



MEMORANDUM OF UNDERSTANDING

BETWEEN:

THE THUNDER BAY POLICE SERVICE

(hereinafter called 'TBPS')

And

**SELECT TOWING COMPANIES OPERATING IN THE JURISDICTION OF THE CITY OF
THUNDER BAY AND TOWNSHIP OF OLIVER-PAIPOONGE**

(see list of signatories to this MOU)

entitled

"Rotational and Police Ordered Towing"

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1.0 PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to ensure that both the Thunder Bay Police Service (TBPS) and the general public are provided with reputable, efficient, and dependable towing services that are consistent with acceptable business practices. The MOU also services to ensure the provision of a fair and equitable system of dispatching for both police ordered tows and non-police ordered tows.

2.0 DEFINITIONS

Client - means the registered owner of a vehicle requiring to be towed, or in absence of such owner, the agent of the owner, duly authorized to exercise control, or any person having lawful custody of a vehicle requiring to be towed or the legal right to possession thereof;

Driver - means the driver of a tow truck unit.

Owner - means the owner or co-owner/joint owner of a towing company.

Police Ordered Tow Program - means the program where affiliated towing companies are dispatched on a rotational basis to tow vehicles under the authority of police order.

Rotational (Vehicle Accident) Towing Program - means the program where affiliated towing companies are dispatched on a rotational basis to tow vehicles at accident scenes at the behest of the TBPS.

Towing Company – means a business that provides one or more towing services.

Tow Operator – means a person who, directly or indirectly, alone or with others, operates, manages, supervises, runs or directs the offer of or provision of towing services including an operator as defined in subsection 16(1) of the *Highway Traffic Act* and any other prescribed person.

Towing Service - means towing, recovery or transportation in respect of motor vehicles that are disabled, abandoned, impounded, seized, damaged, incomplete or inoperable or that require removal from a location for any other reason.

Tow Truck – means,

- (a) a motor vehicle commonly known as a tow truck;
- (b) a commercial motor vehicle, as defined in subsection 1 (1) of the *Highway Traffic Act*, with a flatbed that can tilt to load and that is used to tow or transport other motor vehicles, and
- (c) subject to any prescribed exceptions, a motor vehicle that is designed, modified, configured or equipped so that it is capable of towing other motor vehicles;

Tow Truck Broker - means a person who, in pursuance of a trade, calling, business or occupation, arranges for the provision for hire to a hirer of the services of a tow truck not owned by such person;

Tow Truck Driver – means a person who drives a tow truck for the purpose of providing towing services.

Unit - means tow truck.

Vehicle Storage Operator - means a person who, directly or indirectly, alone or with others, operates, manages, supervises, runs or directs the offer of or provision of vehicle storage services.

Vehicle Storage Services - means the receiving and holding of towed motor vehicles and any other prescribed services.

Vehicle Storage Yard Facility – subject to regulations, means a lot, yard or other premises used to provide vehicle storage services.

3.0 **INCLUSION CRITERIA**

In order to be included in the Rotational (Vehicle Accident) Towing Program, an owner must:

- a) have a towing service which includes vehicle storage in compliance with the *Towing and Storage Safety and Enforcement Act, 2021* (TSSEA);
 - i) if a storage location is being used for vehicle storage, it must be either owned or leased by the owner applying to be included and must not be shared with any other company;
- b) provide a 24-hour telephone answering and towing service;
- c) have valid insurance coverage with an insurer licensed under the *Compulsory Automobile Insurance Act*.

