order of enforcement, as the case may be;



- (viii) other than any action necessary to enforce the arbitrator's award, the Parties agree that the provisions of this Article are a complete defense to any suit, action or other proceeding instituted in any court or before any administrative tribunal with respect to any dispute arising under or in connection with this Agreement;
- (ix) all disputes referred to arbitration (including the scope of the agreement to arbitrate, any statute of limitations, conflict of laws rules, tort claims and interest claims) shall be governed by the substantive law of Alberta;
- (x) the Parties agree that the arbitration shall be kept confidential and that the existence of the arbitration and any element of it (including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions, and any awards) shall not be disclosed beyond the arbitrator, the Parties, their counsel and any person necessary to the conduct of the proceeding, except as permitted by Article 3.3 of this Agreement, or as may lawfully be required in judicial proceedings relating to the arbitration or otherwise; and
- (xi) the time limits referred to in this Article may be extended by the mutual written agreement of the Parties.

5.6 Interpretation

- (a) Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement, the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires;
- (b) Headings used in this Agreement are for convenience of reference only and shall not be used in interpreting the text; and
- (c) Time shall be of the essence.

5.7 Notice

- (a) All notices to be given under this Agreement to Energy Safety Canada shall be in writing and shall be sent to the following contact by facsimile:

ENERGY SAFETY CANADA
Attention: Vice President, Operations
Fax: (403) 516-8167
- (b) All notices to be given under this Agreement to the Auditor shall be in writing and shall be sent by registered mail to the address written by the Auditor in this Agreement.



5.8 Additional Agreements

- (a) In the event of any conflict between a provision of any other agreement among the Parties, and a provision of this Agreement, this Agreement shall prevail;
- (b) This Agreement amends and supersedes all prior agreements executed between Energy Safety Canada and the Auditor, with the following exceptions:
 - (i) this Agreement does not supersede or invalidate in any way the Audit Registration System (ARS) Forms that the Auditor has signed prior to signing this Agreement; and
 - (ii) this Agreement does not supersede or invalidate in any way agreements between the Auditor and Energy Safety Canada regarding disciplinary measures that Energy Safety Canada has taken against the Auditor prior to the signing of this Agreement.

5.9 Modification of Agreement

This Agreement may not be amended or modified in any way except by written instrument signed by the Auditor and Energy Safety Canada.

5.10 Severability

In the event that any provision(s) of this Agreement is held to be invalid or unenforceable in whole or in part, by a court of competent jurisdiction, such provision(s) shall be automatically revised and reduced in scope so as to be valid and enforceable and failing which, such provision(s) shall be deemed to be severed from this Agreement without affecting or impairing the validity of any other provision herein.

5.11 Independent Legal Advice

The Parties have had the opportunity to seek and obtain independent legal advice with respect to the matters addressed in this Agreement and acknowledge that the terms of this Agreement, being contractual and not mere recitals, have been read and are fully understood by each Party.



IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year noted beside their respective signatures:

Auditor Signature

Witness Signature

Auditor Printed Name

Witness Printed Name

Date

ENERGY SAFETY CANADA

Per: _____
Manager

Date