

**MEMORANDUM OF AGREEMENT
TO RESOLVE DISPUTES AS TO OVERLAPS OF SCOPES OF WORK IN COLLECTIVE AGREEMENTS
DESIGNATED IN SPECIAL PROJECT ORDERS ENACTED UNDER SECTION 70 OF THE LABOUR RELATIONS
ACT ("Agreement")**

BETWEEN

**Muskrat Falls Employers' Association Inc.
("MFEA")**

AND:

OF THE FIRST PART

**Resource Development Trades Council of
Newfoundland and Labrador
("RDC")**

AND:

OF THE SECOND PART

**Lower Churchill Transmission Construction Employers'
Association Inc.
("TCEA")**

AND:

OF THE THIRD PART

**International Brotherhood of Electrical Workers, IBEW
Local Union 1620
("IBEW Local 1620")**

AND:

OF THE FOURTH PART

**Lower Churchill Reservoir Clearing Employers'
Association Inc.
("RCEA")**

AND:

OF THE FIFTH PART

**Labourers' International Union of North America and
the Construction and General Labourers' Union, Rock
and Tunnel Workers, Local 1208
("LIUNA Local 1208")**

OF THE SIXTH PART

PREAMBLE

The Parties to this Agreement have each entered into collective agreements (collectively referred to as "Project Agreements") which Project Agreements became or will become effective upon the enactment

of a Special Project Order, pursuant to Section 70 of the *Labour Relations Act RSNL 1990, c L-1*, for each of the collective agreements which are as follows:

1. Muskrat Falls Employers' Association Inc. and the Resource Development Trades Council of Newfoundland and Labrador, ("Generating Facility Agreement");
2. Lower Churchill Transmission Construction Employers' Association Inc. and the International Brotherhood of Electrical Engineers, IBEW Local 1620 ("Transmission Agreement");
3. Lower Churchill Reservoir Clearing Employers' Association Inc. and Labourers' International Union of North America and the Construction and General Labourers' Union, Rock and Tunnel Workers, Local 1208 ("Clearing Agreement").

Each Project Agreement is specific to a scope of work and/or geographical area described in each of them.

In the area of the construction of the Lower Churchill Hydroelectric Project at Muskrat Falls on the Lower Churchill River, Newfoundland and Labrador, ("Hydroelectric Project") each of the three Project Agreements will have overlapping geographical areas and / or scopes of work. A copy of a map which sets out the area of overlap is attached hereto as Schedule "A.1" along with a document entitled "Description of Interface of Three Special Project Orders at the Lower Churchill Hydroelectric Project at Muskrat Falls on the Lower Churchill River, Newfoundland and Labrador" attached as Schedule "A.2".

The Parties ~~acknowledge that the enactment of Special Project Orders in relation to the Project Agreements is conditional on the agreement of the Parties~~ agree that it is important that there be a mechanism to expeditiously and without stoppage of work resolve any disputes as to which Project Agreement a specific scope of work falls under in order to ensure labour stability. Accordingly, the purpose of this Agreement is to provide a dispute resolution mechanism to expeditiously resolve disputes that arise: (1) between the parties to a particular Project Agreement when one of the parties to the Agreement claims a specific scope of work being performed under such Project Agreement should be performed under a different Project Agreement; or, (2) between or among parties to different Project Agreements whereby any competing rights may be put forward and considered in such determinations. The Parties agree that this is the mechanism to be used for such disputes rather than the grievance and arbitration procedures set out in one or more of the Project Agreements.

Comment [DC1]: YVONNE SCOTT

AGREEMENT

The Parties agree as follows:

1. All disputes as to which Project Agreement has jurisdiction over a specific scope of work shall be adjudicated with the following procedure:
 - a. A Party claiming a specific scope of work should fall under a Project Agreement, other than the Project Agreement under which the work is being performed or is contemplated to be performed, shall provide written notice of such claim to all of

the Parties to this Agreement ("Notice of Claim"), prior to the commencement of the specific scope of work or within thirty (30) days from the commencement of the specific scope of work which Notice of Claim shall provide the following particulars:

- i. A description of the detailed scope of work in dispute;
- ii. The Contractor(s) performing or contemplated to perform the disputed scope of work;
- iii. The geographical area in which the disputed scope of work is being or is contemplated to be executed;
- iv. The Union(s) performing or contemplated to perform the disputed scope of work;
- v. Any other relevant particulars;
- vi. The Project Agreement under which the Party providing notice believes the scope of work should fall; and
- vii. A proposed location, date and time of the meeting required under paragraph 1(b) hereof.

b. Within ~~two-three~~ (23) days of the Notice of Claim the Parties shall meet in St. John's and attempt to resolve the matter, which resolution must be in the form of a written Agreement signed by the affected Parties.