- d) provide, in the opinion of the Chief of Police, a dependable service, void of deceitful and corrupt practices and structured to reflect the client's best interests;
 - e) own all towing service vehicles representing the company;
 - i) no vehicle hired by the company via a tow truck brokerage agreement between the owner and the broker shall tow for the TBPS towing service system at any time unless specific authorization by the Chief of Police or designate is given in writing;
 - f) provide the articles of incorporation of the company being requested, outlining the ownership and percentages of ownership agreements;
 - g) complete a Performance Agreement (see Schedule "A") as specified.
- 3.1 The companies currently authorized under this MOU can be found under Schedule B. Schedule B shall be reviewed on an annual basis by the TBPS Traffic Unit Supervisor or designate.
- 3.2 For clarity, should ownership of a company listed within Schedule B transfer to another owner, all sections of this MOU shall be complied with and all required documentation listed herein must be resubmitted by the new owner within thirty (30) days of the transfer of ownership.
- 4.0 **OWNERSHIP**
- The following section provides guidance for tow operators with respect to expectations of the TBPS as per this agreement.
- 4.1 An owner or employee of the owner may not use an affiliation with an automobile body repair service to influence a client to use such service.
- 4.2 An owner is responsible for the conduct of the towing service drivers.
- 4.3 An owner must each year, between November 1st and November 30th, of that year, or in the case of an additional vehicle being added to fleet, prior to use, complete the *TBPS Tow and Storage Service Operator Application* and provide a list to the TBPS of each unit proposed to be used for calls. Information for each unit shall include:
- a) year, make, model of the unit;
 - b) Registered Gross Weight (RGW);
 - c) vehicle number plate and fleet number if applicable;
 - d) licence number, by-law license - where applicable;
 - e) registered owner information;
 - f) proof of insurance as required under the *Compulsory Automobile Insurance Act*;
 - g) insurance company and policy number;
 - h) expiry date of insurance, agents name and phone number;
 - i) copy of annual inspection certificate;
 - j) CVOR number;
 - k) TSSEA Tow Operator certificate;
 - l) a valid TSSEA vehicle storage certificate;
 - m) any other information deemed necessary by the Chief of Police.

- 4.4 Each year between November 1st and November 30th of that year, an owner must provide the TBPS with the following information pertaining to each driver:
- a) Name;
 - b) Date of birth;
 - c) Driver's licence number and class;
 - d) Copy of TSSEA tow driver certificate.
- 4.5 An owner must notify the TBPS in writing, within seven (7) days of any changes involving drivers, or units employed in conjunction with the towing service.
- 4.6 An owner must notify the TBPS in writing at least 14 days prior to any change in vehicle storage yard facilities.
- 4.7 An owner must ensure that the company and employees are compliant with the *Towing and Storage Safety and Enforcement Act* (TSSEA) and its Regulations.
- 4.8 An owner must, within 48 hours, notify the TBPS Traffic Sergeant by email at tbpstraffic@thunderbaypolice.ca of any CVOR or TSSEA sanction, cancellation or suspension.

5.0 **LICENSING AND INSPECTION**

The following section provides guidance on licensing and inspection requirements.

- 5.1 An owner must comply with the registration and licensing requirements of the *Highway Traffic Act* as they pertain to vehicles and drivers. This also applies to any by-laws that are in effect for the City of Thunder Bay and/or the Municipality of Oliver Paipoonge.
- 5.2 A driver must possess a valid Ontario Driver's license of the proper classification to operate a unit. A driver must also possess the necessary licenses as required by the by-laws of the City of Thunder Bay and/or the Municipality of Oliver Paipoonge.
- 5.3 A towing service found to be without a current permit, annual inspection certificate or valid insurance coverage will be subject to immediate suspension from the rotational vehicle accident towing program.
- 5.4 Upon request, an owner must submit to a towing vehicle, vehicle equipment, impound, and towing vehicle driver inspection annually. The inspection will be completed by the TBPS Traffic Unit.
- 5.5 Owners who fail to submit or provide access to vehicles, drivers and/or vehicle storage yard facilities upon demand will be subject to immediate suspension from the rotational (vehicle accident) and police ordered towing privileges.

6.0 **TOWED VEHICLE STORAGE**

The following section outlines expectations for the storage of towed vehicles as well as routine reporting requirements on towed vehicles.

