

**Pension Plan for  
Non-Academic  
Employees of  
Mount Allison University**

New Brunswick Registration Number-- NB0364604  
Revenue Canada Registration Number-- 0364604

**Consolidated to December 1, 2003**

## Table of Contents

	<b>Page</b>
Section 1 Introduction .....	1
Section 2 Definitions .....	2
Section 3 Eligibility for Membership .....	9
Section 4 Contributions .....	10
Section 5 Retirement Dates .....	13
Section 6 Retirement Benefits .....	14
Section 7 Form of Pension Benefits .....	24
Section 8 Termination Benefits .....	26
Section 9 Death Benefits .....	30
Section 10 Designation of Beneficiary .....	32
Section 11 Administration .....	33
Section 12 Pension Fund .....	35
Section 13 Future of the Plan .....	36
Section 14 General Provisions .....	37

# **Section I**

## **Introduction**

- 1.1 The Pension Plan Rules for Maintenance, Secretarial, and Technical Employees of Mount Allison University (the "Plan") was established by Mount Allison University effective July 1, 1970.
- 1.2 The Plan is hereby amended and restated
  - (a) to incorporate changes required under the Pension Benefits Act (New Brunswick) effective December 31, 1991,
  - (b) to incorporate changes required as a result of amendments to the Income Tax Act (Canada) effective January 1, 1992,
  - (c) to make certain improvements to the Plan, and
  - (d) to change the name of the Plan to more accurately describe the Members of the Plan.
- 1.3 Unless the Plan provides otherwise in a specific case, the terms of the Plan as restated shall apply to Members who retire, terminate employment, or die on and after January 1, 1992. The benefits of Members who, prior to January 1, 1992, retired, terminated employment, died, or were transferred to another category of employment not covered by the Plan shall be determined by the terms of the Plan in effect at the time of that event.

## Section 2

### Definitions

In this Plan, the following words shall have the following meanings unless a different meaning is required by the context:

- 2.1 "Actuarial Equivalent" means a pension of an equivalent value determined using actuarial tables and other methods and assumptions that do not discriminate on the basis of gender, and that are adopted by the Employer on the recommendation of the Actuary for the purposes of the Plan, subject to any requirements of the Pension Benefits Act and the Income Tax Act.
- 2.2 "Actuary" means a person or firm retained by the Employer who is, or one of whose employees is, a Fellow of the Canadian Institute of Actuaries.
- 2.3 "Beneficiary" means a beneficiary designated by a Member in accordance with Section 10.
- 2.4 "Commutated Value" means, in relation to benefits that a person has a present or future entitlement to receive, a lump sum amount that is the actuarial present value of those benefits computed using rates of interest, actuarial tables, and other assumptions that do not discriminate on the basis of gender, and that are adopted by the Employer on the recommendation of the Actuary for purposes of the Plan, subject to any requirements of the Pension Benefits Act and the Income Tax Act.
- 2.5 "Continuous Service" means continuous employment by the Employer. A period of time on furlough or leave of absence authorized by the Employer shall not be an interruption of Continuous Service. A period of time in the active service of the Armed Forces of Canada shall be deemed to be leave of absence authorized as aforesaid, provided
  - (a) such military service, except in time of war, is required by law, and
  - (b) the Employee returns to permanent full-time employment with the Employer within 90 days following the expiry of such military service or within the time protected by law, if any, whichever is the later.
- 2.6 "Credited Interest" means from January 1, 1992,
  - (a) interest on Member required contributions compounded and allocated annually and calculated

- (i) at the end of each Plan Year, on the balance of contributions at the beginning of the Plan Year, at a rate equal to the average of the yields of five-year personal fixed term chartered bank deposits (CANSIM series B14045) for that Plan Year, plus
  - (ii) at the end of each Plan Year, on the balance of contributions made during the Plan Year, at a pro-rata portion of the rate calculated in accordance with subsection (i) above, plus
  - (iii) at the end of the month in which the Member's Continuous Service ends, on the balance of contributions at the beginning of the Plan Year, and on the balance of contributions made during the Plan Year, at in each case the appropriate pro-rata portion of the rate equal to the average of the yields of five-year personal fixed term chartered bank deposits (CANSIM series B14045) for the preceding calendar year;
- (b) interest on Member voluntary contributions compounded and allocated annually and calculated
- (i) at the end of each Plan Year, on the balance of contributions at the beginning of the Plan Year, at a rate which is reasonably attributable to the operation of that portion of the Pension Fund in which Member voluntary contributions were invested, plus
  - (ii) at the end of each Plan Year, on the balance of contributions made during the Plan Year, at a pro-rata portion of the rate calculated in accordance with subsection (i) above, plus
  - (iii) at the end of the month in which a Member's Continuous Service ends, on the balance of contributions at the beginning of the Plan Year, and on the balance of contributions made during the Plan Year, at in each case the appropriate pro-rata portion of the rate calculated in accordance with (i) above; and
- (c) interest on the lump sum payment of required contributions and/or the Commuted Value of a benefit out of the Pension Fund compounded and allocated annually and calculated from the date at which the lump sum payment of required contributions or Commuted Value of a benefit was determined to the date payment is expected to be made. The interest rate to be used in this calculation for a particular calendar year is equal to the average of the yields of five-year personal fixed term chartered bank

deposits (CANSIM series B14045) for the preceding calendar year. For periods of less than one year, an appropriate pro-rata portion of the applicable interest rate shall be used.

2.7 "Credited Pre-plan Service" means a Member's Continuous Service prior to the Effective Date and subsequent to his/her second year of Continuous Service. Completed months of Credited Pre-plan Service shall be accounted and treated as an appropriate fraction of a year.

2.8 "Credited Service" means the total of a Member's

- (a) Credited Service as a Member, and
- (b) Credited Pre-plan Service.

Credited Service includes the following periods of Continuous Service:

- (a) Periods for which the Member received payments under an Employer's Supplemental Employment Benefit plan; and
- (b) Periods not exceeding 12 months during which the Member suffered a Total Disability and for which he/she received earnings replacement benefits from a Worker's Compensation arrangement.

Notwithstanding any other provision of the Plan, in respect of any unpaid periods of absence, not on account of a Total Disability, after December 31, 1990, the aggregate Credited Service possible is limited to a maximum full-time equivalent of 5 years, plus an additional 3 years credited in respect of absences that commence immediately after the birth or adoption of a child, each of which is not longer than 12 months in duration.

2.9 "Credited Service as a Member" means a Member's Continuous Service from the date on which he/she became a Member of this Plan, until such time as the Member ceases to be an Employee.

For Members who are on leave without Earnings or who are employed less than full-time in a given Plan Year, Credited Service as a Member in that year will be the ratio of the hours for which the Member received Earnings during the Plan Year to the hours regularly scheduled to be worked by full-time Employees in the Plan Year.

For Members who had periods of lost time due to a strike from February 8, 1994, to March 23, 1994, Credited Service as a Member during the strike period will include any days off work due to the strike during the strike period.

