

EXECUTIVE EMPLOYMENT AGREEMENT

(FIRST RENEWAL)

BETWEEN:

NALCOR ENERGY

AND

EDMUND MARTIN

EXECUTED November 2, 2009

EXECUTIVE EMPLOYMENT AGREEMENT
(FIRST RENEWAL)

THIS AGREEMENT made at St. John's, in the Province of Newfoundland and Labrador, as of the 2 day of November, 2009.

BETWEEN:

NALCOR ENERGY,

(hereinafter called "Nalcor")

OF THE ONE PART

AND:

EDMUND MARTIN, of the City of St. John's, in the Province of Newfoundland and Labrador,

(hereinafter called the "Executive")

OF THE SECOND PART

WHEREAS by an Agreement of Assignment made as of the 1st day of January, 2008, all rights, benefits and obligations under the Executive Agreement between Newfoundland and Labrador Hydro ("Hydro") and the Executive herein and executed the 21st day of July, 2005 (the Initial Employment Agreement) were assigned to Nalcor Energy;

AND WHEREAS Nalcor Energy has accepted said assignment upon the understanding and agreement that the assignment places it in the same position that Newfoundland and Labrador

Hydro would be under the Initial Employment Agreement had Newfoundland and Labrador Hydro continued as the employer of the Executive.

WITNESSETH for and in consideration of the mutual covenants and agreements hereinafter contained and all other considerations hereinafter mentioned, the parties hereto agree to renew the Executive Employment Agreement executed the 21st day of July, 2005, upon the following terms:

APPOINTMENT AND TERMS OF EMPLOYMENT

- 1.1 Nalcor shall continue to employ the Executive as:
- (a) President and Chief Executive Officer of Nalcor Energy;
 - (b) President, and Chief Executive Officer of Nalcor Energy – Oil and Gas Inc.;
 - (c) President, and Chief Executive Officer Nalcor Energy – Bull Arm Fabrication Inc.;
- 1.2 It is also understood and agreed that an integral part of the consideration for the Executive entering into this Renewal Agreement is his continuing appointment as:
- (a) President, and Chief Executive Officer of Newfoundland and Labrador Hydro;
 - (b) President, and Chief Executive Officer of Churchill Falls (Labrador) Corporation Limited;
 - (c) President and Chief Executive Officer of Lower Churchill Development Corporation Limited; and

(d) President and Chief Executive Officer of Gull Island Power Company Limited;

Subject to the further terms and conditions hereinafter mentioned.

2. In his capacity as President and Chief Executive Officer of Nalcor, the Executive shall continue to be a member of the Board of Directors of Nalcor (the "Board"), and in further consideration of entering into this Renewal Agreement the Executive must continue to be a member of the Board of Directors of each of the above named enterprises described in paragraphs 1.1(b) and (c) and 1.2 (a), (b), (c) and (d).
3. Subject to the by-laws of Nalcor and regulations passed or approved by the Board, the Executive shall perform such duties and exercise such powers commensurate with his office as may, from time to time, be determined by the Board, and, without limitation, the Executive shall:
 - (a) well, faithfully, honestly and diligently serve Nalcor and use his best efforts to promote the interests of Nalcor and devote his full time, skill and attention to the operation of Nalcor, except during holidays, or in the case of illness or accident;
 - (b) report to the Board and shall observe all reasonable directions of the Board; and
 - (c) not acquire, directly or indirectly, an interest in any firm, partnership, association, entity or corporation, the business or operations of which would in any manner, directly or indirectly, compete or conflict with the business or operations of Nalcor and without limiting the generality of the foregoing, neither the Executive nor any member of his family (this term having the same meaning as defined in Newfoundland and Labrador's *Conflict of Interest Act*, 1995) shall directly hold any shares in the Fortis Inc. group of companies including Newfoundland Power

excepting however interests acquired in a publicly traded corporation through retirement mutual fund(s) investment vehicles.