Comment [J2]: Per BLAKELY's request, changed from 2 to 3 days

c. If the matter is not resolved within five (5) days of the Notice of Claim, the Notice of Claim provided pursuant to this Agreement shall be deemed to constitute a submission within the meaning of the *Arbitration Act, RSNL1990 c A.-14* and any party may refer the matter to arbitration pursuant to that Act. Such referral to arbitration must occur within seven (7) days of the date the Notice of Claim has been provided to the affected Parties.

2. The appointment of an arbitrator shall be made within two (2) days of the referral to arbitration. The arbitrator shall be selected in rotation from a list of four arbitrators acceptable to the Parties, which list is attached hereto as Schedule "B" and forms part of this Agreement. Should the arbitrator who is next in rotation, not be able to act within the required timelines set out below, he/she shall be passed over to the next person on the list.

3. The arbitrator shall, within ~~five~~ seven (57) days of his/her appointment, convene an arbitration hearing at a date mutually agreeable to the Parties; however, should the Parties be unable to agree upon a date within one (1) day of being notified by the arbitrator, the arbitrator will unilaterally set a date for the hearing within ~~five~~ seven (57) days of his/her appointment and shall provide a notice of hearing to the Parties.

Comment [J3]: Per BLAKELY's request, changed from 5 to 7 days

4. In the interest of providing a speedy resolution to disputes under this Agreement, the arbitration must be completed within seven ~~five~~ (75) days from the date the hearing commenced. The arbitrator will have the unfettered right to create the procedure for

Comment [J4]: Per BLAKELY's request, changed back to 7 from 5 days

conducting the hearing which will include but not be limited to providing strict time frames for any party to present evidence or make representations. The arbitrator may require a viewing of the disputed scope of work.

5. The decision of the arbitrator will be rendered in writing or orally within two (2) days from the date of completion of the hearing. If the decision is rendered orally, written reasons shall be provided to the Parties within seven (7) days from the date of the completion of the hearing. The arbitrator shall have no jurisdiction to make a damage award against any Party. The Parties agree that the decision of the arbitrator will be final and binding on each of them and on all parties bound by the Project Agreements and will not be the subject matter of a grievance or arbitration under any of the Project Agreements and will not be challenged or set aside other than on the grounds set out in the *Arbitration Act*. The Parties agree that any arbitrator appointed under the grievance procedure of any of the Project Agreements will be bound by any decision of an arbitrator appointed under this Agreement.

~~6.~~ All disputes intended to be resolved pursuant to this Agreement shall be resolved without the occurrence of any strike, work stoppage, lockout or slow down.

Comment [D5]: WONNE SCOTT

~~6-7.~~ The time limits specified in this Agreement are mandatory.

~~7-8.~~ The word "day" or "days" in this Agreement shall mean calendar days.

~~9.~~ The Parties agree that in executing this Agreement they are, on their own behalf and on behalf of those persons, corporations, unions, associations or other bodies without limitation that they now represent or may subsequently represent during the currency of this Agreement, surrendering, relinquishing and otherwise abandoning their access to any other Court, Process, Labour Relations Tribunal or any other body that may ascertain jurisdiction in order to give effect to this Agreement.

Comment [R6]: BLAKELEY recommended addition

~~8-10.~~ The Parties shall pay the fees and expenses of the arbitrator in accordance with the following:

- a. In the event the arbitrator makes a determination that there is a losing party(s) the arbitrator may order the losing party(s) to pay the arbitrator's fees and expenses.
- b. In the event the arbitrator makes no order as to payment of fees and expenses, each of the Parties that participated in the hearing shall pay an equal share of the fees and expenses of the arbitrator.
- c. Parties shall bear their own legal fees and expenses and the arbitrator shall not have jurisdiction to require any party to pay the legal costs of the other party(s).

~~9-11.~~ Notices under this Agreement shall be given as follows:

<p>MFEA David Clark, Senior Labour Relations Advisor, 350 Torbay Rd, St. John's NL, (709) 737-1747, cell (506) 447-0555, davidclark@nalcoreenergy.com, or such other person as designated</p>	<p>RDC David Wade, Executive Director, 78 Brookfield Road St. John's, (709) 726-4560, dwade@nlbtc.com, or such other person as designated</p>
<p>TCEA Hilary Hynes, Labour Relations Manager, 350 Torbay Rd, St. John's NL, (709) 752-3461 ext. 5023, Hilary.hynes@snclavalin.com or such other person as designated</p>	<p>IBEW Local 1620 Terry Rose, Business Manager, 67 LeMarchant Road St. John's, (709) 753-6071 terry@ibew1620.com, or such other person as designated</p>
<p>RCEA Hilary Hynes, Labour Relations Manager, 350 Torbay Rd, St. John's NL, (709) 752-3461 ext. 5023, Hilary.hynes@snclavalin.com or such other person as designated</p>	<p>Labourers Local 1208 Vic Slaney, Business Manager, 724 Water Street, St. John's, (709) 726-6256 dhennessey@liuna1208.nf.ca, or such other person as designated</p>

AGREED to this day of April, 2013 in the City of St. John's, in the Province of Newfoundland and Labrador.

