
VESTCOR CORP.
AMENDED AND RESTATED MEMBERS' AGREEMENT

Dated: January 1, 2018

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MEMBERS' AGREEMENT

THIS AGREEMENT is made as of January 1, 2018,

AMONG:

THE BOARD OF TRUSTEES OF THE NEW
BRUNSWICK TEACHERS' PENSION PLAN;

("NBTPP Trustees")

- and -

THE BOARD OF TRUSTEES OF THE NEW
BRUNSWICK PUBLIC SERVICE PENSION PLAN;

("PSPP Trustees")

- and-

VESTCOR CORP.

- and-

VESTCOR INC.

WHEREAS:

- A. Vestcor Corp. is incorporated pursuant to the *Vestcor Act*, S.N.B. 2016, c. 31 (the "Act") and Vestcor Inc. is continued by amalgamation pursuant to the Act;
- B. Vestcor Corp., NBTPP Trustees, PSPP Trustees and the predecessors to Vestcor Inc., being Vestcor Investment Management Corporation and Vestcor Pension Services Corporation, entered into a Members' Agreement dated November 7, 2016 (the "2016 Agreement") pursuant to Subsection 7(3) of the Act with respect to the governance of Vestcor Corp.;
- C. Vestcor Investment Management Corporation and Vestcor Pension Services Corporation amalgamated pursuant to Section 104 of the Act and continued as Vestcor Inc. effective as of January 1, 2018;
- D. The parties hereto wish to amend and restate the 2016 Agreement in light of the continuance of Vestcor Inc. by amalgamation by entering into this Agreement pursuant to Subsection 7(3) of the Act, so that the 2016 Agreement is of no more force or effect and so that this Agreement provides for certain matters in relation to membership in Vestcor Corp. and the governance of Vestcor Corp.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 Definitions

For the purposes of this Agreement the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

"2016 Agreement" has the meaning ascribed thereto in Recital B.

"Act" has the meaning ascribed thereto in Recital A.

"Affected Member" has the meaning set forth in Section 8.1.

"Affiliate" means, with respect to any Person, any other Person who, directly or indirectly, Controls, is Controlled by, or is under common Control with, such Person, including any Subsidiary of such Person and **"Affiliated"** has corresponding meaning, provided however that for the purposes of this Agreement a Person that is Controlled by Vestcor Inc. solely for the purposes of holding or investing assets of any trust, limited partnership or other fund or client in respect of which Vestcor Inc. acts as trustee or investment manager shall not be an Affiliate of Vestcor Inc. or any other Group Company.

"Agreement" means this members' agreement.

"Arm's Length" means arm's length as determined for the purposes of the Tax Act.

"Assignment" of any interest means any sale, exchange, transfer, gift, creation of an Encumbrance or other transaction, whether voluntary, involuntary or by operation of law, by which such interest passes from one Person to another Person or to the same Person in a different capacity, whether or not for value and **"Assigned"** has a corresponding meaning.

"Assignment Notice" has the meaning set forth in Section 8.1.

"Bankruptcy Event" means, with respect to any Person, the occurrence of one or more of the following events:

- (i) an order is made, or an effective resolution passed, for the winding-up, liquidation or dissolution of such Person, and, in the case of an order, such order is not stayed or vacated within thirty (30) days, or such Person causes or institutes any proceeding for its dissolution or termination;
- (ii) a court having jurisdiction enters a decree or order (A) adjudging such Person bankrupt or insolvent, (B) approving a plan of reorganization, readjustment, arrangement, composition or similar relief respecting such Person under any bankruptcy, reorganization of debts or insolvency law or any other similar applicable law, (C) appointing a receiver, liquidator, trustee, custodian or assignee in bankruptcy or insolvency of all or a substantial part of the undertaking or property of such Person, or (D) approving the winding up, liquidation or dissolution of such Person's affairs, and, in any such case, such decree or order, as the case may be, is not contested and the effect thereof stayed within twenty (20) days

thereafter, or any material part of the property of such Person is sequestered or attached and is not returned to the possession of such Person or released from such attachment within twenty (20) days thereafter;

