

**Ontario Non-Union Education Trust (ONE-T)/
Fiducie des employées et des employés non-syndiqués en éducation
de l'Ontario (FENSÉO)**

TRUST AGREEMENT

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THIS TRUST AGREEMENT made as of the _____ day of _____, 2017

B E T W E E N:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented
by the Minister of Education ("CROWN")**

OF THE FIRST PART

- and -

TRUSTEES' ASSOCIATIONS:

**THE ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION ("OCSTA")
THE ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION ("OPSBA")
ASSOCIATION DES CONSEILS SCOLAIRES DES ÉCOLES PUBLIQUE DE
L'ONTARIO ("ACÉPO")
ASSOCIATION FRANCO-ONTARIENNE DES CONSEILS SCOLAIRES
CATHOLIQUES ("AFOCSC")**

OF THE SECOND PART

- and -

PRINCIPALS' AND VICE-PRINCIPALS' ASSOCIATIONS:

**ASSOCIATION DES DIRECTIONS ET DIRECTIONS ADJOINTES DES ÉCOLES
FRANCO-ONTARIENNES ("ADFO")
CATHOLIC PRINCIPALS' COUNCIL ONTARIO ("CPCO")
ONTARIO PRINCIPALS' COUNCIL ("OPC")**

OF THE THIRD PART

- and -

**CONSEIL DES ASSOCIATIONS EN EDUCATION POUR LES AVANTAGES
SOCIAUX/EDUCATION COUNCIL OF ASSOCIATIONS FOR BENEFITS
("CAEAS/ECAB")**

OF THE FOURTH PART

WHEREAS, pursuant to Letter of Agreement #8 (forming part of the Memorandum of Settlement for principals and vice-principals executed on April 18, 2016 between the Crown, OCSTA, ACÉPO, AFOCSC, and OPSBA [the latter four, collectively, the "Trustees' Associations"] and ADFO, CPCO, and OPC [the latter three, collectively, the "Principals' and Vice-Principals' Associations"], as amended by an Extension Agreement (the "Extension Agreement") and an Amendment Letter ("Amendment Letter") both dated May 18, 2017 between the Crown, the Trustees' Associations and the Principals' and Vice-Principals' Associations ("Letter of Agreement #8")), it has been agreed that an employee life and health trust to be known as the "Ontario Non-Union Education Trust (ONE-T) / Fiducie des employés et des employées non-syndiqués en éducation de l'Ontario (FENSEÓ) " (the "ELHT") will be established and that a trust agreement (the "Agreement", as defined herein) shall prescribe the terms and conditions of such employee life and health trust established for the benefit of the Participants, Retired Employees and their Beneficiaries as defined in this Agreement;

AND WHEREAS, Letter of Agreement #8 referenced above provides for the participation of all employees covered by the Memorandum of Settlement for PVPs in the ELHT;

AND WHEREAS, Letter of Agreement # 8 referenced above also provides for the participation of other Non-Union Employees (School Board) and Non-Union Employees (Eligible Employers) (as defined herein) in the ELHT;

AND WHEREAS, CAEAS/ECAB is a not-for-profit entity that is not a collective bargaining agent for labour relations purposes but has been incorporated for the purpose of considering the interests of Non-Union Employees (School Board) in the formation and governance of the ELHT;

AND WHEREAS the Trust Agreement is a unique agreement that was negotiated outside the framework of the *School Boards Collective Bargaining Act, 2014* and the *Labour Relations Act, 1995*,

AND WHEREAS this Trust Agreement is not intended to set a precedent for any type of future bargaining process as between CAEAS/ECAB and the Trustees' Associations and/or the Crown, whether under the *School Boards Collective Bargaining Act, 2014*, the *Labour Relations Act, 1995*, or otherwise;

AND WHEREAS it is intended that the Trust and the terms hereof will at all times meet the requirements for an "employee life and health trust" within the meaning of the Income Tax Act (Canada) ("ITA");

AND WHEREAS the purpose of the Trust is to provide benefits to non-unionized employees in the education sector in the Province of Ontario on a sustainable, efficient and cost effective basis;

AND WHEREAS any employer bound by the terms and conditions of the Memorandum of Settlement for PVPs must participate in the Trust in respect of employees covered by the Memorandum of Settlement for PVPs;

AND WHEREAS each School Board, as defined herein, that employs Non-Union Employees (School Board) must enter into a Participation Agreement with the Trustees in order to participate in the ELHT in respect of its current and retired Non-Union Employees (School Board);

AND WHEREAS the Trust may also provide Benefits, as defined herein, to other non-unionized employees in the publicly funded elementary and secondary education sector in Ontario on terms that are agreeable to the Trustees and permitted under the Memorandum of Settlement for PVPs;

AND WHEREAS the Parties desire to declare the Trust's terms and conditions upon which the Trustees hold the contributions and all future property acquired by the Trustees in trust for the beneficiaries of the Trust;

NOW THEREFORE, the Parties agree, as follows:

ARTICLE 1 – DEFINITIONS

- (a) **"Accounting Division"** shall mean an accounting division of a Retiree Plan, and shall include the CAEAS/ECAB Under-65 Accounting Division, the CAEAS/ECAB 65+ Accounting Division, the PVP Under-65 Accounting Division, and the PVP 65+ Accounting Division and the PVP Voluntary Retirees Accounting Division.
- (b) **"Actuary"** means the person, corporation or firm appointed by the Trustees to be the actuary for the Board of Trustees, who shall be, or in the case of a firm or corporation, a member of the staff shall be, a Fellow of the Canadian Institute of Actuaries;
- (c) **"Agreement"** means this trust agreement and any amendment to it and any instrument supplemental or ancillary to it, including its Schedules and Appendices, and any amendment to any such instrument;
- (d) **"Applicable Legislation"** means all statutes of Canada or of Ontario, together with the regulations thereunder, as amended from time to time, which require compliance by a Plan or the Fund;
- (e) **"Authorized Investments"** means investments made by the Trustees in accordance with any investment policies or guidelines they may adopt from time to time;
- (f) **"Beneficiary"** means the eligible dependents and beneficiaries of a Participant or Retired Employee as defined in a Plan;

- (g) **"Benefits"** means health (including but not limited to vision and travel), life and dental benefits, including accidental death and dismemberment (AD&D), medical second opinion, and navigational support benefits that qualify as "designated employee benefits" under section 144.1(1) of the Income Tax Act (Canada), as amended from time to time;
- (h) **"Benefit Plan" or "Plan"** means a plan for the provision of Benefits to a group of Participants, or a group of Retired Employees, which shall set out the applicable Eligibility Requirements and the Benefits to be provided to those Participants or Retired Employees, to be funded from the Separate Account maintained in respect of the Plan;
- (i) **"CAEAS/ECAB 65+ Accounting Division"** has the meaning ascribed to it in section 13.1(g)(v) of this Agreement;
- (j) **"CAEAS/ECAB Covered Retirees"** has the meaning ascribed to it in section 1(ooo)(ii) of this Agreement;
- (k) **"CAEAS/ECAB Designated Executive Retirees"** has the meaning ascribed to it in section 1(ooo)(v) of this Agreement;
- (l) **"CAEAS/ECAB Participants"** has the meaning ascribed to it in section 1(ss)(ii) of this Agreement;
- (m) **"CAEAS/ECAB Plan"** means the Benefit Plan for Participants covered by either a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees or such other Participation Agreements that provide coverage to Participants in the CAEAS/ECAB Plan, as amended from time to time, funded by the CAEAS/ECAB Separate Account.
- (n) **"CAEAS/ECAB Retirees"** means, collectively, the CAEAS/ECAB Covered Retirees, the CAEAS/ECAB Voluntary Plan Retirees and the CAEAS/ECAB Designated Executive Retirees;
- (o) **"CAEAS/ECAB Separate Account"** means the Separate Account maintained by the Trustees within the ELHT with respect to the CAEAS/ECAB Plan, and shall comprise:
 - (i) the Crown Claims Fluctuation Reserve Payments (CAEAS/ECAB) paid to the Trustees;
 - (ii) additional Claims Fluctuation Reserve payments made by Participating Employers in respect of Participants in the CAEAS/ECAB Plan;
 - (iii) Employer Contributions in respect of CAEAS/ECAB Participants provided for under a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees or such other Participation

Agreements as provides coverage to Participants in the CAEAS/ECAB Plan;

- (iv) Employee Contributions in respect of the CAEAS/ECAB Plan, as required by the Trustees;
- (v) all other property which is acquired at any time by the Trustees for the CAEAS/ECAB Separate Account; and
- (vi) all capital accretions and income arising from all property referred to in paragraphs (i), (ii), (iii), (iv) and (v) above;

less any authorized payments therefrom;

- (p) **"CAEAS/ECAB Under-65 Accounting Division"** has the meaning ascribed to it in section 13.1(g)(i) of this Agreement;
- (q) **"CAEAS/ECAB Voluntary Plan Retirees"** has the meaning ascribed to it in section 1(ooo)(iv) of this Agreement;
- (r) **"Cessation Date"** means the date as of which a person who was a Trustee ceases to be a Trustee.
- (s) **"Claims Fluctuation Reserve" or "CFR"** means a reserve held as part of a Separate Account, with respect to a Plan, to offset future adverse claims fluctuations;
- (t) **"Confidential Information"** has the meaning ascribed to it in section 22.5 of this Agreement;
- (u) **"Consultant"** means such person, firm or corporation as may be appointed from time to time by the Trustees for the purpose of consulting with and advising the Trustees with respect to a Plan;
- (v) **"Contributions"** means Employer Contributions and Employee Contributions;
- (w) **"Crown Claims Fluctuation Reserve Payments (CAEAS/ECAB)"** means the one-time contributions by the Crown to the CAEAS/ECAB Separate Account in respect of the CAEAS/ECAB Plan as set out in section 17.1(a)(ii);
- (x) **"Crown Claims Fluctuation Reserve Payments (PVP)"** means the one-time contributions by the Crown to the PVP Separate Account in respect of the PVP Plan as set out in section 17.1(a)(i);
- (y) **"Custodian"** means any custodian appointed by the Trustees in accordance with section 11.12;

- (z) **"Designated Executive"** means a Non-Union Employee (School Board) who is a designated executive as defined under the *Broader Public Sector Executive Compensation Act, 2014*, as amended from time to time;
- (aa) **"Designated Employer"** means a Participating Employer that is a designated employer as defined under the *Broader Public Sector Executive Compensation Act, 2014*, as amended from time to time;
- (bb) **"Education Sector Employee Life and Health Trusts"** means the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSEO) the Ontario English Catholic Teachers' Association Employee Life and Health Trust, the Ontario Secondary School Teachers' Federation Employee Life and Health Trust, the Elementary Teachers' Federation of Ontario Employee Life and Health Trust, the Fiducie de soins de santé au bénéfice d'employés de l'AEFO, the CUPE Education Workers' Benefits Trust and any other Employee Life and Health Trusts providing Benefits to employees employed by an Eligible Employer;
- (cc) **"Eligible Employer"** means a School Board, each Trustees' Association, CAEAS/ECAB and each Principals' and Vice-Principals' Association that is a Party hereto, in their capacity as employers, any existing (as at the date of this Agreement) transportation or back office consortium providing services to School Boards, and such other employer of non-unionized employees in the publicly funded elementary and secondary education sector in Ontario as agreed by the Parties from time to time;
- (dd) **"Eligibility Requirements"** means the rules, regulations and procedures for determining the eligibility, or the discontinuance of eligibility, for Benefits, as set out in a Plan, as amended from time to time;
- (ee) **"Employee Contributions"** means any and all sums of money required to be paid by Participants to the Trustees, as determined by the Trustees from time to time;
- (ff) **"Employee Trustees"** has the meaning ascribed to it in section 10.1(a) of this Agreement;
- (gg) **"Employer Contributions"** means any and all sums of money required to be paid by a Participating Employer to the Trustees pursuant to:
 - (i) a last executed Memorandum of Settlement for PVPs;
 - (ii) a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ ECAB Retirees;
 - (iii) an Other Participation Agreement; or
 - (iv) this Agreement.

- (hh) **"Employer Sponsored Retiree Arrangement"** means a Benefit Plan for PVP Retirees who retire prior to April 1, 2018 and were eligible for coverage under a Predecessor Retiree Benefit Plan immediately prior to being eligible for Benefits from the Employer Sponsored Retiree Arrangement.
- (ii) **"Employer Trustees"** has the meaning ascribed to it in section 10.1(b) of this Agreement;
- (jj) **"Fund" or "Trust Fund"** means the Ontario Non-Union Education Trust (ONE-T)/Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) Employee Life and Health Trust fund established by this Trust Agreement and comprises all property or interests in property held by the Trustees from time to time under this Trust Agreement;
- (kk) **"Funding Policy"** means a policy adopted by the Trustees pursuant to section 17.4 or section 18.3, as applicable, governing the financial basis upon which Benefits are provided to Participants, Retired Employees and Beneficiaries and setting out the consequences of deficiencies or surpluses in relation to a Plan's liabilities and the consequences of Contribution shortfalls or excesses in relation to the costs of a Plan;
- (ll) **"Income Tax Act (Canada)"** means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), and the regulations thereunder, as amended from time to time;
- (mm) **"Insurance Company"** means an insurance company licensed to carry on business in Canada;
- (nn) **"Memorandum of Settlement for PVPs"** means the agreement between the Trustees' Associations, the Principals' and Vice-Principals' Associations, and agreed to by the Crown, for the initial term of September 1, 2014 to August 31, 2018 inclusive and including Letter of Agreement #8, to which the Crown is a party, as modified by the Extension Agreement and the Amendment Letter with any and all supplements, extensions and renewals thereof and successor agreements thereto;
- (oo) **"Non-Union Employee (School Board)"** means a person who is employed by a School Board on a non-unionized basis and who is not a PVP;
- (pp) **"Non-Union Employee (Eligible Employer)"** means a person who is employed by an Eligible Employer that is not a School Board on a non-unionized basis and who is not a PVP;
- (qq) **"Other Participants"** has the meaning ascribed to it in section 1(ss)(iii) of this Agreement;

- (rr) **"Other Participation Agreement"** has the meaning ascribed to it in section 1(uu)(ii) of this Agreement;
- (ss) **"Participant "** means a person who:
- (i) is a PVP employed by a Participating Employer ("PVP Participants");
 - (ii) is a Non-Union Employee (School Board) covered by a Participation Agreement ("CAEAS/ECAB Participants"); or
 - (iii) is a Non-Union Employee (Eligible Employer) who is employed by a Participating Employer that is party to an Other Participation Agreement ("Other Participants");
- (tt) **"Participating Employer"** means every Eligible Employer who:
- (i) in respect of employees covered by the Memorandum of Settlement for PVPs and PVP Retirees, is, as of September 1, 2014, a School Board and is bound by the Memorandum of Settlement for PVPs;
 - (ii) in respect of Non-Union Employees (School Board) or CAEAS/ECAB Retirees who are covered by a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees, is a School Board party to such a Participation Agreement; or
 - (iii) is bound by an Other Participation Agreement that covers Non-Union Employees (Eligible Employer) or Retired Employees;
- and shall include their successors and assigns;
- (uu) **"Participation Agreement"** means:
- (i) with respect to CAEAS/ECAB Participants or CAEAS/ECAB Retirees, an agreement in writing between the Trustees and the Eligible Employer in a form prescribed in accordance with section 7.1 that, among other things, provides that such group of Participants or Retired Employees is eligible for Benefits coverage by the Trust, stipulates the Contribution requirements in respect of such group of persons and binds the Eligible Employer to this Agreement ("Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees"); and
 - (ii) in the case of any other person, an agreement in writing between the Trustees and an Eligible Employer, in a form prescribed by the Trustees in accordance with section 7.2 that, among other things, provides that such person is eligible for Benefits coverage by the

Trust, stipulates the Contribution and data requirements in respect of such person (or group of persons to which he belongs) and binds the Eligible Employer to this Agreement ("Other Participation Agreement");

- (vv) **"Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees"** has the meaning ascribed to it in section 1(uu)(i) of this Agreement;
- (ww) **"Participation Date"** means the date that a Participating Employer commences participation in the Trust, and, in respect of Participants, PVP Retirees and CAEAS/ECAB Retirees, on or before April 1, 2018, or otherwise as determined by the Parties, acting reasonably, provided, for purposes of clarity, that the Parties may agree to change the Participation Date for some groups without changing the Participation Date for other groups.
- (xx) **"Party"** means the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB individually and **"Parties"** means the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB collectively;
- (yy) **"Predecessor Retiree Benefit Plan"** means a benefit plan provided by a Participating Employer to Retired Employees immediately prior to the applicable Participation Date;
- (zz) **"Prime Rate"** means the rate of interest per annum from time to time publicly quoted by the main branch of the Schedule 1 bank selected by the Trustees, as being the reference rate of interest (commonly known as its "prime rate") used by it to determine rates it will charge on loans to its commercial customers of varying degrees of creditworthiness;
- (aaa) **"Prior Arrangements"** has the same meaning as the reference to 'prior arrangements' in section 3.2.0 of the Memorandum of Settlement for PVPs;
- (bbb) **"PVP"** means a person who is a Principal or Vice-Principal covered by section P.2.0 of Appendix 1 to the Memorandum of Settlement for PVPs;
- (ccc) **"PVP 65+ Accounting Division"** has the meaning ascribed to it in section 13.1(g)(iv) of this Agreement;
- (ddd) **"PVP Covered Retirees"** has the meaning ascribed to it in section 1(ooo)(i) of this Agreement;
- (eee) **"PVP Participant"** has the meaning ascribed to in section 1(ss)(i) of this Agreement;

