

**MEMORANDUM OF UNDERSTANDING REGARDING
THE PENSION PLAN FOR CERTAIN BARGAINING EMPLOYEES
OF NEW BRUNSWICK HOSPITALS**

THIS AGREEMENT made the 18 day of May, 2012.

A M O N G:

NEW BRUNSWICK NURSES' UNION

("NBNU")

and

NEW BRUNSWICK UNION OF PUBLIC AND PRIVATE EMPLOYEES

("NBU"),

collectively, **"the Unions,"**

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF NEW BRUNSWICK AS REPRESENTED BY THE
PREMIER**

(the "Employer")

WHEREAS Justice William T. Grant of the Court of Queen's Bench of New Brunswick rendered a decision on July 8, 2011 with respect to the Pension Plan for Certain Bargaining Employees of New Brunswick Hospitals (CBE Plan) which provided certain guidance regarding the powers of the Pension Committee for the CBE Plan;

AND WHEREAS the CBE Plan is significantly underfunded and the actuary who advises the Pension Committee has advised that the CBE Plan in its current form is unsustainable in the long term;

AND WHEREAS on September 15, 2011, the Honourable Blaine Higgs, Minister of Finance, appointed a Task Force consisting of Pierre-Marcel Desjardins, W. Paul McCrossan and Susan Rowland to review public sector pension plans by respecting, among other things, the principles of sustainability, affordability, and secure benefits;

AND WHEREAS the Task Force, in consultation with NBNU and NBU, (the two bargaining agents) and the Employer to the CBE Plan, has reviewed the CBE Plan and has proposed a redesigned pension plan which it recommends be adopted by the Unions and Employer to this Memorandum of Understanding;

AND WHEREAS NBNU and NBU and the Province (the “**Unions and Employer**”) have agreed to convert the CBE Plan in accordance with this Memorandum and the enabling legislation;

NOW THEREFORE the Unions and Employer enter into this Memorandum of Understanding in respect of the full-time and part-time members of the Unions who are now, or who will become members of the CBE Shared Risk Plan under the changes set out hereinafter;

ARTICLE I

1.1 The Unions and Employer understand that the enabling legislation, consisting of Part II of the *Pension Benefits Act*, will be submitted to the Legislature for its consideration. All parts of this Memorandum of Understanding are conditional on the substance of the enabling legislation receiving Royal Assent.

1.2 The Employer and the Unions will take all such further actions, execute and deliver such further agreements, instruments and documents in writing and do all such other acts and things as may be necessary and/or desirable to achieve the conversion of the CBE Plan to the Shared Risk CBE Plan, including amending the relevant collective agreements forthwith after the current round of bargaining has been completed.

ARTICLE II

1.3 **Definitions:**

“**ancillary benefit**” has the same meaning as is set out in the enabling legislation, and, for greater certainty, also includes future Cost of Living Adjustments (“COLA”).

“**base benefits**” means, the amount of pension paid or payable to a member at any given time as described under this Memorandum of Understanding. For greater certainty, the amount of pension paid is the amount paid to a retired member or eligible dependent at the relevant date and the amount of pension payable is the amount accrued to the credit of an active or deferred member for service rendered in the past and includes any COLA granted up to the relevant date and payable in accordance with any vested early retirement provisions at the relevant date.

“**CBE Plan**” means the Pension Plan for Certain Bargaining Employees of New Brunswick Hospitals, Registration #38585, established by the Treasury Board of the Province of New Brunswick by Treasury Board Minute 74-497 effective January 1, 1975;

“**CBE Shared Risk Plan**” means the CBE Plan that is converted to a Shared Risk Plan as at the Conversion Date under the enabling legislation;

“**Claimant**” means the spouse or estate of the member, or the member’s beneficiary;

“**Collective Agreements**” means the four collective agreements covering bargaining units in Part III of the public service of the Province of New Brunswick, represented by the Unions, and being Nurses, Nurse Managers and Supervisors, Paramedical and Specialised Health Care Professionals;

