

**THIS AGREEMENT IS MADE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024, BETWEEN:**

**THE MUNICIPALITY OF THE DISTRICT OF YARMOUTH, (herein referred to as the "MODY"),** a municipal body corporate pursuant to the Municipal Government Act;

**AND**

**THE TOWN OF YARMOUTH, (herein referred to as the "TOY"),** a municipal body corporate pursuant to the Municipal Government Act;

**AND**

**THE MUNICIPALITY OF THE DISTRICT OF ARGYLE, (herein referred to as the "MODA"),** a municipal body corporate pursuant to the Municipal Government Act.

**WHEREAS** the MODY, MODA and the TOY (hereinafter referred to as “the Municipalities”) entered into an Intermunicipal agreement in 2005, and a follow-on agreement in 2017 providing for governance and operations of the Yarmouth International Airport (YQI) including lands and facilities at 310 Forest Street., Yarmouth, Nova Scotia, AND;

**WHEREAS** the Municipalities wish to enter into a new inter-municipal operating agreement to provide for governance and operations of YQI, AND;

**WHEREAS** Section 56(1)(b) of the *Municipal Government Act* empowers municipalities to make grants to a body corporate for the purpose of promoting airports, AND;

**WHEREAS** Section 60 of the *Municipal Government Act* empowers municipalities to enter into agreements to provide or administer municipal services, AND;

**WHEREAS** the Municipalities recognize the YQI supports Federal search and rescue services, Provincial healthcare, emergency management services, and economic growth opportunities for Southwest Nova Scotia, AND;

**WHEREAS** the Yarmouth International Airport provides an essential transportation link for Southwest Nova Scotia, the Province of Nova Scotia, and Canada, AND;

**WHEREAS** the Municipalities are equal owners of the Yarmouth International Airport and wish to delegate governance and operating powers to the Yarmouth International Airport Corporation, a municipal corporation registered with the Nova Scotia Registry of Joint Stocks.

**NOW THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Municipalities agree as follows:

**1. DEFINITIONS**

- A. "Audit Committee" means the Audit Committee for the YIAC as appointed by the Board of Directors hereunder.
- B. "Auditor" means a registered municipal auditor as this term is used in Section 457 of the *MGA* who is appointed by the Audit Committee to audit the financial affairs of the YIAC.
- C. "Board of Directors" means the Board of Directors of the YIAC.
- D. "Capital Costs" means the amount expended by the YIAC for the acquisition of lands, construction of buildings and structures upon lands, and equipping and fixturing of lands, buildings, and structures, including those amounts which by general practice would typically form part of an entity's capital costs as designated by those practicing accounting in Canada under GAAP.
- E. "Corporation" means the Yarmouth International Airport Corporation.
- F. "Directors" means the Directors of the Board of Directors of the YIAC.
- G. "Federal Government" means His Majesty the King in right of Canada, as represented by various federal ministries and governmental agencies.
- H. "Fiscal year" means the YIAC's fiscal year, which shall be a twelve (12) month period commencing on April 1 of every year and ending on March 31 of every subsequent year.
- I. "FRAM" means the Financial Reporting and Accounting Manual prescribed from time to time under the *MGA*.
- J. "GAAP" means Canadian generally accepted accounting principles, as established from time to time by the Canadian Institute of Chartered Accountants or the Public Sector Accounting Board, or any successor institutes, applicable as at the relevant date, and applied on a consistent basis.
- K. "Operating Costs" means the costs associated with operating and administering the YIAC.
- L. "Province" means His Majesty the King in right of the Province of Nova Scotia, as represented by various provincial ministries and governmental agencies, including the Ministry of Service Nova Scotia and Municipal Relations.

- M. "Nominating Committee" means the Nominating Committee of the YIAC, as appointed by the Municipalities.
- N. "Region" means the geographic region of Nova Scotia that is made up of the Municipalities' respective territorial jurisdictions.
- O. "YIAC" means the Yarmouth International Airport Corporation.
- P. "YQI" means the Yarmouth International Airport.

## **2. Continuation of the Yarmouth International Airport Corporation**

- A. The Municipalities agree to continue the YIAC upon the terms and conditions of this agreement.
- B. This agreement shall be filed with the Nova Scotia Registry of Joint Stock Companies, and upon such filing, shall repeal and replace any fore-going agreements and terms of the intermunicipal partnership that established the body corporate under Section 60 of the *Municipal Government Act*.

