

Underlining indicates - wording from Health Services and Support Facilities Subsector 2010 - 2012 Collective Agreement (Addendum – Job Security and Expanded Opportunities, Part 5)  
*Italics indicates* – amended or added wording from the Settlement Agreement reached August 5, 2011

In accordance with the Health Services and Support Facilities Subsector Collective Agreement, the following shall constitute the transfer of service template agreement:

### **Standard Template Transfer Agreement**

Between

Health Employer's Association of British Columbia  
(HEABC)

And

(Insert Name of Sending Employer(s))

And

(Insert Name of Receiving Employer(s))

And

Facilities Bargaining Association  
(FBA)

**Re: Transfer of Service – (Insert Name of Service from Sending Employer(s) to Receiving Employer(s))**

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#### **I. Definitions**

**Affected Employees:** all employees who are currently employed in the service transferring from the Sending Employer(s) to the Receiving Employer(s).

**Collective Agreement:** Health Services and Support Facilities Subsector Collective Agreement.

**Union:** all unions representing Affected Employees

## II. Purpose

- a) This agreement is a result of the parties working in good faith to develop a transfer agreement and labour adjustment plan respecting the transfer of employees pursuant to the Collective Agreement, Addendum – Job Security and Expanded Opportunities, Part 5, Transfer of Services.
- b) This agreement covers those employees within (insert name of service), protects the rights and obligations of the parties and outlines the terms of the transfer for Affected Employees.
- c) All terms of the Collective Agreement shall prevail unless otherwise referenced in this Memorandum of Agreement. Collective Agreement language is reproduced in this template transfer agreement for ease of reference only and is not intended to modify the language reproduced.
- e) (Insert the name of the “Receiving Employer(s)”) shall become the employer of the employees transferring from the (Insert name of the Sending Employer(s)).
- f) (Insert description/detail of the service subject to transfer)

## III. Notice and Consultation

1. The Employer(s) that intends to transfer services (“the Sending Employer(s)”) and the Employer intended to deliver the services in the future (“the Receiving Employer(s)”) will provide the Union with Section 54 notice under the Labour Relations Code at least 90 days prior to the planned transfer of the Union’s members.
2. During this 90 day period, the Receiving and Sending Employers will provide the Union with an opportunity to discuss and be consulted on the proposed change and its impact on affected employees and to consider the Union’s proposals to manage the impact of the transfer on employees. The Receiving Employer(s) will take the lead on behalf of the Employers during the consultation process.
3. During this 90 day period, the receiving and Sending Employer(s) will provide the Union with relevant information sufficient to enable an informed labour adjustment discussion of the proposed change.
4. Relevant information includes, but is not limited to, an outline of any changes to the service as a result of the transfer including a list and explanation of any increase or reduction to FTE, changes to job descriptions, work schedules and changes to the responsibilities of the positions affected.

5. *The Receiving and Sending Employers and the Union will work in good faith to develop a supplementary transfer agreement/labour adjustment plan to address any matters that may not be included in this agreement or that may be unique to a specific transfer. These matters may include discussion on employees remaining in or leaving temporary postings in the transferring service or in other services retained by the sending employer.*

*Any supplementary transfer agreement/labour adjustment plan reached between the Union and the Receiving Employer is binding on all parties.*

#### **IV. Worksites and Employees**

Attachment A lists the Affected Employees and will include information such as names, their current employer and worksite, status, position title, classification, rate of pay, FTE, and seniority. The list will also identify those employees who are in relief postings within and outside the service transferring, *and those employees who are transferring in positions that also contain work responsibilities originating from a service that is not transferring ("divided" positions).*

#### **V. Transfer Process**

1. The Sending and Receiving Employers will provide a minimum of 30 days written notice prior to the date of transfer to the employees affected by the transfer. The notice shall include a copy of this agreement *and any supplemental transfer agreement/labour adjustment plan if reached.* Employees on leave will also be provided with notice of the transfer; however, they will exercise any rights upon their return to work.

*Employees returning to work from LTD during their "own occupation" period will be transferred and fill the position they temporarily vacated for this leave period, in accordance with Section 1 of the LTD Plan Addendum. Accordingly, the employee will have full access to employment rights that exist at the Receiving Employer.*

*Employees returning to work from LTD during their "any occupation" period will also exercise their rights under Section 1 of the LTD Plan Addendum with the sending employer retaining responsibility for all placement options. Placement options will be implemented as follows:*

*The transfer of the employee will be the first priority of the sending employer to help the employee return to the same job or service that was transferred to the Receiving Employer.*

*Upon receipt of medical information supporting the ability of the employee to return to work in her pre-disability job or an alternate job within service transferred, the sending employer will request the receiving employer to provide a vacancy list and seniority list for that service area. The parties will explore*

*options within the service at the receiving employer for a vacancy, bump or accommodation arrangement (although it is understood that the test of "undue hardship" remains the responsibility of the sending employer), and if such options are available, the employee will be transferred.*

*If no employment options are available, the sending employer will then review vacancy, bump or DTA options as per usual processes within its own organization.*

2. Meetings with affected employees will be scheduled by the Employer at a worksite level with the Union in attendance and shall be on employer paid time. The purpose of the meetings is for the parties to review the transfer process and this agreement with affected employees.
3. The Employer shall grant leave without loss of pay to a reasonable number of employees representing the Union to facilitate the implementation of this Memorandum.