- 2.10 "Earnings" means compensation paid to a Member, but not including overtime pay, special allowances, bonuses, or other special payments, as determined by the Employer, plus, with respect to any periods of Credited Service during which a Member does not actually receive remuneration from the Employer, an amount equal to the Earnings the Member would have received had the Member worked his regularly scheduled hours during these periods. However, deemed Earnings shall not exceed the amount of compensation prescribed for this purpose by the Income Tax Act.
- 2.11 "Effective Date" means July 1, 1970.
- 2.12 "Employee" means either
- (a) any person employed by the Employer in a non-academic capacity, other than a person employed on a temporary or special basis, all as determined by the Employer, and who works at least half of normal time for at least eight months each year or earns at least 35% of the YMPE;
  - (b) in the case of a person represented by Local 2338, CUPE, a person regularly employed by the Employer, other than a person employed on a temporary, casual, or special basis, all as determined by the Employer; or
  - (c) in the case of a person classified as a grant employee, a person who has the consent of both the grant holder and the Employer to join the Plan; or
  - (d) a person employed at the rank of Instructor.
- 2.13 "Employer" means Mount Allison University.
- 2.14 "Final Average Earnings" means the annual average of a Member's Earnings over the five years of Continuous Service immediately preceding the Member's termination of Continuous Service. Total Earnings for a period shorter than a Plan Year shall be prorated based on Continuous Service. In particular, where the five-year period does not coincide with five consecutive Plan Years, the annual average is determined as the sum of A, B and C, divided by 5, where:
- A is the portion of the Member's Earnings for the most recent Plan Year included in the five-year period, determined by pro-rating total Earnings during that Plan Year based on Continuous Service from January 1, of the Plan Year to the end of the period;
  - B is the sum of the Member's Earnings for each of the four Plan Years immediately preceding the Plan Year in A above; and
  - C is the portion of the Member's Earnings for the fifth Plan Year preceding

the Plan Year in A above, determined by pro-rating total Earnings during that Plan Year based on the Continuous Service from that Plan Year as is necessary to complete the five-year period.

If the Member has less than five years of Continuous Service, then the annual average shall be determined similarly over the Member's period of Continuous Service.

For the purpose of this subsection, Earnings shall be expressed as the annualized rate of Earnings for the Member. In particular, if a Member was on leave without actual Earnings or worked on less than a full-time basis during a period which is involved in the calculation of the Member's Final Average Earnings, for the purposes of this subsection the Member's Earnings for that period will be deemed to have been the Earnings the Member would have received during that period if he/she had worked the hours regularly scheduled to be worked by full-time Employees during that period.

Notwithstanding the above, if the Member has at least five years of Continuous Service, then Final Average Earnings shall not be less than the annual average determined similarly over all his/her years of Continuous Service.

- 2.15 "Final Average YMPE" means the average of the Year's Maximum Pensionable Earnings computed over the same period and in the same manner as "Final Average Earnings".
- 2.16 "Funding Agent" means an insurance company authorized to carry on a life insurance business in Canada, a trust company, or a group of at least three individuals resident in Canada at least one of whom is independent of the Employer, and includes any combination or successors thereof, appointed by the Employer to hold, administer, and invest the Pension Fund.
- 2.17 "Funding Agreement" means any agreement or agreements now or hereafter executed between the Employer and the Funding Agent for purposes of this Plan.
- 2.18 "Income Tax Act" means the Income Tax Act, Statutes of Canada, and the Regulations thereunder, as amended or replaced from time to time, and where applicable includes the provisions of Information Circular 72-13R8 issued by the Department of National Revenue.
- 2.19 "Member" means an Employee or a former Employee who became a Member of the Plan pursuant to Section 3 and who continues to be entitled to benefits under the Plan.
- 2.20 "Normal Retirement Date" means the normal retirement date of a Member as determined under subsection 5.1.

- 2.21 "Pension Benefits Act" means the Pension Benefits Act, Statutes of New Brunswick 1987, c. P-5.1, and the Regulations thereunder, as amended or replaced from time to time.
- 2.22 "Pension Fund" means the fund maintained to provide benefits under the Plan.
- 2.23 "Plan" means the Pension Plan for Non-Academic Employees of Mount Allison University last amended and restated effective December 31, 1991, and as subsequently amended from time to time, a continuation of the Pension Plan Rules for Maintenance, Secretarial, and Technical Employees of Mount Allison University.
- 2.24 "Plan Year" means the calendar year.
- 2.25 "Prescribed Reduction" means the reduction in the amount of Normal Retirement Date pension of at least 1/4 of 1% for each complete month by which the early pension commencement date precedes the earliest of
- (a) the day on which the Member will attain 60 years of age;
  - (b) the day on which the Member would have completed 30 years of Continuous Service, excluding periods of lay-off and absence from employment that are not included in Credited Service, had the Member continued employment with the Employer; and
  - (c) the day on which the Member's age (measured in years and fractions thereof) plus the Member's years of Continuous Service, excluding periods of lay-off and absence from employment that are not included in Credited Service, would have equalled 80 had the Member continued employment with the Employer,

except that no reduction applies if the Member is Totally and Permanently Disabled at the date of pension commencement.

- 2.26 "Spouse" means either of a man and a woman who
- (a) are married to each other,
  - (b) are married to each other by a marriage that is voidable and has not been voided by a declaration of nullity,
  - (c) have gone through a form of marriage with each other in good faith that is void and have cohabited within the preceding year, or
  - (d) not being married to each other, have cohabited

- (i) continuously for a period of not less than three years in a conjugal relationship in which one person has been substantially dependent upon the other for support, or
- (ii) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have cohabited within the preceding year.

2.27 "YMPE" means, in respect of any Plan Year, the Year's Maximum Pensionable Earnings as defined under the Canada Pension Plan.

2.28 "Totally and Permanently Disabled" means of a Member that he has a physical or mental impairment which prevents the Member from engaging in any employment for which he is reasonably suited by virtue of his education, training or experience and that can reasonably be expected to continue for the remainder of the Member's lifetime and which is certified, in writing, by a medical doctor licensed to practice in Canada or where the Member resides."

2.29 "Total Disability" means of a Member that he/she has a physical or mental impairment such that he/she is prevented from performing the duties of employment in which he/she was engaged prior to the impairment and which is determined by the Employer to exist, based on a written report of a medical doctor licensed to practice in Canada or where the Member resides.

## **Section 3**

### **Eligibility for Membership**

#### **3.1 Eligibility**

Each Employee under age 65 shall become a Member on the first day of the month coincident with or next following the completion of one year of Continuous Service, and may at his/her option join at any time prior to such date.

#### **3.2 Eligibility Condition**

Each Employee who is eligible to join the Plan shall become a Member thereof when he/she has signed and delivered to the Employer the form of application and authorization for payroll deduction prescribed by the Employer.