“**contribution holidays**” means the full or partial reduction of the contributions normally paid by Employees and the Employer into the Shared Risk Plan where reductions are in the same proportion as required contributions from the Employees and Employer, as defined in the Funding Policy;

“**Conversion Date**” means July 1, 2012;

“**enabling legislation**” means the *Pension Benefits Act* (New Brunswick) as it may be amended prior to the Conversion Date;

“**Employees**” means the relevant full-time and part-time employees covered by the Collective Agreements who now are, or who will become members of the CBE Shared Risk Plan by virtue of their inclusion as Full-Time or Part-Time employees in the bargaining units covered by the Collective Agreements;

“**Shared Risk Plan**” means a pension plan having all of the characteristics set out in Article III of this Memorandum;

ARTICLE III

- 1.4 The CBE Plan shall be converted to a Shared Risk Plan which will have the following characteristics:

Purpose

- (a) The purpose of a shared risk plan is to provide secure pension benefits to members of the plan without an absolute guarantee but with a risk focused management approach delivering a high degree of certainty that base benefits can be met in the vast majority of potential future economic scenarios.
- (b) The enabling legislation will extinguish all accrued rights to automatic future COLA adjustments for all members of the CBE Plan and the automatic benefit from the effect of future salary increases on the current final average salary formula for all active members of the CBE Pension Plan. These automatic future adjustments will be replaced by contingent indexing as allowed under the Funding Policy.

- (c) A required funding and risk management framework will be established under the enabling legislation mandating that an appropriate allocation be made within the required contribution formula to accrue additional funds such that there is a reasonable expectation (not guaranteed) that COLA can be granted.
- (d) The required funding and risk management framework will also be designed to result in a very low probability of base benefits ever being reduced. The Funding Policy will contain specific steps to recover from unacceptable funding levels that will take priority over any reduction of the base benefits. However, in highly unlikely circumstances, base benefits may need to be reduced and if this occurs, priority will be given to the recapture of this reduction once funding levels allow, as specified under the Funding Policy.

Benefits

- (e) The base benefit for retired members, eligible dependents in receipt of a pension and deferred members shall be the amount of pension paid or payable at the Conversion Date, plus all COLA adjustments as may be granted by the Board of Trustees from time to time but at no time will include potential future COLA adjustments.
- (f) The base benefit accrual rate for active members:
 - (i) shall remain unchanged at 1.3% of regular salary up to the Year's Maximum Pensionable Earnings ("YMPE") and 2% for salary above the YMPE for periods of eligible service prior to the Conversion Date until a change is required under the Funding Policy or is agreed to between the Unions and the Employer;
 - (ii) shall be 1.4% of regular salary up to the YMPE and 2% for salary above the YMPE for periods of eligible service on or after the Conversion Date until a change is required under the Funding Policy or is agreed to between the Unions and the Employer.
- (g) The bridge pension which is an ancillary benefit shall remain unchanged at \$27 per month per year of service for all prior and future periods of eligible service until a change is allowed or required under the Funding Policy or is agreed to between the Unions and the Employer.
- (h) The normal form of pension is also an ancillary benefit and shall be a life pension with a five-year guarantee. Employees with a spouse at retirement will be subject to the *Pension Benefits Act* minimum survivor benefits and spousal waiver rules.

- (i) The base benefit for each active member shall be calculated as follows:
 - (i) for active members with credited service under the CBE Plan prior to the Conversion Date, the base benefit accrual rate as defined in 3.1(f)(i) above multiplied by the best 5 year average salary and YMPE* at the Conversion Date as defined in the CBE Plan times years and fractions thereof of credited service in the CBE Plan at the Conversion Date; PLUS
 - (ii) for service on or after the Conversion Date, the base benefit accrual rate in 3.1(f)(ii) times the salary earned during the relevant year; PLUS
 - (iii) all COLA adjustments as may be granted by the Board of Trustees from time to time, but at no time will include potential future COLA adjustments.