Muskrat Fall Employers' Association Inc.

The Resource Development Trades Council
Of Newfoundland and Labrador

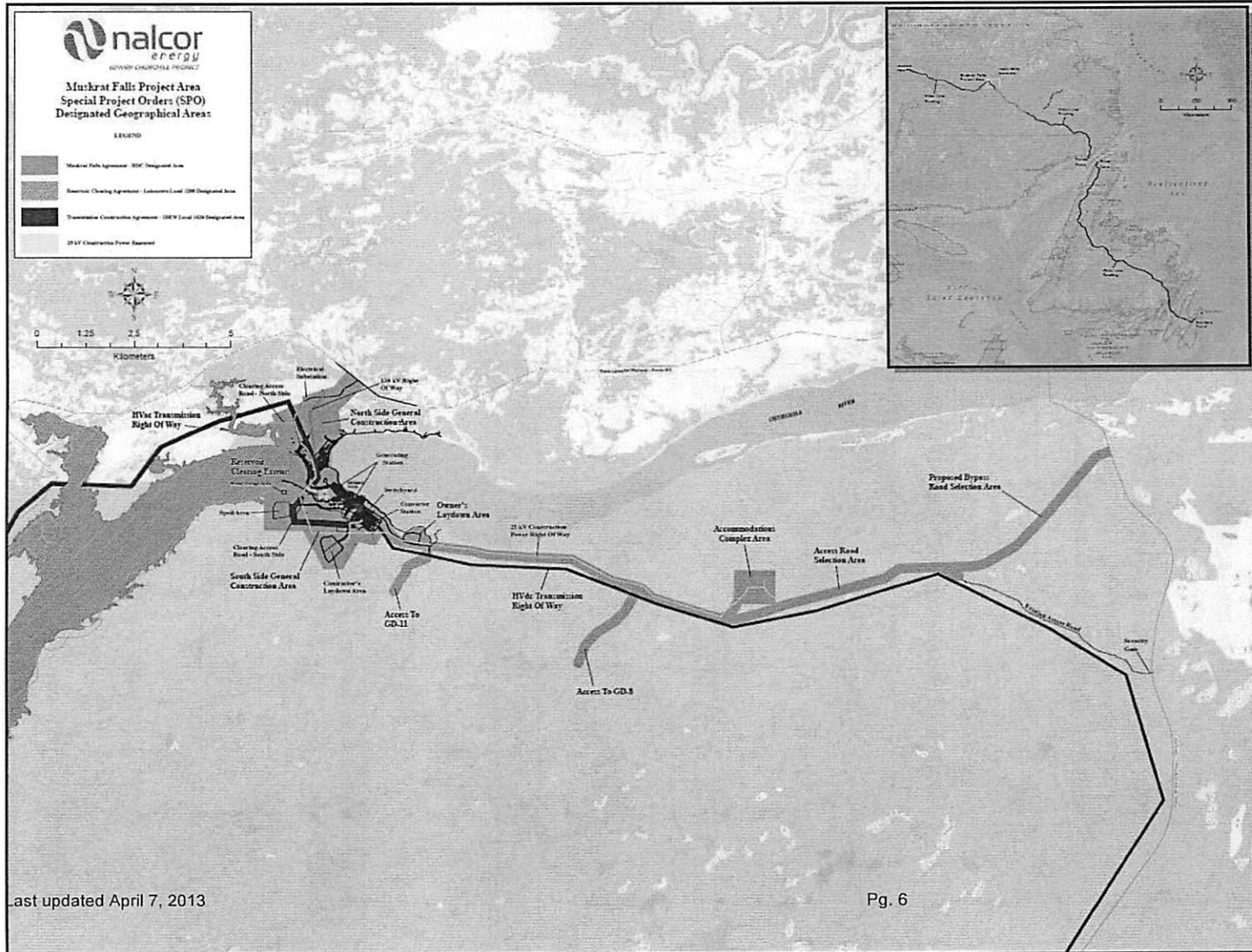
Lower Churchill Transmission Construction
Employers' Association Inc.

International Brotherhood of Electrical
Workers and Local Union 1620

Lower Churchill Reservoir Clearing Employers'
Association Inc.