- (iii) such Person applies for, consents to, or acquiesces in, the appointment of a receiver, trustee, custodian, liquidator or assignee in bankruptcy or insolvency or the like of itself or of all or a substantial part of its assets;
- (iv) such Person institutes proceedings as part of an insolvency for its winding up, liquidation or dissolution, takes action to become voluntarily bankrupt, makes an assignment for the benefit of creditors, or admits in writing that it is unable to pay its debts as they become due;
- (v) such Person makes a general assignment for the benefit of creditors;
- (vi) such Person files a proposal, a notice of intention to make a proposal, a petition or answer or consent seeking reorganization, readjustment, arrangement, composition or similar relief under any bankruptcy, reorganization of debts or insolvency law or any other similar applicable law;
- (vii) such Person files an answer admitting the material allegations of, or consents to, or defaults in answering, a petition filed against it in any bankruptcy, reorganization of debts, insolvency, or other similar proceeding where such action or failure to act will result in a determination of bankruptcy or insolvency against it; or
- (viii) any proceeding is commenced, or a petition is issued, respecting such Person without its consent or acquiescence pursuant to any applicable law relating to bankruptcy, insolvency, reorganization of debts, winding-up, liquidation or dissolution, and such proceeding or petition (A) results in a judgment of bankruptcy or the entry of an order for relief and a period of thirty (30) days has elapsed since such judgment or entry of such order without such judgment or order having been stayed, reversed or set aside, or (B) is not dismissed, discharged, stayed or restrained in each case within sixty (60) days of the commencement of such proceeding or issuance of such petition.

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in New Brunswick, Canada.

“By-Laws” means the by-laws of any Group Company.

“Capital Budget” for any Group Company means the annual capital budget of such Group Company.

“Client” means any pension fund, endowment trust fund, mutual fund, sinking fund, or any other trust fund or other fund in respect of which the Vestcor Group or any Group Company is engaged to provide Services and, for greater certainty, includes each of NBTPP Trustees and PSPP Trustees.

"Compensation" includes all current and deferred, direct and indirect, forms of compensation, including salaries, fees, bonuses, insurance, loan and other benefits, cash, equity or other incentive compensation, perquisites and pension, retirement, termination and other benefits payable on or following termination of employment.

"Confidential Information" has the meaning set forth in Section 10.1.

"Control" means, with respect to any Person, the possession, directly or indirectly, of the power to elect a majority of such Person's board of directors or similar governing body, or to direct or cause the direction of the management, business or policies of such Person, through ownership of capital stock issued by a corporation (or equivalent interests in any other Person), the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or Persons performing similar functions) of such Person, even if such right to vote has been suspended by the happening of such contingency, by contract or otherwise; and **"Controlled"** has a corresponding meaning.

"Dispute" has the meaning set forth in Section 11.1.

"Encumbrance" means any security interest, mortgage, debenture intended as a security device, deed of trust that includes provisions intended as a security device, option, pledge, hypothecation, assignment by way of charge, collateral assignment, charge or deposit arrangement, trust (actual or deemed) intended as a security device, lease intended as a security device, lien (statutory or other), restrictive covenant or other encumbrance or right creating or evidencing an interest in property including those created by, arising under or evidenced by any conditional sale or other title retention agreement.

"Group Company" means either of Vestcor Corp. or Vestcor Inc.

"Interest" means the membership interests of a Member of Vestcor Corp. and includes the rights and interests of the Member under this Agreement.

"Member" means the NBTPP Trustees, the PSPP Trustees and any New Members.

"New Members" means any Persons who are admitted as Members pursuant to Section 7 of the Act, so long as they are utilizing the services of any Group Company.

"Operating Budget" for any Group Company means the annual operating budget of such Group Company.

"Parties" means, at any particular time, collectively, each of the signatories to this Agreement and **"Party"** means any of the Parties.

"Permitted Assignee" means, in respect of any Member:

- (a) an Affiliate of the Member; or
- (b) where the Member is a trustee of a pension fund, endowment trust fund, mutual fund, sinking fund, or other trust fund, a successor trustee.

"Person" means any individual; any body, public or private, incorporated anywhere in the world; any partnership; any limited partnership; any limited liability company; any

unlimited liability company; any other entity formed for business or investment purposes; any joint venture; any trust or unincorporated organization; the Crown or any agency or instrumentality thereof; and any other entity recognized by law.

"Prime Rate" means the rate of interest, expressed as a rate per annum, that the banker of Vestcor Group establishes as its reference rate of interest for Canadian dollar loans to its commercial customers in Canada and which it refers to as its prime rate.