- (fff) **"PVP Plan"** means the Benefit Plan for the provision of Benefits to Participants covered by the Memorandum of Settlement for PVPs or a Participation Agreement with a Principals' and Vice-Principals' Association covering its employees, as amended from time to time, funded by the PVP Separate Account;
- (ggg) **"PVP Retiree Premium Share"** has the meaning ascribed to it in section 13.4 of this Agreement;
- (hhh) **"PVP Retirees"** means PVP Covered Retirees and PVP Voluntary Retirees.
- (iii) **"PVP Separate Account"** means the Separate Account maintained by the Trustees within the ELHT with respect to the PVP Plan, and shall comprise:
- (i) the Crown Claims Fluctuation Reserve Payment (PVP) paid to the Trustees;
 - (ii) additional Claims Fluctuation Reserve payments made by Participating Employers in respect of Participants in the PVP Plan;
 - (iii) Employer Contributions in accordance with the Memorandum of Settlement for PVPs, and such other Employer Contributions as provided for under a Participation Agreement with a Principals' and Vice-Principals' Association;
 - (iv) Employee Contributions in respect of the PVP Plan, as required by the Trustees;
 - (v) all other property which is acquired at any time by the Trustees for the PVP Separate Account; and
 - (vi) all capital accretions and income arising from all property referred to in paragraphs (i), (ii), (iii), (iv) and (v) above;
- less any authorized payments therefrom;
- (jjj) **"PVP Under-65 Accounting Division"** has this meaning ascribed to it in section 13.1(g)(ii) of this Agreement;
- (kkk) **"PVP Voluntary Plan Retirees"** has the meaning ascribed to it in section 1(ooo)(iii) of this Agreement;
- (III) **"PVP Voluntary Retirees Accounting Division"** has this meaning ascribed to it in section 13.1(g)(iii) of this Agreement;
- (mmm) **"Remaining Start-up Costs"** means the unspent portions, if any, of the start-up funding to be provided by the Crown under the Memorandum of Settlement for PVPs and related Transfer Payment Agreement, and the

Transfer Payment Agreement for CAEAS/ECAB, as start-up costs for the Trust;

- (nnn) **"Retiree Plan"** means a plan for the provision of Benefits to a group of Retired Employees which shall set out the applicable Eligibility Requirements and the Benefits to be provided to those Retired Employees, to be funded from the Separate Account maintained in respect of the Plan;
- (ooo) **"Retired Employee"** means a person who is identified to the Trustees as a Retired Employee by a Participating Employer and who:
- (i) was employed as a PVP by a Participating Employer, and was eligible for coverage under a Predecessor Retiree Benefit Plan on or before September 1, 2013 and continued to be eligible for coverage in the Predecessor Retiree Benefit Plan immediately prior to April 1, 2018 ("PVP Covered Retirees");
 - (ii) is or was employed as a Non-Union Employee (School Board) by a Participating Employer and retired on or prior to August 31, 2019, and at his date of retirement is or was eligible to receive retiree benefits under an enforceable provision of his terms and conditions of employment with a Participating Employer, in respect of which the Participating Employer is required to pay some or all of the cost, and is covered by Part B of a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees ("CAEAS/ECAB Covered Retirees");
 - (iii) was employed as a PVP by a Participating Employer, is not included in (i) above, and was covered under a Predecessor Retiree Benefit Plan after September 1, 2013 and prior to April 1, 2018 and continued to be covered under a Predecessor Retiree Benefit Plan immediately prior to April 1, 2018 ("PVP Voluntary Plan Retirees");
 - (iv) is or was employed as a Non-Union Employee (School Board) by a Participating Employer and retired on or prior to August 31, 2019, and at his date of retirement is or was eligible to receive retiree benefits under an enforceable provision of his terms and conditions of employment with a Participating Employer, in respect of which the Participating Employer is not required to pay any part of the costs, and is covered by Part B of a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees; ("CAEAS/ECAB Voluntary Plan Retirees");
 - (v) is or was a Designated Executive who ceased employment before the third anniversary of the posting of a Designated Employer's first compensation program under the *Broader Public Sector Executive Compensation Act, 2014* or any successor legislation thereto and

whose terms and conditions of employment at the time of cessation of employment contained an enforceable provision entitling them to post-retirement benefits and is covered by Part B of a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees; ("CAEAS/ECAB Designated Executive Retirees"); and

- (vi) was a Non-Union Employee (Eligible Employer) who retired on or before August 31, 2019, whose terms and conditions of employment contained an enforceable provision entitling them to post-retirement benefits and is covered by an Other Participation Agreement;
- (ppp) **"Retired Employee Premium Share"** means the amount, that a Retired Employee must pay as a condition for coverage under a Retiree Plan;
- (qqq) **"School Board"** means a district school board or a school authority, within the meaning of the *Education Act*, R.S.O. 1990 c E.2 and the regulations thereunder, as amended from time to time;
- (rrr) **"Separate Account"** means a segregated fund or segregated account within the ELHT used for the provision of Benefits in accordance with the terms of a Plan to a discrete and identifiable group of Participants and, for greater certainty, notwithstanding any other provision of this Agreement, the assets allocated to a Separate Account shall form part of the Fund;
- (sss) **"Terminal Retiree Arrangement Deficiency Formula"** means the formula for allocating a terminal deficiency in an Accounting Division of the Retiree Plan among Participating Employers, as set out in Schedule "J";
- (ttt) **"Termination Date"** means the earlier of:
 - (i) the date upon which the entirety of the Fund is transferred to the trustee of a successor trust; or
 - (ii) a future date determined under section 20.1 and occurring before the date specified in paragraph (i) above;
- (uuu) **"Third Party Administrator"** means a person or persons, including one or more employees, or a firm or corporation, appointed by the Trustees to perform duties and responsibilities related to the administration of one or more Benefit Plans;
- (vvv) **"Transfer Payment Agreement"** means an agreement between the Crown and the PVP Associations or between the Crown and CAEAS/ECAB, as the case may be, setting out the terms and conditions on the funds provided by the Crown as start-up costs for the Trust;

- (www) **"Trust"** and **"ELHT"** means the Ontario Non-Union Education Trust (ONE-T)/ Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO);
- (xxx) **"Trustees"** means the initial trustees appointed under section 10.1 hereof and any additional and replacement trustees, and "Board of Trustees" shall mean all of the Trustees in office at the relevant time;
- (yyy) **"Voluntary Plan"** means a Benefit Plan that is fully, partly or not insured and is funded through individual premiums paid by Retired Employees.

ARTICLE 2 – SETTLEMENT AND INTERPRETATION

2.1 Settlement of Trust Fund

The Crown shall pay the Crown Claims Fluctuation Reserve Payments (PVP) and the Crown Claims Fluctuation Reserve Payments (CAEAS/ECAB) to the Trustees on or before April 1, 2018.

2.2 Interpretation

In this Agreement, unless the context otherwise requires or it is otherwise specifically provided, words importing the singular include the plural and vice-versa, and words importing gender will include the masculine, feminine and other genders. The headings in this document are for convenience only and do not form part of this Agreement.

ARTICLE 3 – NAME AND TITLE, PAYMENTS

3.1 Name and Title

The Trust hereunder shall be known as the "Ontario Non-Union Education Trust (ONE-T)/ Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)," provided that the Trustees may change the name of the Trust or carry on business under a different name. The title to all assets of the Fund shall be jointly vested in the Trustees. The Trustees shall jointly hold the property of the Fund and shall deal with it in accordance with the terms of this Agreement. The name of the Trust set out above may be used to refer to the Trustees collectively, and all agreements and other instruments may be entered into and executed by or on behalf of the Trustees in such name.

3.2 Manner of Payment

All payments and Contributions may be made payable to the "Trustees of the Ontario Non-Union Education Trust (ONE-T)/ Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO),"

3.3 Legal Sources of Payments

The Trustees may accept money or property from sources other than those described in this Agreement provided that acceptance from any such other source is not contrary to the terms of this Agreement and does not cause the Trust to lose its status as an "employee life and health trust" within the meaning of the Income Tax Act (Canada).

ARTICLE 4 – PURPOSE AND APPLICATION OF TRUST FUND

4.1 Purpose

The Trust is established for the sole purpose of providing Benefits to the Participants, Retired Employees and Beneficiaries.

4.2 Employee Life and Health Trust

The Trustees shall administer the Fund and the Plans as an employee life and health trust in compliance with section 144.1 of the Income Tax Act (Canada) as amended.

4.3 Rights or Interest

Neither the Parties hereto, nor any Participating Employer, Participant, Retired Employee, Beneficiary, or any other person, association, firm or corporation, shall have any right, title or interest in or to the assets of the Fund or any Separate Account, except as specifically provided by this Trust Agreement or a Plan and as may be permitted by Applicable Legislation; provided however that nothing in the Trust Agreement shall prevent a Contribution, made by a Participating Employer, Participant or Retired Employee by mistake of fact, from being returned by the Trustees to such person.

4.4 Seizure or Attachment

Subject to terms of any Plan and the laws of the Province of Ontario, no monies, property or equity of any nature whatsoever in the Fund or in any Separate Account, or policies or benefits or monies payable therefrom, shall be subject in any manner by any Participant, Retired Employee or Beneficiary or person claiming through such Participant, Retired Employee or Beneficiary or otherwise, to anticipation, alienation, seizure, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, execution, mortgage, lien or charge. If by reason of any seizure or sale or any attempted sale under any legal, equitable or other process or by way of any suit or proceedings, any Benefit becomes payable to any person other than the Participant, Retired Employee or Beneficiary for whom the same is intended, as provided in a Plan, the Trustees shall have the power to withhold payment of such benefit to such Participant, Retired Employee or Beneficiary until such anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, mortgage, lien, charge or seizure or other legal process is cancelled or withdrawn, and the

Trustees shall have the right to use and apply the amount of such Benefit during such period as the Trustees may deem best for the support and maintenance of such Participant, Retired Employee or Beneficiary.

4.5 No Diversion

Except as otherwise provided herein, at no time prior to the termination and wind-up of the Fund shall any part of the corpus or income of the Fund, including the Separate Accounts, be used for or diverted to purposes other than the provision of Benefits for the exclusive benefit of Participants, Retired Employees and Beneficiaries, and in connection therewith the payment of reasonable costs of establishment, amendment and administration of the Trust and Plans and the investment of the Fund including the compensation of the Trustees payable in accordance with the terms of this Agreement and all other disbursements reasonably made and expenses incurred in the performance of the duties of the Trustees hereunder or arising out of the Trust.

4.6 No Guarantee

Nothing contained in the Trust or a Plan shall constitute a guarantee that the assets of any Separate Account will be sufficient to pay any Benefits offered from time to time under a Plan to any person throughout his lifetime or make any other payment. The obligation of the Trustees to pay Benefits provided under a Plan is expressly conditioned on the sufficiency, in their judgment, of the assets and expected income and Contributions allocated and to be allocated in the future to the Separate Account maintained in respect of such Plan.

4.7 Binding Effect

It is hereby agreed that the Trust Agreement is binding on the Crown, Trustees' Associations, Principals' and Vice-Principals' Associations, CAEAS/ECAB, the Participating Employers, and all Participants, Retired Employees and Beneficiaries and their respective heirs, executors, administrators, successors and assigns, and, in this regard, the Trustees' Associations each represent and warrant that they have the authority to bind the School Boards set out in Schedules "A", "B", "C", "D" respectively to this Trust Agreement, as applicable, with respect to Participants and Retired Employees who are covered by the Memorandum of Settlement for PVPs.

ARTICLE 5 – ESTABLISHMENT AND AMENDMENT OF PVP PLAN AND CAEAS/ECAB PLAN

5.1 Establishment of the PVP Plan

Subject always to the requirements of this Agreement and the Memorandum of Settlement for PVPs, the Trustees shall establish the PVP Plan. The PVP Plan shall define the Eligibility Requirements and the Benefits to be provided to Participants covered by the Memorandum of Settlement for PVPs as well as to

Participants employed by a PVP Association that are bound by an Other Participation Agreement, and their eligible beneficiaries.

5.2 **Amendment of the PVP Plan by the Trustees**

- (a) Subject always to the requirements of the applicable Funding Policy and the Memorandum of Settlement for PVPs and provided that the Trustees may not make any change, modification or alteration that could reasonably be expected to cause the Trust to cease to qualify as an "employee life and health trust" under section 144.1 of the Income Tax Act (Canada), the Trustees may change, modify, or otherwise alter the PVP Plan, in their sole and absolute discretion (including by way of changing, enhancing, reducing or eliminating any benefit or term or condition of eligibility and coverage for a Benefit). Any change, modification or alteration to the PVP Plan may take effect retroactively or otherwise, provided that Benefits, once paid, may not be reclaimed. The PVP Plan may provide different Benefits for different classes of Participants, including, without limitation, different classes of Participants with the same Participating Employer, and may provide for different contributions for such classes.
- (b) A Participating Employer may request that the Trustees provide additional Benefits to one or more of its PVP Participants, notwithstanding that such Benefits are not otherwise provided through the PVP Plan. The Trustees shall provide such Benefits only for the purpose of replicating any Benefits provided to the PVP Participants under his terms and conditions of employment immediately prior to becoming a PVP Participant. Notwithstanding the foregoing, the Trustees shall not be required to provide any additional Benefits where doing so is not possible despite commercially reasonable efforts, or could reasonably be expected to result in the ELHT ceasing to meet the requirements of an "employee life and health trust" within the meaning of the Income Tax Act (Canada). A Participating Employer shall be responsible for the costs of any such additional Benefits, less Employee Contributions, and administrative or other costs incurred by the Trustees to provide these additional Benefits. The Trustees shall not be responsible for any other benefits that are not provided through the ELHT.
- (c) The Trustees shall amend the PVP Plan in accordance with this section where the PVP Funding Policy requires that the PVP Plan be amended.

5.3 **Establishment of the CAEAS/ECAB Plan**

Subject always to the requirements of this Agreement, the Trustees shall establish the CAEAS/ECAB Plan. The CAEAS/ECAB Plan shall define the Eligibility Requirements and the Benefits to be provided to Participants pursuant to:

- (a) Participation Agreements for CAEAS/ECAB Participants and CAEAS/ECAB Retirees; and

- (b) Other Participation Agreements that require participation in the CAEAS/ECAB Plan by Participants covered by those Other Participation Agreements and their Beneficiaries.

The Trustees shall consult with the Trustees' Associations and CAEAS/ECAB and may consult with any of the other Parties in regard to the design of the CAEAS/ECAB Plan.

5.4 **Amendment of the CAEAS/ECAB Plan by the Trustees**

- (a) Subject always to the requirements of the applicable Funding Policy and Schedule "E" to this Agreement, and provided that the Trustees may not make any change, modification or alteration that could reasonably be expected to cause the Trust to cease to qualify as an "employee life and health trust" under section 144.1 of the Income Tax Act (Canada), the Trustees may change, modify, or otherwise alter the CAEAS/ECAB Plan, in their sole and absolute discretion (including by way of changing, enhancing, reducing or eliminating any benefit or term or condition of eligibility and coverage for a Benefit). Any change, modification or alteration to the CAEAS/ECAB Plan may take effect retroactively or otherwise, provided that Benefits, once paid, may not be reclaimed. The CAEAS/ECAB Plan may provide different Benefits for different classes of Participants, including, without limitation, different classes of Participants with the same Participating Employer, and may provide for different contributions for such classes.
- (b) A Participating Employer may request that the Trustees provide additional Benefits to one or more of its CAEAS/ECAB Participants, notwithstanding that such Benefits are not otherwise provided through the CAEAS/ECAB Plan. The Trustees shall provide such Benefits only for the purpose of replicating any Benefits provided to the CAEAS/ECAB Participants under his terms and conditions of employment immediately prior to becoming a CAEAS/ECAB Participant. Notwithstanding the foregoing, the Trustees shall not be required to provide any additional Benefits where doing so is not possible despite commercially reasonable efforts, or could reasonably be expected to result in the ELHT ceasing to meet the requirements of an "employee life and health trust" within the meaning of the Income Tax Act (Canada). A Participating Employer shall be responsible for the costs of any such additional Benefits, less Employee Contributions, and any administrative or other costs incurred by the Trustees to provide these additional Benefits. The Trustees shall not be responsible for any other benefits that are not provided through the ELHT.
- (c) The Trustees shall amend the CAEAS/ECAB Plan in accordance with this section where the CAEAS/ECAB Funding Policy requires that the CAEAS/ECAB Plan be amended.

5.5 Amendment of the PVP Plan and the CAEAS/ECAB Plan by the Parties

The Parties may amend the PVP Plan and CAEAS/ECAB Plan to provide employee benefit programs that prior to such amendment would not be considered to be Benefits, provided that the Parties may not make any change, modification or alteration that could reasonably be expected to cause the Trust to cease to qualify as an "employee life and health trust" under section 144.1 of the Income Tax Act (Canada).

ARTICLE 6 – ESTABLISHMENT OF SEPARATE ACCOUNTS

6.1 Separate Accounts

Subject to any requirements in this Agreement relating to the establishment of a Separate Account for a particular class of Participants or Retired Employees, the Trustees may establish any number of Separate Accounts within the Fund. The assets in each Separate Account shall be, for the purposes of this Agreement and for all other purposes, held as segregated funds and used for the provision of Benefits, in accordance with the terms of a Plan, to a discrete and identifiable group of Participants or Retired Employees, in accordance with the requirements of one or more Participation Agreements or the Memorandum of Settlement for PVPs, as applicable. Under no circumstances shall the assets in a Separate Account be used other than to provide Benefits and fund reserves related to the discrete and identifiable group of Participants or Retired Employees for whom the Separate Account is maintained. Notwithstanding the foregoing, the assets of a Separate Account may be used to pay administrative, litigation and investment costs incurred by the Trustees with respect to the Fund and the Plans generally, and may be commingled with the assets of other Separate Accounts for such purpose, to the extent that such costs are reasonably determined by the Trustees to relate, in whole or in part, to the Separate Account and the Participants or Retired Employees whose Benefits are provided through the Separate Account. For further clarity, the PVP Separate Account, the CAEAS/ECAB Separate Account and the Retiree Plan Separate Account are Separate Accounts for the purposes of this Agreement. Further, each Separate Account shall be maintained for so long as there remain assets credited thereto.