#### **3.3 Termination of Participation Not Permitted**

A Member's participation in the Plan shall not be terminated while he/she remains in the employ of the University.

#### **3.4 Re-Employment**

If a former Employee is subsequently rehired by the Employer, the Employee shall be treated as a new Employee for purposes of eligibility for membership and benefits under the Plan. Any benefit earned after the date of rehire shall be calculated based on Credited Service and Earnings after that date. Vested benefits which he/she may have to his/her credit in the Plan for previous service shall not be increased, decreased, or changed in any other way as a result of the rehire or because the Member earns benefits in the Plan after the date of rehire.

If a former Employee who has commenced to receive a pension from the Plan is re-employed by the Employer, the following provisions apply:

- (a) he/she shall continue to receive his/her pension, and
- (b) he/she shall not accrue further benefits during the period of re-employment.

## Section 4

### Contributions

#### 4.1 Employee Contributions

Each Member shall contribute to the Fund each year while the Member is an Employee an amount equal to the aggregate of 4% of his/her Earnings for such year and 2% of his/her Earnings in excess of the YMPE for such year.

A Member's contributions for any Plan Year, under this subsection 4.1, shall not exceed the maximum amount permitted under the Income Tax Act for that Plan Year.

Members shall not be required to contribute to the Fund in respect of periods of up to twelve months during which the Member is Totally Disabled and is in receipt of periodic income replacement benefits from a workers' compensation arrangement.

#### 4.2 Employer Contributions

- (a) Subject to subsections 4.2(b) and 4.2(c), the Employer shall make such contributions to the Pension Fund as are required, based on the advice of the Actuary, to provide
  - (i) the benefits currently accruing to Members under the Plan, and
  - (ii) for the proper amortization of any unfunded liability or solvency deficiency,both in accordance with the Pension Benefits Act, after taking into account the assets of the Pension Fund, contributions of Members and all other relevant factors.
- (b) The contributions made by the Employer to the Pension Fund, in accordance with subsection 4.2(a), in any Plan Year shall not exceed the maximum amount that is permitted under the Income Tax Act for that Plan Year.
- (c) If at any time while the Plan continues in existence the Actuary certifies that the assets of the Pension Fund exceed the actuarial liabilities of the Plan in respect of benefits defined in the Plan, such surplus assets, or any portion of such assets, may be used by the Employer to reduce its

contribution obligations under subsection 4.2(a), subject to any limitations prescribed under the Pension Benefits Act.

- (d) The Employer contributions in respect of the normal cost of benefits shall be paid
  - (i) where the solvency ratio of the Plan is less than 100%, within 90 days following the month for which the contributions are payable, and
  - (ii) where the solvency ratio of the Plan is 100% or more, within 120 days following the Plan Year for which the contributions are payable.
- (e) The Employer contributions in respect of special payments to amortize an unfunded actuarial liability or solvency deficiency shall be payable within 90 days after the end of the month to which the payment relates.
- (f) Subject to the prior approval of the Superintendent of Pensions of New Brunswick, any overpayment by the Employer in the Plan Year in excess of the amount required to be contributed under subsection 4.2(a), or payments made by the Employer that should have been paid out of the Pension Fund, may be returned to the Employer out of the Pension Fund.

#### **4.3 Return of Contributions**

On and after January 1, 1992, an amount contributed by

- (a) a Member under subsection 4.1, or
- (b) the Employer under subsection 4.2,

may be refunded at any time to the Member or Employer as applicable where such action is required to avoid the revocation of registration of the Plan under the Income Tax Act.

#### **4.4 Voluntary Contributions**

Each Member may elect to make voluntary contributions, in the amount and manner approved by the Employer, which contributions shall be allocated to an individual account on behalf of the Member. A Member's voluntary contributions may not exceed the maximum amount permitted under the Income Tax Act.

#### **4.5 Remittance of Member Contributions**

The Employer shall remit to the Funding Agent, for deposit to the Pension Fund, all contributions received by the Employer from a Member or deducted from a Member's pay, within 15 days following the month in which such sums are received or deducted.

#### **4.6 Provision for Transfer from Other Plan**

A Member entitled to any lump sum cash amounts from any registered pension plan of a previous employer, or from a registered retirement savings plan, under such conditions as the tax authorities may require, may, by arrangement with the Employer, have such amounts transferred to his/her credit under this Plan as a voluntary contribution under subsection 4.4.

## **Section 5**

### **Retirement Dates**

#### **5.1 Normal Retirement Date**

For purposes of the Plan, Normal Retirement Date means the day the Member attains age 65 if that day is the first calendar day of a month. Otherwise the Normal Retirement Date is the first day of the next month.

#### **5.2 Early Retirement Date**

If the Continuous Service of a Member who has completed one year of Continuous Service terminates after he/she has attained age 55 and before his/her Normal Retirement Date,

- (a) for the purposes of the Plan the Member shall be considered to have retired early on his/her Early Retirement Date which is the first day of the month following the month in which his/her Continuous Service ends, and
- (b) the Member shall be entitled to receive an early retirement pension.

#### **5.3 Postponed Retirement Date**

If, pursuant to provincial law and the Employer's policy concerning retirement, a Member has remained in employment after his/her Normal Retirement Date, the Member may retire on the first day of any month after his/her Normal Retirement Date but shall in any event be deemed to retire for the purposes of the Plan not later than December 31 of the calendar year in which the Member attains age 69.

## Section 6

### Retirement Benefits

#### 6.1 Normal Retirement Pension

##### (a) Normal Pension for Credited Service as a Member

Except as provided in the next two paragraphs of this part (a) of subsection 6.1, a Member who has retired under the provisions of subsection 5.1 shall be entitled to an annual pension commencing on his/her Normal Retirement Date which shall be an amount equal to the sum of

- (i) 1-1/3% of his/her Final Average Earnings, and
- (ii) 2/3% of the excess, if any, of his/her Final Average Earnings over the Final Average YMPE,

per year of Credited Service as a Member.

A Member who has retired under the provisions of subsection 5.1 shall be entitled, in lieu of the annual pension provided by the previous paragraph of this part (a) of subsection 6.1 in respect of the service for which the Member is entitled to a pension under this paragraph, to an annual pension commencing on his/her Normal Retirement Date which shall be an amount equal to the sum of

- (i) 1.4% of his/her Final Average Earnings, and
- (ii) .6 of 1% of the excess, if any, of his/her Final Average Earnings over the Final Average YMPE,

per year of Credited Service as a Member on and after July 1, 1996, while represented in collective bargaining by Local 2338, CUPE.

A Member who has retired under the provisions of subsection 5.1 shall be entitled, in lieu of the annual pension provided by the previous paragraph of this part (a) of subsection 6.1 in respect of the service for which the Member is entitled to a pension under this paragraph, to an annual pension commencing on his/her Normal Retirement Date which shall be an amount equal to the sum of

- (i) 1.4% of his/her Final Average Earnings, and
- (ii) .6 of 1% of the excess, if any, of his/her Final Average Earnings over the

Final Average YMPE,

per year of Credited Service as a Member on and after July 1, 1998, while not represented in collective bargaining.