"Proportionate Basis" means, when used in relation to two or more Members, in proportion to the amount of assets of such Members under the administration of the Vestcor Group.

"Related Party" means in respect of a Member, a Person that would be a Permitted Assignee of such Member or that does not deal at Arm's Length with such Member.

"Services" means pension and benefits administration services, and investment management and advisory services and other related services.

"Services Agreement" means an agreement between a Client and any Group Company with respect to the provision of Services to the Client by any Group Company.

"Subsidiary" means, with respect to any Person, any other Person who, directly or indirectly, is Controlled by such Person provided however that for the purposes of this Agreement a Person that is Controlled by Vestcor Inc. solely for the purposes of holding or investing assets of any trust or other fund or client in respect of which Vestcor Inc. acts as trustee or investment manager shall not be a Subsidiary of Vestcor Inc. or any other Group Company.

"Tax Act" means the *Income Tax Act* (Canada), as the same may be amended, re-enacted or replaced from time to time.

"Termination Amount" means the amount determined under Section 9.1.

"Termination Event" means in respect of a Member: (i) the termination, howsoever caused, of the Services Agreement between that Member and any Group Company provided that if within 60 days of the date of such termination the parties thereto enter into an agreement providing for the continued provision by such Group Company of all or a part of the Services, such termination shall be deemed not to be a Termination Event, (ii) occurrence of a Bankruptcy Event with respect to that Member or (iii) in the case of a Member that acquired its Interest as a Permitted Assignee, such Member ceases to be a Permitted Assignee of the transferor Member and such Member fails to forthwith transfer the interest to the original transferor Member or to another Permitted Assignee of the original transferor Member.

"Unaffected Member" has the meaning set forth in Section 8.1.

"Vestcor Corp. Board" means the board of directors of Vestcor Corp.

"Vestcor Corp. Director" means a member of the Vestcor Corp. Board.

"Vestcor Group" means Vestcor Corp. and Vestcor Inc.

1.2 Currency

Unless otherwise indicated, all dollar amounts referred to in this Agreement are expressed in Canadian funds.

1.3 Sections and Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise specified, any reference to an Article or a Section refers to the specific Article or Section of this Agreement.

1.4 Rules of Construction

In this Agreement:

- (a) the terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion of this Agreement;
- (b) words importing the singular number only include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders and vice versa;
- (c) the words "include", "includes" and "including" mean include, includes or including, in each case, without limitation;
- (d) reference to any agreement or other instrument means such agreement or other instrument as amended, modified, replaced or supplemented from time to time; and
- (e) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next following Business Day.

1.5 Entire Agreement

This Agreement and the other documents referred to herein constitute the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as provided in this Agreement, such other documents, or any combination thereof.

1.6 Governing Law; Jurisdiction

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the laws of the Province of New Brunswick and the federal laws of Canada applicable therein and, subject to the provisions of ARTICLE 11 each Party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such Province and all courts competent to hear appeals therefrom.

1.7 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof and each provision is hereby declared to be separate, severable and distinct. To the extent that any provision is found to be invalid, illegal or unenforceable, the Parties shall act in good faith to substitute for such provision, to the extent practicable under the circumstances, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

1.8 Amendment

No amendment or modification of this Agreement is effective except by an instrument in writing that is executed and delivered by all of the Parties or if the relevant amendment or modification exclusively affects rights and obligations between the Members, by all of the Members and is identified as an amendment or modification to this Agreement.

1.9 Waiver

Any Party may extend the time for the performance of any of the obligations owed to such Party by one or more of the other Parties or waive compliance with any of the covenants or performance of any of the obligations owed to such Party by one or more of the other Parties or any of the conditions to performance of such Party's obligations contained herein. Any such extension or waiver is valid only if such extension or waiver is set forth in an instrument in writing that is executed and delivered by the Party to be bound thereby and is expressly identified as an extension or waiver hereunder. The failure or delay of any Party to assert any of its rights hereunder does not constitute a waiver of any of such rights. Any failure or delay of any Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms does not in any way affect the validity of this Agreement, or any part hereof, and is not to be deemed to be a waiver of the right of such Party thereafter to enforce any and each such provision. Each Party may give or withhold its consent in its sole discretion, unless this Agreement expressly provides for a different standard in a given instance.