6.2 Pooled Investment

Notwithstanding section 6.1, assets credited to the Trust and to each Separate Account may be pooled for investment purposes, provided that, except as provided in section 6.1 with respect to the payment of administrative, litigation and investment costs, under no circumstances may the assets credited to a Separate Account be available to meet the liabilities of or to subsidize the liabilities of, or defray the expenses attributable to another Separate Account. For greater clarity, costs associated with the investment of assets that have been pooled pursuant to this section 6.2 may be payable from the pooled funds, but shall be allocated on a reasonable basis by the Trustees to the Separate Accounts from which such pooled funds derive.

ARTICLE 7 – PARTICIPATING EMPLOYER OBLIGATIONS – EMPLOYEES

7.1 Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees

In order to participate in the ELHT in respect of its CAEAS/ECAB Participants and CAEAS/ECAB Retirees, each Eligible Employer shall execute a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees in the form attached as Schedule "F", with or without provisions pertaining to CAEAS/ECAB Retirees depending on the Participating Employer's election as to whether their CAEAS/ECAB Retirees will participate in the Retiree Plan. The form of Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees must not conflict with or be inconsistent with this Agreement and may only be amended by agreement of CAEAS/ECAB, the Trustees' Associations and the Crown, and, for greater certainty, may be modified in respect of any one or more Participating Employers.

7.2 Other Participation Agreements

- (a) The form of the Other Participation Agreement in respect of Other Participants shall be prescribed by the Trustees, and may be amended by the Trustees from time to time. An Other Participation Agreement for a PVP Association shall stipulate that Employer Contributions shall be at the same levels as set out in the Memorandum of Settlement for PVPs. Subject to (b), however, an Other Participation Agreement for a Participating Employer other than a PVP Association shall stipulate that Employer Contributions shall be at the same level as the average Employer Contribution rate required under all Participation Agreements for CAEAS/ECAB Participants as determined by the Trustees.
- (b) Where an Eligible Employer is an Eligible Employer by reason of an agreement between the Parties made pursuant to this Agreement, Contributions shall be as determined by agreement between the Eligible Employer and the Trustees.

7.3 No Participation Agreements for Participating Employers Bound to the Memorandum of Settlement for PVPs

For purposes of clarity, Participating Employers bound by the Memorandum of Settlement for PVPs shall participate in the Trust and are bound to the terms of this Agreement without any requirement for a Participation Agreement.

7.4 Contributions by Participating Employers (Participants)

- (a) Subject to (b) and (c), each Participating Employer covered by the Memorandum of Settlement for PVPs or a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees shall promptly pay to the Trustees or to such person, firm or corporation as the Trustees may from time to time direct, all Employer Contributions in the amount and

manner required by this Agreement, the Memorandum of Settlement for PVPs and/or any applicable Participation Agreement, subject to variation of such amounts in accordance with, as applicable, (i) the process for renewal of the Memorandum of Settlement for PVPs, (ii) in respect of CAEAS/ECAB Participants, regulations made by the Lieutenant Governor in Council under the *Education Act* (Ontario) that authorize funding for such contributions or for benefits that may be provided through the Trust or, to the extent that no such regulations are in effect at the time the contributions are due under the Trust Agreement, any Funding Commitment Letter (as such term is defined in Schedule "F") then in effect, provided that any such modifications shall be informed by the process described in Section 10.19, or (iii) otherwise by legal decision or binding agreement entered into among the relevant Parties.

- (b) Each Participating Employer not covered by the Memorandum of Settlement for PVPs or a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees shall promptly pay to the Trustees or to such person, firm or corporation as the Trustees may from time to time direct, all Employer Contributions in the amount and in the manner described in the Other Participation Agreement to which the Participating Employer is a party, until such amounts are varied by a successor or amended Other Participation Agreement.
- (c) All Employer Contributions shall be remitted in equal monthly instalments in advance by the first business day of each month from and after the Participating Employer's Participation Date. Payment by a Participating Employer of Employer Contributions in accordance with the directions of the Trustees shall discharge the Participating Employer of any obligations with respect to the payment or application of such Employer Contributions except as otherwise provided herein, in the Memorandum of Settlement for PVPs or a Participation Agreement where applicable.
- (d) The Participating Employers' absolute obligation to make Employer Contributions to the Fund shall not be subject to any set-off or counter-claim that a Participating Employer may have for any liability of any Participant, Retired Employee or Beneficiary.

7.5 **Calculations to Support Employer Contributions - Participants**

Employer Contributions remitted to the Trust by a Participating Employer during a year with respect to its PVPs and Non-Union Employees (School Board) will be based on the full-time equivalency (FTE) count for PVPs and Non-Union Employees (School Board) multiplied by the applicable fixed amounts per FTE (except for additional amounts payable under Section 5.2(b) or Section 5.4(b)). The FTE count will be as set out in Appendix H of the Education Finance Information System. The FTE count will be the sum of the October 31 FTE plus the March 31 FTE divided by two using the following financial submissions:

(a) **Estimates**

Commencing with payments due each September, the Employer Contributions will be based on the FTE counts included in financial estimates submissions provided by School Boards to the Ministry of Education.

(b) **Revised Estimates**

Commencing with payments due in March, the Employer Contributions will be based on the FTE counts included in financial revised estimates submissions provided by School Boards to the Ministry of Education if the revised estimates show a variance, in aggregate for either the PVP Plan or the CAEAS/ECAB Plan, which is greater than one (1) percent from the financial estimates submission.

(c) **Financial Statements**

The Employer Contributions for the year will be reconciled based on the actual FTE count as reported in the financial statements submissions provided by School Boards to the Ministry of Education. The reconciliation shall be performed by the Participating Employer within sixty (60) days following the receipt of the audited financial statements for the school year by the Participating Employer:

- (i) Where such reconciliation reveals an under-contribution by the Participating Employer for the year, the Participating Employer shall remit the amount of its under-contribution within thirty (30) days of completing the reconciliation.
- (ii) Where such reconciliation reveals an over-contribution by the Participating Employer for the year, the Participating Employer shall be entitled to set off the amount of the over-contribution against its Employer Contributions for the following year until such over-contribution has been recovered.

7.6 Non-Payment by One Contributor

Non-payment by any one required to make Contributions to the Fund shall not relieve any other person of his obligations to make such Contributions hereunder.

7.7 Provision of Data

Each Participating Employer shall provide to the Trustees, or, at the Trustees' direction, to the Third Party Administrator, the data with respect to each Participant, PVP Covered Retiree and PVP Voluntary Plan Retiree, and each Retired Employee covered by a Participation Agreement as set out in Schedule

"G" in the manner and in the formats and at the time or times required by Schedule "G". Schedule "G" shall also specify the consequences, if any, in the event that a Participating Employer does not comply with its requirements. For greater certainty, such consequences may include a requirement for the Participating Employer to cover actual costs incurred by the Trustees or the Third Party Administrator as a result of the Participating Employer's failure to comply within a reasonable time with the data requirements of the Trustees or the Third Party Administrator but shall not, without the agreement of the Parties, include an obligation to pay penalties. The Trustees may amend the data requirements of Schedule "G" from time to time on at least thirty (30) days' notice, or, if the data is held by a third party rather than a Participating Employer and the Trustees' Association, or the Participating Employer, advises the Trustees that such data cannot be provided within thirty (30) days' notice, then such longer period, not to exceed sixty (60) days, as the Trustees determine, advance written notice to the Trustees' Associations (where the Participating Employer is a School Board) and the affected Participating Employers, but may not impose consequences on a Participating Employer except as provided in this section 7.7.

7.8 Incompatible Electronic Systems

Where a Participating Employer cannot provide information in an electronic format compatible with the administrator's systems, the Participating Employer shall provide the required employment information as directed by the Third Party Administrator in advance of a new Participant's commencement of active employment. The Participating Employer shall provide any subsequent demographic or employment changes as specified by the Third Party Administrator within one week of the change occurring. Where a Participating Employer does not have an electronic system that is compatible with the Third Party Administrator, a written member coverage report shall be used as an interim solution until the electronic system required is in place. The Trustees may levy a reasonable charge on any Participating Employer, and the Participating Employer shall pay the charge, whose electronic system is not compatible with the Third Party Administrator's benefit administration systems, in an amount determined by the Trustees to compensate the Trustees for incremental administrative and litigation costs arising from the incompatibility.

7.9 Leaves of Absence

Administration (inclusive of the collection of premiums) of all unpaid leaves of absence, will be the responsibility of the Third Party Administrator. During such leaves of absence, the Participating Employer shall continue to provide HRIS information and updates as required. The Participating Employer shall provide electronic updates of Participants' work status to the Trustees (or, at their direction, the Third Party Administrator), including changes in types of leaves of absence, at least two (2) weeks in advance of the leave.

7.10 Information to Participants

- (a) The Participating Employer shall distribute, either paper distribution or electronically (ex. Employee portal), benefit communication material as provided by the Third Party Administrator to Participants and Retired Employees within ten (10) days of receipt of such material; and
- (b) The Participating Employer shall distribute, either paper distribution or electronically (ex. Employee portal), benefit communication material as provided by the Third Party Administrator to all new Participants and to persons who become Retired Employees within ten (10) days from the date of hire or retirement.

7.11 **Obligation to Furnish Additional Information**

Each Participating Employer will, within thirty (30) days, or, if the data is held by a third party rather than a School Board and the Trustees' Association advises the Trustees that such data cannot be provided on thirty (30 days' notice, then such longer period, not to exceed sixty (60) days as the Trustees determine, of a request from the Trustees or their Third Party Administrator, and on an ongoing basis, provide the Trustees or their designates with such reports, payroll records, timesheets and accounting information and other data as the Trustees may reasonably require for the proper administration of the Trust and the applicable Plan, including, but not limited to, the determination of eligibility to participate in a Plan, changes in status of Participants, Retired Employees or their Beneficiaries, and the determination of the Benefits to be provided under a Plan.

7.12 **Audits**

Each Participating Employer agrees that, upon the written demand of the Trustees, it shall permit a chartered professional accountant acting on the Trustees' behalf, or in accordance with their instructions, to:

- (a) enter upon that Participating Employer's premises at any reasonable time or times, upon giving thirty (30) days written notice, for the purpose of carrying out an inspection, audit or examination of the books of account, documents, payroll records, and other materials relating directly to a Benefit Plan under which current or former employees of the Participating Employer participate or participated, or the obligations of the Participating Employer with respect to the Trust under this Agreement, a Benefit Plan or a Participation Agreement; and,
- (b) make inquiries of the Participating Employer or any persons employed or otherwise engaged by a Participating Employer, solely in respect of matters that may be the subject of such an inspection, audit or examination under section (a), which persons shall cooperate and will produce all books of account, documents, payroll records, or any other material which are relevant to the said inspection, audit or examination;

for the purpose of ensuring that the Participating Employer has been complying with the terms and conditions of the Memorandum of Settlement for PVPs, any

applicable Participation Agreement, this Agreement and any applicable Plan including, and without limiting the generality of the foregoing, complying with its obligations to make Contributions to the Fund. It is agreed that the chartered professional accountant shall not reveal any of the information or documents reviewed or obtained to the Trustees or any other person, unless such inspection, audit or examination reveals that a Participating Employer has failed to carry out its obligations under the Memorandum of Settlement for PVPs, a Participation Agreement, a Plan or this Agreement, in which case the results of the audit shall be disclosed to the Trustees and the Participating Employer. The costs of the chartered professional accountant related to any such inspection, audit or examination shall be borne by the Fund unless it reveals a material breach by the Participating Employer of its obligations, in which case the Participating Employer shall pay such costs.

7.13 Errors and Omissions

Participating Employer errors and retroactive adjustments shall be the responsibility of the Participating Employer. If an error is identified by a Participating Employer, notification must be made to the Trustees within seven (7) days of identification of the error.

7.14 Claims Support

- (a) a Participating Employer shall complete and submit the Waiver of Life Insurance Premium Statement to the Trustees for life waiver claims;
- (b) each Participating Employer shall provide to the Trustees, within thirty (30) days of their Participation Date, all beneficiary designations on behalf of Participants current as of the Participating Employer's Participation Date; and
- (c) each Participating Employer shall encourage Participants to update their beneficiary declarations.

7.15 Grace Period

The Trustees are authorized to establish a reasonable and lawful grace period by which Contributions must be received.

ARTICLE 8 – ENFORCEMENT

8.1 Interest

Whenever and so often as a Participating Employer fails to pay or remit Contributions on or before the date upon which such Contributions were due (subject to any grace period established pursuant to section 7.15) to be paid, such Participating Employer will also pay to the Trust, as liquidated damages, interest at the higher of 1) the rate of borrowing for the Trust plus two (2) percentage points, or 2) two (2) percentage points above the Prime Rate, from the date the Contributions were due to be paid until the

actual date of payment thereof both before and after judgment (if any) and the Trustees shall not seek any higher rate of interest in any proceeding against the Participating Employer as liquidated damages or otherwise.

8.2 Enforcement

Whenever and so often as a Participating Employer fails to pay Contributions required to be paid under this Agreement (subject to any grace period established pursuant to section 7.15) following a written demand for payment from the Trustees containing such detail as a Participating Employer would reasonably require in order to know the amount and circumstances of the alleged default in payment, the Trustees have the right to commence and prosecute legal action in the names of the Trustees against the defaulting Participating Employer for the recovery and payment of the amount of such Contributions accrued due and payable at the date of the commencement of such action, including for interest as provided in section 8.1 accruing from the date the Contributions were due (subject to any grace period established pursuant to section 7.15). The amount of such overdue Contributions and interest, will, for all purposes, be deemed to be held in trust by the Participating Employer for the Trustees. The Trustees may also claim such further and other relief whether with respect to future payments of Contributions or otherwise as may be available to the Trustees. Participating Employers that fail to pay Contributions are also liable for, and shall pay to the Fund, all legal fees and disbursements for the collection of Contributions, reasonably incurred, on a full indemnity basis. All costs incurred by the Trustees in relation to delinquent Contributions shall be charged to the Separate Account to which such Contributions relate.

8.3 Nature of Right of Action

The right of action hereby conferred upon the Trustees will be in addition to and independent of any other procedure or remedy which may be available to the Trustees. No Participating Employer shall be entitled to have such action delayed, stayed or otherwise postponed on the ground that the claim of the Trustees in such action might also be a claim capable of being dealt with under the Memorandum of Settlement for PVPs or other non-union employee policy.

8.4 Participating Employer Failure to Comply

In the event that a Participating Employer has failed to carry out its obligations under the Memorandum of Settlement for PVPs, a Participation Agreement, a Plan or this Agreement (including, for greater certainty, the Schedules to this Agreement), other than obligations to pay Contributions, the Participating Employer shall forthwith, upon written demand from the Trustees:

- (a) complete and remit any information, forms or other related and supporting documents which may be required of the Participating Employer pursuant to the Memorandum of Settlement for PVPs, any applicable Participation Agreement or Plan, or this Agreement; and

- (b) pay to the Trustees the reasonable costs, expenses, or losses, incurred by the Trustees in connection with or arising out of any inspection, audit or examination or other proceedings or steps taken in respect to any such failure.

ARTICLE 9 – PARTICIPANT CONTRIBUTIONS

9.1 Deducting and Remitting Employee Contributions

A Participating Employer shall deduct from the wages of a Participant in their employ the amount of Employee Contributions that the Participant is required by the Trustees to make, and shall remit such Employee Contributions to the Trustees, as and when required by the Trust with supporting documentation as required by the Trustees, acting reasonably.

9.2 Calculation of Participant Contributions

Each Participant shall pay Employee Contributions to the Trustees in such amounts and in such manner as is determined by the Trustees.

ARTICLE 10 – TRUSTEES

10.1 Board of Trustees

The Board of Trustees of the ELHT shall consist of nine (9) Trustees to be appointed as follows:

- (a) Five (5) Trustees shall be appointed by the employee representatives (hereinafter referred to as "Employee Trustees"), at least two (2) of whom are to be independent trustees, including:
 - (i) One (1) independent Employee Trustee who shall be the Chair of the Board jointly appointed by Principals' and Vice-Principals' Associations and CAEAS/ECAB;
 - (ii) Two (2) Employee Trustees appointed by Principals' and Vice-Principals' Associations; and
 - (iii) Two (2) Employee Trustees appointed by CAEAS/ECAB.
- (b) Four (4) Trustees shall be appointed by OCSTA, ACÉPO, AFOCSC, and OPSBA or the Crown, as determined by OCSTA, ACÉPO, AFOCSC, and OPSBA and the Crown (hereinafter referred to as "Employer Trustees"), including at least two (2) independent Trustees;
- (c) At least one (1) Trustee, either an Employee Trustee or an Employer Trustee, shall speak French as their first language;
- (d) The independent Trustees shall:

- (i) not be currently employed or retained, or have been employed or retained at any time during the one (1) preceding year, by any of the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) , the shared services office supporting the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) , any School Board, Trustees' Association, Principals' and Vice-Principals' Associations, CAEAS/ECAB, or the Crown;
- (ii) have no systemic conflict of interest in their role as Trustee such that as a result of the person's employment, or other position, personal relationships or legal or financial interests, the person can reasonably be expected to have ongoing or frequent conflicts of interest acting as Trustee; and
- (iii) have appropriate professional skills and experience as well as sector experience.

10.2 Term of Office and Succession

Each Trustee shall be appointed to serve an initial term of three (3) years. Notwithstanding, the Principals' and Vice-Principals' Associations and CAEAS/ECAB as well as the Trustees' Associations and the Crown may each determine to appoint one or more of their initial Trustees for a term of fewer than three (3) years. Any Trustee may be reappointed, provided that no person may serve as a Trustee for more than nine (9) years.

