

TD Securities Inc. Self-Directed Education Savings Plan Family Plan

Terms and Conditions

These terms and conditions, together with the application, constitute a contract entered into among TD Securities Inc. (the "Promoter"), as Promoter of the Plan, The Canada Trust Company, as Trustee of the Plan and either one individual or an individual and his or her spouse or common-law partner (the "Subscriber"), under which the Promoter agrees to pay or to cause to be paid Educational Assistance Payments to or for one or more Beneficiaries. The Canada Trust Company, a trust company amalgamated under the laws of Canada to carry on in Canada the business of offering to the public its services as a trustee (the "Trustee") hereby declares that it agrees to act as Trustee for the TD Securities Inc. Self-Directed Education Savings Plan.

1. Definitions. In the Plan:

- a) "Accumulated Income Payment" means a payment from the Plan, other than a payment described in any of paragraphs (a) and (c) to (e) of the definition of "trust" as defined in Subsection 146.1(1) of the Tax Act, to the extent that the amount so paid exceeds the fair market value of any consideration given to the Plan for the payment of the amount.
- b) "Assets of the Plan" means all Subscriber contributions made by or on behalf of the Subscriber under the Plan and all Grants, together with the income and gains derived from the investment thereof, less any losses sustained on the realization of any investment, the fees and out of pocket expenses of the Trustee and the Promoter paid out of the Plan pursuant to Section 17 and any payments from the Plan (including any repayment of Grants), as provided for herein, and includes all investments and all uninvested cash held from time to time by or on behalf of the Trustee in accordance with the Plan.
- c) "Beneficiary" and "Beneficiaries" mean the person or each of the persons designated by the Subscriber as a Beneficiary in respect of the Plan, including a Replacement Beneficiary, and entitled to receive Educational Assistance Payments pursuant to the Plan. Each Beneficiary designated by the Subscriber must be connected to the Subscriber by blood or adoption, as defined herein. Unless a person was, immediately prior to the particular time, a Beneficiary under another family plan, a person shall not be eligible to be designated as a Beneficiary after he or she attains 31 years of age.
- d) "Canada Education Savings Act" means the Canada Education Savings Act (Canada) and the regulations thereto, as amended from time to time.
- e) "Designated Educational Institution" means (a) an educational institution in Canada that is (i) a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act* or recognized by the appropriate authority under the *Canada Student Financial Assistance Act*, or designated by the Minister of Higher Education and Science of the Province of Québec for the purposes of *An Act respecting financial assistance for education expenses*, chapter A-13.3 of the Revised Statutes of Québec, or (ii) certified by the Minister of Human Resources & Skills Development to be an educational institution providing courses, other than courses designed for university credit that furnish a person with skills in an occupation.
- f) "Designated Provincial Program" means, if made available by the Promoter, (a) a program administered pursuant to an agreement entered into under section 12 of the Canada Education Savings Act, or, (b) a program established under the laws of a province to encourage the financing of children's post secondary education through savings and registered education savings plans.
- g) "DTC" means the Disability Tax Credit as defined in Subsection 118.3 (1) of the Tax Act for persons with Disabilities.
- h) "Educational Assistance Payment" means any amount, other than a refund of Subscriber Contributions, paid out of the Plan to or for a Beneficiary to assist the Beneficiary to further his or her education at a post-secondary school level.
- i) "Grant" means an amount paid into the Plan under or because of subsections 5(1), (2) and (3) only of the Canada Education Savings Act, a designated provincial program made available by the Promoter or any other program made available by the Promoter that has a similar purpose to a designated provincial program and that is funded, directly or indirectly, by a province (other than an amount paid into the Plan by a public primary caregiver in its capacity as a Subscriber under the Plan).
- j) "Plan" means this agreement and the education savings plan established hereunder and known as the TD Securities Inc. Self-Directed Education Savings Plan.
- k) "Post-Secondary Educational Institution" means
 - i) an educational institution in Canada that is a Designated Educational Institution; or
 - ii) an educational institution outside Canada that is a university, college or other educational institution providing courses at a post-secondary school level at which a Beneficiary was enrolled in a course of not less than 13 consecutive weeks.
- l) "Qualifying Educational Program" means a program at a post-secondary school level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 10 hours per week on courses or work in that program.
- m) "Registered Education Savings Plan" has the meaning ascribed thereto by Subsection 146.1(1) of the Tax Act.
- n) "Specified Educational Program" means a program at a post-secondary school level of not less than three consecutive weeks duration that requires such student taking the program to spend not less than 12 hours per month on courses in the program.
- o) "Subscriber" means
 - i) each individual with whom the Promoter of the Plan entered into the Plan;
 - ii) an individual who has acquired a Subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement,

