



**NEWFOUNDLAND
AND LABRADOR**

PUBLIC SERVICE PENSION PLAN

Joint Sponsorship Agreement

JOINT SPONSORSHIP AGREEMENT

THIS JOINT SPONSORSHIP AGREEMENT, including Appendices “A”, “B” and “C” (the “**Agreement**”), is made the 10th day of December, 2014,

BETWEEN:

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the Minister of the Department of Finance

(the “**Government**”)

AND:

THE ASSOCIATION OF ALLIED HEALTH PROFESSIONALS (“AAHP”),

THE CANADIAN UNION OF PUBLIC EMPLOYEES (“CUPE”),

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (“IBEW”),

THE NEWFOUNDLAND AND LABRADOR ASSOCIATION OF PUBLIC AND PRIVATE EMPLOYEES (“NAPE”), AND

THE NEWFOUNDLAND AND LABRADOR NURSES’ UNION (“NLNU”)

(collectively the “**Unions**”)

WHEREAS effective September 2, 2014, the Government and each of the Unions (the “**Parties**”) entered into the Public Service Pension Plan Reform Agreement (the “**Reform Agreement**”) to revise the terms and conditions of the Public Service Pension Plan;

AND WHEREAS under the terms of the Reform Agreement, the Pension Plan is to have two sponsors, (i) the Government and (ii) the members of the Pension Plan (the “**Sponsors**”), as represented by the Unions and otherwise for non-Union members;

AND WHEREAS under the terms of the Reform Agreement, the Parties agreed to the establishment of a funding policy with respect to how to respond to actuarial surpluses and deficits in the Pension Plan at prescribed intervals;

AND WHEREAS the Parties wish to enter into this Agreement for the purposes of (i) setting out the terms and conditions of the joint sponsorship of the Pension Plan; and (ii) establishing the Funding Policy.

NOW THEREFORE the Parties agree as follows:

Article 1 Interpretation

1.1 Defined Terms

In this Agreement, unless the context requires another meaning, the following defined terms have the following meanings:

- (a) **“Accrued Benefits”** means benefits earned and to which a Member is entitled under the Pension Plan as of the date of the change, without projection of future salary or service, and assumed to start at the Normal Retirement Date, unless the Member has qualified for retirement under early retirement with an unreduced pension;
- (b) **“Active Member”** means an employee of an Employer, as defined in the Funding Policy, who is required to participate in the Pension Plan;
- (c) **“Board”** or **“Board of Directors”** means the board of directors of the Corporation;
- (d) **“Chair”** means the chair of the Sponsor Body appointed from time to time pursuant to this Agreement;
- (e) **“Corporation”** means the Public Service Pension Plan Corporation, which Corporation is the administrator and trustee of the Pension Plan, established pursuant to Section 36.1 of the *Public Service Pensions Act, 1991*, SNL 1991 c 12;
- (f) **“Deferred Pensioner”** shall have the meaning ascribed in the *Public Service Pensions Act, 1991*;
- (g) **“Director”** means a member of the Board of Directors of the Corporation;
- (h) **“Effective Date”** means March 31, 2015;
- (i) **“Fund”** means the Public Service Pension Plan Fund, established pursuant to the *Public Service Pensions Act, 1991*;
- (j) **“Funding Policy”** means the funding policy attached hereto as Appendix “A”, which forms part of the Joint Sponsorship Agreement;
- (k) **“Government Representatives”** means the representatives of the Sponsor Body appointed by the Government;
- (l) **“Inactive Members”** means Deferred Pensioners and Pensioners, and “Inactive Member” shall mean any one of them;
- (m) **“Inactive Member Representative”** means the representative(s) of the Sponsor Body appointed by Newfoundland and Labrador Public Sector Pensioners’

Association to represent the interests of the Inactive Members;

- (n) **“Member”** means Active Members and Inactive Members, and “Member” shall mean any one of them;
- (o) **“Non-Union Representative”** means the representative of the Sponsor Body appointed by the Government or if there is a non-union association representative of the non-union Active Members, appointed by that association;
- (p) **“Parties”** means the Government and each Union, and “Party” shall mean one of them;
- (q) **“Pensioners”** shall have the meaning ascribed in the *Public Service Pensions Act, 1991*;
- (r) **“Pension Plan”** means the Public Service Pension Plan, as continued under the *Public Service Pensions Act, 1991*, or a contract that replaces the relevant provisions of that act;
- (s) **“Reform Agreement”** shall have the meaning ascribed in the first recital;
- (t) **“Representatives”** means, collectively, the Union Representatives, the Government Representatives, the Inactive Member Representatives, and the Non-Union Representatives and “Representative” means one of the Representatives;
- (u) **“Sponsors”** shall have the meaning ascribed in the second recital, and “Sponsor” shall mean one of them;
- (v) **“Sponsor Body”** means the body appointed in accordance with Article 4 of this Agreement;
- (w) **“Unions”** means AAHP, CUPE, IBEW, NAPE and NLNU, and “Union” means one of them;
- (x) **“Union Representatives”** means the representatives of the Sponsor Body appointed by the Unions;
- (y) **“Union Representative Protocol”** means an agreement between the Unions governing the manner in which the Union Representatives are appointed and their single vote is determined; and
- (z) **“Vice-Chair”** means the vice-chair of the Sponsor Body appointed from time to time pursuant to this Agreement.

1.2 *Accrued Benefits*

For greater certainty changes made pursuant to the Reform Agreement did not reduce Accrued Benefits. In addition, a reduction of Accrued Benefits shall be determined on the following basis:

- (a) no change is permitted to the benefits which Pensioners are receiving at the effective date of the Pension Plan change;
- (b) where the pension formula (the accrual rate and/or the earnings used to calculate the Pension) is changed the entitlement of Members will be based on the pre-change formula for service already earned at the effective date of the Pension Plan change without any projection of earnings and/or service. The new formula will apply to all service after the effective date of the Pension Plan change; and
- (c) if the eligibility for an early retirement benefit is changed, subject to any transition period which may be granted, only Members who are able to retire and immediately commence unreduced early retirement under the Pension Plan at that date will retain eligibility for the pre-change early retirement benefit. All other Members will be subject to the new early retirement eligibility requirements at and after the effective date of the Pension Plan change in respect of all of their service.

1.3 *Interpretation*

In this Agreement, unless the context otherwise requires, words in the singular shall be construed as including words in the plural, and words in the plural as including words in the singular.

Article 2 **Background**

2.1 *Joint and Equal Participation and Pension Plan Funding*

Pursuant to the Reform Agreement, the Parties committed to:

- (a) the principle of joint and equal participation in the sponsorship and administration of the Pension Plan; and
- (b) the establishment of a funding policy.

2.2 *Parties' Intention*

By the terms of this Agreement, the Parties intend to provide for the joint sponsorship and administration of the Pension Plan and the establishment of a funding policy.

2.3 *Authority*

The Parties each represent to the other that they have the authority to enter into this Agreement and to bind the Government and Unions, as applicable.

2.4 *Union Changes*

In the event that a Union changes its name, the Union shall, by its new name, be a Party to this Agreement and have the same duties, responsibilities and powers that the Union had under its former name.

2.5 *Appendices*

The following appendices are attached hereto and form part of this Agreement:

- Appendix “A” — Funding Policy
- Appendix “B” — Trustee Corporation Framework
- Appendix “C” — Employees

Article 3 **Transition**

3.1 *Transitional Administration and Pension Plan Investment Services*

The Corporation may contract with, and the Government has agreed to provide, Pension Plan administration and Pension Plan investment services for a 12 month term renewable for one further 12 month period on a cost recovery basis.

3.2 *Transition of Pension Plan Assets*

The Minister of Finance, in his position as Trustee of the Province of Newfoundland and Labrador Pooled Pension Fund, and the Unions, and the Sponsor Body, once established, will consider what changes will be required to permit the Corporation to continue to invest with the pension plans that form the Province of *Newfoundland and Labrador Pooled Pension Fund*.

3.3 *Post-Transitional Pension Plan*

The Directors shall submit to the Sponsor Body, for its approval, and the Sponsor Body shall approve, on or before September 1, 2015 a proposal for a non-statutory pension plan reflecting the provisions of the *Public Service Pensions Act, 1991*, as those terms were on January 1, 2015, that contain to the terms of the Pension Plan, with only such changes as are technically necessary to accommodate a transition from a statutory to a non-statutory pension plan. The Government shall ask the House of Assembly to repeal the corresponding provisions of the *Public Service Pensions Act, 1991*. The effective date of the non-statutory pension plan, to be adopted by the Sponsor Body, shall be the same as the date of the repeal of the corresponding provision of the *Public Service Pensions Act, 1991*, and shall be as soon as possible after September 1, 2015.

3.4 *Advisor*

The Corporation shall hire an individual as an employee or consultant to assist the Directors in determining how the administration of the Pension Plan and the investment of the assets of the Fund will be conducted upon the expiration of the agreement referred to in Section 3.1. The Directors may establish any committees which they believe will assist in those activities and appoint to those committees Directors and non-directors as appropriate.

3.5 *Pension Plan Administration Employees (NAPE and others)*

- (a) If the Corporation decides to hire employees to perform pension plan

administration or investment work, the Corporation shall establish the number of positions that are required and the qualifications for those employees.

- (b) For each position established under paragraph (a), the Corporation shall make an offer of employment to an employee of Government identified in Appendix "C" who meets the qualifications established by the Corporation under paragraph (a).
- (c) Where the number of employees identified in Appendix "C" who accept offers of employment are insufficient to fill the positions established in paragraph (a), the Corporation may make offers of employment at its discretion.
- (d) If an employee refuses an offer of employment from the Corporation, he or she may be subject to the terms of the NAPE General Services Collective Agreement, between Her Majesty in Right of Newfoundland, C. A. Pippy Park Commission, Government Purchasing Agency, Municipal Assessment Agency, Rooms Corporation of Newfoundland and Labrador and The Newfoundland and Labrador Association of Public & Private Employees, in effect at that time.
- (e) The Sponsor Body and the Corporation agree that employees listed in Appendix "C" that accept employment with the Corporation will be permitted to remain in the Pension Plan. Whether employees hired by the Corporation, other than those in Appendix "C", participate in the Pension Plan will be a decision of the Corporation.

Article 4 Appointment of Sponsor Body

4.1 Sponsor Body Established

As of the Effective Date, the sponsorship of the Pension Plan shall be the responsibility of the Sponsor Body. The name of the Sponsor Body may be amended upon the written agreement of the Unions and the Government. The Sponsor Body shall consist of 10 to 14 persons as follows:

- (a) the Government shall appoint 4 to 6 Representatives, using whatever method they adopt;
- (b) the Unions shall appoint 4 to 6 Representatives, pursuant to the Union Representative Protocol;
- (c) 1 Non-Union Representative, appointed by the Government or a representative association of non-union Active Members, if any, using whatever method they adopt;
- (d) 1 Inactive Member Representative, appointed by the Newfoundland and Labrador Public Service Pensioners' Association using whatever method they adopt.

A Director shall not be eligible for appointment to the Sponsor Body. For greater certainty, no person is permitted to act in the place of any Representative. A Non-Union Representative may only serve as long as he or she is both a non-unionized employee of the Government and a

Member.

4.2 *Appointment of Chair and Vice-Chair*

- (a) There shall be a Chair and a Vice-Chair of the Sponsor Body. The initial Chair shall be appointed by the Unions. The initial Vice-Chair shall be appointed by the Government.
- (b) At the end of each two year term on a rotating basis, the Government Representatives shall, from their numbers, appoint a Chair or Vice-Chair of the Sponsor Body and the Union Representatives shall, from their numbers, appoint a Chair or Vice-Chair.
- (c) If the Chair or Vice-Chair ceases to be a Representative, then his or her position as Chair or Vice-Chair shall be filled for the balance of his or her respective term by a Representative appointed in the same manner as set out in this Article.

4.3 *Remuneration of Representatives*

The Representatives shall serve without remuneration but shall be reimbursed for their reasonable expenses by the Corporation from the Fund in accordance with the policies of the Sponsor Body.

4.4 *Residency*

Each Representative shall be a resident of Canada for the duration of his or her appointment.

4.5 *Terms for Representatives*

- (a) The Chair and Vice-Chair shall serve for a two year term.
- (b) Each Representative shall serve a two year term, provided that a Representative shall continue to serve until their replacement is appointed or they resign. A Representative may be re-appointed for any number of terms.

4.6 *Resignation of a Representative*

A Representative may resign by giving written notice thereof to the Chair and to the entity that appointed him or her. The Chair shall promptly notify all the other Representatives. The effective date of a resignation shall be stated in the notice of resignation, which date may be no earlier than the date the Representative signs the notice of resignation, failing which it shall be the date when the entity that appointed the Representative receives the written notice of resignation.

4.7 *Removal*

A Union Representative may be removed at any time in accordance with the Union Representative Protocol. Other Representatives may be removed by the Party or other entity that appointed such Representative. Where a Representative is removed under this Article, the entity that appointed him or her shall give written notice to the Chair. The Chair shall promptly notify all the Representatives.

4.8 *Death, Incapacity or Disqualification*

If a Representative dies, becomes incapacitated or ceases to qualify as a Representative, the Chair shall give written notice to the entity that appointed the Representative and the other Representatives of the death, incapacity or disqualification.

