

Our file: 12202

SENT BY COURIER

July 27, 2017



Alberta Pensions Services Corporation
5103 Windermere Blvd SW
Edmonton, AB T6W 0S9

Attention: Susan Amyotte, Corporate Secretary

Dear Susan:

Subject: Employment Agreement
Alberta Pensions Services Corporation and Darwin Bozek

Further to the above, please find enclosed a copy of the CEO Employment Agreement dated July 26, 2017 with the original signature of Darwin Bozek.

Sincerely,

A large black rectangular box redacting the signature of Scott Chen.

Scott Chen
Barrister and Solicitor
SC/fj

Enclosure

EMPLOYMENT AGREEMENT

made the 26 day of July, 2017

BETWEEN:

ALBERTA PENSIONS SERVICES CORPORATION

a corporation incorporated under the *Business Corporations Act*
(the "Employer")

- and -

DARWIN BOZEK

(the "Employee")

BACKGROUND:

- A. Under a unanimous shareholder agreement dated June 7, 2017, the Employer's sole shareholder, Her Majesty the Queen in right of Alberta (the "Province"), reserves the power to select and engage the President and Chief Executive Officer (the "Position") of the Employer;
- B. The Employee is a "designated executive" under the Reform of Agencies, Boards and Commissions Compensation Act ("RABCCA"); and
- C. The Employer, with the approval of the Province, has made an offer of employment to the Employee to serve in the Position, and the Employee has accepted the offer, with such employment being in accordance with the provisions of this Agreement.

The Employer and the Employee agree as follows:

1. POSITION & TERM:

- 1.1. The Employer will employ the Employee in the Position.
- 1.2. The Employee will report to the Board of Directors (the "Board") of the Employer.
- 1.3. Employment will start on August 21, 2017 and will continue for a period of six years until the end of the day on August 20, 2023 (the "Term"), unless terminated earlier in accordance with this Agreement. This Agreement is for a fixed term and it will not be combined with any other employment agreements between the Employer and the Employee to create a contract of indefinite duration.

- 1.4. As a condition to this Agreement, the Employee agrees to undertake a security clearance in accordance with the requirements of the Employer.
- 1.5. The Employee consents to the disclosure and release of personal information by the Employer for the purpose of conducting a security clearance to determine the Employee's suitability for employment. If additional consent is required, the Employee will provide the necessary consent to release personal information to the Employer when requested to enable disclosure to third parties the Employer deems necessary to assist in obtaining the security clearance.
- 1.6. If the Employer, in its sole discretion, finds the security screening to be unsatisfactory, this Agreement is void.

2. CONDUCT:

- 2.1. The Employee will perform the duties of the Position as directed by the Employer. The Employee will perform and discharge his duties in a manner which is in the best interests of the Employer and in accordance with its objectives as determined by the Board.
- 2.2. The Employee agrees to devote his full-time attention and energies to the performance of his duties and to perform such duties faithfully, diligently and to the best of his abilities. The Employee will not be involved in any business or undertaking other than his employment under this Agreement except with the prior written approval of the Board, which may be revoked in the sole discretion of the Board.
- 2.3. The Employee acknowledges that in his capacity as an officer of the Employer he owes certain fiduciary duties to the Employer that exist during and survive the termination of this Agreement, and notwithstanding any provision of this Agreement, such fiduciary duties are not thereby restricted, abridged or altered.
- 2.4. The Employee agrees to comply with any code of conduct or ethics established by the Employer from time to time, and to comply with all other Acts, rules, regulations, directives and policies that the Employer may be subject to respecting the performance of the Position and/or the conduct of employees generally, including, but not limited to rules governing financial disclosure, conflict of interest and post-employment restrictions.
- 2.5. The Employee acknowledges that during the Term, his Position may be designated to be subject to provisions of the *Conflict of Interest Act* and, upon such designation the Employee agrees to comply with all obligations and requirements outlined in the *Conflict of Interest Act* and any related regulations, amendments, directives and guidelines.

3. COMPENSATION:

- 3.1. The Employee will be paid an annual base salary of \$260,000 (the "Base Salary") less required deductions and withholdings, payable in semi-monthly instalments in accordance with the Employer's payroll policies.
- 3.2. The Base Salary shall be reviewed by the Employer annually and, subject to the requirements of RABCCA and its regulations, may be increased in the sole discretion of the Employer, having regard to the Employee's performance in the position and the requirements of the Employer.
- 3.3. The Employee acknowledges that the Base Salary is subject to adjustment in accordance with RABCCA and its regulations, or any other applicable law, from time to time.