relating to a division of property between the individual and a Subscriber under the Plan in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership; or

iii) after the death of a Subscriber under the Plan, any other person (including the estate of the Subscriber) who acquires the individual's rights as a Subscriber under the Plan or who makes contributions into the Plan in respect of a Beneficiary, but does not include an individual who disposed of the individual's rights as a Subscriber under the Plan in the circumstances described in paragraph (ii).

- p) "Tax Act" means the Income Tax Act (Canada) and the Regulations thereto, as amended from time to time.
- q) Persons are "connected by blood relationship" if one is the child or other descendant of the other or one is the brother or sister of the other and persons are "connected by adoption" if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other.

2. Responsibility for the Plan. The Promoter has ultimate responsibility for the Plan. Specifically, the Promoter is responsible for applying for registration of the Plan as a Registered Education Savings Plan under the Tax Act and any applicable provincial tax legislation, and for the administration of the Plan. The Trustee is responsible for the trust fund created hereunder and accepts the office of trustee of the Plan upon the terms and conditions herein contained. Without in any way derogating from the ultimate responsibility of the Trustee for the trust fund created hereunder, from time to time the Trustee may delegate to the Promoter as agent for the Trustee, certain of its duties to be performed in respect of such trust fund including the following:

- a) the receipt of Subscriber Contributions;
- b) the investment and reinvestment of Assets of the Plan in accordance with the terms herein;
- c) the collection and remittance of fees and charges applicable hereunder;
- d) the payment of amounts out of the Plan in accordance with the terms herein;
- e) maintaining the accounting records of the Plan;
- f) providing to the Subscriber Statements of account for the Plan; and
- g) such other duties as the Trustee may determine in its discretion from time to time.

3. Registration. The Promoter shall apply for registration of the Plan as a Registered Education Savings Plan pursuant to Section 146.1 of the Tax Act and, if required, the corresponding provisions of any applicable provincial legislation.

4. Payments out of the Trust. Subject to the payment of trustee and administration charges pursuant to Section 17, the Trustee shall irrevocably hold the Assets of the Plan for:

- a) the payment, pursuant to Subsection 12(a), of Educational Assistance Payments to or for a Beneficiary;
- b) the payment of Accumulated Income Payments pursuant to Section 13;
- c) the refund of Subscriber Contributions pursuant to Section 11;

- d) the repayment of Grants pursuant to The Canada Education Savings Act and pursuant to a Designated Provincial Program;
- e) the payment pursuant to Subsections 12(b) or 15(d) to or to a trust in favour of an educational institution in Canada described in part (a)(i) of the definition of Designated Educational Institution; or
- f) the payment pursuant to Subsection 12(c) to a trust that irrevocably holds property pursuant to a Registered Education Savings Plan for any of the purposes set out in Subsections (a) to (e) of this Section.