4. The Executive may, with the approval of the Board, serve as a director or member of service clubs, charitable, recreational and community organizations and may also serve as a director of publicly traded entities which would not in any manner, directly or indirectly, compete or conflict with the business or operations of Nalcor having first obtained the approval of the Board.

TERM OF EMPLOYMENT AND REMUNERATION

5. The Executive shall be paid, commencing on the renewal commencement date as hereinafter established, a base salary of \$418,209.00 in respect of the first year of employment under this Renewal Agreement. The Executive shall be entitled to an annual base salary review for the purpose of determining the appropriate increase in accordance with the practice of Nalcor as it pertains to other executive positions of Nalcor. Upon the fifth anniversary of this Renewal Agreement the Executive may request and Nalcor shall cause a comprehensive labour market salary review to be undertaken to determine the relative position of the Executive's salary among executives with comparable experience and responsibilities in the Canadian market. Where the current base salary of the Executive is below that which would be considered the going market rate for relatively equivalent positions, to recommend to Nalcor what increase to the then current base salary would be necessary to make Nalcor's compensation competitive in that market. Any adjustment to the Executive's compensation flowing from such recommendation shall remain at the discretion of Nalcor.

6. The Executive shall also be eligible for an annual bonus of up to thirty percent (30%) of the then current annual base salary as determined by the Board through an incentive plan.
7. This renewal contract shall commence as of May 1, 2009, herein called the “renewal commencement date”, and the Executive shall hold the offices of President and Chief Executive Officer of Nalcor and the other offices mentioned in paragraphs 1.1 (b), (c) and 1.2 (a), (b), (c) and (d) for a period of nine (9) years from the commencement date.
8. On or before the eighth (8th) anniversary of the commencement date, the Executive shall advise the Chairman of the Board of Nalcor if he wishes to renew his employment with Nalcor. Within thirty (30) days of receiving notice from the Executive of his desire to renew his employment with Nalcor, Nalcor shall advise the Executive whether it wishes to renew such employment. In the event both parties wish to renew such employment, Nalcor through its Chairperson or a committee established for the purpose and the Executive will meet within a further thirty (30) days to negotiate the second renewal of this Agreement and such second renewal shall not include a reduction of those benefits, terms and conditions contained herein. In any event, the negotiation of the second renewal of this Agreement shall be concluded on or before six (6) months prior to the ninth (9th) anniversary (May 1, 2018), of the renewal commencement date. The Executive will be able to attend employment interviews and to pursue alternate employment as his schedule dictates during the last six (6) months of his employment and shall be entitled to outplacement services as provided for in clause 15(c)(iv) herein.

BENEFITS

9. Nalcor shall reimburse the Executive for all reasonable travel and other expenses incurred by him in connection with the execution of his duties under this Agreement. The Executive shall provide Nalcor with statements and receipts in respect of such expenses as required by Nalcor's policies in effect from time to time.

10. Nalcor shall provide to the Executive an automobile of a type commensurate with his office and shall pay all operating expenses associated with such automobile or alternatively, as its sole discretion, shall pay him a monthly car allowance in an amount that will provide for an automobile of a type commensurate with his office. In addition, Nalcor shall provide to the Executive a parking space at Nalcor's Head Office at Hydro Place in St. John's aforesaid. For the purposes of this Clause "automobile of a type commensurate with his office" shall mean a vehicle of a style and type similar to that currently provided to the Executive with a value of at least the then current dealer market value of such a vehicle or its equivalent should the current model or type be discontinued or unavailable in the Province.

11. The Executive shall be entitled to participate, on the same basis and subject to the same qualifications, terms and conditions as other executives of Nalcor in any life insurance, accidental death and dismemberment insurance, voluntary personal accident insurance, disability insurance provided that where a cap on monthly disability insurance benefits exists such cap shall not be less than \$25,000.00 per month after income taxes, (with appropriate medical justification, if required by the policy), dental insurance, hospitalization and other medical benefit insurance. It is understood that long term disability coverage will be 60% of pre-existing earnings (base salary plus the best year

incentive bonus) plus payment of Executive's PSPP contributions to determine the maximum of the allowable monthly benefit which must not be less than the cap amount of \$25,000.00. The Executive shall also receive such other employee benefit plans in effect with respect to the executives of Nalcor.