** where an active member has less than 5 years of service at the Conversion Date, the average salary and YMPE will be calculated on the actual period of service*

- (j) The eligibility for an immediate pension (retirement rules) which is also an ancillary benefit shall be as follows:
 - (i) for service prior to the Conversion Date, an unreduced pension at age 60 with a reduction of 0.25% per month (3% per year) early for retirements between ages 55 and 60.
 - (ii) for service on or after the Conversion Date, an unreduced pension at age 65 with a reduction of 5/12% per month (5% per year) early for retirements between ages 55 and 65.
- (k) A member who elects to retire after age 65, shall receive a pension at retirement equal to the base benefit at the date of retirement, but further increased by 0.6% per month (7.2% per year) for each month that actual retirement is delayed beyond age 65 up to age 70.
- (l) In the event a member terminates (includes division of pension on marriage breakdown) from the CBE Shared Risk Plan prior to reaching eligibility for an immediate pension or passes away prior to retirement, the following shall apply:

- (i) The current 50% excess contribution rule will be replaced by a 100% excess contribution rule;
- (ii) The transfer value of a member or a Claimant will be the lesser of:
 - (1) The relevant member's or Claimant's share of the CBE Shared Risk Plan's assets as defined by the Board of Trustees from time to time or as is provided in the Funding Policy. This share is expected to be based upon a calculation of the value of the member's base benefits at the date of termination, using assumptions as prescribed in the Funding Policy, divided by the value of the liabilities of the CBE Shared Risk Plan for base benefits as at a date to be determined by the Board of Trustees, and by multiplying that ratio by the market value of the CBE Shared Risk Plan's assets at the same date as the date of measurement of the liabilities or such similar approach respecting the principles underlying the CBE Shared Risk Plan as may be deemed appropriate by the Board of Trustees; and
 - (2) The transfer value based on rules similar to the current commuted value rules for a fully indexed base benefit and including all ancillary benefits at the date of termination or such other appropriate maximum as the Board of Trustees may determine from time to time.

Unless otherwise elected by the member, the amount shall remain in the CBE Shared Risk Plan until the retirement, death or marriage breakdown of the member and the member shall be entitled to all future enhancements declared by the Board of Trustees.

Funding and Risk Management

- (m) The Employer and the Employees will remit monthly contributions to the Board of Trustees of the CBE Shared Risk Plan as is required by the Board of Trustees from time to time. Initially, the contributions required from each of the Employer and Employees shall not be less than 7.8% of covered payroll, and thereafter as may be required from time to time by the Board of Trustees subject to the triggering mechanism and limitations imposed by the Funding Policy.
- (n) Contributions will be defined at the inception of the CBE Shared Risk Plan to provide the desired security levels for base and ancillary benefits. As such, the standards established by the Task Force are such that the required contributions:
 - (i) Must result in at least a 97.5% probability that base benefits will not be reduced over the 20 year projection period;

- (ii) Must result in total expected average COLA adjustments of at least 75% of CPI over the 20 year projection period;
 - (iii) Must be sufficient to meet the target funding level established at inception of the CBE Shared Risk Plan over a 15 year open group method;
 - (iv) Must not be increased automatically by more than allowed under the Funding Policy; and
 - (v) Subject to (o) below, must not be automatically decreased by more than allowed under the Funding Policy.
- (o) Contribution holidays will only be permitted if required under the *Income Tax Act* (Canada), will apply to both Employees and the Employer and will only be applied in the manner allowed under the Funding Policy
- (p) A Funding Policy must also be established in accordance to the parameters accepted by the Unions and Employer to provide the rules that shall be followed for determining both the timing and level of contribution rates, the level of COLA that may be allowed depending on the financial position of the plan and the limits under the *Income Tax Act* (Canada), the level of ancillary benefits, the deficit recovery plan and reductions in base benefits among the key features.
- (q) The Funding Policy shall at a minimum contain:

