

THIS MEMORANDUM OF UNDERSTANDING made, in duplicate, this 5th day of December, 2014.

BETWEEN:

WORKPLACE HEALTH, SAFETY AND COMPENSATION COMMISSION

(hereinafter referred to as “the Commission”)

AND:

CANADA-NEWFOUNDLAND AND LABRADOR OFFSHORE PETROLEUM BOARD also known as the CANADA-NEWFOUNDLAND OFFSHORE PETROLEUM BOARD, a board established by the joint operation of section 9 of the *Canada-Newfoundland Atlantic Accord Implementation Act* as amended, and section 9 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* as amended (the *Accord Acts*), having an office at the City of St. John’s, in the Province of Newfoundland and Labrador¹,

(hereinafter “the Board”)

(Collectively “the Parties”)

1.0 RECITALS

1.01 Both the Commission and the Board perform mutual and complementary roles in the promotion and maintenance of safe and healthy Workplaces, as defined in the *Accord Acts*, in the Canada-Newfoundland and Labrador Offshore Area.

1.02 The Commission and the Board are required by statute to cooperate with each other including the provision of information where it is necessary to give effect to the *Accord Acts* and to the Commission’s prevention mandate under the *Workplace Health, Safety and Compensation Act*, RSNL 1990, Chapter W-11, as amended;

NOW THEREFORE in consideration of the mutual covenants and agreements contained herein, the Commission and the Board agree as follows:

¹ References are to the provincial version of the *Accord Acts*.

2.0 PURPOSE

- 2.01 The Commission discloses information, including personal information, to the Board where it is necessary to give effect to the *Accord Acts*, Part III.1 and regulations made thereunder including but not limited to conducting investigations, determining compliance, issuing stop work orders, laying charges and making submissions on sentencing.
- 2.02 The Board discloses information, including law enforcement information, on a discretionary basis, to the Commission for the purpose of giving effect to the Commission's mandate to pursue recovery for damages in subrogated third party actions,
- 2.03 The Board discloses information, including personal information, to the Commission where it is necessary to give effect to the Commission's prevention mandate under the *Workplace Health, Safety and Compensation Act*, RSNL 1990, c.W-11, as amended.
- 2.04 The Commission provides services to workplace committees as prescribed by paragraph 20.2(c) of the *Workplace Health, Safety and Compensation Act*, as amended.

3.0 AUTHORITY TO DISCLOSE INFORMATION

- 3.01 The Commission is authorized by section 20.4 of the *Workplace Health, Safety and Compensation Act*, as amended, to disclose information to the Board and also provide certain information pursuant to section 201.80 of the *Accord Acts*.
- 3.02 The Board is authorized by section 201.84 of the *Accord Acts* to disclose information to the Commission.

4.0 INFORMATION TO BE EXCHANGED

- 4.01 To assist the Parties in their roles in the promotion and maintenance of safe and healthy Workplaces, the Parties agree to provide the information more particularly described in

Annex A attached to this Agreement. For greater certainty, such access will not include any employer remittance information or monetary claims information.

- 4.02 On a case by case basis, any other information may be requested necessary to give effect to the *Accord Acts* or the *Workplace Health, Safety and Compensation Act*, as amended, in consultation with Counsel for the Party to whom the request has been made.

5.0 MECHANISM FOR DISCLOSURE AND SECURITY MEASURES

- 5.01 Information covered by this Agreement will be disclosed by the Parties in a form mutually acceptable to both Parties.

- 5.02 The Parties shall have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all information disclosed under this Agreement, including but not restricted to the following:

- (a) at a minimum, using the same level of physical and electronic security as the Party employs to avoid disclosure or dissemination of the Party's own confidential and privileged information, to prevent the disclosure of information to a third party or to any of its employees other than those who are required to have access to properly perform their duties;
- (b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the information disclosed under this Agreement; and
- (c) ensure that employees having access to information disclosed under this Agreement have sworn an Oath of Confidentiality and that they comply with all policies, standards and safeguards established to protect the confidentiality and security of information.

