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# **Account Agreement & Disclosure Document**

**Credential**<sup>®</sup>  
Asset Management

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Thank you for choosing Credential Asset Management Inc. (CAM). This Account Agreement & Disclosure Document sets out the terms and conditions applicable to your CAM Account. It is important that you read, understand and acknowledge the information contained in this document before you submit the Application for your Account, and consider this Agreement in conjunction with the consents, acknowledgements and certifications included in the Application and any other documents that we may provide to you at account opening and from time to time. If you have any questions about your Account, the agreements or documents applicable to it, or your relationship with CAM, please contact your Advisor.

## **1. Definitions and Interpretation**

### **1.1 Definitions**

In this Account Agreement & Disclosure Document, unless otherwise indicated, the following terms have the meanings set out below:

- **“Account”** means your account with CAM;
- **“Advisor”** means the individual registered with CAM and assigned to provide services to you in connection with your Account;
- **“Agreement”** means this Account Agreement & Disclosure Document;
- **“Application”** means the Account Application form and related documents that you are required to complete in order to open your Account;
- **“Aviso”** means Aviso Wealth Inc., parent company of CAM;
- **“CAM”** means Credential Asset Management Inc.;
- **“MFDA”** means the Mutual Fund Dealers Association of Canada;
- **“NEI Investments”** means Northwest & Ethical Investments L.P.;
- **“we”, “us” and “our”** refer to CAM and/or your Advisor, as applicable; and
- **“you”, “your” and “yours”** refer to the applicant (and any co-applicant if applicable) applying to open the Account or the Account holder, as the case may be.

### **1.2 Headings**

The headings used in this Agreement are for reference only and do not define, limit, or otherwise affect the meaning of any provisions contained in this Agreement.

### **1.3 Singular and Plural**

Where necessary to ensure proper interpretation, including but not limited to when the Account is jointly held, all words implying and references to the singular should include and be read as plural, and vice versa.

### **1.4 Language**

It is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. *Les parties conviennent que la présente convention et tous les documents qui s'y rattachent soient rédigés et signés en anglais.*

## **2. About CAM**

CAM is a full service mutual fund dealer, registered under applicable Canadian securities regulation. We are a member of the MFDA and a wholly owned subsidiary of Aviso Wealth Inc. Aviso is a wholly owned subsidiary of Aviso Wealth LP, which in turn is owned 50% by Desjardins Financial Holding Inc. and 50% by a limited partnership owned by the five provincial Credit Union Centrals and The CUMIS Group Limited. We make our services available in association with participating financial organizations and their affiliates and subsidiaries.

## **3. Relationship Disclosure**

This section is intended to help you understand your relationship with CAM and your Advisor and provide guidance and clarity on our respective responsibilities with regard to services, product availability, costs and other information relevant to your Account.

### **3.1 Understanding Roles and Responsibilities**

**You are responsible for making your own investment decisions in consultation with your Advisor. CAM Advisors are responsible for the advice they provide and for ensuring it is suitable based on your investment needs and objectives, but Advisors may not exercise discretion with respect to your Account.**

**Your role** - It is important for you to actively participate in our relationship. You understand and agree that you will:

- *Keep us up to date.* You will provide full and accurate information to us and your Advisor regarding your personal and financial circumstances, and promptly advise us of any change to information that could reasonably result in a change to the types of investments appropriate for you, such as a change to your income, investment objectives, risk tolerance, time horizon or net worth.
- *Remain informed.* You will take steps to understand the potential risks and returns on investments, including those detailed below in the “*Risks of Investing in Mutual Funds*” section. You will carefully review sales literature provided by us and, where appropriate, consult professionals, such as a lawyer or an accountant, for legal or tax advice. Before you invest, you will understand how the investment works, including fees. You will not invest in anything you do not fully understand.
- *Stay on top of your investments.* You will promptly review the documentation and other information provided to you regarding your Account, the transactions conducted on your behalf and the holdings in your Account.
- *Ask questions.* You will ask questions and request information from us to address any questions you may have about your Account, transactions or holdings, or your relationship with us or your Advisor.
- *Pay amounts owing.* You agree to pay for all securities purchased on or before the day of settlement and will pay all commissions and charges properly levied on your Account.

**Our role** - You understand that CAM and your Advisor will:

- *Be fair and honest.* We and your Advisor will treat you in a manner characterized by principles of fair dealing and high standards of honesty and integrity.
- *Make suitable investment recommendations.* Your Advisor will know and understand the characteristics and risks associated with any investment product they recommend to you and will have reasonable grounds for believing that any investment that they specifically recommend to you is suitable given the personal and financial circumstances you disclosed. Your Advisor should understand, and be able to clearly explain to you, the reasons that a specific security is appropriate and suitable for you.
- *Answer your questions.* We and your Advisor will promptly respond to any questions or concerns you may have regarding your Account.

### **3.2 Suitability Assessment Process**

Through conversations with you and a review of the information provided by you on the Application, your Advisor will gain an understanding of your financial situation and life circumstances. The information you provide is broadly referred to as “Know Your Client” (KYC) information and will be used by your Advisor to determine whether a given investment is suitable for you. You will be provided with a copy of your KYC information at the time of account opening and each time there is a material change to your KYC information.

The KYC information and other factors that guide us in our decision as to an investment’s suitability include what we understand to be your current:

- *Financial situation* - What financial assets (e.g. deposits, investments etc.) and liabilities (e.g. debt, mortgage etc.) you have and the sources and amount of your income. We will consider the size of any transaction compared to the overall value of your net financial assets (assets minus liabilities).
- *Investment knowledge* - Whether you consider yourself, or we understand you, to be a novice at investing, have some knowledge or feel you understand more complex financial products.
- *Investment objectives* - What you tell us are your specific financial goals. This will help us determine how to balance the desire to earn income and/or increase your capital through growth in the market value of your holdings/Account.
- *Time horizon* - When you expect to withdraw a significant amount of your Account. For example, to buy a house or pay for education. In retirement, this may also include consideration of tax requirements to withdraw minimum amounts.
- *Risk tolerance* - Your willingness and ability to assume risk and incur fluctuations and/or losses in the value of your investments in pursuing your investment goals. For example, an investor with a high risk tolerance has an above average willingness and ability to risk losing money to get potentially better results.

In addition, other pieces of financial or personal information will have to be collected, including name, address, telephone number, email address and certain information concerning family, employment and financial status. This information will be used to confirm your identity and determine your investor profile. Our understanding of your profile is critical. Some of the above factors are relatively easily answered by providing a number or simply answering “yes” or “no”. However, some factors are more complex, particularly your risk tolerance.

Following this assessment, if an investment is considered to be unsuitable, your Advisor will discuss the situation with you and may recommend that you not proceed to purchase the investment or that you make changes to the other investments in your Account to ensure suitability of your overall portfolio. If you nevertheless wish to purchase an investment that your Advisor has determined unsuitable, your Advisor will, on a case by case basis, determine whether to proceed with the transaction.

Before accepting an order or recommending a security to you, your Advisor will review each order in the context of the KYC suitability factors described above. Your Advisor will also assess the suitability of the investments in your Account whenever you transfer or deposit securities into the Account, there is a material change to your KYC information, or there is a change in the Advisor responsible for your Account.

If your Advisor identifies any concerns during the suitability determination, they will discuss them with you and may be required - pursuant to securities legislation, MFDA rules or good business practice - to document the discussion. If your Advisor considers a trade request to be unsuitable, they may refuse to execute the trade or advise you against proceeding with the trade. In extreme cases, your Advisor may determine to terminate our advisory relationship.

Unless specifically arranged with your Advisor, your Account will not be assessed for suitability in other circumstances, such as during periods of significant market fluctuations.

### **3.3 Products and Services**

CAM clients have access to products such as:

- cash and cash equivalents (e.g. guaranteed investment certificates (GICs) and money market funds);
- mutual funds; and
- labour-sponsored funds.

These products are available through commission and fee-based accounts. Not all products are available at every financial organization branch or through every program offered by CAM. Your Advisor may offer only a limited product shelf to clients, which includes the mutual funds of a small number of mutual fund families, including NEI Investments. Your Advisor can explain these products to you, as well as how they work, their risks and possible returns, and whether they are appropriate for you.

### **3.4 Risks of Investing in Mutual Funds**

There are various risks to investing in mutual funds and other securities. The most common risks are set forth below. Please ensure you understand these risks as they apply to your investment choices. Your Advisor is equipped to discuss these in greater detail with you.

- (a) *Market Risk*. The risk that you will lose some or all of your principal. As markets move up and down, your mutual funds, to various degrees, will move up and down as well.
- (b) *Interest Rate Risk*. The risk that changing interest rates will cause your mutual funds to decline in value. For example, when interest rates rise, bond prices decline and the value your bond fund may also decline as well.
- (c) *Currency Risk*. Currencies rise and fall against other currencies, depending on a number of complex factors. This may impact the value of your portfolio. For example, the value of a foreign-denominated mutual fund could increase, but a decline in the foreign currency can reduce your returns what the proceeds from selling that fund are converted back into Canadian dollars.
- (d) *Inflation Risk*. The risk that real return of your investments will be eroded by an increased cost of living.
- (e) *Liquidity Risk*. The risk that a fund cannot sell an investment that is declining in value because there are no buyers.

### **3.5 Cash and Cheque Handling**

CAM will accept payment for the purchase of mutual fund securities by cheque (client issued or certified) payable to "Credential Asset Management" or by direct transfer from a client's financial institution account. Cheques should never be made payable to an Advisor and CAM does not accept cash.

### **3.6 Operating Charges and Transaction Fees**

CAM offers advisory accounts on both a commission and fee-based basis.

*Commission-Based Accounts* - If you have a commission-based account, you may be charged a commission fee for the purchase of a front-end load fund.

*Fee-Based Accounts* - CAM offers fee-based accounts through our OnPoint program. You may agree to pay a fee for the professional services of your Advisor that is negotiated between you and your Advisor, and not based on compensation tied to the purchase of products.

In addition to the fees and expenses detailed above, you are responsible to pay certain fees related to the operation of your Account. These fees are set out in the Service Fee Schedule, a copy of which you receive at account opening and may be

requested from your Advisor at any time. These fees are also shown in the Charges and Compensation Report, which you will receive on an annual basis, if applicable. Examples of such fees include the account administration fee, de-registration fee, swap fee, inactive fee, stop payment fee, NSF cheque and EFT returns fee and transfer fees. We will notify you of any changes in the fees applicable to your Account as required by applicable laws.

### **3.7 Account-Related Documents**

Depending on the type of account you open, you will receive a number of documents applicable to your Account at the time you open your Account, including the following documents:

- Account Application form (containing Account set up, KYC and other basic information required to open and operate your Account);
- this Account Agreement & Disclosure Document;
- Service Fee Schedule; and
- any other documents that you sign in the course of account opening and operation.

### **3.8 Content and Frequency of Account Reporting**

You will receive statements for your Account on at least a quarterly basis, which will display the following information: the type of account, account number, the period covered by the statement, the name and location of your Advisor, and the contact information for CAM. Client name account statements will provide information on all debits and credits, as well as the quantity of each security transacted in, along with the dates of those transactions. Nominee name accounts have the same information as client name accounts, and also display the market value for all securities held in the account, as well as opening and closing balances for the statement period.

CAM will deliver trade confirmations promptly after each trade. However, trade confirmations may not be sent where the manager of a mutual fund sends the required information. Also, where a client enrolls in a systematic trading plan on a monthly or more frequent basis, CAM may send a confirmation for the initial purchase only.

You will also receive two annual reports intended to help you better understand the cost and performance of your investments. CAM will provide a Performance Report, including cumulative account performance information and annualized compound percentage return information. You will also receive a Charges and Compensation Report summarizing the charges you paid for the maintenance and servicing of your Account and any third party compensation paid to CAM over the period covered by the report. A Charges and Compensation Report will not be provided if there are no charges or compensation during a given period. If you have any questions about account reporting, you may contact your Advisor.

### **3.9 Performance Benchmarking**

The performance of investments may be assessed by comparing them to an investment performance benchmark. Benchmarks show the performance over time of a select group of securities. There are many different benchmarks; comparisons should be made to a benchmark that reflects the investment. For example, the S&P/TSX Composite Index follows the share prices of the largest companies listed on the Toronto Stock Exchange. This index would be a good benchmark for assessing performance of a Canadian equity fund that invests only in large Canadian companies. It would be a poor benchmark for investments diversified in other products, sectors or geographic areas. CAM does not provide benchmark comparisons in account reporting. You can speak to your Advisor if you have questions about the performance of your portfolio or what benchmarks might be appropriate.

### **3.10 Dealer Compensation**

*Commission-Based Accounts* - CAM may receive a commission at the time of sale of an investment and may earn an ongoing trailing commission for as long as you hold the investment.

*Fee-Based Accounts* - CAM will receive a fee based on the size of your fee-based accounts and your OnPoint account fee rate. Where an investment in your account pays a trailing commission, the investment will not be charged an OnPoint fee.

More detailed information regarding fees and costs is available in the mutual fund's prospectus, Fund Facts document or offering memorandum. On an annual basis, you will be provided with a Charges and Compensation Report that will show all of the charges to your account and the compensation earned by CAM. You may also speak to your Advisor for more information about the nature of any compensation or fees paid to CAM.

### **3.11 Conflicts of Interest**

It is possible that CAM and its employees may have multiple interests such as employment and activities that may give rise to a conflict of interest. Actual, potential and perceived conflicts of interest arise where an action or decision by someone has the effect of benefiting others at that person's expense. Such conflicts exist in almost all human interactions and, as we are an intermediary, acting for both buyers and sellers, conflicts will arise from time to time:

- between you and your Advisor or CAM;
- between you and our other clients; and
- between us and our related, connected or associated companies.

We have policies and procedures in place to address the handling of conflicts of interest by:

- avoiding conflicts prohibited by law or that we cannot effectively control; or
- controlling and managing acceptable conflicts, which includes disclosing information about the acceptable conflicts to you so that when you evaluate our recommendations and actions, you can assess independently if conflicts are significant for you.

### **3.12 Related and Connected Issuers**

CAM is a wholly owned subsidiary of Aviso. Aviso is a wholly owned subsidiary of Aviso Wealth LP, which in turn is owned 50% by Desjardins Financial Holding Inc. ("Desjardins") and 50% by a limited partnership owned by the five provincial Credit Union Centrals and The CUMIS Group Limited. Due to Desjardins' ownership interest in Aviso and CAM, and because NEI Investments is a wholly owned subsidiary of Aviso, NEI Investments, Desjardins and Fiera Capital Corporation are related or connected issuers to us.

Our advisors (including your Advisor) may have multiple employers, including CAM, a credit union or other financial institution or an affiliate of them, and may also be licensed to sell insurance through an insurance distributor. Different products such as securities, insurance and banking products may be suitable for different clients and may result in different compensation to CAM or the advisor. Advisors may be paid a salary, bonus, commission or combination thereof.

## **4. Account Agreement**

In consideration of CAM opening and maintaining your Account and providing services to you, you understand and agree to the terms and conditions set out in this Agreement with respect to the operation of your Account.

### **A. Services**

#### **4.1 Age of Majority**

You have reached the age of majority and have the power and capacity to enter into this Agreement.

#### **4.2 Compliance with Applicable Laws**

CAM must comply with all laws and regulations applicable to our business and your Account. This includes securities, tax, anti-money-laundering, anti-terrorist financing, privacy, anti-spam, electronic commerce and other legislation and regulations. All transactions made for your Account will be subject to these rules, which also include the constitution, rules, by-laws, regulations and customs of the MFDA.

#### **4.3 Orders**

CAM has the right to refuse to accept purchase or sale instructions from you wherever we deem it necessary for our protection or otherwise, and you hereby waive any and all claims against us for any loss or damage arising from or related to any such refusal. All orders accepted by us are good until either executed or cancelled on the day of entry, unless a longer period is specified by you. All orders accepted by us are binding on you from the moment of execution, and non-receipt or late receipt of any executed trade confirmation shall not relieve you of the obligations to settle the transaction on the settlement date.

#### **4.4 Products**

As a mutual fund dealer, we retain the right to decide what products we offer and we may, in our sole discretion for any reason and at any time, vary or limit the scope of products made available to you for purchase, holding or sale in your Account, including only making available those products offered by a member of Aviso or our affiliates.

#### **4.5 Recordings**

In order for us to establish a record of the information and instructions you provide, and to ensure that your instructions are followed and service levels are maintained, you hereby acknowledge and agree that we may record telephone calls or other electronic communications that you have with us, and that any such recordings will be admissible in a court of law. These recordings are only used as required to service your Account and any personal information contained therein is properly safeguarded. This consent is continuing and we are not required to confirm it prior to or during each recording.

#### **4.6 Handling of Securities**

Any and all property including credit balances held or carried in your Account for any purpose, including any property in which you have an interest (the "Collateral"), shall be subject to a lien in favour of CAM. The Collateral will be held as security by us for repayment of your liabilities to us. We may transfer any of the Collateral in your Account from or to any other accounts you have with us. We may deliver all or any part of the Collateral when we consider it necessary for our protection or otherwise. In enforcing the lien, we may close, without notice, transactions in your Account if we consider there to be inadequate security for your obligations or upon the happening of an event which in our opinion jeopardizes your Account. All Collateral for your indebtedness to us will be held by us at a location of our choice. Any securities of yours which we hold at any time when you are indebted to us may, without notice to you, be pledged by us as security for any of our indebtedness for more or less than the amount due by you to us. Any such pledge may be made either separately or together with other securities we hold.

#### **4.7 Account Number**

You will be given a CAM Account identification number, which will be used to identify you and your Account.

#### **4.8 Withdrawals and Closed or Inactive Accounts**

You agree that the sale of certain securities may carry a charge. You agree that if your Account is closed by you in the first year of its operation we may charge a fee to close your Account. The fee will be disclosed by us from time to time and you agree to pay the fee and authorize us to charge the fee to your Account. If your Account is inactive (meaning it has been open but there has been no trading activity during the 12-month period from July 1 to June 30 of each year), you may be charged a fee in accordance with the then-current fee schedule.

#### **4.9 Leverage Disclosure**

Using borrowed money to finance the purchase of securities involves greater risk than using cash resources only and may not be suitable for all investors. If you borrow money to purchase securities, your responsibility to repay the loan and pay interest as required by its terms remains the same even if the value of the securities purchased declines.

##### **Risks of Borrowing to Invest**

There are some risks and factors that you should consider before borrowing to invest, including:

(a) *Is it Right for You?* Borrowing money to invest is risky.

You should only consider borrowing to invest if:

- You are comfortable with taking risk.
- You are comfortable taking on debt to buy investments that may go up or down in value.
- You are investing for the long-term.
- You have a stable income.

You should not borrow to invest if:

- You have a low tolerance for risk.
- You are investing for a short period of time.
- You intend to rely on income from the investments to pay living expenses.
- You intend to rely on income from the investments to repay the loan.
- If this income stops or decreases you may not be able to pay back the loan.

(b) *You Can End Up Losing Money*

- If the investments go down in value and you have borrowed money, your losses would be larger than had you invested using your own money.
- Whether your investments make money or not you will still have to pay back the loan plus interest. You may have to sell other assets or use money you had set aside for other purposes to pay back the loan.
- If you used your home as security for the loan, you may lose your home.
- If the investments go up in value, you may still not make enough money to cover the costs of borrowing.

(c) *Tax Considerations*

- You should not borrow to invest just to receive a tax deduction.
- Interest costs are not always tax deductible. You may not be entitled to a tax deduction and may be reassessed for past deductions. You may want to consult a tax professional to determine whether your interest costs will be deductible before borrowing to invest.

#### **4.10 'In Trust For' Account**

If you hold the Account in trust for another person, you hereby represent and warrant that you are authorized to act on behalf of such person and have the necessary authority to operate the Account. Your liability to CAM in respect of the Account shall be as the beneficial owner of the Account and we may deal with you as though you are the beneficial owner. You agree that we have no responsibility to observe the terms of any trust, whether written, verbal, implied or constructive, that may exist between you and the beneficiary, and you are solely responsible for ensuring adherence to any restrictions of the trust and any applicable laws. You agree to operate the Account with the understanding that CAM has not and will not provide any advice, counsel or opinion whatsoever in respect of trusts, tax planning, or estate planning and makes no representations with respect thereto, and it is your sole responsibility to obtain appropriate advice to ensure the beneficiary's needs and objectives are satisfied. Unless caused by our negligence, willful misconduct or breach of applicable laws, you agree to indemnify CAM against any loss, claim, damages, liability or expenses (including legal costs) arising from the operation of the Account in accordance with this section, including without limitation any claims made by you, a trustee or any beneficiary of any trust to which the Account may relate.



#### **4.11 Indemnification Regarding Agents**

You shall indemnify and hold us harmless from any and all losses, liabilities, costs and expenses (including legal fees) resulting from CAM acting in accordance with any authority granted by you to a third party under a trading authorization, a power of attorney or otherwise. Without in any way limiting the authority granted to us, and without requiring us to take action with respect to any past, present or future circumstances, we may, in our discretion, require joint action by all of your agents or attorneys (as the case may be) with respect to any matter concerning your Account, including but not limited to giving or cancelling orders or withdrawing money, securities or other property. You agree to do, or cause to be done, all things and execute and deliver all documents or instruments requested by us to evidence and/or give effect to any authority purported to be granted by you in connection with your Account.

#### **4.12 Credit and Debit Balances**

Whenever there is a credit balance in your Account, the credit balance need not be segregated or held separately. A credit balance may be commingled with our general funds and used for the purposes of our business. You will rely only on our liability in respect of the credit balance. Any debit balance in your Account shall bear interest at such rate as we shall establish from time to time for our customers generally, and we are not obliged to notify you of any change in such rate.

#### **4.13 Clients in Other Jurisdictions**

In certain circumstances, we may be able to deal with foreign residents holding Canadian self-directed tax advantaged retirement plans and temporary foreign residents. Securities offered through CAM are not registered with securities authorities in other jurisdictions, such as the U.S. Securities & Exchange Commission, and are offered and sold in the other jurisdictions under an exemption from registration. Canadian self-directed tax advantaged retirement plans are not regulated under the laws of the other jurisdictions and CAM is not subject to the regulations of securities authorities in other jurisdictions. As a result, if you move outside of Canada, whether temporarily or permanently, depending on where you move and the type of account you hold with us, we may only be able to accept liquidating transactions from you.

#### **4.14 Electronic Signatures**

You authorize us to act on and accept agreements, forms, acknowledgements or instructions that appear to us, in our sole discretion, to have been signed by you using your electronic or digital signature. Any such agreement, form, acknowledgement or instruction will be binding on you and you are responsible for it the same as you would be if you had signed and delivered it to us in original, wet writing. We are not required to verify any electronic or digital signature submitted to us in relation to your Account, or any third party provider used to record the electronic or digital signature. You agree to notify us promptly if you suspect or become aware that your electronic or digital signature has become compromised or has been used in a way that you have not authorized. You acknowledge that we may, in our sole discretion, reject or refuse to act on any agreement, form, acknowledgement or instruction signed using an electronic or digital signature that does not comply with our requirements, applicable laws or otherwise.