12. The Executive shall be entitled to thirty (30) days annual leave or that number of days prescribed by Nalcor's policy, whichever is greater, in each year during the term of this Agreement. It is understood and agreed that the Executive may carry forward any unused vacation which may be banked. The Board may approve the use of up to ten (10) days of banked unused annual leave in addition to annual leave in any year and all unused vacation, without a limitation, shall be paid out upon termination or expiry of this Agreement or any renewal thereof.

For purposes of this Clause the renewal date shall be the date this Renewal Agreement is executed by the Executive.

13. The Executive shall be entitled to all statutory holidays observed by Nalcor and made available to the other Executives of Nalcor.

PENSION BENEFITS

14.

- (a) The Executive shall participate in the Public Sector Pension Plan (PSPP) and shall be entitled to all the benefits to be derived therefrom.

- (b) Nalcor will assume and continue to fund the Supplemental Executive Retirement Plan (SERP) created by Newfoundland and Labrador Hydro to provide supplemental retirement income to the Executive in accordance with the following provisions:

Definitions:

- (i) “Term of Employment” shall include the period of actual employment commencing at the commencement date referred to in the Initial Employment Agreement plus the actual employment period hereunder including any period of absence for any reason whether with or without pay, unused vacation entitlement and any period in lieu of notice with the term expressed in years, months and days under both the Initial Employment Agreement and this Renewal Employment Agreement.

“Spouse” shall have the same meaning as that contained in the *Public Service Pensions Act, 1991*, as at the date of the Executive Employment Agreement.

“Surviving Spouse” shall mean the spouse of the Executive who is alive at the time of death of the Executive and the Executive has not, in writing, expressed a contrary intention as to the person he declares to be his spouse.

“Child (or Children) of the Executive” shall mean a child (or children) of the Executive who is alive at the time of death of the Surviving Spouse and who is under the age of eighteen (18) years, or under the age of twenty

four (24) years while in full time attendance at a recognized school or post-secondary institution.

- (ii) Nalcor, upon termination of employment or expiry and non-renewal of the Executive's Contract of Employment, or such other events of termination such as are specified herein (excluding death of the Executive) shall cause to be paid to the Executive annual a pension being a sum equivalent to 2% of the Executive's best year base salary plus 2% of the Executive's best year annual incentive bonus times years of service included in the Term of Employment with any incomplete years being prorated on the basis of completed months with the last month, if incomplete, being deemed complete if the Executive's Term of Employment end date exceeds the 15th of the month. The amount so calculated is herein referred to as the SERP payment. Such amount to be paid in twelve (12) equal monthly instalments on the first of each month from and including the month immediately following the end of the Term of Employment to and including the month in which the Executive dies and shall be paid without any setoff or deduction by Nalcor unless otherwise specified herein.
- (iii) In the event of death of the Executive, Nalcor shall pay to the Surviving Spouse, or, in the event there is no Surviving Spouse, or the Surviving Spouse subsequently dies, the Children of the Executive, an annual payment equal to 60% of the SERP payment to be paid in twelve (12) equal monthly instalments on the first day of each month commencing the first day of the month following the date of death of the Executive up to

and including the death of the Surviving Spouse or the last child of the Executive has reached the age of 18 years (or the age of 24 years while such Child of the Executive is in full time attendance at a recognized school or post secondary institution).