- (i) Definition of the key terms used in the Funding Policy.
- (ii) A clear statement of the funding goals. Such funding goals shall meet or exceed the minimum set out in the legislation.
- (iii) A description of the cost sharing between the Employees and Employer.
- (iv) A description of the required contributions and changes allowed under what conditions. Such changes in contributions shall be at the sole discretion of the Trustees and shall be implemented when required and in the amounts allowed by the Funding Policy.
- (v) A clear statement as to responsibility for plan expenses. For the CBE Shared Risk Plan, all expenses are paid by the plan unless otherwise agreed.
- (vi) A deficit recovery plan that shall contain both the priority order and the level of changes allowed. The deficit recovery plan shall be such that reduction of base benefits would occur as a last step in the deficit recovery plan.
- (vii) Funding excess rules that specify at what funding level excess funds can be used for improvement of benefits and how much of the excess can be allocated for that purpose at each of the annual actuarial valuation of the plan.
- (viii) A description of the financial measurement basis adopted by the plan.

Governance

- (r) A Board of Trustees will administer the CBE Shared Risk Plan. The Employer and the Unions will appoint such trustees, in equal numbers. Any conflicts will be addressed as required under the *Pension Benefits Act* as amended. A Board of Trustees should be fully established by July 1, 2013 at the latest. In the meantime, the current pension committee for the CBE plan shall assume the responsibility of the Board of Trustees.
- (s) After the Conversion Date, the Employer will have no financial obligations or responsibilities for the CBE Shared Risk Plan save and except for the obligation to make contributions to it as per the terms of the Funding Policy.
- (t) The Board of Trustees shall be responsible for:

- (i) All measurements and reporting required by the enabling legislation including regular actuarial valuations and stochastic modelling of the assets and the liabilities of the CBE Shared Risk Plan;
- (ii) Establishing an investment policy subject to annual review for the purpose of ensuring that the desired security for both the base benefits and the ancillary benefits that are expected to be achieved;
- (iii) Administering the plan in accordance with the Funding Policy and, for greater clarity, this includes the power to increase or decrease contributions and benefits in accordance with the Funding Policy;
- (iv) All other requirements of an Administrator under the *Pension Benefits Act* as amended;

Article II

CONVERSION DETAILS

- 2.1 The following items describe the key principles of the proposed conversion:
- (a) The Shared Risk Plan will be effective from and after the Conversion Date to the extent enabling legislation has received Royal Assent by that date. All conversion benefit calculations will be made as of that date without regard to any administrative changes required to effect the conversion.
 - (b) Part-time members of the Unions will be given the option of transferring their money purchase account from their existing part-time pension plan so as to obtain a Base Benefit in the Plan calculated subject to rules and conditions as may be approved by the Board of Trustees from time to time based on the principles underlying the CBE Shared Risk Plan. For greater certainty, the Board of Trustees may require that, in the case of purchase of service related to previously transferred commuted values from the CBE Plan to another pension fund or retirement savings vehicle, the cost to purchase base benefits under the CBE Shared Risk Plan be on the same basis as the amount previously transferred out of the CBE plan if greater than the normal purchase rules.
 - (c) The CBE Shared Risk Plan will be subject to the enabling legislation.
 - (d) NBNU and NBU confirm that they do not require membership ratification in order to enter into this Memorandum of Understanding or any subsequent agreement concerning the redesign of the CBE Plan.
 - (e) This Memorandum of Understanding does not affect the terms and conditions of employment established through the collective bargaining process negotiated from time to time between the Unions and the Employer, other than as required to convert the CBE Plan to the CBE Shared Risk Plan.

- (f) Conditions favourable to CBE Plan members not expressly or by necessary implication set out in this Memorandum of Understanding are intended to be preserved in the CBE Shared Risk Plan including, but not limited to, phased retirement rules.

Article III

GENERAL

3.1 Counterparts

This Memorandum of Understanding may be executed in any number of counterparts (including by way of facsimile) and all of such counterparts taken together will be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, each of the signatories hereto has caused this Memorandum of Understanding to be signed by its respective duly authorized officers or representatives as of the date first above written.

**HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF NEW
BRUNSWICK AS REPRESENTED BY
THE PREMIER**

Per: _____

Name: David Alward

Title: Premier

WITNESS:

Tom Mann

Name: Tom Mann

**NEW BRUNSWICK UNION OF PUBLIC
AND PRIVATE EMPLOYEES**

Per: _____

Name: *Susie Probst-Daigle*

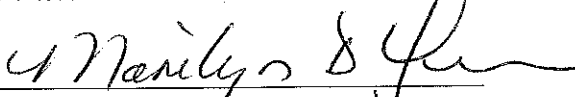
Title: President

WITNESS:



Name: David Brown

NEW BRUNSWICK NURSES' UNION

Per: 

Name: Marilyn Quinn

Title: President

Appendix - Parameters Used under Risk Management Framework

The risk management framework tests conducted on the CBE Shared Risk Plan were carried out using the following assumptions and parameters. Any change to these parameters will change the results of the tests and the required contribution rates to meet the funding goals required by the enabling legislation. The adopted Funding Policy shall adhere to these parameters unless changes are agreed to by the Unions and Employer.

Discount rate:	4.5% per annum with future discount rates to be determined consistent the objectives of the plan
Mortality basis:	UP-94 Generational Table using a projection scale reflecting the most recent life expectancy improvement data. In the future, this assumption will be changed as may be required to reflect latest available information on life expectancy.
Other assumptions:	Current valuation assumptions except that retirement pattern assumptions were adjusted to allow for the anticipated effect of the retirement rules considered in the costing.
Retirement rules:	Unreduced at age 65 with a reduction of 5% per year early only applicable to service on or after the Conversion Date.
Funding level:	Measured using the 15 year open group method. Valuation assets equal to the market value of assets plus the present value of excess contributions over the normal cost for base and ancillary benefits other than potential future COLA divided by the total liabilities, both at the relevant valuation date.
Initial contributions:	Sufficient to achieve a minimum target funding level of 117% of liabilities using a 15 year open group method at the Conversion Date. The level so determined for the retirement rules above is at least 7.8% of salary for Employees and 7.8% of salary for the Employer. A different retirement rule or change to other parameters would lead to a different contribution level.
Contribution increases:	Up to 1% of payroll in total, shared equally (i.e., up to 0.5% each for members and employer) and triggered when the funding level falls below 95% for two consecutive years. Such increases are to remain in place until the funding level reaches 110%.
Contribution decreases:	Up to 2% of payroll in total, shared equally (i.e., up to 1.0% each for members and employer) and triggered when the funding level exceeds 150%. Such decreases are to remain in place until the funding level falls below 150%.

COLA Annual allocation of funding excess for purposes granting of COLA was set at 1% for each 6% of excess funds above a funding level of 105% up to a funding level of 140% or such COLA as the Board of Trustees chose provided the ratio is \$1 dollar available for COLA for every \$6 dollars of excess funds as described above. Funding excesses above 140% would first be used to recapture any COLA not previously granted up to the *Income Tax Act* limits in a manner that, to the extent practical, gives priority to recapturing missed COLA in the order in which it was missed. COLA applies to all members in equal proportion regardless of status at the date COLA is granted.

Ancillary benefits: Improvements only possible if all COLA is fully recaptured and there is still a funding excess above 140%.

Target Asset Allocation: Initially, 55% Fixed Income, 25% Equity, 10% Real Estate and 10% Infrastructure.

Deficit recovery plan: Based on the following steps applied in succession until funding goals are met:

- (1) *Increase contributions as allowed under the Funding Policy;*
- (2) *Change retirement rules for post-conversion service for non-vested members to a full actuarial reduction for retirement before age 65;*
- (3) *Change retirement rules for pre-conversion service for non-vested members to a full actuarial reduction for retirement before age 60;*
- (4) *Reduce base benefit accrual rate for future service after the date of implementation of the deficit recovery plan by not more than 5%;*
- (5) *Reduce base benefits on a proportionate basis for all members regardless of membership status for both past and future service in equal proportions.*

If steps (2) through (6) are implemented, then priority must be given to reversing these changes in reverse order of application before any future COLA is granted.