4.9 *Death of a Representative*

If a Representative dies, his or her heirs, administrators, executors and assigns shall be fully discharged from all future duties and responsibilities in respect of this Agreement as of the date of the Representative's death. A deceased Representative's estate shall not be discharged from, and shall remain liable for, any of the deceased Representative's liabilities arising hereunder prior to the date of death.

4.10 *Discharge of Representatives*

If a Representative resigns, becomes incapacitated, or is removed, he or she shall be fully discharged from all future duties and responsibilities in respect of this Agreement as of the date of such resignation, incapacity, or removal, as the case may be. However, a Representative who resigns, becomes incapacitated, or is removed shall not be discharged from, and shall remain liable for, any of the Representative's liabilities arising hereunder prior to the effective date of his or her resignation, incapacity, or removal, as the case may be.

4.11 *Termination*

A Representative who resigns, is removed, or becomes incapacitated, and the personal representatives of a deceased Representative, shall forthwith turn over to the successor Representative any and all records, books, and documents in his or her possession, incidental to his or her duties as Representative under this Agreement or relating to the sponsorship of the Pension Plan. Despite the foregoing, if the Sponsor Body considers it appropriate, a former Representative may have reasonable access to any of his or her records, books or documents turned over to the successor Representative.

Article 5 **Operation of the Sponsor Body**

5.1 *Voting*

The Representatives shall meet to discuss and consider any matters at a meeting prior to any voting being undertaken in regard to those matters. The Union Representatives shall collectively exercise one vote and the Government Representatives shall collectively exercise one vote. The single Union Representative vote shall be cast in accordance with the Union Representative Vote Protocol.

5.2 *Voting by Chair*

The Chair is not entitled to a second or casting vote.

5.3 *Quorum*

- (a) A quorum at a meeting of the Sponsor Body shall consist of a majority of the Representatives appointed by the Government and a majority of the Representatives appointed by the Unions.
- (b) If a quorum is not present within 60 minutes of the time specified for a meeting of the Sponsor Body, the Representatives present may adjourn the meeting to a fixed time and place but may not transact any other business.
- (c) If during a meeting a quorum is lost, the Representatives remaining at the meeting shall not transact any business except to fix a time and place for a continuation of the meeting.
- (d) If the Representatives meet when a Representative position is vacant, the meeting is validly constituted as long as a quorum is present.

5.4 *Decisions*

- (a) Subject to section 6.4, all decisions of the Sponsor Body shall require two affirmative votes, one cast by the Union Representatives in accordance with the Union Representative Protocol and one cast by the Government Representatives, at a duly called and constituted meeting of the Sponsor Body. In the case of a lesser number of votes or a tie, the *status quo* will prevail, subject only to the deadlock resolution provisions of the Funding Policy.
- (b) No decision of the Sponsor Body may reduce an Accrued Benefit.

5.5 *Resolutions in Writing*

Despite Section 5.4, if all of the Representatives then in office could form a quorum if they met, any decision of the Sponsor Body may be made in writing if signed by all Government Representatives and all Union Representatives then in office without a meeting of the Sponsor Body.

5.6 *Frequency of Meetings*

- (a) The Representatives shall meet at least twice in each calendar year, and in addition shall meet with the Board of Directors at least once per year. The Chair shall set the date and location of each meeting, by no later than the end of the prior calendar year.
- (b) Any one of the Representatives may request the Chair to convene a meeting of the Sponsor Body, which request shall be in writing and shall include the information reasonably required by the Chair to fulfil the agenda provisions contained herein. If requested as described above, no later than 5 days following receipt of the written request the Chair shall give notice to the Representatives setting out the date and location of the meeting, which meeting shall be held within 15 days of the date upon which the request to convene a meeting was received by the Chair.

- (c) If the office of the Chair is vacant, the Vice-Chair may exercise the powers otherwise given to the Chair to set the date and location of a meeting, and give notice to the other Representatives.
- (d) If the offices of Chair and Vice-Chair are vacant, 1 Government Representative and 1 Union Representative, acting jointly may exercise the powers otherwise given to the Chair and Vice-Chair in this Article, to set the date and location of a meeting, and give notice of it to the other Representatives.
- (e) Sponsor Body meetings shall be held in the Province of Newfoundland and Labrador. If a Representative participating in a meeting does so by means of a telephone conference or such other communication facilities as are permitted by Section 5.11, that Representative will be deemed to be in Newfoundland and Labrador for the purposes of the meeting;
- (f) All Representatives agree to meet and negotiate in good faith to resolve any differences.

5.7 *Notice of Meeting*

The Chair or Vice-Chair, or any other person delegated to do so by the Sponsor Body, shall cause written notice of each meeting of the Sponsor Body to be given to the Representatives not less than 10 days prior to the date of the meeting. The notice of a meeting shall specify the date, time and location of the meeting, and shall include an agenda of matters to be addressed at the meeting. Whenever possible, any reports or other documentation to be considered at a meeting shall be provided to the Representatives with the notice of the meeting. For greater certainty, nothing in this Section precludes a Representative from bringing forth any matter for discussion at a meeting, and business not included in the agenda for a meeting may be conducted at a meeting.

5.8 *Waiver of Notice*

A Representative may waive notice of a meeting of the Sponsor Body in writing. A Representative shall be deemed to have waived notice of a meeting of the Sponsor Body by attending at the meeting without objection.

5.9 *Recording Secretary*

The Sponsor Body shall appoint a recording secretary, who need not be a Representative, to keep minutes or records of all meetings, proceedings and acts of the Sponsor Body or its committees. Those minutes or records of Sponsor Body meetings shall be provided to the Representatives for verification at the next meeting of the Sponsor Body. All records and minutes of the Sponsor Body shall be kept in the custody of the Chair and Vice-Chair.

5.10 *Chair of Meeting*

The Chair shall act as chair of a meeting of the Sponsor Body. If the Chair is not in attendance at a meeting, the Vice-Chair shall act as chair of a meeting of the Sponsor Body, and if neither Chair nor the Vice-Chair is in attendance at a meeting the Representatives present at the meeting shall select a chair for the meeting from their numbers.

5.11 *Telephone Meetings*

A meeting of the Sponsor Body may be held or a Representative may participate in a meeting of the Sponsor Body, by means of telephone or such other communication facilities which permit all persons participating in the meeting to speak to and hear each other, and a Representative participating in a meeting by that means is deemed to be present at the meeting and will be counted in determining whether a quorum is present.

5.12 *Defect in Appointment, etc.*

Despite that it is subsequently discovered or determined that there exists some defect in the appointment, resignation or removal of any Representative, all acts and proceedings of the Representatives done and carried on in good faith while the defect existed shall be valid and effective.

5.13 *Execution of Documents*

All agreements and other documents to be executed by the Sponsor Body shall, after being approved by the Sponsor Body, be signed by two Representatives, one of whom shall be appointed by the Government Representatives and one by the Union Representatives, from their numbers.

5.14 *Power to Enter into Agreements*

The Sponsor Body may retain or require the Corporation to retain the services of persons for the purpose of assisting the Sponsor Body with the sponsorship of the Pension Plan. The fees and expenses of such persons shall be paid from the Fund.

Article 6 Powers, Functions and Duties of the Sponsor Body

6.1 *Resolutions, Committees and Appointments*

The Sponsor Body may:

- (a) adopt resolutions it considers necessary or advisable to sponsor the Pension Plan and to exercise the Sponsor Body's powers and perform its duties;
- (b) establish committees or panels of the Sponsor Body, and determine the composition, duties, responsibilities, limitations and operating procedures of those committees or panels provided that such committees or panels shall consist of an equal number of appointees of the Government and Unions;
- (c) appoint persons other than Representatives to a committee or panel referred to in paragraph (b), and set the terms of appointment to the committee or panel that applies to those persons;
- (d) rescind an appointment made under paragraph (c); and

- (e) hire or direct the Corporation to hire staff and advisors and charge to the Fund the reasonable costs of such staff and advisors.

6.2 *Power to Settle Claims*

The Representatives, in consultation with the Board of Directors, may, if and as they think fit, compromise, compound, abandon, submit to arbitration or otherwise settle a debt, account, claim or other thing relating to the Representatives. For any of these purposes, the Representatives may enter, give, execute and do the agreements, instruments of composition or arrangement, releases and other things that the Representatives considers expedient.

6.3 *Duties and Responsibilities*

The Sponsor Body shall be exclusively responsible for the following:

- (a) subject to the Funding Policy, making amendments to the Pension Plan design, including amendments related to eligibility, benefits, contributions or restating the Pension Plan at such times as the Sponsor Body determines are necessary or appropriate, after receiving the advice, if any, from the Board of Directors in respect of such amendments or restatements;
- (b) subject to the Funding Policy, at its discretion, but subject to applicable law, instructing the Board of Directors as to the frequency with which actuarial valuations of the Pension Plan shall be prepared and filed with the applicable regulatory authorities;
- (c) the initial actuarial methods and assumptions are set out in Schedule “B” of the Funding Policy and will remain in effect for all subsequent actuarial valuations, including Three Year Actuarial Reports, as defined in Section 4(2) of the Funding Policy, until, in consultation with the Pension Plan actuary and the Board of Directors, the Sponsor Body decides to amend the actuarial assumptions and methods for the Pension Plan as appropriate;
- (d) subject to Section 2 of the Funding Policy, in consultation with the Pension Plan actuary and such investment advisor as the Sponsor Body may retain, direct the Board of Directors as to the level of risk that is appropriate for the Pension Plan’s asset mix;
- (e) meeting with the Board of Directors, at least once a year, to consider matters of interest to either the Sponsor Body or the Board of Directors and to receive an explanation of the annual report of the Pension Plan and the Fund from the Board of Directors and at such other times as are requested the Sponsor Body or by resolution of the Board of Directors to consider any matter including any issue regarding the frequency of the preparation and filing of actuarial valuations for the Pension Plan;
- (f) advising the Parties and the Board of Directors of any amendment to the Pension Plan;
- (g) making recommendations to the Board of Directors respecting the administration of the Pension Plan;

- (h) preparing a report at the end of every fiscal year of the Pension Plan setting out the activities of the Sponsor Body in that year, including a self-assessment of the Sponsor Body, in such form as may be agreed to between the Parties, such report to be delivered to the Parties as soon as reasonably possible after the end of the fiscal year of the Pension Plan;
- (i) amending the Funding Policy; and
- (j) establishing policies for reimbursement of reasonable expenses.

6.4 Termination, Wind-Up or Conversion

Any decision to terminate or, wind-up, in whole or in part or convert the Pension Plan from a jointly sponsored defined benefit Pension Plan to any other type of pension plan shall require the unanimous approval of the Government and each of the Unions.

Article 7 Indemnification, Limitation of Liability and Insurance

7.1 *Indemnification*

A Representative shall be indemnified by the Fund for all legal expenses and all other costs, charges and expenses actually and reasonably incurred by that person, including an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding to which the person is made a party because of being or having been a Representative, and including an action brought by the Sponsor Body, if:

- (a) the Representative acted in good faith; and
- (b) in the case of a criminal, regulatory or administrative action or proceeding that is enforced by a monetary penalty, the Representative had reasonable grounds for believing that his or her conduct was lawful.

7.2 *Liability for Other Matters*

The Representatives, individually or collectively, shall not be responsible or liable for:

- (a) any matter, cause or thing arising due to the invalidity of all or any part of this Agreement or the Pension Plan;
- (b) any delay occasioned by any restriction or provision in:
 - (i) this Agreement;
 - (ii) the Pension Plan;
 - (iii) any contract procured in the course of the sponsorship of the Pension Plan;
or
 - (iv) by any other procedure.

7.3 *Reliance on Documents, etc.*

Subject to Section 7.1, the Representatives shall incur no liability, either collectively or individually, in acting upon any documents, data or information believed by them to be genuine and accurate and to have been made, executed, delivered or assembled by the appropriate parties.

7.4 *Reliance on Advisers*

So long as the Representatives exercise reasonable care in the selection, instruction and supervision of a professional adviser, then subject to Section 7.1 the Representatives shall incur no liability, either collectively or individually, in acting and relying upon the opinions or advice of the professional adviser.

7.5 *Recourse Solely Against Fund*

A Member or person claiming through a Member shall have recourse solely to the Fund for any benefit or other payment under the Pension Plan.

7.6 *Financial Responsibility for the Pension Plan*

The Government's, Unions' and Members' sole financial obligation in respect of the Pension Plan is to make contributions and other payments to the Fund in the amounts and at the times specified in the Pension Plan, the Funding Policy and this Agreement.

7.7 *No Liability for Representatives Appointed*

A Party or other entity is not liable for any of the acts or obligations of a Representative solely because the Representative is or was an officer or employee of the Party or other entity, or because the Party or other entity appointed the Representative.

7.8 *Extended Meaning of Representative*

- (a) Any reference in this Agreement to the indemnification or other protection of a Representative shall, unless the context clearly indicates otherwise, include a person appointed to a committee or a panel under Section 6.1 unless such person is being compensated for so acting. Reimbursement of lost salary or reasonable expenses does not constitute compensation for the purpose of this Paragraph.
- (b) Any reference in this Agreement to the indemnification or other protection of a Representative or other person appointed to a committee or a panel under Section 6.1 shall, unless the context clearly indicates otherwise, apply to individuals who formerly held these positions on or after the Effective Date, and to the personal representatives of any such individuals.

7.9 *Insurance*

The Sponsor Body may purchase and maintain, or require the Corporation to purchase and maintain, errors and omissions insurance or insurance of a similar nature or description, it considers necessary or appropriate for the Sponsor Body, and Representatives or anyone else engaged in the sponsorship of the Fund. The cost of this insurance shall be paid by the Fund.