- (iv) The SERP payment shall be indexed and increased annually in accordance with the CPI rate of inflation for Canada, commencing on the anniversary date of the initial instalment of SERP payments as provided for herein.
- (v) In the event of disability causing a leave of absence that exceeds six (6) months with no evidence of imminent return to work, this Employment Agreement may be terminated by either party as provided for in clause 16 hereof in which event the Term of Employment shall be deemed “notwithstanding the definition of Term of Employment” to be Thirteen (13) years and the SERP payment so triggered will be adjusted to deduct from the payment any amounts received through or from the Long Term Disability insurer after the Term of Employment and such payment shall be made to the Executive as per 14(b)(ii) above, provided however, that this clause shall not affect survivor benefits to the Surviving Spouse or a Child of the Executive.
- (vi) The Executive acknowledges that the SERP payments contemplated arise on termination and are not intended to form part of “total compensation” during employment, but are payable as part of stand alone pension compensation payable once the termination / expiry provisions of this Employment Agreement are fulfilled.

- (vii) In lieu of the SERP payment to which the Executive is entitled pursuant to this Agreement, the Executive may elect at or about the date the Executive becomes entitled to such payment, to receive the SERP benefit in an actuarially equivalent alternative payment that is acceptable to the Executive and Hydro as provided below in clause 14(b)(viii).
- (viii) On the date to which the Executive is entitled to the SERP benefit or as soon as the commuted value has been established in accord with this Article 14, he may elect to receive as a lump sum or series of payments (not to exceed five (5), at such times as the Executive directs) which in total are equal to the commuted value of the SERP benefit based on a calculation performed by a firm of actuaries retained by Nalcor. Provided however, that the Executive may, at the expense of Nalcor retain his own firm of actuaries to perform the same actuarially equivalent calculation. In the event the calculations of the two firms of actuaries are within 10% of each other, Nalcor and the Executive agree that the payment/payments will equal the average of the two calculations.
- (ix) In the event the difference between the calculations is more than 10%, the two firms of actuaries shall appoint a third firm of actuaries to review and present its calculation, which such calculation shall be adopted by the parties as correct. Any reviews undertaken under this clause or costs associated with such reviews shall be paid by Nalcor.
- (x) The payment of the SERP benefit in accordance with clauses 14(b)(vii), 14(b)(viii) and 14(b)(ix) shall terminate all obligations and liability of

Nalcor to the Executive, his Surviving Spouse, a Child of the Executive or his designated beneficiary or his estate.

- (xi) In the event of a combined term of employment with Hydro and Nalcor of five (5) years or more, including any notice periods or pay in lieu (Total Years of Service) and the employment of the Executive has ended or ends in accordance with Clause 16 hereof and the Executive, at age fifty-six, is not entitled to receive an annual unreduced pension under the PSPP of Total Years of Service times 2% of the Base Salary at the time of termination (the “expected benefits”) the SERP payments to the Executive or his Spouse or Children as the case may be, will commence, upon latter of the Executive reaching (or would have reached) age 56 or the effective date of termination, adjusted upward to bridge any shortfall in the said expected benefits until the shortfall is eliminated by payments to the Executive, or, his Surviving Spouse, or, his Children under the PSPP.

CONFIDENTIALITY

15.

- (a) “Confidential Information” means any trade secrets or other information however communicated, disclosed to the Executive or obtained by the Executive through observation or examination of Nalcor’s policies, procedures or materials related to its business or operations which derives economic value from not being generally

known to or readily ascertainable by other persons who can obtain value from its disclosure or use.

- (b) The Executive acknowledges that irreparable injury or damage will result to Nalcor upon the disclosure of Confidential Information to third parties or utilization of same for any purpose other than as contemplated by this Agreement.
- (c) The Executive will not, without the prior written consent of Nalcor, disclose any Confidential Information to any third party and will not use the Confidential Information except pursuant to and in the course of the Executive's association with Nalcor for the benefit of Nalcor, provided however, that the Executive shall have no liability to Nalcor for any disclosure of any Confidential Information if the Executive can establish that such Confidential Information:
 - (i) is publicly known, available or published, without breach of this Agreement by the Executive, or
 - (ii) has become known lawfully by or has become lawfully known to the Executive prior to Nalcor's disclosure of such information to the Executive, as evidenced by written documents received by the Executive prior to Nalcor's disclosure to the Executive, or
 - (iii) has been rightfully and lawfully received by the Executives from third parties, or
 - (iv) has been independently developed without reference to or use of the Confidential Information, or

- (v) has been disclosed in accordance with the law.
- (d) The Executive agrees that all restrictions and covenants contained in this Clause 15 are reasonable and valid and all defences to the strict enforcement thereof by Nalcor which are founded upon reasonableness or validity of the restrictions and covenants are hereby waived by the Executive.