### **B. Account Communications and Online Services**

#### **4.15 Communications, Statements and Notices**

We will communicate with you in various ways, including but not limited to by notices, demands, reports and confirmations. We will communicate to the most recent address (physical or electronic, as applicable) on file for you. It is your responsibility to keep your personal information up to date. You may change your contact information by contacting your Advisor or notifying us in writing. All communications sent will be considered delivered to you on the second business day following mailing if mailed, or the same business day if sent electronically. Reports and trade confirmations will be considered final, if not objected to, on the date of notification by telephone or within 10 days from the trade date as shown on the trade confirmation. Upon receipt of any account statement, you will examine the statement and notify us immediately of any errors in or objections to the statement. If you do not notify us of any errors or objections within 30 days from the date appearing on the statement, you agree that the information and balances shown in the statement are accepted as complete and accurate. CAM will be released from all claims by you in connection with the statement or any action taken or not taken by us regarding your Account.

#### **4.16 Electronic Delivery of Documents**

By providing your consent to the electronic delivery of documents, on your Application or otherwise, you acknowledge and agree that we may use electronic means to deliver all documents and communications relating to your Account, including account statements, trade confirmations, tax forms, securityholder materials and required regulatory documents. Documents may be delivered to you electronically either by posting to your secure online account or to the email address you have provided. You acknowledge that you must be registered to use the CAM online service and that it is your responsibility to monitor for notifications and review your Account on a regular basis. You agree to inform us immediately in writing in the event you are unable to access documents online or your email address changes.

If you have chosen to receive statements for viewing online, you will receive an electronic notice when your statement is ready. It is your responsibility to access and review it. You acknowledge and agree that a statement or other document posted to your secure online account will be deemed to be delivered to and received by you at the time it is posted, regardless of whether or when

you actually access or view it, and a document sent by email will be deemed to be delivered to and received by you when it is sent, regardless of whether and when you actually access or view it. You agree to notify us within five (5) business days if you fail to receive an electronic confirmation for a particular trade and that, absent such notification, the trade confirmation will be deemed to have been delivered, whether actually received by you or not.

You agree that all documents delivered to you electronically as described above will constitute original written documents for the purposes of all applicable laws. Our records will be conclusive proof of the date on which such documents are posted to your secure online account, the date you accessed that account or particular documents, and the date documents are sent to your email address.

You may revoke your consent and receive a paper copy of certain materials (which may come at an additional cost to you) by contacting your Advisor or changing your delivery preferences through your online account. You acknowledge that even if you have provided your consent, at any given time electronic delivery may not be effected because of technical or other circumstances.

Not all Account-related documents required to be delivered to you may be available online or electronically. We reserve the right to determine which documents are available online or electronically from time to time.

Unless caused by our negligence, willful misconduct or breach of applicable laws, you agree to indemnify and hold CAM harmless against, and will pay us promptly on demand for, any loss, liability and expense, including legal costs, arising out of or in connection with the transmission through the internet of information or documents related to you or your Account, any inaccuracies contained therein, any subsequent use of such information or documents, whether authorized or unauthorized, by the intended or unintended recipient.

## **C. Fees and Expenses**

### **4.17 Payment**

You agree to pay for all securities purchased on or before the day of settlement. You agree to pay all applicable commissions and fees at our prevailing rates for transactions and other activity in your Account. You will:

- be liable for payment of all commissions and fees;
- be liable for payment of any debit balance or other obligation owing in your Account;
- be liable for any payment owing to us after your Account is liquidated in whole or in part by you or us;
- pay us for any such obligation and indebtedness on demand; and
- reimburse us for the reasonable costs of collection of payments owed to us (including legal fees).

Whenever we, in our sole discretion, consider it is necessary for our protection or otherwise, we may, without demand and without advertisement or other notice, sell any or all property held or carried in your Account. Any such sale may be made by us upon any exchange or other market or by public or private sale upon such terms and in such manner as we in our sole discretion may determine. No demand, advertisement or other notice given by us shall constitute a waiver of our right to take any action authorized under this Agreement without demand, advertisement, or notice, and the net proceeds of any such sale shall be applied against your indebtedness to us without in any way diminishing your obligation to pay any deficiency.

### **4.18 Currency Conversion**

If you make a trade involving a security which is denominated in a currency other than the account in which the trade is to settle, a conversion of currency may be required. In all such transactions and at any time a conversion of currency is made, we will act as principal with you in converting the currency at rates established or determined by us or parties related to us. We, or parties related to us, may earn revenue, in addition to the commission applicable to such a trade, based on the difference between the applicable bid and ask rates for the currency and the rate at which the rate is offset, either internally by us, with a related party or in the market. Conversion of currency, if required, will take place at the trade date unless otherwise agreed. Where a transaction with a mutual fund company involves a currency conversion, the mutual fund company may charge you for the conversion. In that instance, we do not earn any revenue in connection with such conversion. As we offer certain Canadian and US dollar denominated accounts, any other currency to be deposited in an account, from dividends, interest, sale proceeds or otherwise, will be converted into Canadian or US funds, as applicable, and we, or parties related to us, may earn revenue from such conversion. To avoid further currency exchange related to your Canadian and US securities you may wish to hold such securities in a Canadian or US dollar denominated account, as applicable and when available.

### **4.19 Electronic Funds Transfers**

This section applies if you have set up electronic funds transfers in connection with your Account. The financial institution ("Processing Institution") that holds the account to be credited/debited ("Processing Institution Account") that CAM is authorized to deposit or draw upon has been specified by you in your Application (on the EFT Authorization form), and a specimen cheque marked "VOID" or other valid banking information confirmation has been provided. You acknowledge that your authorization is provided for the benefit of CAM and the Processing Institution and is provided in consideration of the Processing Institution agreeing to process credits or debits for or against, respectively, your Processing Institution Account in accordance with the rules of Payments Canada. This authorization is continuing and we may rely on this authorization for all financial transactions relating to your Account and/or your Processing Institution Account(s), until you notify us of any changes in accordance with this section.

You warrant and guarantee that all persons whose signatures are required to sign on your Processing Institution Account(s) have provided their signature(s). You hereby authorize CAM to deposit or draw on the Processing Institution Account, to (a) deposit credit balances from your Account upon your instructions, and (b) debit your Processing Institution Account in accordance with your instructions. You may change or revoke this authorization at any time upon providing 10 business days written notice to CAM. Sample cancellation forms or further information on your rights to cancel any pre-authorized debits can be obtained from your Processing Institution or by visiting the Payments Canada website. You acknowledge that we have the right to terminate your authorization, if through no fault of CAM, we are unable to debit the Processing Institution Account(s) in the full amount that you have specified.

You acknowledge that provisions and delivery of this authorization to CAM constitutes delivery by you to the Processing Institution. You acknowledge that you are responsible for ensuring that there are sufficient funds available in your Account and/or your Processing Institution Account to cover any transfers. You are responsible for all service fees that may arise in connection with your Processing Institution Account. You undertake to inform us, in writing, of any changes in the Processing Institution Account information provided in this authorization prior to requesting any transactions with respect to your Processing Institution Account. You acknowledge that the Processing Institution is not required to verify that a deposit or debit has been issued in accordance with the particulars of your authorization including, but not limited to, the amount and frequency of deposits or payments. You acknowledge that the Processing Institution is not required to verify that any purpose of payment for which the debit was issued has been fulfilled by CAM as a condition to honoring a debit issued or caused to be issued by you on your Processing Institution Account.

Revocation of this authorization does not terminate any contract for goods or services that exists between you and CAM, including this Agreement. Your authorization applies only to the method of payment and does not otherwise have any bearing on the contract for the goods or services exchanged. You hereby waive your right to receive pre-notification of the amount of each pre-authorized debit and agree that you do not require advance notice of the amount of the pre-authorized debits before the debit is processed.

You have certain rights if any debit does not comply with the instructions provided by you. For example, you have the right to receive reimbursement for any debit that is not authorized or is not consistent with the EFT Authorization form. To obtain more information on your rights, you may contact your Processing Institution or visit the Payments Canada website. If the funds in your Processing Institution Account are insufficient to cover any debit, we may assess a non-sufficient funds fee in effect at that time, as set out in the CAM fee schedule. In the case of insufficient funds, the non-sufficient funds fee and the failed debit will be withdrawn from your Account.

Unless caused by our negligence, willful misconduct or breach of applicable laws, CAM shall have no liability or responsibility for any loss or damage suffered or incurred by you in connection with any electronic funds transfers to or from your Account, including, without limitation, any loss of interest or other losses or damages, whether economic or otherwise. You are liable for all indebtedness, withdrawals and account activity contemplated by this section, including all indebtedness, withdrawals and account activity by persons authorized by you to use such services on your behalf. You acknowledge we do not guarantee continuous access to electronic funds transfer services, and we make no representation or warranty, whether express or implied, statutory or otherwise or arising from or in respect of such services. Unless caused by our negligence, willful misconduct or breach of applicable laws, you agree to indemnify and hold CAM harmless against, and will pay us promptly on demand for, any loss, liability and expense, including legal costs, arising out of or in connection with your use of electronic funds transfer services.

#### **D. Joint Accounts**

If your Account is a joint account, you (the applicant and any co-applicants) each agree to the following terms, which are in addition to the other terms and conditions set out in this Agreement.

##### **4.20 Authority of Each Client**

Each of you acting alone is authorized to do the following on behalf of the Account, without notifying any of the other principals:

- buy and sell and otherwise deal in mutual funds and other securities offered by CAM;
- receive any and all communications from us or third parties, including confirmations, statements and other notifications;
- receive and withdraw money, securities or other property, without limitation in amount; and sign, make, change, waive or cancel authorizations, agreements and documents as we may require in connection with the Account.

##### **4.21 Your Authority**

We have the authority to follow the instructions received from any one of you (alone) relating to the Account. These instructions may include the delivery of securities or other property or the making of payments to any of the principals in the Account or to another party. You authorize us to follow the instructions even if the payments or delivery of securities are being made directly to one of the principals in the Account. It is not our responsibility to question the purpose or propriety of a delivery or payment. Provided we have acted correctly on the instructions we receive, we are not responsible for the outcome of the action. We reserve the right to restrict activity at any time in the Account or to require joint written instructions by all of you for any Account activity.

#### **4.22 Joint Liability**

Each of you is jointly and severally (that means collectively and individually) liable for any debts, obligations or liabilities arising in connection with the Account.

#### **4.23 Death of a Principal**

You must notify us in writing immediately upon the death of one of the principals and, upon receiving that notification, we may:

- require a copy of a death certificate and notarized copies of the appropriate estate papers;
- restrict transactions and/or require a portion of the investments be retained in the Account; or
- follow any other course of action we deem prudent.

The deceased principal's estate and each of the remaining parties to the Account will continue to be responsible to us, jointly and severally, for any debit balance or loss that:

- may be incurred in settling a transaction initiated prior to death;
- is incurred in the distribution or liquidation of the Account; or
- occurs in adjusting for the interests of the remaining principals.

Each of you declare that your interests in the joint Account are as joint tenants with full rights of survivorship and not as tenants-in-common, except if you are a resident of Québec, in which case your interests in the joint Account are as tenants-in-common. We shall be protected from all liability in obeying the instructions of the survivor of you respecting the disposition of securities or other property in the Account.

### **E. General**

#### **4.24 Application to Your Account**

This Agreement applies to all Accounts, in which you have any interest alone or with others, which have or will be opened with us for the purchase and sale of securities. You agree to promptly (within 30 days) provide us with written notice of any changes to the information included in your Application or Account-related documentation, or otherwise on record for your Account.

#### **4.25 Account Protection**

Unless otherwise stated, mutual funds and other securities sold are not guaranteed, in whole or in part, by CAM, and are not insured by the Canada Deposit Insurance Corporation or any other government insurer that insures deposits in financial institutions. The value of many securities may fluctuate and past performance may not be repeated. Clients' accounts are protected by the MFDA Investor Protection Corporation ("IPC") within specific limits. Accounts in Quebec are generally not covered by the IPC. Please refer to the IPC Coverage Policy at [www.mfda.ca/ipc](http://www.mfda.ca/ipc) for a description of the nature and limits of coverage. A brochure describing the nature and limits of coverage is also available upon request.

#### **4.26 Updates or Amendments**

We may amend this Agreement at any time by giving you sixty (60) days' notice of the amendment, which may be given by mail, email, posting online or other electronic means. We will consider you to have accepted the amendment unless you tell us otherwise by providing written notice to us before the amendment takes effect. If you notify us that you do not accept the change, we may be required to terminate this Agreement and close your Account. If your Account is a registered account, the trustee may amend the terms and conditions applicable to registered accounts from time to time, and you will be bound by any such amendments.

#### **4.27 Termination**

You may terminate this Agreement at any time by giving us written notice, but such termination will not affect any existing liabilities or indebtedness to us by you. We may terminate this Agreement and close your Account by providing written notice to you at any time. We reserve the right to accept only liquidating instructions from you after the date of such termination notice. If following such notice, you do not take action to close your Account or transfer assets out of the Account, we may take such action as is necessary to close the Account, including but not limited to re-registering securities in your name and, if applicable, mailing to you at your last known address certificates representing securities and cheques representing cash balances that remain in the Account. Liquidation of your Account may have financial and/or tax consequences for you, for which you will be solely liable. You agree that CAM shall not be liable in any way with respect to the termination, closure, transfer or liquidation of your Account.

#### **4.28 Assignment**

You cannot transfer any of your rights or obligations under this Agreement to anyone else. This Agreement is binding on your heirs, executors, administrators, representatives and successors. CAM may assign any or all of our rights and obligations to any affiliate of CAM, provided that such assignment is conducted in accordance with applicable laws. If we merge or amalgamate with

another company, or if another company takes over our business, the new company will assume our rights and obligations under this Agreement. This Agreement enures to the benefit of any successors and assigns of CAM.

#### **4.29 Severability**

If any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, such invalidity or unenforceability will only apply to such provision. The validity of the rest of the Agreement will not be affected and will continue to be carried out as if such invalid or unenforceable provision were not in the Agreement.

#### **4.30 Limited Liability**

You acknowledge that investments involve risk and the value of assets in your Account may fluctuate due to market conditions and other reasons. CAM does not guarantee investment results. You are responsible for any losses realized on your investments and we are not responsible for any decrease in the value of your Account or any losses, however caused, unless by our negligence, willful misconduct or breach of applicable laws. CAM may, in our discretion, act in all matters on instructions given or purporting to be given by you or on your behalf. We shall not incur any liability by reason of acting or not acting on or because of any error or delay in such instructions. Unless caused by the negligence, willful misconduct or breach of applicable laws by an employee or agent of CAM, we shall not be liable for any losses resulting from trading in securities, not offering a specific security for purchase or sale, delays in receiving or processing instructions, delays in transferring securities or assets, government or regulatory restrictions, exchange or market rulings, the suspension of trading, wars, strikes, natural disasters or any other reason beyond our reasonable control.

#### **4.31 No Waiver**

No action taken by us or any failure to take action or exercise any right, remedy or power available under this Agreement or otherwise shall be deemed to constitute a waiver or other modification of any of our rights, remedies or powers. To be binding on us a waiver must be in writing and signed by an authorized representative of CAM.

#### **4.32 Governing Laws**

This Agreement will be governed by and interpreted in accordance with the laws of the Canadian jurisdiction in which our office is located and through which your Account is serviced, and the laws of Canada applicable therein.

#### **4.33 Complaint Handling Procedures**

At CAM, we take client concerns seriously and have established procedures for handling complaints. We will acknowledge receipt of your complaint promptly, generally within five (5) business days. Where the complaint relates to certain serious allegations, our initial acknowledgement will include a copy of our complaint handling procedures and MFDA approved brochure describing other options for you to pursue your complaint. We review all complaints fairly, taking into account all relevant documents and statements obtained from you, our records and any other relevant sources.

Once our review is complete, we will provide our response, which will be in writing if your complaint was in writing. We endeavour to provide our response within 90 days of receiving your complaint, along with a summary of the results of our investigation, an explanation of our decision and other options if you are not satisfied with our response. If we cannot provide our response within 90 days, we will inform you of the delay, explain why our decision is delayed and advise when you can expect to receive our response. We will also respond to communications you send us after the date of our response to the extent necessary to implement a resolution or to address any new issues or information you provide.

If you are a Québec resident, you may consider the free mediation service offered by the Autorité Des Marchés Financiers.

CAM has a Designated Complaints Officer who oversees our complaint handling process. If you have a complaint about our services or a product, you may contact us at:

Credential Asset Management Inc.  
Attention: Complaints Officer  
700 - 1111 West Georgia Street  
Vancouver, BC V6E 4T6  
Telephone: 1.855.714.3800  
Email: [clientconcerns@aviso.ca](mailto:clientconcerns@aviso.ca)

#### **4.34 MFDA Client Complaint Information Form**

Clients of a mutual fund dealer who are not satisfied with a financial product or service have a right to make a complaint and to seek resolution of the problem. MFDA Member dealers have a responsibility to their clients to ensure that all complaints are dealt with fairly and promptly. If you have a complaint, these are some of the steps you can take:

- Contact your mutual fund dealer. Member firms are responsible to you, the investor, for monitoring the actions of their representatives to ensure that they are in compliance with by-laws, rules and policies governing their activities. The firm will investigate any complaint that you initiate and respond back to you with the results of their investigation within the time period

expected of a Member acting diligently in the circumstances, in most cases within three months of receipt of the complaint. It is helpful if your complaint is in writing.

- Contact the Mutual Fund Dealers Association of Canada (“MFDA”), which is the self-regulatory organization in Canada to which your mutual fund dealer belongs. The MFDA investigates complaints about mutual fund dealers and their representatives, and takes enforcement action where appropriate. You may make a complaint to the MFDA at any time, whether or not you have complained to your mutual fund dealer. The MFDA can be contacted:
  - By completing the on-line complaint form at [www.mfda.ca](http://www.mfda.ca)
  - By telephone in Toronto at: 416.361.6332, or toll free at: 1.888.466.6332
  - By e-mail at [complaints@mfda.ca](mailto:complaints@mfda.ca)<sup>1</sup>
  - In writing by mail to 121 King Street West, Suite 1000, Toronto, ON M5H 3T9 or by fax at: 416.361.9073

<sup>1</sup> You may wish to consider issues of internet security when sending sensitive information by standard e-mail.

Compensation: The MFDA does not order compensation or restitution to clients of Members. The MFDA exists to regulate the operations, standards of practice and business conduct of its Members and their representatives with a mandate to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry. If you are seeking compensation, you may consider the following:

- Ombudsman for Banking Services and Investments (“OBSI”): You may make a complaint to OBSI after you have complained to the dealer, at either of the following times:
  - If the dealer’s Compliance Department has not responded to your complaint within 90 days of the date you complained, or;
  - After the dealer’s Compliance Department has responded to your complaint and you are not satisfied with the response. **Please note that you have 180 calendar days to bring your complaint to OBSI after receiving the dealer’s response.**
- OBSI provides an independent and impartial process for the investigation and resolution of complaints about the provision of financial services to clients. OBSI can make a nonbinding recommendation that your firm compensate you (up to \$350,000) if it determines that you have been treated unfairly, taking into account the criteria of good financial services and business practice, relevant codes of practice or conduct, industry regulation and the law. The OBSI process is free of charge and is confidential. OBSI can be contacted:
  - By telephone in Toronto at 416.287.2877, or toll free at 1.888.451.4519
  - By e-mail at [ombudsman@obsi.ca](mailto:ombudsman@obsi.ca)
- Legal Assistance: You may consider retaining a lawyer to assist with the complaint. You should be aware that there are legal time limits for taking civil action. A lawyer can advise you of your options and recourses. Once the applicable limitation period expires, you may lose rights to pursue some claims.
- Manitoba, New Brunswick and Saskatchewan: Securities regulatory authorities in these provinces have the power to, in appropriate cases, order that a person or company that has contravened securities laws in their province pay compensation to a claimant. The claimant is then able to enforce such an order as if it were a judgment of the superior court in that province. For more information, please visit:
  - Manitoba: [www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)
  - New Brunswick: [www.nbsc-cvmnb.ca](http://www.nbsc-cvmnb.ca)
  - Saskatchewan: [www.fcaa.gov.sk.ca](http://www.fcaa.gov.sk.ca)
- Québec:
  - If you are not satisfied with the outcome or with the examination of a complaint, the Autorité des marchés financiers (“AMF”) can examine your complaint and may provide dispute resolution services.
  - If you think you are a victim of fraud, fraudulent tactics or embezzlement, you can contact the AMF to see if you meet the eligibility to submit a claim to the *Fonds d’indemnisation des services financiers* (“Financial Services Compensation Fund”). An indemnity up to \$200,000 can be payable through monies accumulated in the fund for an eligible claim.
  - For more information:
    1. Contact the AMF by telephone at: 418.525-0337 (in Québec), or toll free at 1.877.525.0337.
    2. Visit [www.lautorite.qc.ca](http://www.lautorite.qc.ca).

## 5. Protection of Privacy

At CAM, we know that investors are concerned about their personal information, and we are committed to protecting the confidentiality and security of your personal information entrusted to us. At the heart of our commitment to protecting your privacy is our Privacy Policy, a copy of which can be accessed at [www.avisocanada.ca/en/privacy](http://www.avisocanada.ca/en/privacy). Our Privacy Policy explains why we collect personal information, how we

will use it and who we may share it with, all in connection with providing you products and services, operating your Account and complying with our legal and regulatory obligations.

You acknowledge that you have read our Privacy Policy and that you consent to us collecting, using and disclosing your personal information in the manner described in our Privacy Policy. You may withdraw your consent at any time (except where limited by applicable law), but doing so may limit our ability to provide you with some or all products and services. Whether or not you consent, we may be required to share information about you and your Account to meet our regulatory obligations or as otherwise required by law. You may amend or access the personal information we hold about you at any time, or inquire about our privacy policies generally, by contacting your Advisor.

CAM has a designated Privacy Officer who oversees our Privacy Policy. If you have any questions or concerns about your Account in this regard you may contact us at:

Credential Asset Management Inc.  
Attention: Privacy Officer  
700 - 1111 West Georgia Street  
Vancouver, BC V6E 4T6  
Telephone: 1.855.714.3800  
Email: [privacyofficer@aviso.ca](mailto:privacyofficer@aviso.ca)

## 6. Declarations of Trust

CAM uses Canadian Western Trust Company as trustee for any registered plans held by you. The following Declarations of Trust (as applicable) apply to your Account if it is a registered plan.

### A. Credential Asset Management Inc. Self-Directed Retirement Savings Plan Declaration of Trust

We, Canadian Western Trust Company, a trust company existing under the laws of Canada, hereby declare that we will act as trustee for you, the annuitant named in the application to which this declaration is attached, for the Credential Asset Management Inc. Self-Directed Retirement Savings Plan (the "Plan") upon the following terms:

**Some Definitions:** In this declaration, in addition to terms defined elsewhere herein,

- **"Act"** means the *Income Tax Act* (Canada);
- **"Agent"** refers to the company named in paragraph 15;
- **"applicable legislation"** means all provincial and federal legislation governing the Plan, the Plan Assets and the parties hereto including, without limitation, privacy and securities legislation. Any reference to applicable legislation shall be deemed to include all such statutes and any regulations, policies, rules, orders or other provisions thereunder, all as may be amended, re-enacted or replaced from time to time;
- **"common-law partner"** has the meaning set forth in the Act;
- **"Contributions"** means contributions of cash or investments to the Plan;
- **"Maturity Date"** has the meaning set forth in paragraph 8;
- **"Retirement Income"** has the meaning set forth in the Act;
- **"RRIF"** means a registered retirement income fund, as defined in the Act;
- **"RRSP"** means a registered retirement savings plan, as defined in the Act;
- **"Securities Regulator"** means the government department, agency, board or commission, or self-regulatory organization which regulates the sale of Securities in the applicable jurisdiction;
- **"spouse"** means a spouse for the purposes of the Tax Laws;
- **"Tax Laws"** means the Act and any applicable tax legislation of your province of residence, as recorded in your application;
- **"We", "us" and "our"** refer to Canadian Western Trust Company; and
- **"You", "your" and "yours"** refer to the person who has signed the application and will be the owner of the Plan (under the Act, you are known as the "annuitant" of the Plan).

