

# Omnibus Amending Agreement

## Between

The GOVERNMENT OF CANADA (herein referred to as "Canada"), as represented by the Minister of Human Resources and Skills Development and the Canada Employment Insurance Commission

## And

The GOVERNMENT OF NEWFOUNDLAND AND LABRADOR (herein referred to as "Newfoundland and Labrador"), as represented by the Minister of Human Resources, Labour and Employment and the Minister for Intergovernmental Affairs

**Whereas** Canada, as represented by the Minister of Human Resources and Skills Development, and Newfoundland and Labrador entered into a Labour Market Agreement (the "LMA") on September 3, 2008, pursuant to which Canada agreed to provide funding to Newfoundland and Labrador towards the costs of programs that enhance the labour market participation of the unemployed who do not qualify for assistance under programs supported under the *Employment Insurance Act* and of employed individuals who are low skilled;

**Whereas** Canada, as represented by the Canada Employment Insurance Commission and the Minister of Human Resources and Skills Development, and Newfoundland and Labrador entered into a Labour Market Development Agreement (the "LMDA") on September 3, 2008, pursuant to which Canada and Newfoundland and Labrador agreed to certain arrangements relating to the assumption by Newfoundland and Labrador of an expanded role in the delivery of labour market programs and services in Newfoundland and Labrador with financial assistance provided by Canada under section 63 of the *Employment Insurance Act*;

**Whereas**, in Budget 2009, Canada announced various measures to address the economic downturn including:

- (a) investing \$500 million over two years in a Strategic Training and Transition Fund to support the particular needs of individuals, such as the self-employed or those who have been out of work for a prolonged period of time, whether or not they qualify for assistance under programs supported under the *Employment Insurance Act*, with such funding to be provided to provinces and territories according to their respective share of the unemployed across Canada and administered through existing Labour Market Agreements to ensure appropriate accountability and reporting; and
- (b) providing targeted two-year funding of \$1 billion, to top up the current Employment Insurance Program funding of \$1.95 billion provided annually to provinces and territories under Labour Market Development Agreements, in order to expand the availability of training delivered by the provinces and territories, with such funding to be allocated among provinces and territories based on their respective share of the unemployed across Canada; and

**Whereas** for Newfoundland and Labrador to access the additional funding referred to in paragraphs (a) and (b) of the preceding recital, it is necessary for the parties to amend the LMA and the LMDA, respectively, to set out the terms and conditions upon which such additional funding is to be provided;

**Whereas** the parties also wish to amend the termination provisions of the LMA; and

**Whereas** Newfoundland and Labrador acknowledges the importance of ensuring that the public is informed of the federal government's financial contributions to Newfoundland and Labrador's programs under both the LMA and the LMDA, including funding from the new investments announced in Canada's Economic Action Plan, and, therefore, reaffirms its commitment to federal visibility under the LMA and LMDA, including its commitments relating to public acknowledgement of federal funding for its programs and cooperation in public announcements and ceremonies;

Now, therefore, Canada and Newfoundland and Labrador agree as follows:

1. The LMA is amended in accordance with Schedule 1 to this Omnibus Amending Agreement.
2. The LMDA is amended in accordance with Schedule 2 to this Omnibus Amending Agreement.
3. Schedule 1 to this Omnibus Amending Agreement shall be read together with the LMA as if its provisions were contained in the LMA.

4. Schedule 2 to this Omnibus Amending Agreement shall be read together with the LMDA as if its provisions were contained in the LMDA.

5. The LMA and the LMDA shall in all other respects remain the same.

6. The parties agree that nothing in Schedule 2 to this Omnibus Amending Agreement shall affect the way in which Canada allocates the current regular level of Employment Insurance funding of \$1.95 billion per year to determine the maximum annual amount of the contributions payable to Newfoundland and Labrador pursuant to Article 14.3 of the LMDA. The parties acknowledge that the current methodology referred to in Article 14.3 for allocating among provinces or territories the current \$1.95 B is the allocation methodology set out in the letter of June 26, 1996 from Canada's Deputy Minister of Human Resources Development to Newfoundland and Labrador's Deputy Minister of Development and Rural Renewal.