Labourers' International Union of North
America and the Construction and General
Labourers' Union, Rock and Tunnel Workers
Local 1208

SCHEDULE "A.1"
GEOGRAPHICAL MAP





LOWER CHURCHILL PROJECT

Schedule "A.2"

**Description of Interface of Three Special Project Orders at
The Lower Churchill Hydroelectric Project at
Muskrat Falls on the Lower Churchill River,
Newfoundland and Labrador
("HYDROELECTRIC CONSTRUCTION PROJECT")**

For the Lower Churchill Hydroelectric Project ("LCP") three collective agreements have been ratified, which collective agreements will become effective upon the enactment of a Special Project Order ("SPO") pursuant to section 70 of the *Labour Relations Act RSNL 1990 c- L1* for each of the collective agreements, which are as follows:

1. Muskrat Falls Employers' Association Inc. and the Resource Development Trades Council of Newfoundland and Labrador, ("Generating Facility Agreement");
2. Lower Churchill Transmission Construction Employers' Association Inc. and the International Brotherhood of Electrical Workers, IBEW Local Union 1620 ("Transmission Agreement");
3. Lower Churchill Reservoir Clearing Employers' Association Inc. and Labourers' International Union of North America and the Construction and General Labourers' Union, Rock and Tunnel Workers, Local 1208 ("Reservoir Clearing Agreement").

Each of the collective agreements is specific to a scope of work or geographical area. In the area of the Hydroelectric Construction Project, the Transmission Agreement and Clearing Agreement will have scopes of work in the geographical area designated for the Generating Facility Agreement.

The purpose of this document is to describe these scopes of work, which are delineated in a color-coded map, entitled "Muskrat Falls Area Special Project Order (SPO) Designated Geographical Areas" a copy which is annexed hereto and marked Schedule "A.1".

1. North Side of Churchill River

- 1.01 All construction activities associated with the LCP in the area delineated as green shall fall under the scope of the Generating Facility Agreement, except for the scopes of work listed as follows:
 - a) Construction of access road to the Reservoir Clearing area, which work falls under the Reservoir Clearing Agreement, delineated in yellow and marked as "Clearing Access Road - North Side" on the annexed Schedule "A.1".
 - b) Right of way clearing and transmission infrastructure construction activities within the HVac Transmission Right Of Way, which work falls under the Transmission Agreement and is delineated in red and marked as "HVac Transmission Right Of Way" on the annexed Schedule "A.1".

2. South Side of Churchill River

2.01 All construction activities described in the Generating Facility Agreement, Schedule A.2 Scope of Work associated with the LCP in the area delineated as green shall fall under the scope of the Generating Facility Agreement, which includes:

Comment 07: DWG addition

Comment 08: BBAKELY addition

A) All construction activities related to the construction of the Switchyard at the Hydroelectric Construction Project up to the completion of the concrete pad and anchor bolts of the Switchyard, and

B) The construction activities performed at or in the Converter Station at the Hydroelectric Construction Project up to the completion of the construction of the foundation and structural envelope for the Converter Station building (structural steel, exterior cladding and roofing).

The following work is excepted from the scopes of work listed for the Generating Facility Agreements as follows:

- a) Construction of access road to the Reservoir Clearing area, which work falls under the Reservoir Clearing Agreement and is delineated in yellow and marked as "Clearing Access Road - South Side" on the annexed Schedule "A.1".
- b) The construction and operation of a Wood Storage Yard which falls under the Reservoir Clearing Agreement and will be performed in the area designated "Wood Storage Area" on the annexed Schedule "A.1".
- c) Right of way clearing and transmission infrastructure construction activities within the HVac Transmission Right Of Way, which work falls under the Transmission Agreement and is delineated in red and marked as "HVac Transmission Right Of Way" on the annexed Schedule "A.1".
- d) All right of way clearing and transmission infrastructure construction activities within the HVdc Transmission Right Of Way, which work falls under the Transmission Agreement and is delineated in red and marked as "HVdc Transmission Right of Way" on the annexed Schedule "A.1".
- e) All construction activities related to the construction of the Switchyard at the Hydroelectric Construction Project after the completion of the concrete pad and anchor bolts of the Switchyard, which work falls under the Transmission Agreement and will be performed in the area designated as "Switchyard" on the annexed Schedule "A.1".
- f) The construction activities performed at or in the Converter Station at the Hydroelectric Construction Project after the completion of the construction of the foundation and structural envelope for the Converter Station building (structural steel, exterior cladding and roofing), which work falls

under the Transmission Agreement and will be performed in the area designated as "Converter Station" on the annexed Schedule "A.1".

DRAFT

SCHEDULE "B"
LIST OF ARBITRATORS

1. James Oakley
2. John Roil
3. John Clarke
4. David Alcock
5. Robert Andrews
- 4-6. Wayne Thistle

Comment [J9]: DWC addition

Comment [J10]: DWC addition

DRAFT