5. Beneficiaries.

- a) Upon establishment of the Plan the Subscriber shall designate in the space provided on the application one or more Beneficiaries in respect of the Plan in accordance with Section 1 hereof each of whom shall be connected to the Subscriber by blood or adoption.
- b) Before an individual may be designated a Beneficiary, the individual's Social Insurance Number must be provided to the Promoter and either
 - i) the individual must be a resident in Canada when the designation is made, or
 - ii) the designation is made in conjunction with a transfer of property into the Plan from another Registered Education Savings Plan under which the individual was a beneficiary immediately before the transfer
- c) Notwithstanding (b) above, a Social Insurance Number need not be provided in respect of a designation of a non-resident individual as a Beneficiary under the Plan, if the individual was not assigned a Social Insurance Number before the designation is made, and the designation is being made in conjunction with a transfer of property into the Plan from another Registered Education Savings Plan entered into before 1999 under which the individual was a beneficiary immediately before the transfer.
- d) The Subscriber may at any time and from time to time thereafter revoke the designation of any Beneficiary and designate another beneficiary (a "Replacement Beneficiary") in respect of the Plan. No individual shall be designated as a Replacement Beneficiary unless such individual could have been designated as an original Beneficiary in accordance with the provisions of this Plan, the Tax Act or other applicable laws.
- e) The Subscriber may also specify, by advising the Promoter in writing, a Designated Educational Institution that will receive any remaining amount held by the Trustee under the Plan on the Termination Date referred to in Section 15. The Subscriber may at any time thereafter change or revoke the Designated Educational Institution as specified.
- f) Any change made by the Subscriber as provided in (d) or (e) above shall be made by written instrument in form and substance satisfactory to the Promoter which adequately identifies the Plan and the Subscriber's instructions, is dated and executed by the Subscriber and is delivered to the Promoter. If more than one such instrument is delivered to the Promoter, the one bearing the latest execution date shall govern.
- g) The Subscriber shall, on designating a Beneficiary or Replacement Beneficiary, advise the Promoter in writing of the age and residential address of the Beneficiary or Replacement Beneficiary, as the case may be, and, if the Beneficiary or Replacement Beneficiary is under 19 years

of age at the time, whether the Beneficiary or Replacement Beneficiary ordinarily resides with a parent, as defined in the Tax Act and if so, the name and residential address of the parent. Within 90 days after an individual becomes a Beneficiary or a Replacement Beneficiary, as the case may be, the Promoter shall notify the individual or, where the individual is under 19 years of age at the time and ordinarily resides with a parent of the individual, that parent, in writing of the existence of the Plan and the name and address of the Subscriber. Such notification shall be sufficiently given if mailed, postage prepaid addressed to the Beneficiary, Replacement Beneficiary or parent, as the case may be, at the residential address of such person.

6. Subscriber's Account and Statements. The Promoter shall maintain a subscriber's account for the Subscriber in which will be recorded;

- a) Subscriber Contributions made by or on behalf of the Subscriber in respect of each Beneficiary pursuant to Subsection 7(a);
- b) the balance in the Grant account, including the amount of all Grants received from the government less any Grant repayments, and the portion of Educational Assistance Payments made from the Plan that is attributable to the Grants;
- c) refunds of Subscriber Contributions to the Subscriber made pursuant to Section 11;
- d) investments, investment transactions and investment income, gains and losses;
- e) payments to the Subscriber of Accumulated Income Payments pursuant to Section 13;
- f) amounts paid to or for a Beneficiary pursuant to Subsection 12(a) as Educational Assistance Payments; and
- g) amounts paid to Designated Educational Institutions or to other trusts pursuant to Subsections 12(b) or (c).

The Promoter shall send to the Subscriber monthly in respect of any month during which any transactions were recorded in the Subscriber's account a statement showing all transactions recorded therein during such month and at least quarterly a statement of the Subscriber's account showing the Subscriber's account balance and details of any securities held or owned at the end of the period covered by such statement whether or not any transactions have been recorded in the Subscriber's account during the period covered by such statement.

The Subscriber is liable for the payment of any debit balance owing within the Plan, will pay it on demand and will be liable for any debit balance remaining after liquidation of assets in the Plan and the application of such liquidation against the debit balance. After making demand, which may be done by any method the Promoter or Trustee elects, including a letter sent to the Subscriber at the address shown in the records of the Promoter, the Promoter or the Trustee may, at its discretion and without notice to the Subscriber, sell assets in the Plan as it determines to be appropriate to pay in full the said debit balance and its costs. The Subscriber acknowledges that neither the Promoter nor the Trustee shall be liable to the Subscriber regarding any aspect of such sale. In addition, the Subscriber acknowledges that the liquidation of assets in the Plan may have significant financial consequences for the Subscriber, including tax consequences, for which the Subscriber is solely liable.