7. This Omnibus Amending Agreement shall come into effect when signed by both parties.

SIGNED on behalf of Canada by the Minister of Human Resources and Skills Development and the Canada Employment Insurance Commission,

This \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
The Honourable Diane Finley,  
Minister of Human Resources and  
Skills Development

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Janice Charette,  
Chairperson, Canada Employment  
Insurance Commission

Signed on behalf of Newfoundland and Labrador this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Minister of Human Resources, Labour  
and Employment

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Minister for Intergovernmental Affairs

## SCHEDULE 1

### Amendments to the Canada/Newfoundland and Labrador Labour Market Agreement

1. The Canada/Newfoundland and Labrador Labour Market Agreement is amended by adding immediately before the heading entitled "Interpretation" the following:  
  
**"PART 1 – LABOUR MARKET PROGRAMS FOR UNEMPLOYED AND LOW SKILLED WORKERS"**
2. Section 1 of the Agreement is amended by replacing the word "Agreement" in line 1 with "Part and Part 3".
3. Section 2 of the Agreement is amended by
  - (a) replacing the word "Agreement" in line 1 with "Part";
  - (b) replacing the words "the Agreement" in paragraphs (a) and (d) with "this Part";
  - (c) adding the words "under this Part" following "Labrador" in line 2 of paragraph (e); and
  - (d) adding the words "provided under this Part" following "funding" in paragraph (f).
4. Section 4 of the Agreement is amended by replacing the words "the Agreement" in line 2 with "this Part".
5. Section 5 of the Agreement is amended by replacing the word "Agreement" in line 2 with "Part".
6. Section 9 of the Agreement is amended by replacing the word "Agreement" in line 2 with "Part".
7. Section 11 of the Agreement is amended by replacing the word "Agreement" in line 4 with "Part".
8. Subsection 14(1) of the Agreement is amended by replacing the word "Agreement" in line 1 with "Part and Part 3".
9. Subsection 14(5) of the Agreement is amended by deleting the words "of this Agreement" in the line 3 of the sentence following paragraph (b).
10. Subsection 15(1) of the Agreement is amended by adding the words "under this Part" after "contributions" in line 1.
11. Subsection 15(2) of the Agreement is amended by replacing the word "Agreement" in line 3 with "Part".
12. Section 16 of the Agreement is amended by replacing the word "Agreement" in line 1 with "Part".
13. Section 18 of the Agreement is amended by adding the words "under this Part" after "contribution" in line 4.
14. Subsection 19(1) of the Agreement is amended by replacing the word "Agreement" in line 2 with "Part".
15. Subsection 19(2) of the Agreement is amended by replacing the word "Agreement" in line 6 with "Part".
16. Section 20 of the Agreement is amended by replacing the words "the Agreement" in line 3 with "this Part".
17. Section 21 of the Agreement is amended by adding the words "for the funding provided under this Part" after "framework" in line 2.
18. Subsection 22(1) and paragraph 22(2)(d) of the Agreement are amended by replacing the word "Agreement" in those provisions with "Part".
19. Subsection 23(1) is amended by replacing the word "Agreement" in line 4 with "Part".
20. Subsection 25(1) of the Agreement is amended by replacing the word "Agreement" in line 2 with "Part".
21. Subsection 25(2) of the Agreement is amended by replacing the word "Agreement" in line 5 with "Part".
22. Subsection 26(1) of the Agreement is amended by replacing the word "Agreement" in line 3 with "Part".

23. Section 27 of the Agreement is amended by

- (a) adding the words "Part 1 of" before "the Agreement" in line 2, and
- (b) adding the words "Part 1 of" before "this Agreement" in line 5.

24. The Agreement is further amended by adding after section 27 the following Part:

## **"PART 2 –STRATEGIC TRAINING AND TRANSITION FUND**

### **INTERPRETATION**

27.1 In this Part, unless the context otherwise requires:

"eligible clients" means unemployed and employed individuals described in section 27.4;

"eligible programs" means labour market programs and services provided by Newfoundland and Labrador that are described in section 27.3;

"eligible costs" means the program assistance costs and program administration costs incurred by Newfoundland and Labrador during the transitional period in providing assistance to eligible clients under its eligible programs;

"fiscal year" has the same meaning as in section 1 of this Agreement;

"program administration costs" means the direct and indirect internal operating costs incurred by Newfoundland and Labrador in developing and administering its eligible programs;

