

AMENDED AND RESTATED TRUST AGREEMENT

THIS AMENDED AND RESTATED TRUST AGREEMENT is entered into on the 25th day of March, 2008,

BY AND AMONGST:

THE UNIVERSITY OF WINNIPEG
(hereinafter called the "University")

OF THE FIRST PART,

-and-

THE UNIVERSITY OF WINNIPEG FACULTY ASSOCIATION, including on behalf of
THE UNIVERSITY OF WINNIPEG FACULTY ASSOCIATION (COLLEGIATE DIVISION)
(hereinafter collectively called the "UWFA")

OF THE SECOND PART,

-and-

THE ASSOCIATION OF EMPLOYEES SUPPORTING EDUCATION SERVICES
(hereinafter called the "AESES")

OF THE THIRD PART,

-and-

THE INTERNATIONAL UNION OF OPERATING ENGINEERS
(hereinafter called the "IUOE")

OF THE FOURTH PART,

-and-

THE UNIVERSITY OF WINNIPEG RETIREMENT ASSOCIATION INC.
(hereinafter called the "Retirement Association")

OF THE FIFTH PART,

-and-

LAUREL REPSKI, VALERIE GILROY, BILL BALAN, MARY ANNE WALLS, JIM CLARK, WENDY
JOSEPHSON, KAREN ZOPPA, BARRY BARSKE, GREG GILLIS, DAVID TORZ, BRENT
STEARNS, and MAURICE MEARON
(hereinafter referred to individually as a "Trustee"
and collectively as the "Trustees" or "Board of Trustees")

OF THE SIXTH PART.

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- "A" Copy of 2001 Plan Amendments (Amendment 2001/1)
- "B" Copy of 2004 Settlement Agreement
- "C" Copy of Amendment 2004/A
- "D" Copy of Amendment 2004/B
- "E" Copy of Amendment 2005/A
- "F" Copy of Amendment 2005/B
- "G" Copy of Amendment 2006/A
- "H" Copy of Amendment 2007/A
- "I" Copy of Amendment 2008/A -- the Consequential Plan Amendments
- "J" The University of Winnipeg Trusteed Pension Plan -- text amended and restated to March 25, 2008
- "K" Form of Consent and Undertaking

AMENDED AND RESTATED TRUST AGREEMENT

THIS AMENDED AND RESTATED TRUST AGREEMENT is entered into on the 25th day of March, 2008,

BY AND AMONGST:

THE UNIVERSITY OF WINNIPEG
(hereinafter called the "**University**")

OF THE FIRST PART,

-and-

THE UNIVERSITY OF WINNIPEG FACULTY ASSOCIATION,
including on behalf of THE UNIVERSITY OF WINNIPEG FACULTY
ASSOCIATION (COLLEGIATE DIVISION)
(hereinafter collectively called "**UWFA**")

OF THE SECOND PART,

-and-

THE ASSOCIATION OF EMPLOYEES SUPPORTING EDUCATION SERVICES
(hereinafter called "**AESES**")

OF THE THIRD PART,

-and-

THE INTERNATIONAL UNION OF OPERATING ENGINEERS
(hereinafter called "**IUOE**")

OF THE FOURTH PART,

-and-

THE UNIVERSITY OF WINNIPEG RETIREMENT ASSOCIATION INC.
(hereinafter called the "**Retirement Association**")

OF THE FIFTH PART,

-and-

JIM CLARK, WENDY JOSEPHSON, KAREN ZOPPA, LAUREL REPSKI,
VALERIE GILROY, BILL BALAN, BARRY BARSKE, MARY ANNE WALLS,
GREG GILLIS, DAVID TORZ, BRENT STEARNS, and MAURICE MEARON
(hereinafter referred to individually as a "**Trustee**"
and collectively as the "**Trustees**" or "**Board of Trustees**")

OF THE SIXTH PART.

WHEREAS:

- A. On or about September 1, 1958, United College, the predecessor of the University, established a pension plan known and designated as the "United College Retirement Plan" for the purpose of providing retirement and other pension benefits to certain of its employees. The pension plan was renamed "The University of Winnipeg Pension Plan" effective on or about September 1, 1972, at which time the University became the administrator of the pension plan for all purposes, including applicable pension benefits legislation. The pension plan was formally confirmed and adopted most recently by By-Law No. 3/97 passed and enacted by the Board of Regents of the University on October 27, 1997. The University of Winnipeg Pension Plan, as it has been amended from time to time, is herein referred to as the "**Plan**".
- B. By Pension Trust Agreement signed October 18, 1977 and dated November 1, 1977 (the "**Original Trust Agreement**") between the University and F.W. Barth, G.G. Blake, H.E. Gordon, R.C. Swain and C.R. Wilson (the "**Original Trustees**"), a trust fund was established for the Plan (the "**Pension Trust Fund**"), with the Original Trustees as trustees of the Pension Trust Fund and which Pension Trust Fund consisted of all such sums of money or other property as shall have been paid or delivered to the Original Trustees in respect of the Plan from time to time, and all earnings, profits, interest income, increments and capital gains arising therefrom. Under the Original Trust Agreement, the Original Trustees assumed certain rights and responsibilities in connection with the Pension Trust Fund. The Pension Trust Fund for the Plan has continued to exist since its original establishment under the Original Trust Agreement, and is now comprised of all assets transferred from RBC Dexia (as hereinafter defined) to the Board of Trustees pursuant to the Pension Plan Transition Agreement (as hereinafter defined), and all assets paid or delivered or caused to be paid and delivered by the University from time to time hereafter to the Board of Trustees and acceptable to the Board of Trustees, together with any earnings, profits, increments thereon and assets from time to time substituted therefor, all as more particularly set out in this Trust Agreement and defined as Plan Assets in Section 3.06 hereof.
- C. Pursuant to a power reserved for it under the Original Trust Agreement, the University removed the Original Trustees and appointed Investors Group Trust Co. Ltd. as sole trustee of the Pension Trust Fund effective June 21, 1985. The appointment of a corporate trustee of the Pension Trust Fund by the University was authorized by the Board of Regents of the University by By-Law No. 3/85, and confirmed again by the Board of Regents of the University by By-Law No. 3/97. Under By-Law No. 3/85, the Board of Regents of the University also established a Pension Committee for the Plan and set out its powers, duties and composition and provided for the establishment of an Investment Sub-Committee thereof, and set out its powers, duties and composition. By By-Law No. 3/97, the Board of Regents of the University revised and restated the powers, duties and composition of the Pension Committee for the Plan, and provided for the establishment of an Investment Committee for the Plan. The powers, duties and composition of the Investment Committee, as revised and restated from those which applied to the original Investment Sub-Committee, were established by the Board of Regents of the University by By-Law No. 5/97.
- D. Pursuant to a Referral Agreement dated May 6, 1998, Investors Group Trust Co. Ltd. referred certain of its pension trust and custody clients to Royal Trust Corporation of Canada (now known as RBC Dexia Investor Services Trust) ("**RBC Dexia**").

E. By Trust Agreement dated March 30, 1999, the University appointed RBC Dexia as the new trustee of the Pension Trust Fund, with custodial and other duties set out therein, and the University and RBC Dexia amended and restated the Original Trust Agreement governing the Pension Trust Fund (the "**1999 Agreement**"). The 1999 Agreement continued, and did not detract from, the Pension Trust Fund constituted by the Original Trust Agreement.

F. On July 25, 2000, the Executive Committee of the Board of Regents of the University approved an amendment to the Plan (namely, Amendment 2000/1) which provided for the suspension of the University's contributions to the Plan in respect of the period from April 1, 2000 to March 31, 2002.

G. On December 4, 2000, the Board of Regents of the University approved in principle a proposed resolution of outstanding substantive issues involving the Plan and its administration, the material substance of which may be summarized as follows (the "**2001 Issue Points**"):

- (i) To provide for an immediate benefit improvement for all Members which was approximately equal in value to the value to the University of the contribution holiday provided by Amendment 2000/1;
- (ii) To create the Defined Contribution Component of the Plan;
- (iii) To give any person who was an active Member of the Plan as at December 31, 2000 and who, as at December 31, 1999, was not eligible to retire in accordance with Article 6 of the Plan, the right to convert his or her pension from the Defined Benefit Component to the new Defined Contribution Component with effect from the later of January 1, 2000 or the date that such person became a Member of the Plan, which right to convert had to be exercised on or before January 10, 2001;
- (iv) To give any person that became an Eligible Employee on or before December 31, 2000 and who had not joined the Plan as at that date, the right to join either the Defined Contribution Component or the Defined Benefit Component of the Plan at the time when he or she became a Member;
- (v) To provide that any person that became an Eligible Employee on or after January 1, 2001, was required to participate in the Defined Contribution Component, and not the Defined Benefit Component, of the Plan;
- (vi) To provide each Member who elected to convert to the Defined Contribution Component and each Member who terminated from the Plan in 2000 and elected a full transfer of his or her commuted value out of the Plan, credit for their full share, as determined by the Plan Actuary, of the surplus and investment reserve at December 31, 1999;
- (vii) To provide that, after the establishment of a reserve to cover the difference between the actuarial present value of benefits to be earned on and after January 1, 2000 and the actuarial present value of scheduled contributions by the Defined Benefit Participants and the University during the same period, the balance of the actuarial surplus and investment

reserve at December 31, 1999 as determined by the Plan Actuary be split equally between the University and the Defined Benefit Participants;

- (viii) To provide that the University could use its share of the actuarial surplus and investment reserve to fund future contribution holidays including that provided by Amendment 2000/1;
- (ix) To provide that if, as a result of a future deficiency in the Fund, the University was required to make contributions in addition to its scheduled contributions, and if the Plan subsequently returned to surplus, the University could get credit for the additional contributions through a further contribution holiday; and
- (x) To clarify that apart from the contribution holidays arising either out of its share of the actuarial surplus and investment reserve at December 31, 1999 or from the requirement to make additional contributions as described above, the University had no further entitlement to any portion of actuarial surplus or investment reserve in the Pension Trust Fund.

H. Amendments to the Plan in order to implement the 2001 Issue Points with the exception of any amending provisions to deal with the manner in which the Defined Benefit Participants would benefit from their remaining share of the actuarial surplus then existing as per paragraph (vii) of the 2001 Issue Points, were approved by the Board of Regents of the University on January 22, 2001, and were filed with the Pension Commission of Manitoba as Amendment 2001/1 (the "**2001 Plan Amendments**"). A copy of the text of the 2001 Plan Amendments, as filed with the Pension Commission of Manitoba, is attached hereto as **Schedule "A"**.

I. Also as a result of numerous consultations by the University with Members, Pensioners and the various other Stakeholders of the Plan, the parties hereto ultimately agreed that, subject to ensuring compliance with the *Income Tax Act (Canada)* and *The Pension Benefits Act (Manitoba)*, the responsibility for the Plan's administration ought to be transferred from the University to a Board of Trustees constituted by nominees of the various Plan Stakeholders and certain external trustees, and that the Plan ought to be constituted as a trustee pension plan with the Board of Trustees as the administrator of the Plan and as the trustees of the Pension Trust Fund.

J. By settlement agreement dated September 23, 2004 (the "**2004 Settlement Agreement**"), a copy of which is attached hereto as **Schedule "B"**, the University, UWFA, AESES, IUOE and the Retirement Association agreed to resolve certain outstanding matters between them, including with respect to the 2001 Issue Points and the implementation or non-implementation thereof as part of the 2001 Plan Amendments, which settlement agreement necessitated certain amendments to the Existing Plan (as defined in Paragraph N of this Preamble), including the housekeeping amendments contained in Amendment 2004/A incorporated into the Existing Plan and the settlement-related amendments contained in Amendment 2004/B incorporated into the Existing Plan (including to amend or remove certain of the amendments previously made pursuant to the 2001 Plan Amendments), copies of which are attached hereto as **Schedules "C" and "D"** respectively. Amendment 2004/A and Amendment 2004/B have been approved by the Board of Regents of the University and have been filed with the Pension Commission of Manitoba and the Canada Revenue Agency, and amend and form part of the Existing Plan effective as of the effective dates set out therein.

K. On March 7, 2005, the Board of Regents of the University did approve Amendment 2005/A, a copy of which is attached hereto as **Schedule "E"**, to amend and form part of the Existing Plan effective as of January 1, 2003, in order to terminate the membership in the Existing Plan of certain employees of Menno Simons College and transfer the value of their accrued benefits in the Plan, as determined by the Plan Actuary, to the registered pension plan of the Canadian Mennonite University. On April 11, 2005, the Board of Regents of the University did approve Amendment 2005/B, a copy of which is attached hereto as **Schedule "F"**, to amend and form part of the Existing Plan effective as of April 1, 2003, in order to further clarify the University's contribution obligation to the Plan (and specifically, to clarify that the University shall not, at any time, access or use any surplus in the Plan to offset its contribution obligation in accordance with Paragraph 4.1 of the Plan) and to provide increased flexibility in respect of a beneficiary of a retired member who dies prior to the end of the guaranteed period under the Plan. On November 6, 2006, the Board of Regents of the University did approve Amendment 2006/A, a copy of which is attached hereto as **Schedule "G"**, to amend and form part of the Existing Plan effective as of August 1, 2006, in order to exclude any qualifying teachers that have elected to continue their participation in the Teachers' Retirement Allowances Fund under *The Teachers' Pensions Act* (Manitoba) from eligibility for participation in the Plan. On October 1, 2007, the Board of Regents did approve Amendment 2007/A, a copy of which is attached hereto as **Schedule "H"**, to amend and form part of the Existing Plan effective as of October 1, 2007, in order to extend the age of mandatory retirement commencement from age 69 to age 71, in accordance with applicable regulations pursuant to *The Pension Benefits Act* (Manitoba). Amendment 2005/A, Amendment 2005/B, Amendment 2006/A and Amendment 2007/A have been filed with the Pension Commission of Manitoba and the Canada Revenue Agency, and amend and form part of the Existing Plan effective as of the effective dates respectively set out therein. Amendment 2004/A, Amendment 2004/B, Amendment 2005/A, Amendment 2005/B, Amendment 2006/A and Amendment 2007/A are collectively referred to as the "**2004-2007 Plan Amendments**".