## **3. Board of Directors**

- A. The Board shall consist of six (6) Directors.
- B. Each Municipality shall appoint one (1) elected member from their respective Councils, to serve at the pleasure of their respective Councils, as voting Directors of the Corporation.
- C. The CAO's, as is the case in all YIAC committees and subcommittees, shall act as non-voting members in an advisory capacity.
- D. Citizen Directors (non-elected) shall be appointed to the Board of the Authority pursuant to Section 4 (B) & (C).
- E. Citizen Directors may not serve more than two consecutive three (3) year terms but may be eligible for reappointment after the expiration of twelve (12) months from the end of their previous term.
- F. Citizen Directors serving on the Board, at the date of adoption of this agreement, shall remain subject to the term limitations that were in place at the time of their appointments and any time that has accrued since their appointment(s) shall be recognized for the purposes of determining when their appointments expire and/or whether they are eligible for reappointment.
- G. Schedule 'A' to this Agreement provides a list of the current citizen appointments, their term expiry and term renewal eligibility.

- H. The current appointment schedule provides for some staggering of appointments. However, if the Nominating Committee feel that further staggering of appointments is necessary or desirable, they may, with the written consent of all Municipalities from time to time, shorten or extend individual appointment terms to ensure that new appointments will be staggered.
- I. A majority of the voting Directors constitutes a quorum for the transaction of business.

#### **4. Nominating Committee**

- A. The Nominating Committee shall, at least every ten (10) years, undertake a governance structure review and make recommendations in conjunction with the review under Section 24.
- B. Review and update the Board Competency Matrix prior to the recruitment of any Citizen Directors.
- C. The Nominating Committee shall be responsible for the recruitment and appointment of Citizens to the Board of Directors pursuant to Section 3(D) who are residents of Yarmouth County and subject to the Board Competency Matrix.
- D. Committee Structure:
  - i. Each municipal unit shall appoint two (2) Councillors, who may be Directors of the Corporation, to act as members of the Nominating Committee;
  - ii. the nominating committee shall invite up to two Citizen Directors from the Board, in an ex-officio capacity and are not seeking re-appointment, to participate in the recruitment of Citizen Board members;
  - iii. The CAO's of the Municipalities shall serve on the Nominating Committee as non-voting members;
  - iv. The Nominating Committee is not a sub-committee of the YIAC, rather a sub-committee of the Council of the Town of Yarmouth, District of Argyle or District of Yarmouth.

#### **5. Board Orientation and Training**

- A. Directors have a duty to be knowledgeable about the affairs of the Authority, the Board's governance processes and their rights, duties, and obligations as Directors. To assist with meeting these obligations, Directors shall: annually attend governance session that will include a review of this Agreement and the Board's policies and procedure documents. Additionally, each director shall attend additional Board Governance training at least once every two years.

#### **6. Directors' Terms**

- A. All elected officials appointed by their respective Councils as Directors shall serve at the pleasure of their Councils.

- B. Citizens appointed as Directors shall be appointed for a 3-year term; a Citizen Director's term may be renewed for one additional 3-year term.
- C. After a 12-month break, a person may be re-appointed as a Citizen Director.

## **7. Directors' Leaves**

- A. The Board may recommend to the Nominating Committee, which shall have the power to grant up to a six (6) month leave of absence to any Citizen Director when the request is made in writing.
- B. At the end of the leave, if the Citizen Director does not return at the meeting immediately following the termination of an approved leave, the seat is deemed vacant, and the Nominating Committee will convene to recruit a replacement.

## **8. Board Chair**

- A. At the first regular meeting after the execution of this agreement, a member shall be elected, from the Directors to the position of Chair.
- B. The initial term for the Chair shall expire on March 31 of the first full fiscal year following execution of this agreement.
- C. Subsequent terms for the office of Chair shall be for one year; the term may be renewed for one additional year.
- D. At the last Board meeting before March 31 each year, the Board shall either re-appoint the sitting Chair for an additional term per 8(C) above or elect from among its members the Chair for the following year effective April 1.

## **9. Board Vice-Chair**

- A. At the first regular meeting after the execution of this agreement, a member shall be elected, from the Directors to the position of Vice-Chair.
- B. The initial term for the Vice-Chair shall expire on March 31 of the first full fiscal year following execution of this agreement.
- C. Subsequent terms for the office of Vice-Chair shall be for one year; the term may be renewed for one additional year.
- D. At the last Board meeting before March 31 each year, the Board shall either re-appoint the sitting Vice-Chair for an additional term per 9(C) above or elect from among its members the Vice-Chair for the following year effective April 1.

