


**EXECUTIVE EMPLOYMENT ASSIGNMENT AND AMENDMENT AGREEMENT**

 **THIS AGREEMENT** made at St. John's, in the Province of Newfoundland and Labrador as of the 28 day of September, 2018 ("Assignment and Amendment Agreement")


**BETWEEN:**

**NEWFOUNDLAND AND LABRADOR HYDRO**, a corporation and an agent of the Crown constituted by statute and having its Head Office at Hydro Place, St. John's, Newfoundland and Labrador,

(hereinafter called "**Hydro**")

 **OF THE ONE PART**

**AND:**

**DERRICK STURGE**,  in the Province of Newfoundland and Labrador,

(hereinafter called the "**Executive**")

**OF THE SECOND PART**

**AND:**

**NALCOR ENERGY**, a body corporate constituted pursuant to the *Energy Corporation Act*, S.N.L. 2007, c. E-11.01 and having its Head Office at Hydro Place, St. John's, Newfoundland and Labrador,

(hereinafter called "**Nalcor**")

**OF THE THIRD PART**

(hereinafter collectively referred to as the "**Parties**")

**WHEREAS** the Executive and Hydro entered into an executive employment agreement dated the 17<sup>th</sup> day of February, 2006 ("**Executive Employment Agreement**") which provides for an assignment of same, with the consent of the Executive and Hydro;

**AND WHEREAS** the Executive as a result of a corporate reorganization became an employee of Nalcor as of January 1<sup>st</sup>, 2008 and thereby ceased to be an employee of Hydro;

**AND WHEREAS** the Parties agree that the said Executive Employment Agreement shall be assigned by Hydro to Nalcor and the Parties consent to the assignment of the Executive Employment Agreement to Nalcor with effect from January 1<sup>st</sup>, 2008;

**AND WHEREAS** Nalcor and the Executive have further agreed to amend the Executive Employment Agreement upon the terms and conditions expressed herein;

**NOW, THEREFORE, THIS ASSIGNMENT AND AMENDMENT AGREEMENT WITNESSETH THAT** for and in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

### **ASSIGNMENT**

1. The Parties hereby confirm and agree that pursuant to Clause 16 of the Executive Employment Agreement, said agreement is hereby assigned by Hydro (with the consent of the Executive) to Nalcor effective as of January 1<sup>st</sup>, 2008 ("**Effective Date**") without revision to the rights and benefits arising therefrom and enuring to the benefit of the Executive and Hydro up to the Effective Date.
2. Nalcor hereby confirms and agrees that the service earned by the Executive with Hydro under the Executive Employment Agreement shall be deemed to be service with Nalcor for the purposes of the assignment of the Executive Employment Agreement.

### **AMENDMENT OF THE TERMS OF EXECUTIVE EMPLOYMENT AGREEMENT**

3. Nalcor and the Executive hereby confirm and agree that pursuant to Clause 20 of the Executive Employment Agreement, said agreement is hereby amended with effect from the date hereof, except as otherwise set out herein, and by the mutual agreement of Nalcor and the Executive as follows:
  - (i) Delete all references to "Newfoundland and Labrador Hydro" and "Hydro", and replace with "Nalcor Energy" or "Nalcor" respectively and as applicable;
  - (ii) By deleting Clauses 1 to 23 in their entirety and replacing with the following attached as Schedule "A" hereto; and
  - (iii) By adding Clauses 24 and 25 appearing in the attached Schedule "A".
4. Nalcor and the Executive hereby confirm and agree with all other terms and conditions of the Executive Employment Agreement not amended by this Assignment and Amendment Agreement.
5. The Executive acknowledges that he has read and understands this Assignment and Amendment Agreement, and acknowledges that he has had the opportunity to obtain legal advice concerning this Assignment and Amendment Agreement.

***[Remainder intentionally left blank]***

IN WITNESS WHEREOF this Assignment and Amendment Agreement has been executed by the Parties hereto the day and year first above written.