L. RBC Dexia has resigned as trustee of the Pension Trust Fund, and by Pension Plan Transition Agreement dated March 25, 2008 (the "**Pension Plan Transition Agreement**") between the University and the Board of Trustees, the University has appointed the Board of Trustees as the successor trustee of the on-going Pension Trust Fund and the Board of Trustees assumed all of the duties and responsibilities as administrator of the Plan, all to be effective as of the Effective Date (as therein defined) and all to be conditional upon and subject to the amendment and restatement of the 1999 Agreement in accordance with the power to amend the terms and conditions of the 1999 Agreement as set out in Article 8.1 thereof.

M. The parties hereto have entered into this Trust Agreement as an amended and restated version of the 1999 Agreement in accordance with the amending power in Article 8.1 of the 1999 Agreement for the purposes of formally constituting the Board of Trustees as the trustees of the Pension Trust Fund, to confirm the trusts upon which the Board of Trustees hold the Pension Trust Fund, and to establish the terms and conditions which shall apply to the business and affairs of the Pension Trust Fund.

N. Attached hereto as **Schedule "J"** is a complete copy of The University of Winnipeg Pension Plan, as amended and restated to December, 1998 and consolidated as at March 25, 2008, including Amendment 2000/1, the 2001 Plan Amendments and the 2004-2007 Plan Amendments (collectively, the "**Existing Plan**"), and also including Amendment 2008/A (a copy of which is attached hereto as **Schedule "I"**) which, was approved as to form and content in advance by the Board of Regents of the University on October 5, 2007 subject to the

occurrence of, and with effect as of and from, the Effective Date (as defined in the Pension Plan Transition Agreement). Amendment 2008/A shall effect such amendments as are required to reflect the change in administrator of the Plan from the University to the Board of Trustees and to change the name of the Plan to the "The University of Winnipeg Trusteed Pension Plan" pursuant to the Pension Plan Transition Agreement (the "**Consequential Plan Amendments**"). The Consequential Plan Amendments are black-lined in the version of the Plan attached as **Schedule "J"** and constitute the only amendments to the Existing Plan implemented as a consequence of the change of Plan administrator from the University to the Board of Trustees and the change in the name of the Plan. For greater certainty, the Existing Plan, as amended by the Consequential Plan Amendments, constitutes the Plan as it reads as of the Effective Date.

NOW THEREFORE THIS AMENDED AND RESTATED TRUST AGREEMENT WITNESSETH THAT the University, UWFA, AESES, IUOE, the Retirement Association and each of the Trustees hereby confirm, declare and agree as follows.

ARTICLE 1.00 - INTERPRETATION

1.01 **Definitions.** In this Trust Agreement, the following words and phrases shall have the following meanings:

- (a) "**Administrative Agent**" has the meaning ascribed thereto in Section 3.08 hereof;
- (b) "**AESES**" means the party of the third part or any successor thereto that represents certain Members and/or Eligible Employees as a certified collective bargaining agent in accordance with *The Labour Relations Act* (Manitoba);
- (c) "**AESES Appointees**" means collectively, and "**AESES Appointee**" means individually any one of, the Trustees appointed by AESES pursuant to Section 2.01(c) hereof;
- (d) "**Affiliated Institutions**" means any institution, corporation or other organization affiliated with the University, some or all of the employees of which are Members;
- (e) "**Appointments and Investigations Committee**" has the meaning ascribed thereto in Section 4.15(d) hereof;
- (f) "**Applicable Laws**" means all laws, rules, statutes, regulations, orders, decisions (including, without limitation, of the Pension Commission of Manitoba), judgments, decrees, treaties or other requirements having the force of law (collectively, the "**Law**") relating or applicable to the Board of Trustees, the Plan, the Pension Trust Fund or any of the Plan Assets comprising the Pension Trust Fund, in effect at a particular time, including *The Pension Benefits Act* (Manitoba), *The Trustee Act* (Manitoba), *The Income Tax Act* (Canada), any regulations or orders pursuant thereto, and also including the common law as it pertains to, among other things, the fiduciary duties of a trustee;

- (g) **"Board of Trustees"** or **"Trustees"** means collectively, and a **"Trustee"** means individually any one of, the parties of the sixth part who, as such, have executed and delivered this Trust Agreement as the Trustees of the Pension Trust Fund, and such Stakeholder-Appointed Trustees and External Trustees, or successors thereto, as may be appointed from time to time subject to and in accordance with the provisions of Article 2.00 of this Trust Agreement;
- (h) **"Collective Agreements"** means the collective agreements from time to time entered into between the University and each of UWFA, AESES, IUOE and any other collective bargaining agent with legal authority to represent any Members;
- (i) **"Conflict Report"** means a report submitted by a Person being considered for appointment or election as a Trustee to the Board of Trustees, and by each of the Trustees on an annual basis, which report shall provide details as to any circumstances which may create an actual or perceived conflict as between the personal interests of the Person and the interests of the Plan, the Pension Trust Fund or the beneficiaries thereof, and shall be in the form approved for use from time to time by the Board of Trustees;
- (j) **"Consequential Plan Amendments"** has the meaning ascribed thereto in Paragraph N of the Preamble, being the only amendments to the Existing Plan effected by the Pension Plan Transition Agreement, which amendments are effected by Amendment 2008/A, a copy of which is attached hereto as **Schedule "I"**, and are black-lined in the consolidated version of the Plan attached hereto as **Schedule "J"**;
- (k) **"Contract of Insurance"** means a contract entered into between the Board of Trustees and a Plan Insurer to provide some of the Plan Benefits;
- (l) **"Defined Benefit Committee"** has the meaning ascribed thereto in Section 4.15(b) hereof;
- (m) **"Defined Benefit Component"** has the meaning ascribed thereto in the Plan;
- (n) **"Defined Benefit Participant"** means a Member that is a participant in the Defined Benefit Component of the Plan, and **"Defined Benefit Participants"** means all such Members;
- (o) **"Defined Contribution Committee"** has the meaning ascribed thereto in Section 4.15(a) hereof;
- (p) **"Defined Contribution Component"** has the meaning ascribed thereto in the Plan;
- (q) **"Defined Contribution Participant"** means a Member that is a participant in the Defined Contribution Component of the Plan, and **"Defined Contribution Participants"** means all such Members;
- (r) **"Effective Date"** has the meaning ascribed thereto in the Pension Plan Transition Agreement;

- (s) **"Eligible Employees"** means collectively, and **"Eligible Employee"** means individually any one of, the employees of the University and of any Affiliated Institutions that are determined by the Board of Trustees to be eligible to participate in the Plan as Members, including, without limitation, Excluded Employees and employees represented by UWFA, IUOE, AESES and any other collective bargaining agent from time to time with legal authority to represent Members and having the authority to negotiate in respect of the Plan; provided however, that the Board of Trustees shall comply with the terms and conditions of the Plan governing eligibility for participation in the Plan to the extent that same are determined by the Collective Agreements, or by the University in the case of Excluded Employees;
- (t) **"Employee Contributions"** means the amounts that Members are required to contribute to the Plan under the Defined Benefit Component and the Defined Contribution Component, all as determined by the terms and conditions of the Plan;
- (u) **"Excluded Employees"** means collectively, and **"Excluded Employee"** means individually any one of, the employees of the University that are, by job classification, excluded from participation in any collective bargaining unit comprised of Eligible Employees of the University and/or of Affiliated Institutions;
- (v) **"Existing Plan"** has the meaning ascribed thereto in Paragraph N of the Preamble, being the Plan as amended and restated to December, 1998 and consolidated as at March 25, 2008, including Amendment 2000/1, the 2001 Plan Amendments and the 2004-2007 Plan Amendments, but prior to incorporation of the Consequential Plan Amendments;
- (w) **"External Trustees"** means collectively, and **"External Trustee"** means individually any one, of the Trustees appointed pursuant to Section 2.02 hereof;
- (x) **"External Trustee Vacancies"** has the meaning ascribed thereto in Section 2.02(d)(ii) hereof;
- (y) **"Extraordinary Resolution"** means a resolution passed by a vote of not less than two-thirds (2/3) of the Trustees present at a meeting of the Board of Trustees duly called and constituted for the purpose of considering the subject matter of the Extraordinary Resolution and eligible to vote on the subject matter of the Extraordinary Resolution, or, in lieu of such meeting, a resolution in writing signed by all of the Trustees then appointed. (In the case of a vote of any committee of the Board of Trustees, an Extraordinary Resolution means a resolution passed by a vote of not less than two-thirds (2/3) of the Trustees that are members of the committee and are present at a meeting of the committee duly called and constituted for the purpose of considering the subject matter of the Extraordinary Resolution and eligible to vote on the subject matter of the Extraordinary Resolution, or, in lieu of such meeting, a resolution in writing signed by all of the Trustees then appointed to the committee);
- (z) **"including"** means "including without limitation", and **"includes"** means "includes without limitation";

- (aa) **"IUOE"** means the party of the fourth part or any successor thereto that represents certain Members and/or Eligible Employees as a certified collective bargaining agent in accordance with *The Labour Relations Act* (Manitoba);
- (bb) **"IUOE Appointee"** means the Trustee appointed by IUOE pursuant to Section 2.01(d) hereof;
- (cc) **"Members"** means collectively, and **"Member"** means individually any one of, the Eligible Employees that have joined the Plan and includes any Persons who, as Eligible Employees, joined the Plan and are no longer employed by the University or by an Affiliated Institution but remain entitled to any benefit under the Plan;
- (dd) **"Notice"** has the meaning ascribed thereto in Section 8.01 hereof;
- (ee) **"Offending Trustee"** has the meaning ascribed thereto in Section 2.10 hereof;
- (ff) **"Operations, Governance and Audit Committee"** has the meaning ascribed thereto in Section 4.15(c) hereof;
- (gg) **"Ordinary Resolution"** means a resolution passed by a vote of more than fifty (50%) percent of the Trustees present at a meeting of the Board of Trustees duly called and constituted for the purpose of considering the subject matter of the Ordinary Resolution and eligible to vote on the subject matter of the Ordinary Resolution, or, in lieu of such meeting, a resolution in writing signed by all of the Trustees then appointed. (In the case of a vote of any committee of the Board of Trustees, an Ordinary Resolution means a resolution passed by a vote of more than fifty (50%) percent of the Trustees that are members of the committee and are present at a meeting of the committee duly called and constituted for the purpose of considering the subject matter of the Ordinary Resolution and eligible to vote on the subject matter of the Ordinary Resolution, or, in lieu of such meeting, a resolution in writing signed by all of the Trustees then appointed to the committee);
- (hh) **"Original Trust Agreement"** and **"Original Trustees"** have the respective meanings ascribed thereto in Paragraph B of the Preamble;
- (ii) **"Party"** means a party to this Trust Agreement and any reference to a Party includes its executors, administrators, successors and permitted assigns; and **"Parties"** means every Party;
- (jj) **"Pension Plan Transition Agreement"** has the meaning ascribed thereto in Paragraph L of the Preamble;
- (kk) **"Pension Trust Fund"** has the meaning ascribed thereto in Paragraph B of the Preamble;
- (ll) **"Pensioner"** means a Person receiving a pension from the Plan, being a Member who has retired from the University or the surviving Spouse of such a Member who has since died or a beneficiary who is receiving continuing payments in accordance with Paragraph 9.8 of the Plan;

- (mm) **"Person"** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (nn) **"Plan"** has the meaning ascribed thereto in Paragraph A of the Preamble, and a copy of the Plan, current to the date hereof, is attached hereto as **Schedule "J"**, being the Existing Plan as amended by the Consequential Plan Amendments;
- (oo) **"Plan Actuary"** means the Fellow of the Canadian Institute of Actuaries who provides actuarial services to the Plan appointed from time to time by the Board of Trustees in accordance with Section 5.03 hereof;
- (pp) **"Plan Assets"** has the meaning ascribed thereto in Section 3.06 hereof;
- (qq) **"Plan Benefits"** means the pension benefits provided to Pensioners or other beneficiaries under the Plan, and to which Members or other beneficiaries thereunder may become entitled having regard for the terms and conditions of the Plan, as determined by the Board of Trustees;
- (rr) **"Plan Custodian"** means RBC Dexia or such other custodian as may be appointed by the Board of Trustees from time to time in accordance with Section 6.01(w) hereof;
- (ss) **"Plan Insurer"** means an insurance company licensed to carry on business in Manitoba from whom the Board of Trustees has purchased an insurance policy to provide some of the Plan Benefits;
- (tt) **"Plan Services Agreement"** has the meaning ascribed thereto in Section 3.08 hereof;
- (uu) **"Quorum"** has the meaning ascribed thereto in Section 4.07(d) hereof;
- (vv) **"Retirement Association Appointees"** means collectively, and **"Retirement Association Appointee"** means individually any one of, the Trustees appointed by the Retirement Association pursuant to Section 2.01(e) hereof;
- (ww) **"Retirement Association"** means the party of the fifth part or any successor thereto;
- (xx) **"RBC Dexia"** means RBC Dexia Investor Services Trust (formerly known as Royal Trust Corporation of Canada) or any successor thereto;
- (yy) **"Spouse"** has the meaning ascribed thereto in the Plan;
- (zz) **"Stakeholders"** means collectively, and **"Stakeholder"** means individually any one of, the University, UWFA, IUOE, AESSES and the Retirement Association and any other organization as may be determined to be a Stakeholder of the Plan, all in accordance with Section 3.11 hereof;

- (aaa) **"Stakeholder-Appointed Trustees"** means collectively, and **"Stakeholder-Appointed Trustee"** means individually any one of, the Trustees appointed pursuant to Sections 2.01(a), (b), (c), (d) and (e) of this Trust Agreement;
- (bbb) **"Trust Agreement"** means this amended and restated trust agreement, being the 1999 Agreement, as amended and restated by the Pension Plan Transition Agreement;
- (ccc) **"University"** means the party of the first part or any successor thereto;
- (ddd) **"University Appointees"** means collectively, and **"University Appointee"** means individually any one of, the Trustees appointed by the University pursuant to Section 2.01(a) hereof;
- (eee) **"University Contributions"** means the amounts that the University is, under the Defined Benefit Component and the Defined Contribution Component, required to contribute to the Plan, all as determined by the terms and conditions of the Plan, and including any Additional Contributions (as defined in the Plan) that the Board of Trustees, in consultation with the Plan Actuary, determines are required to fund any unfunded liability or solvency deficiency under the Defined Benefit Component of the Plan;
- (fff) **"UWFA"** means the party of the second part or any successor thereto that represents certain Members and/or Eligible Employees as a certified collective bargaining agent in accordance with *The Labour Relations Act* (Manitoba);
- (ggg) **"UWFA Appointees"** means collectively, and **"UWFA Appointee"** means individually any one of, the Trustees appointed by UWFA pursuant to Section 2.01(b) hereof;
- (hhh) **"1999 Agreement"** has the meaning ascribed thereto in Paragraph E of the Preamble;
- (iii) **"2001 Issue Points"** has the meaning ascribed thereto in Paragraph G of the preamble;
- (jjj) **"2001 Plan Amendments"** has the meaning ascribed thereto in Paragraph H of the preamble, and a copy of the text of which is attached hereto as **Schedule "A"**;
- (kkk) **"2004-2007 Plan Amendments"** has the meaning ascribed thereto in Paragraph K of the preamble, and which are comprised of the amendments effected by Amendment 2004/A, Amendment 2004/B, Amendment 2005/A, Amendment 2005/B, Amendment 2006/A and Amendment 2007/A, copies of which are attached as **Schedules "C", "D", "E", "F", "G" and "H"** respectively; and
- (lll) **"2004 Settlement Agreement"** has the meaning ascribed thereto in Paragraph J of the preamble, and a copy of which is attached hereto as **Schedule "B"**.