6.0 CONFIDENTIALITY AND USE

- 6.01 The Board shall protect the confidentiality of the information disclosed under this Agreement and will not use or disclose it to anyone for any other purpose other than:

- (a) that which is necessary to give effect to the *Accord Acts*, Part III.1 or the Regulations made thereunder;
 - (b) for a consistent purpose as defined in the applicable access to information and privacy information of the Province of Newfoundland and Labrador and of Canada; and
 - (c) for a purpose authorized or required by law.
- 6.02 The Commission shall protect the confidentiality of the information disclosed under this Agreement and will not use or disclose it to anyone for any other purpose other than:
- (a) that which is necessary to give effect to the *Accord Acts*, Part III .1 or the Regulations made thereunder and *Part 1.1 of the Workplace Health, Safety and Compensation Act*, as amended;
 - (b) for a consistent purpose as defined in the applicable access to information and privacy legislation of the Province of Newfoundland and Labrador and of Canada; and
 - (c) for a purpose authorized or required by law.
- 6.03 Where consent to use or disclose personal information is required, the Parties will obtain the appropriate consent from the affected individual as required by law.
- 6.04 The Parties shall limit the collection, use and disclosure of personal information under this Agreement to only that information necessary to achieve the purpose for which the information is collected, used and disclosed.

7.0 INFORMATION MANAGEMENT

- 7.01 The information disclosed to and collected by the Board and under this Agreement shall be collected, administered, maintained, destroyed or disposed of in accordance with the laws of Newfoundland and Labrador and the laws of Canada.
- 7.02 In the event of a security or privacy breach the Parties shall:
- (a) promptly notify each other of any unauthorized possession, use or knowledge, or attempt thereof, of information disclosed under this Agreement, including but not limited to data processing files, transmission messages or other information by any unauthorized person or entity;

- (b) promptly furnish to each other full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist each other in investigation or preventing the recurrence of any unauthorized possession, use or knowledge or attempt;
- (c) use reasonable efforts to cooperate with each other in any litigation and investigation against third parties as required; and
- (d) promptly use all reasonable efforts to mitigate the damages related to the unauthorized use, possession, or knowledge and to prevent a recurrence of the security or privacy breach.

8.0 ACCURACY LIMITATION

- 8.01 The Parties will take best efforts to ensure the completeness and the accuracy of the information provided to each other under this Agreement, but do not guarantee its accuracy.
- 8.02 The Parties shall not be liable to each other for any damages or other losses resulting from the transmission or use of any information that is inaccurate or incomplete.
- 8.03 The Parties will meet annually to conduct a review of this Agreement to ensure compliance with the provisions of the applicable federal and provincial access to information and privacy legislation and all applicable security policies and procedures.

9.0 NOTICE

- 9.01 Any notice required to be given by either Party under this Agreement, unless otherwise specified herein, shall be effectively given and deemed to have been received as follows:
 - (a) if delivered personally, on the day of delivery;
 - (b) if sent by ordinary, certified or registered mail, on the seventh day after mailing; and
 - (c) if faxed to the other Party on the next business day.

In the event of an actual or threatened postal strike or interruption, service shall be by personal delivery or fax only. The names and addresses of the authorized representatives of the Parties are as follows:

to the Commission: Executive Director, Employer Services
 146-148 Forest Road
 P.O. Box 9000
 St. John's, NL A1A 3B8
 Fax: (709) 778-1564
 Tel: (709) 778-1561

to the Board: Chief Safety Officer
 140 Water Street
 5th Floor, TD Place
 St. John's, NL A1C 6H6
 Fax: (709) 778-1473
 Tel: (709) 778-4262

10.0 TERM

10.01 This Agreement shall remain in effect from January 1, 2015 to December 31, 2015 inclusive and shall be automatically renewed yearly from January 1 to December 31 subject to Article 10.02 herein.

10.02 Either the Commission or the Board may terminate this Agreement or any automatic renewal hereof by giving six (6) month's prior written notice to the other Party.