TERMINATION

16. The employment of the Executive may be terminated:
- (a) upon death of the Executive, in which event the Executive's named Surviving Spouse, or, in the event there is no Surviving Spouse or the Surviving Spouse dies, the Children of the Executive or his designated beneficiary or his estate shall be entitled to immediately receive the survivor benefit of the SERP commencing in the month next after death and the Surviving Spouse, if any, shall continue to enjoy and receive the hospitalization and other medical benefit insurance benefits which shall include unreduced extended health, drugs and dental coverage provided for in Clause 11 until the death of the Surviving Spouse.
 - (b) for just cause, by written notice by Nalcor, in which event the Executive shall be entitled to receive the SERP, payable in accordance with paragraph 14(b); or
 - (c) at the sole discretion of Nalcor, including the absence from duties due to medical reasons for more than six (6) months, with no imminent return anticipated at the date the leave of absence extends beyond six (6) months, in which event the Executive shall be entitled to receive without setoff, deduction (except statutory), or, any consideration of the duty to mitigate or actual re-employment (except in

the case of termination for just cause) in full and final settlement of all claims and demands arising out of any such termination the following:

- (i) salary and all benefits for the equivalent period of two (2) years (twenty four (24) months) in lieu of notice plus the equivalent of the highest annual bonus received in the Executive's best total compensation year prior to the date of termination for each year of the two year pay in lieu of notice period. Such amounts shall be paid to the Executive in lump sum within thirty (30) days of the termination of this Agreement subject only to Executive's direction for payment for tax sheltering purposes;
 - (ii) all other available benefits upon the same cost sharing arrangement that the Executive would be entitled had he continued working, including extended health, drugs, life insurance and dental coverage under such plans or programs that apply to executives while employed for Nalcor;
 - (iii) the SERP benefits payable in accordance with paragraph 14(b) unless Executive and Nalcor agree to conversion to a lump sum payment or some other suitable arrangement;
 - (iv) outplacement services up to \$25,000.00 as invoiced to Nalcor by the service provider;
- (d) at the sole discretion of the Executive upon the happening of one or more of the following events the Executive may give notice of termination amounting to not less than thirty (30) days and thereupon shall be entitled to the benefit of all the

provisions of clause 16(c) as if Nalcor had exercised its discretion and terminated this agreement:

- (i) a material reduction in the mandate of Nalcor, as outlined generally in the advertised position (which such ad is attached as Appendix "A") and includes the base business of Nalcor under its constating legislation as of May 1, 2009, where the reduction or change in mandate of Nalcor has occurred without the support of the Executive;
- (ii) a material erosion or reduction in the role and the responsibilities of the Executive;
- (iii) a transfer or sale of Nalcor to, merger with, or acquisition by private enterprise;
- (iv) a leave of absence of six (6) months due to medical leave during which the Executive qualifies for Long Term Disability and there is no imminent ability to return to work; or
- (e) At the sole discretion of the Executive, at any time, upon providing to Nalcor six (6) months written notice to terminate this agreement, or, to retire at/or after age 60 when the Executive, in either event, shall be entitled to the benefits of Clause 16(c)(ii) and 16(c)(iii).