#### 1. Registration

We will apply for registration of the Plan in accordance with the Act. The purpose of the Plan is to provide you with a Retirement Income.

## **2. Contributions**

We will accept Contributions made by you or, where applicable, your spouse or common-law partner. You or such other person will be solely responsible for determining the maximum limits for Contributions in any taxation year as permitted by the Tax Laws and for determining the taxation years, if any, in which such Contributions are deductible for tax purposes. We will hold the Contributions and any investments, income or gains therefrom (the "Plan Assets") in trust, to be held, invested and used according to the terms of this declaration and the Tax Laws. No Contributions to the Plan may be made after the Maturity Date.

If locked-in Plan Assets are transferred to the Plan in accordance with applicable provincial or federal pension legislation, the additional provisions contained in the Locked-In Retirement Account ("LIRA") or Locked-In Retirement Savings Plan ("LRSP") addendum (the "Addendum") to this Declaration of Trust will form part of this Declaration of Trust and will govern the Plan Assets. In the event of any inconsistencies between the Addendum and Declaration of Trust, the provisions of the Addendum will govern.

## **3. Investments**

We will hold, invest and sell the Plan Assets according to your instructions. We may require any instructions to be in writing. We will pay interest on any cash balances at such rate and credited at such time as we in our sole discretion determine.

Investments will not be limited to those authorized by law for trustees. However, it will be your responsibility to determine whether any Contribution or investment is or remains a "qualified investment" for RRSPs pursuant to the Tax Laws. The Plan will bear any taxes, penalties or related interest imposed under the Tax Laws (other than those taxes, penalties and interest that the Trustee is liable for and that can't be paid out of the property of the Plan). If the Plan Assets are insufficient to pay any taxes, penalties or related interest incurred, or if taxes, penalties or related interest are imposed after the Plan has ceased, you must pay or reimburse us directly for any such taxes, penalties or related interest.

You may, by way of a duly executed power of attorney in a form acceptable to us, appoint an agent to give investment instructions. You release us from any claim or liability when acting upon the instructions of such agent.

Notwithstanding anything in this declaration, we may decline to accept any particular Contribution or to make any particular investment, in our sole discretion or for any reason, including if it does not comply with our administrative requirements or policies in place from time to time. We may also need you to provide special supporting documentation as a condition to our making certain investments for the Plan.

We will not be responsible for any loss resulting from the sale or other disposition of any investment forming part of the Plan Assets.

## **4. Income Tax Receipt**

On or before March 31 of each year, we will send to you, your spouse or your common-law partner, as applicable, a receipt showing Contributions made by you or such person during the preceding year and, if applicable, the first sixty (60) days of the current year. You, your spouse or your common-law partner will be solely responsible for ensuring that any deductions claimed for income tax purposes do not exceed the permitted deductions under the Tax Laws.

## **5. Your Account and Statements**

We will maintain an account in your name showing all Contributions made to the Plan, all investment transactions and all withdrawals from the Plan. At least once each year we will send you an account statement showing these transactions, including income earned and expenses incurred during such period.

## **6. Management and Ownership**

We may hold any investment in our own name, in the name of our nominee or agent, in bearer form or in such other name or form, or with any such custodian, clearing corporation or depository, as we may determine. We may generally exercise the power of an owner with respect to the Plan Assets, including the right to vote or give proxies to vote in respect thereof, or to sell assets to pay any taxes, assessments or charges in connection with the Plan (other than those taxes, assessments and charges that the Trustee is liable for under the Act and that can't be paid out of the property of the Plan). In exercising our rights and carrying out our responsibilities hereunder, we may employ agents and advisors, including legal counsel, and may act or not act on the advice or information of any such agent or advisor.

## **7. Refund of Over Contributions**

We will, upon receiving a written request from you or, if applicable, your spouse or common-law partner, refund an amount to that person in order to reduce the amount of tax that would otherwise be payable under Part X.1 of the Act, or under any other Tax Laws, by that person. We will not be responsible for determining the amount of any such refund.



## **8. Purchase of Retirement Income or Transfer to a RRIF**

Your Plan will mature on the date (the "Maturity Date") you select for the start of a Retirement Income but this date must not be later than December 31 of the calendar year in which you reach 71 years of age. You must notify us in writing at least ninety (90) days prior to the Maturity Date. This notice must also give us your instructions to either:

- a) sell the Plan Assets and use all of the cash in the Plan, less any sale costs and other related fees and charges (the "Plan Proceeds"), to purchase a Retirement Income for you starting on the Maturity Date; or
- b) transfer the Plan Assets on or before the Maturity Date to a RRIF.

If you instruct us to purchase a Retirement Income for you, you must also specify the particular type of annuity, in accordance with section 146 of the Act, that you would like to receive as your Retirement Income and the name of the authorized company from which we are to purchase same. Any annuity so selected may have one or more of the features permitted by subsection 146(3) and subsection 146(2)(b.1) of the Act. However, any Retirement Income so acquired may not be assigned in whole or in part and must be commuted if it would otherwise become payable to a person other than you or, after your death, your spouse or common law partner. In addition, the total of the periodic payments in a year under an annuity after your death shall not exceed the total of the payments made in a year before your death. It is solely your responsibility to select a Retirement Income that complies with the Act.

If we do not receive your notice and instructions at least 60 days prior to December 31 of the calendar year in which you reach seventy-one (71) years of age, we will sell the Plan Assets, subject to the requirements of the Act. If the amount of the Plan Proceeds exceeds \$10,000 (or such greater or lesser amounts as we may in our sole discretion determine), we will prior to the end of that year transfer the Plan Proceeds to a RRIF for you and you hereby appoint us (and/or the Agent) as your attorney(s) in fact to execute all such documents and make elections as are necessary to establish the RRIF. You will be deemed (i) to have elected to use your age to determine the minimum amount payable under the RRIF according to the Act; (ii) not to have elected to designate your spouse or common-law partner to become the successor annuitant of the RRIF on your death; and (iii) not to have designated any beneficiary of the RRIF. We will administer such RRIF as trustee in accordance with the provisions of the Act. If the amount of the Plan Proceeds is less than \$10,000 (or such greater or lesser amount as we may in our sole discretion determine) we will deposit same, net of any required withholding, in a non-registered interest-bearing deposit account on your behalf and we will be entitled to collect administration fees directly from that account.

## **9. Withdrawals**

You may, by written instructions or by other manner of communication acceptable to us, at any time before the commencement of a Retirement Income, request that we pay you all or any part of the Plan Assets. In order to make such payment, we may sell all or part of any of the investments, to the extent we deem appropriate. We will withhold any income taxes or other taxes and charges required on the withdrawal of funds and pay you the balance, after deducting any applicable fees and expenses. We will have no liability to you in respect of any sold Plan Assets or for any losses that may result from such sales.

## **10. Transfers (On Relationship Breakdown or Otherwise)**

Subject to any reasonable requirements we impose, you may direct us in writing to transfer Plan Assets (net of any costs of realizations), less any fees or charges payable hereunder and any taxes, penalties or interest that are or may become payable or have to be withheld under the Tax Laws (other than those taxes, penalties and interest that the Trustee is liable for under the Act and that can't be paid out of the property of the Plan), to:

- a) an RRSP or RRIF under which (i) you are the annuitant; or (ii) your spouse, former spouse, common-law partner or former common-law partner, from whom you are living separate and apart, is the annuitant and the transfer is made pursuant to a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property in settlement of rights arising out of your marriage or common-law partnership, or after the breakdown of such marriage or partnership; or
- b) a Registered Pension Plan (as defined in the Tax Laws) for your benefit.

Such transfers will take effect in accordance with the Tax Laws and any other applicable legislation and within a reasonable time after any required forms have been completed. If only a portion of the Plan Assets is transferred under this paragraph, you may specify in writing which Plan Assets you wish us to transfer or sell; otherwise, we will transfer or sell the Plan Assets that we deem appropriate. No transfer will be made until all fees, charges and taxes have been paid.

## **11. No Advantages**

No advantage that is conditional in any way on the existence of the Plan may be extended to you or to a person with whom you do not deal at arm's length, other than the benefits and advantages permitted by the Act.

## **12. Designation of Beneficiary**

Where effective under applicable legislation, you may designate one or more beneficiaries to receive the Plan Assets or Plan

Proceeds on your death. You may make, change or revoke a beneficiary designation by completing, dating and signing the form we provide or any other form appropriate for this purpose and ensuring we receive it before we payout the Plan under paragraph 13. If more than one form has been received by us, we will act on the one with the latest signature date.

**13. Death**

If you die before the Maturity Date, we will, upon receipt of satisfactory evidence of your death and all other documents we may require, transfer the Plan Assets, or sell them and payout the Plan Proceeds, to the designated beneficiary(ies) under the Plan. If you had not designated a beneficiary or if such beneficiary(ies) dies we will make such transfer or payment to your legal personal representative. Deductions will be made for all fees, costs, charges and taxes to be paid or withheld (other than taxes that the Trustee is liable for under the Act and that can't be paid out of the property of the Plan). We will be fully discharged once we make such transfers or payments, even though any beneficiary designation made by you may be invalid as a testamentary instrument. We will not be liable for any loss caused by any delay in making any such transfer or payment.

**14. Proof of Age**

Your statement of your date of birth in your application will be deemed to be a certification of your age and your undertaking to provide any further evidence or proof of age that may be required for the purpose of determining the Maturity Date and acquiring a Retirement Income.

**15. Delegation**

You authorize us to delegate to Credential Asset Management Inc. (the "Agent") the performance of certain of our duties, including the following:

- a) registering the Plan with the Canada Revenue Agency;
- b) receiving Contributions;
- c) investing the Plan Assets in accordance with this declaration;
- d) holding the Plan Assets in safekeeping, in its name or in the name of its nominee or custodian;
- e) maintaining your account and providing you with statements and notices;
- f) receiving and implementing your notices and instructions;
- g) collecting fees and expenses from you or the Plan;
- h) filing any elections permitted under the Tax Laws as directed by you or your personal representatives;
- i) issuing tax receipts and preparing and filing tax returns or forms relating to the Plan;
- j) withdrawing or transferring Plan Assets in accordance with your instructions or for the purpose of making payments to you, any government authority or any other person entitled to same under the Plan, the Tax Laws or other applicable legislation;

and any other duties relating to the Plan as we may determine appropriate from time to time. We will, however, bear ultimate responsibility for the administration of the Plan in accordance with this declaration and the Tax Laws.

You acknowledge that we may pay the Agent all or any portion of our fees hereunder and reimburse it for its out-of-pocket expenses in performing its delegated duties. You also acknowledge that the Agent will earn normal brokerage commissions on investment transactions processed by it. You acknowledge and agree that all protections, limitations of liability and indemnifications given to us under this declaration, including without limitation those under paragraph 16 and 17 are also given to, and are for the benefit of, the Agent.

**16. Fees and Expenses**

We are entitled to receive and may charge against the Plan reasonable fees and other charges that we establish from time to time in conjunction with the Agent, provided that we will give you thirty (30) days written notice of a change in the amount of any such fee. We are also entitled to reimbursement for all taxes, penalties and interest and for all other costs and out-of-pocket expenses incurred by us or the Agent in connection with the Plan (other than those taxes, penalties and interest that the Trustee is liable for under the Act and that can't be paid out of the property of the Plan). All amounts so payable will be charged against and deducted from the Plan Assets, unless you make other arrangements with us. If the cash in the Plan is not sufficient to pay these amounts, we may, in our sole discretion, sell any of the Plan Assets in order to pay same and we will not be Responsible for any loss occasioned by any such sale.

**17. Group RSP**

If the Plan is part of a Group RSP. You are required to be an employee or member, or the spouse or common-law partner of the employee or member, of the sponsoring organization of the Group RSP named in the Application (the "Group Sponsor").

You accept the Group Sponsor as your Agent for the purposes of constituting the plan. Upon your ceasing to be an employee or member of the Group Sponsor and upon notification from the Group Sponsor being received by us, the following will apply:

- a) We will not accept any further contributions to this Plan; and
- b) You shall provide us with written notice to transfer the Plan to a self-directed RRSP, self-directed RRIF with us or another financial institution which is not part of the Group RSP. If we do not receive your written instructions within fifteen (15) days from the date we receive notice from the Group Sponsor, you will be deemed to have instructed us to transfer Plan Assets and to act as your attorney to execute documents and make elections necessary to establish another RSP or RIF, selected by us in our sole discretion and to apply for registration of such RSP or RIF under Applicable Tax Legislation.

#### **18. Trustee's Liability**

- a) The Trustee will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility of a non-qualified investment being acquired or held by the Plan.
- b) Notwithstanding any other provisions hereof, the Trustee will not be liable in its personal capacity for or in respect of:
  - (i) Any taxes or interest which may be imposed on the Plan under Tax Laws (whether by way of assessment, reassessment or otherwise) or for any charge levied or imposed by any governmental authority upon or in respect of the Plan, as a result of the purchase, sale or retention of any investment including, without limiting the generality of the foregoing, non-qualified investments, other than taxes, penalties and interest imposed on the Trustee arising from its personal liability, including without limitation, arising from its administrative error, under Tax Laws and that can't be paid out of the property of the Plan; or
  - (ii) Any loss suffered or incurred by you, the Plan, or any beneficiary under the Plan caused by or resulting from the Trustee acting or declining to act upon instruction given to it, whether by you, a person designated by you or any person purporting to be you, unless caused by the Trustee's dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard.
- c) You, your legal personal representative, and each beneficiary under the Plan will at all times, indemnify and save harmless the Trustee in respect of any taxes, penalties, interest or other governmental charges which may be levied or imposed on the Trustee in respect of the Plan or any losses incurred by the Plan (other than losses, taxes, penalties, interest or other government charges for which the Trustee is liable in accordance herewith and that can't be paid out of the property of the Plan) as a result of the acquisition, retention or transfer of any investment or as a result of payments out of the Plan made in accordance with these terms and conditions or as result of the Trustee acting or declining to act on any instruction given to it by you. You, where required or requested, will provide the Trustee with such information as it may require in order to value assets being acquired or held by the Plan.

The provisions of this section 18 shall survive the termination of the Plan.

#### **19. Replacement of Trustee**

We may at any time resign as trustee under the Plan by giving you and the Agent sixty (60) days written notice, or such shorter period of notice as the Agent may accept.

The Agent may remove us as trustee by giving you and us sixty (60) days written notice, or such shorter notice as we may accept. Upon giving or receiving any such notice of our removal or resignation, the Agent will within the notice period appoint a successor trustee authorized under the Tax Laws and any other applicable legislation (the "Successor Trustee"). If a Successor Trustee is not found within such notice period, we and/or the Agent may apply to a court of competent jurisdiction for the appointment of a Successor Trustee. Any costs incurred by us in securing the appointment of a Successor Trustee will constitute a charge against the assets of the Plan and will be reimbursed from the Plan Assets unless borne personally by the Agent. Our resignation or removal will not be effective until a Successor Trustee is appointed.

Any trust company resulting from a merger, amalgamation or continuation to which we are party, or succeeding to substantially all of our RRSP and RRIF trusteeship business (whether by sale of such business or otherwise), will, if authorized, become the Successor Trustee of the Plan without further act or formality.

In the event of a change of trustee, we will transfer the Plan Assets to the Successor Trustee within thirty (30) days after the effective date of such change. Such a transfer will be subject to the requirements of paragraph 10 hereof.

#### **20. Amendments to this Declaration of Trust**

We may from time to time amend this declaration with the approval, if required, of the applicable taxation authorities as long as the amendment will not disqualify the Plan as an RRSP under the Tax Laws. We will give you thirty (30) days written notice of any amendment unless it is made for the purpose of satisfying a requirement imposed by the Tax Laws.

## 21. Notice

You may give us instructions by personal delivery, fax or postage prepaid mail (or by such other means as we or the Agent may accept), properly sent to the Agent or to any other address that we designate. We may give you any notice, statement, receipt or other communication by postage prepaid mail, sent to the address recorded in your application or to any subsequent address you provide us. Our notices to you will be deemed to have been given on the second business day after mailing.

## 22. Reference to Statutes

All references herein to any statute, regulation or any provision thereof will mean such statute, regulation or provision as the same may be re-enacted or replaced from time to time.

## 23. Binding

The terms and conditions of this declaration will be binding upon your heirs and legal personal representatives and upon our successors and assigns. Notwithstanding that, if the Plan or the Plan Assets are transferred to a Successor Trustee, then the terms of such Successor Trustee's declaration of trust will govern thereafter.

## 24. Governing Law

This declaration will be construed, administered and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, except that where the circumstances require, the terms "spouse" and "common law partner" will be recognized in accordance with the Act.

## 25. Access to File (Applicable in Québec Only)

You understand that the information contained in your application will be maintained in a file at the Agent's place of business. The object of this file is to enable us and the Agent, and our respective agents or representatives, to access your application, answer any questions you may have regarding the application and your Plan, and manage your Plan and your instructions on an ongoing basis. Subject to applicable legislation, personal information contained in this file may be used by us or by the Agent to make any decision relevant to the object of the file and no one may have access to the file except us, the Agent, our respective employees, agents and representatives, any other person required for the execution of our or the Agent's duties and obligations, you and any other person that you expressly authorize in writing. You are entitled to consult your file and to have anything in it corrected. In order to exercise these rights, you must notify us in writing.

## B. Credential Asset Management Inc. Self-Directed Retirement Income Fund Declaration of Trust

We, Canadian Western Trust Company, a trust company existing under the laws of Canada, hereby declare that we will act as trustee for you, the annuitant named in the application to which this declaration is attached, for the Credential Asset Management Inc. Self-Directed Retirement Income Fund (the "Fund") upon the following terms:

**Some Definitions:** In this declaration, in addition to terms defined elsewhere herein,

- "Act" means the Income Tax Act (Canada);
- "Agent" refers to the company named in paragraph 11;
- "applicable legislation" means all provincial and federal legislation governing the Fund, the Fund Assets and the parties hereto including, without limitation, privacy and securities legislation. Any reference to applicable legislation shall be deemed to include all such statutes and any regulations, policies, rules, orders or other provisions thereunder, all as may be amended, re-enacted or replaced from time to time;
- "common-law partner" has the meaning set forth in the Act;
- "Retirement Income" has the meaning set forth in the Act;
- "RRIF" means a registered retirement income fund, as defined in the Act;
- "RRSP" means a registered retirement savings plan, as defined in the Act;
- "Securities Regulator" means the government department, agency, board or commission, or self-regulatory organization which regulates the sale of Securities in the applicable jurisdiction.
- "spouse" means a spouse for the purposes of the Tax Laws;
- "Tax Laws" means the Act and any applicable tax legislation of your province of residence, as recorded in your application;
- "We", "us" and "our" refer to Canadian Western Trust Company; and

- "You", "your" and "yours" refer to the person who has signed the application and will be the owner of the Fund (under the Act, known as the "annuitant" of the Fund) and, after your death, your spouse or common-law partner if they become the successor annuitant of the Fund as described in paragraph 6 hereof.

### **1. Registration**

We will apply for registration of the Fund in accordance with the Act. The purpose of the Fund is to provide you with a Retirement Income in accordance with the Act.

### **2. Acceptance of Property into the Fund**

We will accept into the Fund only cash and other property that is transferred in accordance with the Act, from:

- a) an RRSP or RRIF under which you are the annuitant;
- b) you, to the extent only that the property was an amount described in subparagraph 60(1)(v) of the Act (including refunds of premiums from a deceased person's RRSP where he or she was your spouse or common-law partner, or you were dependent upon him or her by reason of physical or mental infirmity);
- c) an RRSP or RRIF under which your spouse, former spouse, common-law partner or former common-law partner, from whom you are living separate and apart, is the annuitant and the transfer is made pursuant to a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property in settlement of rights arising out of your marriage or common-law partnership, or after the breakdown of such marriage or partnership;
- d) a registered pension plan of which you are a member (as defined in subsection 147.1(1) of the Act), or a registered pension plan in accordance with subsection 147.3(5) or (7) of the Act; or
- e) a specified pension plan in circumstances to which subsection 146(21) of the Act applies.

We will hold this property and any investments, income or gains therefrom (the "Fund Assets") in trust, to be held, invested and used according to the terms of this declaration and the Act.

If locked-in Fund Assets are transferred to the Fund in accordance with applicable provincial or federal pension legislation, the additional provisions contained in the Life Income Fund ("LIF") or Locked-In Retirement Income Fund ("LRIF") addendum (the "Addendum") to this Declaration of Trust will form part of this Declaration of Trust and will govern the Fund Assets. In the event of any inconsistencies between the Addendum and Declaration of Trust, the provisions of the Addendum will govern.

### **3. Investments**

We will hold, invest and sell the Fund Assets according to your instructions. We may require any instructions to be in writing. We will pay interest on any cash balances at such rate and credited at such time as we in our sole discretion determine.

Investments will not be limited to those authorized by law for trustees. However, it will be your responsibility to determine whether an investment is or remains a "qualified investment" for RRIFs pursuant to the Tax Laws. The Fund will bear any taxes, penalties or related interest imposed under the Tax Laws (other than those taxes, penalties and interest that the Trustee is liable for and that can't be paid out of the property of the Fund). If the Fund Assets are insufficient to pay any taxes, penalties or related interest incurred, or if taxes, penalties or related interest are imposed after the Fund has ceased, you must pay or reimburse us directly for any such taxes, penalties or related interest.

You may, by way of a duly executed power of attorney in a form acceptable to us, appoint an agent to give investment instructions. You release us from any claim or liability when acting upon the instructions of such agent.

Notwithstanding anything in this declaration, we may decline to accept any particular transferred property or to make any particular investment, in our sole discretion or for any reason, including if it does not comply with our administrative requirements or policies in place from time to time. We may also need you to provide special supporting documentation as a condition to our making certain investments for the Fund.

We will not be responsible for any loss resulting from the sale or other disposition of any investment forming part of the Fund Assets.

### **4. Your Account and Statements**

We will maintain an account in your name showing all Fund Assets, all investment transactions and all payments from the Fund. At least once each year we will send you an account statement showing these transactions, including income earned and expenses incurred during such period. We will also send you by the end of February in each year a tax information slip showing the total amount of all payments made to you from the Fund during the preceding calendar year to enable you to report this amount on your income tax return.

## **5. Management and Ownership**

We may hold any investment in our own name, in the name of our nominee or agent, in bearer form or in such other name or form, or with any such custodian, clearing corporation or depository, as we may determine. We may generally exercise the power of an owner with respect to the Fund Assets, including the right to vote or give proxies to vote in respect thereof, or to sell assets to pay any taxes, assessments or charges in connection with the Fund (other than those taxes, assessments and charges that the Trustee is liable for under the Act and that can't be paid out of the property of the Fund). However, you may request us to arrange for you to be able to exercise such voting rights, whereupon if we have been given sufficient time, we will make such arrangements. In exercising our rights and carrying out our responsibilities hereunder, we may employ agents and advisors, including legal counsel, and may act or not act on the advice or information of any such agent or advisor.

