

**MEMORIAL UNIVERSITY
PENSION PLAN REFORM AGREEMENT**

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**MEMORIAL UNIVERSITY
PENSION PLAN REFORM AGREEMENT**

THIS AGREEMENT dated as of the _____ day of _____, 2018.

BETWEEN:

MEMORIAL UNIVERSITY OF NEWFOUNDLAND as represented by its Board of Regents
(the "University")

- and -

THE MEMORIAL UNIVERSITY OF NEWFOUNDLAND FACULTY ASSOCIATION
(**"MUNFA"**)

THE CANADIAN UNION OF PUBLIC EMPLOYEES LOCAL 1615
(**"CUPE"**)

**THE NEWFOUNDLAND AND LABRADOR ASSOCIATION OF PUBLIC AND PRIVATE
EMPLOYEES, representing Locals 7405, 7801, 7803 and 1804, 7804 and 1809, 7850**
(**"NAPE"**)

(collectively the "Unions")

(The University and each of the Unions each being a "**Party**" and are referred to collectively as the "**Parties**")

Whereas:

- A. The Parties are committed to a secure and competitive defined benefit pension plan for employees of Memorial University and also recognize the importance of a cost effective pension plan that is sustainable in the long term for the benefit of existing and future beneficiaries;
- B. The Government of Newfoundland and Labrador (the "Government") has indicated its desire for a structural reform of the Memorial University Pension Plan (the "Memorial Plan" or "Plan");
- C. The University and the Unions have a mutual interest in eliminating the unfunded liability in the Memorial Plan;
- D. The University and the Unions have engaged in discussions through the University Pensions Committee and subsequently with respect to potential changes to the Memorial Plan;
- E. The University and the Unions are committed to protecting the defined benefit structure of the Pension Plan and establishing an equal sharing of responsibility for the governance and equal funding of future costs of the Memorial Plan through joint sponsorship and joint governance;
- F. The University and the Unions have agreed to continue working towards a comprehensive plan to revise the structure and operation of the Memorial Plan, with certain elements of the arrangement deferred to the finalization of relevant documents; and

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- G. The University and the Unions wish to establish the framework for the conclusion of the finalization of relevant documents and the implementation of changes to the Memorial Plan.

In consideration of the mutual covenants in this agreement, the Parties agree as follows:

1. The Parties agree that, subject to section 5, the following provisions of this section represent the agreement of the Parties with respect to changes to the structure and control of the Memorial Plan;

- 1.1 There will be a joint sponsorship and trust arrangement established for the Memorial Plan as follows:

1.1.1 The two sponsors of the Plan (the "Sponsors") shall be (a) the University and (b) the members of the Memorial Plan, as represented by the Unions. The Sponsors shall be responsible for future plan changes and funding, including the Memorial Plan's funding policy and investment risk tolerance, and shall make decisions by their common agreement as outlined in section 1.1.3(a). The Memorial Plan shall be a jointly sponsored and jointly administered defined benefit plan and shall not be terminated, wound-up or converted except by the unanimous agreement of the Sponsors.

1.1.2 A sponsor body ("Sponsor Body") will be established by a joint sponsorship agreement ("Joint Sponsorship Agreement") consistent with the terms of this Agreement.

1.1.3 The Joint Sponsorship Agreement shall provide that:

- (a) The Sponsor Body shall be composed of an equal number of University and Union representatives. Each Party shall also name an equal number of alternate representatives. Notwithstanding the number of representatives, decision making at the Sponsor Body will be made by block votes. The University representatives on the Sponsor Body will collectively exercise one vote and Union representatives will collectively exercise one vote. One vote from each side will be required for all decisions of the Sponsor Body;
- (b) The Joint Sponsorship Agreement, the Trust Agreement, the Funding Policy and the Pension Plan text, once established, shall be subject to amendment only by the Sponsor Body. Such amendments shall be expressly binding upon the University, Unions and Pension Plan members, former members, retirees and their beneficiaries;
- (c) Following the effective date, as determined by the Parties, changes to actuarial assumptions and methods shall be determined by the Sponsor Body and communicated, in advance of any period of time to which those methods or assumptions may apply, to the Trustees, who may provide feedback and input to the Sponsor Body for the Sponsor Body to use for determining such methods or assumptions; and