4. Transfer within and beyond 50km

- a) A regular employee required to transfer to a worksite more than 50km from her/his current worksite may decline the transfer and elect to receive a displacement notice.
- b) A regular employee required to transfer to a worksite less than 50km from her/his current worksite who declines the transfer is not entitled to receive a displacement notice.

5. Unique Geographic Challenges

The employer will consider the unique geographic challenges of employees affected by the transfer.

6. Relocation Expenses

An employee who accepts a regular ongoing position with the Receiving Employer more than fifty (50) kilometers from his/her previous worksite and who chooses to relocate will be entitled to relocation expenses of five hundred dollars (\$500) for a move of up to two hundred and forty (240) kilometers and eight hundred dollars (\$800) for a move of beyond two hundred and forty (240) kilometers. Relocation expenses must be claimed from his/her former Employer within six (6) months of the start date of the regular position and must be supported by receipts.

## VI. Transfer of Seniority and Benefits

### 1. Pay and Benefits

Transfers will be seamless with no interruption in pay and benefits. All employees currently enrolled in benefit plans including, but not limited to, MSP, Extended Health, Dental, LTD, MPP, Group Life, and AD&D shall have their coverage maintained without interruption.

### 2. Banked Entitlements and Service Portability

An employee transferred from the Sending Employer to the receiving Employer will port her/his service and service-related banks to the Receiving Employer. Specifically, transferred employees will port all related benefit entitlements including, but not limited to, vacations, special leave, sick leave, banked overtime, and service for severance and vacation entitlement.

### 3. Schedules

The current schedules will be maintained as far as possible. Any new work schedules will be developed in accordance with the Collective Agreement.

### 4. Vacations

All vacation shall be taken as per the previously approved vacation schedule as far as possible. Vacation for the subsequent year shall be scheduled in accordance with Article 28 of the Collective Agreement.

### 5. Porting and Retention of Seniority

a) A transferred employee will port her/his seniority to the Receiving Employer and thereafter will accumulate seniority and service with that Employer. The seniority of the transferring employee will be dovetailed into the existing seniority list of the Receiving Employer(s).

b) Employees who have worked concurrently with more than one (1) of the Sending Employer(s) and/or Receiving Employer(s), shall port the aggregate total of their seniority limited to the maximum yearly hours of a regular full-time employee.

c) Transferred employees may use their seniority ported and accumulated with the Receiving Employer to access employment opportunities at the Receiving Employer, per the collective agreement.

- d) Transferred employees will also retain their seniority hours with the Sending Employer accumulated at the time of transfer.
- e) Transferred employees may use their seniority retained and accumulated with the Sending Employer to access employment opportunities at the Sending Employer, per the Collective Agreement. Transferred employees may use their retained seniority to post into a vacancy or to register on a Casual List with the Sending Employer subject to possessing the required qualifications and an operational need to increase the number of employees on the department Casual List.
- f) Employees currently registered on any Casual List with the Sending Employer(s) may elect to remain on that Casual List with the Sending Employer(s).
- g) If an employee has not secured a regular position with the Sending Employer or regularly works as a casual with the Sending Employer in the five (5) years following the transfer of the employee, their employment rights with the Sending Employer will cease. The onus is on the transferred employee to identify employment opportunities with the Sending Employer. Wherever possible, employees will be able to view electronic postings.

6. Re-employment with the Sending Employer

*If a transferred employee is re-employed in a regular position with the Sending Employer subsequent to the employee's date of transfer and the employee resigns from the Receiving Employer, the employee will port his/her service and service related banks, effective the day following written resignation or the date of re-employment in a regular position, whichever is later. Specifically, the employee will port all related benefit entitlements including, but not limited to, vacations, special leave, sick leave, banked overtime, and service for severance and vacation entitlement, and will be entitled to health and welfare benefit coverage without having to serve a new waiting period. The employee will also port seniority hours accrued at the Receiving Employer since the date of transfer back to the Sending Employer limited to the maximum yearly hours of a regular full-time employee. The seamless porting of benefits as described above is available to employees once and is provided on a without prejudice basis to the portability provisions of the Collective Agreement.*

*Employees may apply for a leave of absence from the Receiving Employer to work at the Sending Employer in these circumstances. Such leave requests will be considered in accordance with Article 34 of the Collective Agreement. If the Receiving Employer grants an LOA, the employee will not be entitled to port anything in the preceding paragraph until such time as he/she resigns employment with the Receiving Employer.*

*Upon re-employment in a regular position with the Sending Employer, the employee will serve a qualifying period in accordance with Article 14.02 of the Collective Agreement. In the event that the qualifying period is not completed and the employee has already resigned from the Receiving Employer, the employee will be entitled to register on a casual list with the Sending Employer, since the employee will be unable to return to their previous position with the Receiving Employer.*

## **VII. Labour Adjustment**

Where there are displacements prior to the transfer, the Union and the Employer(s) will discuss labour adjustment strategies including, but not limited to, election to transfer, displacement/lay-off options, retraining, early retirement, and voluntary departure.

