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Date: August 31, 2015

Report to: **Council for Decision**

From: Gillian Pichler, P.Eng.  
Director of Registration

Subject: Continue Professional Geoscience Mobility Agreement between APEGBC and APGO

Linkage to Strategic Plan: Goal 1: Members and Future Members  
Goal 4: Enabling Goal

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## Background

*A similar report is being made to the APGO Council on September 10, 2015.*

On October 9, 2013, The Association of Professional Geoscientists of Ontario (APGO) and the Association of Professional Engineers and Geoscientists of BC (APEGBC) agreed to implement a two year pilot effective January 1, 2014, of an agreement that supports improved labour mobility for geoscience professionals in both provinces. The agreement was implemented on a two year pilot basis.

The Professional Geoscience Mobility Agreement (“the agreement”)([Appendix A](#)) allows geoscience professionals registered in one of the signatory provinces to perform short-term work—no more than 45 days per year—in the other, without the need to hold a licence in that province. With the exception of short-term work between BC and Ontario under the agreement, geoscientists must hold a separate licence for every jurisdiction in which they practice. APEGBC and APGO continue to be the only geoscience regulators in Canada whose legislation permits them to enter into this type of agreement.

The agreement requires that APGO and APEGBC review it in its entirety no later than 5 years from the reference date of October 9, 2013 and every 5 years thereafter. This means that the agreement will need to be reviewed during 2018 but can be continued until then, effectively ending the two year pilot.

## Discussion

The efficacy of the agreement was reviewed in three areas:

- i. P.Geo. resignations and removals from the reciprocating jurisdictions
- ii. Reduction in transfers from each reciprocating agreement since January 1, 2014;  
and
- iii. Discipline cases arising from the agreement

In all three areas there were no significant adverse effects attributed to the agreement.

- i. P.Geo. resignations and removals for non-payment of P.Geo. members in the reciprocating jurisdiction were relatively low
  - a. APEGBC: 15 APGO members (plus five removals). Not all of these can be attributed to the agreement.
  - b. APGO: an estimated 10 APEGBC members
- ii. Reduction in transfers from the reciprocating province since January 1, 2014  
Although it is difficult to measure how many Professional Geoscientists did not apply to each province as a result of the agreement, there has been no significant reduction in
  - Applications of P.Geo.s resident in Ontario to BC (2013(4); 2014(4); 2015 (2 to date);
  - Applications of P.Geo.'s resident in B.C. to Ontario
- iii. There have been no enforcement or discipline issues in either province as a result of the agreement.

Although the numbers of those who appear to be taking advantage of the agreement are relatively low, it makes a strong statement in support of a practical approach to national mobility for professional geoscientists.

### Recommendation

**MOTION:** That, subject to agreement by the Council of the Association of Professional Geoscientists of Ontario, the Professional Geoscience Mobility Agreement be extended to October 8, 2018 and that a detailed review of the agreement be conducted in 2018 in accordance with Clause 23: *Periodic Review*.

# **Professional Geoscience Mobility Agreement**

**Dated for reference October 9, 2013**

The purpose of this agreement is to facilitate temporary mobility of professional geoscientists between Canadian jurisdictions.

While the signatories participate in this agreement voluntarily, they intend that only professional geoscientists who are members or licensees of signatories that have implemented reciprocal provisions in their jurisdictions will be able to take advantage of the provisions of this agreement.

The signatories recognize that

- they have a duty to the Canadian public and to their members and licensees to regulate the inter-jurisdictional practice of geoscience so as to ensure that their members practice geoscience competently and ethically in all jurisdictions of Canada,
- differences exist in the legislation, policies and programs pertaining to the signatories, particularly between common law and civil law jurisdictions, and, until a signatory has (a) the appropriate legislative authority or (b) is a Temporary Provision Host Jurisdiction (TPHJ), that signatory cannot implement the provisions of this agreement with respect to the other signatories,
- Under the *Agreement on Internal Trade, the Trade, Investment and Labour Mobility Agreement and the New West Partnership Trade Agreement* there is an expectation that regulatory associations will facilitate mobility of their members and licensees within Canada,
- This agreement does not supersede any specific legislative requirements for local registration or licensing contained outside of the legislation creating the Host Governing Body.
- it is desirable to facilitate the inter-jurisdictional practice of geoscience while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

## THE SIGNATORIES AGREE AS FOLLOWS:

### Definitions

1. In this agreement, unless the context indicates otherwise:

“**Certificate of Authorization**” or “**Permit to Practice**” or similar is the authorization for a corporation or other entity given authority by a regulatory body to Provide Geoscience Services