10.3 Qualification of Trustees

Trustees shall meet the following requirements and complete the Trustee Attestation attached as Schedule "H":

- (a) be an individual;
- (b) be a resident of Canada;
- (c) be at least eighteen years of age;
- (d) not be found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property, or been found to be incapable by a court in Canada or elsewhere; and
- (e) not be an undischarged bankrupt.

10.4 **Acceptance of Trust**

Each individual, upon signing and filing with the Trustees an Acceptance of Trust in the form set out in Schedule "I" hereto, is deemed to accept the trusts created and established by this Agreement, to have consented to act as a Trustee and to have agreed to administer the Fund and Trust as set out herein.

10.5 **Resignation, Removal, Incapacity or Death**

(a) **Resignation.** A Trustee may resign by giving notice in writing to the remaining Trustees, the Crown, the Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB. Any such notice must state the date, not prior to the actual date of the notice, on which such resignation is to take effect. Such resignation will take effect on the date stated in the notice unless another Trustee has been appointed to and has accepted the appointment as a Trustee pursuant to subsection (h), below, in which event the resignation takes effect as of the date of acceptance by the successor Trustee.

(b) **Removal**

A Trustee may be removed at any time by his appointing Party by that Party giving seven (7) days' written notice to the Trustees, the Third Party Administrator, and the other Parties. The effective date of removal will be the day immediately following the expiry of the notice period.

(c) **Automatic Removal**

A Trustee shall be automatically removed if a receiving order is made against him or if he makes an assignment under the Bankruptcy and Insolvency Act, or ceases to meet any of the qualifications in 10.3.

(d) **Incapacity**

In the case of a Trustee becoming incapable of acting as a Trustee, the appointment of the Trustee may be terminated by notice from the Trustee, or his personal representatives, to the Party that appointed the Trustee and the remaining Trustees.

(e) **Death**

In the event of the death of a Trustee, his heirs, administrators, executors and assigns shall be fully discharged from all duties, responsibilities and liabilities in respect of the Trust Agreement arising after the date of death.

(f) **Remaining Trustees**

In the event of the death, resignation, incapacity or removal of any one or more of the Trustees, the remaining Trustees shall have jointly all the

powers, rights, estates and interests of the Trustees as provided hereunder and shall be charged with all duties of the Trustees hereunder.

(g) **Status**

Any Trustee resigning or being removed and the personal representatives of any deceased Trustee shall forthwith turn over to his successor Trustee, or if no successor is immediately appointed, to the other Trustees, any and all records, books and documents in any form, in the possession of the Trustee incidental to his duties as a Trustee under this Agreement or relating to the administration of the Fund.

(h) **Appointment of Trustees**

When a Trustee dies, resigns, is removed or reaches the end of his term and is not re-appointed, a successor Trustee will be appointed by the applicable Party as soon as reasonably possible. Any such successor Trustee, immediately upon completing and filing with the Chair of the Board of Trustees, or their designate, an Acceptance of Trust in the form of Schedule "I", is vested with all the property, rights, powers and duties of a Trustee hereunder from that date forward as if originally named as a Trustee.

(i) **Discharge of Trustees**

Any Trustee upon dying, resigning, being removed from office or reaching the end of his term and is not re-appointed, will thereafter be discharged of and from all future duties, obligations and responsibilities under this Agreement.

(j) **Indemnity**

A retiring or removed Trustee shall be entitled to require and receive from each continuing Trustee or new Trustee an indemnity on the terms described in section 11.8 of this Agreement.

10.6 **Conveyance of Property**

Every person ceasing to be a Trustee hereunder is deemed to have conveyed, assigned, transferred or made over to the remaining Trustees upon such person's Cessation Date any or all the rights to and property of the Fund, and will, if necessary, convey, assign, transfer and make over to the remaining Trustees upon the Cessation Date any or all the rights and property of the Fund as the remaining Trustees may direct. Each Trustee, by signing an Acceptance of Trust, constitutes and appoints the remaining Trustees as his attorneys, to sign all documents and deeds in such Trustee's name as may be necessary to convey his legal interest in the rights to and property of the Fund to the other Trustees upon the Cessation Date. Upon the appointment of a successor Trustee, the Trustees upon the effective date of such Acceptance of Trust by a

successor Trustee will be deemed to have conveyed, assigned, transferred or made over to the successor Trustee all the rights to and property of the Fund and will sign all documents and deeds as may be necessary to convey a joint legal interest in the rights to and property of the Fund to the successor Trustee.

10.7 No Conflict

A person is not disentitled from serving as a Trustee, solely because they:

- (a) are entitled to receive Benefits under a Plan (unless the Trustee is an Employer Trustee); or
- (b) except in the case of independent Trustees appointed under section 10.1, are an officer or employee of the Crown, an Ontario School Board, a Participating Employer Trustees' Association, a Principals' and Vice-Principals' Association or CAEAS/ECAB.

For greater clarity, a Trustee of the ELHT shall not serve as a Trustee of another Education Sector Employee Life and Health Trust while serving as a Trustee of the ELHT.

10.8 Validity of Actions of the Trustees

Notwithstanding that it is subsequently discovered or determined that there existed some defect in the appointment, removal or qualifications of any Trustee, or, that at the time a decision or action of the Trustees was taken there was not appointed the required number of Trustees, all acts and proceedings taken by the Trustees in good faith at any time while any such defect existed will nevertheless be valid and effective.

10.9 Fees and Expenses

Trustees shall not be entitled to any fee or payment from the Trust on account of their holding office, except in accordance with section 10.10 or section 10.11, as applicable. However, subject to the approval of the Trustees, a Trustee may be reimbursed from the Fund for his actual expenses incurred in attending each meeting of the Trustees at which the Trustee is physically present, the reasonable expenses incurred for attending educational conferences or courses for which attendance the prior approval of the Trustees has been obtained and the actual expenses in carrying out any other duty in connection with the Trust, all in accordance with policies to be established from time to time by the Trustees.

10.10 Appointed Independent Trustees' Compensation

To the extent permitted by law, the independent Trustees appointed in accordance with section 10.1 shall be entitled to such reasonable compensation payable from the Fund for the performance of their duties hereunder as is

approved pursuant to Compensation and Fee Policy adopted by the Trustees, as it may be amended by them from time to time.

10.11 **Trustee Fees**

Trustees, other than the independent Trustees, shall be entitled to reasonable compensation payable from the Fund for the performance of their duties hereunder as is approved pursuant to Compensation and Fee Policy adopted by the Trustees, as it may be amended by them from time to time.

10.12 **Chair**

The Chair shall be appointed in accordance with section 10.1 (a)(i) for a term of at least one (1) year and not longer than three (3) years, and act as the chair of all meetings of the Trustees and perform the duties set out in this Agreement or assigned to the Chair by the Board. The Principals' and Vice-Principals' Associations and CAEAS/ECAB may terminate a Trustee's appointment as Chair at any time, and may replace the Chair as circumstances require. Notwithstanding the foregoing, in the event the Chair is unable to attend a meeting of the Trustees for which there is a quorum, or for any portion of the meeting requiring a vote where the Chair has declared a conflict of interest, the Employee Trustees attending such meeting shall, from among their number, appoint a Chair for purposes of that meeting or portion of the meeting, and such meeting Chair shall perform the duties assigned to the Chair of the Board solely for that meeting or portion of the meeting. The Chair will not vote on any matter before the Trustees, except where an equal number of votes are cast in favour of and opposing a resolution, in which case the Chair may cast a tie-breaking vote.

10.13 **Minutes of Meetings**

The Board of Trustees shall keep minutes or records of all meetings, proceedings and acts of the Trustees. Such minutes shall be accurate and complete in all material respects, but need not be verbatim. The Board of Trustees has the authority to disclose minutes in their absolute discretion, except where required by law.

10.14 **Execution of Documents, Cheques and Electronic Payments**

All documents to be executed by the Trustees and all cheques payable out of the Fund shall be signed / approved by any two (2) Trustees or by such other persons as the Trustees may by resolution appoint.

10.15 **Meetings**

- (a) The Trustees shall hold at least four (4) meetings each year, one of which shall be designated as the annual meeting of the Trustees. The Chair shall be responsible for setting the dates of each such annual meeting, provided that the annual meeting must be held within six (6) months of the end of the fiscal year of the Fund;

- (b) Each meeting of the Trustees shall be held at a time and place to be determined by the Chair;
- (c) At least fourteen (14) days' written notice shall be provided to the Trustees of any such meeting, provided that such notice may be waived by the consent, in writing, of all Trustees, or by a unanimous resolution of the Trustees;
- (d) At each annual meeting of the Trustees, the Trustees shall consider, among other things:
 - (i) a financial statement from the auditors of the fund covering the immediately preceding fiscal period of the Fund;
 - (ii) the Third Party Administrator's report relating to the period since the inception of the Fund or from the date of the last preceding annual meeting as the case may be; and
 - (iii) the appointment or re-appointment of the Trust's auditors.

10.16 **Other Meetings**

The Chair or any two (2) or more Trustees may call a meeting of the Trustees at any time by giving at least five (5) days' written notice of the time and place thereof to each Trustee. Meetings of the Trustees may be held at any time without notice if all Trustees consent thereto.

10.17 **Meetings by Conference Call or Consent in Writing**

Any meeting of the Trustees may be held by means of a conference telephone call or such other electronic means as deemed appropriate by the Trustees. Any decision is effective without a meeting of the Trustees if evidenced by instrument in writing signed by all the Trustees, which may be signed in counterparts.

10.18 **Quorum and Voting**

- (a) A quorum shall consist of five (5) Trustees, at least two (2) of whom must be Trustees appointed by the Trustees' Associations or the Crown pursuant to section 10.1(b), and at least three (3) of whom must be Trustees appointed by the Principals' and Vice-Principals' Associations and CAEAS/ECAB pursuant to section 10.1(a). In determining whether a quorum is in place, Trustees who may not vote on a matter due to a conflict of interest shall be included in the number of Trustees present notwithstanding that they may not vote on the matter.
- (b) Each Trustee shall be entitled to one (1) vote on all matters requiring a decision by the Trustees except for the Chair who may only vote to break a tie in accordance with section 10.12. The decisions of the Trustees shall be determined by a majority vote of those Trustees present and entitled to

vote at a duly constituted meeting of the Board of Trustees; however, the Chair may, at their discretion, call for the requirement of a 60% majority to carry a motion on significant financial matters.

10.19 Meetings with the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB

Within six (6) months of the Trust's fiscal year end or as otherwise mutually agreed by the Parties, the Trustees shall convene an annual meeting with representatives of the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB to discuss matters of interest to the Trustees, the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations or CAEAS/ECAB.

ARTICLE 11 – POWERS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEES

11.1 Administration of the Trust Fund

The administration of the Fund shall be the responsibility of the Trustees. The Board of Trustees is responsible for the operational and financial sustainability of the Trust, and the Trustees shall administer the Fund in accordance with the express powers given to them pursuant to this Trust Agreement and the Plans. The terms of this Trust Agreement and the Plans shall be construed and administered so as to comply with the requirements to be an employee life and health trust under subsection 144.1(2) of the Income Tax Act (Canada). Any term of this Trust Agreement or the Plans that would otherwise be inconsistent with the requirements of such provisions shall be modified to the extent necessary to comply with such requirements.

11.2 Trustee Responsibilities

The Trustees are responsible for the operational and financial sustainability of the Trust, in accordance with the Memorandum of Settlement for PVPs and the Participation Agreements including, but not limited to:

- (a) The delivery of benefits on a sustainable, efficient and cost-effective basis;
- (b) review of the design of the Plans at regular, periodic intervals and such other times as the Trustees determine to be prudent;
- (c) the validation of the sustainability of the design of the Plans at regular, periodic intervals and such other times as the Trustees determine to be prudent;
- (d) setting and revising Employee Contribution rates or premium requirements and deductibles with respect to the PVP Plan, CAEAS/ECAB Plan and the Retiree Plan at regular, periodic intervals and such other times as the Trustees determine to be prudent;

- (e) delivery of annual reports of Trust actuaries and auditors to the Parties, including reports regarding recommendations on sustainability and any subsequent changes to Plan design;
- (f) on an ongoing basis identifying efficiencies that can be achieved in the administration and investment of the Trust;
- (g) design, adoption and implementation of a Funding Policy or Policies and an investment policy or policies with respect to each of the Plans;
- (h) adopting a policy for the appointment, review, evaluation and if necessary termination of service providers;
- (i) review, and if appropriate, amend the skills matrix attached as Schedule "K" to guide the recruitment and retention of Trustees;
- (j) compliance with all applicable statutory requirements, including all applicable tax statutes; and
- (k) procurement of adjudicative, administrative, insurance, consultative and investment services.

11.3 **Shared Services**

The Trustees may enter into shared service arrangements with the trustees of other Employee Life and Health Trusts covering employees in Ontario's education sector, or with other entities, and may delegate to such shared service entities any responsibilities or powers that the Trustees consider appropriate. Shared administrative services, if deemed appropriate by the Trustees, will be provided by a Third Party Administrator that will be competitively procured and initially chosen by the Transition Committee, as defined in the Memorandum of Settlement for PVPs. The role of Third Party Administrator will be tendered for competitive procurement within five (5) years from the last Participation Date of a Participating Employer. The Trustees shall monitor the performance of the Third Party Administrator, and shall require that the Third Party Administrator, insofar as it performs duties or discharges responsibilities in relation to the PVP Plan, the CAEAS/ECAB Plan and any other Plans, comply with Applicable Legislation, acts solely and exclusively in the best interests of the Participants, Retired Employees and Beneficiaries, and, where receiving or having access to personal information of Participants, Retired Employees and Beneficiaries, establishes a privacy policy based on and in compliance with Applicable Legislation.

11.4 **Common Insurance Arrangement**

The Trustees may enter into a common insurance arrangement with the trustees of other Education Sector Employee Life and Health Trusts, or with other entities, and may do so directly or by through a corporation of other common entity. The Trustees shall monitor the performance of the insurance carrier, and shall require that the insurance carrier, insofar as it performs duties or discharges

responsibilities in relation to the PVP Plan, the CAEAS/ECAB Plan and any other Plans, complies with Applicable Legislation, acts solely and exclusively in the best interests of the Participants and Beneficiaries, and, where receiving or having access to personal information of Participants, Retired Employees and Beneficiaries, establishes a privacy policy based on and in compliance with Applicable Legislation. All arrangements with insurance carriers, whether direct or indirect, shall be competitively procured.

11.5 Collection of Contributions

The Trustees may use all reasonable means to collect and receive all Contributions due to the Fund, and shall, promptly after receipt, deposit such Contributions in a Trust Fund account, established in a reputable bank, trust company, or other financial institution.

11.6 Authority of Trustees

All persons dealing with the Trustees are released from inquiry into any decision or authority of the Trustees and from seeing to the application of any monies, securities or other property paid or delivered to the Trustees and may rely upon any document required to be executed by the Trustees which has been executed as provided herein, as having been duly authorized.

11.7 Liability of Trustees

The Trustees shall incur no liability, either collectively or individually, in acting in accordance with this Agreement, data or information believed by them to be genuine and accurate and to have been made, executed, delivered or assembled by the proper parties. No Trustee shall be liable for the act or omission of any other Trustee. No Trustee shall incur any liability as a result of acting in good faith on the actions, opinion or advice of the Third Party Administrator in respect of any matter relating to the administration, or investment, as applicable of the Trust, the Fund or a Plan. Provided reasonable care was used by the Trustees in the engagement and continued retention of any Third Party Administrator, no Trustee shall incur any liability in respect of such engagement or retainer. No Trustee shall be liable for any honest error of judgment nor shall any Trustee be personally liable for any obligations of the Trust or a Plan, except for obligations arising out of his own dishonesty, willful misconduct or gross negligence.

11.8 Trustee Indemnity

The Fund shall indemnify and save harmless the Trustees, their employees, assigns, executors, estate trustees, heirs and each of them, of, from and against any loss, expense, claim, demand, action or thing of any nature whatsoever, arising out of the performance or purported performance of their duties or responsibilities hereunder except that this indemnity shall not, in any way, extend so as to protect any Trustee with respect to any matter or thing arising out of his own dishonesty, wilful misconduct or gross negligence.

11.9 **Liability of the Crown, Trustees' Associations, Principals' and Vice-Principals' Associations and CAEAS/ECAB**

None of the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations nor CAEAS/ECAB is a fiduciary with respect to any Plan or the Fund, and none shall be responsible or liable for:

- (a) the validity of the Trust Agreement;
- (b) any delay occasioned by any restriction or provision in this Trust Agreement, the rules and regulations of the Trustees issued hereunder, or any contract to which the Trustees are party;
- (c) any act or omission of the Trustees;
- (d) any investment of the Fund, including the making or retention of any deposit or investment of the Fund, or any portion thereof, or the disposition of any such investment, or the failure to make any investment of the Fund, or any portion thereof, or any loss or diminution of the Fund;
- (e) any of the obligations or acts of the Trustees notwithstanding that such Trustees may be associated with Trustees' Associations, Principals' and Vice-Principals' Associations, CAEAS/ECAB or any Participating Employer;
- (f) any Contributions required to be paid to the Fund, other than its own Contributions as may be required by a Memorandum of Settlement for PVPs or a Participation Agreement;
- (g) any losses, expenses, claims, demands or actions in connection with the establishment or ongoing administration of the Fund;
- (h) any losses, expenses, claims, demands or actions in connection with the legal obligation of a Participating Employer to provide post-retirement benefits to a Retired Employee, except that this provision shall not apply to a Trustees' Association in its capacity as a Participating Employer;
- (i) the insufficiency of the Fund or any Separate Account to provide Benefits under any Plan;
- (j) the provision or failure to provide any Benefits.