- 6.1 The Vehicle Storage Yard Facility must:

- a) be subject to inspection (initial and periodic) and approval by the TBPS;
 - b) provide sufficient space to accommodate towed vehicles stored on behalf of the TBPS;
 - c) be secure to the satisfaction of the Chief of Police or designate;
 - d) be accessible 24 hours a day (including weekends and holidays with no exceptions) for police access.
- 6.4 The vehicle storage yard facility must be located within the City of Thunder Bay, upon lands controlled by the towing company for the storage of impounded vehicles as ordered by TBPS.
- 6.5 The towing company shall provide sufficient staff at their own expense to provide and make available to TBPS impounding services and access to vehicle storage yard facilities twenty-four (24) hours, seven (7) day a week.
- 6.6 No vehicle identified as being held by TBPS for investigation purposes shall be released from a vehicle storage yard facility without the written direction from the TBPS.
- 6.7 The towing company will maintain reasonable hours at their vehicle storage yard facility(ies) for owners to pick-up their impounded vehicles or possessions contained within those vehicles.
- 6.8 Impounding will also include completion of any documentation that may be required including but not limited to setting out all the particulars relating to the time, place, location and storage along with the circumstances of the towing for each vehicle and delivery of the documentation to TBPS.
- 6.9 The towing company shall keep accurate records of every vehicle impounded. Each Monday the towing company shall email the TBPS designate a weekly report of vehicles impounded and their status including the following information:
- a) the make and licence plate number of each vehicle;
 - b) the TBPS incident number;
 - c) the time and date each vehicle was removed (if applicable).
- 6.10 The above-mentioned report shall be emailed to both the Traffic and Records Departments using the following email addresses:
- a) Traffic Unit: tbpstraffic@thunderbaypolice.ca
 - b) Records Department: cpic@thunderbaypolice.ca
- 7.0 **FEES**
- Towing companies participating in the program shall submit an itemized schedule of fees for all towing services and storage to the TBPS.
- 7.1 Where a fee is deemed to be excessive, the Chief of Police or designate will discuss the matter with the owner, with a view to a reasonable adjustment where appropriate. "Reasonable" and/or "excessive" are to be determined by the Chief of Police or designate after review of schedule of fees from towing services. The Chief of Police

has the authority under this MOU to make a final determination that a fee is "unreasonable or excessive".

8.0 VEHICLE AND EQUIPMENT

A tow company may have a minimum of one (1) unit. It may be a tow truck with a boom and wheel lift and having a GVW of no less than 4500 kg., or a flatbed / carrier truck within the guidelines of the Ministry of Transportation for Ontario.

8.1 A towing service must be capable of providing a standard towing service.

8.2 A unit used for standard towing shall be equipped to handle each type of towing requirement commonly experienced on the highway. This equipment shall include:

- a) a hoisting device of sufficient capacity and torque to safely lift the vehicle being towed (winch or hydraulic deck);
- b) a tow cradle, tow bar or tow sling that is maintained in a manner sufficient to ensure the safe lifting and conveyance of a towed vehicle (if equipped);
- c) a device to secure the steering wheel of the towed vehicle (if required);
- d) at least one fire extinguisher with a minimum of 2.75 pounds of dry chemical capable of functioning at -40C;
- e) at least two (2) safety chains, each being a minimum of 10 feet, and comprised of links of at least 5/16-inch steel or proper working load limit straps with tags or synthetic straps in good condition;
- f) proper dollies in working order (if equipped);
- g) a broom, shovel, and floor dry or equivalent for scene clean up;
- h) standard vehicle lighting requirements under the *Highway Traffic Act*;
- i) one or more lamps that display an intermittent amber warning light, where at least one lamp is permanently mounted on the top of the vehicle and is clearly visible from all directions for a distance of at least 100 metres;
- j) light bar or magnet lights for use on towed vehicle;
- k) where necessary heavy duty pry bar;
- l) bucket for debris clean up;
- m) flares in sufficient quantity for 30 minutes of use or LED flares/lights;
- n) minimum of 100 feet of either winch cable, chain or synthetic winch cable
- o) flashlight, reflective safety vest and proper footwear for each driver and assistant in good condition with no obstruction to the reflective material.

8.3 On application, a copy of the certificate of mechanical fitness (annual inspection) for each unit must be submitted to the TBPS as required by the Chief of Police.

8.4 A unit towing for the TBPS must be in safe operational condition at all times.

8.5 An operator of the unit or any employee attending the scene or assisting the TBPS in any manner shall not be impaired to any degree or under the influence of drugs or alcohol.

8.6 The Chief of Police or designate may at any time require a mechanical inspection of a unit towing for the TBPS, and require proof of mechanical certification for the unit.