7. Subscriber Contributions.

- a) Subject to (b) below, any amount may be paid into the Plan at any time or from time to time by and on behalf of the Subscriber in respect of a Beneficiary, provided, however, that any amount so paid (a "Subscriber Contribution") shall not:
 - i) be in respect of a Beneficiary that had attained the age of 31 before the time of the contribution;
 - ii) be less than the minimum Subscriber Contribution established by the Promoter from time to time; and
 - iii) together with all previous Subscriber Contributions in respect of such Beneficiary, exceed the lifetime limit, as defined in subsection 204.9(1) of the Tax Act as amended from time to time.
- b) No contributions to the Plan in respect of a Beneficiary shall be made unless either
 - i) the Beneficiary's Social Insurance Number is provided to the Promoter before the contribution is made unless the Plan was entered into before 1999, and the Beneficiary is resident in Canada when the contribution is made, or
 - ii) the contribution is made by way of a transfer from another Registered Education Savings Plan under which the Beneficiary was a Beneficiary immediately before the transfer.
- c) Subject to the foregoing, any Subscriber Contribution shall be allocated to one or more Beneficiaries as the Subscriber shall from time to time direct or, failing a direction from the Subscriber, on a pro rata basis.
- d) Notwithstanding the provisions of (a) above, any amount may be paid into the Plan which represents all or any portion of the assets of any other Registered Education Savings Plan entered into by the Subscriber after December 31, 1982 (the "Former Plan") and out of which no Accumulated Income Payment has been made. Any such transfer shall be made in accordance with Subsections 146.1(6.1) and 204.9(5) of the Tax Act. Specifically, the Plan shall be deemed to be entered into on the day that is the earlier of (i) the day on which the Former Plan was entered into, and (ii) the day on which the Plan was entered into. Any amount so transferred shall not be considered to be a Subscriber Contribution made to the Plan at the time of transfer but, to the extent that such amount represents amounts paid into the Former Plan by or on behalf of the Subscriber in respect of a Beneficiary, such amount shall be deemed to be Subscriber Contributions made in respect of such Beneficiary at the same times and in the same amounts as paid into the Former Plan.
- e) If a Beneficiary named by the Subscriber hereunder ceases to be a Beneficiary under the Plan (a "Former Beneficiary"), and a Replacement Beneficiary is designated in place of such Beneficiary pursuant to Subsection 5(d) hereof, any such replacement must be in accordance with Subsection 204.9(4) of the Tax Act and any Subscriber Contributions made prior to that time in respect of the Former Beneficiary shall be deemed to have been made in respect of the Replacement Beneficiary. If no Replacement Beneficiary is so designated in place of such Former Beneficiary, any Subscriber Contribution made prior to that time in respect of the Former Beneficiary shall be deemed to have been made in respect of such of the remaining Beneficiaries as are designated for such purpose by the Subscriber in such proportions as the Subscriber shall direct.