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- (d) Administration and investment services for the Memorial Plan will continue to be provided by the University on a cost recovery basis until otherwise determined by the BoT or, from and after January 1, 2021, the University provides notice of termination for the provision of those services.
- 1.1.4 The trustee and plan administrator of the Memorial Plan will be an independent board of trustees ("BoT") to be established pursuant to a trust agreement ("Trust Agreement").
- 1.1.5 The Trust Agreement establishing the BoT, including numbers of trustees, chair(s), appointment process, voting, quorum and procedural rules will be agreed to and implemented by the Parties.
- 1.1.6 The Trust Agreement shall provide that:
- (a) The BoT shall be composed of persons appointed in equal number by each of the two Sponsors, (a) the University and (b) the members of the Memorial Plan, as represented by the Unions. In addition to the above voting members, there will be non-voting appointees from among non-Union and retiree members;
 - (b) The BoT shall be responsible for the administration of the Plan and, subject to risk parameters set by the Sponsor Body, the investment management of Plan assets, which functions it may retain or delegate, in whole or in part, to others; and
 - (c) The voting requirements of the BoT will be such that, in addition to any other voting requirements which may be established in the Trust Agreement, resolutions of the BoT shall not be adopted unless they receive the affirmative votes of a majority of the Union appointees to the BoT and a majority of the University appointees to the BoT.
- 1.1.7 An agreement will be reached between the Parties establishing a funding policy with respect to how to respond to actuarial surpluses and deficits at prescribed intervals (the "Funding Policy"). The terms of the Funding Policy will include:
- (a) The Funding Policy shall not require or permit the reduction of accrued benefits;
 - (b) The Funding Policy shall not contain any contribution cap, other than required by the Income Tax Act (Canada) or the Canada Revenue Agency;
 - (c) The Funding Policy shall not require or permit the reduction of benefits that pensioners or other beneficiaries are receiving on the effective date of conversion to joint sponsorship or accrued thereafter to the date of a subsequent Plan change;

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- (d) The minimum funding target of the Plan will be 100% for purposes of determining funding requirements in respect of an unfunded liability to be funded over a period of 15 years;
 - (e) Actuarial surpluses and unfunded liabilities emerging after the effective date will be shared equally between the University and the Plan members;
 - (f) Effective three years following the effective date of joint sponsorship, contribution rates will be increased by 1% for each of the University and plan members as a funding reserve, provided that such contributions shall not be required or made while the Plan is funded 110% or more on a going concern basis (and shall be resumed when the Plan is less than 110% funded);
 - (g) In the event that the Plan has an unfunded liability, the matching 1% contribution rates referred to in (f) shall be reduced by the contributions required to fund the unfunded liability.
 - (h) The Funding Policy will authorize and require actions in the administration of the Plan upon triggering events related to actuarial surpluses and deficits in the Plan; however, the Sponsor Body may agree to financially equivalent alternative solutions.
- 1.1.8 Current non-University participating employers, as long as they exist, shall continue to participate in the Plan on the same basis as participated prior to conversion to joint sponsorship, provided that the BoT may prescribe different terms and conditions for their ongoing participation in the Plan subsequent to the conversion to joint sponsorship. MUNFA and the BoT, in their capacities as employers, shall also be participating employers in the Plan on the same basis as the University. Admission of additional participating employers to the Plan to be subject to approval by the Sponsor Body.
- 1.1.9 The joint sponsorship and trust arrangement will be subject to legislation enacted by Government to provide:
- (a) that the Memorial Plan shall be subject to the *Pension Benefits Act, 1997*, subject to changes identified in section 2.2;
 - (b) for the implementation of this joint sponsorship arrangement, including amendments to the *Memorial University Pension Act* identified in section 2.2.
- 1.2 The University's liability for deficiencies with respect to the Memorial Plan under joint sponsorship will be as follows:
- 1.2.1 The University shall be responsible for the initial unfunded liability of the Memorial Plan, being the total unfunded liability as disclosed in a going concern valuation of the Plan as at December 31, 2018, less the portion of the unfunded liability attributable to the past service costs associated with the introduction of indexation in 2004 ("Initial Unfunded Liability"). The actuarial valuation shall be performed using

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actuarial methods and assumptions that are agreed by all Parties to this Agreement. The Initial Unfunded Liability shall be determined by June 30, 2019 and paid in full by the University, with interest at the valuation interest rate from January 1, 2019 to the date of payment, on or before August 31, 2019.