11.10 **Powers**

Subject to the provisions of this Agreement, including, without limitation, section 4, and to the duties, powers and responsibilities expressly reserved to the Parties, the Trustees have in relation to the Fund and each Separate Account all the powers that a natural person would have if such person were the beneficial

owner of the Fund or Separate Account, including without limitation the specific powers set forth below:

(a) **Power to Make Arrangements for Provision of Benefits**

The Trustees may provide Benefits in accordance with a Benefits Plan that are fully insured, partially insured or self-insured, as determined from time to time by the Trustees in their sole discretion and in accordance with the applicable Funding Policy and may make such arrangements and agreements, including insurance arrangements, on behalf of the Trust with corporations, firms or persons to provide the Benefits required to be provided pursuant to a Plan and this Agreement from time to time; and in addition the Trustees shall have the power to design and administer supplemental Benefits, or make other payments as may be permissible under Applicable Legislation, for Participants that belonged to a predecessor benefit plan of a Participating Employer that transferred surplus assets to the Trust;

(b) **Power to Interpret Agreement and Plan**

In a manner consistent with the provisions of a Plan, this Agreement, Applicable Legislation, the Memorandum of Settlement for PVPs and a Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees the Trustees shall have the power to construe the provisions of each Plan and this Agreement and any construction adopted by the Trustees will be binding upon the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations, CAEAS/ECAB, Participating Employers, Participants, Retired Employees and Beneficiaries;

(c) **Legal Action by Trustees**

The Trustees may, if they deem it necessary, seek a judicial determination or declaratory judgment on any questions of the construction of this Agreement or a Plan, or obtain directions as to any action hereunder. Except as otherwise determined by the court, (a) the Parties will each have standing to participate in any judicial proceeding initiated by the Trustees under this section 11.10(c) and; (b) any such determination or judgment is binding on the Crown, Trustees' Associations, Principals' and Vice-Principals' Associations, CAEAS/ECAB, Participating Employers, Participants, Retired Employees and Beneficiaries;

(d) **Power to Make Policies and Rules**

The Trustees may make, revise from time to time and enforce such policies, rules and regulations consistent with the provisions of this Agreement as the Trustees consider advisable for the effective administration of the Trust;

(e) **Power to Determine Evidence**

The Trustees may determine the standard of proof and the sufficiency of evidence as to any factual question arising under a Plan;

(f) **Power to Determine Eligibility for Benefits**

The Trustees may determine and decide upon the right of any person to receive Benefits provided by this Agreement and a Plan, the type, extent or amount thereof, and whether or not any hearing will be granted to any person who may be affected by any such determination or decision, and every such determination and decision will be final and binding upon all parties and persons whomsoever;

(g) **Power to Sell**

The Trustees may sell, exchange, lease, grant any option, or otherwise alienate or dispose of any property of the Fund or a Separate Account for such consideration and upon such terms and conditions as they think fit and they may execute and deliver all deeds or other instruments to make good and sufficient title thereto and to give full and valid discharges therefor;

(h) **Power to Incorporate**

The Trustees may incorporate corporations, the shares of which shall be held by or on behalf of the Trustees, for purposes of administering the Fund or a Separate Account, making investments of the Fund or a Separate Account or holding any Authorized Investment;

(i) **Power to Establish Corporations or Other Entities with Other Education Sector Employee Life and Health Trusts**

The Trustees may, together with other Education Sector Employee Life and Health Trusts, establish corporations or other entities to fulfil common administrative or investment functions;

(j) **Power to Retain**

The Trustees may retain any property forming part of the Fund or a Separate Account in the actual state or condition in which the same is received by the Trustees for so long as the Trustees consider appropriate;

(k) **Power to Invest**

The Trustees shall have unlimited discretion in the investment and management of the Fund or a Separate Account with respect to particular investments and schemes of investment, notwithstanding that any investment or investments may not be authorized by law for trustees and

whether any investment is within or outside Canada, including without restricting the generality of the foregoing, investments in mutual funds, common trust funds and pooled funds, and shall have the power to engage in transactions ancillary to any such investments, including, without restricting the generality of the foregoing, hedging, derivatives and securities lending transactions, subject to the terms of this Agreement and provided that the Trustees may not make any investment that could reasonably be expected to cause the Trust to cease to qualify as an employee life and health trust under section 144.1 of the Income Tax Act (Canada);

(l) **Power to hold Uninvested Cash**

To hold in uninvested cash, without any liability for interest thereon, such sums as they deem necessary or advisable for the reasonably current cash requirements of the Fund or a Separate Account;

(m) **Power to Hold Fund in Names of Nominee**

To hold the whole or any part of the Fund or a Separate Account in the name or names of any nominees of the Trustees or agents for the Trustees and deposit with any such agent or nominee or any custodian any property or documents of title in respect of any property forming part of the Fund or a Separate Account;

(n) **Investment Policy and Financial Risk Management Guidelines**

To establish a written investment policy setting out the Authorized Investments for the Fund or a Separate Account and setting out financial risk management guidelines, and to review and monitor compliance with the investment policy and financial risk management guidelines;

(o) **Investment Advice**

To retain an external investment advisor to provide them with investment advice. The Trustees may rely on any such advice if a prudent investor would rely upon the advice under comparable circumstances. The Trustees must request all external investment advisors to disclose all conflicts in writing, including any material interest such advisor may have in any transaction involving the Fund;

(p) **Power to Commingle**

To commingle all or part of the Fund or a Separate Account with assets of other trust funds for the purpose of making joint, collective or participating investments with respect to such commingled assets, if separate accounts reflecting the share of the Trust are maintained;

(q) **Power to Retain Experts and Agents**

To engage such persons as they consider advisable to assist in the management or administration of the Trust or a Plan including, without limitation, an agent, Third Party Administrator, custodian, lawyer, accountant, actuary, financial or investment advisor or benefits consultant, manager, broker, surveyor, valuation expert and appraiser. The Trustees may delegate to such persons to the extent deemed advisable by the Trustees from time to time, including without limitation the authority to subdelegate any such authority, and pay to such persons out of the Fund any fees or charges thereby incurred;

(r) **Power to Hire and Terminate Chief Administrative Officer, Employees**

To hire and terminate a Chief Administrative Officer, and such other employees, as they see fit, to determine their duties and responsibilities and other terms of employment and to pay such employees' compensation from the Fund;

(s) **Power to Delegate**

To delegate any of their administrative powers or duties to any committee of the Trustees, including any committee that is a joint committee that includes trustees of other similar trusts funds, or to any of their agents or employees, where it is reasonable and prudent to the circumstances to do so;

(t) **Power to Enter into Reciprocal Agreements**

To enter into reciprocal agreements or arrangements for the transfer or sharing, on an equitable basis, of services or benefits with other similar trusts or plans;

(u) **Power to Borrow**

To the extent permitted by Applicable Legislation, the Trustees may borrow on behalf of the Trust or a Separate Account in order to fund the payment of Benefits or in connection with an investment permitted under an applicable investment policy and the Trustees may mortgage, pledge or charge the income and/or capital of the Fund or a Separate Account to secure the payment of any money so borrowed. The Trustees may execute and deliver under seal or otherwise such instruments evidencing the indebtedness and the security so given which they consider necessary or desirable;

(v) **Power to Join in Corporate Reorganizations**

To join in any plan for the reconstruction, reorganization, merger, amalgamation, consolidation, liquidation, wind up or dissolution of any

company or corporation the shares, bonds or other securities of which are held as investments of the Fund or a Separate Account and authorize the sale of the undertaking or the assets of any such company or corporation, and in pursuance of any such plan accept any shares or securities in lieu of or in exchange for the shares or other interest held by them in such company or corporation;

(w) **Power to Deal with Securities**

To vote upon or in respect of any shares, securities, bonds, notes or other evidence of interest in or obligations of any corporation, company or other entity (and issue proxies in respect thereof);

(x) **Power to Maintain One Fund or Several Funds**

To hold, manage and invest any funds held hereunder as a consolidated fund in which each separate fund will have an appropriate undivided interest;

(y) **Power to Insure**

To purchase and maintain any policy of insurance and apply any part of the Fund or a Separate Account towards the payment of any premium for the effecting or maintaining of any such policy. The Trustees may deal with any such policy in such manner as they consider advisable. All monies and benefits under any such policy will constitute part of the capital of the Fund or a Separate Account;

(z) **Power to Deal with Incapacitated Participant, or Beneficiary or Retired Employee**

To direct the payment of any Benefits under a Plan payable to an incapacitated Participant, Beneficiary, or Retired Employee to the legal guardian or court-appointed committee of such Participant, Beneficiary or Retired Employee whose receipt will be a sufficient discharge to the Trustees. The Trustees are not bound to see to the application of any Benefits so paid. The Trustees will establish a policy for the payment of Benefits to minors or incapacitated Participants, Beneficiaries or Retired Employees and must specifically ensure that a trustee be appointed to receive the interest of any minor intended to receive any Benefits under a Plan;

(aa) **Power to Institute or Defend Proceedings at Law**

To institute and defend proceedings at law in any way relating to or arising out of the affairs of the Trust, the Fund, a Separate Account and this Agreement and proceed to the final determination thereof or compromise the same as they consider advisable;

(bb) **Banking Arrangements**

- (i) to appoint from time to time any credit union, bank, trust company or other company to be the banker or one of the bankers for the purposes of the Fund or a Separate Account and from time to time may revoke any such appointment. Any two (2) or more Trustees may be authorized in writing on behalf of the Trustees, or, any person or persons appointed by the Trustees by resolution specifying the specific authorities of such individuals, to:
- (ii) sign, endorse, make, draw or accept any cheques, promissory notes, bills of exchange or other negotiable instruments;
- (iii) receive from the banker and where applicable give receipts for all statements of accounts, cheques and other debit vouchers, unpaid and unaccepted bills of exchange and other negotiable instruments; and
- (iv) negotiate with, deposit with or transfer to the said banker any cheques, promissory notes, bills of exchange or other negotiable instruments and orders for the payment of money and for the said purpose to draw, make, sign, endorse all or any of the foregoing, and such signatures will be binding upon all the Trustees;

(cc) **Taxes, Etc.**

- (i) pay all or any part of any taxes in respect of the Fund or a Separate Account or any part thereof, out of the Fund or a Separate Account, as the case may be; and
- (ii) take any other action concerning the taxation of the Trust or a Separate Account, or any transactions relating thereto, including, without limitation, conducting inquiries into tax matters, obtaining rulings, opinions and similar material from taxation authorities, contesting the actions or determinations of taxing authorities and conducting objections, appeals, or litigation of any nature whatsoever;

(dd) **Power to Enter into Cost Sharing Agreements**

to enter into written agreements with any successor or similar trust, or any Party, to share certain expenses pertaining to the administration of the Fund with respect to such matters as:

- (i) costs of collection and disbursement of funds pursuant to the provisions of this Agreement, a Plan or any other agreement;
- (ii) salaries of office and supervisory staff;

- (iii) cost of office equipment, supplies and incidental material;
- (iv) costs of computer equipment and facilities and computer maintenance;
- (v) rent of office space, furnishings, fixtures and office equipment;
- (vi) cost of producing Participating Employer lists and addresses;
- (vii) professional, consulting, advisory, and audit fees; and
- (viii) such other costs that in the opinion of the Trustees may be shared;

provided that the Fund is fairly compensated for any expenses it incurs in connection with such an agreement, or alternatively, provided that any amounts paid by the Fund to any other trust fund, in respect of the above costs and expenses, shall be certified by the auditor of the Fund as being necessary and reasonable; and provided further, that such cost sharing agreement provide that the Trustees may terminate such agreement at any time, with no more than thirty (30) days' notice to all other parties;

(ee) **Power to Indemnify**

To indemnify from the Fund any person employed pursuant to section 11.10(r), any former Trustee or other person in respect of any actual, contingent or prospective liability, including without limitation any tax liability, arising in respect of the Fund or a Separate Account or otherwise pursuant to this Agreement, except that no indemnity shall be payable from the Fund in favour of any person with respect to any matter arising from that person's dishonesty, bad faith, wilful misconduct or gross negligence.

11.11 Errors and Omissions and Other Insurance

The Trustees shall purchase such fiduciary and errors and omissions insurance or other insurance coverage as is reasonable and prudent in the circumstances. The cost of such insurance shall be paid out of the Fund.

11.12 Appointment of Custodian

The Trustees shall have the power to appoint a Custodian who may be assigned such duties and responsibilities as the Trustees may deem necessary and advisable. Without limiting the foregoing, the responsibilities of the Custodian may be to:

- (a) establish and maintain accounts for the Fund and for each Separate Account, in accordance with this Agreement;
- (b) hold and account for the money or other property it receives, and be responsible for the collection of any deposits, Contributions, remittances,

or transfers due to the Trust or a Separate Account unless otherwise directed by the Trustees; and

- (c) apply the assets of the Fund or a Separate Account to pay all reasonable costs, charges, and expenses (including, but not limited to, all brokerage fees and transfer tax expenses and other expenses) incurred in connection with the sale or purchase of investments, all real and personal property taxes, income taxes and other taxes of any kind at any time levied or assessed under any present or future law upon, or with respect to, the Fund or a Separate Account or any property included in the Fund or a Separate Account or any payment of benefits, and all legal, actuarial, accounting and financial advisory expenses reasonably incurred and previously approved by the Trustees in connection with establishment, amendment, administration and operation of the Trust or a Plan.

11.13 Services in both Official Languages

Services provided by the ELHT are to be available in both official languages, English and French.

11.14 Records

The Trustees shall maintain suitable and adequate records of and for the administration of the Fund.

11.15 Annual Audits

The books of account and records of the Trustees, including the books of account and records pertaining to the Fund and the Separate Accounts, shall be audited at least once every year by the auditor of the Fund, who shall be appointed by the Trustees, as of the fiscal year end of the Fund. A statement of the results of the annual audit shall be available for inspection by interested persons at the principal office of the Fund and at such other suitable place as the Board of Trustees may designate from time to time. Copies of such statement shall be delivered to each Trustee within sixty (60) days after that statement is prepared.

11.16 Designation of Trustees

The name of the Fund may be used to designate the Trustees collectively, and all instruments may be executed by or for the Trustees in such names.

ARTICLE 12 – PARTICIPATION

12.1 Class of Beneficiaries

- (a) The Trust may provide Benefits to one or more classes of beneficiaries provided that, with respect to each Participating Employer (i) the members of one class of beneficiaries represent at least 25% of all the beneficiaries

of the Trust who are employees of the Participating Employer within the meaning of section 144.1(2)(d) the *Income Tax Act (Canada)*, and (ii) at least 75% of the members of that class are not "key employees" of such Participating Employer within the meaning of section 144.1(1) of the *Income Tax Act (Canada)*;

- (b) No more than 25% of the members of a class of beneficiaries of a Plan may be "key employees" within the meaning of section 144.1(1) of the *Income Tax Act (Canada)*. No key employee shall have rights under a Plan that are more advantageous than the rights of the other members of the Plan;
- (c) No Plan may be operated or maintained primarily for the benefit of one or more "key employees" within the meaning of section 144.1(1) of the *Income Tax Act (Canada)* or persons related to any such key employee.

ARTICLE 13 – RETIRED EMPLOYEES

13.1 Retiree Plans

- (a) The Trustees shall establish a Retiree Plan for Retired Employees and shall also establish a Retiree Plan Separate Account to receive Employer Contributions and Retired Employee Premium Shares and hold assets in respect of the Retiree Plan. The Trustees shall consult with the Trustees' Associations and may consult with any of the other Parties in regard to the design of the Retiree Plan. The Trustees and the Trustees' Associations may amend the Retiree Plan by agreement in writing.
- (b) Subject to the *Income Tax Act (Canada)*, the Retiree Plan may provide different Benefits with different Eligibility Requirements to different classes of Retired Employees, including, without limitation, different classes of Retired Employees with the same Participating Employer, and may provide for different Contributions and Retired Employee Premium Shares (to the extent applicable) for such classes. Notwithstanding that there may be different classes of Retired Employees with different Benefits or different Eligibility Requirements within the Retiree Plan, the experience of all Retired Employees within the Retiree Plan shall be pooled for the purpose of determining premiums.
- (c) Each Participating Employer shall, in the manner and form required by the Trustees, enrol their PVP Retirees in the Retiree Plan and shall pay the Employer Contributions required in respect of their PVP Retirees as determined pursuant to an actuarial valuation of the Retiree Plan prepared in accordance with section 18.2 of this Agreement.
- (d) Each Participating Employer may, in the manner and form required by the Trustees, enrol some or all of their CAEAS/ECAB Retirees in the Retiree Plan if the applicable Participation Agreement for CAEAS/ECAB Participants and CAEAS/ECAB Retirees includes a completed Part B.

Each Participating Employer shall pay the Employer Contributions required in respect of their CAEAS/ECAB Retirees as determined pursuant to an actuarial valuation of the Retiree Plan prepared in accordance with section 18.2 of this Agreement.