Article 8 Amendment-and-Termination-of Agreement

8.1 *Amendment to Agreement*

The Sponsor Body has no authority to make any amendments to this Agreement. This Agreement may be amended at any time by the Parties but only after first consulting with the Sponsor Body.

8.2 *Recommendations for Amendment*

The Sponsor Body may make recommendations to the Parties with respect to amendments to this Agreement.

8.3 *Termination of Pension Plan*

If the Pension Plan is terminated in its entirety, in accordance with Section 6.4, the assets of the Fund shall be disbursed in accordance with the Pension Plan.

Article 9 General Restrictions

9.1 *Restrictions on Benefits Payable to Representatives*

No Representative is entitled to any benefit from the Pension Plan other than:

- (a) a pension benefit provided in accordance with the Pension Plan; and
- (b) any remuneration and reimbursement of expenses related to the sponsorship of the Pension Plan provided for in this Agreement or the Pension Plan.

Article 10 Miscellaneous Provisions

10.1 *Methods of Giving Notice*

- (a) All notices, requests, demands or other communications provided for in this Agreement shall be given in writing and shall be effectively given if delivered personally, or sent by prepaid mail or facsimile to the respective last known address or facsimile number of the recipient of the communication, or sent by email to the recipient of the communication if the recipient confirms receipt.
- (b) Subject to (c), a notice, request, demand or other communication shall be deemed to have been received when delivered, or if mailed, on the fifth business day after the mailing of the notice, or if sent by facsimile, on the day that the sending facsimile machine confirms that the facsimile has been sent, or if sent by

e-mail, on the day that the recipient confirms that the e-mail transmission has been received.

- (c) In the event of a strike or other interruption in the normal delivery of the mail after the mailing of a notice, request, demand or other communication, but before the deemed receipt thereof as provided herein, that notice, request, demand or other communication shall not be deemed to have been received by the party for whom it is intended, unless it is actually delivered or sent by facsimile or e-mail to that party as contemplated herein.

10.2 *No Duty to Inquire*

All persons dealing with the Sponsor Body have no duty to inquire into any decision or authority of the Sponsor Body or into the ability of the Sponsor Body to receive any monies, securities or other property paid or delivered to the Sponsor Body and may rely upon any document required to be executed by the Sponsor Body which has been executed as provided in this Agreement, as having been duly authorized.

10.3 *Severance of Illegal Provisions*

If any provision of this Agreement is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining portions of this Agreement, unless the illegality or invalidity materially prevents the accomplishment of the respective objectives and purposes of the Agreement as determined by the Sponsor Body.

10.4 *Binding Effect*

The Plan, this Agreement, any document prepared in connection with this Agreement, the Plan or the Fund, and all of the Sponsor Body's decisions, rules, regulations, policies and procedures made or established in accordance with this Agreement, the Plan or the Fund, shall be binding on the Representatives, the Parties, the Corporation, the Members, the Inactive Members and their respective beneficiaries, dependents, estates, heirs, executors, administrators, successors and assigns.

10.5 *Further Assurances*

The Representatives shall from time to time and at any time hereafter, upon each reasonable written request to do so, make, do, execute and deliver or cause to be made, done, executed and delivered, all further acts, deeds, assurances, things and written instruments as may be necessary in the opinion of any Party, for more effectively implementing and carrying out the intent of this Agreement.

10.6 *Governing Law*

The Province of Newfoundland and Labrador is the location for legal purposes of the Pension Plan. All questions pertaining to the validity, construction and administration of this Agreement or the Pension Plan shall be determined in accordance with the laws of the Province of Newfoundland and Labrador. Any litigation which arises pursuant to or in connection with this Agreement, the Pension Plan or any of their respective provisions, shall be referred to the

courts in the Province of Newfoundland and Labrador.

10.7 *Counterpart Execution*

This Agreement may be signed in counterparts.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

Original signed by:

Her Majesty in Right of Newfoundland and Labrador

The Association of Allied Health Professionals

The Canadian Union of Public Employees

The International Brotherhood of Electrical Workers

The Newfoundland and Labrador Association of Public and Private Employees

The Newfoundland and Labrador Nurses' Union

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Appendix "A"
to the Joint Sponsorship Agreement

FUNDING POLICY

THIS FUNDING POLICY is made the 10th day of December, 2014,

BETWEEN:

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as
represented by the Minister of the Department of Finance

(the "**Government**")

AND:

THE ASSOCIATION OF ALLIED HEALTH PROFESSIONALS,

THE CANADIAN UNION OF PUBLIC EMPLOYEES,

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,

**THE NEWFOUNDLAND AND LABRADOR ASSOCIATION OF PUBLIC AND
PRIVATE EMPLOYEES, AND**

THE NEWFOUNDLAND AND LABRADOR NURSES' UNION

(collectively the "**Unions**")

Section 1 - Interpretation

- (1) In this Funding Policy, unless the context requires another meaning, the following defined terms have the following meanings. Any capitalized term not defined herein shall have the meaning ascribed to such term in the main body of the Funding Policy.
- (a) "**Accrued Benefits**" means benefits earned and to which a Member is entitled under the Pension Plan as of the date of the change, without projection of future salary or service, and assumed to start at the Normal Retirement Date, unless the Member has qualified for retirement under early retirement with an unreduced pension;
 - (b) "**Active Member**" means an employee of an Employer, who is required to participate in the Pension Plan;
 - (c) "**Actuarial Valuation Report**" means a report for funding purposes on the actuarial funding status of the Pension Plan prepared by the Pension Plan's Actuary in accordance with generally accepted actuarial principles and in

accordance with the actuarial methods and assumption determined in accordance with s.6.3(c) of the Joint Sponsor Agreement;

- (d) **“Administrator”** means the Corporation;
- (e) **“Assets”** means the sum of the market value of investments held by the Pension Plan for investment and the Present Value of the Outstanding Payments Related to the Promissory Note;
- (f) **“Available Surplus”** means 50% of ‘A’ times ‘B’, where
 - ‘A’ means the difference, if positive, between the Funded Ratio and the Maximum Funding Target for the relevant year, and
 - ‘B’ means the Liabilities used in determining the Funded Ratio for the relevant year;
- (g) **“Board of Directors”** means the Board of Directors of the Corporation;
- (h) **“Canada Revenue Agency”** and **“CRA”** means the body that administers tax laws for the Government of Canada and most of the provinces and territories;
- (i) **“Chair”** means the chair of the Sponsor Body appointed from time to time pursuant to the Joint Sponsorship Agreement;
- (j) **“Contribution Rates”** means the Member Contribution Rate and the Employer Contribution Rate;
- (k) **“Contributions”** means the periodic contributions to the Fund required to be made by Active Members and the Employers under the Pension Plan;
- (l) **“Corporation”** means the Public Service Pension Plan Corporation, established pursuant to the *Public Service Pensions Act, 1991*, SNL 1991 c 12;
- (m) **“Deferred Pensioner”** shall have the meaning ascribed in the *Public Service Pensions Act, 1991*;
- (n) **“Employer Contribution Rate”** means the percentage of an Active Member’s pensionable salary, prescribed by the Pension Plan, used to determine periodic contribution obligations to the Fund by the Employers;
- (o) **“Employers”** means the Government, each employer of those persons included in the Pension Plan as of January 1, 2015 and each employer of employees that may be admitted into the Pension Plan by the Corporation;
- (p) **“Fund”** means the Public Service Pension Plan Fund established pursuant to the *Public Service Pensions Act, 1991*;
- (q) **“Funded Ratio”** means the ratio of the Assets of the Pension Plan to the Liabilities of the Pension Plan, expressed as a percentage and as calculated by the Pension Plan’s Actuary and set out in an Actuarial Valuation Report that is

prepared using the actuarial methods and assumptions described in Paragraph 6.3(c) of the Joint Sponsorship Agreement;

- (r) **“Funding Policy”** means this document, as amended by the Sponsor Body, which forms part of the Joint Sponsorship Agreement;
- (s) **“Government”** means the Government of Newfoundland and Labrador, as represented by the Minister of Finance;
- (t) **“Inactive Members”** means Deferred Pensioners and Pensioners, and “Inactive Member” shall mean any one of them;
- (u) **“ITA”** means the *Income Tax Act* (Canada), including the Regulations thereunder and any administrative rules, policies, waivers, or rulings made by the CRA;
- (v) **“Joint Sponsorship Agreement”** means the agreement relating to the joint sponsorship of the Pension Plan, between Government, on the one part, and the Association of Allied Health Professionals, the Canadian Union of Public Employees, the International Brotherhood of Electrical Workers, the Newfoundland and Labrador Association of Public and Private Employees, and the Newfoundland and Labrador Nurses’ Union, on the other part, dated December 10th, 2014, including Appendices “A”, “B” and “C”;
- (w) **“Liabilities”** means the value of the benefits under the Pension Plan determined on the basis of a going concern actuarial valuation;
- (x) **“Maximum Funding Target”** means for the relevant year the following:

<u>2015</u>	<u>2018</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>	<u>2033</u>
1000%	125%	125%	125%	120%	120%	120%
<u>2036</u>	<u>2039</u>	<u>2042</u>	<u>2045 and following</u>			
115%	115%	115%	115%			

- (y) **“Members”** means Active Members and Inactive Members, and “Member” shall mean any one of them;
- (z) **“Member Contribution Rate”** means the percentage of an Active Member’s salary, prescribed by the Pension Plan, used to determine periodic contribution obligations to the Fund by the Active Members.
- (aa) **“Minimum Funding Target”** means for the relevant year the following:

<u>2015</u>	<u>2018</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>	<u>2033</u>
0%	80%	80%	85%	90%	90%	95%
<u>2036</u>	<u>2039</u>	<u>2042</u>	<u>2045 and following</u>			
95%	95%	100%	100%			

- (bb) **"Parties"** shall mean the Government and each of the Unions, and "Party" shall mean one of them;
- (cc) **"Pension"** means the annual pension payable in accordance with the Pension Plan;
- (dd) **"Pensioner"** shall have the meaning ascribed in the *Public Service Pensions Act, 1991*;
- (ee) **"Pension Plan"** means the Public Service Pension Plan as continued under the *Public Service Pensions Act, 1991*, or a contract that replaces the relevant provisions of that act;
- (ff) **"Pension Plan Eligibility and/or Benefits"** means all components of the Pension Plan relating to eligibility for, and calculation of, a pension benefit under the Pension Plan except those components relating to eligibility for, and calculation of, Accrued Benefits ;
- (gg) **"Pension Plan's Actuary"** means a Fellow of the Canadian Institute of Actuaries, or a firm of which such person is a member, appointed by the Board of Directors;
- (hh) **"Present Value"** means (i) until 2045 the value determined from the relevant date to 2045, and (ii) from 2045 on means the value determined over the following 15 year period, and (iii) for the purposes of Sections 5, 6, and 7, in respect of actuarial and experience gains and losses that are revealed in a Three Year Actuarial Valuation Report on or after December 31, 2030, the value determined over the following 15 year period,

of each of the following;

- (i) **"Present Value of Pension Plan Eligibility and/or Benefits Adjustments"** means the sum of 'A' and 'B', where:

'A' is the change in Liabilities resulting from an adjustment to Pension Plan Eligibility and/or Benefits, and

'B' is the present value of the reduction or increase, as the case may be, in current service cost, as calculated by the Pension Plan's Actuary using the same actuarial basis as is used in determining 'A', and using methods consistent with the methods used in quantifying adjustments to the Pension Plan in deriving the Reform Agreement which are described in Schedule "B";

recognizing that Accrued Benefits shall not be reduced;

- (ii) **"Present Value of Employer Contribution Adjustments"** means the present value, either positive or negative, as calculated by the Pension Plan's Actuary, of future Contributions or special payments emanating

from incremental changes made at the relevant date to the Employer Contribution Rate;

- (ii) **“Present Value of Member Contribution Adjustments”** means the present value, either positive or negative, as calculated by the Pension Plan’s Actuary, of future Contributions emanating from incremental changes made at the relevant date to the Member Contribution Rate;
 - (iii) **“Present Value of the Adjustments”** means the sum of the Present Value of Pension Plan Eligibility and/or Benefits Adjustments, the Present Value of Employer Contribution Adjustments, and the Present Value of Member Contribution Adjustments, all as determined at the relevant date; and
 - (iv) **“Present Value of, the Outstanding Payments Related to the Promissory Note”** means the present value of the outstanding payments related to the Promissory Note, as calculated by the Pension Plan’s Actuary at the relevant date, using a discount rate of 6.0%;
- (ii) **“Promissory Note”** shall have the meaning ascribed in Subsection 3(1);
 - (jj) **“Reform Agreement”** means the Public Service Pension Plan Reform Agreement, between Government, on the one part, and the Association of Allied Health Professionals, the Canadian Union of Public Employees, the International Brotherhood of Electrical Workers, the Newfoundland and Labrador Association of Public and Private Employees, and the Newfoundland and Labrador Nurses’ Union, on the other part, dated September 2, 2014;
 - (kk) **“Representatives”** means the representatives appointed to the Sponsor Body as defined in the Joint Sponsorship Agreement.
 - (ll) **“Sponsor Body”** means the sponsor body as defined in the Joint Sponsorship Agreement’;
 - (mm) **“Three Year Actuarial Valuation Report”** has the meaning set out in Subsection 4(2); and
 - (nn) **“Vice-Chair”** means the vice-chair of the Sponsor Body appointed from time to time pursuant to the Joint Sponsorship Agreement.
- (2) For greater certainty changes made pursuant to the Reform Agreement did not reduce Accrued Benefits. In addition, a reduction of Accrued Benefits shall be determined on the following basis:
- (a) no change is permitted to the benefits which Pensioners are receiving at the effective date of the Pension Plan change;
 - (b) where the pension formula (the accrual rate and/or the earnings used to calculate the Pension) is changed the entitlement of Members will be based on the pre-change formula for service already earned at the effective date of the Pension