- 1.2.2 There will be no guarantee of any deficiency in the Memorial Plan (except as provided in section 1.2.1 with respect to the Initial Unfunded Liability, and the sharing of any terminal deficiency in accordance with the Joint Sponsorship Agreement and Funding Policy).
- 1.2.3 The University's sole liability with respect to the Memorial Plan will be to contribute to it in accordance with this Agreement, legislation that is supplemental to this Agreement, the *Pension Benefits Act, 1997* and the Funding Policy.
- 1.2.4 Actuarial surpluses and deficits shall be shared equally between the University and Plan members in the manner to be agreed in the Joint Sponsorship Agreement and Funding Policy.
- 1.2.5 The past service costs associated with the introduction of indexation in 2004 shall continue to be shared equally by the University and Plan members at the special contribution rate of 0.6% of each member's salary to be paid by the University and matched by the Plan members until June 30, 2044.

2. The Parties acknowledge that implementation of the arrangement set out above will require:

2.1 Further agreements, including:

- 2.1.1 Agreement as to the Joint Sponsorship Agreement per section 1.1.2;
- 2.1.2 Agreement as to the Trust Agreement per section 1.1.4;
- 2.1.3 Agreement as to the Funding Policy for the Plan per section 1.1.7; and
- 2.1.4 Otherwise as may be required.

2.2 As agreed upon by the Parties to this Agreement and the Government, legislative changes to govern the transition to joint sponsorship, including:

- 2.2.1 Amendments to the *Memorial University Pension Act* to provide for the transition to joint sponsorship, including:
 - (a) The transfer of sponsorship of the Plan to the Sponsor Body;
 - (b) The transfer of administration of the Plan to the BoT;
 - (c) The transfer of the Memorial University Pension Fund to the BoT; and

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- (d) The removal of the terms and conditions of the Plan (the pension plan text) from legislation, following which the *Memorial University Pension Act* shall be repealed.
- 2.2.2 Amendment to the *Pension Benefits Act, 1997* to provide for a schedule of exemptions, as agreed upon by the Parties and the Government, which shall be limited to those listed in Schedule "A".
- 2.2.3 As may otherwise be agreed between the Parties as required to implement this Agreement.
3. The Parties acknowledge that the implementation of the changes to the Memorial Plan contemplated herein shall be subject to the following:
- 3.1 The establishment of a funding arrangement by the University for the benefit of the Plan, to be effective as of December 31, 2018, or, if later, as of the first day of the next month subsequent to the date of joint sponsorship of the Plan, in full settlement of the Initial Unfunded Liability.
- 3.2 The negotiation and execution by the Parties of the Joint Sponsorship Agreement, the Trust Agreement, the Funding Policy, a non-statutory pension plan text and any other relevant agreements as may be identified by the Parties as being necessary. The Parties agree to continue negotiations with the intention of finalizing these agreements by September 30, 2018. If the Parties do not finalize these agreements, negotiations between them shall continue until terminated by either party in writing. If negotiations are terminated, this Agreement is of no force or effect and none of its provisions shall be implemented.
- 3.3 The passage by the House of Assembly and proclamation of legislative amendments identified in Section 2.2 as required for the implementation of this Agreement; and
- 3.4 The creation of the BoT as contemplated by the Trust Agreement.
- and shall be effective from January 1, 2019 or, if later, the last of these events.
4. The Parties acknowledge that the changes to the Memorial Plan set out in this Agreement, as well as the financial commitments, including the payment by the University to the BoT of the amount of the Initial Unfunded Liability all as required in accordance with this Agreement, represent a comprehensive arrangement and are conditional upon all parts of the arrangement contemplated by this Agreement being completed. In the event that the provisions of this Agreement are not implemented in full and in accordance with this Agreement, by August 31, 2019, this Agreement shall be null and void.
5. The Parties have entered into this Agreement to provide a process whereby the revisions to the Memorial Plan can be finalized as agreed between the Parties above. Nothing in this Agreement obligates any Party ultimately to enter into, enact, proclaim, promulgate or pass, as the case may be, any of the conditions precedent in Section 3 herein, nor does a failure to do so or to otherwise comply with this Agreement in whole or in part give rise to any rights or remedies in favour of any of the other Parties to this Agreement.