“**Day**” means any calendar day or part of a calendar day in which a professional geoscientist Provides Geoscience Services;

“**Discipline**” includes a finding by or admission to a Governing Body of any of the following:

- (a) professional misconduct or unprofessional conduct;
- (b) incompetence;
- (c) conduct unbecoming a professional geoscientist;
- (d) any other breach of a professional geoscientist’s professional responsibilities;

“**Disciplinary Record**” includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a Governing Body as a result of Discipline;
- (b) suspension, revocation or cancellation of membership;
- (c) a professional geoscientist’s resignation or otherwise ceasing to be a member or Licensee of a Governing Body as a result of disciplinary proceedings;
- (d) restrictions or limits on a professional geoscientist’s Entitlement to Practice Geoscience as a result of a disciplinary proceeding;
- (e) any interim suspension or restriction or limits on a Professional Geoscientist’s Entitlement to Practice Geoscience imposed pending the outcome of a disciplinary hearing;

“**Entitled to Practise Geoscience**” means allowed, under all of the legislation and regulation of a Home Jurisdiction, to engage in the Practice of Professional Geoscience in the Home Jurisdiction;

“**Governing Body**” means a self-regulatory organization of geoscientists or both engineers and geoscientists that

- (a) is given authority or recognition by statute in a jurisdiction of Canada;
- (b) admits individuals on the basis of their academic qualifications, experience, and ethical fitness;
- (c) requires compliance with the professional standards of competence and ethics established by the organization;

- (d) requires or encourages continuing professional development; and
- (e) has and applies disciplinary powers, including the power to suspend or expel a member regardless of where the member practises or resides;

**“Home Governing Body”** means any or all of the signatory Governing Bodies of which a professional geoscientist is a member or Licensee, and **“Home Jurisdiction”** has a corresponding meaning;

**“Host Governing Body”** means

- (a) a signatory Governing Body in whose jurisdiction a professional geoscientist practises Professional Geoscience without being a member or Licensee; or, unless otherwise specified,
- (b) a Temporary Provision Host Jurisdiction (TPHJ),

and **“Host Jurisdiction”** has a corresponding meaning;

**“Liability Insurance”** means professional liability errors and omissions insurance that may be required by a signatory Governing Body;

**“Licensee”** means an individual licensed by a signatory Governing Body to practice Professional Geoscience, including an individual licensed within a clearly defined scope of practice, but does not include an individual under a practice restriction pursuant to a Disciplinary Record;

**“Practice of Professional Geoscience”**, with respect to each jurisdiction, means any geoscience activities requiring professional registration as defined in that jurisdiction;

**“Professional Geoscientist”** means a professional geoscientist, geologist or geophysicist member or Licensee of a signatory Governing Body;

**“Provide Geoscience Services”** means engaging in the Practice of Professional Geoscience in a Canadian jurisdiction;

**“Resident”** has the meaning respecting a province or territory that it has with respect to Canada in the Income Tax Act (Canada);

**“Temporary Mobility”** means the Practice of Professional Geoscience in a Host Jurisdiction as detailed in clause 7 and Schedule B of this agreement;

**“Temporary Provision Host Jurisdiction”** or **“TPHJ”** means a body as defined in Schedule B of this agreement;

**“Temporary Provisions”** mean the temporary provisions as detailed in Schedule B of this agreement;

**“TPHJ Governing Body”** means the Governing Body of the TPHJ.

## General

2. The signatory Governing Bodies will
  - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this agreement, including but not limited to amendment of registration or licensing requirements for individuals, corporations, partnerships and other legal entities;
  - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this agreement;
  - (c) comply with the spirit and intent of this agreement to facilitate mobility of Canadian Professional Geoscientists in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
  - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
3. Signatory Governing Bodies will subscribe to this agreement and, once they have the appropriate legislative authority and have agreed to its implementation pursuant to clause 26, be bound by its terms by means of the signature of an authorized person affixed to any copy of this agreement.
4. A signatory Governing Body will not, by reason of this agreement alone,
  - (a) grant to a Professional Geoscientist who is a member or Licensee of another Governing Body greater rights to Provide Geoscience Services than are permitted by his or her Home Governing Body; or
  - (b) relieve a Professional Geoscientist of restrictions or limits on the Professional Geoscientist's right to practise, except under conditions that apply to all members or Licensees of the signatory Governing Body.
5. Amendments made under clause 2(b) will take effect immediately on adoption with respect to members or Licensees of signatory Governing Bodies that have adopted reciprocal provisions.
6. This agreement will remain open for signature indefinitely. Any Governing Body not listed on the signatory page may become a signatory party to this Agreement, with all associated rights and obligations hereunder, at any time after the date of this agreement by:
  - (a) obtaining consent from all other signatory Governing Bodies; and
  - (b) affixing the signature of an authorized person to a page in the form of Schedule A, or equivalent, attached hereto.