Plan change without any projection of earnings and/or service. The new formula will apply to all service after the effective date of the Pension Plan change; and

- (c) if the eligibility for an early retirement benefit is changed, subject to any transition period which may be granted, only Members who are able to retire and immediately commence unreduced early retirement under the Pension Plan at that date will retain eligibility for the pre-change early retirement benefit. All other Members will be subject to the new early retirement eligibility requirements at and after the effective date of the Pension Plan change in respect of all of their service.
- (3) The following schedules are attached hereto and forms part of this Funding Policy:
- Schedule "A" – Examples
 - Schedule "B" – Actuarial Assumptions and Methods
 - Schedule "C" – Probabilities

Section 2 - General Principles

- (1) The Government and the Unions agree that actuarial surpluses and deficits are to be shared equally by the Government and the Pension Plan members. Accordingly, adjustments required when funding is below the Minimum Funding Target or above the Maximum Funding Target will respect that agreement.
- (2) The Government and the Unions agree that the intention of the Parties is that the Pension Plan will be fully funded within 30 years to ensure the future of the Pension Plan.
- (3) Effective January 1, 2015 indexation for future service will be suspended.
- (4) Accrued Benefits cannot be reduced.
- (5) The Funding Policy shall not contain any contribution cap with respect to the Pension Plan, other than required by the ITA.
- (6) The examples in Schedule "A" shall be used as an aid in interpreting the adjustments to be made under the Funding Policy, but shall not override, or be directive of, the provisions of this Funding Policy.
- (7) Changes in asset mix shall not reduce the probability of being fully funded in 2045 below the probabilities of being fully funded used to develop the applicable Minimum Funding Target which are attached as Schedule "C". This principle will not compel a change in asset mix. The asset mix will exclude the Promissory Note. This principle will expire in 2045.

Section 3 - Promissory Note

- (1) The Government shall deliver a fully enforceable promissory note to the Corporation on or before March 31, 2015 with the terms set out in (b) and (c) of this Section (“Promissory Note”).
- (2) The Promissory Note shall amortize \$2.685 billion over 30 years in equal annual amounts of \$195 million, payable in quarterly installments commencing March 31, 2015. These payments shall be fixed and made regardless of the funded status of the Pension Plan in the future.
- (3) The present value of the residual payments described in (b), discounted at 6%, shall be considered an asset of the Pension Plan. This asset is a non-investment asset which is non- marketable and non-transferrable and is used solely for the purpose of determining the Funded Ratio.

Section 4 - Three Year Actuarial Valuation Reports

- (1) The Board of Directors shall require the Pension Plan’s Actuary to prepare all Actuarial Valuation Reports for the Pension Plan, including preliminary Actuarial Valuation Reports, using the actuarial methods and assumptions determined in accordance with s.6.3(c) of the Joint Sponsorship Agreement, and to submit such reports to the Board of Directors and to the Sponsor Body.
- (2) The first report under Subsection (1) shall be prepared with a valuation date as at December 31, 2015. Subsequent reports shall be prepared with valuation dates as at December 31 every three years thereafter (“**Three Year Actuarial Valuation Report**”).
- (3) A preliminary Three Year Actuarial Valuation Report shall be prepared and submitted to the Sponsor Body and the Board of Directors within 4 months of each valuation date.
- (4) A final Three Year Actuarial Valuation Report shall be prepared and submitted to the Sponsor Body and the Board of Directors within 9 months of each valuation date.

Section 5 - Adjustments where Funded Ratio Below Minimum Funding Target

- (1) Subject to Section 2 and Subsections (2) and (3) where, in a Three Year Actuarial Valuation Report, the Funded Ratio of the Pension Plan is below the relevant Minimum Funding Target, applicable to that year,
 - (a) the Board of Directors shall provide to the Sponsor Body a full range of options that comply with applicable law and do not reduce Accrued Benefits, and
 - (b) the Representatives, or any one of them, may, provide supplementary options, not more than 90 days after receiving the relevant Three Year Actuarial Valuation Report, as to how to adjust the Pension Plan such that the Present Value of the Adjustments is sufficient to render the Funded Ratio of the Pension Plan equal to the Minimum Funding Target. The Board of Directors shall cause the Pension Plan’s Actuary to provide the Board of Directors and the Sponsor Body with costings of for all options.

- (c) The options shall
 - (a) adjust Employer Contribution Rates, or provide for the equivalent value of Employer monthly special payments, so that the Present Value of the Employer Contribution Adjustment is equal to 50% of the Present Value of the Adjustments; and
 - (b) adjust Member Contribution Rates, Pension Plan Eligibility and/or Benefits, or any combination of them, so that the sum of the Present Value of the Member Contribution Adjustment and the Present Value of Pension Plan Eligibility and/or Benefits Adjustments is equal to 50% of the Present Value of the Adjustments.
- (2) The Sponsor Body shall, not more than 90 days after receiving the foregoing options from the Board of Directors and the Representatives, select one of the proposed options or provide its own method to adjust the Pension Plan that conforms with Subsection (1).
- (3) An increase of Contribution Rates as described under Subsection (1) may occur only to the extent that each of the Member Contribution Rates and the Employer Contribution Rates does not exceed the maximum rate permitted under the ITA or permitted by CRA, and, when such maximum percentage contribution rate is reached, after application to the CRA for waivers or other relief, there must be no further increase of Contribution Rates and any further amendments to the Pension Plan necessary to achieve the Minimum Funding Target must be by way of the adjustment of Pension Plan Eligibility and/or Benefits only and the Employers will be required to contribute an amount to match the Present Value of Pension Plan Eligibility and/or Benefits Adjustments.
- (4) Until the criteria set out in Section 6 are satisfied the adjustments in Pension Plan Eligibility and/or Benefits or Contributions made in accordance with this Section 5 shall continue in effect. At each future Actuarial Valuation Report a new Present Value of the Adjustments will be determined.

Section 6 - Restoration of Adverse Adjustments to Pension Plan Eligibility and/or Benefits or Increases in Contribution Rates

If a Three Year Actuarial Valuation Report discloses that the Funding Ratio is between the Minimum Funding Target plus 5% and the Maximum Funding Target, then, if there have been any adverse adjustments to Pension Plan Eligibility and/or Benefits subsequent to January 1, 2015, or any increases in Contribution Rates subsequent to January 1, 2015, then the value of those adverse adjustments and Contribution Rate increases shall be restored, to the extent possible, in a manner that allocates 50% of the restoration for the benefit of the Government and 50% of the restoration for the benefit of the Members.

Section 7 - Adjustment where the Funding Ratio exceeds the Maximum Funding Target

- (1) Where, in any Three Year Actuarial Valuation Report, the Funded Ratio of the Pension Plan is above the relevant Maximum Funding Target:
 - (a) the Board of Directors shall provide to the Sponsor Body a full range of options, and

(b) the Representatives, or any one of them, may, provide supplementary options,

not more than 90 days after receiving the relevant Three Year Actuarial Valuation Report, as to how to adjust the Pension Plan such that the Present Value of the Adjustments does not exceed the Available Surplus and is equally shared between the Government and the Members, provided that an option may also reduce the risk in the Pension Plan and such action would be deemed to be an equal share of actuarial surpluses by both the Government and the Members. The Board of Directors shall cause the Pension Plan's Actuary to provide the Board of Directors and the Sponsor Body with costings for all options.

- (2) The Sponsor Body shall not more than 90 days after receiving the foregoing options from the Board of Directors and the Representatives select one of the proposed options or provide its own method to adjust the Pension Plan as required above.
- (3) Where that portion of Contributions attributable to either Active Members or Employers, or both, would otherwise be prohibited by the ITA, the Sponsor Body shall increase the value of Pension Plan Eligibility and/or Benefits, re-evaluate the risk profile of the Pension Plan's asset allocation or reduce Contribution Rates, provided that such adjustment is equally shared between the Government and Members.

Section 8 - Appointment of Arbitration Panel

- (1) Where the Sponsor Body is required to amend Contribution Rates or Pension Plan Eligibility and/or Benefits provisions of the Pension Plan under Sections 5, 6 and 7 above, and the Sponsor Body is unable to reach a decision within 90 days following the earliest date upon which the Sponsor Body could reasonably have commenced consideration of the options, provided by the Board of Directors, the Chair shall forthwith notify the Representatives in writing of the initiation of the arbitration process by a three person panel in accordance with the *Arbitration Act* (Newfoundland) as prescribed by this Section and require the Government to, within 30 days, appoint a person to act as a member of the arbitration panel and require the Unions, to, within 30 days, appoint a person to act as a member of the arbitration panel. The seat of the arbitration shall be St. John's, Newfoundland and Labrador.
- (2) The two persons appointed to act as members of the arbitration panel shall, within 30 days of the date the second person is appointed, appoint a third person to act as a member and chair of the arbitration panel from a list maintained by the Sponsor Body of qualified and acceptable individuals who are professional arbitrators with experience in defined benefit pension plans in Canada.
- (3) Where the two members of the arbitration panel appointed under Subsection (1) fail to appoint a person as the third member of the panel and chair within the period specified in Subsection (2), the Chair shall forthwith notify a person designated by the Sponsor Body, who shall appoint a person from the list referred to in Subsection (2), in their discretion, to act as the third member and chair of the panel.
- (4) If a person is required under Subsection (3) to appoint a person as the third member and chair of the arbitration panel and there are no names on the list referred to in Subsection (2), that person shall conduct a search of individuals who are professional arbitrators

with experience in defined benefit pension plans in Canada and appoint one such person to act as the third member and chair of the panel.

- (5) No person may be appointed a member of an arbitration panel who:
- (a) is acting or has, within the immediately preceding six months, acted as a solicitor, counsel or agent of the Board of Directors, the Government, any of the Unions or any Member in relation to the Pension Plan; or
 - (b) is or was an employee of a Union or an Employer, or is or was a Member, within the last twenty-four months.

Section 9 - Duties and jurisdiction of Arbitration Panel

- (1) The Chair and Vice-Chair of the Sponsor Body, by notice in writing to the chair of the panel, shall:
- (a) establish the three members as an arbitration panel for the purposes of this Section; and
 - (b) provide to the chair of the arbitration panel a list of the options considered by Sponsor Body, including for greater certainty the full range of options of the Board of Directors, to achieve the requirements referred to in Sections 5 to 7, as applicable, together with identification of the issues encountered by the Sponsor Body and the reasons for its inability to make the decision.
- (2) The arbitration panel has the jurisdiction to determine and render a decision only in respect of those matters referred to it by the Chair and Vice-Chair.
- (3) The arbitration panel shall avail itself of expert actuarial advice and such other advice as it considers appropriate.
- (4) The arbitration panel may set its own procedure.
- (5) In the conduct of proceedings before it and in rendering a decision, the arbitration panel may consider any factor that it considers to be relevant, but must select one of the options put forward by either a Representative or the Board of Directors.
- (6) The arbitration panel may not reduce Accrued Benefits.
- (7) An arbitration panel remains constituted until it is dissolved by the Chair and Vice-Chair by notice in writing to the chair of the arbitration panel after a decision has been rendered.
- (8) The Sponsor Body may continue to meet and negotiate in good faith to amend Contribution Rates or the Pension Plan Eligibility and/or Benefits under Sections 5, 6 and 7 above until the arbitration panel has rendered a decision.

Section 10 - Replacement of member or chair

- (1) Where a member of an arbitration panel ceases to act by reason of resignation, death or otherwise before the panel has completed its work, the entity that was responsible for

the appointment of the member shall, within 30 days of the member ceasing to act, appoint a replacement and provide written notice to the other members of the arbitration panel and the Chair and Vice-Chair of the name and address of the replacement member.

- (2) Where the entity that was responsible for the appointment fails to appoint a replacement or provide written notice in accordance with clause (a), a person designated by the Sponsor Body shall appoint as a replacement such person as he or she considers suitable, and the arbitration panel shall continue to function as if the replacement member were a member of the panel from the beginning.
- (3) Where the chair of an arbitration panel is unable to carry on his or her duties so as to enable the panel to render a decision within the time specified in Subsection 11(1) a replacement chair and third member of the panel must forthwith be appointed in accordance with Subsection 8(2) and the arbitration must begin de novo.

Section 11 - Decision

- (1) The arbitration panel shall reach a decision appropriate to achieve the requirements referred to in Subsection 8(1) within the time specified in the *Arbitration Act* to do so, and shall communicate its decision in writing to the Chair and Vice-Chair forthwith.
- (2) The decision of the arbitration panel made pursuant to Subsection (1) is:
 - (a) final and binding on the Government, the Employers, the Unions and all Members, and any party deriving a benefit through a Member and not subject to appeal; and
 - (b) a decision of the Sponsor Body for the purpose of this Funding Policy,and the Sponsor Body shall forthwith implement the arbitration panel's decision including, if necessary, by amending the Pension Plan.
- (3) The decision of the majority of the members of the arbitration panel is the decision of the panel, but where there is no majority, the decision of the Chair of the panel is the decision of the panel.