"program assistance costs" means

- (a) the costs of financial assistance provided by Newfoundland and Labrador under its eligible programs directly to, or on behalf of, eligible clients,
- (b) the costs of financial assistance or other payments provided by Newfoundland and Labrador under its eligible programs to employers, third party service providers or delivery agents as reimbursement for costs incurred by them, or as payment for services rendered by them, in relation to the provision of assistance to eligible clients under its eligible programs, and
- (c) payments to public or private training institutions for curriculum development costs and delivery costs that are directly related to the delivery of eligible programs for training of eligible clients,

but, for greater certainty, does not include

- (i) payments of basic income support to an eligible client unless the payments are linked to active participation in an eligible program, or
- (ii) payments to public or private training institutions for infrastructure costs;

"transitional period" means the period beginning April 1, 2009 and ending March 31, 2011.

### **PURPOSE**

27.2 The purpose of this Part of this Agreement is to set out:

- (a) the labour market programs of Newfoundland and Labrador that are eligible for funding under this Part, the eligible clients of those programs, and the eligible costs of those programs for which the new investments provided by Canada to Newfoundland and Labrador under this Part may be used;
- (b) the amount of funding to be provided by Canada to Newfoundland and Labrador under this Part each fiscal year during the transitional period; and
- (c) the accountability framework for funding provided under this Part.

### **ELIGIBLE PROGRAMS**

27.3 During the transitional period, Newfoundland and Labrador agrees to provide labour market programs to

- (a) enhance the labour market participation of eligible clients by assisting them to return to employment or to otherwise obtain or keep employment or maintain or improve skills for employment, and
- (b) support employers, and communities in dealing with labour force adjustments involving eligible clients.

These programs may include, but are not limited to, programs that support the following activities:

- (i) helping eligible clients to start their own businesses or become self-employed;
- (ii) supporting projects that create employment for eligible clients;
- (iii) supporting skills upgrading and training for eligible clients;
- (iv) providing mobility and relocation assistance for eligible clients; and
- (v) supporting employers, and communities in developing and implementing plans or strategies for dealing with labour force adjustments.

## **ELIGIBLE CLIENTS**

27.4 Newfoundland and Labrador agrees to use the funding provided under this Part to provide assistance to:

- (a) unemployed individuals affected by the economic downturn in Canada;
- and
- (b) employed individuals in sectors, occupations or communities affected by the economic downturn, including, but not limited to:
    - (i) sectors under pressure due to declining demand or other factors (e.g. the forestry sector);
    - (ii) occupations in declining industries (e.g. fisheries); and
    - (iii) communities dependant on a single employer or sector (e.g. mining communities)

## **FINANCIAL PROVISIONS**

27.5 Subject to the terms and conditions of this Part and Part 3 of this Agreement, in each of fiscal years 2009/10 and 2010/11 Canada agrees to make a contribution to Newfoundland and Labrador in respect of the eligible costs incurred in that fiscal year of an amount not exceeding the amount, rounded to the nearest thousand, determined by the formula

$$C \times (A/B)$$

where

C is \$245 million;

A is the average number of unemployed persons in Newfoundland and Labrador calculated by averaging,

- (a) for fiscal year 2009/10, the number of unemployed persons in Newfoundland and Labrador each month during the months of August 2008 to, and including, January 2009 as determined by Statistics Canada Labour Force Survey data for those months; and

- (b) for fiscal year 2010/11, the number of unemployed persons in Newfoundland and Labrador each month during the months of August 2009 to, and including, January 2010, as determined by Statistics Canada Labour Force Survey data for those months; and

B is the average of the total number of unemployed persons in Canada calculated by averaging,

- (a) for fiscal year 2009/10, the total number of unemployed persons in Canada in each month during the months of August 2008 to, and including, January 2009, as determined by Statistics Canada Labour Force Survey data for those months, and

- (b) for fiscal year 2010/11, the total number of unemployed persons in Canada each month during the months of August 2009 to, and including, January 2010, as determined by Statistics Canada Labour Force Survey data for those months.

27.6 (1) Subject to subsections (2) and (3), Newfoundland and Labrador agrees and undertakes that the funding provided by Canada under this Part shall not displace normal provincial

funding levels for existing labour market programs referred to in section 27.3 but that such funding shall be used to support incremental labour market program activities for eligible clients.

