

MEMORANDUM OF AGREEMENT

made this 18 day of September, 2015 (the "Effective Date").

BETWEEN:

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES,
AS REPRESENTED BY THE MINISTER OF FINANCE**

(the "GNWT")

and

**THE GOVERNMENT OF NUNAVUT, AS REPRESENTED BY
THE MINISTER OF COMMUNITY AND GOVERNMENT SERVICES**

("the GN")

MEMORANDUM OF AGREEMENT

WHEREAS:

- A) the Northern Employee Benefits Services Pension Plan (the "Plan") a registered pension plan, within the meaning of the *Income Tax Act* (Canada), has been continued under the *Northern Employee Benefits Services Pension Plan Act* {Northwest Territories) and the *Northern Employee Benefits Services Pension Plan Act* (Nunavut);
- B) the GNWT and the GN have supervisory functions and powers with respect to the Plan under the *Acts*;
- C) the *Acts* empower the GNWT and the GN to enter into one or more governmental agreements to provide for the coordination of supervisory functions and powers under the *Acts* by, among other things, enabling one Government to act on its own behalf and on behalf of any other Government with respect to the Plan;

- D) the Parties now wish to enter into this Memorandum of Agreement (the "Agreement") to provide for the coordination of supervisory functions and powers with respect to the Plan, in accordance with the *Acts*;
- E) it is possible that the Plan may be extended to employees and employers outside of the Northwest Territories and Nunavut, and that additional governments may therefore gain supervisory functions and powers with respect to the Plan;

NOW THEREFORE, the Governments agree as follows:

Definitions

1. In this Agreement, unless explicitly stated, capitalized terms shall have the same meanings as set out in the *Act*, and:

"Act" means the *Northern Employee Benefits Services Pension Plan Act* (Northwest Territories) the *Northern Employee Benefits Services Pension Plan Act* (Nunavut) and any similar legislation of a province or territory of Canada applicable to the Plan;

"ATIPP" means the *Access to Information and Protection of Privacy Act* (Northwest Territories), and *the Access to Information and Protection of Privacy Act* (Nunavut);

"Government" means a government which is a signatory to this Agreement;

"NEBS" means Northern Employee Benefits Services, a corporation without share capital, and any successor thereto;

"Offence" means an act or omission that would, upon conviction, constitute an offence under an *Act*;

"Privacy Laws" means all applicable laws regulating the privacy, protection, collection, use or disclosure of personal information of identifiable individuals, including *ATIPP* and any similar legislation of a province or territory of Canada;

"Record" has the same meaning as that ascribed under *ATIPP*, or other Privacy Laws, as applicable.

Scope

2. Each Government shall retain its respective functions and powers under its respective *Act*, except as expressly provided for by this Agreement.
3. Each Government shall exercise the statutory functions and powers under its respective *Act* and, where authorized by another Government, in accordance with this Agreement, the statutory functions and powers of any other Government.

4. Notwithstanding section 3, no Government shall exercise, or agree to exercise any of the statutory functions and powers of another Government with respect to any of the following functions and powers of that other Government:
 - (a) Inspections;
 - (b) Investigations;
 - (c) Prosecutions;
 - (d) Enforcement activities.
5. Nothing in this Agreement shall be construed as preventing Governments from reasonably co-operating with each other, and, subject always to Privacy Laws, cooperating through mutual disclosure and the sharing of information, with respect to any matter relating to this Agreement, the *Acts*, or the Plan.

Filings, etc.

6. Wherever an *Act* requires NEBS or the administrator of the Plan to file or otherwise provide anything to a Minister, such requirement shall be deemed to have been satisfied upon NEBS or the administrator of the Plan filing or otherwise providing such thing to the Ministers of all Governments.

legal Proceedings

7. Where any Government is involved in an investigation of an offence under an *Act*, or where there is an ongoing prosecution under an *Act*, the other Governments shall, unless prohibited by law, or unless otherwise provided herein, cooperate insofar as they can, in any such investigation or prosecution.
8. If any Government:
 - a. is named as a party to a legal proceeding relating to this Agreement, an *Act* or the Plan; or
 - b. wishes to initiate or intervene in any legal proceeding (other than a prosecution of an Offence) relating to this Agreement, an *Act* or the Plan;

it shall provide written notice to all other Governments regarding the particulars of the legal proceeding.

Administrator of the Plan

9. Subject to the *Acts*, a Government shall not exercise its power to act as administrator of the Plan or to appoint a committee or other administrator of the Plan to act in place of the Pension Committee without the prior written consent of all other Governments. For greater certainty, the requirements of this section 9 shall apply whether or not the

Government intends to exercise the powers set out in this section at the request of NEBS.

Termination of the Plan

10. No Government shall exercise the power to terminate any portion of the Plan relating to the jurisdiction of another Government without the prior written consent of the other Government.
11. Subject to the *Acts*, and with the prior written consent of all Governments, any Government may order the termination of the Plan in full, if circumstances supporting partial termination of the Plan in each of the *Acts* have, in the view of that Government, been satisfied.

General

12. The Parties agree to review this Agreement at least every five years. This Agreement comes into effect on the Effective Date and will remain in effect until all Governments have provided notice of termination to the other Governments in accordance with section 17.
13. Each Government is entitled, on reasonable prior notice, and subject to Privacy Laws, to inspect, at such times and at such places as is reasonably agreed upon, the Records of the other Government relating to the Plan.
14. If a Government is for any reason unable or unwilling to exercise or perform any function or power that it is required to be exercised or performed by this Agreement, it will notify each other Government in writing.
15. The Governments may amend this Agreement in writing in accordance with the *Acts*. For greater certainty, the Governments may amend this Agreement to permit the Government of Canada or one or more governments of a Province or Territory to be a signatory to this Agreement, and to make any consequential amendments as are necessary for that purpose.
16. A Government may terminate participation in this Agreement at any time upon giving six months' written notice to each other Government, such termination being effective on the 31st day of December following the expiration of such notice period. Any termination of this Agreement shall be deemed to be an amendment of this Agreement for purposes of the *Acts*.
17. Upon termination of participation in this Agreement, the terminating Government, shall, subject to Privacy Laws, forthwith turn over to each other Government, all documents and other things with respect to the Plan as are reasonably necessary to enable such

other Government to perform and exercise its own functions and powers with respect to the Plan.

18. The Governments acknowledge that amendments to this Agreement may be conditional on the approval of each jurisdiction's respective legislature.
19. This Agreement may be executed in counterparts, and the exchange of duly-executed electronic versions of this Agreement is deemed to be proper execution of this Agreement.

Dated this 18th day of September, 2015.

THE GOVERNMENT OF THE
NORTHWEST TERRITORIES, as
represented by the Minister of Finance

THE GOVERNMENT OF NUNAVUT,
as represented by the Minister of
Community and Government Services