Section 12 - Remuneration and expenses

The reasonable remuneration and expenses of the members of the arbitration panel shall be fixed by the Chair and paid out of the Fund.

Original signed by:

Her Majesty in Right of Newfoundland and Labrador

The Association of Allied Health Professionals

The Canadian Union of Public Employees

The International Brotherhood of Electrical Workers

The Newfoundland and Labrador Association of Public and Private Employees

The Newfoundland and Labrador Nurses' Union

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**Schedule “A” to the
Funding Policy:**

EXAMPLES

The following terms used in Schedule “A” have the following meaning:

Maximum Funding Target	Section 1(x)
Present Value of the Adjustments	Section 1(II)
Assets	Section 1(e)
Liabilities	Section 1(w)
Funded ratio	Section 1(q)
Assets – after considering previous adjustments	Section 1(e) plus all items calculated in accordance with Section 1(II) and relating to the assets
Liabilities – after considering previous adjustments	Section 1(w) plus all items calculated in accordance with Section 1(II) and relating to the liabilities
Funded ratio – after considering previous adjustments	Section 1(q) including the amounts determined in accordance with Section 1 (II)

Example 1: Available Surplus

Data used in determining Available Surplus

Valuation year	2027
Maximum Funding Target	120%
Present Value of the Adjustments previously made	none
Assets	\$13 billion
Liabilities	\$10 billion
Funded ratio	130%
Assets – after considering previous adjustments	\$13 billion
Liabilities – after considering previous adjustments	\$10 billion
Funded ratio – after considering previous adjustments	130%
<i>Funded ratio after utilizing available surplus (calculation below)</i>	
Assets – after utilizing available surplus	\$12.5 billion
Liabilities – after utilizing available surplus	\$10 billion
Funded ratio – after utilizing available surplus	125%

Available Surplus Calculation (as referenced in Section1 (d))

A = 130% -120%
A = 10%

B = \$10 Billion

Available Surplus = 50% * 10% * \$10 billion
Available Surplus = \$500 million

Adjusted Assets = \$13 billion - 0.5 billion
= \$12.5 billion

Adjusted Funded Ratio = 125%

Example 2: Present Value

Data used in determining Required Adjustments

Valuation year	2027
Maximum Funding Target	90%
Present Value of the Adjustments previously made	none
Assets	\$8 billion
Liabilities	\$10 billion
Funded ratio	80%
Assets – after considering previous adjustments	\$8 billion
Liabilities – after considering previous adjustments	\$10 billion
Funded ratio – after considering previous adjustments	80%
<hr/> <i>Funded ratio after utilizing available surplus (calculation below)</i>	
Assets – after utilizing available surplus	\$9 billion
Liabilities – after utilizing available surplus	\$10 billion
Funded ratio – after utilizing available surplus	90%

Required Adjustments = (90% -80%) *\$10 Billion

Required Adjustments = \$1 Billion

Unions Portion = \$0.5 billion

Gov't Portion = \$0.5 billion

*If we assume the present value of 1% of contribution increases is \$0.4 billion (illustrative only).
The contributions would have to go up as follows:*

Unions: 1%* 0.5 billion / 0.4 billion = 1.25%

Gov't: 1% * 0.5 billion / 0.4 billion = 1.25%

Adjusted Assets = \$8 billion + \$1 billion
= \$9 Billion

Adjusted Funded Ratio = 90%

Note this example assumes the unions take corrective action through contributions. An equivalent change to benefits could be made. The following illustrates how the benefit reduction could work.

Gov't Changes

Gov't Portion = \$0.5 billion

Gov't: 1% * 0.5 billion / 0.4 billion = 1.25%

Union Changes

Unions Portion = \$0.5 billion

Present Value of benefit change = Present Value of changes in the current service costs plus the reduction in the accrued liability

Present Value of benefit change = \$0.5 billion

Total Changes = Present value of contribution increases + Present Value of benefit changes

Total Changes = \$0.5 billion (Gov't) + \$0.5 billion (Unions)

Total Changes = \$1.0 billion

Example 3: Present Value Removal Scenario

Data used in determining whether to restore adverse adjustments (as per Section 5)

Valuation year	2030
Maximum Funding Target	90%
Threshold to Remove Corrective Action	95%
Present Value of the Adjustments previously made	\$1 billion (contribution increase)
Assets	\$9.5 billion
Liabilities	\$10 billion
Funded ratio	95%
Assets – after considering previous adjustments	\$10.5 billion
Liabilities – after considering previous adjustments	\$10 billion
Funded ratio – after considering previous adjustments	105%

Funded ratio after utilizing available surplus (calculation below)

Assets – after utilizing available surplus	\$9.5 billion
Liabilities – after utilizing available surplus	\$10 billion
Funded ratio – after utilizing available surplus	95%

95% Threshold is met and all corrective action can be removed

Example 4: Partial Removal Scenario

Data used in determining extent of restoration required

Valuation year	2030
Maximum Funding Target	90%
Threshold to Remove Corrective Action	95%
Present Value of the Adjustments previously made	\$1 billion (contribution increase)
Assets	\$9.3 billion
Liabilities	\$10 billion
Funded ratio	93%
Assets – after considering previous adjustments	\$10.5 billion
Liabilities – after considering previous adjustments	\$10 billion
Funded ratio – after considering previous adjustments	103%

Funded ratio after utilizing available surplus (calculation below)

Assets – after utilizing available surplus	\$9.5 billion
Liabilities – after utilizing available surplus	\$10 billion
Funded ratio – after utilizing available surplus	95%

Only 2% of the 10% improvement is required (get the 93% to 95%). The adjustments can be reduced by 80% resulting in the following revised contribution rates:

Union Rate: $1.25\% * 0.2 = 0.25\%$

Gov't Rate: $1.25\% * 0.2 = 0.25\%$

As above, if we assume the present value of 1% of contribution increases is \$0.4 billion (illustrative only).

Adjusted Assets = \$9.3 billion + \$0.2 billion
= \$9.5 billion

Adjusted Funded Ratio = 95%

**Schedule “B” to the
Funding Policy:**

ACTUARIAL METHODS AND ASSUMPTIONS

Discount rate	6.00%	
CPI increases	2.50%	
Indexing	1.20%	
Salary increases:	2013 onwards: 4.00%	
YMPE increases	3.25%	
Mortality	CPM2014 Public Mortality tables with improvement scale CPM-B (pre-retirement and post-retirement)	
Termination of employment – Rates		
	25	10.00%
	30	5.60%
	35	3.20%
	40	2.20%
	45	1.70%
	50	1.20%
	55	0.70%
	60	0.20%

Disability	<35	0.10%
	40	0.15%
	45	0.30%
	50	0.80%
	55	Nil
Retirement	50% at earliest unreduced date	
	Remainder at normal retirement age	
	Members who have already reached their earliest unreduced retirement age are assumed to retire at their normal retirement age.	
Married %	At retirement or death: 85%	
Spousal age difference	Male is 3 years older than female	
Cost method	Projected Unit Credit	

Other Projection Assumptions

- **Open group projections**
 - Stable population for active members which represented the parties best estimate of future plan participation and membership
 - Future experience based on the assumptions used in the last actuarial valuation
 - New entrant profiles developed from the last 5 years of new entrant data
- **Constant asset mix with the following allocation**
 - 30% Canadian Equity
 - 35% Global Equity
 - 20% Fixed Income
 - 15% Alternatives¹

¹For the purpose of the modelling we proxied this with real assets which was a combination of real estate and infrastructure

**Schedule "C" to the
Funding Policy:**

PROBABILITIES

The following represents the probability of being fully funded in 2045 based on the asset mix criteria outlined in Subsection 2(7) of the Funding Policy:

Year	Probability
2015	86%
2018	86%
2021	86%
2024	87%
2027	87%
2030	88%
2033	89%
2036	89%
2039	90%
2042	93%

**Appendix “B” to the
Joint Sponsorship Agreement**

TRUSTEE CORPORATION FRAMEWORK

WHEREAS the Public Service Pension Plan Corporation is established pursuant to Section 36.1 of the *Public Service Pensions Act, 1991*, SNL 1991 c 12, and its Board of Directors is established pursuant to Section 36.4 of that Act;

AND WHEREAS the Public Service Pension Plan Corporation and its Board of Directors are bound by and shall act in accordance with this Trustee Corporation Framework, as provided for in this Framework, pursuant to Section 36.5 of the *Public Service Pensions Act*;

NOW THEREFORE the Parties to the Joint Sponsorship Agreement agree as follows:

1 Interpretation

1.1 Unless the context requires another meaning, the following defined terms have the following meanings:

- (a) “*Act*” means the *Public Service Pensions Act, 1991*, SNL 1991 c 12, including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;
- (b) “Active Member” means an employee of an Employer, who is required to participate in the Pension Plan;
- (c) “Board” or “Board of Directors” means the board of directors of the Corporation;
- (d) “By-Laws” means the by-laws of the Corporation created pursuant to Section 36.4 of the *Act*;
- (e) “Chair” means the chair of the Board of Directors appointed pursuant to this Framework;
- (f) “Competencies” means the competencies required of Directors as set out in Subsection 4.5 of this Framework;
- (g) “Corporation” means the Public Service Pension Plan Corporation, which is the administrator and trustee of the Pension Plan, established pursuant to s. 36.1 of the *Act*;
- (h) “Deferred Pensioner” shall have the meaning ascribed in the *Act*;
- (i) “Director” means a person who is a member of the Board of Directors;

- (j) “Effective Date” shall have the meaning ascribed in Section 2;
- (k) “Employers” means the Government, each employer of those persons included in the Pension Plan as of January 1, 2015 and each employer of employees that may be admitted into the Pension Plan by the Corporation;
- (l) “Framework” means this Trustee Corporation Framework;
- (m) “Fund” means the Public Service Pension Plan Fund, established pursuant to the *Act*;
- (n) “Funding Policy” means the funding policy which is attached as Appendix “A” to the Joint Sponsorship Agreement;
- (o) “Government” means Her Majesty in right of Newfoundland and Labrador, as represented by the Minister of Finance;
- (p) “Government Appointee” means a Director appointed by the Government;
- (q) “Government Representatives” means the representatives of the Sponsor Body appointed by the Government;
- (r) “Inactive Members” means Deferred Pensioners and Pensioners, and “Inactive Member” shall mean any one of them;
- (s) “Inactive Member Appointee” means a Director appointed by the Newfoundland and Labrador Public Sector Pensioners’ Association;
- (t) “Joint Sponsorship Agreement” means the agreement relating to the joint sponsorship of the Pension Plan, between Government and the Unions, dated the 10th day of December, 2014, and includes Appendices “A”, “B” and “C” to that Agreement;
- (u) “Members” means Active Members and Inactive Members, and “Member” shall mean any one of them;
- (v) “Non-Union Appointee” means a Director appointed by the Government or, if there is a non-union association representative of the non-union Active Members, appointed by that association;
- (w) “Parties” means the parties to the Joint Sponsorship Agreement, and “Party” means one of them;
- (x) “Pensioners” shall have the meaning ascribed in the *Act*;
- (y) “Personal Characteristics” means the personal characteristics required of Directors as set out in Subsection 4.4 of this Framework;

- (z) “Pension Plan” or “PSPP” means the Public Service Pension Plan , as continued under the *Public Service Pensions Act, 1991*, or a contract that replaces the relevant provisions of the act;
- (aa) “Representatives” means, collectively, the Union Representatives, the Government Representatives, the Inactive Member Representative, and the Non-Union Representative and “Representative” means one of the Representatives;
- (bb) “Sponsors” shall have the meaning ascribed in the second recital of the Joint Sponsorship Agreement, and “Sponsor” shall mean one of them;
- (cc) “Sponsor Body” means the body appointed in accordance with Section 4 of the Joint Sponsorship Agreement;
- (dd) “Statement of Investment Policies and Procedures” shall have the meaning ascribed in Subsection 7.1(b);
- (ee) “Unions” means the Association of Allied Health Professionals, the Canadian Union of Public Employees, the International Brotherhood of Electrical Workers, the Newfoundland and Labrador Association of Public and Private Employees, and the Newfoundland and Labrador Nurses’ Union and “Union” means one of them;
- (ff) “Union Appointee” means a Director appointed by a Union;
- (gg) “Union Representatives” means the representatives of the Sponsor Body appointed to the Sponsor Body by the Unions; and
- (hh) “Vice-Chair” means the vice-chair of the Board of Directors appointed from time to time pursuant to this Framework.

1.2 *Interpretation*

- (a) The definitions in the Joint Sponsorship Agreement shall not apply to this Framework, except where a term used in this Framework is defined in the Joint Sponsorship Agreement but not in this Framework.
- (b) In this Agreement, unless the context otherwise requires, words in the singular shall be construed as including words in the plural, and words in the plural as including words in the singular.

1.3 *Schedules*

The following schedule is attached hereto and forms part of this Agreement:

Schedule “A” – By-Laws

2 Effective Date

This Framework shall come into effect on March 31st, 2015.

3 Income Tax Act

3.1 Income Tax Act

The Corporation is a trust governed by a registered pension plan and shall be the administrator for the purposes of the *Income Tax Act* (Canada).