- (e) Each Participating Employer may request that the Trustees provide additional Benefits to one or more of its Retired Employees, notwithstanding that such Benefits are not otherwise provided through a Retiree Plan. The Trustees shall provide such Benefits, only for the purpose of replicating any Benefits provided to the Participating Employer's Retired Employees under his terms and conditions of employment immediately prior to becoming a Retired Employee. Notwithstanding the foregoing, the Trustees shall not be required to provide any additional Benefits where doing so is not possible despite commercially reasonable efforts, or could reasonably be expected to result in the ELHT ceasing to meet the requirements of an "employee life and health trust" within the meaning of the Income Tax Act (Canada). A Participating Employer shall be responsible for the costs of any such additional Benefits and for any administrative or other costs incurred by the Trustees to provide these additional Benefits, less applicable Retired Employee Premium Shares. The Trustees shall not be responsible for any other benefits that are not provided through the ELHT.
- (f) Under no circumstances shall assets held in a Separate Account for Participants be used for the benefit of Retired Employees, nor shall assets held in a Separate Account for Retired Employees be used for the benefit of Participants, except that, from and after such time as there are no Retired Employees (or their beneficiaries) participating in an Accounting Division, the Parties may, in their discretion, in accordance with section 13.9(b), transfer funds from the Separate Account for Retired Employees to a Separate Account for Participants.
- (g) The Trustees may establish any number of Accounting Divisions of the Retiree Plan for the purposes of tracking costs attributable to groups of Retired Employees within the Retiree Plan, but shall, in any event, establish and maintain the following Accounting Divisions within the Retiree Plan:
 - (i) CAEAS/ECAB Retirees age less than 65 ("CAEAS/ECAB Under-65 Accounting Division"),
 - (ii) PVP Retirees age less than 65 , other than PVP Voluntary Retirees ("PVP Under-65 Accounting Division");
 - (iii) PVP Voluntary Retirees ("PVP Voluntary Retirees Accounting Division");
 - (iv) PVP Retirees age 65 and over, other than PVP Voluntary Retirees ("PVP 65+ Accounting Division"); and

- (v) CAEAS/ECAB Retirees age 65 and over ("CAEAS/ECAB 65+ Accounting Division").
- (h) The Trustees shall:
 - (i) assign litigation and administration costs attributable to one or more Participating Employers to the appropriate Accounting Division, and shall ensure that, in setting Employer Contributions and Retired Employee Premium Shares, litigation costs are charged to the Participating Employers and Retired Employees in the Accounting Division to which the litigation relates;
 - (ii) determine any terminal deficiencies or surpluses attributable to an Accounting Division (except the PVP 65+ Accounting Division and the CAEAS/ECAB 65+ Accounting Division) for the purposes of section 13.9.
- (i) The Trustees shall prepare financial statements for an Accounting Division of a Retiree Plan that set out the Benefits costs, and, as well, the administrative and litigation costs attributable to each Accounting Division.

13.2 **Employer Information Regarding PVP Retirees**

A Participating Employer shall provide the following to the Trustees in respect of each PVP Retiree who has not waived the right to coverage under the Retiree Plan, in a form acceptable to the Trustees, upon which the Trustees shall enrol the PVP Retiree in the applicable Retiree Plan:

- (a) the names and addresses of the Retired Employees to be provided with Benefits through the Retiree Plan;
- (b) Retired Employee Premium Shares as applicable; and
- (c) confirmation that the Participating Employer shall pay the Employer Contributions required pursuant to this Agreement and any amount owing to the Trustees in the event that an Accounting Division of the Retiree Plan ceases to have any members, in accordance to the Terminal Retiree Arrangement Deficiency Formula;

13.3 **Calculations to Support Employer Contributions – Retired Employees age 65 and over**

- (a) Each Participating Employer with Retired Employees age 65 and over shall pay, each year:
 - (i) for each CAEAS/ECAB Retiree, the actual costs of their Benefits and related expenses (including litigation expenses);

- (ii) for each PVP Retiree, the actual cost of their Benefits and related expenses (including litigation expenses), less applicable PVP Premium Shares

at the times and in the manner and form determined by the Trustees, and such payments shall be recorded in the appropriate Accounting Division.

13.4 Retired Employee Premium Shares

Each Participating Employer shall be responsible for specifying the Retired Employee Premium Shares applicable to each of the Participating Employer's PVP Retirees, and may specify different Retired Employee Premium Shares in respect of the cost of Benefits and the cost of administration and litigation. In each case, the Retired Employee Premium Shares for PVP Retirees shall be determined on the same basis as Retired Employee Premium Shares had been determined under Prior Arrangements. The Trustees shall have no duty or power to confirm or verify any Retired Employee Premium Shares. The amount of Retired Employee Premium Shares paid by PVP Retirees in respect of the Retiree Plan is referred to herein as the "PVP Retiree Premium Share".

13.5 Payment, Collection and Remittance of Retiree Premium Share

- (a) PVP Retirees shall pay the applicable Retired Employee Premium Share as and when required by the Trustees, as a condition of coverage in a Retiree Plan.
- (b) The Participating Employer that employed a CAEAS/ECAB Retiree shall be responsible for collecting and remitting to the Trust the full amount of the premiums required under this Agreement in respect of its CAEAS/ECAB Retirees, in the manner and at the times required by the Trustees in accordance with the terms of this Agreement. A Participating Employer shall be solely responsible for recovering any amounts that a CAEAS/ECAB Retiree is required to contribute (if any) to receive Benefits from the ELHT.
- (c) The Third Party Administrator shall be responsible for collecting Retired Employee Premium Shares in respect of PVP Retirees.

13.6 Retired Employees (PVP) as of August 31, 2013

Retired Employees who were PVPs and who commenced participation in a Predecessor Retiree Benefit Plan on or before September 1, 2013, are eligible to participate in the Retiree Plan based on Prior Arrangements.

13.7 Retired Employees (PVP) Post August 31, 2013

Retired Employees who were PVPs and who commenced participation in a Predecessor Retiree Benefit Plan between September 1, 2013 and a Participating Employer's Participation Date are eligible to participate in the

Retiree Plan if and for so long as they pay the full cost of their Benefits and related expenses while they are ongoing, provided that a Participating Employer may direct the Trustees that the Participating Employer shall contribute all or some of the cost of Benefits and related expenses for any PVP Retiree who retires after August 31, 2013.

13.8 Retired Employees – Other Participation Agreements

In the event that a Participating Employer that is party to an Other Participation Agreement has Retired Employees, the participation of such Retired Employees in the Retiree Plan shall be governed by the terms and conditions of the Other Participation Agreement, provided that if the Participating Employer is a transportation consortium, its Retired Employees shall be included in the CAEAS/ECAB Under-65 Accounting Division and/or the CAEAS/ECAB 65+ Accounting Division, as applicable, and the amount of the Employer Contributions and Retired Employee Premium Shares determined as if the Retired Employees were CAEAS/ECAB Retirees..

13.9 Accounting Division Ceases to Have Any Members

In the event that an Accounting Division of a Retiree Plan ceases to have any members, then

- (a) if the Accounting Division (except the PVP 65+ Accounting Division and the CAEAS/ECAB 65+ Accounting Division) has a deficiency, each Eligible Employer that is or was a Participating Employer with Retired Employees participating in the Retiree Plan shall pay its share of the deficiency, as determined in accordance with the Terminal Retiree Arrangement Deficiency Formula, at the time and in the manner required by the Trustees, provided that the Terminal Retiree Arrangement Deficiency Formula shall in all cases comply with the requirements of Applicable Legislation;
- (b) if the Accounting Division (except the PVP 65+ Accounting Division and the CAEAS/ECAB 65+ Accounting Division) has a surplus, then, the Parties shall determine by mutual written agreement how to apply the surplus, subject to and in accordance with the requirements of Applicable Legislation.

ARTICLE 14 – ADMINISTRATIVE INFORMATION

14.1 Reports of Activities

In the event the Trustees:

- (a) enter into an agreement with a provider of Benefits;
- (b) alter a policy of the Trustees relative to a Plan; or

(c) communicate with the Participants, Beneficiaries and Retired Employees, the Trustees shall, within thirty (30) days of such decision, agreement, alteration or communication, and without charge, provide to the Parties the name of the new provider of Benefits, a copy of such altered policy if such policy is in writing, and a copy of the communication to the Participants, Beneficiaries and Retired Employees.

14.2 **Quarterly Financial Information – Active Employees**

On a quarterly basis the Trustees shall provide the following information to the Parties with respect to the ELHT and to each Separate Account:

- (a) total Employer and Employee Contributions received from each Participating Employer, and Employee Contributions received directly from Participants;
- (b) total claims for each Participating Employer, by type of Benefit and number of Participants, eligible dependents and eligible beneficiaries; and
- (c) expenses attributed by type of Benefit and major function such as legal, accounting, actuarial, etc.

14.3 **Quarterly Financial Information – Retired Employees**

On a quarterly basis the Trustees shall provide the following information to the Parties with respect to each Retiree Plan Separate Account:

- (a) total Employer and Retired Employee Contributions received from each Participating Employer, and by or on behalf of each Retired Employee;
- (b) total claims for each Participating Employer, by type of Benefit and number of Retired Employees, eligible dependents and eligible beneficiaries; and
- (c) expenses attributed by type of Benefit and major function such as legal, accounting, actuarial, etc.

14.4 **Annual Information**

On an annual basis the Trustees shall provide the following information to the Parties with respect to the ELHT and each Separate Account:

- (a) audited financial statements;
- (b) actuarial valuation report, including projections regarding the adequacy of contributions to cover projected benefit and related costs for a period of not less than three (3) years into the future;

- (c) a summary of the annual investment performance of each Separate Account; and
- (d) a discussion and analysis of the material issues affecting the Ontario Non-Union Education Trust (ONE-T)/Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) and each Separate Account and Plan.

14.5 Additional Information

A Party may request the Trustees to provide additional information regarding the Benefits, a Plan, or the Fund at the cost of the Party requesting the information. If there is more than one requester of information under this section 14.5, the costs will be borne equally by each requester. Any information requested by a Party will be provided to the other Parties. Subject to Applicable Legislation, anonymized, individual level claim information may be provided.

ARTICLE 15 – AMENDMENTS TO TRUST AGREEMENT

15.1 Amendment

This Trust Agreement may be amended, in whole or in part, by an instrument in writing executed by Principals' and Vice-Principals' Associations, CAEAS/ECAB, and by the Crown and Trustees' Associations, acting together.

15.2 Corpus or Income

No amendment shall authorize or permit any part of the corpus or income of the Fund to be used for or diverted to purposes other than for the exclusive benefit of the Participants, Retired Employees and Beneficiaries and as permitted under section 144.1 of the Income Tax Act (Canada) or any successor provision thereto.

ARTICLE 16 – WITHDRAWAL OF A PARTICIPATING EMPLOYER

16.1 Withdrawal of Participating Employer

No Participating Employer has the right to withdraw in whole or in part from participation in the Trust except on such terms as may be prescribed by the Trustees, provided that, if the Participating Employer is a School Board, such terms of withdrawal in respect of Participants and Retired Employees covered by the Memorandum of Settlement for PVPs shall comply with the Memorandum of Settlement for PVPs. The Trustees shall have no liability to pay any claims for Benefits incurred by Participants or Retired Employees, as applicable, employed or formerly employed by the withdrawing Participating Employer, after the termination date.

16.2 Terminal Accounting

In the event of a withdrawal from the ELHT, the Trustees shall prepare a terminal accounting statement and provide it to the Participating Employer within 180 days after the effective date of the withdrawal.

ARTICLE 17 – FUNDING OF THE PVP PLAN AND THE CAEAS/ECAB PLAN

17.1 Claims Fluctuation Reserve

- (a) The Crown shall pay:
 - (i) a one-time contribution to the PVP Separate Account equal to 15% of annual benefits costs, determined in accordance with the Memorandum of Settlement for PVPs, to establish a CFR upon the creation of the Trust.
 - (ii) a one-time contribution to the CAEAS/ECAB Separate Account equal to 15% of annual benefits costs, determined in accordance with the Transfer Payment Agreement for CAEAS/ECAB, to establish a CFR upon creation of the Trust.
- (b) Each Participating Employer that is a School Board shall settle all claims under a Participating Employer-owned defined benefit plan and shall prepare a final accounting as soon as reasonably and feasibly possible following receipt of the terminal financial accounting statements provided by the insurance carrier, and shall then transfer the employee portion of all eligible and available surpluses in those plans pursuant to and in accordance with the Memorandum of Settlement for PVPs to the PVP Separate Account and in accordance with Schedule "E" to this Trust Agreement for CAEAS/ECAB Participants to the CAEAS/ECAB Separate Account.

17.2 Remaining Start-up Costs

- (a) The Principals' and Vice-Principals' Associations and CAEAS/ECAB shall transfer their Remaining Start-up Costs to the Trustees on or before April 1, 2018 provided that the final audit pursuant to the PVP Transfer Payment Agreement or the CAEAS/ECAB Transfer Payment Agreement, as the case may be, has been completed; in the event that final audits have not been completed by April 1, 2018, then the Remaining Start-up Costs shall be transferred within 30 days of the completion of the final audits.
- (b) The Principals' and Vice-Principals' Associations, may, in their discretion, direct the Trustees to hold all or part of any remaining monies in respect of Start-up Costs in a reserve in respect of litigation expenses related to PVPs, or to PVP Retirees, or to both PVPs and PVP Retirees.

- (c) CAEAS/ECAB may, in its discretion, direct the Trustees to hold all or part of any remaining monies in respect of Start-up Costs in a reserve for litigation expenses related to Non-Union Employees (School Boards) or to CAEAS/ECAB Retirees, or to both Non-Union Employees (School Boards) and CAEAS/ECAB Retirees.

17.3 Actuarial Valuations of the PVP Plan and the CAEAS/ECAB Plan

The Actuary shall prepare annual actuarial valuations of the PVP Plan and CAEAS/ECAB Plan and each related Separate Account. The actuarial methods and assumptions used in such valuations shall be in accordance with generally accepted actuarial principles, and in accordance with the Funding Policy adopted by the Trustees with the approval of the Parties. The annual actuarial report will include projections for the Trust for a period of not less than three (3) years. The first actuarial report shall be prepared and provided to the Trustees no sooner than six (6) months and no later than twelve (12) months following the implementation of the PVP Plan and the CAEAS/ECAB Plan;

17.4 Funding Policies for PVP Plan and CAEAS/ECAB Plan

The Trustees, with the approval of the Parties, shall adopt Funding Policies for the PVP Plan and for the CAEAS/ECAB Plan, and may amend them from time to time, in a manner not inconsistent with the Memorandum of Settlement for PVPs and the Participation Agreement for CAEAS/ECAB, as applicable, governing, *inter alia*:

- (a) the actuarial methods and assumptions to be used in actuarial valuations of the PVP Plan and the CAEAS/ECAB Plan;
- (b) the margins or explicit reserves, if any, to be used in the actuarial valuations of the PVP Plan and the CAEAS/ECAB Plan;
- (c) the consequences of any excess or deficiency of assets relative to the PVP Plan or CAEAS/ECAB Plan's liabilities as may be disclosed in any actuarial valuation, subject to the following conditions:
 - (i) Surpluses in a Separate Account may not be refunded or distributed in cash, but may be used, as determined by the Trustees for any or all of the following:
 - (A) CFR or other reserves;
 - (B) enhance Benefits or reduce Eligibility Requirements;
 - (C) expand eligibility for the PVP Plan or the CAEAS/ECAB Plan; or
 - (D) reduce Employee Contributions.

- (ii) Actual and projected funding deficiencies of the PVP Plan and CAEAS/ECAB Plan will be addressed by no later than the next regular Plan renewal by one or more of the following methods:
 - (E) use of the CFR or other reserves;
 - (F) increased Employee Contributions;
 - (G) amendment of the PVP Plan and/or CAEAS/ECAB Plan or termination of Benefits (other than life insurance benefits);
 - (H) adoption of measures to decrease administration or delivery costs or Fund investment costs;
 - (I) restriction of eligibility in the PVP Plan and/or CAEAS/ECAB Plan.
- (iii) the Funding Policy shall require that the Trustees take the necessary actions or decisions with respect to the PVP Separate Account and CAEAS/ECAB Separate Account during a period in which the CFR is less than 8.3% of annual PVP Plan or CAEAS/ECAB Plan expenses over a projected three year period. If the motion to amend the PVP Plan and/or CAEAS/ECAB Plan is not adopted, the Trustees will increase Employee Contributions to restore the balance to at least 8.3% of the total annual expenses.

17.5 Investment Policy

The Trustees shall adopt an investment policy or policies with respect to the PVP Plan, CAEAS/ECAB Plan and any Retiree Plans that reflects prudent investment practices applicable to a large employee life and health trust, and may amend it from time to time. No Trustee shall incur any liability as a result of the Fund being invested in high interest savings accounts, Government of Canada treasury bills or cashable guaranteed investment certificates issued by one of the following Schedule 1 Canadian Banks: CIBC, TD Bank, BMO, Royal Bank of Canada or the Bank of Nova Scotia, or by a credit union, for a period of up to 120 days following April 1, 2018 and prior to the establishment of an Investment Policy.

ARTICLE 18 – FUNDING OF RETIREE PLANS

18.1 Participation Agreements

Retiree Plans shall be funded in accordance with the terms of this Agreement and any applicable Participation Agreements.

18.2 Actuarial Valuations of Retiree Plans

The Actuary shall prepare annual actuarial valuations of the Retiree Plan and the related Separate Account to determine the Employer Contributions payable by

each Participating Employer with respect to its Retired Employees who are participating in the Trust and the PVP Retiree Premium Share to be paid by each PVP Retiree. The actuarial methods and assumptions used in such valuations shall be in accordance with generally accepted actuarial principles, recognizing the underwriting arrangements for the plans and any insurer's assessment of the plan costs, and in accordance with the requirements of this Agreement and Retiree Plan Funding Policy adopted by the Trustees with the approval of the Parties. The annual actuarial report will include projections for the Retiree Plan(s) for a period of not less than three (3) years or a period that is appropriate for the Retiree Plan. The actuarial valuation shall recognize that Benefits costs for CAEAS/ECAB Retirees (including transportation consortia Retired Employees participating pursuant to Section 13.8) and PVP Retirees are to be determined on a fully pooled basis, without distinction as between CAEAS/ECAB Retirees and PVP Retirees, while making separate assumptions regarding litigation and administration expenses so that such expenses related to CAEAS/ECAB Retirees are allocated to and paid by CAEAS/ECAB Retirees and Participating Employers with CAEAS/ECAB Retirees and litigation and administration expenses related to PVP Retirees are allocated to and paid by PVP Retirees and Participating Employers with PVP Retirees. The first actuarial report shall be prepared and provided to the Trustees no sooner than six months and no later than twelve months following the implementation of the Retiree Plan, or, if the Retiree Plan is not implemented at the same time as the Plans for Participants, at a time to be determined in the discretion of the Trustees, having regard for the costs and efficiencies of the actuarial valuation process and the Trustees' needs to monitor the Retiree Plan.