**ARTICLE 2
REPRESENTATIONS AND WARRANTIES**

2.1 Representations and Warranties of Members

Each of the Members hereby represents and warrants to each of the other Parties hereto that as at the date of its execution and delivery of this Agreement:

- (a) such Member has the full power, authority and legal right to execute and deliver this Agreement and to perform its obligations hereunder;
- (b) this Agreement has been duly authorized, executed and delivered by such Member and constitutes a legal, valid and binding obligation of such Member, enforceable against such Member in accordance with the terms hereof;
- (c) the execution and delivery by such Member of this Agreement and the performance by such Member of its obligations hereunder and compliance by such Member with the terms, conditions and provisions hereof, do not and will

not, as applicable, conflict with or result in a breach of any of the terms, conditions or provisions of (i) such Member's organizational documents; (ii) any law, rule or regulation having the force of law; (iii) any indenture, mortgage, lease, agreement or instrument binding or affecting such Member or its properties; or (iv) any judgment, injunction, determination or award which is binding on such Member or its properties;

- (d) no authorization, consent, approval, license or exemption from any governmental entity is required by such Member in connection with the execution and delivery by such Member of, and the performance by such Member of its obligations under, this Agreement (except for those which have been obtained); and
- (e) such Member is not a party to any agreement which is inconsistent with such Member's rights and obligations hereunder or otherwise conflicts with the provisions of this Agreement.

ARTICLE 3 **MANAGEMENT OF VESTCOR GROUP**

3.1 Application of Act

Each of the Group Companies shall be managed and administered in accordance with the Act and to the extent that there is any conflict between the terms of this Agreement and the Act, the Act shall prevail.

3.2 Governance of Vestcor Corp.

- (a) Subject to paragraph (b), the Vestcor Corp. Board shall consist of eight (8) directors of which:
 - (i) NBTPP Trustees shall appoint one-half of the Vestcor Corp. Directors; and
 - (ii) PSPP Trustees shall appoint one-half of the Vestcor Corp. Directors.
- (b) In the event that any New Members are admitted, the number of directors may be increased by up to four (4) additional directors as determined by the Board and the Board may grant one or more New Members, taking into account the amount of the assets of such New Member administered by Vestcor Group and the Services provided by Vestcor Group to the New Member and such other factors as the Board considers appropriate, the right to appoint one or more such additional directors.
- (c) Each Vestcor Corp. Director shall hold office for a term of 3 years and may be reappointed at the discretion of the Member or Members who appointed such Vestcor Corp. Director.
- (d) The quorum for meetings of the Vestcor Corp. Board will consist of a majority of the Vestcor Corp. Directors provided that such majority shall include at least (i) two (2) Vestcor Corp. Directors appointed by the NBTPP Trustees, and (ii) two (2) Vestcor Corp. Directors appointed by the PSPP Trustees.

- (e) The Members shall exercise their influence in respect of Vestcor Group and take all other actions that may be required to ensure that the Vestcor Corp. Board shall at all times be constituted in accordance with the provisions of this Agreement and the Act.

3.3 Member Approval Rights

- (a) In addition to any other consent required by law, no Group Company shall take any of the following actions except with the prior consent of each of the Members:
 - (i) the admission of any New Member;
 - (ii) any amalgamation, reorganization or arrangement involving any Group Company;
 - (iii) the dissolution, liquidation or winding up of:
 - (A) any Group Company, or
 - (B) any Subsidiary of any Group Company.
 - (iv) the appointment or dismissal of the auditor of any Group Company;
 - (v) other than the entering into of the Services Agreements with the NBTPP Trustees and the PSPP Trustees and any transactions contemplated thereunder (unless the effect of which is to materially increase or decrease the scope of the Services to be provided under the Services Agreement), the entering into of any material transaction between any Group Company and a Member or a Related Party of a Member or any material transaction by any Group Company for the benefit of a Member or a Related Party of a Member; and
 - (vi) any amendment to the By-Laws of any Group Company;
- (b) Except as set forth in this Section 3.3 or as may be required by the Act or By-Laws of any Group Company, no Member will have any consent or approval rights in relation to the operation or management of the business of any Group Company.