- f) No Subscriber Contribution may be made by or on behalf of a Subscriber after the thirty-first year following the year in which the Plan was entered into. If an amount is transferred to the Plan from a Former Plan that was entered into before the Plan was entered into, no Subscriber Contribution may be made by or on behalf of the Subscriber after the thirty-first year following the year in which the Former Plan was entered into.
 - g) The aggregate of Subscriber Contributions to the Plan made in a particular year in respect of a particular Beneficiary, and payments made in that year to all other Registered Education Savings Plans by or on behalf of any person in respect of the Beneficiary shall not exceed the lifetime limit as defined in subsection 204.9 (1) of the Tax Act, as amended from time to time.
 - h) If the foregoing limits are exceeded, a refund of Subscriber Contributions pursuant to Section 11 shall be made sufficient to withdraw the Subscriber's share of the excess amount within the meaning of Subsection 204.9 of the Tax Act.
 - i) A Subscriber Contribution does not include any Grants received by the Plan.
 - j) If a Beneficiary qualifies for the DTC in the 31st year following the year the Plan was entered into, that Beneficiary's share of the Plan may be transferred to an individual plan so as to permit the maximum period for the Subscriber to make Contributions to be extended to 35 years.
- 8. Grants.** The The Promoter and the Trustee will ensure that Grants are applied for as requested. Once received, the Grants will be invested as directed by the Subscriber. Where required by the Canada Education Savings Act or, the Tax Act or under a Designated Provincial Program , the Promoter, on behalf of the Trustee, will make a payment from the Plan as a repayment of Grants previously received by the Plan. The Plan will be administered in compliance with the conditions and limitations, applicable to the Grants, which may be imposed from time to time by the Canada Education Savings Act or under a Designated Provincial Program. The Subscriber agrees to provide the Promoter with such information as may be required from time to time in order to enable the Promoter and the Trustee to apply for and administer any Grants in accordance with the Canada Education Savings Act and the Tax Act or under a Designated Provincial Program.
- 9. Investments.** The Trustee shall hold, invest and reinvest the Assets of the Plan in accordance with the written or oral instructions of the Subscriber to the Promoter, in such investments as the Trustee shall make available from time to time. The Trustee may, but need not, require any such direction in writing. The Subscriber shall ensure that such investments are qualified investments, as defined in section 146.1 of the Tax Act, for trusts governed by Registered Education Savings Plans. In the absence of a direction from the Subscriber as to the investment of any cash balances forming part of the Plan from time to time, the Trustee will allow interest on such balances at such rate and will credit interest at such time as the Trustee, in its sole discretion, may determine. The Subscriber acknowledges that such cash balances may be invested and reinvested by the Trustee in the Trustee's guaranteed account. The Trustee, for the purpose of investing and reinvesting the assets of the Plan, shall be released from any claims of, or liability to, the Subscriber in acting pursuant to such directions, unless caused by or resulting from its own dishonesty, bad faith, willful misconduct or gross negligence.

Notwithstanding any of the above, if the Trustee determines, at its sole discretion, that any investment in the Plan is or has become a non-qualified investment for purposes of The Tax Act, the Trustee may, at its sole discretion, withdraw such investment from the Plan in-kind or by way of realization of the investment in cash. The Subscriber acknowledges that the valuation of the investment shall be determined by the Trustee in its sole discretion, provided that it is the Subscriber's obligation to provide the Trustee with such independent evidence of the value of the investment as the Trustee requests. The Subscriber authorizes the Trustee to take any such actions and the Subscriber irrevocably consents to them. The Subscriber further acknowledges that the Subscriber is responsible for all consequences (whether foreseeable or not), including tax consequences, of those actions.

- 10. Ownership of Investments.** The Trustee may hold any investment for the Plan in its own name, in the name of its nominee, in bearer form or in such other name as the Trustee may determine. Title to the Assets of the Plan shall at all times be vested solely in the Trustee to be held in accordance with the terms hereof. Subject to the terms hereof, the Trustee may exercise the rights and powers of an owner with respect to all securities held by it for the Plan including the right to vote or give proxies in respect thereof.
- 11. Refund of Subscriber Contributions and Transfers.** The Subscriber shall be entitled, upon written direction to the Promoter, to a refund to him or any person designated by him of any amount not exceeding in total the aggregate of all Subscriber Contributions paid by or on behalf of the Subscriber into the Plan or any amount that was paid into the Plan by way of transfer from another Registered Education Savings Plan where the amount would have been a refund of payments under the other Registered Education Savings Plan if it had been paid at the previous time directly to the Subscriber under the other Registered Education Savings Plan, to the extent of the Assets of the Plan, net of any applicable fees and expenses. Any such refund shall comply with the requirements of the Tax Act and the Canada Education Savings Act or under a program administered under Section 12 of that Act. No refund may be paid where such payment would result in the value of the remaining property in the Plan being insufficient to cover any Grant repayment requirement.
- 12. Educational Assistance and Other Payments.** At any time and from time to time upon receipt of a written direction from the Subscriber in such form as is acceptable to the Promoter, the Promoter shall pay out of the net accumulated income (including capital appreciation) of the Plan and out of any Grants as permitted or required by the Tax Act and the Canada Education Savings Act or under a program administered under Section 12 of that Act such amount or amounts (less applicable taxes, if any, required to be withheld from any such amount or amounts) as the Subscriber shall direct:
- a) to or on behalf of such Beneficiary as the Subscriber shall direct who
 - i) either
 - A) is, at that time, enrolled as a student in a Qualifying Educational Program at a Post-Secondary Educational Institution, or
 - B) has, before that time, attained the age of 16 years and is, at that time, enrolled as a student in a Specified Educational Program at a Post-Secondary Educational Institution, and