1.02 **Definitions in the Plan.** Any capitalized term that is not otherwise defined herein shall have the meaning ascribed thereto in the Plan.

1.03 **Gender and Number.** Where the context requires, words importing the plural include the singular and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, trusts, partnerships and unincorporated organizations.

1.04 **Headings.** The headings of articles or sections in this Trust Agreement are included for convenience of reference only and are not to be considered in the construction of the provisions hereof.

1.05 **Agreement References.** The words "hereto", "hereof", "herein", "hereby", "hereunder" and similar expressions refer to this Trust Agreement and not to any particular article, section or subsection or other portions hereof and include amendments hereto.

1.06 **Recitals.** The parties agree that the recitals herein shall form a part of this Trust Agreement in order to provide the historical context in which this Trust Agreement is being entered into.

1.07 **Resolving Conflicts between this Trust Agreement and the Plan.** In the event of any conflict between the terms of this Trust Agreement and the text of the Plan regarding the determination of the eligibility requirements to become an Eligible Employee, eligibility of Members for Plan Benefits, Employee Contributions, University Contributions and Plan Benefits offered under the Plan, the text of the Plan shall govern. In the event of any other conflict between the terms of this Trust Agreement and the text of the Plan, this Trust Agreement shall govern to the extent of the inconsistency. Nothing in the recitals hereof shall be deemed to amend or vary the Plan. It shall be the responsibility of the Board of Trustees to interpret, in its sole discretion, the terms and conditions of the Plan. Where the text of the Plan and the Trust Agreement do not explicitly address an issue to be determined or resolved, the Board of Trustees, as the administrator of the Plan, shall determine and resolve the issue in accordance with the intent of the Plan subject always to the fiduciary duties of the Trustees under this Trust Agreement and at Law, and having regard for the duties of the Board of Trustees as the administrator of the Plan.

ARTICLE 2.00 – APPOINTMENT / ELECTION OF TRUSTEES

2.01 **Number of Trustees and Manner of Appointment.** The Board of Trustees shall be comprised of fifteen (15) Trustees provided that the Board of Trustees may operate notwithstanding any vacancies on the Board of Trustees subject always to Quorum requirements, which Trustees shall be appointed from time to time in accordance with the following provisions of this Section 2.01:

- (a) Four (4) of the Trustees will be appointed by the University (individually, a "University Appointee" and collectively, the "University Appointees"), at least one (1) of which shall at all times be a representative of the Excluded Employees, and for the purposes of this appointment, the University agrees to cause to be appointed the individual that is selected from time to time by the Excluded Employees for this purpose. In the event that the Excluded Employees fail or refuse to select a representative for appointment to the Board of Trustees

from time to time, the University may proceed, at its sole discretion, to appoint an individual to the Board of Trustees on behalf of the Excluded Employees. As of the date hereof, the University's Appointees are LAUREL REPSKI, VALERIE GILROY, BILL BALAN and MARY ANNE WALLS. The University shall have the right at any time to remove any University Appointee from the Board of Trustees by giving notice in writing to the Board of Trustees and the University Appointee being removed. A University Appointee may resign by giving notice in writing to the University and to the Board of Trustees. The University shall forthwith appoint a new University Appointee to replace the University Appointee who has been removed or who has died or resigned, and shall notify the Board of Trustees of the new University Appointee.

- (b) Three (3) of the Trustees will be appointed by UWFA (individually, a "**UWFA Appointee**" and collectively, the "**UWFA Appointees**"), at least one (1) of which shall at all times be selected by the Collegiate Division of the UWFA. In the event that the Collegiate Division of the UWFA fails or refuses to select a representative for appointment to the Board of Trustees from time to time, the UWFA may proceed, at its sole discretion, to appoint an individual to the Board of Trustees on behalf of the Collegiate Division. As of the date hereof, the UWFA Appointees are JIM CLARK, WENDY JOSEPHSON and KAREN ZOPPA. UWFA shall have the right at any time to remove any UWFA Appointee from the Board of Trustees by giving notice in writing to the Board of Trustees and the UWFA Appointee being removed. A UWFA Appointee may resign by giving notice in writing to the UWFA and the Board of Trustees. UWFA shall forthwith appoint a new UWFA Appointee to replace the UWFA Appointee who has been removed or who has died or resigned, and shall notify the Board of Trustees of the new UWFA Appointee.
- (c) Two (2) of the Trustees will be appointed by AESES (individually, an "**AESES Appointee**" and collectively, the "**AESES Appointees**"). As of the date hereof, the AESES Appointees are BARRY BARSKE and GREG GILLIS. AESES shall have the right at any time to remove any AESES Appointee from the Board of Trustees by giving notice in writing to the Board of Trustees and the AESES Appointee. An AESES Appointee may resign by giving notice in writing to AESES and the Board of Trustees. AESES shall forthwith appoint a new AESES Appointee to replace the AESES Appointee who has been removed or who has died or resigned, and shall notify the Board of Trustees of the new AESES Appointee.
- (d) One (1) of the Trustees will be appointed by IUOE (the "**IUOE Appointee**"). As of the date hereof, the IUOE Appointee is DAVID TORZ. IUOE shall have the right at any time to remove the IUOE Appointee from the Board of Trustees by giving notice in writing to the Board of Trustees and the IUOE Appointee. The IUOE Appointee may resign by giving notice in writing to the IUOE and the Board of Trustees. IUOE shall forthwith appoint a new IUOE Appointee to replace the IUOE Appointee who has been removed or who has died or resigned, and shall notify the Board of Trustees of the new IUOE Appointee.
- (e) Two (2) of the Trustees will be appointed by the Retirement Association (individually, a "**Retirement Association Appointee**" and collectively, the "**Retirement Association Appointees**"). As of the date hereof, the Retirement

Association Appointees are BRENT STEARNS and MAURICE MEARON. The Retirement Association shall have the right at any time to remove a Retirement Association Appointee from the Board of Trustees by giving notice in writing to the Board of Trustees and the Retirement Association Appointee. A Retirement Association Appointee may resign by giving notice in writing to the Retirement Association and the Board of Trustees. The Retirement Association shall forthwith appoint a new Retirement Association Appointee to replace a Retirement Association Appointee who has been removed or who has died or resigned, and shall notify the Board of Trustees of the new Retirement Association Appointee.

(The University Appointees, the UWFA Appointees, the AESES Appointees, the IUOE Appointee and the Retirement Association Appointees are sometimes referred to collectively herein as the "**Stakeholder-Appointed Trustees**".)

- (f) Three (3) of the Trustees will be elected by the Stakeholder-Appointed Trustees as external trustees (individually, an "**External Trustee**" and collectively the "**External Trustees**"). The election, removal and replacement of the External Trustees shall be in accordance with Section 2.02 hereof.

2.02 **Election, Removal and Replacement of External Trustees.** The following provisions shall govern the election, removal and replacement of External Trustees:

- (a) The Stakeholder-Appointed Trustees shall elect the first slate of External Trustees to the Board of Trustees at the first meeting of the Board of Trustees or as soon thereafter as is reasonably practical.
- (b) An External Trustee may resign by giving notice in writing to the Board of Trustees.
- (c) The Stakeholder-Appointed Trustees may remove an External Trustee at any time by Extraordinary Resolution passed by the Stakeholder-Appointed Trustees.
- (d) When an External Trustee has been removed, has died or resigned or his or her term as an External Trustee has expired and either he or she does not wish to stand for re-election or the Stakeholder-Appointed Trustees do not wish to renew his or her term, or there is otherwise a vacancy on the Board of Trustees for an External Trustee, the Stakeholder-Appointed Trustees shall proceed expeditiously to replace him or her in accordance with the following provisions:
 - (i) The following Persons shall not be eligible for election as an External Trustee:
 - (A) a Regent of the University;
 - (B) an employee or officer (whether unionized or non-unionized) of the University, UWFA, AESES or IUOE;
 - (C) any former Regent of the University or any former employee or officer (whether unionized or non-unionized) of the University, UWFA, AESES or IUOE, unless he or she has not served in any

such capacity at any time in the three (3) years immediately preceding his or her election as an External Trustee;

- (D) a Pensioner or other beneficiary of the Plan or an employee, volunteer or representative of the Retirement Association;
- (E) a spouse or beneficiary of any Person that falls within (A), (B), (C) or (D); or
- (F) any Person that is in a business or other relationship with any one or more of the University, UWFA, AESES, IUOE, the Retirement Association or the Board of Trustees, such that his or her relationship with such party or parties could, or could be reasonably perceived to, materially interfere with the ability of such Person to act solely with a view to the best interests of the Plan and the Pension Trust Fund created therefor; provided however, that a Person shall not be disqualified from becoming an External Trustee merely by virtue of having attended the University as a student in the past provided that he or she is not otherwise disqualified by paragraph (A), (B), (C), (D) or (E) above;

unless, by unanimous vote of the Trustees then on the Board of Trustees, the Board of Trustees approves the election of any such Person notwithstanding that he or she may be deemed to be otherwise ineligible for election pursuant to the provisions of this sub-paragraph 2.02(d)(i).

- (ii) Each of the Stakeholder-Appointed Trustees has the right to nominate one or more qualified Persons to be candidates for vacancy or vacancies in the position of External Trustee ("**External Trustee Vacancies**"). The Appointments and Investigations Committee shall establish the date by which all such nominations are to be submitted, and the Stakeholder-Appointed Trustees shall submit their nominations to the Appointments and Investigations Committee, together with particulars as to the background and experience of their nominee or nominees.
- (iii) A meeting of the Board of Trustees shall then be called by the Chair of the Board of Trustees, at which meeting the Stakeholder-Appointed Trustees shall elect that number of External Trustees as there are External Trustee Vacancies. The Appointments and Investigations Committee shall present the slate of nominees to the Board of Trustees, together with background information concerning each of the nominees. Any External Trustee or External Trustees already appointed to the Board of Trustees shall be invited to attend such meeting, and shall also have the opportunity to state their views and opinions concerning the nominees, but shall not have a vote on the election of the new External Trustee or External Trustees.

2.03 **Determination of Election Rules and Procedures.** Subject to compliance with the provisions of this Article 2, the Board of Trustees shall, on the recommendations of the Operations, Governance and Audit Committee in accordance with Section 4.06 hereof, establish

from time to time the specific rules and procedures for the election of External Trustees to the Board of Trustees.

2.04 **Confidential Process.** The Trustees shall keep in strict confidence all deliberations of the Appointments and Investigations Committee and of the full Board of Trustees with respect to the nomination and election of all nominees to the Board of Trustees, except to the extent that they are compelled to disclose any such information under Applicable Laws.

2.05 **Consent and Undertaking of Trustees.** By executing this Trust Agreement, each of LAUREL REPSKI, VALERIE GILROY, BILL BALAN, MARY ANNE WALLS, JIM CLARK, WENDY JOSEPHSON, KAREN ZOPPA, BARRY BARSKE, GREG GILLIS, DAVID TORZ, BRENT STEARNS and MAURICE MEARON consent to act as a Trustee of the Pension Trust Fund and undertake to carry out his or her duties as a Trustee in accordance with the terms and conditions of this Trust Agreement, the Plan and the Applicable Laws of Manitoba and Canada governing trustees. Any new Trustee appointed or elected to the Board of Trustees pursuant to the provisions of this Article 2.00 (whether as a Stakeholder-Appointed Trustee or an External Trustee) shall, as a condition of appointment, consent to act as a Trustee of the Plan and Pension Trust Fund and shall undertake to carry out his or her duties as a Trustee in accordance with the terms and conditions of this Trust Agreement, the Plan and the Applicable Laws of Manitoba and Canada governing trustees, and shall confirm such consent and undertaking by executing the form of Consent and Undertaking attached hereto as **Schedule "K"**. Any successor Trustee appointed pursuant to the provisions of this Article 2.00 shall, upon signing the Consent and Undertaking, become vested with all the rights, powers and duties of the other Trustees under this Trust Agreement, with the like effect as if he or she had been originally named a Trustee. However, for greater certainty, all Trustees appointed from time to time shall remain subject to and bound by the terms of this Trust Agreement and the Plan, as amended from time to time, and shall comply with the Applicable Laws of Manitoba and Canada governing trustees, whether or not the said form of Consent and Undertaking is so executed and delivered to the Board of Trustees.

2.06 **Bonding Requirement.** Any Trustee that has access to Plan Assets shall be bonded by a surety company approved by the Board of Trustees in such manner and for such sum as the Board of Trustees shall from time to time determine. The cost of the premiums for all such bonds shall be paid out of the Pension Trust Fund.