A Member who has retired under the provisions of subsection 5.1 shall be entitled, in lieu of the annual pension provided by the previous paragraph of this part (a) of subsection 6.1 in respect of the service for which the Member is entitled to a pension under this paragraph, to an annual pension commencing on his/her Normal Retirement Date which shall be an amount equal to the sum of

- (i) 1.4% of his/her Final Average Earnings, and
- (ii) .6 of 1% of the excess, if any, of his/her Final Average Earnings over the Final Average YMPE,

per year of Credited Service as a Member on and after July 1, 1999, while represented in collective bargaining by the Mount Allison Staff Association, Local 3433, CUPE.

(b) **Normal Pension for Credited Pre-plan Service**

A Member who has retired under the provisions of subsection 5.1 shall be entitled to an annual pensions commencing on his/her Normal Retirement Date, equal to 1% of the Final Average Earnings of such Member for each year of Credited Pre-plan Service. A Member who joined the Plan after October 1, 1970, shall not be entitled to any benefits under this subsection 6.1(b).

(c) **Best Average Earnings**

The pension determined under this Section 6.1 for a Member who has participated in the Plan for at least five full calendar years shall not be less than the amount determined using the same formulas above but replacing Final Average Earnings and Final Average YMPE with Best Average Earnings and Best Average YMPE respectively, each defined as follows:

“Best Average Earnings” means the average of the Earnings during the full five calendar years of Plan membership during which Earnings are the highest.

“Best Average YMPE” means the average of the YMPE for the same five calendar years used in determining the Best Average Earnings.

## 6.2 Early Retirement Pension

- (a) A Member who under subsection 5.2 retires early on or after December 1, 1994, is entitled to
- (i) for a Member who is at least age 60 on his/her early retirement date, and has completed 25 years of Continuous Service, a pension commencing on his/her Early Retirement Date calculated according to the formula in subsection 6.1; or
  - (ii) for a Member who is under age 60 on his/her early retirement date, but for whom the sum of age and years of Continuous Service on his/her Early Retirement Date is at least 85, either
    - (1) a pension, commencing on his/her Early Retirement Date or on the first day of any month following his/her Early Retirement Date calculated according to the formula in subsection 6.1, reduced by
      - for those who have not completed 30 years of Continuous Service, .5% per month that the commencement of the pension precedes the month a deferred pension under subsection 6.2(a)(ii)(2) would commence;
      - for those who have completed 30 years of Continuous Service, .25% per month that the commencement of the pension precedes the month a deferred pension under subsection 6.2(a)(ii)(2) would commence; or
    - (2) a deferred pension, calculated according to the formula in subsection 6.1, commencing on the day the Member attains age 60, if that day is the first calendar day of a month, or on the first day of the next month.
- (b) In any case not covered by parts (a) or (c) of this subsection 6.2 a Member who retires pursuant to subsection 5.2 is entitled to
- (i) a pension, commencing on the first day of any month on or following his/her Early Retirement Date but before his/her Normal Retirement Date, which is the Actuarial Equivalent of the pension calculated according to the formula in subsection 6.1, subject to the

limits imposed by the Income Tax Act, or

- (ii) a deferred pension, commencing on his/her Normal Retirement Date, calculated according to the formula in subsection 6.1.
- (c) A Member represented in collective bargaining by Local 2338, CUPE, who was an active employee on November 1, 1996, who gives written notice of his or her early retirement on or before December 31, 1996, and who retires early on or before April 30, 1997, is entitled to, in lieu of the Member's entitlement under either part (a) or part (b) of this subsection 6.2,
- (i) for a Member whose age plus Continuous Service is equal to at least 80, a pension commencing on his/her early retirement date calculated according to the formula in subsection 6.1; or
  - (ii) for any other Member a pension commencing on his/her early retirement date calculated according to the formula in subsection 6.1 reduced by 1/4 of 1% for each month by which the pension commencement date precedes the date on which the Member's age plus Continuous Service would equal 80; and
  - (iii) a bridge pension equal to \$10 per month for each year of Continuous Service as a Member, such pension to be paid until the earliest of the date which is four years after the Member's Early Retirement Date, the date of the Member's death, and the date which is the Member's Normal Retirement Date.
- (d) A Member represented in collective bargaining by the Mount Allison Staff Association, Local 3433, CUPE, or a Member not represented in collective bargaining, who was an active employee on July 1, 1999, who gives written notice of his or her early retirement on or before October 1, 1999, and who retires early on or before May 31, 2000, is entitled to, in lieu of the Member's entitlement under either part (a) or part (b) of this subsection 6.2,
- (i) for a Member whose age plus Continuous Service is equal to at least 80, a pension commencing on his/her early retirement date calculated according to the formula in subsection 6.1; or
  - (ii) for any other Member a pension commencing on his/her early retirement date calculated according to the formula in subsection 6.1 reduced by 1/4 of 1% for each month by which the pension commencement date precedes the earlier of the Member's Normal Retirement Date and the date on which the Member's age plus

Continuous Service as at the Member's retirement date would equal 80; and

- (iii) a bridge pension equal to \$10 per month for each year of Continuous Service as a Member, such pension to be paid until the earliest of the date which is four years after the Member's Early Retirement Date, the date of the Member's death, and the date which is the Member's Normal Retirement Date.

Notwithstanding any other provision of this Plan, where the conditions for the application of the reduction prescribed in Regulation 8503(3)(c) of the Income Tax Act apply, the pension paid pursuant to sections 6.2(d) (i) and (ii) will be subject to said reduction. For greater clarity, in calculating said reduction, Continuous Service shall exclude any periods that do not qualify as early retirement eligibility service, as defined in the Income Tax Act.

Any bridge payment payable pursuant to section 6.2(d)(iii) is subject to the limits and any reductions required by the Income Tax Act, including Regulations 8503 (2)(b) and 8504(5).

### **6.3 Postponed Retirement Pension**

A Member who remains in the employ of the Employer beyond his/her Normal Retirement Date shall continue to accrue benefits during his/her continued employment and will receive a pension commencing on his/her postponed retirement date which is the Actuarial Equivalent of the benefit calculated according to the formula in subsection 6.1 based on his/her Credited Service up to his/her postponed retirement date.

### **6.4 Benefit from Voluntary Contributions**

In addition to any other retirement benefits payable under this Section 6, the Member is entitled to either

- (a) a refund of his/her voluntary contributions, if any, to the Plan, plus Credited Interest, or
- (b) the annuity that can be purchased with the amount described in (a).

### **6.5 Minimum Benefit Rules**

- (a) If, when a Member's Continuous Service ends, the Member is entitled to an immediate or deferred pension and the Member's required

contributions with Credited Interest exceed fifty percent (50%) of the Commuted Value of the Member's pension for the Credited Service, then the excess will be applied to increase the Member's pension for Credited Service in an Actuarial Equivalent manner.