3.4 Vestcor Corp. Approval Rights

- (a) In addition to any other consent required by law, Vestcor Inc. shall not take any of the following actions except with the approval of the Vestcor Corp. Board:
 - (i) the granting of any Encumbrance on its assets;
 - (ii) any sale, lease or other disposition of any assets other than:
 - (A) a sale, lease or other disposition in the ordinary course of its business; and

- (B) a sale, lease or other disposition of immaterial or redundant assets;
 - (iii) any single capital expenditure in excess of CAD\$250,000, unless provided for in the Capital Budget approved by the Vestcor Corp. Board;
 - (iv) any expenditures or proposed expenditures that result or would result in its aggregate operating expenses for the applicable year exceeding the aggregate operating expenses set out in the Operating Budget approved by the Vestcor Corp. Board by more than ten percent (10%);
 - (v) the payment by any Group Company of any Compensation to any employee or officer in excess of any compensation plan approved by the board of directors of the Group Company or the human resources committee or any other applicable committee of the board of directors, where such payment would materially impact the Operating Budget of such Group Company;
 - (vi) the borrowing of any amount, other than amounts of credit extended by suppliers and service providers in the ordinary course and amounts charged to credit cards for the purchases of goods and services in the ordinary course, in excess of CAD\$25,000; and
 - (vii) the provision of any guarantee, indemnity or other financial support for the benefit of any Person other than (A) indemnities provided to (1) directors of any Group Company, or (2) directors, officers or employees of Vestcor Inc. in respect of their serving as a director, officer, advisory committee member or in any similar capacity in relation to any portfolio investments, or (B) a guarantee, indemnity or other such support provided to any Person in connection with any investment made or held on behalf of a Client of Vestcor Inc. or the disposition of such investment provided that the guarantee, indemnity or other support is an obligation of the Client or the Client is unconditionally obligated to indemnify Vestcor Inc.
- (b) Nothing in Section 3.4(a) shall limit or restrict anything done or to be done by Vestcor Inc. on behalf of, or in its capacity as agent or trustee of, any trust or other fund or client in respect of which it acts as trustee or investment manager provided that any obligation incurred by Vestcor Inc. is that of such trust, fund or client (and not an obligation of Vestcor Inc.) or Vestcor Inc. is entitled to indemnification out of the assets of such trust, fund or client in respect of such obligation.

ARTICLE 4 **SERVICES**

4.1 Services Agreement

Each of the Clients shall enter into, or shall have entered into, a Services Agreement with the Vestcor Group or a Group Company which shall, among other matters:

- (a) describe the Services to be provided by, and the duties and responsibilities of, the Vestcor Group or such Group Company;

- (b) set out the service standards necessary for the provision of appropriate quality and level of service to the Client; and
- (c) the rights of termination and the respective rights and obligations of the parties on termination.

4.2 Usual Commercial Terms

Subject to Section 5.1 and the requirement under the Act that operations of the Vestcor Group will be conducted on a not for profit basis, all Services Agreements to be entered into by the Vestcor Group or any Group Company shall otherwise be based on usual commercial terms consistent with those obtained in arm's-length negotiations with unrelated third persons for similar services.

ARTICLE 5 FINANCIAL MATTERS

5.1 Operating Costs

Operating costs shall be allocated among Clients in such a manner as reflects the Services provided by the Vestcor Group to each Client in accordance with the provisions of the Act and as more fully provided for in the applicable Services Agreement.

5.2 Budget

On or before December 31 in each year, Vestcor Inc. shall submit to the Vestcor Corp. Board a capital budget and an operating budget for approval by the Vestcor Corp. Board.

5.3 Report

Vestcor Corp. shall provide to each Member, on a quarterly basis, a report on the total operating costs of Vestcor Corp. for such period and the allocation of such operating costs among each Member.

5.4 Financing and Borrowing

Subject to Section 5.1, any financing or borrowing required by any Group Company from time to time will be raised from such sources and on such terms as may be approved by the Members pursuant to Section 3.4(a)(vi).

ARTICLE 6 INSURANCE

6.1 Maintain Insurance

Vestcor Corp. shall at all times maintain in full force and effect insurance, including property and liability insurance and insurance covering errors and omissions, in appropriate amounts and for appropriate risks as would be considered prudent for similar businesses including, without limitation, coverage in accordance with the particulars set out below, such insurance coverage to be funded by, and shall be an expense of, the Vestcor Group. All policies shall be reviewed by the Vestcor Corp. Board annually, and shall not be cancelled or materially amended by any Group

Company without the prior written approval of the Vestcor Corp. Board. The particulars of such coverage shall be as follows:

- (a) directors and officers liability insurance in the amount of not less than CAD\$10 million dollars per occurrence;
- (b) general liability insurance coverage, including personal injury, and accidents occurring on its private property, or on premises leased or otherwise controlled by the Vestcor Group, in such amounts as determined by the Vestcor Corp. Board; and
- (c) errors and omissions insurance in the amount of not less than CAD\$10 million dollars per occurrence.