8.7 The towing service must have its name painted on the outside doors on each side of the vehicle in letters at least 8 cm in height, in a colour contrasting to that of the doors, so that the name is prominently displayed.

9.0 **RESPONSE**

The following outlines the TBPS requirements for Tow Company response.

9.1 The towing company must respond with towing service at any time:

- a) to a scene when requested;
- b) under normal circumstances, to the scene of an accident within twenty (20) minutes of the time dispatched;

9.2 In the event a company cannot provide the requested services (e.g. heavy tow/tractor trailer unit) they shall as soon as practicable advise TBPS of the same, but will remain in queue for the next available tow;

9.3 Where extenuating circumstances arise and a Tow Company cannot provide an adequate response time, they will advise TBPS as soon as practicable to allow another company to be dispatched without incurring unnecessary delay. Under no circumstances can a towing company sublet a call to another service, nor a tow service accept a sublet call from another company.

9.4 Where incident reports or documentation support a status of unreliability (e.g. fail to answer phone or fail to respond within the time limit), the company shall be removed from the allocated list.

10.0 **INVESTIGATING OFFICER / OFFICER ON SCENE**

In the event of a collision where the vehicle is not subject to a police ordered tow, the officer at the scene shall ask the client if they have a preference regarding a towing company. If no preference is provided, the officer will request that communications contact the dispatcher and request a rotational tow. In the case of all vehicles subject to a police order tow, the officer will request that communications contact the dispatcher and request a police ordered tow.

10.1 The owner/driver of a unit acknowledges that the officer at the scene of any occurrence will have the final say as to the towing of vehicles within these guidelines. As such, the following standards apply:

- a) Any owner/driver causing an undo altercation by disobeying the officer at the scene will have automatically violated these guidelines and will be removed from the program;
- b) Any concern initiated as a result of the officer's actions at the scene will be directed to the Chief of Police or designate;

- c) Except as otherwise provided in this MOU, a driver must not remove any vehicle from the scene or immediate vicinity of the scene of a reportable accident until the investigating member has completed the investigation or has stated that the presence of the vehicle is no longer required;
 - d) This MOU is not meant to preclude a driver from initiating, in an emergency, action to move a vehicle to a nearby place of safety for the purpose of preventing subsequent injury;
 - e) This MOU does not confer authority to a unit operator to remove a vehicle from the travelled portion of the highway in a routine accident situation, notwithstanding that traffic congestion may exist or occur;
 - f) An emergent action does not confer to the driver or towing service a lien under Part 111 of the *Repair and Storage Liens Act* or a towing right against the towed vehicle.
 - g) A vehicle may only be removed from the scene by the tow service requested on behalf of the client or by the TBPS.
 - h) In the event of a police ordered tow, TBPS will provide a TBPS towed vehicle report indicating the towing company, who provided the service and the time period the vehicle shall be impounded for. The tow company shall maintain a copy for their records.
- 10.1 A driver is required to tow a vehicle by the most direct route to one of the following locations:
- a) a location specified by a TBPS member;
 - b) a location specified by the client;
 - c) to the vehicle storage yard facility maintained by the towing service (if after hours and cannot be delivered to the requested body shop/garage);
 - d) In the event of a police ordered tow, the vehicle shall be impounded and not released prior to the length of hold indicated on the TBPS towed vehicle report.
- 10.2 Prior to towing a vehicle to a specific location at the client's request, a driver will advise a client of the towing service's policy regarding method of payment for obtaining release of a towed vehicle and provide the client with a business card listing the compound location.
- 10.3 Except under the expressed authority of the client, a towed vehicle may not be delivered into the custody of another business involved in the mechanical or auto body repair of vehicles.
- 10.4 Pursuant to Section 171 of the Highway Traffic Act, an owner or driver may not solicit business on behalf of his towing service from any person in the Thunder Bay area.

11.0 CONFLICT RESOLUTION PUNITIVE MEASURES

Any complaints regarding Towing services shall be directed to the Traffic Sergeant of the TBPS. If substantiated, the following punitive measures will apply.