- (b) If a Member's required contributions with Credited Interest exceed the Commuted Value of the Member's pension, including any additional pension provided under subsection 6.5(a), then, at the Member's direction, the excess, if any, shall be paid to the Member in cash or transferred to a registered retirement savings plan or registered retirement income fund, both as defined under the Income Tax Act, and subject to eligibility for such transfer under the Income Tax Act.

## 6.6 Maximum Pension Provisions

Notwithstanding any other provision of the Plan, the pension payable to a Member shall be reduced, if necessary, in order to comply with the limits set out in Section 6.6. For purposes of this Section 6.6, the terms "Defined Benefit Limit", "Pensionable Service", "Highest Average Compensation" and "Average Consumer Price Index" are defined as follows:

"Defined Benefit Limit" for a calendar year means \$1,722.22 or such greater amount permitted under the Income Tax Act.

"Pensionable Service" means the sum of:

- (a) the number of years of pensionable service, as defined in section 8500(1) of the Income Tax Act Regulations, before January 1, 1992, up to a maximum of 35 years; and
- (b) the number of years of pensionable service, as defined in section 8500(1) of the Income Tax Act Regulations, after December 31, 1991.

"Highest Average Compensation" means the average of the Member's total indexed compensation over the three non-overlapping 12-month periods, during which such total indexed compensation was the highest. Total indexed compensation for any 12-month period shall be equal to the total of the compensation received by the Member from the Employer for each month in the period, adjusted by a percentage corresponding to the increase of the average wage, as defined under Subsection 147.1(1) of the Income Tax Act, for the period from the applicable month to the date of determination but excluding any period prior to 1986.

"Average Consumer Price Index" for a calendar year means one-twelfth of the sum of the Consumer Price Index for each month in the twelve month period

ending September 30 of the previous calendar year. Consumer Price Index for a month is the Consumer Price Index for that month as published by Statistics Canada.

(1) **Maximum Pension**

- (a) The annual pension paid to a Member in the year of pension commencement, including any portion of the pension assigned to the Member's Spouse pursuant to Section 14.2, shall not exceed the lesser of
- (i) the Defined Benefit Limit for the year of pension commencement multiplied by the Member's years of Pensionable Service; and
  - (ii) an amount that is the product of:
    - (A) 2%;
    - (B) the Member's Highest Average Compensation; and
    - (C) the Member's Pensionable Service,reduced if necessary by the Prescribed Reduction.
- (b) The pension benefits considered for purposes of the application of Subsection 6.6(l)(a) and (d) do not include any bridging benefit payable pursuant to subsection 6.2 or benefits that are attributable to the Member's additional voluntary contributions pursuant to subsection 6.4 or benefits that are attributable to excess contributions pursuant to subsection 6.5 or additional benefits payable as a result of any Actuarial Equivalent increase due to deferral of pension commencement after the Member's Normal Retirement Date.
- (c) The limit described in Section 6.6(1)(a) is applied to the pension in the form paid to the Member, except that where the form of pension is a joint and survivor form continuing in a percentage greater than 66 and 2/3%, or in a joint and survivor form combined with a guarantee period of more than 5 years, the pension shall be further reduced, if necessary, so that it is not greater than the Actuarial Equivalent of the maximum pension payable in a 66 and 2/3 % joint and survivor form.
- (d) The annual pension payable in each calendar year subsequent to the year of pension commencement, shall not exceed the amount determined in Section 6.6(l)(a) multiplied by the ratio of A to B where:
- A. is the Average Consumer Price Index for a calendar year not earlier

than the calendar year in which the pension benefits commence to be paid and not later than the particular year; and

- B is the Average Consumer Price Index for the calendar year in which the pension benefits commence to be paid.

**(2) Post-1991 Combined Bridging and Pension Maximum**

- (a) Where a Member receives a bridging benefit pursuant to Section 6.2, for the year in which the bridging benefit is initially paid, the annual combined bridging benefits plus the pension benefits to which Section 6.6(1)(a) is applicable, both for Pensionable Service after 1991, shall not exceed the amount determined by the formula:

$$(A \times B) + (0.25 \times C \times D / 35)$$

where

- A is the Defined Benefit Limit for the calendar year in which the benefits commence to be paid;
- B is the Member's Pensionable Service after 1991;
- C is the average of the YMPE for the year in which the benefits commence to be paid and for each of the 2 preceding calendar years; and
- D is the lesser of 35 and the amount determined for B.

- (b) In each calendar year subsequent to the year in which the bridging benefit commenced, until the bridging benefit ceases, the annual benefits payable to a Member to which Section 6.6(2)(a) is applicable shall not exceed the amount determined in Section 6.6(2)(a) multiplied by the ratio of E to F

where:

- E is the Average Consumer Price Index for a calendar year not earlier than the calendar year in which the bridging benefits commence to be paid and not later than the particular year; and
- F is the Average Consumer Price Index for the calendar year in which the bridging benefits commence to be paid.

**(3) Maximum Bridging Benefit**

The monthly bridging benefit payable under Section 6.2 shall not exceed the amount of benefits payable to the Member under the Canada Pension Plan or Quebec Pension Plan, as applicable, and under the Old Age Security Act assuming the Member is:

- (a) 65 years of age at the date of pension commencement;
- (b) entitled to receive the maximum Old Age Security benefits; and
- (c) entitled to that proportion, not exceeding 1, of the maximum benefits payable under the CPP that the total of the Member's remuneration for the 3 calendar years in which the remuneration is the highest is of the total of the YMPE for those 3 years,

reduced proportionately in the case of a Member who has completed less than 10 years of Pensionable Service as at that date and further reduced by 1/4 of 1% for each month by which the Member's pension commencement date precedes his attainment of age 60. However, the age and service restrictions in this subsection do not apply to the maximum bridging benefits payable to a Member who is Totally and Permanently Disabled.

#### **6.7 Pension Adjustment**

In no event shall the benefit accrued in a Plan Year, under subsections 4.4 and 6.1, result in a pension adjustment (as defined under the Income Tax Act) or any other limit being exceeded where this is prohibited by the Income Tax Act.

#### **6.8 Reduction of Benefits**

The Plan may, at any time, be amended by the Employer to reduce the benefits provided under this Section 6 where such action is required to avoid the revocation of registration of the Plan under the Income Tax Act.

#### **6.9 Small Benefits**

- (a) If the Commuted Value of any pension payable under this Plan when adjusted as required under the Pension Benefits Act would be less than 40% of the YMPE in the year the Member terminates employment or retires, or such greater amount as may be permitted under Pension Benefits Act, the Employer may pay an amount equal to the Commuted Value of his/her pension or deferred pension in full discharge of all obligations under the Plan, provided the Member and the Member's Spouse, if any, complete the prescribed waiver under the Pension Benefits Act. In lieu of a lump sum payment at the Member's discretion, the Commuted Value may be transferred to a registered retirement savings plan or registered retirement income fund, both as defined in the

Income Tax Act, and subject to the eligibility under the Income Tax Act.