## **10. Board Skills Matrix**

- A. The Board shall develop, and amend from time to time, a matrix of skills and attributes of Directors which shall, when implemented, result in a mix of Directors who bring the necessary skills and attributes to the Board.

- B. To that end, the Board shall, on or before the 30th day of September 2024, create and adopt a Board Competencies Matrix. Upon the creation of the Board Competencies Matrix, its application shall then be the responsibility of the Nominating Committee.

## **11. Rules of Procedure Governing Board Meetings**

- A. The Meetings of the Board will be governed by Rules of Procedure that it shall establish and adopt, which rules shall endeavor to ensure the proper conduct of all Meetings of the Board.
- B. Until such time as the Rules are established and adopted, Meetings of the Board shall be governed by the most recent edition of *Robert's Rules of Order*.
- C. The CAOs shall be ex-officio, non-voting Members of the Board and its committees, and all its subcommittees pursuant to Section 31(2)(a) of the Municipal Government Act of Nova Scotia.
- D. All Directors, including the Chairperson, vote on every question before the Board except in the case of conflict of interest. In the event of a tie vote, the motion is declared defeated.

## **12. Board Powers**

- A. The Corporation may appoint or engage such officials and employees and professional, scientific, or technical experts as it considers advisable for the attainment of its objects or the exercise of its powers and may pay them such remuneration as the Board from time to time determines, within approved budgets.
- B. The Corporation is empowered to authorize the use of equipment, facilities, services, and personnel necessary or advisable to carry out the operation of an airport facility.
- C. The Corporation may contract with any person, including, but not limited to, a municipal unit and a municipal unit that is a party to this agreement, for the provision of any service or facility necessary or advisable to carry out the operation of an airport facility.
- D. The Corporation shall govern facility operations, and determine all matters respecting its repair, renovation, maintenance, and use. It shall also ensure that larger capital projects are executed as authorized by the Councils through the Long-term Strategic Plan.

## **13. Strategic Planning**

- A. Within one-year (365 days) of the execution of this Agreement, the Board, shall submit to the Municipalities a refreshed 5-year strategic plan. The plan shall

include, at a minimum, an operational forecast as well as a 5-year Capital Investment Plan (CIP).

- B. The operational forecast shall be renewed at the end of its 5-year term for Councils' information, and the CIP shall be updated every three years by the Authority and subject to Councils' unanimous approval.

#### **14. Core Board Activities**

- A. Develop, implement, and monitor a strategic action plan per Section 13 that is reflective of the circumstances, priorities, and opportunities within the Region. The Board shall engage the municipal councils in a joint engagement session which shall help inform the strategy.
- B. Cultivate close working relationships with key partners to support the development and sustainability of YQI.
- C. Seek capital and program funding from Federal and Provincial governments which facilitates sustainable operations and financial stability.
- D. Inform partners and stakeholders about challenges and opportunities related to YQI promoting, and marketing YQI as a key asset in economic development and transportation.
- E. Ensure that the operations and management of the Yarmouth International Airport Corporation comply with all Municipal, Provincial and Federal regulatory requirements.

#### **15. Standing and Ad-hoc Committees**

##### **A. Audit**

- i. An Audit Committee shall be appointed annually by the Board of Directors and shall consist of the following members:
  - 1. the CAO's from each of the Municipalities (ex officio)
  - 2. One citizen recruited from Yarmouth County with financial acumen.
  - 3. three members of the of the Board of Directors, one being the Chair, and
  - 4. the Airport General Manager (*ex officio*).
  - 5. The Audit Committee shall be responsible for:
    - a. Recommending the Auditor to the Board;
    - b. conducting a detailed review of the financial statements of the YIAC with the Auditor on an annual basis;
    - c. reviewing the conduct and adequacy of the audit;
    - d. investigating such matters arising out of the audit as may appear to the Audit Committee to require investigation;

- e. conducting a detailed review of the non-audited internal financial statements of the YIAC with management on a quarterly basis;
- f. evaluating the adequacy of the internal control systems of the YIAC;
- g. any other matters determined by the Board of Directors to be the duties of the Audit Committee and making recommendations to the Board of Directors

**B. Other Standing and Ad-hoc Committees**

- i. The Board has the authority to establish sub-committees of the Board, including ad-hoc committees;
- ii. Terms of Reference shall be approved by the Board for each standing and ad-hoc committee;
- iii. Terms of Reference shall be reviewed at least annually.