4. NO OTHER RIGHTS OR BENEFITS:

- 4.1. The Employee will not be entitled to any of the rights or benefits afforded to employees of the Employer, except as provided in this Agreement.

5. BENEFITS:

- 5.1. The Employee is eligible for the following benefit entitlements which are subject to the rules and requirements of the Employer's policies and shall be the same as the benefit entitlements offered to the Employer's senior management employees:
 - 5.1.1. Paid annual vacation leave of 35 days;
 - 5.1.2. Paid holidays;
 - 5.1.3. Personal leave up to a maximum of 12 days;
 - 5.1.4. Casual and general illness; and
 - 5.1.5. Approved leaves of absence.
- 5.2. The Employee may participate in the Employer's management benefit program. All issues relating to the eligibility to participate in this program and coverage issues will be determined by the administrator of the program. The Employer will have no liability in respect of eligibility decisions. The Employer will have the right to make changes to this program or obtain different coverage without providing the Employee with prior reasonable notice.
- 5.3. The Employer will provide the Employee with a reserved parking stall which will be treated as a taxable benefit at current market value (where applicable).

5. RETIREMENT BENEFITS:

- 6.1. The Employee may participate in the Management Employees Pension Plan and the Supplementary Retirement Plan (SRP) for Public Service Managers effective the start of the Term.

7. AUTOMOBILE ALLOWANCE:

- 7.1. The Employer agrees to provide the Employee with a monthly automobile allowance in the amount of \$666.67, in accordance with RABCCA, its regulations and any related amendments, directives and guidelines. This allowance is not pensionable.

8. BUSINESS EXPENSES:

- 8.1. The Employee may be reimbursed for reasonable business expenses incurred in the performance of his duties. Reimbursement of business expenses will be in accordance with the following, as if the legislation and directives applied to the Employee:

8.1.1. Travel and subsistence equivalent to those provided in the *Public Service Relocation and Employment Expenses Regulation*; and

8.1.2. Business expenses as provided in the *Travel, Meal and Hospitality Expenses Directive* (with the exception of section 3(2) of the directive), subject to the *Public Disclosure of Travel and Expenses Directive*.

9. PROFESSIONAL DEVELOPMENT:

- 9.1. The Employer will pay on behalf of the Employee, or reimburse the Employee for, the costs of the following:

9.1.1. all membership and other professional fees as required to maintain the Employee's status as a chartered professional accountant; and

9.1.2. subject to the prior approval of the Board, and where appropriate for the nature of the Employee's employment duties:

9.1.2.1. the Employee's membership in professional and industry organizations; and

9.1.2.2. the costs of attending conferences, seminars or professional development programs;

up to a maximum of \$20,000 per year.

10. TERMINATION FOR JUST CAUSE:

- 10.1. The Employer may terminate this Agreement at any time without notice for just cause.
- 10.2. In the event of termination for just cause, no notice or pay in lieu of notice will apply.

11. TERMINATION BY THE EMPLOYER:

- 11.1. The Employer may terminate this Agreement at any time by giving written notice to the Employee. The Employee will receive four weeks' notice for each full year of "continuous employment" (as determined under RABCCA, and for greater certainty, "continuous employment" will be calculated in accordance with the provisions of section 7 of the *Reform of Agencies, Boards and Commissions Compensation Regulation* under RABCCA, as such provision reads as of the date of this Agreement), to a maximum of 52 weeks.
- 11.2. In lieu of notice the Employer may, in its sole discretion, pay the Employee an amount equal to the Base Salary for the notice period or a combination of notice and payment in lieu of notice. Where the Employer is providing payment in lieu of notice to the Employee, the Employer will pay an additional 16% of the amount paid in lieu of notice as compensation for loss of benefits in accordance with the requirements under RABCCA.
- 11.3. Upon receipt payment in lieu of notice of termination, the Employee agrees to sign a restrictive agreement and release that includes at least the following terms:
 - 11.3.1. If the Employee is employed by or retained, directly or indirectly, to provide services to either the Province or a "Provincial corporation" (as defined in the *Financial Administration Act*) during the "severance period" (as defined in RABCCA or its regulations), the Employee will repay to the Employer an amount equal to the amount of salary, before mandatory statutory deductions and benefits, earned in respect of the Employee's new employment during the severance period, to a maximum of the amount paid to the Employee under Clause 11.2, before mandatory deductions, paid in respect of the portion of the severance period for which the Employee is employed in the new employment; and
 - 11.3.2. The Employee agrees that the conditions in this Clause 11 are reasonable and agrees to accept the notice, or payment in lieu of notice, or any combination thereof in full satisfaction of any claims or actions, including any complaint under the *Employment Standards Code* or the *Alberta Human Rights Act* that

the Employee may have arising out of the employment under or termination of this Agreement and the Employee expressly agrees not to make any claims, complaints or commence an action for any amounts beyond the amounts set out in this Agreement.