ii) either

- A) such Beneficiary satisfies, at that time, the condition set out in clause (i) A and,
 - I) such Beneficiary has satisfied that condition throughout at least 13 consecutive weeks in the 12-month period that ends at that time or,
 - II) the total of the payment and all other Educational Assistance Payments made under a Plan of the Promoter to or for the Beneficiary in the 12-month period that ends at that time does not exceed \$5,000 or such greater amount as the Minister designated for purposes of the Canada Education Savings Act approves in writing, with respect to such Beneficiary, or
- B) such Beneficiary satisfies, at that time, the condition set out in clause i) (B) and the total of the payment and all other Educational Assistance Payments made under a Plan of the Promoter to or for such Beneficiary in the 13-week period that ends at that time does not exceed \$2,500 or any greater amount that the Minister designated for the purpose of the Canada Education Savings Act as approves in writing with respect to such Beneficiary.

- b) to, or to a trust in favour of, an educational institution in Canada described in part (a)(i) of the definition of Designated Educational Institution; or
- c) to a trust that irrevocably holds money or property pursuant to a Registered Education Savings Plan for any of the same purposes as those set out in Section 4.

The Promoter shall determine whether any conditions precedent to the payment of any amount pursuant to this Section have been satisfied and such determination shall be final and binding on the Subscriber and any Beneficiary.

13. Accumulated Income Payments. At a particular time, upon receipt of a written direction from the Subscriber in such form as is acceptable to the Promoter, the Promoter shall pay out of the net accumulated income (including capital appreciation) of the Plan such amount or amounts as outlined in subsection 204.94(2) of the Tax Act, (less applicable taxes, if any, required to be withheld from any such amount or amounts) as the Subscriber shall direct. Accumulated Income Payments may be paid under the Plan only if

- a) the payment is made to, or on behalf of a person and not jointly to, or on behalf of, more than one person;
- b) the person is resident in Canada at the particular time; and any of
- c) the payment is made after the 9th year that follows the year in which the Plan was entered into and each individual (other than a deceased individual) who is or was a Beneficiary under the Plan has attained 21 years of age before the payment is made and is not, when the payment is made, eligible under the Plan to receive an educational assistance payment, or
- d) the payment is made in the 25th year following the year in which the Plan is entered into, or
- e) each individual who was a Beneficiary under the Plan is deceased when the payment is made.

Upon written notice from the Subscriber, the Promoter shall make a written application to the Minister of National Revenue who may waive the application of the conditions in paragraph (c) and in respect of the Plan where a Beneficiary under the Plan suffers from a severe and prolonged mental impairment that prevents or can reasonably be expected to prevent the Beneficiary from enrolling in a Qualifying Educational Program at a Post-Secondary Educational Institution.

14. Responsibilities of the Promoter. The Promoter will be responsible for the administration of the Plan and in connection therewith will:

- a) apply for registration of the Plan as a Registered Education Savings Plan;
- b) invest and reinvest the Assets of the Plan pursuant to the instructions of the Subscriber;
- c) provide to the Subscriber statements of the Subscriber's account;
- d) receive from the Subscriber any change in Beneficiary, Designated Educational Institution, Termination Date or any other matter that requires notification by the Subscriber to the Promoter in accordance with the terms hereof;
- e) make payments out of the Plan pursuant to Sections 11, 12, 13, 15 or 17;
- f) to the extent required, deal with the appropriate taxation authorities in connection with the Plan or any amendment thereof;
- g) ensure that the Plan at all times complies with the requirements of the Tax Act regarding registered education savings plans; and
- h) ensure compliance with all relevant provisions of the Tax Act and the Canada Education Savings Act relating to Grants.