## Temporary Mobility Among Professional Geoscientists

### Mobility without permit

7. A Host Governing Body that is not a TPHJ will allow a Professional Geoscientist from another jurisdiction that is a signatory to this agreement to Provide Geoscience Services in the Host Jurisdiction on a temporary basis, without notice to the Host Governing Body, **for a total of not more than 45 Days in a calendar year**, provided the Professional Geoscientist:
  - (a) meets the criteria in clause **10**; and
  - (b) has not established an economic nexus with the Host Jurisdiction as described in clause **13**.
8. The Host Governing Body will have the discretion to extend the time limit for Temporary Mobility under clause **7** or Schedule B, as applicable, with respect to an individual Professional Geoscientist.
9. It will be the responsibility of a Professional Geoscientist to
  - (a) record and verify the number of Days in which he or she Provides Geoscience Services in a Host Jurisdiction(s) or with respect to each jurisdiction; and
  - (b) in order to meet the requirements of clause **15**, prove that he or she has complied with provisions implementing clause **7** or Schedule B, as applicable.
10. To qualify to Provide Geoscience Services on a temporary basis without notice to the Host Governing Body that is not a TPHJ under clause **7**; or on a temporary basis in a TPHJ under Schedule B, a Professional Geoscientist will be required to meet each of the following conditions at all times:
  - (a) be Entitled to Practise Geoscience in a Home Jurisdiction;
  - (b) where applicable in the Home Jurisdiction be authorized to practice under a Certificate of Authorization or Permit to Practice in the Home Jurisdiction;
  - (c) meet all requirements of the Host Jurisdiction including, without limitation, carrying a prescribed minimum amount of Liability Insurance;
  - (d) not be subject to conditions of or restrictions on the Professional Geoscientist's Entitlement to Practice Geoscience or membership/licensure in the Governing Body in any jurisdiction, insofar as such conditions or restrictions are imposed pursuant to a Disciplinary Record; and
  - (e) not have previously been refused professional membership or licensure by the Host Jurisdiction.

### Temporary Mobility Not Allowed

11. A Host Governing Body will not allow a Professional Geoscientist who has established an economic nexus pursuant to clause 13 with the Host Jurisdiction to Provide Geoscience Services on a temporary basis under clause 7 or Schedule B, as applicable, but will require the Professional Geoscientist to do one of the following:
  - (a) cease Providing Geoscience Services in the Host Jurisdiction forthwith; or
  - (b) apply for and obtain membership or licensure in the Host Governing Body
12. On application under clause 11(b), the Host Governing Body will have the discretion to allow a Professional Geoscientist to continue to Provide Geoscience Services in the Host Jurisdiction pending consideration of the application.
13. In clause 11, an economic nexus is established by actions inconsistent with Temporary Mobility to the Host Jurisdiction, including but not limited to doing any of the following in the Host Jurisdiction:
  - (a) Providing Geoscience Services beyond 45 Days, or longer period allowed under clause 8;
  - (b) opening an office that offers to or actually Provides Geoscience Services to the public;
  - (c) becoming Resident;
  - (d) holding oneself out or allowing oneself to be held out as willing or qualified to engage in the Practice of Professional Geoscience in the Host Jurisdiction other than on a temporary basis.

### **Membership / Licensure Information**

14. Each signatory Governing Body will take all reasonable steps to ensure that all relevant information respecting its Professional Geoscientists that will be shared with other signatory Governing Bodies is kept current and accurate and includes any limitations or restrictions on a Professional Geoscientist's practice.