## **6. Payments**

Each calendar year, we will make one or more payments to you, totalling not less than the minimum amount as defined in subsection 146.3(1) of the Act. No payment will be for an amount exceeding the value of the Fund Assets immediately before such payment. The minimum amount for the year in which the Fund is established is zero, meaning you do not have to take payments if you do not want to. We will make payments to you in the amounts and at the times you direct us, as set out in your application form or in other acceptable directions, and you may change these directions. You may direct us to make payments which exceed the minimum amount for the year, in which case we must withhold tax from the excess. If you do not specify the amount to be paid or if the amount you specify is less than the minimum amount for a year, we will make payment(s) to you equalling at least the minimum amount. At the end of the year in which the last payment is made, an amount equal to the value of the Fund Assets must be paid out.

You may elect to have the minimum amount determined using your spouse's or common-law partner's age. To do so, you must complete the appropriate area on the application form before we make any payment to you out of the Fund.

It is solely your responsibility to ensure that there is sufficient cash in the Fund to make these payments. We will not be required to make any such payment in specie. If any Fund Assets must be sold to provide the required cash and we do not have your instructions as to which to sell, we will sell any of the Fund Assets that we, in our sole discretion, consider appropriate. We will not be liable for any loss that results from a sale.

No payment from the Fund may be assigned, in whole or in part.

We will not make any payments other than those described in paragraphs 6, 7 and 9 of this declaration. However, before making any such payment, we may charge against the Fund the amount of any taxes, penalties, interest, fees and expenses that are payable hereunder, under the Tax Laws or under other applicable legislation.

## **7. Transfers (On Relationship Breakdown or Otherwise)**

Subject to any reasonable requirements we impose, you may direct us in writing to transfer all or part of the Fund Assets (net of any costs of realizations and of any property we must retain under the Act to ensure that the minimum amount may be paid to you in that year) to:

- a) an RRIF under which you are the annuitant; or
- b) an RRSP or RRIF under which your spouse, former spouse, common-law partner or former common-law partner, from whom you are living separate and apart, is the annuitant and the transfer is made pursuant to a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property in settlement of rights arising out of your marriage or common-law partnership, or after the breakdown of such marriage or partnership.

Such transfers will take effect in accordance with the Act and any other applicable legislation and within a reasonable time after any required forms have been completed. If the transfer is to another RRIF under which you are the annuitant, we will also transfer all information necessary for the continuance of the Fund. If only a portion of the Fund Assets is being transferred under this paragraph, you may specify in writing which Fund Assets you wish us to transfer or sell; otherwise, we will transfer or sell the Fund Assets that we deem appropriate. No transfer will be made until all fees, charges and taxes have been paid. We will be discharged from all further duties and liabilities in respect of any Fund Assets so transferred.

## **8. Designation of Successor Annuitant / Beneficiary**

Where effective under applicable legislation, you may designate one or more beneficiaries to receive an amount or amounts out of the Fund after your death, in accordance with one of the following:

- a) **Successor Annuitant:** You may at any time elect that your spouse or common-law partner receive the payments under paragraph 6 after your death. (A successor annuitant cannot make this designation.) If you have not made this election, we may agree to make such payments to your spouse or common-law partner after your death, if your legal personal representative requests this; or
- b) **Beneficiary of Lump Sum:** You may designate one or more beneficiary(ies) to receive the Fund Assets or the proceeds thereof, less any applicable taxes and any fees or expenses payable under this declaration, in a lump sum payment.

You may make, change or revoke any such beneficiary designations by completing, dating and signing the form we provide or any other form appropriate for this purpose and ensuring we receive it before we pay out the Fund under paragraph 9. If more than one form has been received by us, we will act on the one with the latest signature date.

#### **9. Death**

In the event of your death, if you had not elected that your spouse or common-law partner become successor annuitant in accordance with paragraph 8(a) above (or you had so elected but your spouse or common-law partner predeceased you), we will, upon receipt of satisfactory evidence of your death and all other documents we may require, transfer the Fund Assets, or sell them and payout the proceeds, to any other beneficiary(ies) designated in accordance with paragraph 8 above. If you had not designated a beneficiary or if such beneficiary(ies) die before you, we will make such transfer or payment to your legal personal representative. Deductions will be made for all fees, costs, charges and taxes to be paid or withheld (other than those taxes the Trustee is liable for under the Act and that can't be paid out of the property of the Fund). We will be fully discharged once we make such transfers or payments, even though any beneficiary designation made by you may be invalid as a testamentary instrument. We will not be liable for any loss caused by any delay in making any such transfer or payment.

#### **10. Proof of Age**

Your statement of your date of birth in your application will be deemed to be a certification of your age and your undertaking to provide any further evidence or proof of age that may be required for the purpose of calculating your Retirement Income.

#### **11. Delegation**

You authorize us to delegate to Credential Asset Management Inc. (the "Agent") the performance of certain of our duties, including the following:

- a) receiving transfers of cash and other property into the Fund and accepting on our behalf your application;
- b) registering the Fund with the Canada Revenue Agency;
- c) investing the Fund Assets in accordance with this declaration;
- d) holding the Fund Assets in safekeeping, in its name or in the name of its nominee or custodian;
- e) maintaining your account and providing you with statements and notices;
- f) receiving and implementing your notices and instructions;
- g) collecting fees and expenses from you or the Fund;
- h) filing any elections permitted under the Tax Laws as directed by you or your personal representatives;
- i) issuing tax information slips and preparing and filing tax returns or forms relating to the Fund;
- j) withdrawing or transferring Fund Assets in accordance with your instructions or for the purpose of making payments to you, any government authority or any other person entitled to same under the Fund, the Tax Laws or other applicable legislation;

and any other duties relating to the Fund as we may determine appropriate from time to time. We, however, will bear ultimate responsibility for the administration of the Fund in accordance with this declaration and the Tax Laws.

You acknowledge that we may pay the Agent all or any portion of our fees hereunder and reimburse it for its out-of-pocket expenses in performing its delegated duties. You also acknowledge that the Agent will earn normal brokerage commissions on investment transactions processed by it. You acknowledge and agree that all protections, limitations of liability and indemnifications given to us under this declaration, including without limitation those under paragraphs 12 and 13 are also given to, and are for the benefit of, the Agent.

#### **12. Fees and Expenses**

We are entitled to receive and may charge against the Fund reasonable fees and other charges that we establish from time to time in conjunction with the Agent, provided that we will give you thirty (30) days written notice of a change in the amount of any such fee. We are also entitled to reimbursement for all taxes, penalties and interest and for all other costs and out-of-pocket expenses incurred by us or the Agent in connection with the Fund (other than those taxes, penalties and interest that the Trustee is liable for under the Act and that can't be paid out of the property of the Fund). All amounts so payable will be charged against and deducted from the Fund Assets, unless you make other arrangements with us. If the cash in the Fund is not sufficient to pay these amounts, we may, in our sole discretion, sell any of the Fund Assets in order to pay same and we will not be responsible for any loss occasioned by any such sale.

### **13. Trustee's Liability**

- a) The Trustee will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility of a non-qualified investment being acquired or held by the Fund.
- b) Notwithstanding any other provisions hereof, the Trustee will not be liable in its personal capacity for or in respect of:
  - (i) Any taxes or interest which may be imposed on the Fund under Tax Laws (whether by way of assessment, reassessment or otherwise) or for any charge levied or imposed by any governmental authority upon or in respect of the Fund, as a result of the purchase, sale or retention of any investment including, without limiting the generality of the forgoing, non-qualified investments, other than taxes, penalties and interest imposed on the Trustee arising from its personal liability, including without limitation, arising from its administrative error, under Tax Laws and that can't be paid out of the property of the Fund; or
  - (ii) Any loss suffered or incurred by you, the Fund, or any beneficiary under the Fund caused by or resulting from the Trustee acting or declining to act upon instruction given to it, whether by you, a person designated by you or any person purporting to be you, unless caused by the Trustee's dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard.
- c) You, your legal personal representative, and each beneficiary under the Fund will at all times, indemnify and save harmless the Trustee in respect of any taxes, penalties, interest or other governmental charges which may be levied or imposed on the Trustee in respect of the Fund or any losses incurred by the Fund (other than losses, taxes, penalties, interest or other government charges for which the Trustee is liable in accordance herewith and that can't be paid out of the property of the Fund) as a result of the acquisition, retention or transfer of any investment or as a result of payments out of the Fund made in accordance with these terms and conditions or as result of the Trustee acting or declining to act on any instruction given to it by you. You, where required or requested, will provide the Trustee with such information as it may require in order to value assets being acquired or held by the Fund.

The provisions of this section 13 shall survive the termination of the Fund.

### **14. Replacement of Trustee**

We may at any time resign as trustee under the Fund by giving you and the Agent sixty (60) days written notice, or such shorter period of notice as the Agent may accept. The Agent may remove us as trustee by giving you and us sixty (60) days written notice, or such shorter notice as we may accept. Upon giving or receiving any such notice of our removal or resignation, the Agent will within the notice period appoint a successor trustee authorized under the Tax Laws and any other applicable legislation (the "Successor Trustee"). If a Successor Trustee is not found within such notice period, we and/or the Agent may apply to a court of competent jurisdiction for the appointment of a Successor Trustee. Any costs incurred by us in securing the appointment of a Successor Trustee will constitute a charge against the assets of the Fund and will be reimbursed from the Fund Assets unless borne personally by the Agent. Our resignation or removal will not be effective until a Successor Trustee is appointed.

Any trust company resulting from a merger, amalgamation or continuation to which we are party, or succeeding to substantially all of our RRSP and RRIF trusteeship business (whether by sale of such business or otherwise), will, if authorized, become the Successor Trustee of the Fund without further act or formality.

In the event of a change of trustee, we will transfer the Fund Assets to the Successor Trustee within thirty (30) days after the effective date of such change. Such a transfer will be subject to the requirements of paragraph 7 hereof, including the retention of any property necessary to ensure payment to you that year of the minimum amount.

### **15. Amendments to this Declaration of Trust**

We may from time to time amend this declaration with the approval, if required, of the applicable taxation authorities as long as the amendment will not disqualify the Fund as a RRIF under the Tax Laws. We will give you thirty (30) days written notice of any amendment unless it is made for the purpose of satisfying a requirement imposed by the Tax Laws.

### **16. Notice**

You may give us instructions by personal delivery, fax or postage prepaid mail (or by such other means as we or the Agent may accept), properly sent to the Agent or to any other address that we designate. We may give you any notice, statement, receipt or other communication by postage prepaid mail, sent to the address recorded in your application or to any subsequent address you provide us. Our notices to you will be deemed to have been given on the second business day after mailing.

### **17. Reference to Statutes**

All references herein to any statute, regulation or any provision thereof will mean such statute, regulation or provision as the same may be re-enacted or replaced from time to time.



**18. Binding**

The terms and conditions of this declaration will be binding upon your heirs and legal personal representatives and upon our successors and assigns. Notwithstanding that, if the Fund or the Fund Assets are transferred to a Successor Trustee, then the terms of such Successor Trustee's declaration of trust will govern thereafter.

**19. Governing Law**

This declaration will be construed, administered and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, except that where the circumstances require, the terms "spouse" and "common-law partner" will be recognized in accordance with the Act.

**20. Access to File (Applicable in Québec Only)**

You understand that the information contained in your application will be maintained in a file at the Agent's place of business. The object of this file is to enable us and the Agent, and our respective agents or representatives, to access your application, answer any questions you may have regarding the application and your Fund, and manage your Fund and your instructions on an ongoing basis. Subject to applicable legislation, personal information contained in this file may be used by us or by the Agent to make any decision relevant to the object of the file and no one may have access to the file except us, the Agent, our respective employees, agents and representatives, any other person required for the execution of our or the Agent's duties and obligations, you and any other person that you expressly authorize in writing. You are entitled to consult your file and to have anything in it corrected. In order to exercise these rights, you must notify us in writing.

**C. Credential Asset Management Inc. Self-Directed Tax Free Savings Account Declaration of Trust**

Canadian Western Trust Company is a trust company incorporated under the laws of Canada. The words "us", "our" and "we" are also used in this Declaration of Trust to refer to Canadian Western Trust Company. "You" (the account holder) are the "Holder" as defined in the *Income Tax Act*, the person who has completed the application form (the "Application") to which this Declaration of Trust is attached. Within this Declaration of Trust we use the word "agent" when referencing "agent for the trustee". "Survivor" Subsection 146.2(1) defines an individual to be a "survivor" of another individual if the individual was immediately before that other individual's death, a spouse or common-law partner of that other individual.

We agree to act as trustee for the Credential Asset Management Inc. Self-Directed Tax Free Savings Account created pursuant to the Application and this Declaration of Trust (the "TFSA") in accordance with the terms and conditions set out below:

**1. Registration**

We will file an election to register the TFSA under the *Income Tax Act* (Canada) (the "Act") and any applicable income tax legislation of a province of Canada (collectively, "Applicable Tax Legislation"). If registered, the TFSA will be a "qualifying arrangement" and you will be known for the purposes of the Applicable Tax Legislation as the "Holder" of the TFSA.

**2. Purpose of the TFSA**

The primary purpose of the TFSA is to accumulate and invest funds for savings and investment purposes. The TFSA will be maintained for the exclusive benefit of you as the Holder, except as provided under Clauses 17 and 20.

**3. Compliance**

The TFSA shall, at all times, comply with all relevant provisions of the Act. You are bound by the terms and conditions imposed under the Act.

**4. Contributions**

Deposits to the TFSA made by you according to this Declaration of Trust and the Act will be called the "Contributions". Only you may make Contributions to the TFSA. Contributions may be cash, securities mutual funds or other property. We will hold the Contributions and any income or gains from them, in trust for you. We will invest and reinvest such income or gains accumulated in accordance with the instructions provided by you. These amounts, together with any amounts transferred to the TFSA under section 12 below, will be called the "TFSA Assets". The trustee is not responsible for determining whether the aggregate of all Contributions made by you to the TFSA in respect of a year exceeds the maximum amount that is permitted to be contributed to the TFSA in respect of the year.

**5. Investments**

TFSA Assets will be invested and reinvested from time to time in accordance with your investment instructions or those of your assigns as set out in Clause 20 (if applicable). Investment instructions must comply with requirements imposed by us in our sole discretion. Your TFSA will not be limited to investments authorized by law governing the investments of property held in trust other than the investment rules imposed by the Act for a TFSA. We will only act on your instructions if they are in a form acceptable to us and are accompanied by related documents as required by us, in our sole discretion. We may accept and act on any investment instructions, which we believe, in good faith, to be given by you. At any time, it is your responsibility

to ensure all investments held in the TFSA are qualified investments under the Act. We may be entitled to a fee for any cash deposited in an account at Canadian Western Bank or for any investments made with Canadian Western Bank or, if requested by you, another financial institution, and if so, such a fee shall accrue to us. If we do not have any instructions from you at the time we receive a cash Contribution, we will deposit your cash Contribution in an interest bearing account with us or Canadian Western Bank.

#### **6. Non-Qualified Investments and Excess Contributions**

You are responsible for any tax, interest or penalties (collectively, the "Charges") imposed under Applicable Tax Legislation or by any other provincial or federal regulatory authorities as it pertains to the Contributions and investments in the TFSA except for the Charges and Income Tax that the Trustee is liable under the *Income Tax Act* and that can't be deducted from the TFSA Assets. If the TFSA becomes liable for any Charges, you will be deemed to have authorized us to sell or withdraw any of the TFSA Assets and obtain a fair market value that we, in our sole discretion, consider appropriate to pay any Charges to the TFSA and we will issue notice to you as prescribed under the Act in respect of any such transaction. We will not be liable for any loss or income taxes incurred as it pertains to the collection of unpaid Charges. It is your sole responsibility to provide appropriate documents supporting the fair market value of TFSA Assets not publicly traded on a recognized stock exchange within the meaning of Applicable Tax Legislation. Furthermore, we may deem TFSA Assets as worthless and remove them from the TFSA if you cannot provide documents supporting their fair market valuation as we may impose. We will not be liable for any Charges imposed on you or the TFSA under Applicable Tax Legislation or by any provincial or federal regulatory authorities related to the removal of TFSA Assets from the TFSA.

#### **7. Accounting**

We will maintain records relating to the TFSA reflecting the following:

- a) Contributions to the TFSA;
- b) Name, amount and cost of investments purchased or sold by the TFSA;
- c) Purchases and sales of investments we hold for you in the TFSA;
- d) Any income or loss earned or incurred by the TFSA;
- e) Withdrawals, transfers and any other payments from the TFSA; and
- f) The balance of the TFSA.

#### **8. Statements**

We will issue statements for the TFSA at least once annually or more frequently as determined by us, in our sole discretion. Should there occur full or partial nonpayment of fees referred to in Clause 16 hereof, we may, in our sole discretion, cease the issue of statements for the TFSA.

#### **9. Withdrawals**

Upon receipt of your written instructions to withdraw all or a part of the TFSA Assets, or the written instructions of your assigns under Clause 20, we will pay you or your assigns as the case may be an amount less any related fees or costs. Prior to us processing your written instructions, you will ensure sufficient cash is in the TFSA to cover the amount requested or you will withdraw an investment(s) in-kind, equal to the fair market value at the time of the transaction. We will issue notice to you as prescribed under the Act in respect of any such transaction. Once the withdrawal is issued and notice provided, we no longer have any further liability or duty to you for the TFSA Assets that you have withdrawn.

#### **10. Refunds of Excess Contributions**

You may send us written instructions to refund an amount to reduce the taxes otherwise payable under Part XI.01 of the *Income Tax Act* (Canada) relating to Contributions that exceed the limits permitted under the Act. Prior to us processing your written instructions, you will ensure sufficient cash is in the TFSA to cover the amount requested or we will refund an investment in-kind equal to the fair market value at the time of the transaction. We will issue notice to you as prescribed under the Act in respect of any such transaction. Once the refund is issued and the notice provided, we no longer have any further liability or duty to you for the TFSA Assets that have been refunded.

#### **11. Transfers to the TFSA**

You may request a transfer of amounts to the TFSA from another "TFSA" or any other source permitted under the Act or other applicable law. The trustee may, in its sole discretion refuse to accept the property into the TFSA for any reason whatsoever and authorizes to transfer out of the TFSA to the Holder, without notice, any property of the TFSA the trustee believes is not or may not be a Qualified Investment. The terms and conditions of the TFSA will be subject to any additional terms or conditions that may be required to complete the transfer according to applicable law.

## **12. Transfers from the TFSA**

You, or your assigns under Clause 20 (if applicable), may request a transfer of all or part of the TFSA Assets to a TFSA that is registered under the Act under which you are the Holder. All transfer requests may be subject to tax under the Act and any other related fees or costs. We will process your transfer request within a reasonable period of time after we have received all completed documents as required by us and applicable law. Once the transfer is issued, we no longer have any further liability or duty to you for the TFSA Assets transferred.

## **13. Transfers for Division of Property**

You may request a transfer of all or part of the TFSA Assets to a TFSA or under which your spouse or common-law partner (within the meaning of Applicable Tax Legislation) is the Holder if the transfer is made under the terms of a decree, order or judgment of a competent tribunal, or of a written separation agreement, that relates to the division of property between you and your spouse or common-law partner or former spouse or common-law partner in settlement of rights arising out of or on the breakdown of your marriage or common-law partnership. Any transfer requests may be subject to any tax under Applicable Tax Legislation and any other related fees or costs. We will process your request within a reasonable period of time after we have received all completed documents as required by applicable law and us. Once the transfer is issued, we no longer have any further liability or duty to you for the TFSA Assets transferred.

## **14. Fees**

We may charge you or the TFSA fees for services we provide to you or the TFSA from time to time in accordance with our current fee schedule. We will give you a minimum of sixty (60) days notice of any change in our fees. We are entitled to reimbursement from you or the TFSA for all Trustee fees, mortgage foreclosure fees, disbursements, expenses and any other charges reasonably incurred by us in connection with the TFSA. We are entitled to deduct our unpaid fees, disbursements, expenses and any other charges from the TFSA Assets and where insufficient cash is available, you authorize us to sell or withdraw any of the TFSA Assets and obtain a fair market value that we, in our sole discretion, consider appropriate to collect unpaid fees, disbursements, expenses and any other charges. We will issue notice to you as prescribed in the Act in respect of any withdrawals from the TFSA Assets and we will not be liable for any loss or income tax incurred as such loss or tax pertains to the collection of any unpaid fees, disbursements, expenses and any other charges.

## **15. Social Insurance Number**

The social insurance number that you provide on the Application shall be deemed a certification by you of its truth and you give us your undertaking to provide additional evidence if we require the proof of its validity.

## **16. Designation of Beneficiary**

Where applicable provincial law permits, you may designate one or more beneficiaries to receive the TFSA Assets or the proceeds from the sale of the TFSA Assets on or after your death. You may make, change or revoke a beneficiary designation by providing us with a written instruction in a form acceptable to us. When the TFSA Assets or the proceeds from the TFSA Assets have been distributed to your designated beneficiary, even though the designation may be invalid as a testamentary instrument, we will be fully discharged of any liability under this Declaration of Trust.

## **17. Death of a TFSA Holder**

Upon verification of a benefit entitlement under Applicable Tax Legislation, we will require, in our sole discretion, satisfactory evidence of your death and any other documents as it pertains to your death prior to proceeding with a request to distribute the TFSA Assets or the proceeds from the TFSA Assets less any tax under the Applicable Tax Legislation and any other related fees or costs. If you have designated more than one beneficiary under your TFSA, we will distribute TFSA Assets as designated by you. If we cannot establish a valid designation of beneficiary or beneficiaries, we will distribute the TFSA Assets to your estate. Once the TFSA Assets are transferred or the proceeds of the sale of the TFSA Assets are paid, we no longer have any further liability or duty to your heirs, executors, administrators or legal representatives.

## **18. Ownership and Voting Rights**

The TFSA Assets will be held in our name, our nominee's name, bearer form or any other name that we determine. The voting rights attached to securities held under the TFSA and credited to your account may be exercised by you and for this purpose, you are hereby appointed as our agent and attorney to execute and deliver proxies and/or other instruments mailed by us to you according to applicable laws.

## **19. Notices**

Any notices, demands, orders, documents or any other written communication we may forward to you by mail, postage paid, to your address indicated on the Application (or subsequent written notification of a new address which we acknowledge received) shall be deemed to be received by you (3) days after such mailing. You acknowledge that we shall be under no further obligation to locate you for the purpose of forwarding any such notices, demands, orders, documents or any other written communication.

## **20. Restrictions and Security for Indebtedness**

No advantage that is conditional in any way on the existence of the TFSA may be extended to you or any person with whom you do not deal at arm's-length, other than the benefits and advantages specifically permitted under the Act. The trust is prohibited from borrowing money or other property for purposes of the TFSA. The TFSA interests may be pledged or assigned as security for indebtedness in whole or in part in accordance with the provisions of subsection 146.2(4) of the *Income Tax Act* (Canada). While there is a holder of the TFSA, anyone, other than you or us, is prohibited from having any rights under the TFSA relating to the amount and timing of distributions and the investing of the TFSA.