12. TERMINATION BY THE EMPLOYEE:

- 12.1. The Employee may terminate this Agreement by providing at least eight weeks' written notice to the Employer. If the Employee gives notice in accordance with this clause, the Employer reserves the right at any time during the notice period to decline further services from the Employee, in which case the Employee will be paid for the remaining notice period.

13. NO POST-EXPIRY SERVICES

- 13.1. On the expiry of the Term, the Employee shall not provide any further services to the Employer, and shall not receive any further remuneration, unless and until the Employee's Position is renewed in accordance with a new employment agreement on terms and conditions agreed upon in writing between the Employer and the Employee.

14. NOTIFICATION OF CRIMINAL CHARGE:

- 14.1. The Employee agrees to give immediate notice to the Employer if the Employee is charged with any offence under the *Criminal Code of Canada* or the *Controlled Drugs and Substances Act* (Canada).

15. CORPORATION POLICIES AND PROCEDURES:

- 15.1. The Employee will be subject to the policies and procedures of the Employer, currently in place or as may be established from time to time, except to the extent of any conflict with the provisions of this Agreement. In the event of a conflict between this Agreement and the policies and procedures of the Employer, the Agreement governs.

16. MATERIALS:

- 16.1. All files, forms, correspondence, memoranda, documents, manuals, software, electronic records and other materials (the "Materials") pertaining to or used in connection with the business of the Employer, other than publicly available materials, which come into the Employee's possession or control during his employment will, at all times, be and remain the property of the Employer.
- 16.2. The Employee will not make for his own use or for the use of anyone else, copies or reproductions of the Materials. The Employee will return all Materials upon the

termination of this Agreement, however caused.

17. CONFIDENTIAL INFORMATION:

- 17.1. Any information of a confidential nature (the "Confidential Information") acquired or created by the Employee in the performance of this Agreement, or any prior employment agreement with the Employer, will not be used or disclosed by the Employee to anyone unless release is specifically approved by the Board. Any benefits resulting from the development of the Confidential Information will accrue to the Employer and will be held in trust by the Employee for the Employer. For the purposes of this Agreement, the term "Confidential Information" includes any information, whether in writing or not, which is not generally known to the public, and which could, if used, communicated or divulged, cause damage or embarrassment, loss of reputation, or other harm to the Employer.
- 17.2. This duty not to release Confidential Information is in addition to the common law duty of confidentiality.
- 17.3. The Employee acknowledges and agrees that his obligations of confidentiality owed to the Employer will survive the expiry or termination of this Agreement.

18. OWNERSHIP OF INTELLECTUAL PROPERTY:

- 18.1. All rights, title and interest in and to all intellectual property that may be conceived, created or developed during the course of employment of the Employee with the Employer (the "Intellectual Property") will belong solely to the Employer.
- 18.2. The Employee hereby waives his moral rights in any and all copyright works authorized or coauthored by the Employee in the performance of his duties and obligations under this Agreement, and will execute a written waiver of moral right in any copyright works authored or coauthored by the Employee immediately upon request of the Employer.
- 18.3. The Employee will execute such assignment and other documents as are required by the Employer to transfer all right, title and interest in and to all Intellectual Property to the Employer. In the event that the Employee fails to execute such assignment and other documents within ten (10) business days after a written request from the Employer, the Employee hereby appoints the Employer as the Employee's attorney to execute such assignment and other documents on behalf of the Employee.
- 18.4. The Employee will cooperate and render all assistance as may be reasonably requested by the Employer with respect to any applications, filings, or actions in relation to the Intellectual Property, including any applications for letters patent or for copyright or trade-mark registration, and any legal action or potential legal action which relates to

the Intellectual Property. The Employer will reimburse the Employee for all reasonable expenses for such cooperation and assistance.

19. INJUNCTION RELIEF:

- 19.1. The Employee acknowledges the value of Confidential Information and Intellectual Property to the Employer and that any material breach or threatened breach of any of the provisions contained in Clauses 17 or 18 by the Employee may cause material and irreparable harm to the Employer which may not be reasonably or adequately compensated for by damages in an action at law. The Employee therefore agrees that in the event of a breach or threatened breach of any of the provisions of Clauses 17 or 18, the Employer shall be entitled to an injunction to prevent such breaches, in addition to any other remedy it may be entitled to at law and in equity.