### **Enforcement & Discipline**

15. A Host Governing Body that has reasonable grounds to believe that a member or Licensee of another signatory Governing Body has Provided Geoscience Services in the Host Jurisdiction will be entitled to require that Professional Geoscientist to:
  - (a) account for and verify the number of Days spent Providing Geoscience Services in the Host Jurisdiction; and
  - (b) verify that he or she has not done anything inconsistent with the Provision of Geoscience Services on a temporary basis.
16. If a Professional Geoscientist refuses or fails within a reasonable time to comply with the provisions of clause 15, a Host Governing Body will be entitled to:
  - (a) prohibit the Professional Geoscientist from Providing Geoscience Services in the Host Jurisdiction for any period of time;
  - (b) require the Professional Geoscientist to apply for membership or licensure in the Host Jurisdiction before further Providing Geoscience Services in the Host Jurisdiction; or

- (c) take any other action that the Host Governing Body deems appropriate.
17. When Providing Geoscience Services in a Host Jurisdiction all Professional Geoscientists will be required to comply with the applicable legislation, regulations, rules and standards of professional conduct of the Host Jurisdiction.
  18. In the event of alleged misconduct arising out of a Professional Geoscientist Providing Geoscience Services in a Host Jurisdiction, the Professional Geoscientist's Home Governing Body will:
    - (a) assume responsibility for the conduct of disciplinary proceedings against the Professional Geoscientist; and
    - (b) consult with the Host Governing Body respecting the manner in which disciplinary proceedings will be taken against the Professional Geoscientist.
  19. If a signatory Governing Body investigates the conduct of or takes disciplinary proceedings against a Professional Geoscientist pursuant to clause 18, that Professional Geoscientist's Home Governing Body or Bodies and each Governing Body in whose jurisdiction the Professional Geoscientist has Provided Geoscience Services on a temporary basis will, to the extent legally able, make available all relevant information and documentation in its possession or under its control to the investigating signatory Governing Body, including but not limited to information and documentation respecting the Professional Geoscientist, the complaint (if applicable), and the project giving rise to the complaint (if applicable),.
  20. In determining the location of a hearing under clause 18, the primary considerations will be the public interest, convenience and cost.
  21. A Governing Body that initiates disciplinary proceedings against a Professional Geoscientist under clause 18 will assume full responsibility for conduct of the proceedings, including costs, subject to a contrary agreement between Governing Bodies.
  22. In any proceeding of a signatory Governing Body, a duly certified copy of a disciplinary decision of another Governing Body concerning a Professional Geoscientist found guilty of professional misconduct, incompetence, conduct unbecoming a Professional Geoscientist or any other breach of a Professional Geoscientist's professional responsibilities will be proof of that Professional Geoscientist's guilt.

### **Periodic Review**

23. The signatory Governing Bodies will review this agreement from time to time in order to discuss any issues that may arise regarding the agreement or its application. Notwithstanding the above, the signatory Governing Bodies will review the agreement in its entirety no later than 5 years from the reference date of this agreement and every 5 years thereafter. .

## Transition Provisions

24. This agreement is a multi-lateral agreement, effective respecting the Governing Bodies that are signatories, and it does not require unanimous agreement of Canadian Governing Bodies.
25. Provisions governing intra-jurisdictional mobility in effect at the time that a Governing Body becomes a signatory to this agreement will continue in effect:
  - (a) with respect to all Canadian Professional Geoscientists until this agreement is implemented; and
  - (b) with respect to members or Licensees of Canadian Governing Bodies that are not signatories to this agreement.
26. This agreement will be implemented as between two signatory Governing Bodies when both signatories agree in writing to implement this agreement; such implementation agreement may be in the form of Schedule C, attached hereto.
27. Any Governing Bodies that wish to become signatory parties to this agreement, but whose legislative or other authority does not currently permit them to comply with some or all of the terms of this agreement, may be governed by the Temporary Provisions set out in Schedule B, provided that these Governing Bodies agree to make every reasonable effort to obtain the necessary legislative or other amendments in accordance with clause 2(a).
28. The Temporary Provisions will expire, with respect to any given TPHJ, 5 years from the date the TPHJ became a signatory to this agreement, unless otherwise extended in writing by agreement of all signatory Governing Bodies.

## **Withdrawal & Dispute Settlement**

- 29.** A signatory may cease to be bound by this agreement by giving each other signatory written notice of at least six months.
- 30.** A signatory that gives notice under clause **28** will:
- (a) immediately notify its Professional Geoscientists of the effective date of withdrawal; and
  - (b) require that its Professional Geoscientists who Provide Geoscience Services in the jurisdiction of another signatory Governing Body ascertain from that Governing Body its requirements for inter-provincial mobility before Providing Geoscience Services in that jurisdiction after the effective date of withdrawal.
- 31.** If a dispute arises between two or among signatories in connection with this agreement, or in respect of any legal relationship associated with or derived from this agreement:
- (a) those signatories will make best efforts to resolve the dispute informally; and
  - (b) if a dispute cannot be resolved informally within a reasonable time, those signatories may mediate the dispute at their own expense.