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- 6. This Agreement shall be subject to the laws of Newfoundland and Labrador and the Parties shall attorn to the jurisdiction of Newfoundland and Labrador courts.
- 7. This Agreement sets out the entire understanding of the principles agreed to and supersedes all prior understandings, discussions, proposals, representations or other forms of communication among the Parties relating to the proposed Memorial Plan changes.
- 8. This Agreement may be executed by the Parties in separate counterparts, each of which, when so executed, shall be deemed to be an original and all of which when together shall constitute one and the same Agreement. A facsimile of a counterpart executed by a Party shall be acceptable evidence of the execution by that Party of that counterpart and shall be binding upon that Party for all purposes as if it were an original signature.
- 9. This Agreement shall be effective as of _____, _____, 2018.

MEMORIAL UNIVERSITY OF NEWFOUNDLAND

CANADIAN UNION OF PUBLIC EMPLOYEES

NEWFOUNDLAND AND LABRADOR ASSOCIATION OF PUBLIC AND PRIVATE EMPLOYEES

MEMORIAL UNIVERSITY OF NEWFOUNDLAND FACULTY ASSOCIATION

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Schedule "A"

Pension Benefits Legislation Exemptions

Requested Exemption (with some <i>Pension Benefits Act</i> (PBA) and <i>Pension Benefits Act Regulations</i> (PBAR) references)	Description	Possible Replacement
1. Solvency funding relief (e.g. PBA 35, PBAR 12 and 15)	Full and permanent relief from solvency funding requirements.	Funding will be made on going concern basis with any required special payments over a 15 year amortization period.
2. Going concern funding relief when fully funded on going concern basis (e.g. PBA 35, PBAR 12, 13 and 21)	Allow reduction or elimination of going concern unfunded liability payments (when fully funded on going concern basis) and allow contribution holiday or benefit improvement (when there is a surplus on going concern basis), even if there is a solvency deficiency.	
3. Payment by "employer" (e.g. PBAR 12)	Exemption from the requirement that special payments be made by the "employer" as payments may also be made by plan members.	Payments by employees and plan members, including by benefit reductions.
4. Commuted value (CV) on termination benefit (e.g. PBA 40)	Exemption from requirement to pay minimum of full CV.	Payment equal to the greater of i) a termination value determined under the plan's most recent going concern assumptions, or ii) the member's own contributions plus interest.
5. Funding on wind-up (e.g. PBA 61(2))	Exemption from funding requirement.	Equal sharing of deficit between employers and plan members (including by way of benefit reductions).
6. 50% Rule (e.g. PBA 39)	Exemption from the 50% rule benefit.	Minimum of the member's own contributions plus interest.

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<p>7. Pre-retirement death benefit (e.g. PBA 41)</p>	<p>Exemption from requirement to pay minimum of full CV.</p>	<p>Grandfather existing pre-retirement death benefit for employees who are members on the date of conversion.</p> <p>New members' survivors would be paid the greater of i) a termination value determined under the plan's most recent going concern assumptions, or ii) the member's own contributions plus interest.</p>
<p>8. Marriage breakdown benefits (e.g. PBA 48)</p>	<p>Exemption from requirement to calculate proportionate share based on CV.</p>	<p>Payment of proportionate share of a benefit equal to the greater of i) a termination value determined under the plan's most recent going concern assumptions, or ii) the member's own contributions plus interest.</p>

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