## **VIII. Representation and Disputes**

### **1. Union Committees/Representation/Leave**

The Collective Agreement provisions relating to Union Representation and/or joint committees shall not be restricted in any way as a result of the transfer of service.

### **2. OH&S, Worksafe BC Rights and Responsibilities**

Where, as a result of the transfer, the Affected Employees' worksite is operated by another employer, requirements related to Occupational Health and Safety pursuant to the Collective Agreement and related legislation shall be met by the employers.

### **3. Outstanding Disputes**

Any outstanding disputes between the Union and the Sending Employer shall be dealt with in an expedited manner. Any disputes that remain unresolved will be the responsibility of the Receiving Employer in accordance with the Labour Relations Code, Section 35. Such disputes shall include, but not be limited to Article 4.03 Investigations, Grievances, Classification Job Review Requests, and Section 139 disputes.

## IX. Other Provisions

### 1. Orientation and Training

Training and orientation to new methods of operation, equipment, applicable computer programs, and technological changes shall be provided to all employees where necessary, to perform new duties. Employees shall receive the standard orientation to the Receiving Employer(s) and a review of all relevant Policies and Procedures.

Where there is a relocation as a result of a transfer, transferring employees will be provided with the orientation to the Receiving Employer(s). Orientation will include a site visit at the new worksite and shall be scheduled during the employee's normal working hours.

### 2. Personnel Files

Upon request, all employees shall have access to their personnel file at their work site.

### 3. Job Postings

a) Any new positions or vacancies at the Receiving Employer will be posted at each work site in accordance with Article 16 and filled in accordance with the Collective Agreement.

b) Where the vacancy is a multi-work location position, the posting shall specify "home work location" and additional details regarding which work locations the position will cover. The Health Authorities and Healthcare Organization may implement electronic job postings and electronic employee applications for job postings in place of or in conjunction with paper postings. Where a Health Authority or Healthcare Organization utilizes electronic job postings only, a copy of each new electronic job posting for each work location will be forwarded to the appropriate Union and Local for that site, either electronically or on paper at the choice of the Union/Local. Employees will have reasonable access and training for the use of electronic posting information and employment application systems.

### 4. Accommodation

*The Sending Employer(s) will identify, in writing, all existing agreements that arise out of the Duty to Accommodate and confirm that they believe the list is complete. The Receiving Employer, the Sending Employer(s), the Union and the employee will work together to ensure the specific accommodation is addressed through the transfer process. The parties will meet their legal obligations pursuant to Human Rights Law.*

5. Red Circling

- a) Red-circled Affected Employees shall maintain the red-circled rate pursuant to Section 12 of the Maintenance Agreement in the Collective Agreement.
- b) Where the rate of pay of a position or job at the Receiving Employer is adjusted downward, the employee shall be entitled to red-circling as per Section 12(4) of the Addendum – Maintenance Agreement and Classification Manual.

6. Local MOA's and Superior Benefits

*Existing MOA's and Superior Benefits applicable to the Sending Employer will be reviewed. The Sending Employer(s) and Unions will both identify and produce employer specific MOA's to enable a review. Where the parties mutually agree an MOA is applicable, the MOA shall transfer with employees to the Receiving Employer(s).*

7. Transportation Allowance

Employees who are required to travel between sites as part of their job shall have transportation costs paid per Article 26 of the Collective Agreement and the policy of the Receiving Employer(s).

8. Certifications

Where required, The FBA and HEABC (on behalf of the Health Authorities and Healthcare Organizations) will make a joint application to the Labour Relations Board to ensure that this Agreement is reflected in the Consolidated Facilities Certification.

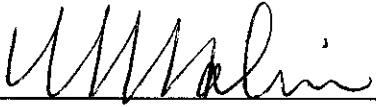
9. Any disputes that arise out of the application of this Memorandum of Agreement will be dealt with through the grievance procedure.

10. The template will apply to all transfers contemplated by “transfer of services” set out in the Addendum – Job Security and Expanded Opportunities, Part 5, but may be modified by the Facilities Bargaining Association and the Sending/Receiving Employer(s).

Signatures:

  
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Chris Dorais  
Director of Membership Services, HEU  
Facilities Bargaining Association

August 5, 2011  
Date

  
\_\_\_\_\_  
Mark Slobin  
Director, Legal Services and Interim Director, Strategic Health Authority Services  
Health Employers Association of British Columbia

August 5, 2011  
Date