



August 8, 2017

*[CB-CDA 2017-080]*

**File: Private Copying 2018-2019**

**ORDER DEALING WITH INFORMATION FOR WHICH  
CONFIDENTIAL TREATMENT MAY BE CLAIMED**

1. In this order,

“confidential information” means information that a supplier believes is so sensitive that its disclosure to persons other than those authorized pursuant to this order would reasonably be expected to result in injury to the supplier or to the person who supplied the information to the supplier;

“confidentiality agreement” means the agreement set out in the Appendix to this order;

“recipient” means a participant to this proceeding who receives information from a supplier;

“supplier” means a participant to this proceeding who supplies information to a recipient.

2. This order applies to information that a supplier designates as confidential information.

3. Counsel to the recipient or the recipient, if unrepresented, as the case may be, shall execute and deliver the confidentiality agreement to counsel to the supplier or the supplier, if unrepresented.

4. Information subject to this order shall be disclosed only to persons authorized pursuant to this order.

5. Subject to paragraphs 6 and 7, confidential information shall be provided to counsel to the recipient or the recipient, if unrepresented, as the case may be, who may disclose it to no one except:

(a) if the recipient is represented, a member of counsel’s staff;

(b) a person retained by the recipient as an expert or consultant (other than a director or employee of a participant) for the purposes of this proceeding, and that person’s staff;  
and

(c) not more than five representatives of the recipient to be designated by each recipient. Such a person may be a director or employee of the recipient and should, if possible, be a member of the Bar.

6. No information that is subject to this order may be disclosed to a person unless and until that person has executed and delivered the confidentiality agreement to counsel to the supplier or the supplier, if unrepresented.

7. The executed confidentiality agreement referred to in paragraph 6 must be delivered to counsel to the supplier or the supplier, if unrepresented, as the case may be, three clear working days before any information subject to this order is disclosed. The supplier may, within that time, object to the disclosure of information to the person who has signed the agreement. The supplier may waive the objection period by informing the recipient. If an objection is made, no information subject to this order shall be disclosed to the person until the Board has ruled on the objection.

8. All documents containing confidential information shall be printed on white paper with confidential information highlighted in yellow. Where an entire page is confidential, that page only may be printed on yellow paper and the balance of the document shall be printed on white paper.

9. Anyone who intends to use, during the proceeding, information subject to this order or any summary, aggregations or reproduction, in whole or in part, of such information shall attempt to agree with the supplier on a manner in which the information may be put into the public record or, alternatively, on a form that, though it may require confidential treatment, will minimize the risks and difficulties associated with dealing with the information. Absent such an agreement, the recipient who still wishes to use the information despite the supplier's confidentiality claims shall bring the matter to the attention of the Board pursuant to the directive on procedure applicable to the proceedings. The supplier's confidentiality claims shall be complied with until the Board disposes of the matter.

10. Where information subject to this order may be conveniently aggregated with similar information provided by others, it shall not be a breach of this order for the recipient to aggregate the information and to provide the aggregated results to all the suppliers who provided the disaggregated information, on the condition that all those who supplied the disaggregated information consent to the aggregated information being provided to others. The recipient's use of the aggregated information shall be governed by paragraph 9.

11. All information that is subject to this order shall be destroyed within 30 days following completion of this proceeding, including any applications for judicial review and any appeals therefrom, except where required by statute or regulation to be retained, or where retained pursuant to paragraphs 12 or 13.

12. Counsel to a recipient may retain in their confidential files part or all of the information subject to this order, and any materials derived therefrom, after the proceeding is completed.

13. A person may retain in that person's confidential files any material prepared by or for that person which does not replicate the information subject to this order but which, if itself disclosed, could lead indirectly to the disclosure of the information subject to this order. Such material shall be subject to this order until it is destroyed.

14. This order is subject to further direction of the Board. Consequently, anyone who is of the view that this order is inappropriate for dealing with any confidential information, or that a supplier's designation of information as confidential under this order is inappropriate, may apply for further direction from the Board.

A handwritten signature in black ink, appearing to read "Gilles McDougall". The signature is fluid and cursive, with the first letter of each word being significantly larger and more stylized than the others.

Gilles McDougall  
Secretary General

**APPENDIX**

**COPYRIGHT BOARD**

**CONFIDENTIALITY AGREEMENT**

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IN CONSIDERATION of being provided with information in connection with this proceeding over which claims for confidentiality have been advanced, I, \_\_\_\_\_, of the City of \_\_\_\_\_, in the Province of \_\_\_\_\_, agree to maintain the confidentiality of that information. I shall not copy or disclose it to anyone other than a person authorized pursuant to the Copyright Board’s Order [CB-CDA 2017-080] (the “Order”) nor shall I use it for any purpose other than in connection with this proceeding.

I have read the Order, a copy of which is attached hereto, and agree to be bound by it. I acknowledge and agree that any breach of this agreement shall be considered to be a breach of the Order. I also acknowledge and agree that the person who supplied the information may not have an adequate remedy at law and would be irreparably harmed in the event that any of the provisions of this agreement are not performed in accordance with its specific terms or otherwise breached. Accordingly, I agree that the person shall be entitled to injunctive relief to prevent breaches of this agreement and to specifically enforce its terms and provisions, in addition to any other remedy to which the person may be entitled at law or in equity.

Once the proceeding, including all appeals, is completed, I may retain in my confidential files any material prepared by or for me which does not replicate the information subject to the Order but which, if itself disclosed, could lead indirectly to the disclosure of the information subject to the Order. All material retained pursuant to this paragraph shall remain subject to the Order until such material is destroyed. I shall destroy all other information that is subject to the Order within 30 days of the proceeding being completed unless the Board orders otherwise.

I hereby submit to the jurisdiction of the Copyright Board of Canada and the Federal Court of Canada for the purposes of this agreement and the Order and any necessary enforcement or injunction proceedings.

Signed, sealed and delivered before a witness this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

Relationship to Recipient (as defined in the Order) \_\_\_\_\_

\_\_\_\_\_  
(Print Name – Witness)

\_\_\_\_\_  
(Signature – Witness)