2.07 **Additional Provisions re: Appointment / Election of Trustees.** Until changed by Extraordinary Resolution passed by the Board of Trustees, the following additional provisions shall govern the appointment or election, as applicable, of Trustees:

- (a) A Trustee shall be appointed or elected, as applicable, to hold office for a one, two or three-year term, as designated at the time of appointment by, in the case of a Stakeholder-Appointed Trustee, the Stakeholder appointing the Stakeholder-Appointed Trustee, and in the case of an External Trustee, the Stakeholder-Appointed Trustees by Extraordinary Resolution.
- (b) A Trustee may be re-appointed or re-elected for an unlimited number of terms of office and may continue to serve until his or her death, incapacity, resignation or removal as herein set out; provided however, that after a Trustee has served for a period of six (6) years in a row on the Board of Trustees, he or she shall be required to resign from the Board of Trustees for at least a one-year period

before he or she is eligible for re-appointment or re-election to the Board of Trustees. Any University Appointee that is appointed by the University to the Board of Trustees *ex officio* (that is, as a function of his or her office or employment position with the University) shall be exempt from the requirement to resign from the Board of Trustees after serving for six (6) years in a row for so long as he or she continues to hold the office or employment position by virtue or which he or she is serving *ex officio* as a University Appointee.

- (c) The following Persons are disqualified from being a Trustee:
- (i) A Person that is less than 18 years of age;
 - (ii) A Person who is of unsound mind and has been so found by a court in Canada or elsewhere;
 - (iii) A Person who is not bondable;
 - (iv) A Person who is not an individual (unless the Board of Trustees, by Extraordinary Resolution, determines that it is in the best interests of the Plan and the Pension Trust Fund to appoint a corporate trustee to assist in the administration of the Plan and the Pension Trust Fund. Nothing herein shall prohibit the Board of Trustees from appointing a custodian to hold and manage the Plan Assets of the Pension Trust Fund on behalf of the Board of Trustees); or
 - (v) A Person who has the status of a bankrupt.

2.08 **Initial and Annual Submission of Conflict Report.** The election or appointment of any new Trustee to the Board of Trustees shall be subject to the submission by the proposed Trustee of a satisfactory Conflict Report to the Appointments and Investigations Committee. On an annual basis, every Trustee shall submit to the Appointments and Investigations Committee, a completed Conflict Report. Where the Appointments and Investigations Committee is of the opinion that an actual or proposed Trustee is in a conflict with the Pension Trust Fund, the matter shall be referred to the Board of Trustees for a determination as to whether or not such Person can act or continue to act as a Trustee of the Pension Trust Fund. This Trust Agreement expressly contemplates the appointment of Stakeholder-Appointed Trustees by the Stakeholders of the Plan. Accordingly, a Stakeholder-Appointed Trustee shall not be deemed to be in a conflict of interest with the Plan or the Pension Trust Fund merely by virtue of the fact that he or she was appointed by a particular Stakeholder of the Plan, nor by virtue of his or her status as an employee or representative of any Stakeholder, or as a Member, Eligible Employee or Pensioner. It is further understood and agreed that the University Appointees shall not be deemed to be in a conflict of interest with the Plan or the Pension Trust Fund merely by virtue of the University's status as a sponsor of the Plan, nor by virtue of the University's provision of services to the Plan pursuant to any Plan Services Agreement which may be negotiated from time to time with the University.

2.09 **Incapacity or Resignation of a Trustee.** The following provisions shall govern the incapacity or resignation of a Trustee:

- (a) In the event of the incapacity or resignation of a Trustee, such Trustee shall be fully discharged from all future duties and responsibilities in respect of the Trust

Agreement upon notice in writing being sent by him or her, or on his or her behalf, to the Board of Trustees and, in the case of a Stakeholder-Appointed Trustee, to the Stakeholder that appointed him or her.

- (b) The notice given under paragraph (a) shall state the date of such resignation or incapacity and shall be effective as of the later of that date and the date on which the notice is received by the Board of Trustees.
- (c) In the event of the death or removal of a Trustee, the Trustee, his or her heirs, administrators, executors and assigns shall be fully discharged from all future duties and responsibilities in respect of the Trust Agreement as of the date of the Trustee's death or removal.

2.10 Expulsion of an Offending Trustee. In the event that the Appointments and Investigations Committee determines by Ordinary Resolution, with at least one (1) External Trustee voting in favour of the Ordinary Resolution, that a Stakeholder-Appointed Trustee has failed to meet the duty or standard of care required of a Trustee under this Trust Agreement and under Applicable Laws (the "**Offending Trustee**"), the Appointments and Investigations Committee shall refer the matter to the Board of Trustees for appropriate disposition. Whether pursuant to a matter referred to it by the Appointments and Investigations Committee or on its own motion (moved by any one or more Trustees), the Board of Trustees may, by Extraordinary Resolution passed by the Board of Trustees (with at least one External Trustee voting in favour of the Extraordinary Resolution), require the removal of the Offending Trustee from the Board of Trustees; provided however, that before any such Extraordinary Resolution can be voted upon, the Offending Trustee must be given the opportunity to be heard at a duly constituted meeting of the Board of Trustees, convened on not less than seven (7) days' notice to the Offending Trustee (which notice shall indicate that an Extraordinary Resolution to remove the Offending Trustee will be considered at such meeting). For greater certainty: (i) if such notice is provided and the Offending Trustee does not attend the meeting of the Board of Trustees, the Board of Trustees may proceed to consider and vote upon the Extraordinary Resolution without further notice to the Offending Trustee; and (ii) the vote upon the Extraordinary Resolution to remove the Offending Trustee can be taken at the same meeting at which the Offending Trustee has been given the opportunity to be heard or at any duly constituted meeting thereafter. The Board of Trustees shall notify the Stakeholder that appointed the Offending Trustee of the requirement to remove him or her in writing, together with reasonable particulars of the offending acts or omissions of the Offending Trustee. The Stakeholder so notified shall remove the Offending Trustee in accordance with the requirement, and shall appoint a replacement Trustee to the Board of Trustees, within fifteen (15) days of receipt of such written notice. In the event that the Stakeholder that appointed the Offending Trustee does not remove such Trustee within fifteen (15) days of the receipt of such request, the Board of Trustees may make application to the Manitoba Court of Queen's Bench to effect such removal. An Offending Trustee shall not be eligible for re-appointment or re-election to the Board of Trustees for a period of at least three (3) years from the date of his or her removal from the Board of Trustees.

2.11 Return of Books, Records and Pension Trust Fund Property. Any Trustee resigning, becoming incapacitated or being removed and the personal representatives of any deceased Trustee, shall forthwith turn over to his or her successor Trustee or, if no successor is immediately appointed, to the Chair of the Board of Trustees, any and all records, books, documents, money and other property and Plan Assets in his or her possession, forming part of the Pension Trust Fund or incidental to his or her duties as a Trustee under this Trust Agreement relating to the administration of the Pension Trust Fund and Plan; provided however,

that the said Trustee shall be entitled to retain his or her copies of the minutes of meetings of the Board of Trustees or any committee thereof, and related notes and materials, subject always to the requirement that he or she maintain the strict confidentiality of all such materials and the information contained therein.

2.12 **Stakeholder Acknowledgment of Trustees' Duty of Utmost Good Faith.** All of the Stakeholders acknowledge that the Trustees, whether External Trustees or Stakeholder-Appointed Trustees, owe a duty of utmost good faith to the beneficiaries of the Pension Trust Fund, and accordingly, agree not to exert any undue influence upon the Trustees in the conduct of the business and affairs of the Plan and the Pension Trust Fund. Without limiting the generality of the foregoing, the actual or threatened use of the right of a Stakeholder to remove one of its Stakeholder-Appointed Trustees pursuant to Section 2.01 hereof in order to so influence a Stakeholder-Appointed Trustee is expressly prohibited.

2.13 **Removal of a Trustee.** In the event a Trustee is removed, becomes incapacitated, resigns as a Trustee or is not re-appointed as provided for by this Trust Agreement, and in particular sections 2.01, 2.07 or 2.10 hereof, but does not cease to act as a Trustee or continues to hold himself/herself out as a Trustee, then any of the remaining Trustees may make application to the Manitoba Court of Queen's Bench for such relief as may be appropriate in the circumstances.

ARTICLE 3.00 – CONFIRMATION OF THE TRUST AND PURPOSE OF THE PENSION TRUST FUND

3.01 **Confirmation of the Trust and Purpose of the Pension Trust Fund.** The Parties hereby confirm and declare that, pursuant to the Pension Plan Transition Agreement and effective on the Effective Date, RBC Dexia shall have transferred legal title to the Plan Assets comprising the Pension Trust Fund to the Board of Trustees, as successor trustee of the Pension Trust Fund, and the Board of Trustees hereby confirms its agreement to receive and hold legal title to all such Plan Assets and any other property of the Pension Trust Fund received after the Effective Date hereof, in trust for the purposes of providing the Plan Benefits in accordance with the terms and conditions of the Plan and this Trust Agreement.

3.02 **No Change to Plan Benefits.** The Plan Benefits, eligibility requirements and contribution requirements constituted under the Existing Plan are continued under the Plan, with the Board of Trustees as administrator thereof, and no amendments or changes to the Plan are effected hereby with the sole exception of the Consequential Plan Amendments necessitated by the change in the administrator of the Plan from the University to the Board of Trustees under the Pension Plan Transition Agreement.

3.03 **No Interest in the Pension Trust Fund.** Effective as of the Effective Date, the trust relationship created under the Original Trust Agreement and continued by the 1999 Agreement shall be superceded and replaced by the trust relationship created by this amended and restated Trust Agreement in respect of the Pension Trust Fund, and legal title to the property of the Pension Trust Fund shall be vested in and remain exclusively that of the Board of Trustees. It is acknowledged by the Parties that all Plan Assets are received with the impression of trust, forming part of the Pension Trust Fund, and none of the Trustees in their personal capacities, the University, UWFA, AESES, IUOE nor the Retirement Association have any right, title or interest in the Plan Assets comprising the Pension Trust Fund, except as determined by the Board of Trustees, in their absolute discretion, in the administration of the

Plan; provided however, that nothing in this Trust Agreement, the Pension Plan Transition Agreement or in the text of the Plan shall prevent a contribution by the University or by any Member under mistake of fact or law, together with any income earned thereon, from being returned to the contributor within one (1) year after the payment of such contribution or from being credited by the Board of Trustees against other obligations of the contributor to the Pension Trust Fund.

3.04 **Takes Effect as Amendments.** The adoption of this Trust Agreement and of the Plan attached hereto as **Schedule "J"** in place of the 1999 Agreement and the Existing Plan is, and shall for the purposes of *The Pension Benefits Act* (Manitoba), the *Income Tax Act* (Canada) and all other Applicable Laws, be deemed to be, an amendment and restatement of such documents, and the Board of Trustees shall make application to register this Trust Agreement and the Plan under *The Pension Benefits Act* and the *Income Tax Act* (Canada) on that basis. For greater certainty, it is further acknowledged and agreed that the Board of Trustees are successor trustees to RBC Dexia of the on-going Pension Trust Fund that holds legal title to the Plan Assets for the purposes of providing the Plan Benefits in accordance with the terms and conditions of the Plan and this Trust Agreement.

3.05 **Plan Assets Not Subject to Alienation, etc.** It is the intention of the parties hereto that no Plan Assets shall be subject in any manner to anticipation, alienation, assignment, attachment, charge, garnishment, encumbrance, pledge, sale or transfer, and any attempt to the contrary shall be void except insofar as may be necessary to implement the terms of the Plan or Trust Agreement.

3.06 **Plan Assets.** The property of the Pension Trust Fund held by the Board of Trustees subject hereto shall consist of:

- (a) the cash, shares, bonds, securities, investments and other property received by the Board of Trustees, as successor trustee of the Pension Trust Fund, from RBC Dexia pursuant to the Pension Plan Transition Agreement;
- (b) any and all Contracts of Insurance entered into by the Board of Trustees with Plan Insurers from time to time;
- (c) the University Contributions and Employee Contributions;
- (d) any amounts received by the Board of Trustees from any Plan Insurers for the payment of Plan Benefits;
- (e) any refunds or rebates or other benefits returned to the Board of Trustees by Plan Insurers, if any;
- (f) any other amounts received by the Board of Trustees from time to time in connection with the Plan or the Pension Trust Fund, whether received from the University, a Member, a Plan Insurer or a third party; and
- (g) all earnings, profits or increments derived from the foregoing property of the Pension Trust Fund through investment or otherwise, and all assets from time to time substituted therefor;

(collectively, the "**Plan Assets**").

All Plan Assets received and held by the Board of Trustees from time to time are received and held by the Board of Trustees with an impression of trust, and shall be dealt with as trust property in accordance with the terms and conditions of this Trust Agreement, the Plan and all Applicable Laws.

3.07 **Contributions to the Plan.** All University Contributions, Employee Contributions and other payments to the Pension Trust Fund shall be payable to the Board of Trustees, or as the Board of Trustees may otherwise direct or permit from time to time.

3.08 **Plan Administration.** The Board of Trustees may appoint one or more administrative agents or services managers (an "**Administrative Agent**") to act as an agent for and on behalf of the Board of Trustees to provide administrative services, the nature and extent of which may be determined by the Board of Trustees from time to time. The Board of Trustees may enter into a services agreement (the "**Plan Services Agreement**") with any such Person acting as an Administrative Agent. Notwithstanding the administrative services to be provided by any such Administrative Agent, it is acknowledged and agreed by all Parties that as of and from the Effective Date of this Trust Agreement, the administrator of the Plan and the Pension Trust Fund within the meaning of *The Pension Benefits Act (Manitoba)* is the Board of Trustees, and the services of an Administrative Agent under any services or administration agreement are solely that of an administrative agent or services manager. Nothing herein shall derogate from the University's obligations as employer to make the University Contributions as and when due under the Plan, including any Additional Contributions (as defined in the Plan).

3.09 **Plan Assets not to be Commingled or Diverted.** The Plan Assets shall not be commingled with any personal property of the Board of Trustees. The Plan Assets shall not be used or diverted to purposes other than those set forth in the Plan or in this Trust Agreement.