ARTICLE 7

RESTRICTIONS ON RIGHT TO ASSIGN INTEREST

7.1 Permitted Assignee

A Member may not sell, assign, transfer, pledge, mortgage or otherwise dispose of, whether by merger, operation of law or otherwise (a "Transfer"), all or any of its Interest to any Person unless the Members have consented to such Transfer in writing, which consent may be withheld at the Members' discretion, except that a Member may Transfer its Interest to a Permitted Assignee provided that the Permitted Assignee, in the Members' judgment, has the financial ability to hold the Member's Interest and perform in a timely manner all of the Member's obligations as a Member under the Act and this Agreement.

Unless the Members otherwise determine, the transferring Member and the Permitted Assignee of any Interest shall be jointly and severally obligated to reimburse the Members for all reasonable expenses of any Transfer or proposed Transfer of the Interest, whether or not consummated.

Notwithstanding anything to the contrary contained in this Section, no Permitted Assignee of any Interest shall be admitted as a Member without executing an accession agreement in such form as the Vestcor Corp. Board may approve, agreeing to be bound by the terms of this Agreement. Each such Person so admitted as a Member is deemed to have made the representations and warranties in Section 2.1 as at the date of the execution of such instrument.

7.2 Assignments Contrary to Agreement

Any Transfer of an Interest in violation of this Agreement shall be invalid, void and of no force or effect and shall not be recognized by Vestcor Group or any Member for any purpose. The purported buyer, assignee, transferee, pledge, mortgagee, or other recipient shall have no interest in or rights to any assets, profits, losses or distributions of any Group Company and the Members shall not be required to recognize any such interest or rights.

ARTICLE 8
TERMINATION OF MEMBER'S INTEREST

8.1 Termination of Member's Interest

If a Termination Event occurs with respect to any Member (the "Affected Member"), the Affected Member shall promptly give notice thereof to the other Members (the "Unaffected Member") in which event:

- (a) The Unaffected Member shall be entitled, on written notice to the Affected Member given within sixty (60) days of receipt of notice of the occurrence of the Termination Event (the "Assignment Notice"), to require the Affected Member to assign to the Unaffected Member all, but not less than all, of the Interest of the Affected Member at the date of delivery of the Assignment Notice. If there is more than one Unaffected Member that issues an Assignment Notice, subject to Section 8.2, such Affected Members shall assign the Interest in Vestcor Corp. on a Proportionate Basis; and
- (b) If no Unaffected Member issues an Assignment Notice within sixty (60) days of receipt of notice of the occurrence of the Termination Event, the Affected Member shall be entitled, on written notice to the Unaffected Members, to require the Unaffected Member to accept all, but not less than all, of its Interest and if there is more than one Unaffected Member, to acquire the Interest on a Proportionate Basis.

8.2 NBTPP Trustees and PSPP Trustees

If either NBTPP Trustees or PSPP Trustees is the Affected Member, then the other one of them shall have the right to acquire the Interest in priority to any other Member.

8.3 Withdraw by Affected Member

Upon the acquisition of the Interest of the Affected Member, the Affected Member shall be deemed to withdraw as a Member and shall execute all resignations and other instruments necessary to evidence the same.

8.4 Termination Amount

Upon transfer of an Affected Member's Interest under Section 8.1, the Affected Member shall be entitled to receive the Termination Amount which amount shall be paid by the Unaffected Member acquiring the Interest (or if there is more than one Unaffected Member acquiring the Affected Member's Interest such Unaffected Members shall pay their Proportionate Share of the Termination Amount) in five equal annual instalments with interest thereon at the Prime Rate.

ARTICLE 9
DETERMINATION OF TERMINATION AMOUNT

9.1 Determination of Termination Amount

The Termination Amount in respect of a Member shall equal such Member's Proportionate Share of the book value of the assets of Vestcor Group, without any allowance for goodwill and adjusted for depreciation, less its liabilities, as determined by

Vestcor Corp.'s then auditor (or in the event that the auditor is unavailable, unable, or unwilling to provide the requested service, then such Parties will appoint an independent auditing firm of equivalent standing) to determine the Termination Amount.