18.3 Funding Policies

The Trustees, with the approval of the Parties, shall adopt Funding Policies for the Retiree Plan(s), and may amend them from time to time, in a manner not inconsistent with this Agreement. The Funding Policies for Retiree Plan shall address, among other things:

- (a) the actuarial methods and assumptions to be used in actuarial valuations of the Retiree Plan, including, for greater certainty, assumptions for administration and litigation expenses; and
- (b) the margins or explicit reserves, if any, to be used in the actuarial valuations of the Retiree Plan

ARTICLE 19 – AMALGAMATION OR MERGER OF TRUST FUND

19.1 Ability to Merge or Amalgamate

The Parties may amalgamate or merge the Trust with one or more other trusts that are employee life and health trusts within the meaning of section 144.1 of the Income Tax Act (Canada) and may amalgamate or merge the Fund, in whole or in part, or a Separate Account, with one or more funds maintained to provide benefits under an employee life and health trust within the meaning of section

144.1 of the Income Tax Act (Canada) provided that the Parties are satisfied that any amalgamation or merger of the Trust, the Fund or a Separate Account (an "Amalgamation") will not have the effect of depriving any Participant, Retired Employee or Beneficiary of any right to Benefits to which such Participant, Retired Employee or Beneficiary had become entitled or which had accrued to his credit pursuant to this Agreement or a Plan, and that the rights of such Participant, Retired Employee or Beneficiary under the arrangement created by the Amalgamation, including the benefit plan thereunder will, at the effective date of the Amalgamation be the substantial equivalent of their rights under this Agreement and a Plan. In connection with such Amalgamation, the Parties may enter into an amalgamation or merger agreement with the trustee or sponsor of one or more other trusts, amend or terminate this Agreement, transfer or cause the custodian or custodians (if any) to transfer and deliver the Fund or the assets of a Separate Account to the trustee or custodian of another trust or fund, and execute and deliver all such other documents and instruments and do or cause to be done such other acts as may be required to carry out any such amalgamation.

ARTICLE 20 – TERMINATION OF TRUST FUND

20.1 Termination

The Parties may terminate this Trust Agreement by instrument in writing, in which case the Trustees shall wind up and terminate the Fund within twelve (12) months of such date of termination as follows (provided that the Trustees may extend such period for completing the wind up of the Fund where they determine that it is advisable to do so):

- (a) provide for a final audit and accounting for the purpose of the termination of the Fund;
- (b) make payment or provision for payment out of the Fund of all expenses of the Fund including the expenses incidental to such termination;
- (c) reduce the Benefits in the PVP Plan, the CAEAS/ECAB Plan, and in each Retiree Plan to the extent necessary in the event the balance of the Fund or a Separate Account is insufficient to pay the entirety of the Benefits accrued to the date upon which the Agreement and the Plan are terminated; and
- (d) distribute the Fund then remaining (i) to pay, or make arrangements to provide, the accrued Benefits determined by the Trustees to be owing to the Participants, Beneficiaries and Retired Employees in accordance with a Plan (subject to any reduction under section 20.1(c)), and (ii) to distribute any excess exclusively to the Participants, Beneficiaries and Retired Employees.

20.2 Notification of Termination

Upon termination of the Fund in accordance with this Section, the Trustees shall forthwith notify the Participating Employers, and any other necessary parties and the Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust.

ARTICLE 21 – TRUSTEES' ACCOUNTS

21.1 Trustees' Accounts

The Trustees shall keep such books, records and accounts as are necessary and appropriate to document the assets and transactions of the Fund and Separate Accounts.

21.2 Audit Requirement

The Trustees shall cause the Fund and each Separate Account to be audited on an annual basis. The auditor's report will be shared with the Crown, Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB. The reasonable cost of the audit shall be payable by the Trustees from the Fund.

ARTICLE 22 – NOTICE AND DISCLOSURE

22.1 Notices

Any notice under the terms and conditions of this Agreement may be given to a person by any of the following methods and, in respect of the following methods, will be deemed to be duly given as follows:

- (a) upon receipt, if delivered personally;
- (b) on the seventh day after the date of sending, if sent by regular mail to the last known address of the person entitled to receive such notice as shown in the records of the Trustees and whether or not actually received; or
- (c) at the time when the appropriate confirmation is received, if sent by telecopier, facsimile sending machine, or electronic mail to the last known telecopier number, facsimile number or electronic mail address of the person entitled to receive such notice as shown in the records of the Trustees.

22.2 Notice to the Trustees

Notwithstanding section 22.1, a notice hereunder to a Trustee will only be effective as and when actually received by such Trustee.

22.3 **Change in Notice Period**

Notwithstanding any other provision of this Agreement, any notice period required to be given under the terms of this Agreement may be reduced or dispensed with by agreement between the person required to give such notice and the person(s) entitled to receive it.

22.4 **Reports to Participants, Beneficiaries and Retired Employees**

The Trustees shall publish an annual report to the Participants, Beneficiaries and Retired Employees, and may also publish such other reports, bulletins or communications as the Trustees see fit.

22.5 **Disclosure Concerning Participating Employers, Beneficiaries and Others**

Confidentiality. All personal information about employees provided to the Trustees and to the Third Party Administrator pursuant to this Agreement will be treated as Confidential Information (the "Confidential Information") and shall be governed in accordance with Applicable Legislation and any confidentiality or privacy policies adopted by the Trustees. Except as required by law, Confidential Information will only be disclosed to the Trustees, the Administrative Agent, a service provider retained by the Trustees, the individual to whom the Confidential Information pertains or a representative of that individual who has been authorized in writing in accordance with the Trust's privacy or confidentiality policy. The Trustees will provide to a Participating Employer, the Trustees' Associations, the Principals' and Vice-Principals' Associations and CAEAS/ECAB, a copy of any confidentiality or privacy policy, and any amendments to such a policy, that are in force from time to time.

Subject to Applicable Legislation, the Trustees shall be entitled to make disclosures concerning:

- (a) any Participant, Retired Employee or Beneficiary or Participating Employer;
- (b) any person who is or may be in any way interested hereunder or referred to herein;
- (c) the Fund, a Separate Account or any part thereof (which will include any corporation, company, partnership or other entity, and the assets and affairs thereof, whose shares or other ownership interests are comprised directly or indirectly in the Fund or a Separate Account); or
- (d) the affairs of any or all of those referred to in paragraphs (a), (b) and (c);

but only if in the opinion of the Trustees, disclosure is required or desirable in the performance of Trustees' functions as Trustees, or if so ordered by a court of competent jurisdiction.

ARTICLE 23 – REVIEW OF TRUST AGREEMENT

23.1 Review of Trust Agreement

The Parties shall review this Agreement, in good faith, in 2020 and every five years thereafter.

ARTICLE 24 – MISCELLANEOUS

24.1 Illegality

If any provision of the Trust Agreement or the rules and regulations made pursuant hereto, or any steps in the administration of the Fund, are held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the Trust Agreement, a Plan, or the said rules and regulations, unless such illegality or invalidity prevents accomplishment of the objectives and purposes of the Memorandum of Settlement for PVPs, this Trust Agreement or the Plan.

24.2 Fiscal Year

The fiscal year of the Fund shall end on the 31st day of December, in each year.

24.3 Situs

The Province of Ontario shall be deemed to be the situs of the Fund and all questions pertaining to the validity, construction and administration of the Trust Agreement, the Plan and the fund shall be determined in accordance with the laws of the Province of Ontario. The Trust shall be administered such that throughout each taxation year it is resident in Canada for purposes of the Income Tax Act (Canada) determined without reference to section 94 of that Act.

24.4 Responsibilities vis-à-vis Retiree Plan

The following principles shall govern the provision of post-retirement Benefits to Retired Employees:

- (a) Each Participating Employer shall be responsible for promises it has made to Retired Employees for the provision of post-retirement Benefits.
- (b) Participating Employers shall be responsible for determining whether to provide any Retired Employee with any supplemental Benefits pursuant to an agreement between the Trustees and the Participating Employer in accordance with section 13.1(e) of this Agreement. The Trustees will assist in providing information and support to Participating Employers through the process including interfacing with the Third Party Administrator and insurer as appropriate;
- (c) For greater certainty and without derogating from anything else in this Agreement, the Trustees shall:


- (i) deliver post-retirement Benefits to Retired Employees in accordance with the Retiree Plan (including any supplemental Benefits provided pursuant to an agreement between the Trustees and the Participating Employer), and
- (ii) be responsible for any negligence in the delivery of such Benefits or any failure to deliver post-retirement Benefits to Retired Employees in accordance with the Retiree Plan.


24.5 Counterparts

This Trust Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original, and all such respective counterparts shall together constitute one and the same instrument:

IN WITNESS WHEREOF the Parties hereto, in consideration of the mutual promises and undertakings herein set forth, and intending to be legally bound hereby, have caused this Trust Agreement to be executed as of the date and year first above written.

SIGNED, SEALED AND
DELIVERED in the presence of


Crown
 Per: _____
 Name:
 Title:
 I have the authority to bind the Crown


OCSTA
 Per: _____
 Name:
 Title:
 I have the authority to bind the
 OCSTA

} **OPSBA**
Per: _____
Name:
Title:
I have the authority to bind the
OPSBA

} **ACÉPO**
Per: _____
Name:
Title:
I have the authority to bind ACÉPO

} **AFOCSC**
Per: _____
Name:
Title:
I have the authority to bind AFOCSC

} **ADFO**
Per: _____
Name:
Title:
I have the authority to bind ADFO



CPCO

Per: _____

Name:

Title:

I have the authority to bind CPCO



OPC

Per: _____

Name:

Title:

I have the authority to bind OPC



CAEAS/ECAB

Per: _____

Name:

Title:

I have the authority to bind
CAEAS/ECAB

SCHEDULE "A"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

SCHOOL BOARDS BOUND BY THE ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION ("OPSBA")

1. Ontario North East DSB
2. Algoma DSB
3. Rainbow DSB
4. Near North DSB
5. Keewatin-Patricia DSB
6. Rainy River DSB
7. Lakehead DSB
8. Superior-Greenstone DSB
9. Bluewater DSB
10. Avon Maitland DSB
11. Greater Essex County DSB
12. Lambton Kent DSB
13. Thames Valley DSB
14. Toronto DSB
15. Durham DSB
16. Kawartha Pine Ridge DSB
17. Trillium Lakelands DSB
18. York Region DSB
19. Simcoe County DSB
20. Upper Grand DSB
21. Peel DSB
22. Halton DSB
23. Hamilton-Wentworth DSB
24. DSB of Niagara
25. Grand Erie DSB
26. Waterloo Region DSB
27. Ottawa-Carleton DSB
28. Upper Canada DSB
29. Limestone DSB
30. Renfrew County DSB
31. Hastings & Prince Edward DSB
32. Moosonee District School Board
33. Moose Factory Island District School Board
34. James Bay Lowlands Secondary School Board
35. Penetanguishine Protestant Separate School Board
36. Campbell Children's School Authority
37. John McGivney Children's Centre School Authority
38. KidsAbility Education Authority
39. Niagara Peninsula Children's Centre School Authority
40. Ottawa Children's Treatment Centre School Authority

41. Sir James Whitney School
42. Ernest C. Drury School for the Deaf
43. Robarts School for the Deaf
44. Centre Jules-Léger
45. W. Ross Macdonald School for the Blind
46. Sagonaska School
47. Trillium School
48. Amethyst School

SCHEDULE "B"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employés et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

SCHOOL BOARDS BOUND BY THE THE ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION ("OCSTA")

1. Northeastern Catholic DSB
2. Nipissing-Parry Sound Cath DSB
3. Huron-Superior Catholic DSB
4. Sudbury Catholic DSB
5. Northwest Catholic DSB
6. Kenora Catholic DSB
7. Thunder Bay Catholic DSB
8. Superior North Catholic DSB
9. Bruce-Grey Catholic DSB
10. Huron-Perth Catholic DSB
11. Windsor-Essex Catholic DSB
12. London Dist. Catholic School
13. St. Clair Catholic DSB
14. Toronto Catholic DSB
15. PVNC Catholic DSB
16. York Catholic DSB
17. Dufferin-Peel Catholic DSB
18. Simcoe Muskoka Catholic DSB
19. Durham Catholic DSB
20. Halton Catholic DSB
21. Hamilton-Wentworth Cath DSB
22. Wellington Catholic DSB
23. Waterloo Catholic DSB
24. Niagara Catholic DSB
25. Brant Haldimand Norfolk CDSB
26. Cath DSB of Eastern Ontario
27. Ottawa Catholic DSB
28. Renfrew County Catholic DSB
29. Algonquin & Lakeshore Catholic DSB

SCHEDULE "C"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

SCHOOL BOARDS BOUND BY L'ASSOCIATION DES CONSEILS SCOLAIRES DES ÉCOLES PUBLIQUE DE L'ONTARIO ("ACÉPO")

1. CSD du Nord-Est de l'Ontario
2. CSD du Grand Nord de l'Ontario
3. Conseil scolaire Viamonde
4. CEP de l'Est de l'Ontario

SCHEDULE "D"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

SCHOOL BOARDS BOUND BY L'ASSOCIATION FRANCO-ONTARIENNE DES CONSEILS SCOLAIRES CATHOLIQUES ("AFOCSC")

1. CSD cath. des Grandes Rivières
2. CSD catholique Franco-Nord
3. CSD cath. du Nouvel-Ontario
4. CSD cath. des Aurores boréales
5. CSC Providence
6. CSC MonAvenir
7. CSD cath. de l'Est ontarien
8. CSD cath. Centre-Est de l'Ontario

SCHEDULE "E"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employés et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

AGREEMENT GOVERNING PARTICIPATION OF CAEAS/ECAB PARTICIPANTS AND CAEAS/ECAB RETIREES

All defined terms in this Schedule "E" shall have the meaning attributed to them in the Trust Agreement, except where such terms are expressly defined in this Schedule "E".

Benefit Plan Surpluses/Deficits

For the purposes of section 17.1(b) of the Trust Agreement, the following rules apply to the transfer of available surpluses in Participating Employer-owned defined benefit plans, as well as the treatment of any deficits in such plans:

1. **Transfer of Surpluses** – Each Participating Employer that is a School Board shall settle all claims under a Participating Employer-owned defined benefit plan and shall prepare a final accounting as soon as reasonably and feasibly possible following receipt of the terminal financial accounting statements provided by the insurance carrier, and shall then transfer the employee portion of all eligible and available surpluses in those plans pursuant to and in accordance with the following provisions to the CAEAS/ECAB Separate Account.
 - (a) All Boards' reserves for Incurred But Not Reported ("IBNR") claims and CFR, will remain with the existing carriers until those reserves are released by the carriers based on the terms of existing contracts.
 - (b) For the Administrative Services Only plans (ASO), a surplus (including deposits on hand) will be distributed to the Trust, net of claims, based on employees' co-share, or as determined through discussions with the carrier. Employees will have three (3) months after the Participation Date to submit claims. After this period they will not be eligible.
 - (c) Prior to transitioning to the Trust, the parties shall determine whether the group transitioning has an eligible and available employer/employee deficit/surplus under the financial arrangements within their existing group insurance policies. For policies where the experience of multiple groups has been combined, the existing surplus will be allocated to each group based on the following:
 - (i) If available, the paid premiums or contributions or claims costs of each group; or
 - (ii) Failing the availability of the aforementioned financial information by each group, then the ratio using the number of FTE positions

covered by each group in the most recent policy year will be used.

The methodology listed above will be applicable for each group leaving or terminating an existing policy where the experience of more than one group has been aggregated. Policies where the existing surplus/deficit has been tracked independently for each group are not subject to this provision.

2. Where applicable, a Participating Employer with deficits in its benefit plans will first recover the deficit through the CFR and IBNR. Where these reserves are insufficient, the remaining deficits shall be the sole responsibility of the Participating Employer.
3. A Participating Employer will not make any withdrawal, of any monies, from any reserves, surpluses and/or deposits under any health care benefit plan maintained for CAEAS/ECAB Participants nor decrease its benefit plan funding unless in accordance with B-Memo B04:2015. It is the parties understanding that Ministry of Education Memo B04:2015 applies and will remain in effect until the CAEAS/ECAB Participants of the Participating Employer commence participation in the Trust.

SCHEDULE "F"

**Ontario Non-Union Education Trust (ONE-T)
/ Fiducie des employées et des employés
non-syndiqués en éducation de l'Ontario
(FENSÉO)**

PARTICIPATION AGREEMENT

(FOR CAEAS/ECAB PARTICIPANTS AND CAEAS/ECAB RETIREES)

The Agreement made this _____ day of _____ 201__

B E T W E E N:

(The "Eligible Employer")

- and -

Trustees of the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

(The "Trustees")

In consideration of the Eligible Employer becoming a participating employer ("Participating Employer") in the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) (the "ELHT"), the terms of which are set out in a trust agreement dated _____ establishing the Trust (the "Trust Agreement"), in respect of certain of its employees ("CAEAS/ECAB Participants") and retired employees ("CAEAS/ECAB Retirees"), commencing _____ ("Participation Date"), and making contributions to the Trust in accordance with this Participation Agreement; and in consideration of the Trustees making health, life and dental benefits available to the CAEAS/ECAB Participants and CAEAS/ECAB Retirees covered by the ELHT in accordance with this Participation Agreement, the Trustees and the Participating Employer agree as follows:

PART ONE: CAEAS/ECAB PARTICIPANTS

1. **CAEAS/ECAB Benefits Plan.** The Trustees shall administer the CAEAS/ECAB Plan for the CAEAS/ECAB Participants covered by this Participation

Agreement. A copy of the CAEAS/ECAB Plan is attached as Appendix "A."