## **16. Airport Manager Hiring & Performance Management Committee**

- A. This Subcommittee is a subcommittee of the Board of Directors and is responsible and accountable in assisting the Board in the recruitment, selection, and performance management of the Airport General Manager to ensure the effective operation of the YIAC. The Committee shall consist of:
  - i. The CAO's from each of the Municipalities;
  - ii. Three members of the Board, one being the Chair one being a Citizen Representative and the third as appointed by the Board annually.
- B. Develop a hiring procedure for recruiting and evaluating potential candidates of Airport Manager, including approving a job description and selection criteria.
- C. Recruit, evaluate and recommend to the Board an Airport General Manager to be the head of the administrative branch of the YIAC.
- D. Implement an annual performance management process for the Airport Manager.
- E. In collaboration with the Airport General Manager, recommend Annual performance expectations for the Airport General Manager to the Board each year.
- F. Recommending to the Board a written process for dealing with any complaints/internal external regarding the conduct the Airport General Manager
- G. The Subcommittee shall have written terms of reference that set out its roles and responsibilities.

## **17. Airport General Manager**

- A. The Airport Manager is the head of the administrative branch of the YIAC.



- B. The Airport Manager is responsible to the Board of Directors for the proper administration of the affairs of the YIAC in accordance with its strategic plan, financial plans, policies, and procedures.
- C. The Airport Manager is responsible to ensure that internal, non-audited income statements (both core operations and project reporting) and balance sheets are delivered in a relevant and reliable form in accordance with the Board of Directors' policy manual.
- D. The Airport Manager shall report to the Board any matters of noncompliance with Municipal, Provincial or Federal regulations at their earliest possible opportunity.
- E. The members of the Airport Board of Directors shall communicate with the employees of the YIAC solely through the Airport Manager, except that the Board of Directors may communicate directly with employees of the YIAC to obtain or provide information.
- F. The Board of Directors shall provide direction on the objectives, policies, and programs of the YIAC to the Airport Manager.

## **18. Annual Budgets**

- A. The Corporation shall approve an annual operating budget and management plan for the facility and shall present such budget and plan to the Municipalities in draft form no later than February 1 and final (recommended by the Board) before each fiscal year (April 1 or earlier) for approval.
- B. If either of the municipalities fails to approve the annual operating budget and management plan, within sixty (60) days of receipt from the Corporation, it is agreed that the Authority shall have the power to expend monies in accordance with the previous year's annual operating budget adjusted for any increase in the Nova Scotia Consumer Price Index to a maximum of 2.5%, as published by Statistics Canada, for the previous twelve (12) month calendar period, until such time as the budget is approved by all Municipalities.
- C. If the Board does not provide the Municipalities with annual budgets prior to April 15<sup>th</sup> annually, then the Councils may limit budget approvals to the prior year plus an amount equal to the Nova Scotia Consumer Price Index to a maximum of 2.5%, as published by Statistics Canada, for the previous twelve (12) month calendar period.
- D. No contribution to the Capital Fund shall be approved in any operating budget when the required Five-Year Capital Investment Plan is not implemented per Section 13 of this IMA.

- E. Each of the parties agrees to contribute annual municipal funding to the Authority in the amount set out in the annual operating budget prepared by the Authority and implemented pursuant to Section 18(A) of this Agreement.
- F. The Municipal Subsidy cost sharing allocation shall be as follows: MODY 38.666%, TOY 30.667% and MODA 30.667%.
- G. The funding percentages shall be reviewed for the first time on April 1, 2032, and every ten (10) years thereafter. Adjustments to the percentages shall be in part influenced by the most recent Federal Census Data along with any other data relevant to the review.
- H. The parties agree that municipal funding shall be payable on a quarterly basis, with installments due of 35%, 35%, 15% and 15% for each quarter respectively.

## **19. Annual Audits**

- A. The Authority shall engage independent auditors to prepare audited annual financial statements and shall submit the completed work to each of the parties forthwith after each fiscal year-end.

## **20. Quarterly Financial Reporting**

- A. In addition to the presentation of the annual budget, the Authority shall ensure that quarterly income statements accepted by the Board shall be distributed to the respective Councils for their information.
- B. The statements shall be provided to the Municipalities within sixty (60) days of the end of the corresponding quarter.

## **21. Financial Independence**

- A. The financial records of the Corporation shall be independent from the Municipalities.