NEWFOUNDLAND AND LABRADOR HYDRO

Parsons  
Witness

[Signature]  
Name: Ston Marshall  
Title: CEO

Parsons  
Witness

[Signature]  
Name: Michael Ladda  
Title: Legal Counsel & Assistant Corporate Secretary

Cathy O'Leary  
Witness

[Signature]  
DERRICK STURGE

NALCOR ENERGY

Parsons  
Witness

[Signature]  
Name: Ston Marshall  
Title: CEO + President

Parsons  
Witness

[Signature]  
Name: MICHAEL ROBERTS  
Title: CHRO

## Schedule "A"

### APPOINTMENT AND TERMS OF EMPLOYMENT

1. Nalcor will employ the Executive as Executive Vice-President, Finance and Chief Financial Officer effective June 15, 2016, and continue for an indefinite period (the "Term") subject to the terms and conditions hereinafter mentioned.
2. In accordance with the *Energy Corporation Act*, SNL 2007 c, E-11.01 ("*Energy Corporation Act*") and 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 or her office as may, from time to time, be determined by the President and CEO, and, without limitation, the Executive shall:
  - a) Well, faithfully, honestly and diligently serve Nalcor and use his or her best efforts to promote the interests of Nalcor and devote his or her full time, skill and attention to the operation of Nalcor, except during holidays, or in the case of illness or accident;
  - b) Report to and observe all reasonable direction from the President and CEO, which position may change from time to time; and
  - c) Generally fulfilling the duties and responsibilities of Executive as outlined in the role description which may be amended from time to time.

### CONFLICT OF INTEREST

3. (a) The Executive shall not acquire or hold, 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:
  - (i) Hydro, or a company considered to be a subsidiary of Hydro in accordance with Section 13 of the *Hydro Corporation Act, 2007*, SNL 2007 c. H-17 ("*Hydro Corporation Act, 2007*");
  - (ii) Nalcor Energy, or a company considered to be a subsidiary of Nalcor Energy in accordance with Section 13 of the *Energy Corporation Act*;
  - (iii) Twin Falls Power Corporation Limited; or
  - (iv) Churchill Falls (Labrador) Corporation Limited;

with the exception of the foregoing being that the Executive may own 5% or less of the shares of a publicly traded company; and

(b) The Executive hereby confirms that he or she is not currently subject to any activity or interest which would be in conflict with his or her employment pursuant to the terms of this Agreement and the *Conflict of Interest Act, 1995*, SNL 2005, c.C-30.1 ("*Conflict of Interest Act*") and will not, during the Term of this Agreement, engage in any activity that would put him or her in any such conflict. The Executive shall, upon proposing to undertake an activity or interest that may contravene the *Conflict of Interest Act*, or upon becoming aware that an activity

already undertaken may contravene the *Conflict of Interest Act* disclose in writing full particulars of the activity to the President and CEO as required by the *Conflict of Interest Act*.

#### **REMUNERATION**

4. (a) The Executive shall be paid a base salary of \$320,000 per annum effective April 1, 2018. The Executive shall be entitled to a salary review in accordance with the practice of Nalcor as it pertains to other executive positions of the corporation, the first of which will occur effective April 1, 2019.  
  
(b) The Executive shall also have the opportunity to earn an annual bonus of up to twenty-four percent (24%) of his or her annual salary through a short term incentive plan in accordance with Nalcor's policies and procedures.  
  
(c) At the sole discretion of the President and CEO and approval of the Nalcor Board of Directors, the Executive may also be eligible for a deferred cash long term incentive with a vesting period of three (3) years.

#### **EXPENSES & BENEFITS**

5. Nalcor shall reimburse the Executive for all reasonable travel and other expenses incurred by him or her in connection with the execution of his or her duties under this Agreement. The Executive shall provide Nalcor with statements and receipts in respect of such expenses as required by Nalcor's corporate policies and procedures in effect from time to time.
6. Nalcor shall provide the Executive an automobile and shall pay operating expenses associated with such automobile in accordance with Nalcor's corporate policies and procedures or alternatively, shall pay him or her an annual taxable car allowance in an amount of \$12,740.
7. The Executive shall participate in Nalcor's group benefit plan, including group life and health insurance, long-term disability insurance (if eligible) and the Public Service Pension Plan (if eligible), and be entitled to all benefits to be derived therefrom.
8. The Executive shall be entitled to 25 days annual leave or that number of days prescribed by Nalcor's corporate policy, whichever is greater, in each year during the Term of this Agreement.
9. The Executive shall be entitled to all statutory holidays observed by Nalcor and made available to all employees of Nalcor.