4 Board of Directors

4.1 Board Established

The Board of the Corporation established pursuant to Section 36.4 of the *Act* shall consist of 14 persons who shall be appointed as follows:

- (a) 6 Government Appointees;
- (b) 6 Union Appointees;
- (c) 1 Non-Union Appointee; and
- (d) 1 Inactive Member Appointee.

For greater certainty, no person is permitted to act in the place of a Director.

4.2 Qualifications of Directors

- (a) A representative on the Sponsor Body shall not be a Director.
- (b) An officer of the Corporation shall not be Director.
- (c) Qualification as a Director is subject to Section 172 of the *Corporations Act*, RSNL 1990, c-36.

4.3 Director Competencies

All of the Directors shall be required to have the Personal Characteristics. In addition, the Government shall ensure that the Government Appointees, as a collective, have the Competencies, and the Unions shall ensure that the Union Appointees, as a collective, have the Competencies. The Non-Union Appointee and Inactive Members Appointee shall be required to have the Personal Characteristics but not the Competencies.

4.4 Personal Characteristics

The personal characteristics are as follows:

- (a) integrity, including familiarity with and a high regard for fiduciary obligations;

- (b) strong commitment to time and effort required to undertake the role;
- (c) demonstrated ability to contribute and operate with candour and intelligence while supporting other directors to do the same;
- (d) effective negotiation skills in articulating viewpoints with influence to arrive at a conclusion in the best interests of the Pension Plan and for the benefit of all Members;
- (e) strong conflict management skills to enable the identification and handling of conflicts in a sensible, fair and efficient manner;
- (f) willingness to accept and support Board decisions;
- (g) acting with a mindset of impartiality as it relates to Sponsors;
- (h) freedom from influence by any factors other than the interest of the Pension Plan and all Members;
- (i) team effectiveness, including the ability to work effectively in a collegial environment and to facilitate consensus and compromise;
- (j) after the Government has ceased to provide plan administration and plan investment services to the PSPP, absence of systemic conflicts of interest it being understood that membership in or employment by a Union or the Government or entitlement to or receipt of a benefit from the Pension Plan does not constitute a systemic conflict of interest; and
- (k) ability to identify the limitations of the Directors' own knowledge and the need for independent professional advice, and to understand and evaluate such advice.

4.5 *Competencies*

Each of the Government Appointees, as a collective, and Union Appointees, as a collective, shall possess competencies, by reason of experience, commitment or knowledge, in the following areas:

- (a) pension plan governance, including understanding the roles of the Sponsors, the fiduciary board and the service providers in the overall governance of the PSPP;
- (b) pension administration;
- (c) delegation to and monitoring of agents, employees and advisors;
- (d) asset/liability management and pension policy;
- (e) macro-economic considerations and their impact on investment strategies and pension obligations;

- (f) capital markets and private investments such as infrastructure, private equity and real estate;
- (g) investment risk management;
- (h) Pension Plan design issues and pension policy issues;
- (i) actuarial terminology and actuarial balance sheets;
- (j) key issues in contractual relationships with sophisticated counterparties; and
- (k) the application of and compliance with pension laws, cases and regulatory rules, including the requirements of any provincial legislation and the *Income Tax Act (Canada)*.

4.6 *Orientation and Continuing Education*

- (a) The Board shall ensure that all new Directors receive a comprehensive orientation, ensuring that all new Directors fully understand:
 - i. the role of the Board and its committees, if any;
 - ii. the contribution expected from individual Directors; and
 - iii. the objects of the Corporation.
- (b) The Board shall provide continuing education opportunities for Directors, so that they can maintain or enhance their skills and abilities and ensure that their knowledge and understanding of the objects of the Corporation remains current.

4.7 *Appointment of Chair and Vice-Chair*

- (a) There shall be a Chair and a Vice-Chair of the Board. The initial Chair shall be appointed by the Government from among the Directors. The initial Vice-Chair shall be appointed by Unions from among the Directors.
- (b) The Chair and Vice-Chair shall serve as Chair or Vice-Chair for a two year term.
- (c) At the end of each two year term and on a rotating basis, the Government Appointees shall, from their numbers, appoint a Chair or Vice-Chair of the Corporation and the Union Appointees shall from their numbers appoint a Chair or Vice-Chair.
- (d) If the Chair or Vice-Chair ceases to be a Director, then his or her position as Chair or Vice-Chair shall be filled for the balance of his or her respective term by a Director appointed in the same manner as set out in this Section.

- (e) Where the position of Chair is vacant or the Chair is unavailable, the Vice-Chair may perform the duties of the Chair as set out in this Framework and the By-Law.

4.8 *Remuneration of Directors*

The Parties are to establish a policy regarding the remuneration, if any, of Directors by no later than January 31, 2015.

4.9 *Residency*

Each Director shall be a resident of Canada for the duration of his or her appointment.

4.10 *Terms for Directors*

- (a) Subject to Paragraph (b), a Director shall serve for a three year term.
- (b) For the initial appointment of Directors, two Directors appointed by each of the Government and the Unions shall serve for an initial four year term, two Directors appointed by each of the Government and the Unions shall serve for an initial three year term, and two Directors appointed by each of the Government and the Unions shall serve for an initial two year term.
- (c) No later than six months before the expiry date of a Director's term, the Chair shall give written notice to the entity that appointed the Director of the expiry of the Term.
- (d) A Director shall continue to serve until their replacement is appointed or they resign, in which case the entity that appointed the Director shall, within 30 days of receiving notice of the vacancy, appoint a successor Director to serve for the remaining term of that Director.

5 Appointment of an Actuary and Auditor of the Corporation

5.1 *Appointment of Auditor*

The Board shall appoint one or more persons licenced under the *Public Accountants Act*, SNL 2009 CP 35.1, to audit the accounts of the Corporation and the Fund each year and to express an opinion on its financial statements.

5.2 *Appointment of Actuary*

The Board shall appoint a Fellow of the Canadian Institute of Actuaries to act as the actuary of the Pension Plan.

5.3 *Corporation not Government Reporting Entity*

The parties do not intend that the Corporation be part of the government reporting entity as defined by public sector accounting standards.

6 Operation of the Trustee Corporation

6.1 *Duty to Manage*

The Directors' duty to manage the Corporation shall be as set out in Section 167 of the *Corporations Act*.

6.2 *Voting*

The Directors shall meet to discuss and consider any matters prior to any voting being undertaken in regard to those matters. Each Director shall have one vote at any duly called and constituted meeting of the Board.

6.3 *Voting by Chair*

The Chair is not entitled to a second or casting vote.

6.4 *Quorum*

- (a) A quorum at a meeting of the Board shall consist of at least 4 Government Appointees and at least 4 Union Appointees.
- (b) If a quorum is not present within sixty minutes of the time specified for a meeting of the Board, the Directors present may adjourn the meeting to a fixed time and place but may not transact any other business.
- (c) If during a meeting a quorum is lost, the Directors remaining at the meeting shall not transact any business except to fix a time and place for a continuation of the meeting.
- (d) If the Directors meet when a Director position is vacant, the meeting is validly constituted as long as a quorum is present.

6.5 *Decisions*

Resolutions of the Board shall not be adopted unless they receive the affirmative votes of a majority of the Union Appointees and a majority of the Government Appointees at a duly called and constituted meeting of the Board. If a resolution does not receive the requisite number of affirmative votes, or there is a tie, the status quo will prevail unless the matter is referred to arbitration in accordance with Section 10 of this Framework.

6.6 *Meetings*

- (a) The Directors shall meet at least four times in each calendar year.
- (b) All Directors shall negotiate in good faith to resolve any differences.

6.7 *Discipline of Directors*

The Sponsor Body shall have authority to suspend or expel any Director from the Board for any one or more of the following grounds:

- (a) violating any provision of the Act, this Framework, by-laws, or written policies of the Corporation;
- (b) carrying out any conduct which may be detrimental to the Corporation as determined by the Sponsor Body in its sole discretion; or
- (c) for any other reason that the Sponsor Body in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.

In the event that the Sponsor Body determines that a Director should be expelled or suspended as a Director of the Corporation, the chair of the Sponsor Body shall immediately expel or suspend the Director and provide notification to the Director. Within 20 days of receipt of the notice, the Director may make written submissions to the chair of the Sponsor Body in response to the notice. In the event that no written submissions are received by the chair of the Sponsor Body, the suspension or expulsion from the Board of Directors shall be considered final. If written submissions are received in accordance with this Section, the Sponsor Body shall consider such submissions and shall notify the person concerning their final decision within 20 days of the date of receipt of the submissions. The Sponsor Body's decision shall be final and binding on the person, without any further right of appeal.

6.8 *Removal and Replacement of Directors*

A Director may be removed at any time by the entity that appointed such Director. Regardless of who removes a Director or the reason for the removal of a Director, the entity that appointed the Director shall appoint the successor for that Director.

6.9 *By-Laws*

The Directors shall adopt the attached by-laws as the first by-laws of the Corporation.

7 Powers and Duties of the Corporation

The Corporation is hereby empowered, in addition to any other power as set forth herein or conferred by law, but subject always to the articles of the Corporation and the powers, duties and responsibilities expressly reserved to the Sponsor Body under the Joint Sponsorship Agreement, including for greater certainty under Section 6.3 of the Joint Sponsorship Agreement and the Funding Policy, as follows:

- (a) to administer and invest the PSPP and the Fund for the benefit of the Members and other beneficiaries, as the case may be, subject to the terms of the Act, this Framework and the PSPP, and the requirements of applicable federal and provincial legislation;
- (b) to create and administer a written statement of investment policies and procedures for the Fund, with respect to the allocation of the assets of the Fund, and the selection of asset classes appropriate for the Fund as a whole ("**Statement of Investment Policies and Procedures**");

- (c) to use all reasonable means to collect and receive all contributions due to the Fund, and shall, promptly after receipt, deposit such contributions in a special fund account in an appropriate Canadian institution;
- (d) to adopt such procedures, policies, rules and regulations necessary for the carrying out of their trusts and other duties, consistent with the provisions of the *Act*, this Framework, the PSPP and the requirements of applicable provincial and federal legislation;
- (e) to enter into agreements with a bank, trust company, insurance company, credit union or investment manager, selected by the Corporation, for the purpose of providing investment management or advice, or for the purpose of acting as a depository or custodian for safekeeping of assets of the Fund, or for any other purpose as the Corporation shall deem necessary or desirable and to authorize any such bank, trust company, credit union, insurance company, or investment manager to commingle any monies deposited with them in any mutual or pooled pension fund administered or managed by any of them subject to any applicable provincial and federal legislation;
- (f) to pay or provide for the payment of benefits from the Fund in accordance with the terms of the PSPP and applicable provincial and federal legislation to those persons eligible to receive them;
- (g) to provide Members with an explanation of the terms and conditions of the Pension Plan, and of their rights and obligations in respect of the Pension Plan;
- (h) to provide each Active Member and Deferred Pensioners with an annual statement with respect to that member's entitlement under the Pension Plan;
- (i) to pay from the Fund all reasonable expenses incurred in collecting contributions and administering and investing the Fund and administering the PSPP including, but not limited to, all compensation and all reasonable and necessary costs and fees which may be incurred in connection with the retaining of such legal, actuarial, accounting, expert and clerical assistance as the Board, in their discretion, may find necessary or expedient in the performance of their duties;
- (j) to enter into contracts and agreements for carrying out the terms of this Framework and the PSPP and for the administration of the PSPP and the administration and investment of the Fund and to do all acts as they, in their discretion, may deem necessary and advisable including, but not limited to, entering into such agreement or agreements with the Government for the interim administration of the PSPP and the interim administration and investment of all or part of the Fund, for the transfer of the assets of the PSPP into the Fund and for the transfer of the duties and powers of administering the PSPP from the Government to the Corporation;

- (k) to compromise, settle, arbitrate and release claims or demands in favour of, or against the PSPP and Fund, or the Corporation, on such terms and conditions as the Board may deem advisable;
- (l) to establish procedures to be followed in filing applications for benefits and for the furnishing and certification of evidence necessary to establish a right to such benefits;
- (m) to accept or not accept employees of employers that are not yet participating in the Pension Plan, into the Pension Plan, to fix the terms and conditions for the employees' participation in the Pension Plan, and to enter into agreements with Employers with respect to those terms and conditions;
- (n) to pay out of the Fund, all real and personal property taxes, income taxes and other taxes of any and all kinds, levied or assessed under existing or future laws, upon or in respect of the Fund or any money, property or securities forming a part thereof;
- (o) to accept payments to the Fund from any source whatsoever, to the extent permitted by law, the PSPP and this Framework;
- (p) to hold as uninvested cash, without any liability for interest thereon, such sums as they reasonably deem necessary or advisable for the reasonably current cash requirements of the Fund;
- (q) to exercise all rights or privileges granted by the provisions of any contract entered into by the Corporation with any insurance company, bank, trust company, credit union or investment manager, and to make any alteration, modification, amendment or cancellation of such contract, or to take any other action respecting such contracts which they, in their discretion, may deem necessary or advisable;
- (r) to enter into written agreements with other registered pension plans for the reciprocal recognition of credited service and the reciprocal transfer of the value of such credited service between the PSPP and other registered pension plans with the approval of the Sponsor Body if consequential amendments to the PSPP are required;
- (s) to delegate any of their administrative powers or duties or such other powers and duties as may be permitted under applicable legislation to any of their agents or employees, in such manner and subject to such terms and conditions as the Board of Directors may deem necessary or appropriate, provided that such agents or employees report to the Board as may be required;
- (t) to lease or purchase and dispose of such lands, premises, materials, supplies, services and equipment as the Corporation deems necessary or appropriate in the performance of its duties hereunder;