3.10 **Stakeholders not Liable for Plan Debts.** None of the University, UWFA, AESES, IUOE or the Retirement Association shall be liable or responsible for any debts, liabilities, obligations or deficiencies of the Plan or the Pension Trust Fund, except as expressly provided in this Trust Agreement and except, in the case of the University, for any University Contributions or Additional Contributions required to be made by the University under the Plan. None of the University, UWFA, AESES, IUOE or the Retirement Association shall be liable in respect of any act of omission of a Stakeholder-Appointed Trustee appointed by such Stakeholder solely by reason of such Stakeholder-Appointed Trustee being an officer, employee, representative or Regent of such Stakeholder, as the case may be.

3.11 **Ceasing to be a Stakeholder and Adding a New Stakeholder.**

- (a) It is acknowledged by the Parties that the intent of the Plan and the Pension Trust Fund is to provide the Plan Benefits to Members, Pensioners and other beneficiaries designated in accordance with the terms of the Plan, and it is further acknowledged that each of IUOE, AESES and UWFA currently represent the interests of certain Members and the Retirement Association currently represents the interests of Pensioners. In the event that any Party (other than the University and the Retirement Association) is no longer a collective bargaining agent with legal authority to represent any Members, then it is agreed that such Party shall cease to be a Stakeholder of the Plan.

- (b) In the case of the Retirement Association, it is agreed that in the event that the Board of Trustees determines, in its sole discretion, that the Retirement Association has ceased to represent in a material way the interests of Pensioners, then it is agreed that the Board of Trustees may, by Extraordinary Resolution cause the Retirement Association to cease to be a Stakeholder of the Plan, in which event the Retirement Association Appointees shall thereafter be nominated by the Appointments and Investigation Committee from amongst Pensioners and elected by the Board of Trustees when vacancies on the Board of Trustees are to be filled with Retirement Association Appointees.
- (c) In the event that a new Person formally represents Members or Pensioners, the Board of Trustees may agree, by Extraordinary Resolution, that such Person ought to be invited to be a Stakeholder hereunder subject to such terms and conditions as may be determined by the Board of Trustees and approved as part of the Extraordinary Resolution. Any such Person's participation as a Stakeholder hereunder shall be conditional upon that Person's agreement in writing to be bound by the terms and conditions of this Trust Agreement, subject only to such amendments to this Trust Agreement as may be agreed to by the Board of Trustees by Extraordinary Resolution and approved in writing by at least eighty percent (80%) of the other Stakeholders. Without limiting the generality of the foregoing, any change to the number of Trustees on the Board of Trustees and any right conveyed upon a new Stakeholder to appoint one or more Stakeholder-Appointed Trustees to the Board of Trustees, shall require approval by Extraordinary Resolution of the Board of Trustees and approval in writing by at least eighty percent (80%) of the other Stakeholders.
- (d) Notwithstanding the provisions of Sections 3.11(a), 3.11(b) and 3.11(c) hereof, if any Person is a successor, by operation of law, of a previously existing Stakeholder, such Person shall automatically become a Stakeholder hereunder with the same rights, duties and obligations of its predecessor. In the event that a Person is not a successor by operation of law of a previously existing Stakeholder but comes to represent substantially the same Members as the former Stakeholder of the Plan (or, specifically, Pensioners in the case of the Retirement Association as presently constituted), the Board of Trustees may, by Extraordinary Resolution, deem such Person to be a successor by operation of law of the former Stakeholder for the purposes of this provision such that the Person shall succeed to the same rights, duties and obligations as the former Stakeholder subject only to such Person's agreement in writing to be bound by the terms and conditions of this Trust Agreement.

ARTICLE 4.00 – OPERATION OF THE BOARD OF TRUSTEES, COMMITTEES AND RELATED MATTERS

4.01 **Standard of Care.** The Trustees shall exercise the care, diligence and skill in the administration of the Plan and in the administration and investment of the Pension Trust Fund that an individual of ordinary prudence would exercise in dealing with the property of another Person; provided that the Trustees shall use all relevant knowledge and skill which they possess or, by reason of their profession or business experience, ought to possess.

4.02 **Chair and Vice-Chair.** The Board of Trustees shall elect a Chair of the Board of Trustees from amongst the Trustees on an annual basis, which Chair shall be elected by Ordinary Resolution of the Board of Trustees. The Chair so elected shall preside at all meetings of the Board of Trustees at which he or she is present. The Chair shall also carry out such other duties as may be assigned to him or her by the Board of Trustees. In case of an equality of votes at any meeting of the Board of Trustees, the Chair shall not be entitled to a second or casting vote. The Board of Trustees shall also elect a Vice-Chair from amongst the Trustees on an annual basis for the purposes of fulfilling the duties of the Chair during the absence or disability of the Chair.

4.03 **Secretary.** The Board of Trustees shall elect a Secretary from amongst the Trustees on an annual basis, which Secretary shall be elected by Ordinary Resolution of the Board of Trustees. The Secretary so elected shall attend and be the secretary of all meetings of the Board of Trustees and shall enter or cause to be entered in records kept for that purpose minutes of all proceedings thereat; he or she shall give or cause to be given, as and when instructed, all notices to the Trustees and the members of any committees of the Board of Trustees; he or she shall be the custodian of all books, papers, records, documents and instruments (including any Contracts of Insurance and any certificates or other documents representing or relating to shares, bonds, investments, securities or other Plan Assets belonging to the Pension Trust Fund), except to the extent that a Plan Custodian has been appointed to act as custodian of all or any of the foregoing, in which case the Secretary shall act as instructing officer of the Board of Trustees for the purposes of conveying instructions to the Plan Custodian with respect to such books, papers, records, documents and instruments; and he or she shall have such other powers and duties as the Board of Trustees may specify from time to time. During the absence or disability of the Secretary, the Board of Trustees may elect by Ordinary Resolution, a temporary secretary for the purposes of fulfilling the duties of the Secretary.

4.04 **Treasurer.** The Board of Trustees shall elect a Treasurer from amongst the Trustees on an annual basis, which Treasurer shall be elected by Ordinary Resolution of the Board of Trustees. The Treasurer so elected shall keep or cause to be kept proper accounting records and shall be responsible for the deposit of money, the safekeeping of securities and the disbursement of the funds of the Pension Trust Fund; and he or she shall render or cause to be rendered to the Board of Trustees whenever required an account of all of his or her transactions as Treasurer and of the financial position of the Pension Trust Fund; and he or she shall have such other powers and duties as the Board of Trustees may specify. During the absence or disability of the Treasurer, the Board of Trustees may elect by Ordinary Resolution, a temporary treasurer for the purposes of fulfilling the duties of the Treasurer.

4.05 **Secretary-Treasurer.** The Board of Trustees may elect one Trustee to fulfill the duties of Secretary-Treasurer as set out in Sections 4.03 and 4.04 hereof.

4.06 **Rules of Procedure.** The Operations, Governance and Audit Committee (as created pursuant to Section 4.15 hereof) shall be responsible for making recommendations to the Board of Trustees from time to time for the creation, amendment and deletion of rules of procedure to govern the conduct of the Board of Trustees and its committees as deemed necessary or advisable for carrying out the intent of the Plan and this Trust Agreement, including, without limitation, rules governing:

- (a) notice of meetings of the Board of Trustees and any committees thereof;

- (b) procedures at meetings of the Board of Trustees and any committees thereof, including motions, quorum and other procedural matters;
- (c) procedures for the election of the Chair, Vice-Chair, Secretary and Treasurer of the Board of Trustees;
- (d) the retention of advisors to the Plan and the Pension Trust Fund, including the Plan Actuary;
- (e) compensation of any Trustees; and
- (f) reimbursement of Trustees for reasonable and necessary expenses incurred in the performance of their duties on behalf of the Pension Trust Fund, including, without limitation, approved expenses related to professional development, education and training of the Trustees.

All recommendations of the Operations, Governance and Audit Committee for the implementation of new rules of procedure, or the deletion or amendment of existing rules, shall be submitted to the Board of Trustees for approval, with or without amendment, at a meeting of the Board of Trustees constituted for such purpose, and any such recommendation shall, subject to Section 4.16 hereof, require the approval by Ordinary Resolution of the Board of Trustees; provided however, that no rule of procedure may derogate from the provisions of this Trust Agreement unless passed as an amendment hereto in accordance with Section 9.01 hereof.

4.07 Meetings of Trustees. The following minimum provisions shall govern meetings of the Board of Trustees:

- (a) The Board of Trustees shall meet no less frequently than four (4) times per year, one of which meetings will be designated by the Board of Trustees as the annual meeting of the Board of Trustees for the purposes of such annual matters as receiving and approving the annual financial statements, and appointing the Chair, Vice-Chair, Secretary, Treasurer and such other offices as may be deemed advisable by the Board of Trustees;
- (b) A meeting of the Board of Trustees, or any committee thereof, may be called upon seven (7) days' notice, in writing, by either the Chair of the Board of Trustees (or, in the case of a committee, by the chair of that committee) or by any two Trustees. A Trustee may participate fully in a meeting of the Board of Trustees (or any committee thereof) by telephone or video-conference (including, without limitation, the right to initiate or second motions, to participate in discussions and to vote on Ordinary and Extraordinary Resolutions), and any Trustee so participating shall be counted as present for the purposes of determining quorum.
- (c) Any meeting of Board of Trustees may be held at any place and time without such notice if all the Trustees are present, or if a Quorum is present and those Trustees who are absent have signified their consent to the holding of the meeting in their absence and either prior or subsequently thereto signify their consent in writing, and any resolutions passed or proceeding had or action taken at any such meeting shall be as valid and effectual as if it had been passed or

taken at a meeting duly called. Notice of any meeting or any irregularity in any meeting or in the notice thereof may be waived by any Trustee.

- (d) A quorum shall be in effect provided that at least a majority of the Trustees are present at a meeting of the Board of Trustees; provided however, that no Extraordinary Resolution may be passed at a meeting of the Board of Trustees unless at least two thirds (2/3) of the Trustees then appointed and eligible to vote thereon are present at such meeting. In the case of a meeting of a committee of the Board of Trustees, a quorum of the committee shall be in effect provided that at least a majority of the Trustees that are members of the committee are present at a meeting of the committee; provided however, that no Extraordinary Resolution of the committee may be passed at a meeting of the committee unless at least two thirds (2/3) of the Trustees then appointed to the committee and eligible to vote thereon are present at such meeting. Use of the term "**Quorum**" in this Trust Agreement shall have the foregoing meaning applicable in the context of its use.
- (e) The decisions of the Board of Trustees, or of any committee thereof, shall be determined by Ordinary Resolution, unless otherwise provided for herein or in the text of the Plan and subject to the power of the Board of Trustees or the committee, as applicable, by Extraordinary Resolution, to elevate any decision or category of decisions to require its consideration and approval by an Extraordinary Resolution.
- (f) Except as otherwise provided herein, each Trustee shall have one vote.

4.08 Compensation of Trustees. The Trustees, or any of them, may receive such compensation from the Pension Trust Fund as the Board of Trustees may determine from time to time by Extraordinary Resolution, for the performance of their duties as Trustees; provided that any such compensation of the Trustees shall be approved in writing in advance by at least eighty (80%) percent of the Stakeholders. For greater certainty, the reimbursement of any expenses incurred by a Trustee shall not be considered compensation for the purposes of this provision.

4.09 Reimbursement of Trustees and Plan Expenses. Any Trustee is entitled to be reimbursed out of the Pension Trust Fund for all reasonable and necessary expenses which he or she may incur in the performance of his or her duties as a Trustee, which expense reimbursement claims shall be supported by invoices or other evidence of payment. The Board of Trustees shall pay out of the Pension Trust Fund the following costs and expenses incurred in the operation of the Plan:

- (a) the cost of obtaining audited annual financial statements for the Pension Trust Fund;
- (b) the cost of consulting advice, actuarial studies and benefits studies;
- (c) the cost of purchasing insurance to fund the obligations of the Plan if deemed advisable by the Board of Trustees;

- (d) the cost of purchasing fidelity bonds and fiduciary liability insurance for the Trustees and any employees, agents or contractors employed by the Board of Trustees;
- (e) fees of the Plan Custodian and for investment counsel, placement or other similar fees incurred in the administration and investment of the Pension Trust Fund;
- (f) the cost of legal services, accounting services and other professionals retained by the Board of Trustees in respect of the Pension Trust Fund and the Plan; and
- (g) all office and administrative costs, including costs incurred in hiring or employing agents (including the Administrative Agent), and including a reasonable provision for any overhead incurred in fulfilling the obligations of the Board of Trustees hereunder.

4.10 **Execution of Contracts, etc.** All cheques, deeds, transfers, assignments, contracts (including Contracts of Insurance, and any amendments, terminations, notices or supplements thereto), obligations, bills of lading, promissory notes, bills of exchange, powers of attorney and any and all other instruments in writing made in respect of and purporting to bind the property of the Pension Trust Fund shall be signed, executed, drawn, endorsed and negotiated by such Trustee or Trustees or by such other Person or Persons as the Board of Trustees may designate or contract with for any such purpose.

4.11 **Bonding of Employees, Contractors and Agents.** Each employee, contractor, agent (including the Administrative Agent) or custodian (including the Plan Custodian) employed or retained by the Board of Trustees pursuant to their powers under Article 5.00 of this Trust Agreement who may, in the course of the duties for which they have been employed or retained, be engaged in the handling of Plan Assets shall be bonded by a duly authorized surety company for such sums as the Board of Trustees shall from time to time determine as acceptable. The cost of the premiums for all such bonds shall be paid out of the Pension Trust Fund, excluding those incurred by the Administrative Agent and the Plan Custodian, the costs of which shall be for their own respective accounts.

4.12 **Apparent Authority.** All Parties dealing with the Board of Trustees are hereby released from any necessity for questioning the authority of the Board of Trustees hereunder or from seeing to the application of any monies, securities or other property of the Pension Trust Fund, and every instrument shall be conclusive evidence that:

- (a) at the time of delivery of such instrument, this Trust Agreement was in full force and effect;
- (b) such instrument was executed in accordance with the provisions of this Trust Agreement; and
- (c) the Board of Trustees was duly authorized to execute such instrument.

The receipt given by the Board of Trustees for any monies or other property received by them shall effectually discharge the Person paying or transferring the same and such Person shall not be bound to see to the application thereof or be answerable for the loss or misapplication thereof.