## **21. Amendments**

We may from time to time, in our sole discretion, amend the terms of the TFSA and this Declaration of Trust, providing that such amendments shall not disqualify the TFSA as a qualifying arrangement within the meaning of the Act. We will obtain approval from the necessary provincial and federal authorities if any amendments are made and as required. We will provide you with thirty (30) days' notice of any amendments.

## **22. Delegation of Duties**

Without limiting our responsibility as trustee of the TFSA, we may appoint agents and may delegate to our agents the performance of administrative and any other duties required under the TFSA and Declaration of Trust. We may engage accountants, brokers, lawyers or others for their advice and services and may rely on them for the same. We may pay to any agent or advisor a fee under the provisions of this Declaration of Trust but we will not be liable for any acts, omissions or negligence of any of our agents or advisors so long as we have acted in good faith. We acknowledge that we are ultimately responsible for the administration of the TFSA.

## **23. Liability of Canadian Western Trust Company**

You are responsible for determining whether an investment made in the TFSA is a qualified investment within the meaning of the Act. We are not responsible for valuing TFSA Assets that are not publicly traded on a stock exchange recognized within the Applicable Tax Legislation. We, our officers, employees, and agents shall be indemnified by you and the TFSA directly from TFSA Assets against all expenses, liabilities, claims, demands or penalties arising out of or in respect of the TFSA and the TFSA Assets except for those penalties the Trustee is liable under the *Income Tax Act* and that can't be deducted from the TFSA Assets. We, our officers, employees, and agents will accept investment instruction made in good faith by you or your authorized agent, dealer, or representative. We will not be liable for any expense, liability, claim, demands, taxes, damages, losses or penalties imposed on us or the TFSA as a result of us acting in good faith on your authority or the authority of your authorized agent, dealer or representative except for those taxes and penalties the Trustee is liable under the *Income Tax Act* and that can't be deducted from the TFSA Assets. We will not be liable for any Charges incurred in performing our duties under the TFSA, the Declaration of Trust or any additional terms and conditions which may apply to the TFSA under applicable law in connection with any transfers by the TFSA, unless caused by willful misconduct or gross negligence by us, our officers, employees or agents.

## **24. Indemnification**

You, your heirs, executors, administrators, legal representatives or assigns and each beneficiary under the TFSA will at all times indemnify the trustee, its directors, officers, employees and agents and their respective heirs, executors, administrators, personal representatives, successors, assigns and our agents directly and out of the TFSA Assets for any taxes, interest, penalties or charges levied or imposed on us in respect of the TFSA (except for those taxes, interest and penalties the Trustee is liable under the *Income Tax Act* and that can't be deducted from the TFSA Assets), costs incurred in performing our duties under this Declaration of Trust or any losses incurred by the TFSA as a result of any loss or diminution of the TFSA Assets, purchases, sales, or retention of any investments, payments or distributions out of the TFSA made according to these terms and conditions, or acting or declining to act on any instructions given to us, whether by you, a person designated by you or any person purporting to be you or the person designated by you.

## **25. Successor Trustee**

We may resign as the trustee of the TFSA and be discharged from all duties and liabilities under this Declaration of Trust by giving thirty (30) days written notice to you. If you do not appoint a successor trustee within ten (10) days of our written notice, we may appoint a successor trustee for the TFSA. Upon our resignation we will provide the successor trustee with all conveyances, transfers and further assurances that may be required to give effect to the appointment of the successor trustee.

## **26. Governing Law**

The terms of the TFSA will be construed, administered and enforced according to the laws of the Province of British Columbia and the federal laws of Canada applicable in British Columbia.

## **27. Binding**

The terms of this Declaration of Trust will be binding on your heirs, executors, administrators or legal representatives and permitted assigns and our successors and assigns.

## 7. Individual Education Savings Plan Terms and Conditions

The application attached (the "Application") and these terms and conditions constitute a contract for the establishment of a Credential Asset Management Inc. Individual Education Savings Plan (the "Plan") between Credential Asset Management Inc. (the "Promoter"), and the subscriber(s) named in the Application as of the date of the Application (the "Contract") under which the Promoter will pay educational assistance payments to further the beneficiary's post-secondary education.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Definitions:** For the purposes of this Contract the following terms shall have the following meanings:

- a. **"Accumulated Income Payment(s)"** means any amount paid out of this Plan, other than a payment described in any of paragraphs (a) and (c) to (e) of the definition of trust in subsection 146.1(1) of the Tax Act, to the extent that the amount so paid exceeds the fair market value of any consideration given to the Plan for the payment of the amount;
- b. **"Applicable Legislation"** means all provincial and federal legislation governing the Plan, the Plan Assets and the parties hereto including, without limitation, the Income Tax Act (Canada) (the "Tax Act"), the Department of Human Resources Development Act (Canada), the Canada Education Savings Act (Canada) (the "CES Act"), and securities legislation. Any reference to Applicable Legislation shall be deemed to include all such statutes and any regulations, policies, rules, orders or other provisions thereunder, all as may be amended, re-enacted or replaced from time to time;
- c. **"Beneficiary"** means the individual designated in the Application by the Subscriber(s) to whom, or on whose behalf, Educational Assistance Payments are agreed to be paid, provided such individual qualifies under the Applicable Legislation and the Plan at the time such payments are made;
- d. **"Canada Learning Bond"** means a Canada Learning Bond as described in the CES Act;
- e. **"Capital Investments"** at any time means an amount net of the amount of Government Funded Benefit refunds as provided in section 7, not exceeding the lesser of:
  - (i) the value of the Plan Assets at that particular time; and
  - (ii) the aggregate of all Contributions made to the Plan up to that time eligible for refund at that time under the Applicable Legislation;
- f. **"CES Grant"** means a Canada Education Savings Grant as described in the CES Act;
- g. **"Contribution(s)"** means any amount contributed to the Plan by or on behalf of each Subscriber in respect of the Beneficiary from time to time or by way of a lump sum payment, other than Government Funded Benefits, and subject to the RESP Lifetime Limit, and in such minimum amounts permitted by the Promoter. Contribution(s) also include direct transfers from another education savings plan that has not made any Accumulated Income Payments prior to such transfers and subject to such other conditions imposed in accordance with the Applicable Legislation and the Plan. For greater certainty, an amount may be contributed by payment of cash into the Plan as well as by way of transfer of securities acceptable to the Promoter, in its sole discretion, provided that the registered ownership of such securities has been changed to reflect ownership by the Plan;
- h. **"Designated Provincial Program"** means a program administered pursuant to an agreement entered into under section 12 of the CES Act or a program established under the laws of a province to encourage the financing of children's post-secondary education through savings in education savings plans;
- i. **"Educational Assistance Payment(s)"** means any amount, other than a Refund of Contributions, paid under this Plan in accordance with the Applicable Legislation, to or for the Beneficiary, to assist the Beneficiary to further the Beneficiary's education at a post-secondary school level;
- j. **"ESDC"** shall mean the Department of Employment and Social Development Canada;
- k. **"Government Funded Benefits"** means collectively CES Grants, Canada Learning Bonds, and any other payments made to the Plan under the CES Act or under a Designated Provincial Program or any other program that has a similar purpose to a Designated Provincial Program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a Public Primary Caregiver in its capacity as Subscriber under the plan);
- l. **"Minister"** means the Minister designated for the purpose of the CES Act;
- m. **"Plan Assets"** means all Contributions and Government Funded Benefits paid to the Plan in respect thereof, together with the income and gains derived from the investments and reinvestments thereof, less any losses of any investment or reinvestment, less any fees and administration expenses of the Promoter and the Trustee paid out of the Plan, and less any Government Funded Benefit refunds required by the Applicable Legislation. For greater certainty, Plan Assets includes all investments held from time to time by or on behalf of the Trustee in accordance with the Plan as well as amounts transferred pursuant to the Applicable Legislation from other registered education savings plans, if any;

- n. **"Post-Secondary Educational Institution"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a postsecondary educational institution as:
- (i) an educational institution in Canada that is a university, college or educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act, designated by an appropriate authority under the Canada Student Financial Assistance Act, or designated by the Minister of Education of the Province of Québec for the purposes of *An Act respecting financial assistance for education expenses*; or
  - (ii) an educational institution in Canada that is certified by the Minister of Employment and Social Development to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation; or
  - (iii) an educational institution outside Canada that provides courses at a post-secondary school level and that is a university, college or other educational institution at which a beneficiary was enrolled in a course of not less than 13 consecutive weeks or a university at which a beneficiary was enrolled on a full-time basis in a course of not less than three consecutive weeks;
- o. **"Public Primary Caregiver"** has the meaning ascribed to such term in subsection 21(6) of the CES Act, which defines a public primary caregiver of a beneficiary under an education savings plan in respect of whom a special allowance is payable under the *Children's Special Allowances Act*, as the department, agency or institution that maintains the beneficiary, or the public trustee or public curator of the province in which the beneficiary resides;
- p. **"Qualifying Educational Program"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a qualifying educational program as a program at a post-secondary school level of not less than three consecutive weeks duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program.
- q. **"Refund of Contributions"** at any time means:
- (i) a refund of a Contribution that had been made at a previous time, if the Contribution was made:
    - A. otherwise than by way of a transfer from another registered education savings plan; and
    - B. into the Plan by or on behalf of a Subscriber under this Plan, or
  - (ii) a refund of an amount that was paid at a previous time into the Plan by way of a transfer from another registered education savings plan, where the amount would have been a refund of contributions under the other plan if it had been paid at the previous time directly to a subscriber under the other plan;
- r. **"RESP Lifetime Limit"** means the lifetime limit for Contributions to all registered education savings plans in respect of a person designated as a beneficiary under such plans pursuant to subsection 204.9(1) of the Tax Act;
- s. **"Specified Educational Program"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a specified educational program as a program at a post-secondary level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program;
- t. **"Specified Plan"** refers to a Plan for a disabled person and means a specified plan as defined in subsection 146.1(1) of the Tax Act;
- u. **"Subscriber(s)"** means at any time either an individual (other than a trust) or an individual (other than a trust) and the spouse or common-law partner of such individual who is/are named as such in the Application, or the Public Primary Caregiver of a Beneficiary, and in particular:
- (i) each individual or Public Primary Caregiver with whom the Promoter entered into the Plan;
  - (ii) another individual or another Public Primary Caregiver who, before that time, under a written agreement, acquired a Public Primary Caregiver's rights as a Subscriber under the Plan;
  - (iii) an individual who, before that time acquired a Subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a Subscriber under the Plan in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership; or
  - (iv) after the death of a Subscriber under the Plan who is an individual described in (i) or (iii), any other person (including the estate of the deceased individual) who acquires the individual's rights as a Subscriber under the Plan or who makes Contributions into the Plan in respect of a Beneficiary;
- but does not include an individual or Public Primary Caregiver whose rights as a Subscriber under the Plan had, before that time, been acquired by an individual or Public Primary Caregiver in the circumstances described in paragraph (ii) or (iii) above; and
- v. **"Trustee"** means Canadian Western Trust Company or such other corporation, resident in Canada and licensed or otherwise authorized under the laws of Canada or of a province to carry on in Canada the business of offering to the public its services as a trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act, which has been appointed by the Promoter to irrevocably hold the Plan Assets for the purpose(s) set forth in subsection 2(b).

## 2. Purposes of the Plan

- a. The Plan is offered by the Promoter to provide Educational Assistance Payments to the Beneficiary(ies) and to enable the Beneficiaries to benefit from the Government Funded Benefits. The Plan does not allow for the payment to a Beneficiary unless the Beneficiary meets the prerequisites as set forth in paragraph 146.1(2)(g.1) of the Tax Act and otherwise in the Applicable Legislation. Contributions are not deductible by the Subscriber from income for tax purposes and are not taxable when returned to the Subscriber (or as the Subscriber may direct pursuant to subsection 7(b)). Provided that the Plan qualifies as a registered education savings plan under the Applicable Legislation, net income and net realized capital gains (including capital appreciation) earned on investments of Contributions and Government Funded Benefits will not be included in computing the Subscriber's income. Educational Assistance Payments made, and Government Funded Benefits paid, to or on behalf of a Beneficiary are included in computing the Beneficiary's income. However, where a Subscriber directs, pursuant to subsection 7(b) that part or all of the Contributions be paid to some or all of the Beneficiaries, such payments are not included in computing the income of such Beneficiary.

In consideration of receipt by the Promoter of Contributions and the fees and charges set out in section 17, and subject to repayment of Government Funded Benefits as required by the Applicable Legislation, the Promoter agrees to pay, or cause to be paid, the Educational Assistance Payments and to arrange for the Plan Assets to be irrevocably held in trust by the Trustee pursuant to the Plan for one or more of the purposes set out in paragraphs 9(a)(i) to (vi).

## 3. Registration of the Plan

The Promoter shall apply for registration of the Plan as a registered education savings plan under the Tax Act in prescribed form and containing prescribed information, and shall apply for registration of the Plan as a registered education savings plan under any other appropriate Applicable Legislation in the province in which each Subscriber resides. The Promoter shall provide each Subscriber with notification of such registration. Each Subscriber acknowledges that for the purposes of such registration the Promoter is relying on the correctness and completeness of all information provided in the Application signed by the Subscriber(s). The Promoter will also attend to the timely application for Government Funded Benefits on behalf of each Subscriber who has instructed the Promoter to apply for Government Funded Benefits on the application form referred to in subsection 5(c) and who has provided the Promoter with the requisite social insurance numbers and undertakings. The social insurance numbers obtained for a purpose related to an application for Government Funded Benefits will not be knowingly used, communicated or allowed to be communicated for any other purpose.

## 4. Social Insurance Number:

- a. Subparagraph 146.1(2)(g.3)(i) of the Tax Act permits an individual to be designated as a beneficiary only if the individual's SIN is provided to the promoter before the designation is made and the individual is resident in Canada when the designation is made, or the designation is made in conjunction with a transfer of property into the plan from another registered education savings plan under which the individual was a beneficiary immediately before the transfer.
- b. Subparagraph 146.1(2)(g.3)(ii) of the Tax Act permits a contribution to the plan in respect of an individual who is a beneficiary only if the individual's SIN is provided to the promoter before the contribution is made and the individual is resident in Canada, or where the contribution is made by way of a transfer from another registered education savings plan under which the individual was a beneficiary immediately before the transfer.
- c. Paragraph 146.1(2.3)(a) of the Tax Act does not require an individual's SIN to be provided in respect of a contribution to the plan, if the plan was entered into before 1999. Such contributions continue to be ineligible for Government Funded Benefits, and the SIN exception is relevant only for existing beneficiaries under such plans.
- d. Paragraph 146.1(2.3)(b) of the Tax Act does not require an individual's SIN to be provided in respect of a designation of a non-resident individual as a beneficiary under the plan, if the individual was not assigned a SIN before the designation is made.

## 5. Contributions:

- a. Each Subscriber may make Contributions in respect of the Beneficiary in such amounts and at such times as the subscriber designates, subject to:
  - (i) any minimum amounts established by the Promoter from time to time by written notice to each Subscriber;
  - (ii) the RESP Lifetime Limit;
  - (iii) no Contribution being made to the Plan by or on behalf of a Subscriber after the 31st calendar year (35th calendar year in the case of a Specified Plan) following the calendar year in which the Plan is entered into; and
  - (iv) such other restrictions as may be set out in the Applicable Legislation from time to time.
- b. Each Subscriber agrees that he/she is responsible for ensuring that the total of all contributions made in respect of the Beneficiary, other than contributions made to the Plan by way of transfer from other registered education savings plans, will

not exceed the RESP Lifetime Limit imposed by the Applicable Legislation from time to time. Each Subscriber acknowledges that any failure to abide by the RESP Lifetime Limit will give rise to penalties and/or taxes as provided in the Applicable Legislation, and each Subscriber agrees he/she is solely responsible for the payment of such penalties and/or taxes and for the completion of all resulting required tax reporting.

- c. In the case of Contributions in kind, the value of such Contributions will be an amount equal to the fair market value of such Contributions at the time of payment into the Plan. Where such fair market value is not readily determinable, in the opinion of either the Promoter or the Trustee, a Subscriber shall provide written evidence satisfactory to the Promoter or Trustee, as applicable, establishing such fair market value and the Contribution shall only be accepted by the Promoter once such satisfactory evidence of fair market value has been so provided and the registered ownership of such property has been changed to reflect ownership by the Plan.
- d. In the event a Subscriber wishes to apply for Government Funded Benefits, the Subscriber shall make such application in a form and manner acceptable to the Minister and to the Promoter, which form the Promoter shall provide to the Subscriber(s) prior to, or immediately upon, completion of the Application. The Promoter shall ensure that the Government Funded Benefits paid to the Plan are administered, invested and paid out of the Plan strictly in accordance with the terms of this Contract, the Applicable Legislation, and the agreements referred to in section 25.
- e. Each Subscriber undertakes to inform the Promoter of any change in circumstances of the Beneficiary (including any change of the Beneficiary or in the residency status of the Beneficiary) upon the Subscriber making a Contribution or a request for an Educational Assistance Payment to be made to or on behalf of the Beneficiary.

#### **6. Refund of Contributions**

Upon written notice in the form required by the Promoter and subject to such reasonable requirements as the Promoter may impose and to the Applicable Legislation which requires the Promoter to repay Government Funded Benefits in certain circumstances, each Subscriber shall be entitled to:

- a. at any time, from time to time, receive a Refund of Contributions in an amount not exceeding the Capital Investments (less all applicable fees and charges); or
- b. direct, in the manner prescribed by the Promoter, that all or any part of the Refund of Contributions in an amount not exceeding the Capital Investments (less all applicable fees and charges) be paid to the Beneficiary. The Promoter will identify to the Canada Revenue Agency the payments to the Beneficiary that are attributable to such Refunds of Contributions.

Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers. When a Refund of Contributions is made, a corresponding refund of Government Funded Benefits will also be made pursuant to section 7. Each Subscriber acknowledges that such Refunds of Contributions may result in restrictions on future Government Funded Benefits in respect of the Beneficiary under the Plan.

#### **7. Refund of Government Funded Benefits**

Refunds of Government Funded Benefits will be made when and as required by the Applicable Legislation, including on:

- a. a withdrawal of Contributions for non-educational purposes;
- b. a payment pursuant to paragraphs 9(a)(iii) or (v);
- c. certain transfers from the Plan to another registered education savings plan;
- d. revocation of the Plan's registration, and on termination of the Plan; and
- e. certain replacements of the Beneficiary

Refunds of Government Funded Benefits will also be made when any Government Funded Benefits were paid into the Plan in error.

#### **8. Investments**

- a. The Promoter shall ensure that the Plan Assets are held, invested and reinvested strictly in accordance with the instructions of the Subscriber received by the Promoter from time to time, industry standards, the terms and conditions of this Contract and the Applicable Legislation. When the Plan has two Subscribers, the Promoter may act upon the instructions received from either Subscriber. In the event that no direction is provided as to the immediate investment of any cash held as part of the Plan Assets, the Promoter shall, by the next business day following receipt thereof, place on deposit with the Trustee, all such cash, and the Trustee shall allow interest on such amounts on such terms and conditions as it may reasonably determine from time to time.
- b. Ownership of the Plan Assets shall, at all times, be vested solely in the Trustee in its capacity as trustee of the Plan and the Subscriber(s) shall have no interest in the Plan Assets other than as set forth herein. The Trustee (or its permitted agents) may exercise the rights and powers of an owner with respect to all securities held by it for the Plan, except that the right to vote and give proxies in respect thereof shall be exercised by the Subscriber(s). For this purpose the Subscriber(s) is hereby appointed as agent and attorney of the Trustee to execute and deliver proxies and/or other instruments mailed by the Trustee,



or the Promoter on its behalf, to each Subscriber in accordance with the Applicable Legislation. Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers.

- c. The Subscriber(s) shall be responsible for obtaining all necessary information concerning investments, including determining whether investments should be purchased, sold, or retained by the Promoter as part of the Plan and to ensure the eligibility and qualification of such investments as qualified investments for a registered education savings plan in accordance with the definition of "qualified investments" in subsection 146.1(1) of the Tax Act and under any other governing provisions of the Applicable Legislation, and that such investments do not give rise to penalties and/or taxes of any kind. Each Subscriber acknowledges that such investments may produce losses of any nature whatsoever for the Plan and any failure to comply with the Applicable Legislation will result in penalties and/or taxes and each Subscriber agrees that he/she is solely responsible for such losses and for the payment of such penalties and/or taxes and for any resulting tax reporting relating thereto, whether or not the Promoter has communicated to the Subscriber(s) any information the Promoter may have received, or any judgment the Promoter may have formed, with respect to the forgoing at any particular time. Each Subscriber acknowledges that any failure to comply with the Applicable Legislation may also result in revocation of the Plan by the Canada Revenue Agency.
- d. The Promoter and Trustee will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility of a non-qualified investment being acquired or held by the Plan.

## 9. Withdrawals

- a. Upon receipt of a written direction from the Subscriber (jointly in the case of two Subscribers), in such form as the Promoter shall prescribe and subject to such reasonable requirements as the Promoter may impose and to the Applicable Legislation, the Promoter shall permit withdrawals from the Plan (to the extent of the Plan Assets after deducting any fees and expenses of the Promoter and Trustee or other amounts owing under section 17, any refunds of Government Funded Benefits as provided in section 7 and any withholding taxes under the Applicable Legislation):
  - (i) to make Educational Assistance Payments to or on behalf of the Beneficiary who is either:
    - A. enrolled as a student in a Qualifying Educational Program at a Post-Secondary Educational Institution; or
    - B. at least 16 years of age and enrolled as a student in a Specified Educational Program at a Post-Secondary Educational Institution; and either:
      - C. has satisfied the condition in subparagraph (A) above, and
        - I. has satisfied such condition throughout at least 13 consecutive weeks in the 12-month period that ends at the time of such payment; or
        - II. the total of the payment and all other educational assistance payments made under all registered education savings plans of the Promoter to or for the Beneficiary in the 12-month period before the payment does not exceed \$5,000 or such greater amount as the Minister approves in writing with respect to the Beneficiary; or
      - D. has satisfied the condition in subparagraph (B) above and the total of the payment and all other educational assistance payments made under all registered education savings plans of the Promoter to or for the Beneficiary in the 13-week period before the payment does not exceed \$2,500 or such greater amount as the Minister approves in writing with respect to the Beneficiary; provided that the Subscriber(s) confirms in writing, as part of this written direction, the residency of the Beneficiary. At the Subscriber's request (jointly, in the case of two Subscribers) and upon receipt of the requisite supporting documentation, the Promoter will apply to the Minister for an approval to pay the Beneficiary an amount higher than provided in subparagraph 9(a)(i)(C) or (D). When an Educational Assistance Payment is made to the Beneficiary, the payment will include Government Funded Benefits in accordance with, and up to a maximum amount permitted by, the Applicable Legislation.
  - (ii) as a Refund of Contributions (pursuant to section 6);
  - (iii) to, or to a trust in favour of, a designated educational institution in Canada referred to in subparagraph 118.6(1)(a)(i) of the Tax Act, which is an educational institution in Canada that is a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act, designated by an appropriate authority under the Canada Student Financial Assistance Act, or designated by the Minister of Education of the Province of Québec for the purposes of An Act respecting financial assistance for education expenses;
  - (iv) for the repayment of Government Funded Benefits;
  - (v) to make Accumulated Income Payments if:
    - A. the payment is made to, or on behalf of, a Subscriber who is a resident in Canada when the payment is made;
    - B. the payment is not made jointly to, or on behalf of, more than one Subscriber; and
    - C. any of:
      - I. the payment is made after the 9th year that follows the year in which the Plan was entered into and each individual

(other than a deceased individual) who is or was a Beneficiary under the Plan attained 21 years of age before the payment is made, and is not, when the payment is made, eligible under the Plan to receive an Educational Assistance Payment;

- II. the payment is made in the 35th year (40th year in the case of a Specified Plan) following the year in which the Plan is entered into; or
- III. each individual who was a beneficiary under the plan is deceased when the payment is made.