- (u) to enter into cost-sharing agreements with any other pension or welfare fund to permit the Corporation to share expenses pertaining to the administration and investment of the Fund and administration of the PSPP, provided that any amounts paid by the Fund to any other trust fund, in respect of the above expenses, shall be necessary and reasonable, and provided further that such cost-sharing agreement shall provide that the Corporation may terminate such agreement at any time, subject to such notice as may be required in such agreement;
- (v) to authorize the preparation of and to file an actuarial valuation in accordance with the Funding Policy and any other governing legislation and at such frequency as is required by the Funding Policy or any other governing legislation or at such greater frequency as may be directed by the Sponsor Body;
- (w) to provide a copy of every actuarial valuation, including preliminary valuations, prepared for the Corporation to the Sponsor Body and provide to all of the members of the Sponsor Body any information requested by any of them as quickly as possible;
- (x) to provide to the Sponsor Body a full range of options as required and permitted by the Funding Policy;
- (y) to provide for the financial administration of the PSPP by:
 - i. having an accounting system established for the proper reporting and accountability to the Board in a timely manner and at a reasonable cost;
 - ii. having annual financial statements of the PSPP prepared in accordance with generally accepted accounting principles;
 - iii. having a financial reporting audit performed on the financial statements referred to immediately above; and
 - iv. providing to the Sponsor Body an annual report on the PSPP, including the audited financial statements no later than 120 days after the end of each fiscal year of the PSPP;
- (z) to prepare an annual report, and make it available to the Members and the Sponsor Body, and to prepare any other report requested by the Sponsor Body;
- (aa) to provide information required by the Government for budget and financial reporting purposes;
- (bb) to hold a meeting between the Board and the Sponsor Body at least once each year to consider matters of interest to either the Board or the Sponsor Body, including explaining the annual report to it and to answer any questions Sponsor Body members may have regarding the PSPP and the Fund;

- (cc) to recommend to the Sponsor Body any changes to the PSPP that need to be made to comply with the Funding Policy or any applicable law (including any order, policy, guideline or rule of any governmental authority);
- (dd) to advise the Sponsor Body in respect of changes that the Board considers would improve the administration of the PSPP;
- (ee) if the Sponsor Body instructs the Corporation on issues relating to the design of the PSPP and amendments to the PSPP, to advise the Sponsor Body on the feasibility or consequences of implementing such instructions, and, after the giving of such advice, to act in accordance with the instructions, if any and however modified, of the Sponsor Body, and to report to the Sponsor Body on the results of the Corporation's actions in accordance with those instructions;
- (ff) to retain auditors, actuaries and other financial and legal advisors that the Corporation deems necessary
 - i. to assist it in the valuation or transfer of the assets of the PSPP from the trust fund of the PSPP or in respect of any other matter related to the transfer of responsibility for the administration of the PSPP from the Government to the Corporation; and
 - ii. generally in relation to the Fund;
- (gg) to provide for the reimbursement of reasonable out-of-pocket expenses of the Representatives appointed to the Sponsor Body, and to provide for the payment of such other reasonable amounts, including reimbursement of lost salary of individual members of the Sponsor Body, in accordance with the policies of the Sponsor Body;
- (hh) to provide for the reimbursement of reasonable out-of-pocket expenses of the individual Directors and to provide for the payment of such other reasonable amounts, which may include reimbursement of lost salary of individual Directors. Any expense and compensation policies, or changes thereto, applicable to Directors shall require the approval of the Board and the Sponsor Body;
- (ii) to adopt an annual budget for PSPP administration, investment management of the Fund and the activities of the Corporation and prepare an annual report on the PSPP administration, investment management of the Fund and the activities of the Corporation;
- (jj) to ensure that any administrative agent keeps an account of all money and assets received and paid out of the Fund and keeps an accounting of the assets and liabilities of the Fund;
- (kk) to ensure that any administrative agent keeps an individual record of contributions made by each Member;

- (ll) to invest and manage the Fund in a prudent manner, which shall include, without limitation the duty to:
 - i. establish, and review annually the Statement of Investment Policies and Procedures;
 - ii. invest and reinvest such portion of the Fund as is not required for current expenditures, in any type of investments that are permitted by applicable federal and provincial laws and regulations and by the Statement of Investment Policies and Procedures, and to take any and all actions with respect to the holding, buying, selling or exchanging of such investments as they, in their sole discretion, may deem appropriate or necessary;
 - iii. ensure that the money and assets of the Fund are invested having regard to the following criteria, in addition to any others that are relevant to the circumstances:
 - a. general economic conditions;
 - b. the possible effect of inflation or deflation;
 - c. the role that each investment or course of action plays within the overall Fund portfolio;
 - d. the expected total return from income and the appreciation of capital;
 - e. needs for liquidity, regularity of income and preservation or appreciation of capital; and
 - f. level of risk that is appropriate with respect to the assets of the Fund, as directed by the Sponsor Body.
- (mm) to take all steps, whether or not previously authorized herein, which the Corporation may deem necessary or proper for the protection of the Fund, provided always that the Directors may not take any actions or make any decision within the scope of the Sponsor Body's duties and responsibilities, including, for greater certainty, the Sponsor Body's duties and responsibilities under Section 6.3 of the Joint Sponsorship Agreement.

8 Indemnification, Limitation of Liability and Insurance

8.1 Indemnification for Directors and Officers

A Director or officer or a former Director or officer and their heirs and legal representatives shall be indemnified by the Fund for all costs, charges and expenses (including legal expenses) actually and reasonably incurred by that person, including an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding to which the person is made a party because of being or having

been a Director or officer, and including an action brought by the Sponsor Body or the Corporation, if:

- (a) the Director or officer acted honestly and in good faith with a view to the best interests of the Pension Plan; and
- (b) in the case of a criminal, regulatory or administrative action or proceeding that is enforced by a monetary penalty, the Director or officer had reasonable grounds for believing that his or her conduct was lawful.

8.2 *Directors' and Officers' Insurance*

- (a) The Corporation may purchase and maintain insurance for the benefit of a person referred to in Subsection 8.1 against liability incurred by the person.
- (b) Insurance purchased under this Section shall be paid for by the Fund.

8.3 *Court Approval of Indemnity*

A person referred to in Subsection 8.1 may apply to a court for an order approving an indemnity and the court may so order and make a further order it thinks appropriate.

8.4 *Reliance on Documents, etc.*

Subject to Subsection 8.1, the Directors and officers shall incur no liability, either collectively or individually, in acting upon any documents, data or information believed by them to be genuine and accurate and to have been made, executed, delivered or assembled by the appropriate parties.

8.5 *Reliance on Advisors*

So long as the Directors and officers exercise reasonable care in the selection, instruction and supervision of a professional adviser, then subject to Subsection 8.1, the Directors and officers shall incur no liability, either collectively or individually, in acting and relying upon the opinions or advice of the professional adviser.

8.6 *Recourse Solely Against Fund*

A Member or person claiming through a Member shall have recourse solely to the Fund for any benefit or other payment under the Pension Plan.

8.7 *No Liability of Appointing Entity*

A Party or other entity is not liable for any of the acts or obligations of a Director solely because the Director is or was an officer or employee of the Party or other entity, or the Party or other entity appointed the Director.

8.8 *Extended Meaning of Director*

- (a) Any reference in this Framework to the indemnification or other protection of a Director shall, unless the context clearly indicates otherwise, include a person appointed to a committee or a panel under the by-laws of the Corporation, unless such person is being compensated for so acting. Reimbursement of lost salary or reasonable expenses does not constitute compensation for the purpose of this Paragraph.
- (b) Any reference in this Framework to the indemnification or other protection of a Director or other person appointed to a committee or a panel under the by-laws of the Corporation shall, unless the context clearly indicates otherwise, apply to individuals who formerly held these positions on or after the Effective Date, and to the personal representatives of any such individuals.

9 **Fiduciary Responsibilities**

9.1 *Fiduciary Obligations*

- (a) Each Director shall act honestly and in good faith with a view to the best interests of the Pension Plan and for the benefit of all Members.
- (b) No Director shall act in respect of a matter if the Director has a conflict of interest in regard to the matter.

9.2 *No Conflict of Interest*

- (a) Entitlement to a pension or other benefit under the Pension Plan does not create a conflict of interest.
- (b) Membership in a Union or employment by the Government or a Union does not in and of itself create a conflict of interest, provided that if a Director does have an actual conflict of interest as a result of membership in a Union or employment by the Government or a Union, the Director shall not act in respect of the conflict.
- (c) A Director is required to disclose conflicts in accordance with Sections 198 and 199 of the *Corporations Act*.

9.3 *Restrictions on Benefits Payable to Directors*

No Director is entitled to any benefit from the Pension Plan other than

- (a) a pension benefit provided in accordance with the Pension Plan, where the Director is also a Member; and
- (b) remuneration, if any.

10 Dispute Resolution

10.1 Disputes

- (a) In the event that a resolution with respect to a matter that is within the authority of the Corporation, receives the affirmative votes of at least 3 Government Appointees and at least 3 Union Appointees, but insufficient affirmative votes to adopt the resolution, the Board shall discuss the resolution and the underlying matter and the Directors shall negotiate in good faith in an effort to resolve any such deadlock without the necessity of any formal proceeding relating thereto.
- (b) For greater certainty, a matter relating to the application and interpretation of Sections 5 to 7 of the Funding Policy shall not be dealt with under Paragraph (a).
- (c) In the event that the Board is unable to resolve the deadlock under Paragraph (a), one or more Directors may notify the Sponsor Body, which will meet for the purpose of endeavoring to resolve such dispute.
- (d) The Sponsor Body will meet as often as necessary to gather and furnish to the others all information with respect to the matter in issue which is appropriate and relevant in connection with its resolution. The Sponsor Body will discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding relating thereto. During the course of such negotiation, all reasonable requests made by a Representative to the Corporation or any individual Director for non-privileged information reasonably relating to this Framework, the Funding Policy or the By-Laws will be honoured in order that each of the Representatives may be fully advised of the other's position and the positions of the Directors. The specific format for such discussions will be left to the discretion of the Sponsor Body but may include the preparation of agreed upon statements of fact or written statements of position provided to the other Representative.
- (e) If the matter is not resolved by a vote of the Sponsor Body, according to the manner in which the Sponsor Body makes decisions as set out in Section 5.4 of the Joint Sponsorship Agreement, within 90 days of the Sponsor Body receiving notice of the dispute, one or more member(s) of the Sponsor Body shall initiate arbitration before a 3 person panel. The Sponsor Body may vote to continue the status quo.
- (f) Arbitration shall take place in St. John's, Newfoundland and Labrador.
- (g) Subject to the foregoing provisions, arbitration shall proceed in accordance with the *Arbitration Act*, RSNL 1990 c A-14. Arbitration shall be final and binding on the Corporation and is a decision of the Corporation for the purpose of this Framework. The Corporation shall implement the arbitration panel's decision as soon as possible.

- (h) The cost of arbitration shall be paid for by the Fund.
- (i) For the purpose of the *Arbitration Act*, this Framework shall be a submission and the Representatives shall be parties.
- (j) The Government Representatives and the Union Representatives shall each appoint a person to act as a member of the arbitration panel within 10 days of the initiation of arbitration under paragraph (d).
- (k) The two persons appointed to act as members of the arbitration panel shall, within 10 days of the date the second person is appointed, appoint a third person to act as a member and chair of the arbitration panel.
- (l) No person may be appointed a member of an arbitration panel who:
 - i. is acting or has, within the immediately preceding six months, acted as a solicitor, counsel or agent, advisor, contractor or employee of the Board of Directors, the Government, or any of the Unions; or
 - ii. is a Member.
- (m) The arbitration panel shall avail itself of expert actuarial advice and such other advice as it considers appropriate.
- (n) The arbitration panel may set its own procedure.
- (o) The decision of the majority of the members of the arbitration panel is the decision of the panel, but where there is no majority, the decision of the chair of the panel is the decision of the panel.

11 Amendment and Termination of Agreement

- (a) This Framework may only be amended by the Sponsor Body.
- (b) The Board may recommend amendments to the Framework to the Sponsor Body for consideration.

12 Severance of illegal Provisions

If any provision of this Framework is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining portions of this Framework, unless the illegality or invalidity materially prevents the accomplishment of the respective objectives and purposes of this Framework as determined by the Sponsor Body.

13 Governing Law

The Province of Newfoundland and Labrador is the location for legal purposes of the Pension Plan. All questions pertaining to the validity, construction and administration of this Framework, the By-Laws or the Pension Plan shall be determined in accordance with the laws of the Province of Newfoundland and Labrador. Any litigation which arises

pursuant to or in connection with this Framework, the Pension Plan or any of their respective provisions, shall be referred to the courts in the Province of Newfoundland and Labrador.