4.13 **Applications to Court.** The Board of Trustees may seek the advice, opinion or direction of an appropriate court on any matter pertaining to the Trust Agreement, the Plan or the administration of the Pension Trust Fund, and the costs of any such legal proceeding shall be properly chargeable to the Pension Trust Fund.

4.14 **Decisions of Trustees are Binding.** All of the decisions, rules, regulations, policies and procedures made or established by the Board of Trustees in accordance with this Trust Agreement or the Plan, shall be binding upon the Trustees, the Parties hereto and any Members, Pensioners or Eligible Employees, and their respective Spouses, joint annuitants, beneficiaries, dependants, estates, heirs, executors, administrators, successors and assigns.

4.15 **Committees of the Board of Trustees.** Subject always to the power of the Board of Trustees to consolidate or wind-up any committees or to change the name, mandate, composition, duties or responsibilities of any committee, pursuant to section 6.01(ee) hereof, the following committees of the Board of Trustees shall be selected by the Board of Trustees, each of which committee shall be comprised of at least five (5) Trustees, at least one of which shall be an External Trustee, at least one of which shall be a University Appointee (unless waived by the University) and at least one of which shall be an appointee of any one of UWFA, AESES or IUOE (unless waived by such Parties):

- (a) a committee to oversee and advise on the operation of the Defined Contribution Component of the Plan and the investment of those Plan Assets of the Pension Trust Fund which have been earmarked for the Defined Contribution Participants (the "**Defined Contribution Committee**");
- (b) a committee to oversee and advise on the operation of the Defined Benefit Component of the Plan and the investment of those Plan Assets of the Pension Trust Fund which have been earmarked for the Defined Benefit Participants (the "**Defined Benefit Committee**");
- (c) a committee to oversee and advise on the proper governance of the Board of Trustees, including to consider and make recommendations on the rules of order and conduct to be adopted for the conduct of the Board of Trustees and its committees, and to review and report on the quarterly and annual financial statements of the Defined Contribution Component and Defined Benefit Component of the Plan and, more generally, on the financial position and administrative operation of the Plan (the "**Operations, Governance and Audit Committee**");
- (d) a committee to oversee and advise on the process for the appointment and removal of Trustees on the Board of Trustees and to consider and make recommendations on the disposition of complaints against Trustees (the "**Appointments and Investigations Committee**"); and
- (e) such other committees as the Board of Trustees may deem advisable from time to time.

4.16 **Committees are Advisory.** Notwithstanding the creation of committees in accordance with Section 4.15 hereof and subject to Section 6.01(ee) hereof, the Board of Trustees shall be responsible for all decisions made in connection with the Plan, the Pension

Trust Fund and this Trust Agreement. The committees shall be advisory in nature and are constituted for the purposes of making recommendations to the Board of Trustees for the better administration of the Plan (and the provision of the Plan Benefits thereunder), the Pension Trust Fund and this Trust Agreement, and for carrying out the orders and directions of the Board of Trustees.

4.17 **Non-Trustee Members of Committees.** The Board of Trustees may appoint non-Trustees to any committee of the Board of Trustees created pursuant to Section 4.15 hereof as non-voting members of the committee if it is deemed to be of assistance in the better operation and administration of the committee and the Plan. Without limiting the generality of the foregoing, it is agreed that the Board of Trustees may appoint one or more independent investment professionals as non-voting members of the Defined Contribution Committee and the Defined Benefit Committee to provide independent evaluations of the investment performance of the Defined Contribution and Defined Benefit parts respectively, of the Pension Trust Fund, and to provide general advice as to investment policies and practices.

ARTICLE 5.00 – BASIC DUTIES OF THE TRUSTEES

5.01 **Primary Responsibilities and Duties of the Board of Trustees.** The Board of Trustees shall be responsible for all aspects of the operation and administration of the Pension Trust Fund and the Plan for the purpose of providing the Plan Benefits and, without limiting the generality of the foregoing, to do the following:

- (a) to formulate, interpret and apply, in their absolute discretion, the terms and conditions of the Plan, including the determination, provision and administration of the Plan Benefits offered under the Plan, but subject always to the requirements of Section 6.01(n) hereof in respect of any decision of the Board of Trustees which requires an amendment to the Plan. For greater certainty, it is acknowledged and agreed that:
 - (i) the Board of Trustees shall implement such amendments to the Plan as may be necessary or advisable to reflect changes to eligibility requirements for participation in the Plan and contribution levels required by: (A) the University in relation to Excluded Employees that participate in the Plan; and (B) the terms, if any, of each respective Collective Agreement in relation to Members that are represented by UWFA, AESES, IUOE or any other collective bargaining agent from time to time representing Members and having the authority to negotiate in relation to the Plan, provided that the Board of Trustees follows the process in Section 6.01(n) for approving such amendments and the Board of Trustees determines, after such consultations with the Plan Actuary and legal counsel to the Plan as the Board of Trustees deems necessary or advisable, that the said amendments are not contrary to Law or to this Trust Agreement and do not derogate from the fiduciary duties of the Trustees, nor from the power of the Board of Trustees, in consultation with the Plan Actuary, to require the University to make such Additional Contributions (as defined in the Plan) as may be required to fund an unfunded liability or solvency deficiency in the Defined Benefit Component of the Plan, having regard for Applicable Laws.

- (ii) nothing herein detracts from the power of the Board of Trustees to amend the Plan as required to ensure compliance with Applicable Laws.
- (b) to determine, in conjunction with the advice of the Plan Actuary, the Plan Custodian and the Plan Insurers (if any) and such other advice as they may require, and to enforce payment of, the Employee Contributions and University Contributions (including any Additional Contributions (as defined in the Plan)), all in accordance with the terms and conditions of the Plan and Applicable Laws. The Board of Trustees shall comply with the terms of the Plan governing the calculation of Employee Contributions and University Contributions as determined by the Parties in accordance with paragraph (a) above to the extent that they comply with Applicable Laws.
- (c) to determine, in accordance with the terms and conditions of the Plan, the eligibility requirements for participation in the Plan of an Eligible Employee. The Board of Trustees shall comply with the terms of the Plan governing eligibility requirements as determined by the Parties in accordance with paragraph (a) above to the extent that they comply with Applicable Laws.
- (d) to determine the manner of use or disposition of Plan Assets comprising the Pension Trust Fund in accordance with the terms and conditions of the Plan and subject to the requirements of this Trust Agreement.
- (e) to determine by Extraordinary Resolution the manner of use or disposition of any surpluses in the Pension Trust Fund in accordance with the terms and conditions of the Plan; provided however, that the provisions of section 6.01(n) must be complied with to the extent that the Plan requires amendment to implement a decision of the Board of Trustees in this regard, and provided further that no surplus accruing in the Pension Trust Fund may be used in any way by or for the benefit of the University, including so as to reduce or offset the University Contributions, except that, for greater certainty, nothing herein shall be deemed to vary: (A) paragraph (viii) of the 2001 Issue Points in respect of the contribution holiday provided pursuant to Amendment 2000/1 only; or (B) the terms and conditions of the 2004 Settlement Agreement, under which it was agreed that the disposable surplus at any valuation date shall not include the present value of any Current Service Shortfall (as defined in the Plan) in the three-year period following the valuation date.
- (f) to utilize or invest the Plan Assets comprising the Pension Trust Fund to carry out the purposes of the Plan subject to its terms and conditions.
- (g) to determine whether any Contracts of Insurance should be utilized to assist in the funding of Plan Benefits and, if yes, to determine the Insurers from which Contracts of Insurance will be purchased, and to negotiate the terms of the Contracts of Insurance.
- (h) to keep separate account of the Plan Assets of the Pension Trust Fund that relate to the Defined Contribution Component (including the Employee Contributions of Defined Contribution Participants and the University Contributions) and the Plan Assets of the Pension Trust Fund that relate to the

Defined Benefit Component (including the Employee Contributions of the Defined Benefit Participants and the University Contributions).

- (i) to pay or cause to be paid the Plan Benefits in accordance with the terms and conditions of the Plan, and to ensure that the Plan Benefits are paid out of the proper account of the Pension Trust Fund.
- (j) to carry out any and all such other duties as are expressly or by implication imposed upon the Trustees by the terms of the Trust Agreement and of the Plan.

5.02 Maintain Books and Records. The Board of Trustees shall keep and maintain, or cause to be kept and maintained, for such period as the Board of Trustees deems necessary, subject always to the requirements of Applicable Laws, such books of account and records of the Pension Trust Fund and the Plan as the Board of Trustees may consider necessary or advisable in order to properly monitor the Pension Trust Fund and the Plan, including, without limitation, full, complete and accurate records of the costs and expenses incurred by the Board of Trustees in administering the Pension Trust Fund and the Plan. The Board of Trustees shall maintain accurate records relating to Members entitled to receive Plan Benefits, including the Plan Benefits to which each such Member is entitled (including as to which Members are Defined Contribution Participants and which Members are Defined Benefit Participants), and relating to the Employee Contributions of Members as well as the University Contributions. The Board of Trustees shall also monitor the records of the Plan Custodian, the Administrative Agent and any Plan Insurer(s) to ensure that Plan Assets are being properly safeguarded and invested.

5.03 Appointment of Plan Actuary and Commissioning Actuarial Studies and Valuations. The Board of Trustees may appoint the Plan Actuary or any other actuary or consultant to perform, from time to time, such employee benefit and actuarial studies as the Board of Trustees may determine necessary to evaluate the Plan and the Pension Trust Fund and to make recommendations to the Board of Trustees as to the amount of reserves, the amount of University Contributions and Employee Contributions required to fund the Defined Benefit Component of the Plan and the University Contributions and Employee Contributions required under the Defined Contribution Component of the Plan; provided however, that it is agreed that the Board of Trustees shall not commission a formal valuation of the Defined Benefit Component of the Plan more frequently than once every three years except where approved by Extraordinary Resolution of the Board of Trustees or where such formal valuation is, on the advice of the Plan Actuary, required by Applicable Laws. The cost of such studies and valuations shall be an expense of the Plan and shall be paid from the Pension Trust Fund.

5.04 Maintain Confidentiality of Plan Information. The Board of Trustees shall at all times maintain the confidentiality of the financial and other information and data which they may obtain through or on behalf of the Plan, the disclosure of which adversely affects or may adversely affect the interests of any Person, except to the extent that disclosure of all or any part thereof is required by law and the Board of Trustees shall utilize such information and data only for the business of the Plan and the Pension Trust Fund. Without limiting the generality of the foregoing, the Board of Trustees shall not disclose, and shall use all reasonable efforts to ensure that no agent, employee or other Person for whom the Board of Trustees is responsible at law discloses, any personal information about an identifiable individual participating in the Plan to any one other than that individual (or any executor, administrator, attorney or legal representative of such individual) except with the express written consent of that individual (or any executor, administrator, attorney or legal representative of such individual).

5.05 **Annual Audit of Books and Records.** The financial statements, books of account and records of the Board of Trustees, including the books of account and records pertaining to the Pension Trust Fund, shall be audited at least once every year by the auditor selected by the Board of Trustees, as of the fiscal year-end of the Pension Trust Fund. A statement of the results of the annual audit shall be available for inspection by any Member at the principal office of the Board of Trustees or at such other suitable place as the Board of Trustees may designate from time to time.

5.06 **Availability of Audited Financial Statements.** The Board of Trustees shall ensure that true copies of the annual audited financial statements are made available on a timely basis after receipt by the Board of Trustees to each of the Stakeholders with respect to the operation of the Plan and the Pension Trust Fund.

5.07 **Access to Plan Information.** Subject to Section 5.04 hereof, the Board of Trustees shall provide all Eligible Employees, Members, Pensioners (or other beneficiaries under the Plan) and Stakeholders with such information with respect to the Plan and the Pension Trust Fund as they may reasonably require on request from time to time, including:

- (a) information as to the qualifications for entitlement to participate in the Plan, including as to any changes thereto;
- (b) information as to the Plan Benefits and eligibility therefor, including as to any changes thereto;
- (c) information as to the University Contributions and Employee Contributions to fund the Plan as determined by the Board of Trustees;

provided however, that the Board of Trustees may determine from time to time that specific information is confidential to, and shall be kept confidential by, the Board of Trustees, including, without limitation, in camera deliberations of the Board of Trustees and information that must be kept confidential by virtue of Section 5.04 hereof, including the personal information of identifiable individuals as set out in Section 5.04.

5.08 **Trustees to Avoid Conflicts of Interest.** The Board of Trustees shall not knowingly permit their own interests to conflict with their duties and powers in respect of the Pension Trust Fund.