- (b) If the Commuted Value is less than 10% of the Year's Maximum Pensionable Earnings in the year the Member terminates employment or retires, or such greater amount as may be permitted under Pension Benefits Act, the Employer may require that the Member transfer the Commuted Value of his/her pension or deferred pension to a prescribed arrangement in accordance with subsection 8.4(b).

#### **6.10 Pension Increases**

The Plan may, at any time, be amended by the Employer to increase pensions in payment to pensioners and/or survivors. Such increases shall not exceed in the aggregate the increase in the Consumer Price Index since the date of pension commencement. Nothing in this provision is intended to confer or imply that increases will be granted or the level of such increases should they be granted.

## **Section 7**

### **Form of Pension Benefits**

#### **7.1 Pension Calculation According to Normal Form**

The amount of pension provided under subsection 6.1, 6.2, or 6.3 is calculated according to the normal form of pension as defined in subsection 7.2 and is payable in that normal form of pension unless the Member elects an optional form of pension.

#### **7.2 Normal Form of Pension Benefit**

The normal form of pension for a Member with a Spouse is an annuity payable in monthly instalments for the life of the Member and payable after the Member's death to the Member's Spouse for her/his life in monthly instalments equal to 60% of the amount of each monthly instalment paid during the life of the Member.

The normal form of pension for a Member without a Spouse is an annuity payable in monthly instalments for the life of the Member and in any event for a period of not less than 60 months.

#### **7.3 Waiver of Normal Form of Pension**

A Member who has a Spouse may elect any form of pension under subsection 7.4 or 7.5 which provides no benefit to the Spouse or a benefit to the Spouse that is less than 60% of the benefit paid to the Member if

- (a) the Member delivers to the Employer, within the 12-month period immediately preceding the date upon which payment of the pension is to commence, the written waiver of the Member and the Member's Spouse in the form prescribed under the Pension Benefits Act, and
- (b) this waiver is not revoked by the Member or his/her Spouse prior to the commencement of the pension.

#### **7.4 Election of Optional Forms**

In lieu of the normal form of pension payable according to subsection 7.2, and subject to the restriction under subsection 7.3, a Member may elect, before pension commencement, to receive his/her pension benefit in one of the optional forms of pension offered by the Employer.

## **7.5 Optional Forms of Pension Benefit**

The optional form of pension benefit elected by the Member shall be the Actuarial Equivalent of the normal form of pension payable according to subsection 7.2 and shall comply with the Income Tax Act.

Notwithstanding the foregoing provisions of this subsection 7.5, a Member may not elect an optional form of pension which offends the rules set out in regulations under the Income Tax Act.

## **Section 8**

### **Termination Benefits**

#### **8.1 Termination Benefits**

(a) **Termination Before One Year of Continuous Service**

A Member whose Continuous Service ends, for any reason other than death or retirement, before the Member completes one year of Continuous Service is entitled to receive a refund of the Member's required contributions plus Credited Interest.

(b) **Termination After One Year but Before Completion of Five Years of Continuous Service or Two Years of Continuous Membership in the Plan**

A Member whose Continuous Service ends, for any reason other than death or retirement, after the Member completes one year of Continuous Service but before the Member's completion of five years of Continuous Service or two years of continuous membership in the Plan, is entitled to receive a refund of twice the Member's required contributions plus Credited Interest, subject to the requirements of Regulation 8503(2)(h)(iii) of the Income Tax Act.

(c) **Termination After Five Years of Continuous Service or Two Years of Continuous Membership in the Plan**

A Member whose Continuous Service ends, for any reason other than death or retirement, after the Member completes five years of Continuous Service or two years of continuous membership in the Plan cannot withdraw any of his/her required contributions made to the Plan and, in lieu thereof, is entitled to receive a deferred pension, commencing at the Member's Normal Retirement Date, calculated in accordance with Section 6.

#### **8.2 Refund of Voluntary Contributions**

A Member whose Continuous Service ends, for any reason other than death or retirement, will receive a refund of his/her voluntary contributions, if any, to the Plan, with Credited Interest.

### 8.3 Early Commencement of Deferred Pension

A Member whose Continuous Service ends for any reason other than death before the Member attains age 55 and who is entitled to receive a deferred pension under Section 8 may elect to commence receiving this pension on the first day of any month on or following his/her attainment of age 55 and prior to his/her Normal Retirement Date. The amount of this pension shall be the Actuarial Equivalent of the deferred pension otherwise commencing on his/her Normal Retirement Date. In no event shall the Actuarial Equivalent amount of pension exceed the limit as prescribed in Regulation 8503(3)(c) of the Income Tax Act.

### 8.4 Transfer of Value of Deferred Pension

- (a) For this subsection 8.4, Commuted Value will be the greater of
- (i) the value determined in accordance with the Recommendations For The Minimum Values of Deferred Pensions adopted by the Canadian Institute of Actuaries and effective November 14, 1988, as amended or replaced from time to time, or
  - (ii) twice the Member's required contributions with Credited Interest, subject to the requirements of Regulation 8503(2)(h)(iii) of the Income Tax Act.
- (b) Subject to subsections 8.4(c) and 8.4(d), a Member whose Continuous Service ends on or after January 1, 1992 but before the Member attains age 55, for any reason other than death, may elect to have the Commuted Value of the deferred pension to which the Member is entitled under Section 8 with Credited Interest
- (i) transferred to another pension plan registered in New Brunswick or a jurisdiction designated under the Pension Benefits Act to which the Former Member's current employer is making contributions on the Former Member's behalf,
  - (ii) transferred to a locked-in retirement account as prescribed in the Pension Benefits Acts
  - (iii) transferred to a life income fund as prescribed in the Pension Benefits Act, or
  - (iv) transferred to purchase a deferred life annuity from an insurance company licensed to transact business in Canada provided payment of the annuity will not commence before the earliest date on which the Member was entitled to retire under the Plan.

Upon such a transfer or purchase, the Member will cease to be a Member and will have no further entitlement under the Plan.

- (c) The Employer shall not permit a transfer or purchase under subsection 8.4(b) unless the Employer is satisfied that
  - (i) the transfer or purchase is in accordance with the Pension Benefits Act, and
  - (ii) any restrictions in the Pension Benefits Act with regard to the solvency of the Plan have been met.
- (d) Amounts transferred in accordance with subsection 8.4(b) on and after January 1, 1992 shall not exceed the maximum amount prescribed under the Income Tax Act, and the excess of the Commuted Value, plus Credited Interest, if any, over the amount transferred shall be paid to the Member in a lump sum cash amount, as permitted under the Income Tax Act.
- (e) A Member who is entitled to a refund of contributions under Section 8 may elect to transfer the refunded amount to a registered retirement savings plan.
- (f) Notwithstanding subsection 8.4(b), but subject to subsection 8.4(c) , the Member may receive the Commuted Value of the deferred pension to which the Member is entitled under Section 8 with Credited Interest as a lump sum payment if the following conditions are met:
  - (i) the Member and his Spouse, if any, are not Canadian citizens;
  - (ii) the Member and his Spouse, if any, are not resident in Canada for purposes of the Income Tax Act; and
  - (iii) if the Member has a Spouse, the Spouse provides the waiver prescribed for this purpose in accordance with Pension Benefits Act.