20. NOTICE OF PUBLICATION:

- 20.1. The Employee agrees that this Agreement and any records and information created or collected pursuant to the Employee's employment (including but not limited to the Employee's name, classification, salary, benefits or employment responsibilities) may be disclosed by the Employer. Decisions about disclosure are in the Employer's sole discretion and are subject to law and to any applicable policies of the Employer and the Government of Alberta including, but not limited to, the *Public Sector Compensation Transparency Act*, and any related regulations, amendments, directives and guidelines

21. ENTIRE AGREEMENT:

- 21.1. This Agreement, including any payroll records, policies, programs or other interpretive materials referred to herein, sets forth the entire Agreement between the parties with respect to its subject matter and replaces any previous discussions, agreements, offers and understandings of every kind and nature between them with respect to the employment of the Employee by the Employer and neither party will be bound by any term or condition other than as expressly set forth or provided for in this Agreement.
- 21.2. The parties understand and agree that there are other enactments or administrative directives which also impose duties and obligations on the parties and which may be amended from time to time without notice to the Employee. Such amendments may impose additional terms and conditions on the employment of the Employee without additional compensation. In the event of a conflict between this Agreement and any enactments or administrative directives, the enactments or administrative directives govern.
- 21.3. Acts, regulations, directives, codes, policies, authorities and guidelines referred to in this Agreement, may be amended, repealed or replaced from time to time without

notice to the Employee.

22. SURVIVAL OF TERMS:

- 22.1. Despite any other provision of this Agreement, those clauses which by their nature continue after the conclusion or termination of this Agreement will continue after such conclusion or termination, including those clauses pertaining to:

- 22.1.1. Clause 2 Conduct
- 22.1.2. Clause 11 Termination by the Employer
- 22.1.3. Clause 16 Materials
- 22.1.4. Clause 17 Confidential Information
- 22.1.5. Clause 18 Ownership of Intellectual Property
- 22.1.6. Clause 19 Injunction Relief
- 22.1.7. Clause 20 Notice of Publication

23. AMENDMENTS:

- 23.1. No amendment of this Agreement is effective unless made in writing and signed by the parties.

24. SEVERABILITY:

- 24.1. If a term of this Agreement is held to be invalid, illegal or unenforceable, that term is deemed to be severed and the remaining terms of this Agreement continue to operate.

25. WAIVER:

- 25.1. The failure of either party to this Agreement to enforce any of its terms, provisions or covenants will not be construed as a waiver of the same or of the right of such party to enforce the same. Waiver by either party hereto of any breach by the other party of any terms or provisions of this Agreement will not operate as a waiver of any other breach or default. Any waiver of any provision of this Agreement shall be in writing.

26. NOTICES, APPROVALS and REQUESTS:

- 26.1. Notices, approvals and requests referred to in the Agreement will be in writing and, if under Clauses 10, 11, 12, 14, 15, and 17 will be personally delivered or sent by recorded mail to the Employer or Employee at the address provided below:

To the Employer: 5103 Windermere Blvd. SW
Edmonton, Alberta T6W 0S9

To the Employee: [REDACTED]

and are deemed to have been given as follows:

26.1.1. If personally delivered, upon delivery; or

26.1.2. If by recorded mail, on the third day after mailing.

26.2. All other notices, approvals and requests under this Agreement that are not referred to in Clause 26.1 may be given in accordance with Clause 26.1, or by email:

26.2.1. if to the Employer, to [REDACTED]; and

26.2.2. if to the Employee, to [REDACTED]

26.3. The contact information for notices, approvals and requests may be changed by a notice to the other party.

27. INDEPENDENT LEGAL ADVICE:

27.1. The Employee hereby acknowledges and confirms that he was advised by the Employer to obtain independent legal or other professional advice and that by executing this Agreement, the Employee hereby confirms that he had the opportunity to seek independent legal or professional advice prior to executing this Agreement and has either obtained such legal or professional advice; or waived the right to obtain such independent legal or professional advice.

28. JURISDICTION:

28.1. This Agreement will be interpreted in accordance with the laws in force in the Province of Alberta. The parties agree to submit and attorn to the jurisdiction of the courts of the Province of Alberta.

29. HEADINGS:

29.1. The section headings in this Agreement have been included for convenience only and they do not define, limit or enlarge the scope or meaning of this Agreement or any part of it.

30. SINGULAR/PLURAL:

30.1. In this Agreement words in the singular include the plural and words in the plural include the singular.

31. COUNTERPARTS:

- 31.1. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement. Communication of an executed counterpart electronically in portable document format (PDF) shall constitute good delivery.

This Agreement is effective as of the date and year first above written.

ALBERTA PENSIONS SERVICES CORPORATION

Per: _____

[REDACTED]

Rosemarie McClean
Chair, Board of Directors

[REDACTED]

DARWIN BOZEK