ARTICLE 6.00 – BASIC POWERS OF THE TRUSTEES

6.01 **Express Powers of the Trustees.** Subject to the terms hereof, the Trustees shall have, in addition to any other powers and authority to which the Trustees may be entitled at law, the following powers and authority in the administration of the Plan Assets comprising the Pension Trust Fund and the Plan, all of which powers and authority shall be exercised in accordance with this Trust Agreement:

A. Powers to Invest and Contract

- (a) To negotiate the terms of and enter into such Contracts of Insurance with Plan Insurers as the Board of Trustees, in their absolute discretion, deem advisable, to negotiate the Premiums thereunder and to renew, amend or terminate any existing Contracts of Insurance;
- (b) To invest or reinvest, or to instruct an investment manager to invest or reinvest, the Plan Assets comprising the Pension Trust Fund, including the right to invest in mutual funds, and sell (whether by public or private sale and with or without notice, for cash or on credit, or partly for cash and partly on credit), assign, transfer, exchange, pledge, convey, lease, mortgage or otherwise dispose of or encumber the Plan Assets comprising the Pension Trust Fund or any part thereof at any time and from time to time as the Board of Trustees in their absolute discretion may deem advisable, and at such price or prices and on such terms as they may consider advisable, which terms may extend beyond the end of the term of the Plan, and further to instruct the Plan Custodian in respect of all of the foregoing (The Board of Trustees shall ensure that the Plan Assets attributable to the Defined Contribution Component of the Plan shall be accounted for separately from the Plan Assets attributable to the Defined Benefit Component of the Plan);
- (c) To vote all shares, stocks and participation units forming part of the Plan Assets, and to exercise all rights incidental to the ownership of any Contracts of Insurance or shares, stocks, bonds, debentures or other investments, forming part of the Plan Assets and to issue proxies therefor to others; and to vote for the election of its nominees to any executive or other board or committee of any such company or corporation or association; to sell or exercise any subscription rights and in connection with the exercise of subscription rights to use any portion of the Plan Assets for such purpose;
- (d) To consent to and join in any plan for reconstruction, reorganization, amalgamation, consolidation, readjustment or demutualization in respect of any company or corporation (including any Plan Insurer) whose shares, stocks, bonds, debentures or other securities for the time being form part of the Plan Assets (including pursuant to any Contract of Insurance owned by the Board of Trustees as part of the Plan Assets) or for the sale of the assets and undertaking, or a substantial portion thereof, of any such company or corporation, and in pursuance of any such plan to accept any cash, shares, stocks, bonds, debentures or other securities in exchange for the shares, stocks, bonds, debentures or other securities then forming part of the property of the Pension Trust Fund; and generally to act in respect of any securities or investments forming part of the Plan Assets as fully and effectually as if the same were not property of the Pension Trust Fund but always in such manner as the Board of Trustees shall in their uncontrolled discretion consider to be in the best interests of the beneficiaries of the Pension Trust Fund;
- (e) To appoint any Person their proxy to vote any such shares, stocks or other investments or securities forming part of the Plan Assets;

- (f) To register any Plan Assets in the names of nominees or custodians of the Board of Trustees (including, without limitation, the Plan Custodian) or to hold the same unregistered or in any such form that title shall pass by delivery, but without thereby increasing or decreasing their liability as custodians;
- (g) The Board of Trustees may, by Extraordinary Resolution, borrow money on security or without security from time to time for any purpose connected with the administration of the Plan Assets upon such terms and conditions as they may deem advisable, and as security therefor, they may mortgage, pledge, hypothecate or otherwise charge the Plan Assets or any part thereof, and may make, execute and deliver under seal or otherwise such notes, bonds, mortgages or other obligations as may be required;
- (h) To incorporate any company or companies or any corporation or corporations under the laws of the Province of Manitoba, or any other jurisdiction in Canada or elsewhere, at the expense of the Pension Trust Fund for the purposes of investing the whole or any part of the Plan Assets wholly or partly in shares or other securities of such company or companies or corporation or corporations;
- (i) To waive or agree to waive, in whole or in part, unpaid accrued interest, or accumulated dividends on any investment which may be held by them at any time, or to release any Person from any obligation in respect of the Plan Assets, with or without compensation therefor;
- (j) To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, powers of attorney, receipts and any and all other instruments in writing necessary or appropriate in the opinion of the Board of Trustees for the settlement or administration of the Pension Trust Fund, and to execute any such instrument without warranty by or without recourse to the Board of Trustees;
- (k) To open and operate such account or accounts as may be expedient in the opinion of the Board of Trustees and to deposit any cash balances in the hands of the Trustees at any time in a chartered bank, trust company or credit union, and, for the purposes of the Pension Trust Fund, to draw, make, endorse, deposit or deal in cheques, bills of exchange, promissory notes, drafts or any other mercantile, commercial or security documents of any nature or kind, and to enter into contracts or agreements of any nature or kind, with any such chartered bank, trust company or credit union, and all such forms as may be required to open accounts, operate same and related matters shall be completed in the required manner and on the forms required by such chartered bank, trust company or credit union, and to designate any Person or Persons as the signing authority for any such account or accounts opened by the Board of Trustees. The foregoing power shall be subject to the requirement that any Trustee with access to the funds of any such account or accounts shall be bonded in accordance with Section 2.06 hereof;
- (l) To do all acts, whether or not expressly authorized herein, which the Board of Trustees may deem necessary or proper for the protection and enhancement of the Plan Assets and for carrying out the purposes of the Pension Trust Fund created hereby. Without limiting the generality of the foregoing, the Board of Trustees shall have the right to engage a professional investment manager or

professional investment managers to recommend and administer investment programs under which the Plan Assets are to be invested.

B. Powers to Administer the Plan

- (m) To carry out the duties imposed upon the Trustees by this Trust Agreement;
- (n) As administrator of the Plan, to amend the terms and conditions of the Plan from time to time in accordance with the amending provisions therein contained, provided that:
 - (i) all such amendments to the Plan shall be made in writing and shall be passed by Extraordinary Resolution of the Board of Trustees; provided however, that if the Plan Actuary advises that a proposed amendment to the Plan is required to ensure that the Plan is in compliance with Applicable Laws, any such amendment may be approved by Ordinary Resolution; and
 - (ii) no amendment to the Plan shall be adopted without prior review and written report by the Plan Actuary; and
 - (iii) except with the prior written consent of all of the Stakeholders, no amendment to the Plan is permitted which would result in the Plan Benefits offered under the Plan as at the Effective Date being amended in such a manner that the Plan Benefits, after the amendment, are not at least equal to or better than the Plan Benefits as same exist on the Effective Date, as set out in the Existing Plan, as amended by the Consequential Plan Amendments, attached hereto as **Schedule "J"**, unless the proposed amendment to the Plan is required to ensure that the Plan is in compliance with Applicable Laws; and
 - (iv) no amendment to the Plan is permitted without the express consent in writing of any Stakeholder of the Plan if, in the opinion of the Board of Trustees, it is reasonably foreseeable that the proposed amendment would cause that Stakeholder to suffer or incur a materially adverse change in its financial obligations under the Plan as a result of the proposed amendment based on the circumstances existing at the time of the proposed amendment, unless the proposed amendment is required to ensure compliance with Applicable Laws; provided however, that no amendment to Article 4 of the Plan is permitted without the express consent in writing of the University irrespective of the determination by the Board of Trustees (with such advice from the Plan Actuary as the Board of Trustees may require) as to the financial impact upon the University of the proposed amendment unless the amendment is required to ensure compliance with Applicable Laws; and
 - (v) the Board of Trustees shall not initiate any amendment to the Plan that has the effect of changing the University Contributions or the Employee Contributions required under the Plan, unless, in the case of an amendment that changes the Employee Contributions of Excluded Employees that participate in the Plan or the related University

Contributions, the University consents to such amendment, and in the case of an amendment that changes the Employee Contributions of Members that are represented by UWFA, AESES, IUOE or any other collective bargaining agent that has the authority to negotiate such changes to the Plan on behalf of Members, or the related University Contributions, the University and the relevant collective bargaining agent consents to such amendment, unless the amendment is otherwise required in order to ensure compliance with Applicable Laws. For greater certainty, where the amendment has the effect of changing the contributions of more than one group of Members, or the related University Contributions, the consent of the University and all other Stakeholders that represent Members affected thereby shall be required to such an amendment; and

- (vi) the Board of Trustees shall not initiate any amendment to the Plan that has the effect of changing the eligibility requirements for participation in the Plan, unless the amendment is consented to by the University and each of the Stakeholders that represent Eligible Employees, Members or other employees of the University or Affiliated Institutions affected thereby, or is otherwise required in order to ensure compliance with Applicable Laws; and
 - (vii) no amendment shall be adopted that adversely affects the pension benefit credits (as defined in *The Pension Benefits Act*) of any Member, Pensioner or other beneficiary of the Plan in respect of remuneration and service of membership in the Plan prior to the effective date of the amendment; and
 - (viii) no amendment to section 14.2 of the Plan is permitted unless all of the Stakeholders have approved such amendment in writing; and
 - (ix) no amendment to the Plan shall be adopted or approved in a manner that is inconsistent with the amending provisions therein contained.
- (o) To determine the interest rate to be paid by the University and by Members for late payments of contributions;
 - (p) To negotiate the terms and conditions of the participation of any new Stakeholder in the Plan in accordance with Section 3.11 hereof (such as, for example, a new collective bargaining agent representing Eligible Employees of the University);
 - (q) To establish and communicate to Members the procedures for filing applications for Plan Benefits and for the furnishing and certification of evidence necessary to establish a right to such Plan Benefits;
 - (r) To pay or cause to be paid the Plan Benefits in accordance with the terms and conditions of the Plan;

C. Powers to Engage Employees and Advisors

- (s) To appoint, hire or contract with, suspend, terminate, supervise and compensate administrative and clerical personnel to whom the Board of Trustees may assign such portions of their duties as they in their sole discretion deem proper or necessary for the sound and efficient operation of the Plan, provided however, that the Board of Trustees shall remain accountable for and be ultimately responsible for all such assigned tasks;
- (t) To negotiate the terms of and enter into a Plan Services Agreement with the Administrative Agent to carry out the routine administrative and support services required to administer the Plan and the Pension Trust Fund, as the Board of Trustees, in their absolute discretion, deem advisable and to renew, amend or terminate the Plan Services Agreement, and for this purpose it is acknowledged and agreed that the Board of Trustees may, but shall not be required, to enter into the Plan Services Agreement with the University as Administrative Agent thereunder if it is deemed to be in the best interests of the Plan and the Pension Trust Fund. Nothing herein shall authorize the Board of Trustees to delegate their authority for management and administration of the Plan and Pension Trust Fund and, notwithstanding any Plan Services Agreement, the Board of Trustees shall remain responsible for the discharge of their fiduciary obligations as trustees and as administrator of the Plan, and the Board of Trustees may not delegate to any such Administrative Agent (including the University) the right to make any decisions with respect to the Pension Trust Fund or the Plan which involves the exercise of the discretion of the Board of Trustees on a material matter;
- (u) To enter into agreements or arrangements with any Plan Insurer or Plan Insurers or any other organization or organizations for the provision of administrative or clerical work in connection with the Plan and/or the Pension Trust Fund on behalf of the Board of Trustees;
- (v) To employ, compensate, terminate, instruct, direct or otherwise deal with the Plan Actuary and any other agents, accountants, solicitors, brokers, auditors, consultants and other assistants and advisers deemed by the Board of Trustees, in their absolute discretion, to be helpful for the proper settlement and administration of the Pension Trust Fund and the Plan, and to do so without any liability of the Board of Trustees for any neglect, omission, misconduct or default of any such Person employed or retained, provided such Person was selected and employed or retained with reasonable care;
- (w) To negotiate the terms of and enter into custodian or agency agreements with respect to the holding of Plan Assets, or parts thereof, as the Board of Trustees, in their absolute discretion, deem advisable and to renew, amend or terminate any such custodian or agency agreements, including the agreement with the Plan Custodian;

D. General Powers

- (x) To institute, prosecute and defend any suits or actions or other proceedings affecting them or the Pension Trust Fund or any part thereof, to compromise or settle any matter or difference or to submit any such matter or difference to arbitration; to compromise or compound any debts owing to or by the Pension Trust Fund upon evidence that to them seems sufficient; to make partition in whole or in part at public auction or private sale or otherwise and upon such terms as they deem advisable with any co-owners or joint owners having any interest in any Plan Assets comprising part of the Pension Trust Fund and to make such partition either by sale or by set-off or by agreement or otherwise (including, where deemed desirable, provision for equality or exchange);
- (y) To hold the Plan Assets comprising the Pension Trust Fund or any part or parts thereof at any place or places and to move the same from time to time from place to place provided same is within Canada;
- (z) To make, or refrain from making, in their absolute discretion, any election or elections, any determination or determinations and any designation or designations permitted by any statute or statutes or regulation or regulations enacted by the Parliament or government of Canada, by the legislature or government of any province of Canada, or by any other legislative or governmental body of any other country, province, state or territory, relating to the Pension Trust Fund or the Plan, and such exercise of discretion by the Board of Trustees shall be conclusive and binding upon all Members and the Stakeholders;
- (aa) To establish and accumulate as part of the Pension Trust Fund such reserve or reserves as, in the opinion of the Board of Trustees, are in the best interests of the Pension Trust Fund;
- (bb) To pay out of the Pension Trust Fund all real and personal property taxes, income taxes and other taxes of any and all kinds levied or assessed under existing or future laws, upon or in respect to the Pension Trust Fund or any Plan Assets forming a part thereof;
- (cc) To receive payments from any source whatsoever to the extent permitted by Law and the Trust Agreement;
- (dd) To pay out of the Pension Trust Fund all costs and expenses of the Plan or incurred in the administration of the Plan, to allocate such costs and expenses as between the Defined Benefit Component and the Defined Contribution Component in such manner as the Board of Trustees determines, in its discretion and on the advice of the Plan Actuary, to be appropriate and fair, and to enter into reciprocal arrangements or cost-sharing arrangements with other like or similar benefits funds or pension plans, in such manner and subject to such terms and conditions as the Board of Trustees may deem desirable, subject to the Plan;

- (ee) By Ordinary Resolution, to consolidate or wind-up any advisory committees or to change the name, mandate, composition, duties or responsibilities of any advisory committees, or by Extraordinary Resolution, to establish and allocate certain responsibilities and administrative duties as determined by the Board of Trustees, including the right to make decisions on behalf of the Board of Trustees, to:
- (i) committees of the Board of Trustees (including, without limitation, the committees established pursuant to Section 4.15); or
 - (ii) specific Trustees (including, without limitation, to the Chair, Vice-Chair, Secretary and Treasurer appointed from time to time pursuant to Article 4) or other Persons;

in such manner and subject to such terms and conditions as the Board of Trustees may deem necessary or appropriate; provided that such committees, Trustees or other Persons, as the case may be, report to the Board of Trustees as may be required by the Board of Trustees, and that the Board of Trustees shall have the same right to review, ratify, amend or repeal a decision made on its behalf as it would have with respect to one of its own decisions, and provided further that under no circumstances can this power be used to give to a non-Trustee member of a committee of the Board of Trustees the right to vote on any matter related to the business of the committee. The provisions of this Trust Agreement shall be read so as to take into account any changes to committees instituted by the Board of Trustees in accordance with the provisions of this section;

- (ff) To lease or purchase such lands, premises, materials, supplies and equipment as the Board of Trustees deems necessary or appropriate in the performance of their duties; and
- (gg) To interpret the Trust Agreement and the text of the Plan and any related documents.