- (2) Canada and Newfoundland and Labrador agree that the undertaking in subsection (1) is not to be construed as preventing Newfoundland and Labrador from applying government-wide measures to control expenditures. Newfoundland and Labrador agrees that in the event of an expenditure control exercise, Newfoundland and Labrador would not disproportionately target programs funded under this Part.
- (3) The undertaking by Newfoundland and Labrador under subsection (1) is also subject to the appropriation of sufficient funds by the Newfoundland and Labrador legislature each fiscal year to maintain normal provincial funding levels.
- (4) By no later than October 1 following the end of each fiscal year during the transitional period, Newfoundland and Labrador agrees to provide Canada with a report by the provincial Auditor General or by an independent auditor certifying that Newfoundland and Labrador has complied, in all material respects, with the requirements in subsections (1) and (2).

27.7 Canada's contributions under this Part shall be used solely for defraying the eligible costs. Newfoundland and Labrador shall be responsible for expenditures on eligible costs incurred each fiscal year during the transitional period that are in excess of the amount of Canada's contribution in that year under this Part.

27.8 Any payment by Canada under this Part of the Agreement is subject to there being an appropriation of funds by the Parliament of Canada for the fiscal year in which the payment is to be made.

27.9 Canada will make payment of its contribution under this Part in respect of Newfoundland and Labrador's eligible costs in each fiscal year referred to in section 27.5 in two equal instalments. The first instalment will be paid on or about April 15 of each fiscal year and the second on or about September 15. The amount of each instalment will be 50% of the maximum amount of the contribution payable in that fiscal year as determined under section 27.5 of this Agreement.

27.10 In the event that the amount of the contribution made to Newfoundland and Labrador under this Part for a fiscal year referred to in section 27.5 exceeds the amount to which Newfoundland and Labrador is entitled for that fiscal year, the amount of such excess is a debt owing to Canada and shall be repaid to Canada forthwith.

27.11 Newfoundland and Labrador acknowledges that the amount of any unutilized funding provided to Newfoundland and Labrador under this Part at the end of a fiscal year that must be repaid under 27.10 will not be reprofiled by Canada to increase the maximum contribution payable to Newfoundland and Labrador in the following fiscal year.

#### **SERVICE DELIVERY ARRANGEMENTS**

27.12 Sections 12 and 13 of this Agreement apply to the development and delivery of eligible the programs funded under this Part.

#### **ACCOUNTABILITY FRAMEWORK**

27.13 (1) Newfoundland and Labrador agrees to include in its annual plans referred to in subsection 22(2) of this Agreement for fiscal years 2009/10 and 2010/11,

- (a) a description of the eligible clients who are to be targeted as priorities for eligible programs funded under this Part in the fiscal year,
- (b) a description of the priority areas for programming in the fiscal year which is funded under this Part and their intended objectives, and
- (c) a brief description of the eligible programs, planned activities and projected expenditures for the fiscal year by priority area that are attributable to funding provided under this Part.

(2) In identifying the eligible clients who will be targeted as priorities for eligible programs funded under this Part, Newfoundland and Labrador agrees to give priority to eligible clients who are most in need, such as

- (a) long-tenured workers in industries, sectors and regions who face structural adjustment and will likely need to change occupations or sectors, and
- (b) workers who have been laid-off or are at-risk of lay-off but whose skills remain in demand, if not in the short-term over the medium term, and workers whose skill set is closely related to the skills required in growing sectors or for emerging opportunities.

27.14 Newfoundland and Labrador agrees to include in its annual audited financial statements provided under section 23 of this Agreement for each of fiscal years 2009/10 and 2010/11, a statement showing the amount received from Canada under this Part in respect of the fiscal year and the amount of eligible costs incurred by Newfoundland and Labrador in relation to the eligible programs funded under this Part. The statement shall also provide a breakdown of

- (a) the program assistance costs incurred in respect of each eligible program during the fiscal year,
- (b) the total program administration costs incurred during the fiscal year.

27.15 (1) In order to measure performance of the eligible programs funded under this Part, Newfoundland and Labrador agrees to

(a) collect and compile, in the same manner as set out in Annex 2, the performance indicator information set out in Annex 2 about the eligible clients, the type of interventions provided under the eligible programs and the outcomes of the interventions funded under this Part in each fiscal year during the transitional period, and

(b) provide the information to Canada, in the format and manner agreed to jointly by Canada and Newfoundland and Labrador, no later than five months following the end of each fiscal year to which the information relates.