## **8.5 Small Benefit**

- (a) If the Commuted Value of any pension payable under this Plan when adjusted as required under the Pension Benefits Act would be less than 40% of the YMPE in the year the Member terminates employment or retires, or such greater amount as may be permitted under Pension Benefits Act, the Employer may pay an amount equal to the Commuted Value of his/her pension or deferred pension in full discharge of all

obligations under the Plan, provided the Member and the Member's Spouse, if any, complete the prescribed waiver under the Pension Benefits Act. In lieu of a lump sum payment at the Member's discretion, the Commuted Value may be transferred to a registered retirement savings plan or registered retirement income fund, both as defined in the Income Tax Act, and subject to the eligibility under the Income Tax Act.

- (b) If the Commuted Value is less than 10% of the Year's Maximum Pensionable Earnings in the year the Member terminates employment or retires, or such greater amount as may be permitted under Pension Benefits Act, the Employer may require that the Member transfer the Commuted Value of his/her pension or deferred pension to a prescribed arrangement in accordance with subsection 8.4(b).

## **Section 9**

### **Death Benefits**

#### **9.1 Death Benefits**

**(a) Death Before One Year of Continuous Service**

If a Member dies before pension commencement and before completing one year of Continuous Service, a death benefit is payable equal to the Member's required contributions plus Credited Interest.

**(b) Death After One Year But Before Completion of Five Years of Continuous Service or Two Years of Plan Membership**

If a Member dies after completing one year of Continuous Service but before the Member's completion of five years of Continuous Service or two years of continuous membership in the Plan, and before pension commencement, a death benefit is payable equal to twice the Member's required contributions plus Credited Interest, subject to the requirements of Regulation 8503(2)(j)(ii) of the Income Tax Act.

**(c) Death After Five Years of Continuous Service or Two Years of Continuous Membership in the Plan**

If a Member dies before pension commencement but after completing five years of Continuous Service or two years of continuous membership in the plan, a death benefit is payable equal to the greater of

- (i) 100% of the Commuted Value of the Member's pension accrued to him/her under subsection 6.1, and
- (ii) twice the Member's required contributions plus Credited Interest, subject to the requirements of Regulation 8503(2)(j)(ii) of the Income Tax Act.

#### **9.2 Payment of Death Benefit**

**(a) Death Benefit Payable to Spouse**

The combined death benefit payable under subsection 9.1 is payable to the Member's Spouse.

The Spouse may elect to receive this benefit in either of the following forms:

- (i) a lump sum payment, or
- (ii) an annuity payable for the Spouse's lifetime, as may be provided by the amount in (i), commencing at any time prior to December 31 of the calendar year in which the Spouse attains age 69 (or, if later, within one year after the death of the Member).

(b) **Death Benefit Payable to Non-Spouse Beneficiary**

If the Member does not have a Spouse at the date of death, the combined death benefit payable under subsection 9.1 is payable in a lump sum to the Member's Beneficiary.

**9.3 Refund of Voluntary Contributions**

In addition to any other death benefit payable under Section 9, the Member's Beneficiary is entitled to receive a refund of the Member's voluntary contributions, if any, plus Credited Interest.

**9.4 Death Benefit After Commencement of Pension**

Any death benefit payable upon the death of a Member who has commenced to receive his/her pension is determined in accordance with the form of the pension being paid to the Member pursuant to Section 7.

## **Section 10**

### **Designation of Beneficiary**

#### **10.1 Designation of Beneficiary**

A Member may designate a Beneficiary by written notice delivered to the Employer. A Member may revoke or amend such designation in the same manner at any time, subject to any applicable laws governing the designation of beneficiaries.

#### **10.2 No Beneficiary**

If a Member fails to validly designate a Beneficiary, or if the Beneficiary predeceases the Member, any benefits payable to the Member's Beneficiary shall be paid in a lump sum to the estate of the Member.

#### **10.3 Death of Beneficiary**

If a Beneficiary is entitled to payments under the Plan, and if the Beneficiary dies before receiving any or all of the payments due to him/her, the Commuted Value of the remainder of the payments will be paid to the estate of the Beneficiary.

#### **10.4 Spouse's Entitlement**

A designation of a Beneficiary under the Plan does not affect the entitlement of a Spouse to receive benefits under the Plan in the event of the Member's death.

## **Section 11**

### **Administration**

#### **11.1 Responsibility for Administration**

The administrator of the Plan shall be the Employer which shall be responsible for all matters relating to the administration of the Plan and may delegate such matters as it deems appropriate to be performed by one or more agents. The Employer shall decide conclusively all matters relating to the operation, interpretation, and application of the Plan.

#### **11.2 Regulations for Administration**

The Employer may enact regulations relating to the administration of the Plan to carry out the terms hereof and may amend such regulations from time to time. Such regulations shall not conflict with any provision of this Plan.

#### **11.3 Plan Summary**

The Employer shall provide each Employee with a written explanation of the terms and conditions of the Plan and amendments thereto applicable to him/her, together with an explanation of the rights and duties of the Employee with reference to the benefits available to him/her under the terms of the Plan.

#### **11.4 Notice of Amendment**

The Employer shall provide a notice and written explanation of an amendment to the Plan to each member, or any other person entitled to payment from the Pension Fund, who is affected by the amendment, within the applicable time period prescribed under the Pension Benefits Act.

#### **11.5 Annual Statement**

The Employer shall provide annually to each active Member a written statement containing the information prescribed under the Pension Benefits Act in respect of the Member's benefits under the Plan.

#### **11.6 Statement on Termination of Employment or Membership**

When a Member's Continuous Service ends, the Employer shall give to the Member, or to any other person who becomes entitled to a benefit under the Plan, a written statement setting out the information prescribed under the Pension

Benefits Act in respect of the benefits of the Member or other person.

#### **11.7 Inspection of Documents**

The Employer shall make available for inspection by eligible individuals the documents and information concerning the Plan and the Pension Fund, all as prescribed under the Pension Benefits Act.

#### **11.8 Incompetent Persons**

If the Employer shall determine that a person entitled to receive a benefit under this Plan is a minor or is mentally incompetent, then the payments becoming due to such person may be made to the duly and legally appointed tutor, curator, guardian, trustee, or other representative of such person or if no tutor, curator, guardian, trustee, or other representative of such person has been duly and legally appointed then, in the sole discretion of the Employer, the payments becoming due to such person may be made to the person or institution from time to time having the custody and control of or maintaining such person without responsibility to the Employer to see to the application of such payments. Payments so made shall operate as a valid and complete discharge of the Employer and the Funding Agent.