9.2 Costs

In connection with any determination of the Termination Amount:

- (a) the fees and expenses of Vestcor Corp.'s auditor or other independent auditing firm engaged for such purpose will be borne by the Affected Member; and
- (b) all other costs and expenses incurred in connection with the determination of Termination Amount (including attorneys' fees and expenses) shall be borne by the Party incurring such costs.

ARTICLE 10 CONFIDENTIAL INFORMATION

10.1 Confidential Information

Any information, financial or otherwise, with respect to the business and affairs of any Group Company including without limitation the terms of this Agreement ("**Confidential Information**") shall be treated as confidential by each Party hereto.

Each Party agrees that it will not at any time, whether then a Member of Vestcor Corp. or not, directly or indirectly disclose Confidential Information to any Person (other than the Party's own professional advisors on a need-to-know basis or another Party hereto) not authorized by the Parties hereto to receive such information or use such Confidential Information for any purpose unrelated to the Vestcor Group or this Agreement.

For greater certainty, nothing in this Agreement imposes liability upon any Party for making disclosure of Confidential Information where such disclosure:

- (i) is required by law or court order; or
- (ii) is occasioned through theft, lawful or unlawful search and seizure or through any other means beyond the reasonable control of the Party.

ARTICLE 11 DISPUTE RESOLUTION

11.1 Best Endeavours to Settle Disputes

If any controversy, dispute, claim, question or difference (a "**Dispute**") arises with respect to this Agreement or its existence, interpretation, performance, enforcement, breach, termination or validity, then the Parties involved in the Dispute shall use commercially reasonable efforts to settle the Dispute. To this end, they shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach a just and equitable solution satisfactory to them, acting reasonably.

11.2 Arbitration

- (a) If the Parties involved in the Dispute do not reach a resolution of the Dispute pursuant to Section 11.1 within 30 days after written notice of the Dispute has been given by one to the other(s), the Dispute shall be settled by final and binding arbitration in accordance with the provisions of the Arbitration Act (New Brunswick) as in effect from time to time (the "**Arbitration Act**").
- (b) Any Party involved in the Dispute may initiate such arbitration by giving a notice to arbitrate to the other(s) setting out the nature of the Dispute the amount involved, if any, and the remedy sought.
- (c) Unless the Parties agree to arbitration by a sole arbitrator, the arbitration shall be carried out by a tribunal of three arbitrators, one appointed by each Party to the Dispute (and for such purposes, Parties having a common interest shall be treated as a single Party), and the third arbitrator, who shall be chairman of the tribunal who shall be appointed by the first two appointed arbitrators.
- (d) The arbitration shall be private and confidential and unless otherwise required by law, all hearings, meetings, and communications shall be private and confidential as between the participants and the arbitrators.
- (e) The arbitration hearing shall take place in the City of Fredericton, New Brunswick, at a location to be determined by the arbitrators in consultation with the parties thereto.
- (f) The applicable law of the arbitration shall be New Brunswick law.
- (g) The Parties to the arbitration may proceed in either official language.
- (h) Unless otherwise required by law, the decision of the arbitrators or sole arbitrator, if applicable, shall be private and confidential between the Members involved in the Dispute and shall not be subject to appeal except to the extent permitted by the Arbitration Act.

ARTICLE 12 MISCELLANEOUS

12.1 New Member Accession

No Person shall be admitted as a New Member unless it executes an accession agreement, in such form as the Board may approve, agreeing to be bound by the terms of this Agreement. Each Person admitted as a New Member is deemed to have made the representations and warranties in Section 2.1 as at the date of the execution of such instrument.

12.2 Term; Termination

This Agreement shall first come into force and effect as of the date hereof and, except as provided below, shall continue in force until the earlier to occur of (a) the date on which one Member holds all of the Interests in Vestcor Corp.; and (b) the date on which this Agreement is terminated by written agreement of all Members. A termination of this Agreement or any provision of this Agreement shall not affect or prejudice any provisions

hereof which are expressed to survive such termination or any rights or obligations which have accrued or arisen under this Agreement prior to the time of termination, and such rights and obligations shall survive the termination of this Agreement.