#### **CONFIDENTIALITY**

10. (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 corporate policies and 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, or any of the foregoing as they relate to:

- (i) Hydro, or a company considered to be a subsidiary of Hydro in accordance with Section 13 of the *Hydro Corporation Act, 2007*;
- (ii) Nalcor Energy, or a company considered to be a subsidiary of Nalcor Energy in accordance with Section 13 of the *Energy Corporation Act*;
- (iii) Twin Falls Power Corporation Limited; or
- (iv) Churchill Falls (Labrador) Corporation Limited

(collectively referred to as "**Nalcor Group**").

(b) The Executive acknowledges that irreparable injury or damage will result to Nalcor Group 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 the Nalcor Group, as applicable, 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 in the Executive can establish that such Confidential Information:

- (i) publically 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 by the Nalcor Group, as applicable, as evidenced by; written documents received by the Executive prior to such disclosure to the Executive, or
- (iii) has been rightfully and lawfully received by the Executive from third parties, or
- (iv) has been independently developed without reference to or use of the Confidential Information, or
- (v) has been disclosed by or allowed for by law.

(d) The Executive agrees that all restrictions and covenants contained in this Clause are reasonable and valid and all defences to the strict enforcement thereof by the Nalcor Group which are founded upon reasonableness or validity of the restrictions and covenants are hereby waived by the Executive.

#### TERMINATION

11. The employment of the Executive may be terminated:

- (a) Upon death;
- (b) For just cause, by written notice by Nalcor; or
- (c) At the sole discretion of Nalcor, in which event the Executive shall be entitled to receive (except in the case of termination for just cause) by lump sum or salary continuance as

determined by Nalcor, in full and final settlement of all claims and demands arising out of any such termination the following:

- (i) Twelve months salary, plus one month's salary for each year of service with the Nalcor Group ("Notice Period") such that the total amount payable to the Executive upon termination shall be no greater than twenty-four months' salary; and
  - (ii) All benefits for the equivalent Notice Period in accordance with Nalcor's corporate policies and procedures in effect as of the date of termination.
- (d) The Executive agrees that the terms and conditions of this Clause and the compensation provided for herein are fair and reasonable and he or she hereby waives any and all rights he or she may have now or in the future to any further compensation beyond what has been provided in this Clause.

#### MISCELLANEOUS

12. 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 or her 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 the Nalcor Group ("**Nalcor Group Employees**") to leave the employment of the Nalcor Group, and he or she shall not use or disclose to any person, partnership, association, corporation or other entity any information obtained while an employee of the Nalcor Group concerning the names and addresses of Nalcor Group Employees.
13. 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 Executive accountable for Human Resources at Nalcor's Head Office at:

Attention: Executive - Accountable for Human Resources  
Hydro Place, P.O. Box 12800, 500 Columbus Drive  
St. John's, Newfoundland and Labrador  
A1B OC9.

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.

14. 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.

15. 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.
16. 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.
17. None of the conditions, covenants, or agreements contained in this Agreement may be waived in whole or in part unless such waiver is in writing and signed by the party in whose favour the representations, warranties, conditions, covenants, or agreements so waived operate.
18. 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.
19. 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 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.
20. This Agreement may be amended by the mutual consent of the parties as evidenced by a written instrument signed by both parties.
21. The illegality, invalidity or unenforceability of any provisions of this Agreement shall not affect the legality, validity, or enforceability of any other provision or a part hereof unless the latter is contingent or dependent upon the former.
22. 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.
23. The Executive acknowledges that he or she has read and understands this Agreement, and acknowledges that he or she has had the opportunity to obtain legal advice concerning this Agreement.
24. 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*, RSNL1990 c. A-14 ("*Arbitration Act*"). 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.

25. The terms and conditions of this Agreement shall govern the parties, regardless of the length of employment or any changes to the Executive's position, compensation, title and regardless of whether such change is material or otherwise.