## **22. Annual Presentation**

- A. The Board and the Airport General Manager shall provide an annual presentation to a Joint Meeting of the Councils for the Municipalities, wherein the Corporation shall update the Municipalities as to the progress that has been made in relation to meeting the strategic objectives and mandate as described herein.

## **23. Term**

- A. The effective day of this agreement is April 1, 2024
- B. This Agreement shall be for a period of ten (10) years (hereinafter "the Term")
- C. Thereafter, unless the parties agree otherwise, the Agreement shall automatically renew for successive five (5) year periods.

## **24. Review**

- A. The Agreement may be reviewed from time to time by the parties and shall be reviewed every ten (10) years beginning in 2034, by the Nominating Committee, to determine whether any amendments, additions or deletions are necessary (or desirable).
- B. The Nominating Committee shall deliver a report to the Municipalities detailing any recommendations resulting from the review no later than 90 days after the review is completed.
- C. Any alterations to the Agreement shall require the written consent of all parties.

## **25. Termination or Withdrawal**

- A. the Municipalities may unanimously agree to suspend or close operations of the Yarmouth International Airport.

## **26. New Operating Partners**

- A. From time to time, new entities may wish to partner with the Corporation in the operations of the Airport.
- B. New partners shall be admitted by the unanimous approval of the three Councils; the YIAC shall be consulted.
- C. Board appointments to the YIAC of new partners shall be negotiated with the perspective new partner.

## **27. Assignment**

- A. This Agreement shall not be assigned by any party without the prior, written consent of the other.

## **28. Compliance**

- A. The Board of Directors shall ensure that the provisions of this agreement are adhered to, including but not limited to financial deadlines.
- B. Where the Chief Administrative Officers are in majority agreement on an issue of contract non-compliance, they shall inform both the Board and the Airport Manager in such matters and request rectification.
- C. In instances of continued non-compliance, the CAO's are authorized to investigate the situation directly, and provide recommendations either to the Airport Manager or directly to the Board.
- D. In all compliance matters where the CAO's are informing and or advising the Airport Manager and or the Board, the Council's shall be informed of same.

## **29. Dispute Resolution**

- A. If any dispute arises during the term of this Agreement, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute by mediation.

- B. The costs of mediation shall be borne equally between the parties to the mediation.
- C. A mediator shall have all the powers conferred by, and a mediation shall take place in accordance with, the provisions of the *Commercial Mediation Act*, S.N.S. 2005, c. 36, except where its provisions are inconsistent with the provisions of this Agreement, in which case the provisions of this Agreement will prevail.
- D. If the dispute is not resolved by mediation within ninety (90) days of the initiation of that procedure, the dispute may be referred to arbitration by any party thereto. The arbitration decision is final and is binding upon all the parties to the dispute.
- E. An arbitrator or arbitral panel shall have all the powers conferred by, and an arbitration will take place in accordance with, the provisions of the *Commercial Arbitration Act*, except where its provisions are inconsistent with the provisions of this Agreement, in which case the provisions of this Agreement will prevail.
- F. Allocation of the costs of arbitration will be determined by the arbitrator or the arbitral panel.
- G. In all instances where a matter is being resolved through the dispute resolution process, all funding terms and conditions are still binding.

### **30. General**

- A. This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- B. The parties each acknowledge and agree that this Agreement has been duly authorized, executed and delivered and is valid and binding upon them and enforceable according to its terms.
- C. No waiver by a party of any condition of this Agreement, or of any breach of any provision of this Agreement shall take effect or be binding upon the party unless in writing and signed by the party.
- D. This agreement is governed by the laws of the Province of Nova Scotia.

[INTENTIONALLY BLANK-SIGNATURE PAGE TO FOLLOW]

DRAFT UNAPPROVED-CONFIDENTIAL

BEFORE WITNESSES the parties have executed this agreement by their respective officials, duly authorized on the dates noted above each of the signatures.

SIGNED, SEALED and DELIVERED

The Parties sign and seal this Agreement as follows: In the presence of:

**MUNICIPALITY OF THE DISTRICT OF ARGYLE**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Nicole Albright, Warden

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Alain Muise, Chief Administrative Officer

**MUNICIPALITY OF THE DISTRICT OF YARMOUTH**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
John Cunningham, Warden

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Victoria Brooks, Chief Administrative Officer

**TOWN OF YARMOUTH**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Pam Mood, Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jeff Gushue, Chief Administrative Officer