2. **Election to Provide Additional Benefits.** The Participating Employer shall, in the manner and form prescribed by the Trustees, either: (a) confirm that it wishes to enrol its CAEAS/ECAB Participants in the CAEAS/ECAB Plan without any supplemental benefits; or (b) request the Trustees to use commercially reasonable efforts to provide Benefits in addition to those described in the CAEAS/ECAB Plan to one or more of its CAEAS/ECAB Participants. The Trustees shall provide such additional Benefits only for the purpose of replicating any Benefits provided to a CAEAS/ECAB Participant under his terms and conditions of employment immediately prior to becoming a CAEAS/ECAB Participant. The Trustees shall not be required to provide any additional Benefits where doing so is not possible despite commercially reasonable efforts or where providing such Benefits would reasonably be expected to jeopardize the tax status of the ELHT. The Participating Employer shall be responsible for the costs of any such additional Benefits, less Employee Contributions, and any administrative or other costs incurred by the Trustees to provide these additional Benefits. The Trustees shall not be responsible for any other benefits that are not provided through the ELHT.
3. **Separate Account.** Contributions by the Participating Employer and CAEAS/ECAB Participants shall be held in the CAEAS/ECAB Separate Account. The assets of the CAEAS/ECAB Separate Account, together with earnings thereon, shall be the exclusive source of funding for Benefits under the CAEAS/ECAB Plan. In the event that funding provided with respect to the CAEAS/ECAB Plan is not sufficient, in the Trustees' opinion, to sustain the Benefits offered under the CAEAS/ECAB Plan, the Trustees may, in their exclusive discretion, amend and reduce the Benefits under the CAEAS/ECAB Plan or otherwise alter the CAEAS/ECAB Plan to align the funding with the cost of Benefits in accordance with the Trust Agreement.
4. **Funding.** The Participating Employer shall make contributions to the Trust in respect of the CAEAS/ECAB Participants pursuant to any regulations made by the Lieutenant Governor in Council under the *Education Act* (Ontario) that authorize funding for such contributions or for benefits that may be provided through the Trust or, solely to the extent that no such regulations are in effect at the time the contributions are due under the Trust Agreement, as contemplated in any Funding Commitment Letter (as defined below) in effect at the time the contributions are due under the Trust Agreement, in addition to any amounts described under section 2 of this Participation Agreement. "Funding Commitment Letter" means a letter or other notice from the Crown to the Participating Employer confirming the level of funding intended to be made available to the Participating Employer for a specified period of time for employee benefits to be provided under the Trust to the CAEAS/ECAB Participants employed by the Participating Employer.
5. **Monthly Contributions.** The Participating Employer contribution is to be remitted by the Participating Employer to the Trustees in equal monthly

instalments in advance on or before the first business day of each month following the Participation Date. A Participating Employer shall deduct from the wages of a CAEAS/ECAB Participant in their employ the amount of Employee Contributions that the CAEAS/ECAB Participant is required by the Trustees to make, and shall remit such Employee Contributions to the Trustees, as and when required by the Trustees.

PART TWO: CAEAS/ECAB RETIREES

6. **CAEAS/ECAB Retiree Plan.** The Trustees shall administer a Retiree Plan for the CAEAS/ECAB Retirees that the Participating Employer elects to enrol in the Retiree Plan. A copy of such Retiree Plan is attached as Appendix "B". The Participating Employer acknowledges that the Retiree Plan may provide different Benefits to different classes of Retired Employees (for greater certainty, such classes may also include PVP Retirees) and may provide for different Contributions levels for such classes. The Trustees and the Trustees' Associations may amend the Retiree Plan from time to time by agreement in writing.
7. **Covered CAEAS/ECAB Retirees.** The Participating Employer shall provide the Trustees with the names and the addresses of the CAEAS/ECAB Retirees that the Participating Employer elects to provide Benefits to through the Retiree Plan. The Participating Employer acknowledges that Benefits shall only be made available from the ELHT to these CAEAS/ECAB Retirees.
8. **Election to Provide Additional Retiree Benefits.** The Participating Employer shall, in the manner and form prescribed by the Trustees, either: (a) confirm that it wishes to enrol its CAEAS/ECAB Retirees in the Retiree Plan without any supplemental benefits; or (b) request the Trustees to provide Benefits in addition to those described in the Retiree Plan to one or more of its CAEAS/ECAB Retirees. The Trustees shall provide such additional Benefits in accordance with the election of the Participating Employer only for the purpose of replicating any Benefits provided to the Participating Employer's CAEAS/ECAB Retirees under his terms and conditions of employment immediately prior to becoming a CAEAS/ECAB Retiree. The Trustees shall not be required to provide any additional Benefits where doing so is not possible despite commercially reasonable efforts, or where providing such Benefits would reasonably be expected to jeopardize the tax status of the ELHT. The Participating Employer shall be responsible for the cost of any such additional Benefits and for any administrative or other costs incurred by the Trustees to provide any additional Benefits to CAEAS/ECAB Retirees pursuant to such election, less applicable Retired Employee Premium Shares. The Trustees shall not be responsible for any other benefits that are not provided through the ELHT.
9. **Funding.** The Participating Employer shall make contributions in respect of its CAEAS/ECAB Retirees in accordance with the Trust Agreement, as it may be amended from time to time. The Participating Employer shall be notified by the

Trustees as to the amount and timing of the monthly contributions that it is required to remit from time to time in respect of its CAEAS/ECAB Retirees pursuant to the Trust Agreement. The Participating Employer shall be responsible for collecting and remitting to the ELHT the full amount of the premiums required in respect of its CAEAS/ECAB Retirees and shall be solely responsible for recovering any amounts that a CAEAS/ECAB Retiree is required to contribute (if any) to receive Benefits from the ELHT.

10. **Separate Account.** A Separate Account shall be maintained for the Retiree Plan. The assets of the Retiree Plan Separate Account, together with earnings thereon, shall be the exclusive source of funding for Benefits under the Retiree Plan.
11. **Terminal Funding.** The School Board acknowledges and agrees that in the event that an Accounting Division of a Retiree Plan ceases to have any members, the School Board shall pay its share of the deficiency, as determined in accordance with the Trust Agreement.
12. **Responsibilities vis-à-vis Retiree Plan.** The Participating Employer acknowledges that it shall be responsible for promises it has made to its CAEAS/ECAB Retirees for the provision of post-retirement Benefits.

PART THREE: GENERAL PROVISIONS

13. **Defined Terms.** All defined terms in this Agreement shall have the meaning attributed to them in the Trust Agreement, except where such terms are expressly defined in this Agreement.
14. **Trust Agreement.** The Participating Employer agrees to be bound by the Trust Agreement and acknowledges having been provided a copy of the Trust Agreement and an opportunity to review the Trust Agreement prior to signing this Participation Agreement. The terms of the Trust Agreement, as it may be amended from time to time, shall prevail to the extent of any inconsistency with this Agreement. The Trustees will provide the Participating Employer with a copy of any subsequent amendments as they are made.
15. **Transition to ELHT.** The Participating Employer acknowledges that it is responsible for notifying the CAEAS/ECAB Participants and the CAEAS/ECAB Retirees of the transition to the ELHT and of the changes, if any, to their Benefits as a result of the transition, and that neither the Trustees nor the ELHT shall be responsible for any liability arising from any deficiencies or delays in such notification. Without limiting the foregoing, the Participating Employer shall be responsible for notifying CAEAS/ECAB Participants that, if they retire after August 31, 2019, or such later date as may be applicable for a Designated Executive, they shall not be entitled to Benefits under the ELHT after retirement.
16. **Provision of Data.** The Participating Employer shall provide to the Trustees, or, at the Trustees' discretion, to the Third Party Administrator, the data set out

in Schedule "G" to the Trust Agreement (attached hereto as Appendix "C") in the manner and in the formats and at the time or times required by Appendix "C".

17. **Failure to Comply.** In the event that the Participating Employer fails to comply with any of the requirements set out in this Participation Agreement, the Trustees may take legal proceedings to enforce this Agreement in accordance with the Trust Agreement, including the collection of such amounts owing by the Participating Employer pursuant to this Participation Agreement (subject to any grace period established by the Trustees) plus interest and reasonable legal fees and disbursements associated with the collection of such contributions.
18. **Trustee Appointments.** The Participating Employer acknowledges it has no right to appoint or participate in the appointment of employer trustees under the Trust Agreement.
19. **Separate Accounts.** The Participating Employer acknowledges that it has no right, claim or interest in or to any moneys held in the CAEAS/ECAB Plan Separate Account or the Retiree Plan Separate Account.
20. **Termination.** This Participation Agreement may be terminated by the Participating Employer only with the consent of the Trustees on a date ("Termination Date") and on such terms as may be prescribed by the Trustees. In the event of a termination, the Trustees shall prepare a terminal accounting statement and provide it to the Participating Employer within 180 days after the Termination Date. The Trustees shall have no liability to pay any claims for Benefits incurred by CAEAS/ECAB Participants or CAEAS/ECAB Retirees, as applicable, after the Termination Date.
21. **Contact.** The Trustees may contact the Participating Employer as follows:

Name of Contact:

Address: Phone:

Fax:

Email:

Dated this _____ day of _____, 201__



[Participating Employer]

Per

:

Name:

Title:

I/We have the authority to bind the
Participating Employer

Trustees



Trustees of the Ontario Non-Union
Education Trust (ONE-T) / Fiducie des
employées et des employés non-syndiqués
en éducation de l'Ontario (FENSÉO)

Per

:

Name:

Title:

I/We have the authority to bind the
Trustees

- Appendix "A" – CAEAS/ECAB Plan
- Appendix "B" – Retiree Plans
- Appendix "C" – Data Requirements

SCHEDULE "G"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employés et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

INITIAL AND ONGOING DATA REQUIREMENTS

1. **Provision of Data – General.** The Participating Employer agrees to provide to the Trustees, or, in the Trustees' discretion, the Administrative Agent, all information they may reasonably require in order to properly record and process Contributions and to establish and maintain benefit records for each eligible employee, without charge or compensation. All data shall be provided by the Participating Employer electronically, at the time or time(s) required by the Administrative Agent, in a format acceptable to the Administrative Agent using a system that is compatible with the system used by the Administrative Agent.
2. **Initial Transfer of Data.** No later than 90 days prior to their Participation Date, a Participating Employer shall provide to the Trustees, or in the Trustees' discretion, the Administrative Agent, all information which they may reasonably require in order to establish initial records for each eligible employee, in a format acceptable to the Administrative Agent. Such information may be obtained directly from the Participating Employer's records or the Participating Employer may direct the current carrier to provide such information.

Such information will include, but will not be limited to:

- (a) Employee information for each eligible employee (name, address, identification number, birth date, gender, salary, status etc.)
- (b) Current Insurance information for each covered employee (insurance effective date, current amounts of life and accidental death and dismemberment coverage including any optional amounts of employee, spouse or dependents coverage, and single or family coverage level for health and dental etc.)
- (c) Information on each covered dependent (name, birth date, gender, details on whether the dependent is covered under any other group plan etc.)
- (d) Benefit history (pre-authorized drug or dental treatments, certain dollar amounts claimed and the associated dates that the expenses were claimed)
- (e) A listing of all employees not actively at work on the Participation Date including:
 - (i) Employees currently covered for life benefits under the waiver of premium provision

- (ii) Disabled employees whose life insurance is being maintained on a premium paying basis
- (iii) Employees on an approved leave of absence

The Participating Employer shall provide any changes to this Initial Data no later than XX days prior to their Participation Date.

3. **Ongoing Data Requirements.** On the last day of each month from and after a Participating Employer's Participation Date, the Participating Employer shall provide all updates to Participant, Beneficiary and Retired Employee data to the Administrative Agent, in an electronic format acceptable to the Administrative Agent. The information details and format for ongoing data requirements are outlined in Appendix YY. The required information and format of the data may be subject to change from time to time in accordance with section 7.7 of the Agreement.
4. **Leaves of Absence.** Administration of all leaves of absence, including long-term disability where applicable, will be the responsibility of the Administrative Agent. During such leaves of absence, the Participating Employer shall continue to provide HRIS information and updates as defined in section 3. The Participating Employer shall provide electronic updates of Participants' work status to the Trustees (or, at their direction, the Administrative Agent), including changes in types of leaves of absence, at least two (2) weeks in advance of the leave.
5. **Incompatible Electronic Systems.** Where a Participating Employer cannot provide information in an electronic format acceptable to the Administrative Agent, the Participating Employer shall enter the required employment information into the Administrative Agent's benefit site (Plan portal) in advance of a new Participant's commencement of active employment. The Participating Employer shall enter any subsequent demographic or employment changes as specified by the Administrative Agent on the Administrative Agent's benefit site within one week of the change occurring. Where a Participating Employer does not have an electronic system that is acceptable to the Administrative Agent, a written member coverage report shall be used as an interim solution until an acceptable electronic system required is in place.
6. **Information on Plan Enrollment:**
 - (a) **Participation Date:** The Administrative Agent shall provide communication material to Participating Employers prior to their Participation Dates, and each Participating Employer shall distribute benefit communication material as provided by the Administrative Agent to existing Participants within five (5) days of receipt of such material.
 - (b) **New Employees:** The Participating Employer shall distribute benefit communication material as provided by the Administrative Agent to all new Participants within five (5) days from the date of hire.

7. **Data in Regard to Contributions.** The Participating Employer shall remit its Employer Contributions to the ONE-T/FENSEO together with its contributions to other Education Sector Employee Life and Health Trusts to the Administrative Agent, and, at the same time shall provide an information advice in a form acceptable to the Administrative Agent, accounting for the full amount of the contributions so remitted and allocating them between all of the Education Sector Employee Life and Health Trusts.

SCHEDULE "H"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

TRUSTEE ATTESTATION

I, _____, hereby attest that I satisfy all the qualifications to act as a Trustee of the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) specifically:

- (a) I am an individual;
- (b) I am a resident of Canada;
- (c) I am at least eighteen years of age;
- (d) I have not be found under the Substitute Decisions Act, 1992 or under the Mental Health Act to be incapable of managing property, or been found to be incapable by a court in Canada or elsewhere;
- (e) I am not an undischarged bankrupt.

I acknowledge that the above Trustee eligibility requirements are ongoing, and I will resign as Trustee should I cease to meet any of the requirements.

Signature } _____
Date

Signature of Witness } _____
Name of Witness

SCHEDULE "I"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

ACCEPTANCE OF TRUST

TO: The Trustees of the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

The undersigned, having been appointed to serve as a Trustee of the Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO) Trust (the "Trust") in accordance with the Trust Agreement dated _____ (the "Trust Agreement") hereby accepts the trust created and established by the Agreement and consents to act as a Trustee thereunder, and agrees to administer the Plan and the Fund in accordance with the provisions of the Agreement.

DATED at _____, Ontario, this _____ day of _____, 20____.

Signature of Witness

} _____
Name of Witness

Address: _____

Occupation: _____

Receipt is hereby acknowledged this _____ day of _____, 20 ____.

[determine and insert correct title]

SCHEDULE "J"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employés et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

TERMINAL RETIREE ARRANGEMENT DEFICIENCY FORMULA

Participating Employers shall pay to the Trust a portion of a deficiency determined under section 13.9(a) of the Trust Agreement determined as follows:

- (a) The sum of the number of months that the Retired Employees of the Participating Employer were in the Accounting Division,
- (b) Divided by the total of (a) for all Participating Employers whose Retired Employees were in the Accounting Division,
- (c) Multiplied by the terminal deficit for that Accounting Division.

For purposes of clarity, the following is an example of the application of the formula in the event that an Accounting Division ceases to have any members in 2028 and has a terminal deficiency of \$1 million at that time:

Deficit Recovery after all employees have left. Assume that's 2028														
	Number of employees times number of months each is in the plan each year											Total Person Months	Board Portion	
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028			
Board A	200	180	150	100	100	100	70	60	40	20	10	1030	68%	
Board B	150	125	80	40	20	0	0	0	0	0	0	415	28%	
Board C	15	15	15	10	5	1	0	0	0	0	0	61	4%	
Board D	0	0	0	0	0	0	0	0	0	0	0	0	0%	
												TOTAL	1506	100%
Deficit Allocation	\$1 Million													
Board A	683,931													
Board B	275,564													
Board C	40,505													
Board D	-													
	1,000,000													

SCHEDULE "K"

Ontario Non-Union Education Trust (ONE-T) / Fiducie des employées et des employés non-syndiqués en éducation de l'Ontario (FENSÉO)

SKILL MATRIX FOR TRUSTEES

Core competencies of the Board:

- (a) Accounting & Finance
- (b) Employee benefits plan expertise
- (c) Knowledge of the public education sector
- (d) Risk management experience related to life/health/dental plans
- (e) Investment experience
- (f) Legal and Policy Development
- (g) Information Technology / cyber-security
- (h) Trust Governance

Previous Board experience and experience in labour relations will be considered an asset.

Each Trustee must possess the following personal competencies:

- (a) Integrity & Ethics - Acting in a manner that sustains and improves trust through the consistent application of the highest standards of professional conduct in all activities acting as stewards of the Trust and its beneficiaries.
- (b) Business Acumen - Understanding general business and financial concepts. A Keeness and quickness in understanding and dealing with complex business situations.
- (c) Problem Solving and Analysis - Solving difficult problems through careful and systematic evaluation of information, possible alternatives and consequences.

- (d) Sound Judgment - Making good decisions in a timely and confident manner.
- (e) Interpersonal Communication - The ability to verbally articulate viewpoints succinctly and clearly with logic, facts and figures, where required. Demonstrates effective listening skills.
- (f) Team Effectiveness - A demonstrated ability to contribute with candour, professionalism and emotional intelligence while working toward a common goal. A willingness to accept and support Board decisions, once made.
- (g) Independence - Acting with a mindset of impartiality as it relates to the employers and employees groups. Freedom from influence by any factors other than the interest of plan members as a whole.
- (h) Commitment - Strong commitment to time and effort required to prepare for and contribution to board and committee meetings and discussions.

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