Schedule "A"
to the Trustee Corporation Framework

BY-LAWS
OF THE PUBLIC SERVICE PENSION PLAN CORPORATION

WHEREAS, the Board of Directors of the Public Service Pension Plan Corporation may make by-laws pursuant to Subsection 36.4(3) of the *Public Service Pensions Act, 1991*, SNL 1999 c-12;

AND WHEREAS the Board of Directors of the Public Service Pension Plan Corporation are required to adopt these by-laws, attached as Schedule "A" to the Trustee Corporation Framework, as the first by-laws of the Corporation, pursuant to Subsection 6.9 of the Trustee Corporation Framework;

BE IT ENACTED, pursuant to Section 36.4 of the *Act*, as a by-law of the Corporation as follows:

1 General

1.1 *Definitions*

In this by-law and all other by-laws of the Corporation, unless the context otherwise requires:

- (a) "*Act*" means the *Public Service Pensions Act, 1991*, SNL 1999 c-12, including the Regulations made pursuant to the *Act*, and any statute or regulations that may be substituted, as amended from time to time;
- (b) "Board" or "Board of Directors" means the board of directors of the Corporation appointed pursuant to the Framework;
- (c) "Chair" means the chair of the Board of Directors appointed pursuant to the Framework;
- (d) "Corporation" means the Public Service Pension Plan Corporation, which is the administrator and trustee of the Pension Plan, established pursuant to Section 36.1 of the *Act*;
- (e) "Director" means a member of the Board of Directors;
- (f) "Framework" means the Trustee Corporation Framework, attached as Appendix "B" to the Joint Sponsorship Agreement;
- (g) "Fund" means the Public Service Pension Plan Fund established pursuant to the *Act*;

- (h) “Government Appointee” means a Director appointed by the Government;
- (i) “Joint Sponsorship Agreement” means the agreement relating to the joint sponsorship of the Pension Plan, between Government and the Unions, dated December 10th, 2014 and includes Appendices “A”, “B” and “C” to that Agreement;
- (j) “Parties” means the parties to the Joint Sponsorship Agreement;
- (k) “Senior Employee” means the senior employee described in Paragraph 6.1(d)(iii);
- (l) “Sponsor Body” means the body appointed in accordance with Section 4 of the Joint Sponsorship Agreement;
- (m) “Unions” means the Association of Allied Health Professionals, the Canadian Union of Public Employees, the International Brotherhood of Electrical Workers, the Newfoundland and Labrador Association of Public and Private Employees, and the Newfoundland and Labrador Nurses’ Union;
- (n) “Union Appointee” means a Director appointed by the Unions; and
- (o) “Vice-Chair” means the vice-chair of the Board of Directors appointed from time to time pursuant to the Framework.

1.2 *Interpretation*

- (a) In this Agreement, unless the context otherwise requires, words in the singular shall be construed as including words in the plural, and words in the plural as including words in the singular.
- (b) Other than as specified in 1.1 above, words and expressions defined in the *Act* and the Framework have the same meanings when used in these by-laws.

2 Fiduciary Corporation

2.1 *Corporate Seal*

The Corporation may have a corporate seal in the form approved from time to time by the Board. If a corporate seal is approved by the Board, the Chair shall be the custodian of the corporate seal.

2.2 *Execution of Documents*

- (a) Deeds, transfers, assignments, contracts, obligations, certificates and other instruments or documents may be signed on behalf of the Corporation by two Directors, one of whom shall be a Government

Appointee and the other a Union Appointee, or other persons or in other manners as the Board may direct.

- (b) Any person authorized to sign any document may affix the corporate seal (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

2.3 *Fiscal Year and Financial Year End*

The fiscal year of the Corporation shall be a calendar year, and the financial year end of the Corporation shall be December 31st.

2.4 Banking Arrangements

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the Board of Directors may designate, appoint or authorize from time to time by resolution. The banking business or any part of it shall be transacted by an officer or officers of the Corporation and/or other persons as the Board of Directors may by resolution from time to time designate, direct or authorize.

3 Board of Directors

3.1 *Resignation, Removal, Death, Incapacity or Disqualification of a Director*

- (a) A Director may resign by giving written notice thereof to the Chair and to the entity that appointed him or her. The Chair shall promptly notify all of the other Directors. The effective date of a resignation shall be stated in the notice of resignation, which date may be no earlier than the date the Director signs the notice of resignation, failing which it shall be the date when the entity that appointed the Director receives the written notice of resignation.
- (b) Where a director is removed by the entity that appointed such Director, the entity that appointed him or her shall give written notice to the Chair. The Chair shall notify all the other Directors.
- (c) If a Director dies, becomes incapacitated or ceases to qualify as a Director, the Chair shall give written notice to the entity that appointed the Director and the other Directors of the death, incapacity or disqualification.
- (d) Where a Director stops holding office, he or she shall be fully discharged from all future duties and responsibilities in respect of the Framework and this By-Law as of the date that he or she stops holding office. However, a Director who stops holding office shall not be discharged from, and shall remain liable for, any of the Director's liabilities arising hereunder prior to the effective date that he or she stops holding office.

- (e) Notwithstanding (d), if a Director dies, his or her heirs, administrators, executors and assigns shall be fully discharged from all future duties and responsibilities in respect of the Framework and this By-Law, as of the date of the Director's death. A deceased Director's estate shall not be discharged from, and shall remain liable for, any of the deceased Director's liabilities arising hereunder prior to the date of death.
- (f) Where a Director stops holding office, the Director or a personal representative of a deceased Director, shall forthwith turn over to the Board any and all records, books, and documents in his or her possession, incidental to his or her duties or relating to the administration of the Pension Plan. Despite the foregoing, if the Board considers it appropriate, a former Director may have reasonable access to any of his or her records, books or documents turned over to the Board as described above.

3.2 *Defect in Appointment*

Pursuant to Section 190 of the *Corporations Act*, a Director's act is valid, notwithstanding an irregularity or defect in the appointment, removal or a qualification of that Director.

4 Meetings of the Board of Directors

4.1 *Calling of Meetings*

- (a) At the beginning of each fiscal year, the Board shall schedule four meetings to be held during that year. A copy of the resolution of the Board fixing the place and time these meetings of the Board shall be sent to each Director forthwith after being passed, but no other notice shall be required for any such meetings.
- (b) Any Director may request the Chair to convene a meeting of the Directors, which request shall be in writing and shall include the information reasonably required by the Chair to fulfil the agenda provisions contained herein. No later than five days following receipt of the written request the Chair shall give notice to the Directors setting out the date and location of the meeting, which meeting shall be held within fifteen days of the date upon which the request was received by the Chair.
- (c) If the office of the Chair is vacant, the Vice-Chair may exercise the powers otherwise given to the Chair to set the date and location of a meeting, and give notice of it to the other Directors.
- (d) If the offices of Chair and Vice-Chair are vacant, a Government Appointee and Union Appointee acting jointly may exercise the powers otherwise given to the Chair and Vice-Chair in this Section to set the date and location of a meeting, and give notice of it to the other Directors.

- (e) Board meetings shall be held in Newfoundland and Labrador. If a Director participating in a meeting does so by means of a telephone conference or such other communication facilities as are permitted by Subsection 4.2, that Director will be deemed to be in Newfoundland and Labrador for the purposes of the meeting.

4.2 *Meetings by Telephone or Teleconference*

A meeting of the Board may be held, or a Director may participate in a meeting of the Board, by means of telephone or such other communication facilities which permit all persons participating in the meeting to speak to and hear each other, and a Director participating in a meeting by that means is deemed to be present at the meeting and will be counted in determining whether a quorum is present.

4.3 *Notice of Meeting*

- (a) With the exception of meetings scheduled under Paragraph 4.1(a), the Chair, or any other person delegated to do so by the Board, shall cause written notice of each meeting of the Board to be given to Directors not less than ten days prior to the date of the meeting. The notice of meeting shall specify the date, time and locations of the meeting, and shall include an agenda of matters to be addressed at the meeting. Whenever possible, any reports or other documentation to be considered at the meeting shall be provided to the Directors with the notice of the meeting. For greater certainty, nothing in this Section precludes a Director from bringing forth any matter for discussion at a meeting, and business not included in the agenda for a meeting may be conducted at a meeting.
- (b) Notice of a meeting shall not be necessary if all of the directors are present, and no one objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. No notice of meeting need specify the purpose or the business to be transacted at the meeting.

4.4 *Waiver of Notice*

A Director may waive notice of a meeting of the Board in writing. A Director shall be deemed to have waived notice of a meeting of the Board by attending the meeting without objection.

4.5 *Recording Secretary*

The Board shall appoint a recording secretary, who need not be a Director, to keep minutes or records of all meetings, proceedings and acts of the Board. Those minutes or records of Board meetings shall be provided to the Directors for verification at the next meeting of the Board. All record and minutes of the Board shall be kept at the head office of the Corporation, or such other location agreed to by the Board.

4.6 *Chair of Meeting*

The Chair shall act as chair of a meeting of the Board. If the Chair is not in attendance at a meeting, the Vice-Chair shall act as Chair, and if neither the Chair nor the Vice-Chair is in attendance at a meeting of the Board, the Directors present shall select a chair for the meeting from their numbers.

4.7 *Persons Entitled to be Present*

The only persons entitled to be present at a meeting of the Board shall be the Directors. Any other person may be admitted only on the invitation of the Chair or by resolution of the Directors.

4.8 *Committees*

The Board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and with such powers as the Board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make. Any committee member may be removed by resolution of the Board.

4.9 *Written Resolutions*

Section 191 of the *Corporations Act* applies to a written resolution instead of a meeting.

4.10 *Dissent*

A Director may dissent pursuant to Section 204 of the *Corporations Act*.

5 Powers, Functions and Duties of Board

5.1 *Resolutions, Committees and Appointments*

The Board may:

- (a) pass resolutions it considers necessary or advisable to exercise the Corporation's powers and perform its duties;
- (b) appoint officers of the Corporation and assign duties to them;
- (c) appoint persons other than Directors to a committee or panel referred to in Subsection 4.8, and set the term of appointment to the committee or panel that applies to those persons;
- (d) rescind an appointment made under Paragraph (c); and
- (e) hire staff and advisors and charge to the Fund the reasonable costs of such staff and advisors.

6 Offices

6.1 *Description of Offices*

- (a) The Board shall develop clear position descriptions for directors, including the Chair and Vice-Chair and each committee, if any.
- (b) The Board, together with the Senior Employee of the Corporation, shall develop a clear position description for that employee, including a delineation of:
 - i. Senior Employee's responsibilities; and
 - ii. the corporate goals that the Senior Employee is responsible for meeting.
- (c) The Senior Employee and any other employee of the Corporation shall not be Directors;
- (d) Unless otherwise specified by the Board, which may restrict or supplement such duties and powers, the offices and officers of the Corporation (where appointed) shall have the following duties and powers associated with their positions:
 - i. **Chair:** The Chair shall, when present, preside at all meetings of the Board and shall have such other duties and powers as the Board may specify;
 - ii. **Vice-Chair:** if the Chair is absent or is unable or refuses to act, the Vice-Chair shall, when present, preside at all meetings of the Board and perform other duties of the Chair as set out in the Framework and this By-Law, and shall have such other duties and powers as the Board may specify;
 - iii. **Senior Employee:** The Senior Employee shall be responsible for implementing the strategic plans and policies of the Corporation. The Senior Employee shall, subject to the authority of the Board, have general supervision of the affairs of the Corporation and shall have such other duties and powers as the Board may specify;
 - iv. **Secretary:** If appointed, the secretary shall attend and be the secretary of all meetings of the Board and committees of the Board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to any Director, officer, auditor, actuary or member of a committee of the Board; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.

The powers and duties of all other officers of the Corporation shall be in accordance with the terms of their engagement or as the Board or Senior Employee requires. The Board may, from time to time and subject to the Framework, add to or limit the powers and duties of any officer.

6.2 *Vacancy in Office*

The Board may remove, whether for cause or without cause, any officer of the Corporation. Unless so removed, an officer shall hold office until the earlier of:

- (a) the officer's successor being appointed;
- (b) the officer's resignation; or
- (c) such officer's death.

If the office of any officer of the Corporation shall be or become vacant, the Directors may, by resolution, appoint a person to fill such vacancy.

7 Notices

7.1 *Method of Giving Notices*

- (a) All notices, requests, demands or other communications provided for in the Framework or in this by-law shall be given in writing and shall be effectively given if delivered personally, or sent by prepaid mail or facsimile to the respective last known address or facsimile number of the recipient of the communication, or sent by email to the recipient of the communication if the recipient confirms receipt.
- (b) Subject to (c), a notice, request, demand or other communication shall be deemed to have been received when delivered, or if mailed, on the fifth business day after the mailing of the notice, or if sent by facsimile, on the day that the sending facsimile machine confirms that the facsimile has been sent, or if sent by e-mail, on the day that the recipient confirms that the e-mail transmission has been received.
- (c) In the event of a strike or other interruption in the normal delivery of the mail after the mailing of a notice, request, demand or other communication, but before the deemed receipt thereof as provided herein, that notice, request, demand or other communication shall not be deemed to have been received by the party for whom it is intended, unless it is actually delivered or sent by facsimile or e-mail to that party as contemplated herein.

7.2 *Omissions and Errors*

The accidental omission to give any notice to any Director, officer, auditor, actuary or member of a committee of the Board, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the By-Laws or

any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

8 Miscellaneous

8.1 Invalidity of any provisions of this By-Law

The invalidity or unenforceability of any provision of this By-Law shall not affect the validity or enforceability of the remaining provisions of this By-Law.

8.2 Amendment of this By-Law

This By-Law may be amended by the Board, pursuant to Section 36.4 of the *Act*.

8.3 Effective Date

This by-law shall be effective when made by the Board.

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**Appendix "C" to the
Joint Sponsorship Agreement**

EMPLOYEES

**Personal information
excluded**

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