Without derogating from the Promoter's ultimate responsibility for the administration of the Plan, the Promoter may retain the Trustee or other agents to provide administrative services to the Plan. The Promoter shall remain ultimately responsible for the administration of the Plan.

15. Termination Date.

- a) Subject as hereinafter provided, upon the establishment of the Plan the Subscriber shall designate in the space provided in the application the Termination Date which shall be a date not later than the last day of the 35th year following the year in which the Plan is entered into.
- b) If any assets of a Former Plan are transferred to the Plan, the Termination Date shall not be a date later than the last day of the 35th year following the year in which the Former Plan was entered into.
- c) If Accumulated Income Payments are made in accordance with Section 13, the Termination Date shall be before March of the year following the year in which the first such payment was made out of the Plan.
- d) Not less than six months prior to the Termination Date the Promoter shall give notice to the Subscriber, and subject to the terms of any direction given to the Trustee prior to the Termination Date, the Trustee shall pay to the Subscriber as a refund of Subscriber Contributions the maximum amount that would be refunded to the Subscriber on the Termination Date had the Subscriber requested a refund thereof pursuant to Section 11, and shall pay the remaining

amount, if any held by it under the Plan on the Termination Date, less any unpaid fees and out-of-pocket expenses, to the educational institution in Canada described in part (a)(i) of the definition of Designated Educational Institution designed by the Subscriber at that time under the Plan (or, in the absence of such designation, to a Designated Educational Institution selected by the Promoter in its sole discretion).

- 16. Termination.** In the event that the Plan is terminated, the Assets of Plan are required to be used for any of, or any combination of, the purposes described in Section 4.
- 17. Trustee and Administration Charges.** The Promoter may charge the Plan or the Subscriber directly fees for its and the Trustee's services under this contract. The Promoter and the Trustee are entitled to reimbursement from the Plan for all disbursements and expenses (including taxes, interest, penalties or other governmental charges levied on or in respect of the Plan) reasonably incurred by the Trustee or the Promoter in connection with the Plan. The Promoter is entitled to deduct the unpaid fees, disbursements and expenses from the assets of the Plan and, for this purpose, the Trustee is authorized to realize sufficient assets of the Plan in its sole discretion. Neither the Promoter nor the Trustee will be responsible for any resulting loss. In addition, the Promoter will be entitled to normal brokerage commissions on the investment transactions for the Plan.
- 18. Appointment and Resignation Or Removal Of Trustee.** The Trustee may resign by giving 30 days notice in writing to the Promoter and may be removed by being given 30 days notice in writing by the Promoter. In either event the Promoter shall forthwith appoint a person to replace the Trustee and the resignation or removal of the Trustee shall not take effect until its replacement has been so appointed. Any such appointment shall be in writing signed by the person making the same and the person appointed thereby, and upon any such appointment the person so appointed shall, without further act or formality, be and become the Trustee and shall, without conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the former Trustee and with the assets of the Plan; provided, however, that the former Trustee shall execute and deliver to the new Trustee all such conveyances, transfers and further assurances as may be necessary or advisable for the purpose of assuring the same to the new Trustee. Any replacement Trustee shall be a corporation resident in Canada and licensed or otherwise authorized under the laws of Canada to carry on the business of offering to the public its services as a trustee.
- 19. Termination of the Trust.** In the event that the trust governed by the Plan is terminated, the Assets of the Plan shall be used for any of the purposes described in Section 4.
- 20. Amendments to the Plan.** The Promoter may from time to time upon at least 30 days written notice to the Subscriber amend the Plan with the concurrence of the Minister of National Revenue and any similar authority of the province in which the Subscriber resides provided that such amendment does not have the effect of disqualifying the Plan for acceptance as a Registered Education Savings Plan within the meaning of Section 146.1 of the Tax Act and any applicable provincial legislation. Notwithstanding the foregoing, the Promoter reserves the right to make any amendment to the Plan which is necessary to ensure the continued compliance of the Plan with the provisions of the Tax Act, the Canada Education Savings Act and any applicable provincial legislation and any such amendment shall be effective upon written notice by the Promoter to the Subscriber.