Where the Beneficiary suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the Beneficiary from enrolling in a Qualifying Educational Program at a Post-Secondary Educational Institution, at the Subscriber's request (jointly, in the case of two subscribers) and upon receipt of the requisite supporting documentation, the Promoter will apply to the Minister of National Revenue for approval to waive the requirements set out in clause 9(a)(v)(C)(I) hereof. The Plan shall terminate before March 1st of the year following the year in which the first Accumulated Income Payment was made out of the Plan; and

to a trust that irrevocably holds property transferred to it pursuant to a registered education savings plan for any of the purposes set out in subsection 2(b) and paragraphs 9(a)(i) to (vi) as permitted by the Applicable Legislation. The effective date of such a transfer from the Plan to a registered education savings plan shall be determined in accordance with section 10. For greater certainty, no payments will be made out of the Plan when the fair market value of the Plan Assets is less than the aggregate amount of all the Government Funded Benefits into the Plan less any Government Funded Benefits paid out of the Plan, unless the payment is an Educational Assistance Payment made to or on behalf of the Beneficiary and the whole payment is attributable to Government Funded Benefits. The Promoter shall determine whether any condition precedent to the payment of an Educational Assistance Payment has been satisfied and such determination shall be final and binding on the Subscriber(s), the Beneficiary and to any and all other persons who may be eligible to receive moneys pursuant to the Plan.

- b. Each Subscriber acknowledges and understands that the Applicable Legislation requires the repayment by the Beneficiary of any Government Funded Benefits received by the Beneficiary in excess of the maximum amount prescribed by the Applicable Legislation. An individual who is a beneficiary under more than one registered education savings plan shall be solely responsible for ensuring that any Government Funded Benefit payments he or she received in excess of the maximum amount prescribed by the Applicable Legislation is repaid as required. The Promoter shall provide the Beneficiary with notice of this obligation.
- c. Notwithstanding paragraph (a)(i) above, an Educational Assistance Payment to or on behalf of the Beneficiary may be made at any time in the six-month period following the particular time at which the Beneficiary ceases to be so enrolled if the payment would have complied with the requirements of paragraph (a)(i) had the payment been made immediately before such particular time. Further, an Educational Assistance Payment made in accordance with this subsection (c) but not in accordance with paragraph (a)(i) will be deemed, for the purposes of applying paragraph (a)(i) at and after that time, to have been made before the particular time referred to in this subsection (c) above.
- d. This Plan may be treated as a Specified Plan, in which case a term of this Plan is that, at all times after the end of the 35th year after the Plan was entered into, no other individual may be designated as a beneficiary.

## 10. Transfers

The Subscriber may, at any time, request in writing (jointly in the case of two Subscribers) that the Trustee, or the Promoter on the Trustee's behalf, transfer monies (including Government Funded Benefits) into and out of the Plan from and to another registered education savings plan. Transfers will be made even if they result in repayments of Government Funded Benefits or restrictions on future Government Funded Benefits in respect of the Beneficiary under the Plan.

In accordance with subsection 146.1(6.1) of the Tax Act, any registered education savings plan receiving a transfer will be deemed to have been entered into on the day that is the earlier of the day on which the registered education savings plan receiving the transfer (the "Transferee Plan") was entered into, and the day on which the registered education savings plan from which the transfer was made (the "Transferor Plan") was entered into. In accordance with paragraph 146.1(2)(i.2) of the Tax Act, the Plan will not accept a transfer from a registered education savings plan after the registered education savings plan has made an Accumulated Income Payment. In accordance with subsection 204.9(5) of the Tax Act each Contribution made to a Transferor Plan, by or on behalf of a Subscriber prior to a transfer will be deemed to have been made by the Subscriber in respect of the Beneficiary under the Transferee Plan, and the amount of the transfer will be deemed to have been withdrawn from the Transferor Plan, unless one of the following conditions are met:

- a. A Beneficiary under the Transferee Plan was, immediately before the transfer, a Beneficiary under the Transferor Plan; or
- b. a parent of a beneficiary under the transferee plan was a parent of an individual who was, immediately before the particular time, a beneficiary under the transferor plan and
  - (i) the transferee plan is a plan that allows more than one beneficiary under the plan at any one time, or

- (ii) in any other case, the beneficiary under the transferee plan had not attained 21 years of age at the time the transferee plan was entered into;

If the conditions set out in either (a) or (b) above are not met, the transfer may cause an over contribution to the Transferor Plan. Each Subscriber under the Transferor Plan will be deemed to be a Subscriber under the Transferee Plan for the purposes of the over contribution tax payable as a result of a transfer, in accordance with subsections 204.9(5) and 204.91(1) of the Tax Act.

#### **11. Tax Treatment of Accumulated Income Payments**

There shall be included in computing a Subscriber's income for a taxation year each Accumulated Income Payment received in the year. Each Subscriber further understands that if the person receiving the Accumulated Income Payment:

- a. is an original Subscriber; or
- b. has acquired the rights of a Subscriber pursuant to a decree or order of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a Subscriber under the Plan for the settlement of rights as a result of marriage or common-law partnership breakdown;

all or part of such payment may be rolled over without payment of tax to a registered retirement savings plan ("**RRSP**") of a Subscriber or a spousal or common-law partner's RRSP of a Subscriber, as permitted by the Applicable Legislation subject to the Subscriber's available RRSP contribution room and the limits set out in section 204.94 of the Tax Act.

#### **12. Beneficiary**

- a. Each Subscriber acknowledges and agrees that there can only be one person designated as the Beneficiary under the Plan at any time. A Subscriber may designate and revoke the designation of the Beneficiary and designate another person as the Beneficiary by written notice (jointly in the case of two Subscribers) in a form acceptable to the Promoter. If more than one such instrument is delivered to the Promoter the one bearing the latest execution date will govern. The Subscriber can be the Beneficiary of the Plan.
- b. The Promoter shall, within 90 days after an individual becomes the Beneficiary under the Plan, notify the individual (or, where the individual is under 19 years of age at that time and either ordinarily resides with a parent of the individual or is maintained by a Public Primary Caregiver of the individual, that parent or Public Primary Caregiver) in writing of the existence of the Plan, and the name and address of each Subscriber of the Plan.

#### **13. Subscriber's Account and Statements**

The Promoter shall maintain in accordance with the Applicable Legislation segregated trust account(s) registered in the name of the Trustee in trust for the Subscriber(s) (the "**Accounts**") which will record and reflect:

- a. Contributions to, and withdrawals from, the Plan, and the date the Promoter received the Contributions, as well as whether such payments attracted payment or repayment of Government Funded Benefits;
- b. the particulars of any investment transactions made and any investments held by the Plan;
- c. the value of the Plan Assets;
- d. fees, costs and charges paid from the Plan Assets;
- e. all CES Grants, Canada Learning Bonds and other Government Funded Benefits paid into and out of the Plan, as well as the portion of Educational Assistance Payments paid to or on behalf of the Beneficiary that is attributable to CES Grants, Canada Learning Bonds and other Government Funded Benefits paid into the Plan;
- f. all transfers received into and/or paid out of the Plan;
- g. all investment income, gains and losses, earned or incurred by the Plan and all Accumulated Income Payments made to each Subscriber;
- h. all the amounts paid to or on behalf of the Beneficiary as an Educational Assistance Payment, and the date of payment;
- i. all amounts paid to, or in trust in favour of designated educational institutions referred to in paragraph 118.6(1)(a)(i) of the Tax Act, or any other amounts paid to each Subscriber or at the Subscriber's direction pursuant to paragraphs 9(a)(ii) and (v), the date of payment and the recipient; and
- j. any other information the Promoter or the Trustee may decide or may be required to keep by the Applicable Legislation and the agreements between the Promoter and the Trustee, respectively, and the Minister or ESDC, from time to time.

The Promoter will issue to each Subscriber a transaction statement indicating any transaction made during the previous month and, at least annually, will provide a statement of the Accounts which shall provide the information set out above as at the date of the statement. This and any other information related to the Plan will be provided to, and be open to inspection or audits by, the Minister

of National Revenue, the Minister, and ESDC, from time to time, as required by the Applicable Legislation and the agreements between the Promoter or the Trustee, respectively, and the Minister or ESDC, from time to time.

#### **14. Appointment of Trustee**

The Promoter shall ensure that a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act, is appointed as Trustee of the Plan pursuant to Applicable Legislation to act as trustee of the Plan Assets and irrevocably hold the Plan Assets for the purposes set forth in subsection 2(b). The Promoter shall be ultimately responsible for the Plan and the payment of the Educational Assistance Payments.

#### **15. Delegation**

The Trustee shall irrevocably hold the Plan Assets and the ultimate responsibility for the Plan Assets shall rest with the Trustee. Without in any way detracting from the ultimate responsibility of the Trustee for the Plan Assets, the Trustee may, and each Subscriber expressly authorizes the Trustee to, delegate to the Promoter, its successors and assigns as the sole agent of the Trustee certain powers, authorities and duties in respect of the Plan Assets as the Promoter and the Trustee may determine from time to time. To the extent that the Trustee has delegated the performance of all or a portion of the activities of the trust regarding the Plan Assets to the Promoter, such delegation shall be deemed to be in the best interests of the trust, the Subscriber(s) and the Beneficiary. The Trustee shall notify the Minister or ESDC of the appointment of an agent in accordance with the terms of the agreement between the Trustee and the Minister or ESDC, as applicable. The Promoter may, and each Subscriber expressly authorizes the Promoter to, delegate certain Promoter responsibilities to an agent of the Promoter or third party.

#### **16. Replacement of Trustee**

The Trustee may resign at any time as trustee upon ninety (90) days' prior written notice to the Promoter, or such other period of notice as the Promoter may accept or the Applicable Legislation may dictate. The Promoter may request the resignation of the Trustee by providing sixty (60) days' prior written notice to the Trustee, or such other period of notice as the Trustee may accept or the Applicable Legislation may dictate. Upon issuing or receiving notice of removal or resignation of the Trustee, respectively, the Promoter shall within the notice period referred to herein appoint by instrument in writing a successor trustee (the "**Successor Trustee**") that is a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act. In the event that the Promoter fails to appoint a Successor Trustee within the applicable notice period, the Trustee may appoint a Successor Trustee that is a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act. The party appointing the Successor Trustee undertakes to require the Successor Trustee to enter into an agreement with the Minister or ESDC, as applicable, upon its appointment as Successor Trustee, or within a reasonable time thereafter. The Trustee will notify the Canada Revenue Agency and the Minister or ESDC prior to its resignation or removal and prior to the appointment of a Successor Trustee in accordance with the terms of the agreement between the Trustee and the Minister or ESDC, as applicable. The Promoter will notify the Minister or ESDC prior to effecting the Trustee's removal hereunder in accordance with the terms of the agreement between the Promoter and the Minister or ESDC, as applicable. Effective upon the resignation or removal of the Trustee in accordance with the foregoing terms, and subject to the Trustee's receipt of all fees and expenses then owing to the Trustee and the Trustee's receipt of such acknowledgments, assurances and receipts as may be reasonable for the Trustee to request with respect to the transfer of the Plan Assets to the Successor Trustee, the Trustee shall execute and deliver to the Successor Trustee all conveyances, transfers and further assurances as may be reasonable to give effect to the appointment of the Successor Trustee, and the Successor Trustee will thereupon agree to be bound by the terms hereof (in which case all references herein to "the Trustee" will include the Successor Trustee). However, the Trustee will not transfer any Government Funded Benefits in the Plan to the Successor Trustee until such time as the Successor Trustee has entered into an agreement with the Minister or ESDC, as applicable, and the Trustee has been reimbursed for any costs arising from the retention by the Trustee of the Government Funded Benefits in the Plan. Notice of the replacement of the Trustee hereunder will be given by the Promoter to each Subscriber. In the event that a trust governed by the Plan is terminated and a new trust is established, the Plan Assets shall be used for one or more of the purposes set out in subsection 2(b). Notwithstanding any other provision of this Agreement, any trust company resulting from the merger, amalgamation or continuation of the Trustee or succeeding to substantially all of the trusteeship business of the Trustee (whether by sale of such business or otherwise) shall thereupon automatically become the Successor Trustee hereunder without further act or formality.

#### **17. Fees and Expenses:**

- a. The Trustee and the Promoter shall be entitled to reasonable fees and other charges in such amounts as may be fixed by the Trustee and/or Promoter, as applicable, from time to time, provided that the Promoter shall give at least 60 days' prior notice to each Subscriber of a change in the amount of such fees and charges. In addition, the Promoter shall be entitled to earn normal brokerage commissions on investment and reinvestment transactions processed by the Promoter.

- b. In addition to the foregoing, the Promoter and the Trustee shall also be entitled to reasonable fees for any exceptional services which either is required to perform hereunder, commensurate with the time and responsibility involved.
- c. All fees of the Promoter and the Trustee shall be either charged to the Accounts or if a Subscriber has so instructed the Promoter in writing, billed to the Subscriber directly. All out-of-pocket expenses reasonably incurred by the Promoter and the Trustee in the administration of the Plan and the Plan Assets (such as certificate fees, postage, delivery charges, faxes, etc.) and other disbursements and expenses (including all taxes and Government Funded Benefit refunds) shall be charged to the Accounts.
- d. Fees related to the Plan (such as investment counsel fees charged by the Trustee directly to a Subscriber) are not deductible to the Subscriber. Fees related to the Plan Assets such as broker commissions and mutual fund service charges are considered expenses of the Plan, and as such reduce the Plan Assets available under the Plan for Refund of Contributions, Educational Assistance Payments, Accumulated Income Payments and payments to, or to a trust in favour of, a designated educational institution in Canada referred to in paragraph 118.6(1)(a)(i) of the Tax Act.

Notwithstanding anything contained herein, the Promoter, upon receiving the agreement of the Trustee, is empowered to realize or cause to be realized from time to time, sufficient investments to permit it to pay any amounts which a Subscriber or the Plan is required to pay (including pursuant to the Plan or court order), or which is levied or assessed pursuant to the Applicable Legislation, or for payment of the fees and administration expenses of the Promoter and the Trustee. Any such sale shall be made at such price or prices as the Promoter may, in its sole discretion, determine and the Promoter shall not be responsible for any loss occasioned thereby.

#### **18. Liability of the Promoter and the Trustee**

Unless caused by or resulting from the dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard on the part of the Promoter or the Trustee, the Promoter and the Trustee, and their respective employees, officers and directors shall have no liability hereunder in respect of (i) any taxes, interest or penalties which may be imposed under the Applicable Legislation in respect of the Plan (whether by way of assessment, reassessment or otherwise) or for any other charge levied or imposed by any governmental authority upon or in respect of the Plan, as a result of the purchase, sale or retention of any investment including, without limiting the generality of the foregoing, non-qualified investments, other than taxes and penalties imposed on the Trustee arising from its personal liability, including without limitation, arising from its administrative error, under Applicable Tax Legislation; (ii) the receipt and time of receipt of any Government Funded Benefits; (iii) any refunds of Government Funded Benefits that may be required by the Applicable Legislation; (iv) any costs which the Promoter or the Trustee incur in the performance of their duties hereunder or under the Applicable Legislation; or (v) any loss or damages or tax liability suffered or incurred by the Plan, by a Subscriber or by the Beneficiary under the Plan as a result of a breach of the agreement between the Promoter or the Trustee, respectively, and the Minister or ESDC, as applicable, or the Applicable Legislation or payments or distributions out of the Plan made in accordance with these terms and conditions. In this regard, the Promoter and the Trustee may reimburse themselves for, or may pay, any such Government Funded Benefit refunds, taxes, or costs out of the capital or the income, or partly out of the capital and partly out of the income, of the Plan as the Promoter or the Trustee in their absolute discretion deem expedient. The Subscriber(s) will at all times indemnify the Promoter and the Trustee and save them harmless in respect of any Government Funded Benefit refunds, taxes, interest or penalties which may be imposed in respect of the Plan or costs incurred by the Promoter or the Trustee in respect of the Plan or any losses incurred by the Plan (other than losses for which the Promoter or the Trustee are liable in accordance herewith) as a result of a breach of the agreement between the Promoter or the Trustee, respectively, and Minister or ESDC, as applicable, or the Applicable Legislation or payments or distributions out of the Plan made in accordance with these terms and conditions. Each Subscriber acknowledges and agrees that all investments of the Plan Assets are held at the risk of the Subscriber(s), and that the Promoter and the Trustee shall not be responsible for any damages, loss or decrease in the value thereof. The Promoter may rely upon any statement or writing received from a Subscriber believed by the Promoter to be genuine and shall be under no duty to make any investigation or enquiry with respect thereto. The foregoing indemnification of the Promoter and the Trustee and the limitations of liability of the Promoter and the Trustee shall survive the termination of the Plan.

#### **19. Amendment of the Plan**

Upon at least sixty (60) days written notice to each Subscriber, with the written consent of the Trustee and in accordance with Applicable Legislation, the Promoter may from time to time amend the Plan with the concurrence of relevant taxation and other regulatory authorities having jurisdiction over the Plan, provided that such amendment does not have the effect of disqualifying the Plan for acceptance as a registered education savings plan within the meaning of the Applicable Legislation or disqualifying the Beneficiary as recipient of Government Funded Benefits according to the Applicable Legislation. However, if the Plan must be amended to ensure the Plan continues to comply with the Applicable Legislation as amended from time to time, the Promoter is not required to give the Subscriber(s) prior notice of such amendments to the Plan and such amendments will be effective immediately after they have been made.

## **20. Assignment by the Promoter**

The Promoter may assign its rights and obligations hereunder to any other entity resident in Canada to carry out the duties and obligations of the Promoter under the Plan provided that the assignee agrees to enter and enters into an agreement with the Minister or ESDC, as applicable (in which case all references herein to "the Promoter" will include the assignee), and, prior to effecting the assignment, the Promoter notifies the Minister or ESDC in accordance with the terms of the agreement between the Promoter and the Minister or ESDC, as applicable, and the Promoter advises the Canada Revenue Agency of the assignment of the Promoter's rights and obligations to another entity. Notice of this assignment will be given by the Promoter to each Subscriber. However, the Promoter shall remain ultimately responsible for the administration of the Plan and paying, or causing to be paid, the Education Assistance Payments. The Promoter shall continue to perform such administrative services in respect of the Plan as are required hereunder and as it determines necessary from time to time.

## **21. Successors**

Subject to any provision herein to the contrary, the Plan shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, administrators, and personal representatives. For greater certainty and subject to the provisions of the Applicable Legislation, the entity resulting from an amalgamation, merger or reorganization of the Promoter shall become the Promoter hereunder. Notwithstanding the aforementioned, prior to the effective date of any amalgamation, merger or reorganization, as the case may be, the Promoter shall notify the Canada Revenue Agency and make any amendments to the Plan that may be required by the Canada Revenue Agency as a result of the amalgamation, merger or reorganization of the Promoter.

## **22. Notices**

Any notice, statement or receipt given by the Promoter or the Trustee to a Subscriber or the Beneficiary shall be considered sufficient if delivered personally or mailed postage prepaid and addressed to the Subscriber or the Beneficiary at the address shown on the Application or to such other address as the Subscriber or the Beneficiary may designate in writing to the Promoter from time to time, for such purpose, and shall be deemed to have been received at the time of personal delivery to the Subscriber or Beneficiary, as the case may be, or three (3) business days after mailing. Any notice given by a Subscriber to the Promoter or the Trustee shall be considered sufficient if delivered personally or mailed postage prepaid to the Promoter, or the Trustee, respectively, at its office in Vancouver or Vancouver respectively, and shall be deemed to have been received by the Promoter or Trustee, respectively, when actually received by it. In addition to other notices required hereunder, the Promoter shall notify each Subscriber forthwith upon receipt by the Promoter of any assignment or notice of involuntary assignment, seizure, garnishment or any process of law or execution or notice in respect of any of the Plan Assets.

## **23. Termination Date**

The Subscriber(s) shall designate in the Application the termination date of the Plan (the "**Termination Date**"), which shall not be later than the last day of the thirty-fifth (35th) year (fortieth (40th) year in the case of a Specified Plan) following the year in which the Plan is entered into. The Plan may be terminated at such earlier date as agreed upon in writing by the Subscriber(s) and the Promoter and, shall terminate on an earlier date as prescribed by the Applicable Legislation from time to time. The Promoter shall provide each Subscriber with notice of the not less than three (3) months prior to the Termination Date, except when the Termination Date of the Plan has been changed by the Subscriber(s) to a date that is less than six (6) months from the time the designation notice is received by the Promoter. At the Termination Date, subject to Applicable Legislation and the terms of any direction from the Subscriber (jointly, in the case of two Subscribers) given to the Promoter prior to the Termination Date pursuant to section 10 hereof, the Promoter shall pay to, or to a trust in favour of, the educational institution designated by the Subscriber(s) an amount equal to the Plan Assets less any Contributions remaining in the Plan, less any unpaid taxes, penalties or other charges imposed under the Applicable Legislation, less any Government Funded Benefits and less any unpaid fees, charges and/or expenses of the Trustee or Promoter hereunder (the "**Designated Educational Institution Payment Amount**"). The Promoter shall liquidate any Contributions remaining in the Plan and place the proceeds on deposit with the Trustee in the name of the Subscriber (or, where the Plan has two Subscribers, in the name of both Subscribers jointly) and the Trustee shall allow interest on such amount on such terms and conditions as it may reasonably determine from time to time, until it receives such direction. The Trustee shall be entitled to collect fees for the administration of the deposit account directly from the account. If no educational institution was designated by the Subscriber(s), the Trustee, in its sole discretion, shall designate the educational institution and the Promoter shall pay the Designated Educational Institution Payment Amount to, or to a trust in favour of, such designated educational institution as referred to in paragraph 118.6(1)(a)(i) of the Tax Act.

## **24. Valuation**

The Promoter will determine the value of the Plan Assets from time to time in accordance with applicable industry practices and such valuation shall be conclusive for all purposes hereof.

## **25. Promoter and Trustee Agreements**

The Promoter and the Trustee may, and each Subscriber expressly authorizes the Promoter and the Trustee, respectively, to enter

into, amend, extend and terminate an agreement between the Promoter and the Trustee, respectively, and the Minister and ESDC, as applicable, in order to provide each Subscriber with access to the Government Funded Benefits pursuant to the Applicable Legislation.

#### **26. Information Slips**

The Promoter will provide each Subscriber, the Beneficiary and other applicable persons with such information regarding amounts paid to or from the Plan and other transactions of the Plan as is required to be provided under the Applicable Legislation to enable such persons to complete their respective income tax returns. The Promoter will also file with the Minister of National Revenue any returns required by the Applicable Legislation such as an information return regarding the investments of the Plan.