ARTICLE 7.00 – LIMITS OF LIABILITY AND INDEMNIFICATION OF THE TRUSTEES

7.01 **University Indemnity.** The University shall indemnify and save harmless the Board of Trustees and the Pension Trust Fund for any University Contributions that are not made by the University and for any Employee Contributions that are deducted by the University from the remuneration of any Member or Members but not properly remitted by the University to the Pension Trust Fund as directed by the Board of Trustees. The Board of Trustees shall not be responsible for any loss or damage suffered by any Stakeholder, Member or other Person which results directly or indirectly from the failure of the University or any Member to remit their required contributions.

7.02 **No Liability for Reasonable Reliance on Advisors.** Neither the Board of Trustees, nor any individual Trustee, shall be liable for any act or omission of any Plan Insurer, legal counsel, auditor, actuary (including the Plan Actuary), consultant or other Person (including the Plan Custodian and the Administrative Agent) retained or appointed by the Board of Trustees in accordance with Article 5 to act on their behalf, or to provide advice to the Board

of Trustees; provided however, that the Board of Trustees has acted in good faith and with prudence in retaining and monitoring the performance of such third party advisor.

7.03 No Liability for Validity of the Trust Agreement or Unavoidable Delay. Neither the Board of Trustees, nor any individual Trustee, shall be held liable or responsible for:

- (a) the validity of this Trust Agreement; or
- (b) any delay occasioned by any restriction or provision in this Trust Agreement, the rules and regulations of the Board of Trustees issued hereunder, any contract procured in the course of the proper administration of the Pension Trust Fund, or by any other proper procedure in such administration.

7.04 No Liability of a Trustee for the Actions of Another Trustee. No Trustee shall be liable for any act or omission of another Trustee or other Trustees which involves dishonesty or willful misconduct unless he or she had knowledge of such dishonesty or willful misconduct and failed to take reasonable steps to prevent or disclose to the other Trustees on the Board of Trustees such dishonesty or willful misconduct.

7.05 No Liability for Reasonable Reliance on Documents. The Trustees shall incur no liability, either collectively or individually, in acting upon any documents, data or information believed by them to be genuine and accurate, and to contain no material mis-statements, and to have been made, executed, delivered or assembled by the proper parties.

7.06 Fiduciary Liability Insurance. The Board of Trustees may obtain fiduciary liability insurance in such amount or amounts as the Board of Trustees may deem advisable, the premiums for which shall be charged to the Pension Trust Fund.

7.07 Indemnification of Trustees. Subject to the specific, limited indemnity provided by the University in Section 7.01 hereof, the Pension Trust Fund shall indemnify and save harmless the Trustees and each of them of, from and against all liabilities, damages, losses, costs and claims arising out of or attributed to the performance of their duties or responsibilities hereunder or arising out of or attributed to the transfer of the Plan Assets to the Board of Trustees under the Pension Plan Transition Agreement, except that this indemnity shall not extend to protect any Trustee with respect to any matter arising out of his or her own dishonesty, bad faith, willful misconduct or breach of his or her fiduciary duties to the Plan and its beneficiaries.

ARTICLE 8.00 – NOTICES

8.01 Manner of Notice and Addresses. Any notice, payment, demand or communication required or permitted to be given by any provision hereof (a “**Notice**”) shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by electronic facsimile to the person to whom the same is directed and if sent by registered or certified mail within Canada, postage and charges prepaid, addressed as follows:

- (a) If to the Board of Trustees:

At the head office of the Board of Trustees in the City of Winnipeg, in Manitoba as may be designated from time to time by the Board of Trustees;

(b) If to the University:

The University of Winnipeg
515 Portage Avenue
Winnipeg, Manitoba
R3B 2E9
Attention: Vice-President, Finance and Administration
Fax: (204) 779-4624

(c) If to UWFA:

The University of Winnipeg Faculty Association
Room 302 Sparling Hall
515 Portage Avenue,
Winnipeg, Mb. R3B 2E9
Attention: President
Fax: (204) 774-3068

(d) If to AESES:

The Association of Employees Supporting Education Services
102 – 900 Harrow Street East
Winnipeg, Manitoba
R3M 3Y7
Attention: President
Fax: (204) 949-5215

(e) If to IUOE:

The International Union of Operating Engineers (IUOE), Local 987
1008 Wall Street
Winnipeg, Manitoba
R3G 2V3
Attention: Business Agent
Fax: (204) 786-6578

(f) If to the Retirement Association:

The University of Winnipeg Retirement Association Inc.
c/o Human Resources Department
The University of Winnipeg
515 Portage Avenue
Winnipeg, Manitoba
R3B 2E9
Attention: President
Fax: (204) 783-7981

(g) If to a Pensioner or a Member:

At such Pensioner's or Member's address as it appears in the records of the Plan.

Any such Notice shall be deemed to be given on the date that it is personally delivered, the fifth (5th) day after the date on which the same was faxed or the fifth (5th) day after the date on which the same was deposited in a regularly maintained receptacle for the deposit of mail, addressed and sent as aforesaid, provided that in the event of any disruption, strike or interruption of service in the Canadian postal service after mailing and prior to receipt or deemed receipt, such Notice shall be deemed to have been given on the fifth (5th) day following full resumption of the Canadian postal service. Any party may change its address by Notice in writing to the Board of Trustees, and the Board of Trustees may change their address by giving such Notice to each of the Stakeholders and to all Members and Pensioners.

ARTICLE 9.00 – AMENDMENT OF TRUST AGREEMENT AND TERMINATION

9.01 **Amendment.** The terms of this Trust Agreement may be amended by the Board of Trustees by Extraordinary Resolution provided that the amendments are also approved in writing by at least eighty percent (80%) of the Stakeholders. Notwithstanding the foregoing, no amendment shall be effective if:

- (a) it is inconsistent with the purposes of the Pension Trust Fund;
- (b) it has the effect of diverting the Pension Trust Fund, or any Plan Assets of the Pension Trust Fund, to a purpose other than the provision of the Plan Benefits, the payment of expenses of the Plan or such other purpose as may be permitted by the Plan or by this Trust Agreement;
- (c) it changes or removes the requirement of an annual audit or further restricts the availability of information to interested Parties;
- (d) it is an amendment to this Article 9.00, Section 4.08 or Article 6, or has the effect of amending any provision of this Article 9.00 or of Article 9 or Section 4.08, unless such amendment has been approved by Extraordinary Resolution of the Board of Trustees and has been approved by all of the Stakeholders in writing;
- (e) in the opinion of the Plan Actuary (prepared in accordance with accepted actuarial practice) and as reported by the Plan Actuary to the Board of Trustees, it is reasonably foreseeable that the proposed amendment could cause a Stakeholder to suffer or incur a materially adverse change in its financial obligations under the Plan or hereunder, unless the amendment is required to ensure compliance with Applicable Laws or the affected Stakeholder is amongst the Stakeholders that have approved the amendment in writing; or
- (f) subject to Section 3.10 hereof, it has the effect of removing the power of a Stakeholder to appoint the Stakeholder-Appointed Trustee(s) to which such Stakeholder is entitled under Section 2.01 hereof.

Nothing in this Article 9 shall detract from the power of the Board of Trustees to make changes to committees of the Board of Trustees in accordance with section 6.01(ee) hereof.

9.02 **Process for Amendment.** Any amendment to this Trust Agreement or the Plan proposed at a meeting of the Board of Trustees shall be tabled at the meeting at which it is initially proposed. Such amendment shall be considered at the next meeting of the Board of Trustees unless otherwise agreed by the Board of Trustees by Extraordinary Resolution at the meeting at which the amendment is initially proposed. If an amendment to this Trust Agreement or the Plan would materially affect the Plan Benefits payable under the Plan, such amendment shall not be considered by the Board of Trustees until it has first received a report thereon from the Plan Actuary.

9.03 **Unilateral Power of Amendment.** Notwithstanding the provisions of Section 9.01 hereof, the Board of Trustees has the power to unilaterally amend this Trust Agreement as may be required to ensure compliance with *The Pension Benefits Act (Manitoba)*, the *Income Tax Act (Canada)* and all other Applicable Laws.

9.04 **Termination.** This Trust Agreement may be terminated or the Plan (or the Defined Benefit Component only or the Defined Contribution Component only) may be discontinued provided that the termination or discontinuance, and the terms of termination or discontinuance, are approved by Extraordinary Resolution of the Board of Trustees, and provided further that the termination or discontinuance, and the terms of termination or discontinuance, are also approved in writing by each of the Stakeholders and are consistent with the requirements for termination of the Plan (or a component thereof) as set out herein.

9.05 **Process for Termination.** The termination of the Trust Agreement (or the discontinuance of application of the Trust Agreement to a component of the Plan) shall be carried out as follows:

- (a) The Board of Trustees shall cause a final audit and accounting of the Pension Trust Fund (or that part of the Pension Trust Fund related to the component of the Plan to be terminated) to be performed for the purposes of the termination of the Pension Trust Fund (or of that part of the Pension Trust Fund related to the component of the Plan to be terminated);
- (b) The Board of Trustees shall provide for payment out of the Pension Trust Fund (or that part of the Pension Trust Fund related to the component of the Plan to be terminated) of all expenses, claims and obligations, including the expenses incidental to the termination of the Pension Trust Fund (or that part of the Pension Trust Fund related to the component of the Plan to be terminated) in accordance with the terms and conditions of the Plan;
- (c) The Board of Trustees shall distribute the balance, if any, remaining in the Pension Trust Fund (or that part of the Pension Trust Fund related to the component of the Plan that has been terminated) after making all such payments as are required pursuant to paragraph (b) above in such manner as is agreed to by the Stakeholders subject always to the terms of the Plan and Applicable Laws (including the directives of the Pension Commission of Manitoba). In the event that the Stakeholders cannot agree to the manner of distribution of such remaining balance, the Board of Trustees shall be entitled to pay such remaining balance into Court for resolution.
- (d) The Board of Trustees may refer any matter pertaining to the termination of the Trust Agreement, or to the discontinuance of application of the Trust Agreement

to a component of the Plan, to the Manitoba Court of Queen's Bench under section 4.13, including for resolution of the manner of distribution of the Pension Trust Fund or any portion thereof.

9.06 **Termination of Trustees' Obligations.** The obligations of the Trustees hereunder shall terminate on the date upon which all of the Plan Assets have been disbursed following termination of the Plan.

ARTICLE 10.00 – INTERPRETATION AND BINDING EFFECT

10.01 **Enurement.** This Trust Agreement shall be binding upon and shall enure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

10.02 **Severability.** Every provision hereof is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder hereof.

10.03 **Governing Law.** The Province of Manitoba shall be deemed to be the situs of the Pension Trust Fund and all questions pertaining to the validity, construction and administration of this Trust Agreement and of the text of the Plan shall be determined in accordance with Applicable Laws. The obligations of the Trustees hereunder shall be governed exclusively by the terms of this Trust Agreement and Applicable Laws.

10.04 **Time of Essence.** Time shall be of the essence hereof. This Trust Agreement is to be in full force and effect as of the date and year first above written.

10.05 **Further Assurances.** Each of the Parties hereto shall from time to time and at any time hereafter, upon each reasonable written request to do so, make, do, execute and deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances, things and written instruments as may be necessary in the opinion of any Party, for more effectively implementing and carrying out the intent of this Trust Agreement.

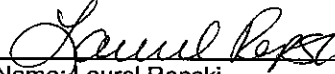
10.06 **Counterparts.** This Trust Agreement may be signed in counterparts.

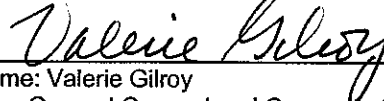
10.07 **Name of Trust.** The trust amended and restated hereunder, and the Pension Trust Fund declared and confirmed hereunder, shall be known as the "**The University of Winnipeg Trusteed Pension Plan Trust**".

10.08 **Effective Date.** This amended and restated Trust Agreement shall be effective as of and from the Effective Date.

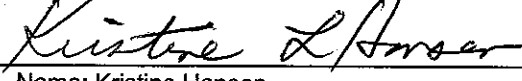
IN WITNESS WHEREOF the Parties hereto have set their hands and seals as of the day and year first above written.

THE UNIVERSITY OF WINNIPEG

By: 
Name: Laurel Repski
Title: Vice-President, Human Resources, Audit and Sustainability

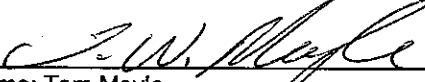
By: 
Name: Valerie Gilroy
Title: General Counsel and Corporate Secretary

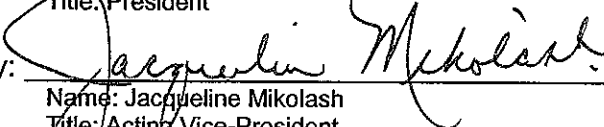
THE UNIVERSITY OF WINNIPEG FACULTY ASSOCIATION

By: 
Name: Kristine Hansen
Title: President

By: 
Name: Karen Zoppa
Title: Treasurer

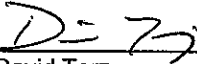
THE ASSOCIATION OF EMPLOYEES SUPPORTING EDUCATION SERVICES

By: 
Name: Tom Moyle
Title: President

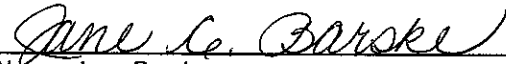
By: 
Name: Jacqueline Mikolash
Title: Acting Vice-President


THE INTERNATIONAL UNION OF OPERATING ENGINEERS

By: 
Name: Gil Pelletier
Title: Authorized Signatory

By: 
Name: David Torz
Title: Authorized Signatory

THE UNIVERSITY OF WINNIPEG RETIREMENT ASSOCIATION INC.

By: 
Name: Jane Barske
Title: President

By: 
Name: Steve Coppinger
Title: Treasurer

SIGNED, SEALED and DELIVERED
in the presence of:

RPetta
Witness

RPetta
Witness

RPetta
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Witness

RPetta
Witness

Jim Clark
JIM CLARK

Wendy L Josephson
WENDY JOSEPHSON

Karen Zoppa
KAREN ZOPPA

Laurel Repski
LAUREL REPSKI

Valerie Gilroy
VALERIE GILROY

Bill Balan
BILL BALAN

Mary Anne Walls
MARY ANNE WALLS

Barry Barske
BARRY BARSKE

Greg Gillis
GREG GILLIS

David Torz
DAVID TORZ

Brent Stearns
BRENT STEARNS

Maurice Mearon
MAURICE MEARON