### **Counterpart:**

- 32.** This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

**SIGNED BY**

**The Association of Professional Engineers and Geoscientists of British Columbia**

\_\_\_\_\_  
Michael Isaacson, P.Eng., PhD, President

\_\_\_\_\_  
Ann English, P.Eng., Chief Executive Officer & Registrar

**The Association of Professional Geoscientists of Ontario**

\_\_\_\_\_  
\_\_\_\_\_, President

\_\_\_\_\_  
Gord White, Chief Executive Officer

SCHEDULE A

FORM OF AGREEMENT FOR ADDITIONAL SIGNATORY

The undersigned:

- (a) wishes to become a signatory to the Professional Geoscience Mobility Agreement;
- (b) is a Governing Body as defined in the Professional Geoscience Mobility Agreement; and
- (c) hereby agrees to be bound by the terms and conditions of the Professional Geoscience Mobility Agreement.

***SIGNATORY BODY***

\_\_\_\_\_  
*Name, Title*

\_\_\_\_\_  
*Name, Title*

DATED

## SCHEDULE B

### TEMPORARY PROVISIONS

#### WHEREAS:

- the legislation of some Governing Bodies does not permit them to implement this agreement;
- these Governing Bodies have agreed to pursue the necessary legislative changes to allow them to implement this agreement;
- until such legislative change is achieved, these Governing Bodies wish to participate in the implementation of this agreement;
- these Governing Bodies will make best efforts to replicate the spirit and intent of the agreement in terms of cost and efficiency within the restrictions imposed by their legislation
- this Schedule B sets out such temporary provisions (“**Temporary Provisions**”) that will govern temporary practice of Professional Geoscientists in these Governing Bodies until such time as the appropriate legislation is amended or as otherwise provided for in this agreement; and
- the Governing Bodies subject to these Temporary Provisions agree to pursue any legislative changes in the spirit in which this agreement was drafted.

#### NOW THEREFORE:

- TP1. If a Governing Body is subject to these Temporary Provisions (a “**Temporary Provision Host Jurisdiction**”, or “**TPHJ**”) and a Professional Geoscientist wishes to Provide Geoscience Services in a TPHJ on a temporary basis, then the Professional Geoscientist, before providing any such services in the TPHJ will, in writing:
- (a) apply to the TPHJ Governing Body in accordance with the applicable bylaws (or equivalent);
  - (b) pay the required fee, if any, to the TPHJ Governing Body;
  - (c) confirm Canadian citizenship, permanent residency, or otherwise lawful ability to work in Canada, if required by the TPHJ Governing Body; and
  - (d) confirm to the TPHJ Governing Body membership or licensure in good standing in one or more Home Jurisdictions, if required by the TPHJ Governing Body.
- TP2. A TPHJ Governing Body will allow a Professional Geoscientist from another jurisdiction that is a signatory to this agreement to Provide Geoscience Services in the TPHJ on a temporary basis, **for a total of not more than 45 Days in a calendar year**, provided the Professional Geoscientist:
- a. Complies with the requirements in clause TP1;
  - b. meets the criteria in clause **10**; and

c. has not established an economic nexus with the TPHJ as described in clause **13**.

TP3. Notwithstanding clauses 18-22 of the agreement, the TPHJ may conduct its own investigation into the conduct of a Professional Geoscientist Providing Geoscience Services on a temporary basis in the TPHJ pursuant to clause TP1

TP4. A Professional Geoscientist whose Home Jurisdiction is a TPHJ may Provide Geoscience Services in a Host Jurisdiction under the same terms and conditions as a Professional Geoscientist whose Home Jurisdiction is not a TPHJ.

**AGREEMENT IMPLEMENTING THE PROFESSIONAL GEOSCIENCE MOBILITY AGREEMENT BETWEEN APGO  
AND APEGBC**

WHEREAS:

The undersigned:

- (a) Are signatories to the Professional Geoscience Mobility Agreement (the "Agreement") dated October 9, 2013;
- (b) Are Governing Bodies as defined in the Agreement; and
- (c) Wish to implement the Agreement as between their jurisdictions;

NOW THEREFORE:

The signatories agree that the Agreement will be in effect as between the undersigned as of **January 1, 2014**.

This signatories agree that this Implementation Agreement may be executed in counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

DATED: October 10, 2013

**The Association of Professional Engineers and  
Geoscientists of British Columbia**

\_\_\_\_\_  
Michael Isaacson, P.Eng, PhD, President

\_\_\_\_\_  
Ann English, P.Eng, Chief Executive  
Officer and Registrar

**The Association of Professional Geoscientists of  
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