#### **27. Proof of Information**

Each Subscriber certifies that the information provided to the Promoter in respect of the Plan is correct and undertakes to provide the Promoter with further proof of any information relating to the Plan as may be required.

#### **28. Governing Law**

The Plan shall be governed, construed and administered in accordance with the laws of the Province of British Columbia and of the federal laws of Canada applicable therein. If a conflict arises between the provisions of the laws of British Columbia and those of the Tax Act, the provisions of the Tax Act shall govern.

#### **29. Access to File (for use in Québec only)**

The Subscriber(s) understands that the information contained in the Application shall be maintained in a file at the Promoter's place of business. The object of this file is to enable the Trustee, the Promoter and their respective agents or representatives to access the Application, answer any questions a Subscriber or the Beneficiary may have regarding the Application and the file in general, manage the account and follow any instructions received by a Subscriber on an ongoing basis. Subject to the Applicable Legislation, the personal information contained in this file may be used by the Trustee or the Promoter to make any decision relevant to the object of the file and only the Trustee's or Promoter's employees, agents, representatives and any other persons required for the execution of the Trustee's or Promoter's duties and obligations or any other persons expressly authorized in writing by the Subscriber(s) may have access to the file. Furthermore, each Subscriber understands that his/her file will be kept at the Promoter's place of business and that the Subscriber(s) and the Beneficiary are entitled to consult their file at the same address and, when applicable, to have it corrected. The Subscriber or Beneficiary must, in order to exercise these rights, send a written notice to the Trustee at: Canadian Western Trust Company 600-750 Cambie Street, Vancouver, BC, V6B 0A2.

### **8. Family Education Savings Plan Terms and Conditions**

The application attached (the "Application") and these terms and conditions constitute a contract for the establishment of a Credential Asset Management Inc. Family Education Savings Plan (the "Plan") between Credential Asset Management Inc. (the "Promoter"), and the subscriber(s) named in the Application as of the date of the Application (the "Contract") under which the Promoter will pay educational assistance payments to further the beneficiary's post-secondary education.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### **1. Definitions:** For the purposes of this Contract the following terms shall have the following meanings:

- a. **"Accumulated Income Payment(s)"** means any amount paid out of this Plan, other than a payment described in any of paragraphs (a) and (c) to (e) of the definition of trust in subsection 146.1(1) of the Tax Act, to the extent that the amount so paid exceeds the fair market value of any consideration given to the Plan for the payment of the amount;
- b. **"Applicable Legislation"** means all provincial and federal legislation governing the Plan, the Plan Assets and the parties hereto including, without limitation, the Income Tax Act (Canada) (the "Tax Act"), the Department of Human Resources Development Act (Canada), the Canada Education Savings Act (Canada) (the "CES Act"), and securities legislation. Any reference to Applicable Legislation shall be deemed to include all such statutes and any regulations, policies, rules, orders or other provisions thereunder, all as may be amended, re-enacted or replaced from time to time;
- c. **"Beneficiary(ies)"** means the individual or individuals designated in the Application by the Subscriber(s) to whom, or on whose behalf, Educational Assistance Payments are agreed to be paid, provided such individual qualifies under the Applicable Legislation and the Plan at the time such payments are made;
- d. **"Canada Learning Bond"** means a Canada Learning Bond as described in the CES Act;
- e. **"Capital Investments"** at any time means an amount net of the amount of Government Funded Benefit refunds as provided in section 7, not exceeding the lesser of:
  - (i) the value of the Plan Assets at that particular time; and
  - (ii) the aggregate of all Contributions made to the Plan up to that time eligible for refund at that time under the Applicable Legislation;

- f. **"CES Grant"** means a Canada Education Savings Grant as described in the CES Act;
- g. **"Contribution(s)"** means any amount contributed to the Plan by or on behalf of each Subscriber in respect of the Beneficiary from time to time or by way of a lump sum payment, other than Government Funded Benefits, and subject to the RESP Lifetime Limit, and in such minimum amounts permitted by the Promoter. Contribution(s) also include direct transfers from another education savings plan that has not made any Accumulated Income Payments prior to such transfers and subject to such other conditions imposed in accordance with the Applicable Legislation and the Plan. For greater certainty, an amount may be contributed by payment of cash into the Plan as well as by way of transfer of securities acceptable to the Promoter, in its sole discretion, provided that the registered ownership of such securities has been changed to reflect ownership by the Plan;
- h. **"Designated Provincial Program"** means a program administered pursuant to an agreement entered into under section 12 of the CES Act or a program established under the laws of a province to encourage the financing of children's post-secondary education through savings in education savings plans;
- i. **"Educational Assistance Payment(s)"** means any amount, other than a Refund of Contributions, paid under this Plan in accordance with the Applicable Legislation, to or for the Beneficiary, to assist the Beneficiary to further the Beneficiary's education at a post-secondary school level;
- j. **"ESDC"** shall mean the Department of Employment and Social Development Canada;
- k. **"Government Funded Benefits"** means collectively CES Grants, Canada Learning Bonds, and any other payments made to the Plan under the CES Act or under a Designated Provincial Program or any other program that has a similar purpose to a Designated Provincial Program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a Public Primary Caregiver in its capacity as Subscriber under the plan);
- l. **"Minister"** means the Minister designated for the purpose of the CES Act;
- m. **"Plan Assets"** means all Contributions and Government Funded Benefits paid to the Plan in respect thereof, together with the income and gains derived from the investments and reinvestments thereof, less any losses of any investment or reinvestment, less any fees and administration expenses of the Promoter and the Trustee paid out of the Plan, and less any Government Funded Benefit refunds required by the Applicable Legislation. For greater certainty, Plan Assets includes all investments held from time to time by or on behalf of the Trustee in accordance with the Plan as well as amounts transferred pursuant to the Applicable Legislation from other registered education savings plans, if any;
- n. **"Post-Secondary Educational Institution"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a postsecondary educational institution as:
  - (i) an educational institution in Canada that is a university, college or educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act, designated by an appropriate authority under the Canada Student Financial Assistance Act, or designated by the Minister of Education of the Province of Québec for the purposes of An Act respecting financial assistance for education expenses; or
  - (ii) an educational institution in Canada that is certified by the Minister of Employment and Social Development to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation; or
  - (iii) an educational institution outside Canada that provides courses at a post-secondary school level and that is a university, college or other educational institution at which a beneficiary was enrolled in a course of not less than 13 consecutive weeks or a university at which a beneficiary was enrolled on a full-time basis in a course of not less than three consecutive weeks;
- o. **"Public Primary Caregiver"** has the meaning ascribed to such term in subsection 21(6) of the CES Act, which defines a public primary caregiver of a beneficiary under an education savings plan in respect of whom a special allowance is payable under the Children's Special Allowances Act, as the department, agency or institution that maintains the beneficiary, or the public trustee or public curator of the province in which the beneficiary resides;
- p. **"Qualifying Educational Program"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a qualifying educational program as a program at a post-secondary school level of not less than three consecutive weeks duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program.
- q. **"Refund of Contributions"** at any time means:
  - (i) a refund of a Contribution that had been made at a previous time, if the Contribution was made:
    - A. otherwise than by way of a transfer from another registered education savings plan; and
    - B. into the Plan by or on behalf of a Subscriber under this Plan, or



- (ii) a refund of an amount that was paid at a previous time into the Plan by way of a transfer from another registered education savings plan, where the amount would have been a refund of contributions under the other plan if it had been paid at the previous time directly to a subscriber under the other plan;
- r. **"RESP Lifetime Limit"** means the lifetime limit for Contributions to all registered education savings plans in respect of a person designated as a beneficiary under such plans pursuant to subsection 204.9(1) of the Tax Act;
- s. **"Specified Educational Program"** has the meaning ascribed to such term in subsection 146.1(1) of the Tax Act which defines a specified educational program as a program at a post-secondary level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program;
- t. **"Subscriber(s)"** means at any time either an individual (other than a trust) or an individual (other than a trust) and the spouse or common-law partner of such individual who is/are named as such in the Application, or the Public Primary Caregiver of a Beneficiary, and in particular:
  - (i) each individual or Public Primary Caregiver with whom the Promoter entered into the Plan;
  - (ii) another individual or another Public Primary Caregiver who, before that time, under a written agreement, acquired a Public Primary Caregiver's rights as a Subscriber under the Plan;
  - (iii) an individual who, before that time acquired a Subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a Subscriber under the Plan in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership; or
  - (iv) after the death of a Subscriber under the Plan who is an individual described in (i) or (iii), any other person (including the estate of the deceased individual) who acquires the individual's rights as a Subscriber under the Plan or who makes Contributions into the Plan in respect of a Beneficiary;but does not include an individual or Public Primary Caregiver whose rights as a Subscriber under the Plan had, before that time, been acquired by an individual or Public Primary Caregiver in the circumstances described in paragraph (ii) or (iii) above; and
- u. **"Trustee"** means Canadian Western Trust Company or such other corporation, resident in Canada and licensed or otherwise authorized under the laws of Canada or of a province to carry on in Canada the business of offering to the public its services as a trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act, which has been appointed by the Promoter to irrevocably hold the Plan Assets for the purpose(s) set forth in subsection 2(b).

## 2. Purposes of the Plan

- a. The Plan is offered by the Promoter to provide Educational Assistance Payments to the Beneficiary(ies) and to enable the Beneficiaries to benefit from the Government Funded Benefits. The Plan does not allow for the payment to a Beneficiary unless the Beneficiary meets the prerequisites as set forth in paragraph 146.1(2)(g.1) of the Tax Act and otherwise in the Applicable Legislation. Contributions are not deductible by the Subscriber from income for tax purposes and are not taxable when returned to the Subscriber (or as the Subscriber may direct pursuant to subsection 7(b)). Provided that the Plan qualifies as a registered education savings plan under the Applicable Legislation, net income and net realized capital gains (including capital appreciation) earned on investments of Contributions and Government Funded Benefits will not be included in computing the Subscriber's income. Educational Assistance Payments made, and Government Funded Benefits paid, to or on behalf of a Beneficiary are included in computing the Beneficiary's income. However, where a Subscriber directs, pursuant to subsection 7(b) that part or all of the Contributions be paid to some or all of the Beneficiaries, such payments are not included in computing the income of such Beneficiary.
- b. In consideration of receipt by the Promoter of Contributions and the fees and charges set out in section 17, and subject to repayment of Government Funded Benefits as required by the Applicable Legislation, the Promoter agrees to pay, or cause to be paid, the Educational Assistance Payments and to arrange for the Plan Assets to be irrevocably held in trust by the Trustee pursuant to the Plan for one or more of the purposes set out in paragraphs 9(a)(i) to (vi).

## 3. Registration of the Plan

The Promoter shall apply for registration of the Plan as a registered education savings plan under the Tax Act in prescribed form and containing prescribed information, and shall apply for registration of the Plan as a registered education savings plan under any other appropriate Applicable Legislation in the province in which each Subscriber resides. The Promoter shall provide each Subscriber with notification of such registration. Each Subscriber acknowledges that for the purposes of such registration the Promoter is relying on the correctness and completeness of all information provided in the Application signed by the Subscriber(s). The Promoter will also attend to the timely application for Government Funded Benefits on behalf of each Subscriber who has instructed the Promoter to apply for Government Funded Benefits on the application form referred to in subsection 5(c) and who has provided the Promoter with the requisite social insurance numbers and undertakings. The social insurance numbers obtained for a

purpose related to an application for Government Funded Benefits will not be knowingly used, communicated or allowed to be communicated for any other purpose.

#### **4. Social Insurance Number**

- a. Subparagraph 146.1(2)(g.3)(i) of the Tax Act permits an individual to be designated as a beneficiary only if the individual's SIN is provided to the promoter before the designation is made and the individual is resident in Canada when the designation is made, or the designation is made in conjunction with a transfer of property into the plan from another registered education savings plan under which the individual was a beneficiary immediately before the transfer.
- b. Subparagraph 146.1(2)(g.3)(ii) of the Tax Act permits a contribution to the plan in respect of an individual who is a beneficiary only if the individual's SIN is provided to the promoter before the contribution is made and the individual is resident in Canada, or where the contribution is made by way of a transfer from another registered education savings plan under which the individual was a beneficiary immediately before the transfer.
- c. Paragraph 146.1(2.3)(a) of the Tax Act does not require an individual's SIN to be provided in respect of a contribution to the plan, if the plan was entered into before 1999. Such contributions continue to be ineligible for Government Funded Benefits, and the SIN exception is relevant only for existing beneficiaries under such plans.
- d. Paragraph 146.1(2.3)(b) of the Tax Act does not require an individual's SIN to be provided in respect of a designation of a non-resident individual as a beneficiary under the plan, if the individual was not assigned a SIN before the designation is made.

#### **5. Contributions**

- a. Each Subscriber may make Contributions in respect of the Beneficiary in such amounts and at such times as the subscriber designates, subject to:
  - (i) any minimum amounts established by the Promoter from time to time by written notice to each Subscriber;
  - (ii) the RESP Lifetime Limit;
  - (iii) no Contribution being made to the Plan by or on behalf of a Subscriber after the 31st calendar year following the calendar year in which the Plan is entered into; and
  - (iv) such other restrictions as may be set out in the Applicable Legislation from time to time. No contributions may be made to the Plan in respect of Beneficiaries who are thirty-one (31) years old or older, other than contributions made by way of, or following a, transfer from another registered education savings plan that allows more than one beneficiary at any one time or otherwise in accordance with the Applicable Legislation.

Each Subscriber agrees that he/she is responsible for ensuring that the total of all contributions made in respect of the Beneficiary, other than contributions made to the Plan by way of transfer from other registered education savings plans, will not exceed the RESP Lifetime Limit imposed by the Applicable Legislation from time to time. Each Subscriber acknowledges that any failure to abide by the RESP Lifetime Limit will give rise to penalties and/or taxes as provided in the Applicable Legislation, and each Subscriber agrees he/she is solely responsible for the payment of such penalties and/or taxes and for the completion of all resulting required tax reporting.

- b. In the case of Contributions in kind, the value of such Contributions will be an amount equal to the fair market value of such Contributions at the time of payment into the Plan. Where such fair market value is not readily determinable, in the opinion of either the Promoter or the Trustee, a Subscriber shall provide written evidence satisfactory to the Promoter or Trustee, as applicable, establishing such fair market value and the Contribution shall only be accepted by the Promoter once such satisfactory evidence of fair market value has been so provided and the registered ownership of such property has been changed to reflect ownership by the Plan.
- c. In the event a Subscriber wishes to apply for Government Funded Benefits, the Subscriber shall make such application in a form and manner acceptable to the Minister and to the Promoter, which form the Promoter shall provide to the Subscriber(s) prior to, or immediately upon, completion of the Application. The Promoter shall ensure that the Government Funded Benefits paid to the Plan are administered, invested and paid out of the Plan strictly in accordance with the terms of this Contract, the Applicable Legislation, and the agreements referred to in section 25. At the time a Contribution is made into the Plan, the Contribution will be allocated first to Beneficiaries who qualify to receive Government Funded Benefits, up to the amount eligible to receive the maximum Government Funded Benefits, then equally among the Beneficiaries eligible to receive Contributions.
- d. Each Subscriber undertakes to inform the Promoter of any change in circumstances of the Beneficiary (including any change of the Beneficiary or in the residency status of the Beneficiary) upon the Subscriber making a Contribution or a request for an Educational Assistance Payment to be made to or on behalf of the Beneficiary.

## **6. Refund of Contributions**

Upon written notice in the form required by the Promoter and subject to such reasonable requirements as the Promoter may impose and to the Applicable Legislation which requires the Promoter to repay Government Funded Benefits in certain circumstances, each Subscriber shall be entitled to:

- a. at any time, from time to time, receive a Refund of Contributions in an amount not exceeding the Capital Investments (less all applicable fees and charges); or
- b. direct, in the manner prescribed by the Promoter, that all or any part of the Refund of Contributions in an amount not exceeding the Capital Investments (less all applicable fees and charges) be paid to the Beneficiary. The Promoter will identify to the Canada Revenue Agency the payments to the Beneficiary that are attributable to such Refunds of Contributions.

Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers. When a Refund of Contributions is made, a corresponding refund of Government Funded Benefits will also be made pursuant to section 7. Each Subscriber acknowledges that such Refunds of Contributions may result in restrictions on future Government Funded Benefits in respect of the Beneficiary under the Plan.

## **7. Refund of Government Funded Benefits:**

Refunds of Government Funded Benefits will be made when and as required by the Applicable Legislation, including on:

- a. a withdrawal of Contributions for non-educational purposes;
- b. a payment pursuant to paragraphs 9(a)(iii) or (v);
- c. certain transfers from the Plan to another registered education savings plan;
- d. revocation of the Plan's registration, and on termination of the Plan; and
- e. certain replacements of the Beneficiary

Refunds of Government Funded Benefits will also be made when any Government Funded Benefits were paid into the Plan in error.

## **8. Investments**

- a. The Promoter shall ensure that the Plan Assets are held, invested and reinvested strictly in accordance with the instructions of the Subscriber received by the Promoter from time to time, industry standards, the terms and conditions of this Contract and the Applicable Legislation. When the Plan has two Subscribers, the Promoter may act upon the instructions received from either Subscriber. In the event that no direction is provided as to the immediate investment of any cash held as part of the Plan Assets, the Promoter shall, by the next business day following receipt thereof, place on deposit with the Trustee, all such cash, and the Trustee shall allow interest on such amounts on such terms and conditions as it may reasonably determine from time to time.
- b. Ownership of the Plan Assets shall, at all times, be vested solely in the Trustee in its capacity as trustee of the Plan and the Subscriber(s) shall have no interest in the Plan Assets other than as set forth herein. The Trustee (or its permitted agents) may exercise the rights and powers of an owner with respect to all securities held by it for the Plan, except that the right to vote and give proxies in respect thereof shall be exercised by the Subscriber(s). For this purpose the Subscriber(s) is hereby appointed as agent and attorney of the Trustee to execute and deliver proxies and/or other instruments mailed by the Trustee, or the Promoter on its behalf, to each Subscriber in accordance with the Applicable Legislation. Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers.
- c. The Subscriber(s) shall be responsible for obtaining all necessary information concerning investments, including determining whether investments should be purchased, sold, or retained by the Promoter as part of the Plan and to ensure the eligibility and qualification of such investments as qualified investments for a registered education savings plan in accordance with the definition of "qualified investments" in subsection 146.1(1) of the Tax Act and under any other governing provisions of the Applicable Legislation, and that such investments do not give rise to penalties and/or taxes of any kind. Each Subscriber acknowledges that such investments may produce losses of any nature whatsoever for the Plan and any failure to comply with the Applicable Legislation will result in penalties and/or taxes and each Subscriber agrees that he/she is solely responsible for such losses and for the payment of such penalties and/or taxes and for any resulting tax reporting relating thereto, whether or not the Promoter has communicated to the Subscriber(s) any information the Promoter may have received, or any judgment the Promoter may have formed, with respect to the forgoing at any particular time. Each Subscriber acknowledges that any failure to comply with the Applicable Legislation may also result in revocation of the Plan by the Canada Revenue Agency.
- d. The Promoter and Trustee will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility of a non-qualified investment being acquired or held by the Plan.

## **9. Withdrawals:**

- a. Upon receipt of a written direction from the Subscriber (jointly in the case of two Subscribers), in such form as the Promoter

shall prescribe and subject to such reasonable requirements as the Promoter may impose and to the Applicable Legislation, the Promoter shall permit withdrawals from the Plan (to the extent of the Plan Assets after deducting any fees and expenses of the Promoter and Trustee or other amounts owing under section 17, any refunds of Government Funded Benefits as provided in section 7 and any withholding taxes under the Applicable Legislation):

- (i) to make Educational Assistance Payments to or on behalf of the Beneficiary who is either:
  - A. enrolled as a student in a Qualifying Educational Program at a Post-Secondary Educational Institution; or
  - B. at least 16 years of age and enrolled as a student in a Specified Educational Program at a Post-Secondary Educational Institution; and either:
  - C. has satisfied the condition in subparagraph (A) above, and
    - I. has satisfied such condition throughout at least 13 consecutive weeks in the 12-month period that ends at the time of such payment; or
    - II. the total of the payment and all other educational assistance payments made under all registered education savings plans of the Promoter to or for the Beneficiary in the 12-month period before the payment does not exceed \$5,000 or such greater amount as the Minister approves in writing with respect to the Beneficiary; or has satisfied the condition in subparagraph (B) above and the total of the payment and all other educational assistance payments made under all registered education savings plans of the Promoter to or for the Beneficiary in the 13-week period before the payment does not exceed \$2,500 or such greater amount as the Minister approves in writing with respect to the Beneficiary; provided that the Subscriber(s) confirms in writing, as part of this written direction, the residency of the Beneficiary. At the Subscriber's request (jointly, in the case of two Subscribers) and upon receipt of the requisite supporting documentation, the Promoter will apply to the Minister for an approval to pay the Beneficiary an amount higher than provided in subparagraph 9(a)(i)(C) or (D). When an Educational Assistance Payment is made to the Beneficiary, the payment will include Government Funded Benefits in accordance with, and up to a maximum amount permitted by, the Applicable Legislation.
- (ii) as a Refund of Contributions (pursuant to section 6);
- (iii) to, or to a trust in favour of, a designated educational institution in Canada referred to in subparagraph 118.6(1)(a)(i) of the Tax Act, which is an educational institution in Canada that is a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act, designated by an appropriate authority under the Canada Student Financial Assistance Act, or designated by the Minister of Education of the Province of Québec for the purposes of An Act respecting financial assistance for education expenses;
- (iv) for the repayment of Government Funded Benefits;
- (v) to make Accumulated Income Payments if:
  - A. the payment is made to, or on behalf of, a Subscriber who is a resident in Canada when the payment is made;
  - B. the payment is not made jointly to, or on behalf of, more than one Subscriber; and
  - C. any of:
    - I. the payment is made after the 9th year that follows the year in which the Plan was entered into and each individual (other than a deceased individual) who is or was a Beneficiary under the Plan attained 21 years of age before the payment is made, and is not, when the payment is made, eligible under the Plan to receive an Educational Assistance Payment;
    - II. the payment is made in the 35th year following the year in which the Plan is entered into; or
    - III. each individual who was a beneficiary under the plan is deceased when the payment is made.

Where the Beneficiary suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the Beneficiary from enrolling in a Qualifying Educational Program at a Post-Secondary Educational Institution, at the Subscriber's request (jointly, in the case of two subscribers) and upon receipt of the requisite supporting documentation, the Promoter will apply to the Minister of National Revenue for approval to waive the requirements set out in clause 9(a)(v)(C)(I) hereof. The Plan shall terminate before March 1st of the year following the year in which the first Accumulated Income Payment was made out of the Plan; and

- (vi) to a trust that irrevocably holds property transferred to it pursuant to a registered education savings plan for any of the purposes set out in subsection 2(b) and paragraphs 9(a)(i) to (vi) as permitted by the Applicable Legislation. The effective date of such a transfer from the Plan to a registered education savings plan shall be determined in accordance with section 10. For greater certainty, no payments will be made out of the Plan when the fair market value of the Plan Assets is less than the aggregate amount of all the Government Funded Benefits into the Plan less any Government Funded Benefits paid out of the Plan, unless the payment is an Educational Assistance Payment made to or on behalf of the Beneficiary and the whole payment is attributable to Government Funded Benefits. The Promoter shall determine whether any condition precedent to the payment of an Educational Assistance Payment has been satisfied and such determination

shall be final and binding on the Subscriber(s), the Beneficiary and to any and all other persons who may be eligible to receive moneys pursuant to the Plan.