12.3 Implementation

Each Member agrees to exercise its influence in respect of the Vestcor Group and each Group Company and each Member agrees to sign all such documents and to do and perform all such other acts or things, as may be necessary or desirable from time to time in order to give full effect to the provisions and intent of this Agreement and to ensure that the provisions of this Agreement shall govern the affairs of the Vestcor Group to the maximum extent permitted by law.

12.4 Notices

(a) All notices, requests, claims, demands and other communications hereunder must be in writing and are sufficiently given if delivered personally, by registered mail (postage pre-paid, return receipt requested), by a recognized overnight delivery service or by facsimile, email or other electronic transmission (provided however, that email or other electronic transmission is not sufficient delivery if no email address is included herein), directed as follows (or, in the case of any Member, to such other address as Vestcor Corp. shall have on record for such Member):

- (i) to NBTPP Trustees:
c/o Larry Jamieson, Chair
650 Montgomery Street
Fredericton, New Brunswick
Canada E3B 4J7

E-mail: Larry.Jamieson@nbta.ca
Phone: (506) 452-1721
- (ii) to PSPP Trustees:
c/o Marilyn Quinn, Chair
18 Yukon Drive
Quispamsis, New Brunswick
Canada, E2E 5Y9

E-mail: mdquinn57@gmail.com
Phone: (506) 650-8728
- (iii) to Vestcor Corp.:

440 King Street
York Tower, Suite 680
Fredericton, New Brunswick
Canada E3B 5H8
Attention: Chief Executive Officer

Phone: (506) 444-5800
Fax: (506) 444-5025

(iv) to Vestcor Inc.:

440 King Street
York Tower, Suite 680
Fredericton, New Brunswick
Canada E3B 5H8
Attention: Chief Executive Officer

Phone: (506) 444-5800
Fax: (506) 444-5025

- (b) Each such notice, request, claim, demand or other communication is deemed to have been received upon the earliest to occur of (i) actual delivery, (ii) in the case of registered mail, 5 Business Days after being deposited in the mail addressed as aforesaid, (iii) in the case of facsimile, e-mail or other electronic transmission, on the next Business Day following the date of transmission (provided that the original of such notice, request, claim, demand or other communication is promptly sent by overnight delivery service as aforesaid) and (iv) in the case of overnight delivery service, one Business Day after being sent addressed as aforesaid. The Parties may designate additional addresses, facsimile numbers or e-mail addresses for particular communications as required from time to time, and may change any address, facsimile number or e-mail address upon 5 Business Days' prior notice thereof.

12.5 Enforceability and Assignment

Subject to the provisions hereof, this Agreement shall be binding on and enforceable by the Parties and their respective successors (including any corporation continuing from an amalgamation involving a Party) and to the extent specifically provided herein, permitted assigns. Except as specifically permitted by this Agreement, no Member may assign any of its rights or delegate any of its duties or obligations hereunder without the prior written consent of the other Members.

12.6 Remedies

Each Party acknowledges that a violation of any provision of this Agreement will result in immediate and irreparable harm to the other Parties which cannot be compensated adequately by recovery of damages alone and agrees that, in the event of any such violation or threatened violation, the other Parties shall, in addition to any other rights or remedies available at law, in equity or otherwise, be entitled to temporary and permanent injunctive relief, specific performance and other equitable remedies.

12.7 Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

The Board of Trustees of the New Brunswick Teachers' Pension Plan

By: 

Name: Larry Jamieson

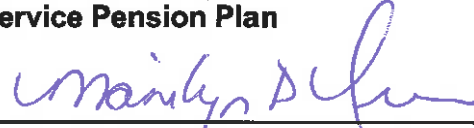
Title: Chair

By: 

Name: David Nowlan

Title: Vice Chair

The Board of Trustees of the New Brunswick Public Service Pension Plan

By: 

Name: Marilyn Quinn


Title: Chair

By: 

Name: Leonard Lee-White


Title: Vice Chair

Vestcor Corp.

By: 

Name: John A. Sinclair

Title: Chief Executive Officer

By: 

Name: Jan Imeson

Title: Chief Financial Officer

Vestcor Inc.

By: 

Name: John A. Sinclair

Title: Chief Executive Officer

By: 

Name: Jan Imeson

Title: Chief Financial Officer