(2) Where there are activities supported under an eligible program during a fiscal year under this Part that do not involve providing assistance directly to eligible clients, Newfoundland and Labrador, agrees to

(a) prepare a narrative report describing the activities supported, the level of funding provided in support of those activities and the expected outcomes of the activities, and

(b) provide a copy of the report to Canada no later than five months following the end of each fiscal year to which the report relates.

27.16 No later than 2 months following the end of each quarter (i.e. each three month period) during the transitional period, Newfoundland and Labrador agrees to provide to Canada a report on the estimated number of eligible clients served and the activities funded under this Part during the quarter. For greater certainty, the first report is due by September 1, 2009. The second is due by December 1, 2009. The third is due by March 1, 2010 and the fourth is due by June 1, 2010. Similarly, the reports for fiscal year 2010/11 are due by September 1, 2010, December 1, 2010, March 1, 2011 and June 1, 2011.

27.17 Newfoundland and Labrador agrees to include its annual report to the people of Newfoundland and Labrador referred to in section 25 of this Agreement for each of fiscal years 2009/10 and 2010/11 the results attributable to the funding provided by Canada under this Part. The results shall be based on the performance indicators referred to in section 26.15.

27.18 Newfoundland and Labrador agrees to include in the evaluation referred to in section 26 of this Agreement an evaluation of the impact and effectiveness of the eligible programs and the funding provided in relation thereto under this Part of this Agreement.”

25. The Agreement is further amended by adding immediately after section 27.18 and before section 28 the following heading:

**« PART 3 – GENERAL PROVISIONS »**

26. Section 29 of the Agreement is deleted and replaced by the following:

“29. Canada and Newfoundland and Labrador agree on the importance of ensuring that the public is informed of Canada’s financial contributions to Newfoundland and Labrador under this Agreement. Newfoundland and Labrador agrees to ensure that Canada’s financial contributions to Newfoundland and Labrador under this Agreement are acknowledged in accordance with Annex 3 to this Agreement.”

27. Section 31 of the Agreement is amended by

- (a) adding a comma after “23” in line 2,
- (b) deleting the word “and” after “23” and adding “and 27.10” after “25”.

28. Section 33 is replaced by the following:

“33. On or after March 31, 2011, either party may terminate this Agreement at any time without cause by giving 12 months notice of intention to terminate.”

29. Section 34 is amended by adding the following sentence at the end of the section:

“In this section, “eligible costs” means “eligible costs” as defined in both Parts 1 and 2.”

30. Annex 3 to the Agreement is amended by adding immediately after Section 6, the following section:

“7. In this Annex, “eligible programs” refers to eligible programs funded under both Parts 1 and 2 of the Agreement.”

## SCHEDULE 2

### Amendments to the Canada/Newfoundland and Labrador Labour Market Development Agreement

1. The Canada/Newfoundland and Labrador Labour Market Development Agreement is amended by adding after Article 14 the following Article:

“14A.1 Notwithstanding anything in Article 14, in each of fiscal years 2009/10 and 2010/11, Canada agrees to increase the maximum contribution payable under Article 14 towards the Costs of NL Benefits and Measures by an amount not exceeding the amount, rounded to the nearest thousand, determined by the formula

$$C \times (A/B)$$

where

C is \$500 million;

A is the average number of unemployed persons in Newfoundland and Labrador calculated by averaging,

(a) for fiscal year 2009/10, the number of unemployed persons in Newfoundland and Labrador each month during the months of August 2008 to, and including, January 2009 as determined by Statistics Canada Labour Force Survey data for those months; and

(b) for fiscal year 2010/11, the number of unemployed persons in Newfoundland and Labrador each month during the months of August 2009 to, and including, January 2010, as determined by Statistics Canada Labour Force Survey data for those months; and

B is the average of the total number of unemployed persons in Canada calculated by averaging,

(a) for fiscal year 2009/10, the total number of unemployed persons in Canada in each month during the months of August 2008 to, and including, January 2009 as determined by Statistics Canada Labour Force Survey data for those months, and

(b) for fiscal year 2010/11, the total number of unemployed persons in Canada each month during the months of August 2009 to, and including, January 2010 as determined by Statistics Canada Labour Force Survey data for those months.