7. Appendix

7.1 Terminology

Acceptable Solution: a method of complying with the performance-based code specified in the guidance publications.

Alternative Solution: a method of complying with the performance-based code not specified in the guidance publications.

Automatic backflow preventer: an automatic device used to protect water supply systems against contamination from unintended reversals of flow.

Building element: any structural or non-structural component or assembly associated with a building. Included are fixtures, services, drains, and permanent mechanical installations for access, glazing, partitions, ceilings, and temporary supports.

Building permit: a permit (sometimes called a consent or authorisation) from the control authority to commence construction in accordance with approved plans and specifications (sometimes called a building consent).

Building producer: a person responsible in any capacity for the design and construction of any part of a building.

Completion certificate: a certificate from the control authority verifying satisfaction that all work under a building permit has been properly completed. Sometimes serves as an occupancy permit.

Construction: includes alteration, relocation, and so on.

Control authority: the authority which enforces the building control legislation.

Existing building: (a) a building competed before the legislation introducing a performance-based system came into force; or (b), a building erected under the performance-based system and for which a completion certificate has been issued.

Guidance publications: publications, making up Levels Four and Five of a performance-based code, which may, but not must, be used to establish compliance with the performance requirements of that code. Guidance publications specify "**Acceptable Solutions**", sometimes called "examples of conformance", frequently by reference, with or without amendment, to current prescriptive specifications for materials, building elements, and even complete buildings. Guidance publications also specify "verifications methods", frequently by reference, with or without amendment,

to current design codes and test methods.

Liability: civil responsibility as distinct from criminal responsibility. The legal obligation to pay money to another person suing for a private wrong. When a wrongdoer is liable to a victim for a building defect, the wrongdoer will be liable for some or all of the money necessary to remedy the defect and recompense the victim for any directly related losses and sometimes for pain and suffering. The basis for liability varies between different jurisdictions. The report is written in terms of liability as it generally exists in Commonwealth jurisdictions.

Liability in contract: liability arising from a breach of contract.

Liability in tort: liability arising from a civil wrong other than breach of contract. Owners' and building producers' liability in tort for building defects will almost always be for the tort of negligence. Control authorities' liabilities will almost always be for breach of a duty imposed on the control authority by the legislation. Liability in tort is said to be "joint and several" when two or more wrongdoers are each responsible for the full amount of the same loss, for example where a building producer negligently causes a defect which a control authority negligently fails to discover. The victim can sue any of the wrongdoers (almost inevitably choosing the control authority as the most financially capable), and that wrongdoer may in turn sue each of the others for amounts allocated on the basis of responsibility for the loss (usually of the order of 20% responsibility by the control authority, 80% by the building producers).

Vicarious liability: liability of employers for the wrongdoing of their employees in the course of employment.

Owner: The owner of the building concerned. References to building producers usually apply to owners also on the basis that the producer is almost always either the owner or the owner's agent.

Performance-based code: a code as described in CIB Publication 206: *Final Report of CIB Task Group 11 Performance-based Building Codes.* Performance-based building codes are, in most instances, structured in accordance with various variations of the Nordic Five Level System:

- Level One - Goals
- Level Two - Functional requirements
- Level Three - Operative requirements (sometimes called "performance criteria" and referred to in this segment as "performance requirements')
- Level Four - Verification methods
- Level Five - Acceptable solutions.

Person: includes both people ("natural persons') and organisations.

Private certifier: person other than the control authority authorised to assess compliance with all or part of the performance-based code.

Statutory duty: a legal duty imposed by legislation.

Tort: a civil wrong other than breach of contract.

Solution: a method of complying with a performance-based code.

Use (of a building): what a building is used for sometimes called its occupancy. May be general ("place of assembly", "residential") or specific ("cinema seating 250 people", ‘single-family detached house", "30-unit apartment building"). Many buildings have more than one use.

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[xxvi] Unless otherwise noted, the following discussion is excerpted from, Meacham, B.J., "Assessment of the Technological Requirements for the Realisation of Performance-Based Fire Safety Design in the United States - Phase I: Fundamental Requirements," Proceedings of the Second International Conference on Fire Research and Engineering, SFPE, May 1998.

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