- b. Each Subscriber acknowledges and understands that the Applicable Legislation requires the repayment by the Beneficiary of any Government Funded Benefits received by the Beneficiary in excess of the maximum amount prescribed by the Applicable Legislation. An individual who is a beneficiary under more than one registered education savings plan shall be solely responsible for ensuring that any Government Funded Benefit payments he or she received in excess of the maximum amount prescribed by the Applicable Legislation is repaid as required. The Promoter shall provide the Beneficiary with notice of this obligation.
- c. Notwithstanding paragraph (a)(i) above, an Educational Assistance Payment to or on behalf of the Beneficiary may be made at any time in the six-month period following the particular time at which the Beneficiary ceases to be so enrolled if the payment would have complied with the requirements of paragraph (a)(i) had the payment been made immediately before such particular time. Further, an Educational Assistance Payment made in accordance with this subsection (c) but not in accordance with paragraph (a)(i) will be deemed, for the purposes of applying paragraph (a)(i) at and after that time, to have been made before the particular time referred to in this subsection (c) above.

## **10. Transfers**

The Subscriber may, at any time, request in writing (jointly in the case of two Subscribers) that the Trustee, or the Promoter on the Trustee's behalf, transfer monies (including Government Funded Benefits) into and out of the Plan from and to another registered education savings plan. Transfers will be made even if they result in repayments of Government Funded Benefits or restrictions on future Government Funded Benefits in respect of the Beneficiary under the Plan.

In accordance with subsection 146.1(6.1) of the Tax Act, any registered education savings plan receiving a transfer will be deemed to have been entered into on the day that is the earlier of the day on which the registered education savings plan receiving the transfer (the "Transferee Plan") was entered into, and the day on which the registered education savings plan from which the transfer was made (the "Transferor Plan") was entered into. In accordance with paragraph 146.1(2)(i.2) of the Tax Act, the Plan will not accept a transfer from a registered education savings plan after the registered education savings plan has made an Accumulated Income Payment. In accordance with subsection 204.9(5) of the Tax Act each Contribution made to a Transferor Plan, by or on behalf of a Subscriber prior to a transfer will be deemed to have been made by the Subscriber in respect of the Beneficiary under the Transferee Plan, and the amount of the transfer will be deemed to have been withdrawn from the Transferor Plan, unless one of the following conditions are met:

- a. a Beneficiary under the Transferee Plan was, immediately before the transfer, a Beneficiary under the Transferor Plan; or
- b. a parent of a beneficiary under the transferee plan was a parent of an individual who was, immediately before the particular time, a beneficiary under the transferor plan and
  - (i) the transferee plan is a plan that allows more than one beneficiary under the plan at any one time, or
  - (ii) in any other case, the beneficiary under the transferee plan had not attained 21 years of age at the time the transferee plan was entered into;

If the conditions set out in either (a) or (b) above are not met, the transfer may cause an over contribution to the Transferor Plan. Each Subscriber under the Transferor Plan will be deemed to be a Subscriber under the Transferee Plan for the purposes of the over contribution tax payable as a result of a transfer, in accordance with subsections 204.9(5) and 204.91(1) of the Tax Act.

## **11. Tax Treatment of Accumulated Income Payments**

There shall be included in computing a Subscriber's income for a taxation year each Accumulated Income Payment received in the year. Each Subscriber further understands that if the person receiving the Accumulated Income Payment:

- a. is an original Subscriber; or
- b. has acquired the rights of a Subscriber pursuant to a decree or order of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a Subscriber under the Plan for the settlement of rights as a result of marriage or common-law partnership breakdown;

all or part of such payment may be rolled over without payment of tax to a registered retirement savings plan ("**RRSP**") of a Subscriber or a spousal or common-law partner's RRSP of a Subscriber, as permitted by the Applicable Legislation subject to the Subscriber's available RRSP contribution room and the limits set out in section 204.94 of the Tax Act.

## **12. Beneficiary**

- a. Each of the Beneficiaries must be related to a living Subscriber or have been related to a deceased original Subscriber by blood relationship or adoption as defined in the Applicable Legislation and be under the age of twenty-one (21) at the time

they are designated as a Beneficiary or, immediately before his or her designation, the Beneficiary was a beneficiary under a registered education savings plan that allowed more than one beneficiary at any one time. A Subscriber may designate and revoke the designation of the Beneficiary and designate another person as the Beneficiary by written notice (jointly in the case of two Subscribers) in a form acceptable to the Promoter. If more than one such instrument is delivered to the Promoter the one bearing the latest execution date will govern. The Subscriber can be the Beneficiary of the Plan.

- b. The Promoter shall, within 90 days after an individual becomes the Beneficiary under the Plan, notify the individual (or, where the individual is under 19 years of age at that time and either ordinarily resides with a parent of the individual or is maintained by a Public Primary Caregiver of the individual, that parent or Public Primary Caregiver) in writing of the existence of the Plan, and the name and address of each Subscriber of the Plan.

### **13. Subscriber's Account and Statements**

The Promoter shall maintain in accordance with the Applicable Legislation segregated trust account(s) registered in the name of the Trustee in trust for the Subscriber(s) (the "**Accounts**") which will record and reflect:

- a. Contributions to, and withdrawals from, the Plan, the Beneficiary on whose behalf these payments were made and the date the Promoter received the Contributions, as well as whether such payments attracted payment or repayment of Government Funded Benefits;
- b. the particulars of any investment transactions made and any investments held by the Plan;
- c. the value of the Plan Assets;
- d. fees, costs and charges paid from the Plan Assets;
- e. all CES Grants, Canada Learning Bonds and other Government Funded Benefits paid into and out of the Plan, as well as the portion of Educational Assistance Payments paid to or on behalf of the Beneficiary that is attributable to CES Grants, Canada Learning Bonds and other Government Funded Benefits paid into the Plan;
- f. all transfers received into and/or paid out of the Plan;
- g. all investment income, gains and losses, earned or incurred by the Plan and all Accumulated Income Payments made to each Subscriber;
- h. all the amounts paid to or on behalf of the Beneficiary as an Educational Assistance Payment, and the date of payment;
- i. all amounts paid to, or in trust in favour of designated educational institutions referred to in paragraph 118.6(1)(a)(i) of the Tax Act, or any other amounts paid to each Subscriber or at the Subscriber's direction pursuant to paragraphs 9(a)(ii) and (v), the date of payment and the recipient; and
- j. any other information the Promoter or the Trustee may decide or may be required to keep by the Applicable Legislation and the agreements between the Promoter and the Trustee, respectively, and the Minister or ESDC, from time to time.
- k. The Promoter will issue to each Subscriber a transaction statement indicating any transaction made during the previous month and, at least annually, will provide a statement of the Accounts which shall provide the information set out above as at the date of the statement. This and any other information related to the Plan will be provided to, and be open to inspection or audits by, the Minister of National Revenue, the Minister, and ESDC, from time to time, as required by the Applicable Legislation and the agreements between the Promoter or the Trustee, respectively, and the Minister or ESDC, from time to time.

### **14. Appointment of Trustee**

The Promoter shall ensure that a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act, is appointed as Trustee of the Plan pursuant to Applicable Legislation to act as trustee of the Plan Assets and irrevocably hold the Plan Assets for the purposes set forth in subsection 2(b). The Promoter shall be ultimately responsible for the Plan and the payment of the Educational Assistance Payments.

### **15. Delegation**

The Trustee shall irrevocably hold the Plan Assets and the ultimate responsibility for the Plan Assets shall rest with the Trustee. Without in any way detracting from the ultimate responsibility of the Trustee for the Plan Assets, the Trustee may, and each Subscriber expressly authorizes the Trustee to, delegate to the Promoter, its successors and assigns as the sole agent of the Trustee certain powers, authorities and duties in respect of the Plan Assets as the Promoter and the Trustee may determine from time to time. To the extent that the Trustee has delegated the performance of all or a portion of the activities of the trust regarding the Plan Assets to the Promoter, such delegation shall be deemed to be in the best interests of the trust, the Subscriber(s) and the Beneficiary. The Trustee shall notify the Minister or ESDC of the appointment of an agent in accordance with the terms of the agreement between the

Trustee and the Minister or ESDC, as applicable. The Promoter may, and each Subscriber expressly authorizes the Promoter to, delegate certain Promoter responsibilities to an agent of the Promoter or third party.

#### **16. Replacement of Trustee**

The Trustee may resign at any time as trustee upon ninety (90) days' prior written notice to the Promoter, or such other period of notice as the Promoter may accept or the Applicable Legislation may dictate. The Promoter may request the resignation of the Trustee by providing sixty (60) days' prior written notice to the Trustee, or such other period of notice as the Trustee may accept or the Applicable Legislation may dictate. Upon issuing or receiving notice of removal or resignation of the Trustee, respectively, the Promoter shall within the notice period referred to herein appoint by instrument in writing a successor trustee (the "**Successor Trustee**") that is a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act. In the event that the Promoter fails to appoint a Successor Trustee within the applicable notice period, the Trustee may appoint a Successor Trustee that is a corporation resident in Canada which is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, pursuant to paragraph 146.1(2)(a) of the Tax Act. The party appointing the Successor Trustee undertakes to require the Successor Trustee to enter into an agreement with the Minister or ESDC, as applicable, upon its appointment as Successor Trustee, or within a reasonable time thereafter. The Trustee will notify the Canada Revenue Agency and the Minister or ESDC prior to its resignation or removal and prior to the appointment of a Successor Trustee in accordance with the terms of the agreement between the Trustee and the Minister or ESDC, as applicable. The Promoter will notify the Minister or ESDC prior to effecting the Trustee's removal hereunder in accordance with the terms of the agreement between the Promoter and the Minister or ESDC, as applicable. Effective upon the resignation or removal of the Trustee in accordance with the foregoing terms, and subject to the Trustee's receipt of all fees and expenses then owing to the Trustee and the Trustee's receipt of such acknowledgments, assurances and receipts as may be reasonable for the Trustee to request with respect to the transfer of the Plan Assets to the Successor Trustee, the Trustee shall execute and deliver to the Successor Trustee all conveyances, transfers and further assurances as may be reasonable to give effect to the appointment of the Successor Trustee, and the Successor Trustee will thereupon agree to be bound by the terms hereof (in which case all references herein to "the Trustee" will include the Successor Trustee). However, the Trustee will not transfer any Government Funded Benefits in the Plan to the Successor Trustee until such time as the Successor Trustee has entered into an agreement with the Minister or ESDC, as applicable, and the Trustee has been reimbursed for any costs arising from the retention by the Trustee of the Government Funded Benefits in the Plan. Notice of the replacement of the Trustee hereunder will be given by the Promoter to each Subscriber. In the event that a trust governed by the Plan is terminated and a new trust is established, the Plan Assets shall be used for one or more of the purposes set out in subsection 2(b). Notwithstanding any other provision of this Agreement, any trust company resulting from the merger, amalgamation or continuation of the Trustee or succeeding to substantially all of the trusteeship business of the Trustee (whether by sale of such business or otherwise) shall thereupon automatically become the Successor Trustee hereunder without further act or formality.

#### **17. Fees and Expenses**

- a. The Trustee and the Promoter shall be entitled to reasonable fees and other charges in such amounts as may be fixed by the Trustee and/or Promoter, as applicable, from time to time, provided that the Promoter shall give at least 60 days' prior notice to each Subscriber of a change in the amount of such fees and charges. In addition, the Promoter shall be entitled to earn normal brokerage commissions on investment and reinvestment transactions processed by the Promoter.
- b. In addition to the foregoing, the Promoter and the Trustee shall also be entitled to reasonable fees for any exceptional services which either is required to perform hereunder, commensurate with the time and responsibility involved.
- c. All fees of the Promoter and the Trustee shall be either charged to the Accounts or if a Subscriber has so instructed the Promoter in writing, billed to the Subscriber directly. All out-of-pocket expenses reasonably incurred by the Promoter and the Trustee in the administration of the Plan and the Plan Assets (such as certificate fees, postage, delivery charges, faxes, etc.) and other disbursements and expenses (including all taxes and Government Funded Benefit refunds) shall be charged to the Accounts.
- d. Fees related to the Plan (such as investment counsel fees charged by the Trustee directly to a Subscriber) are not deductible to the Subscriber. Fees related to the Plan Assets such as broker commissions and mutual fund service charges are considered expenses of the Plan, and as such reduce the Plan Assets available under the Plan for Refund of Contributions, Educational Assistance Payments, Accumulated Income Payments and payments to, or to a trust in favour of, a designated educational institution in Canada referred to in paragraph 118.6(1)(a)(i) of the Tax Act.
- e. Notwithstanding anything contained herein, the Promoter, upon receiving the agreement of the Trustee, is empowered to realize or cause to be realized from time to time, sufficient investments to permit it to pay any amounts which a Subscriber or the Plan is required to pay (including pursuant to the Plan or court order), or which is levied or assessed pursuant to the Applicable Legislation, or for payment of the fees and administration expenses of the Promoter and the Trustee. Any such

sale shall be made at such price or prices as the Promoter may, in its sole discretion, determine and the Promoter shall not be responsible for any loss occasioned thereby.

#### **18. Liability of the Promoter and the Trustee**

Unless caused by or resulting from the dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard on the part of the Promoter or the Trustee, the Promoter and the Trustee, and their respective employees, officers and directors shall have no liability hereunder in respect of (i) any taxes, interest or penalties which may be imposed under the Applicable Legislation in respect of the Plan (whether by way of assessment, reassessment or otherwise) or for any other charge levied or imposed by any governmental authority upon or in respect of the Plan, as a result of the purchase, sale or retention of any investment including, without limiting the generality of the foregoing, non-qualified investments, other than taxes and penalties imposed on the Trustee arising from its personal liability, including without limitation, arising from its administrative error, under Applicable Tax Legislation; (ii) the receipt and time of receipt of any Government Funded Benefits; (iii) any refunds of Government Funded Benefits that may be required by the Applicable Legislation; (iv) any costs which the Promoter or the Trustee incur in the performance of their duties hereunder or under the Applicable Legislation; or (v) any loss or damages or tax liability suffered or incurred by the Plan, by a Subscriber or by the Beneficiary under the Plan as a result of a breach of the agreement between the Promoter or the Trustee, respectively, and the Minister or ESDC, as applicable, or the Applicable Legislation or payments or distributions out of the Plan made in accordance with these terms and conditions. In this regard, the Promoter and the Trustee may reimburse themselves for, or may pay, any such Government Funded Benefit refunds, taxes, or costs out of the capital or the income, or partly out of the capital and partly out of the income, of the Plan as the Promoter or the Trustee in their absolute discretion deem expedient. The Subscriber(s) will at all times indemnify the Promoter and the Trustee and save them harmless in respect of any Government Funded Benefit refunds, taxes, interest or penalties which may be imposed in respect of the Plan or costs incurred by the Promoter or the Trustee in respect of the Plan or any losses incurred by the Plan (other than losses for which the Promoter or the Trustee are liable in accordance herewith) as a result of a breach of the agreement between the Promoter or the Trustee, respectively, and Minister or ESDC, as applicable, or the Applicable Legislation or payments or distributions out of the Plan made in accordance with these terms and conditions. Each Subscriber acknowledges and agrees that all investments of the Plan Assets are held at the risk of the Subscriber(s), and that the Promoter and the Trustee shall not be responsible for any damages, loss or decrease in the value thereof. The Promoter may rely upon any statement or writing received from a Subscriber believed by the Promoter to be genuine and shall be under no duty to make any investigation or enquiry with respect thereto. The foregoing indemnification of the Promoter and the Trustee and the limitations of liability of the Promoter and the Trustee shall survive the termination of the Plan.

#### **19. Amendment of the Plan**

Upon at least sixty (60) days written notice to each Subscriber, with the written consent of the Trustee and in accordance with Applicable Legislation, the Promoter may from time to time amend the Plan with the concurrence of relevant taxation and other regulatory authorities having jurisdiction over the Plan, provided that such amendment does not have the effect of disqualifying the Plan for acceptance as a registered education savings plan within the meaning of the Applicable Legislation or disqualifying the Beneficiary as recipient of Government Funded Benefits according to the Applicable Legislation. However, if the Plan must be amended to ensure the Plan continues to comply with the Applicable Legislation as amended from time to time, the Promoter is not required to give the Subscriber(s) prior notice of such amendments to the Plan and such amendments will be effective immediately after they have been made.

#### **20. Assignment by the Promoter**

The Promoter may assign its rights and obligations hereunder to any other entity resident in Canada to carry out the duties and obligations of the Promoter under the Plan provided that the assignee agrees to enter and enters into an agreement with the Minister or ESDC, as applicable (in which case all references herein to "the Promoter" will include the assignee), and, prior to effecting the assignment, the Promoter notifies the Minister or ESDC in accordance with the terms of the agreement between the Promoter and the Minister or ESDC, as applicable, and the Promoter advises the Canada Revenue Agency of the assignment of the Promoter's rights and obligations to another entity. Notice of this assignment will be given by the Promoter to each Subscriber. However, the Promoter shall remain ultimately responsible for the administration of the Plan and paying, or causing to be paid, the Education Assistance Payments. The Promoter shall continue to perform such administrative services in respect of the Plan as are required hereunder and as it determines necessary from time to time.

#### **21. Successors**

Subject to any provision herein to the contrary, the Plan shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, administrators, and personal representatives. For greater certainty and subject to the provisions of the Applicable Legislation, the entity resulting from an amalgamation, merger or reorganization of the Promoter shall become the Promoter hereunder. Notwithstanding the aforementioned, prior to the effective date of any amalgamation, merger or reorganization, as the case may be, the Promoter shall notify the Canada Revenue Agency and make any amendments to the Plan that may be required by the Canada Revenue Agency as a result of the amalgamation, merger or reorganization of the Promoter.



## 22. Notices

Any notice, statement or receipt given by the Promoter or the Trustee to a Subscriber or the Beneficiary shall be considered sufficient if delivered personally or mailed postage prepaid and addressed to the Subscriber or the Beneficiary at the address shown on the Application or to such other address as the Subscriber or the Beneficiary may designate in writing to the Promoter from time to time, for such purpose, and shall be deemed to have been received at the time of personal delivery to the Subscriber or Beneficiary, as the case may be, or three (3) business days after mailing. Any notice given by a Subscriber to the Promoter or the Trustee shall be considered sufficient if delivered personally or mailed postage prepaid to the Promoter, or the Trustee, respectively, at its office in Vancouver or Vancouver respectively, and shall be deemed to have been received by the Promoter or Trustee, respectively, when actually received by it. In addition to other notices required hereunder, the Promoter shall notify each Subscriber forthwith upon receipt by the Promoter of any assignment or notice of involuntary assignment, seizure, garnishment or any process of law or execution or notice in respect of any of the Plan Assets.

## 23. Termination Date

The Subscriber(s) shall designate in the Application the termination date of the Plan (the "**Termination Date**"), which shall not be later than the last day of the thirty-fifth (35th) year following the year in which the Plan is entered into. The Plan may be terminated at such earlier date as agreed upon in writing by the Subscriber(s) and the Promoter and, shall terminate on an earlier date as prescribed by the Applicable Legislation from time to time. The Promoter shall provide each Subscriber with notice of the not less than three (3) months prior to the Termination Date, except when the Termination Date of the Plan has been changed by the Subscriber(s) to a date that is less than six (6) months from the time the designation notice is received by the Promoter. At the Termination Date, subject to Applicable Legislation and the terms of any direction from the Subscriber (jointly, in the case of two Subscribers) given to the Promoter prior to the Termination Date pursuant to section 10 hereof, the Promoter shall pay to, or to a trust in favour of, the educational institution designated by the Subscriber(s) an amount equal to the Plan Assets less any Contributions remaining in the Plan, less any unpaid taxes, penalties or other charges imposed under the Applicable Legislation, less any Government Funded Benefits and less any unpaid fees, charges and/or expenses of the Trustee or Promoter hereunder (the "**Designated Educational Institution Payment Amount**"). The Promoter shall liquidate any Contributions remaining in the Plan and place the proceeds on deposit with the Trustee in the name of the Subscriber (or, where the Plan has two Subscribers, in the name of both Subscribers jointly) and the Trustee shall allow interest on such amount on such terms and conditions as it may reasonably determine from time to time, until it receives such direction. The Trustee shall be entitled to collect fees for the administration of the deposit account directly from the account. If no educational institution was designated by the Subscriber(s), the Trustee, in its sole discretion, shall designate the educational institution and the Promoter shall pay the Designated Educational Institution Payment Amount to, or to a trust in favour of, such designated educational institution as referred to in paragraph 118.6(1)(a)(i) of the Tax Act.

## 24. Valuation

The Promoter will determine the value of the Plan Assets from time to time in accordance with applicable industry practices and such valuation shall be conclusive for all purposes hereof.

## 25. Promoter and Trustee Agreements

The Promoter and the Trustee may, and each Subscriber expressly authorizes the Promoter and the Trustee, respectively, to enter into, amend, extend and terminate an agreement between the Promoter and the Trustee, respectively, and the Minister and ESDC, as applicable, in order to provide each Subscriber with access to the Government Funded Benefits pursuant to the Applicable Legislation.

## 26. Information Slips

The Promoter will provide each Subscriber, the Beneficiary and other applicable persons with such information regarding amounts paid to or from the Plan and other transactions of the Plan as is required to be provided under the Applicable Legislation to enable such persons to complete their respective income tax returns. The Promoter will also file with the Minister of National Revenue any returns required by the Applicable Legislation such as an information return regarding the investments of the Plan.

## 27. Proof of Information

Each Subscriber certifies that the information provided to the Promoter in respect of the Plan is correct and undertakes to provide the Promoter with further proof of any information relating to the Plan as may be required.

## 28. Governing Law

The Plan shall be governed, construed and administered in accordance with the laws of the Province of British Columbia and of the federal laws of Canada applicable therein. If a conflict arises between the provisions of the laws of British Columbia and those of the Tax Act, the provisions of the Tax Act shall govern.

**29. Access to File (for use in Québec only)**

The Subscriber(s) understands that the information contained in the Application shall be maintained in a file at the Promoter's place of business. The object of this file is to enable the Trustee, the Promoter and their respective agents or representatives to access the Application, answer any questions a Subscriber or the Beneficiary may have regarding the Application and the file in general, manage the account and follow any instructions received by a Subscriber on an ongoing basis. Subject to the Applicable Legislation, the personal information contained in this file may be used by the Trustee or the Promoter to make any decision relevant to the object of the file and only the Trustee's or Promoter's employees, agents, representatives and any other persons required for the execution of the Trustee's or Promoter's duties and obligations or any other persons expressly authorized in writing by the Subscriber(s) may have access to the file. Furthermore, each Subscriber understands that his/her file will be kept at the Promoter's place of business and that the Subscriber(s) and the Beneficiary are entitled to consult their file at the same address and, when applicable, to have it corrected. The Subscriber or Beneficiary must, in order to exercise these rights, send a written notice to the Trustee at: Canadian Western Trust Company 600-750 Cambie Street, Vancouver, BC, V6B 0A2.