11.0 AMENDMENTS

11.01 This Agreement may be amended at any time on the mutual written consent of the Parties.

11.02 The Parties will from time to time execute and deliver all such further documents and do all acts and things as reasonably required to effectively carry out or better evidence or perfect the full meaning of this Agreement.

12.0 GENERAL

12.01 If any term or provision of this Agreement is found to be illegal, invalid or unenforceable, this Agreement may remain in full force and effect and such term or provision shall be deemed removed from this Agreement and the remaining provisions forming a valid agreement.

12.02 The paragraph headings shall not be considered in interpreting the text.

12.03 Time shall be of the essence.

13.0 GOVERNING LAWS

13.01 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador.

IN WITNESS WHEREOF the Commission and the Board have caused this Agreement to be executed by their respective officers duly authorized in that behalf on the dates hereinafter set forth.

SIGNED, SEALED, AND DELIVERED

in the Presence of:

**WORKPLACE HEALTH, SAFETY AND
COMPENSATION COMMISSION**

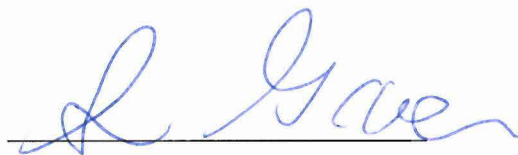


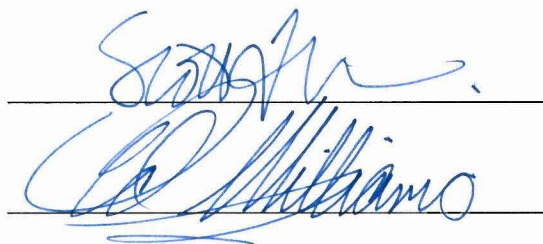


SIGNED, SEALED, AND DELIVERED

in the Presence of:

**CANADA-NEWFOUNDLAND AND
LABRADOR OFFSHORE PETROLEUM
BOARD/CANADA-NEWFOUNDLAND
OFFSHORE PETROLEUM BOARD**





ANNEX A
TO THE MEMORANDUM OF UNDERSTANDING DATED December, 2014

1. The Board will provide the Commission with a list of Employers who have Employees employed at Workplaces in the Canada-Newfoundland and Labrador Offshore Area together with the respective Employer Firm Number to assist the Commission in the provision of information in paragraph 2 herein of this Annex.

2. The Commission, on a semi-annual basis, will provide the following to the Board in relation to employers with employees at a Workplace in the Canada-Newfoundland and Labrador Offshore area:
 - any injury frequency information including:
 - claims
 - nature of injuries
 - source of injuries
 - types of accidents
 - parts of body
 - occupation
 - industry rate reports

3. Upon request of the Board, the Commission will provide to the Board the following:
 - Prime audits
 - OHS audit reports
 - Prime status reports

The Board acknowledges that the Commission's response to such requests may be subject to operational requirements and will be provided on a best efforts basis.

4. Upon request, the Board will provide to the Commission the following information from its Document Management System in an electronic format (e.g. flash drive) which will be properly labeled, tracked, encrypted and password protected and may not be copied:
 - OH&S Committee's minutes.
 - The list of Workplaces that have delinquent OH&S Committees.
 - Any information provided to the Provincial Minister pursuant to Part III.1 of the *Accord Acts* which relates to the administration of the *Workplace Health, Safety and Compensation Act*, as amended by the Commission.

The Commission acknowledges that the Board's response to such requests may be subject to operational requirements and will be provided on a best efforts basis.

5. Upon request by the Commission, the Board will also provide to the Commission:

- Access by the Commission's Legal Department, in consultation with the Board's Legal, Regulatory and Public Affairs Department, to any Board authored accident investigation reports for negligence in respect of third party claims.
- Information about Workplaces derived from Board inspections, compliance verification and/or investigations to assist in claims adjudication.
- A listing of employers/contractors that fail to supply a WHSCC firm number so that the Commission may investigate and assess their need to be registered under the *Workplace Health, Safety and Compensation Act, as amended* and Regulations.