## **Section 12**

### **Pension Fund**

#### **12.1 Pension Fund Administration**

The Pension Fund shall be administered by the Funding Agent in accordance with the Funding Agreement.

#### **12.2 Expenses**

All reasonable fees and expenses related to the administration of the Pension Fund and the Plan may be paid from the Pension Fund, including fees and expenses of the Employer and its agents.

#### **12.3 Investments**

The Employer shall direct the investment of the Pension Fund in accordance with the provisions of the Pension Benefits Act.

#### **12.4 Ongoing Surplus**

Subject to receiving the prior consent of the Superintendent of Pensions of New Brunswick, if at any time while the Plan continues in existence the Actuary certifies that the assets of the Pension Fund exceed its liabilities (such excess referred to hereafter as the "surplus") in respect of the period

- (a) from the Effective Date of the Plan to and including December 31, 1991,  
and
- (b) after December 31, 1991,

then all or part of such surplus may be refunded to the Employer.

## **Section 13**

### **Future of the Plan**

#### **13.1 Continuation of the Plan**

The Employer intends to maintain the Plan indefinitely, but reserves the right to amend or discontinue the Plan either in whole or in part.

#### **13.2 Amendment to the Plan**

- (a) No amendment shall operate to reduce the pension benefits which have accrued to any Member before the date of such amendment.
- (b) Where an amendment results in a certifiable past service pension adjustment (as defined under the Income Tax Act) in respect of a Member, the amendment shall not apply to such Member prior to certification of the past service pension adjustment in accordance with the Income Tax Act.

#### **13.3 Termination of the Plan**

- (a) If the Plan is wound up, in whole or in part, the assets of the Pension Fund shall first be allocated for provision of benefits in accordance with the terms of the Plan, the Pension Benefits Act, the Income Tax Acts and any other applicable legislation.
- (b) If the Plan is wound up, in whole or in part, the Employer shall not make further contributions to the Pension Fund in respect of the Plan or the portion of the Plan being wound up, as applicable, except for amounts due or that have accrued up to the effective date of the wind-up.
- (c) If the Plan is wound up, in whole or in part, and the assets in the Pension Fund are not sufficient to pay all the benefits under the Plan or the portion of the Plan being wound up, as applicable, the benefits payable shall be reduced in the manner prescribed by the Pension Benefits Act.

#### **13.4 Wind-Up Surplus**

If, after provision for benefits payable to or in respect of Members on the wind-up, in whole or in part, of the Plan, assets remain in the Pension Fund or the part of the Pension Fund affected by a partial wind-up, such assets shall be refunded to the Employer, provided that the Employer complies with the requirements of the Pension Benefits Act and the Income Tax Act.

## Section 14

### General Provisions

#### 14.1 Non-Alienation

Except as specified in subsections 6.8 or 14.2, and in accordance with the terms of the Pension Benefits Act, money payable under the Plan is subject to the following restrictions:

(a) **Non-Enforceable Transactions**

Any transaction that purports to assign, charge, anticipate, surrender, or give as security any right of a person under the Plan or money payable under the Plan shall not be enforceable against the Plan; and

(b) **Exemption from Seizure**

Money payable under the Plan is exempt from execution, seizure, attachment, or other process of law.

#### 14.2 Alienation of Benefits on Marriage Breakdown

(a) **Support Obligations**

Payments under the Plan are subject to execution, seizure, attachment, or other process of law in satisfaction of an order for support or maintenance enforceable in New Brunswick to a maximum of 50% of the payments in accordance with the Pension Benefits Act.

(b) **Division of Property**

Upon the breakdown of the spousal relationship, a Member may assign all or a portion of his/her benefits and rights under the Plan to his/her Spouse or former Spouse, within the limits imposed by the Pension Benefits Act.

#### 14.3 Non-Commutation of Pensions

A pension or deferred pension payable under this Plan shall not be capable of being commuted, except as specifically permitted by the Plan, or as permitted in accordance with the Pension Benefits Act by reason of mental or physical disability of the Member.

#### 14.4 No Right to Employment

The Plan shall not be construed to create or enlarge any right of any person to remain in the employment of the Employer, nor shall it interfere in any manner with the right of the Employer to discharge any person.

#### **14.5 No Right to Employer Contributions**

Contributions made by the Employer shall not constitute an enlargement of the amount of any benefit defined in the Plan and shall not at any time create for any person other than the Employer any right, title, or interest in the assets of the Employer or the Pension Fund, except as specifically provided in the Pension Benefits Act.

#### **14.6 Information to be Provided Before Employer Pays Benefits**

Payment of benefits shall not be made until the person entitled to payment of the benefit delivers to the Employer

- (a) satisfactory proof of age of the person and other persons who may become entitled to payment of the benefit and such other information as may be required to calculate and pay the benefit, and
- (b) a signed declaration of marital status,

provided that after late delivery of the required documents and information, payment shall be made retroactively to the date of entitlement.

#### **14.7 Employer Records**

Wherever the records of the Employer are used for the purposes of the Plan, such records shall be conclusive proof of the facts with which they are concerned, unless and until they are proven to be in error.

#### **14.8 Severability**

If any provision of the Plan is held to be invalid or unenforceable by a court of competent jurisdiction, its invalidity or unenforceability shall not affect any other provision of the Plan and the Plan shall be construed and enforced as if such provision had not been included therein.

#### **14.9 Captions and Headings**

The captions, headings, and table of contents of this Plan are included for convenience of reference only and shall not be used in interpreting the provisions of this Plan.

#### **14.10 Construction**

- (a) The Plan is intended to constitute an employee's pension plan qualified for registration under the Pension Benefits Act and the Income Tax Act.
- (b) Any provision of the Funding Agreement that is inconsistent with the terms of the Plan shall, to the extent of the inconsistency, be of no force or effect.
- (c) The Plan shall be governed and construed in accordance with the laws of the Province of New Brunswick.

#### **14.11 Currency**

All benefits payable under the Plan shall be paid in the lawful currency of Canada.

#### **14.12 Reciprocal Transfer Agreements**

The Employer may enter into reciprocal transfer agreements with other pension plans. All such reciprocal transfer agreements shall be in accordance with the Pension Benefits Act and the Income tax Act.

For all purposes of the Plan and notwithstanding any other provision of the Plan to the contrary:

- (a) Credited Service shall include any pensionable service transferred from another pension plan under a reciprocal transfer agreement with the Plan;
- (b) Continuous Service shall include any pensionable service transferred from another pension plan under a reciprocal transfer agreement with the Plan; and
- (c) Any amounts transferred to the Plan from another pension plan (exporting plan) under a reciprocal transfer agreement with the Plan shall not be considered voluntary contributions in accordance with Section 4.6. Rather, any amount which was considered employee required contributions under the exporting plan shall be required Member contributions under the Plan. Any remainder of an amount transferred shall be considered Employer contributions.