- 11.1 For a substantiated breach of any sub-sections relating to sections 4,5,6,7,8, 9, and 10:
- a) a single substantiated contravention of the above will result in a thirty (30) days suspension;
 - b) a second substantiated contravention occurring within the same calendar year will result in a six (6) month suspension;
 - c) a third substantiated contravention occurring within the same calendar year will result in a one (1) year suspension.
- 11.2 Where a towing company's owner (driver or any employee) acts in a manner to bring discredit to the TBPS, it will result in a punitive measure of one (1) year suspension.
- 11.3 Where a company attempts to mislead the TBPS in any fashion to circumvent their suspension, that company will incur a punitive measure of an indefinite suspension, the minimum being two (2) years.
- 11.4 Where a company, owner, driver or employee are found to be involved in any corrupt or deceitful practices or convicted of a criminal code offence which in the opinion of the TBPS negatively affect the reputation of the police service, the company shall be suspended for a minimum of two (2) years.
- 11.5 Where a company, owner, driver or employee are the subject of a CVOR or TSSEA cancellation or suspension, the company shall be suspended until they are compliant with the TSSEA and HTA.

12.0 VEHICLE IMPOUNDMENT PROGRAM (VIP)

The TBPS and City of Thunder Bay (COTB) vehicle impoundment program (VIP) fee will be applied to vehicles that have been impounded due to the Ministry of Transportation's Vehicle Impound Program.

- 12.1 VIP towed vehicles are vehicles that are identified by the Ministry of Transportation as such or those that have a mandatory hold period assigned to the offence causing the impound. These vehicles include impounds caused by driving while under criminal disqualification and driving while under certain types of suspension. VIP towed vehicles have mandated impound durations of 7, 14, 45, 90 or 180 days, depending on the reason for disqualification/suspension and frequency of offence.
- 12.2 This program will not include non-VIP related vehicle impounds, such as certain impaired drivers, abandoned vehicles, vehicles impeding traffic, vehicles requiring further investigation, and certain types of suspension.
- 12.3 The towing company will be charged a fee of \$80.00 per vehicle towed due to the Ministry of Transportation's Vehicle Impound Program. This fee can be recovered by

the towing company as an extended fee to the Registered Owner of the impounded vehicle.

- 12.4 The investigating officer responsible for causing the impoundment will notate on the tow sheet that this is a qualifying impound for the purpose of this program. The TBPS Traffic Sergeant will provide a list of impounded vehicles that qualify as a VIP towed vehicle on a monthly basis and will issue an invoice to the towing company on a monthly basis.
- 12.5 The towing company will have 30 days to provide payment which shall be submitted as per this agreement to:

Thunder Bay Police Service
1200 Balmoral Street
Thunder Bay, Ontario P7B5Z5

13.0 **APPLICATION AND PERFORMANCE AGREEMENT**

Towing services wishing to participate in this program shall email a completed *Performance Agreement* (Schedule "A") and *TBPS Tow and Storage Operator Application* (Schedule "B") to the TBPS Traffic Sergeant at tbpsttraffic@thunderbaypolice.ca.

14.0 **REMOVAL FROM AGREEMENT**

Notwithstanding conditions which may disqualify a towing company from participating in the rotational and police ordered tow program as outlined in this memorandum, a towing company may choose to remove itself from the agreement at any time. In order to do so, the towing company must provide a request for removal, in writing, to the TBPS Traffic Sergeant. The request must come from an authorized official of the towing company.

SCHEDULE A – PERFORMANCE AGREEMENT

NOTE: This form must be completed, properly signed by an authorized official of the towing company and submitted to the TBPS Traffic Sergeant in order to participate in the TBPS Rotational Towing Program.

WE, THE UNDERSIGNED, HEREBY AGREE TO COMPLY FULLY WITH ALL TERMS AND CONDITIONS AS OUTLINED IN THE MEMORANDUM OF UNDERSTANDING ENTITLED ROTATIONAL AND POLICE ORDERED TOWING.

Company Name

Mailing Address

Phone Number

Email Address

Signature of Authorized Official

Date

Please Print Name: _____

Schedule “B” – TBPS Tow and Storage Service Operator Application

This application is made available on the TBPS public website and can also be requested through the TBPS traffic Unit office.