- 21. Limitation of Liability and Indemnity.** It is expressly understood that all investments made by the Trustee or the Promoter will be for the benefit of and at the risk of the Subscriber under the Plan. Neither the Trustee nor the Promoter shall be liable for ascertaining whether any investment made at the direction of the Subscriber is or remains a qualified investment for the purposes of a Registered Education Savings Plan. Neither the Trustee nor the Promoter shall be responsible for any loss suffered by the Plan, by the Subscriber or by a Beneficiary as a result of the purchase, sale or retention of any investment, whether or not the Trustee or the Promoter has communicated to the Subscriber any information the Trustee or the Promoter may have received or any judgment the Trustee or the Promoter may have formed with respect to the value or the security of such investment at any particular time or in the future.

Neither the Trustee nor the Promoter shall be liable in its personal capacity for and in respect of any taxes, interest or penalties which may be imposed on the Trustee or the Promoter in respect of the Plan or in respect of any other charges levied or imposed by governmental authority upon or in respect of the Plan. The Trustee may reimburse itself and the Promoter for, or may pay, any such taxes, interest, penalties or charges out of the Assets of the Plan as it in its absolute discretion deems appropriate. The Subscriber and the heirs, executors and administrators of the Subscriber shall at all times indemnify and save harmless the Trustee and the Promoter in respect of any such taxes, interest, penalties or charges levied or imposed upon the Trustee or the Promoter in respect of the Plan.

Neither the Trustee nor the Promoter shall be responsible for any act, omission, default, error, fraud, failure or misconduct of any agent, employee or other person whom they may reasonably engage in the exercise of the powers conferred on them hereunder. In addition, neither the Trustee nor the Promoter shall be liable in respect of any loss or diminution of Assets of the Plan or any other loss or damages suffered or incurred by the Plan, the Subscriber or by the Beneficiary under the Plan occasioned by an act, omission or default of the Trustee or the Promoter, unless caused by or resulting from its own dishonesty, bad faith, willful misconduct or gross negligence. The Trustee and the Promoter will be fully protected in acting upon any instrument, certificate, notice or other writing believed by them to be genuine and to be signed or presented by the proper person and the Trustee and the Promoter will be under no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as conclusive evidence of the truth and accuracy of any statement contained therein.

- 22. Notices.** Any notice, direction or other communication to the Promoter shall be in writing and shall be sufficiently given if mailed, postage prepaid, addressed to TD Securities Inc. at its principal office in Toronto, Ontario, unless the Promoter has notified the Subscriber of a new address in which case it shall be addressed to the Promoter at the last address so notified. Such notice, direction or other communication shall be deemed to have been given on the date it is received by the Promoter. Any notice, statement or other communication to the Subscriber shall be in writing and shall be sufficiently given if mailed, postage prepaid, addressed to the Subscriber at the address set out in the Plan unless the Subscriber has notified the Promoter of a new address in which case it shall be addressed to the Subscriber at the last address so notified. Such notice statement or other communication shall be deemed to have been given on the third postal delivery day at the place of address following the day of mailing.

- 23. Assignment By The Promoter.** The Promoter may assign its rights and obligations under the Plan to any other corporation resident in Canada and authorized to assume and discharge the obligation of the Promoter under the Plan, provided that such corporation shall execute any agreement that is necessary or advisable for the purposes of assuming such obligations.
- 24. Heirs, Executors and Assigns.** The terms of this contract and the trust created hereunder shall be binding upon the heirs, executors and administrators of the Subscriber and upon the successors and assigns of the Promoter and the Trustee.
- 25. Interpretation.** Words importing the singular include the plural and vice versa, and words importing the masculine gender include the feminine and vice versa. Any reference to "spouse" contained herein or in the application means "spouse or common-law partner", and any reference to "marriage" herein or in the application means "marriage or common-law partnership".
- 26. Governing Law.** The Plan shall be governed by and construed in accordance with the laws of Canada and the laws of the Province of Ontario.