MISCELLANEOUS

17. For a period of two years after the termination of the employment of the Executive pursuant to this Agreement for any reason whatsoever or five years from the date of this

Agreement, whichever period is the longer, the Executive shall not, on his own behalf or on behalf of any other person, partnership, association, corporation or other entity, hire or solicit or in any manner attempt to influence or induce any employee of Nalcor or its affiliates (within the meaning of the *Corporations Act*) to leave the employment of Nalcor or such affiliates, and he shall not use or disclose to any person, partnership, association, corporation or other entity any information obtained while an employee of Nalcor concerning the names and addresses of Nalcor's employees.

18. Any written notice or request by Nalcor may be delivered personally to the Executive or sent by registered mail addressed to the Executive's last address in Nalcor's personnel records. If mailed, in the absence of proof of earlier receipt, such notice or request shall be deemed to have been given on the second day following, excluding Saturday, Sunday and statutory holidays, but including the day such notice or request was mailed. Any written notice or request by the Executive may be delivered personally to the Corporate Secretary of Nalcor or sent by registered mail addressed to Nalcor's Head Office at Nalcor Energy, Attn: Corporate Secretary, Hydro Place, 500 Columbus Drive, PO Box 12800, St. John's, NL A1B 0C9. If mailed, in the absence of proof of earlier receipt, such notice or request shall be deemed to have been given on the second day following, excluding Saturday, Sunday and statutory holidays, but including the day such notice or request was mailed.
19. No delay or omission of either of the parties to exercise any right or power accruing upon any default or breach under this Agreement shall impair any such right or power or shall be construed to be an acquiescence therein or waiver of any such default or breach or of

any right or power accruing upon any such default or breach or on any subsequent default or breach under this Agreement.

20. This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original, and all such counterparts shall constitute but one and the same instrument.

21. Neither of the parties shall assign, in whole or in part, this Agreement or its rights or obligations hereunder, without the prior consent in writing of the other party.

22. None of the conditions, covenants, or agreements contained in this Agreement may be waived in whole or in part unless such waiver be in writing and signed by the party in whose favour the representations, warranties, conditions, covenants, or agreements so waived operate.

23. This Agreement constitutes the entire agreement between the parties hereto and neither of the parties hereto is bound by any representation, warranty, promise, discussion, agreement or inducement not embodied or contained in this Agreement.

24. This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and the federal laws of Canada applicable therein, and subject to the provisions respecting mediation and arbitration set out herein the Courts of the Province of Newfoundland and Labrador shall have jurisdiction to entertain any action or other legal proceedings based on any provisions of this Agreement. Each party hereto does hereby attorn to the jurisdiction of the Courts of Newfoundland and Labrador.

25. This Agreement may be amended by the mutual consent of the parties as evidenced by a written instrument signed by both parties.
26. The illegality, invalidity or unenforceability of any provisions of this Agreement shall not affect the illegality, invalidity, or unenforceability of any other provision or a part hereof unless the latter is contingent or dependent upon the former.
27. This Agreement and everything contained herein shall enure to the benefit of and be binding upon each of the parties hereto and their respective successors, personal representatives and permitted assigns as fully and as effectually as if the same had been mentioned herein.
28. The Executive acknowledges that he has read and understands this Agreement, and acknowledges that he has had the opportunity to obtain legal advice concerning this Agreement.
29. Any dispute arising out of the interpretation or application of this Agreement may be referred by either party to a sole arbitrator, knowledgeable of employment law, and agreed to by the parties within thirty (30) days of the issue arising. Failing agreement on arbitrator, the parties agree to abide by the terms and conditions of appointing a sole arbitrator as are contained in the *Arbitration Act*, NL. The arbitrator selected by agreement or by operation of the *Arbitration Act* shall not have the power to amend or modify the Agreement without consent of both parties and shall, in the exercise of jurisdiction conferred by the parties, be bound by the *Arbitration Act* aforesaid. The fees and expenses of the arbitration shall be jointly paid by the parties equally.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto the day and year first before written.

NALCOR

Paul McMath
Witness as to the execution by Nalcor

John ...
Chairman of the Board

Harold ...
Witness as to the execution by
Edmund Martin

Edmund Martin
EDMUND MARTIN

