



The Canada Trust Company, a trust company amalgamated under the laws of Canada (the "Trustee"), agrees to act as trustee of the Plan on behalf of the individual named as beneficiary (the "Beneficiary") in the application (the "Application") pursuant to the terms of the Plan upon the following terms and conditions.

Article 1 - Definitions

- 1.1 "Agent" means TD Waterhouse Canada Inc.
- 1.2 "Administrator" means a guardian, tutor, curator or other individual, or public department, agency or institution, that is legally authorized to act on behalf of the Beneficiary.
- 1.3 "Applicable Legislation" means the Tax Act and any applicable provincial income tax legislation relating to Disability Savings Plans, the Canada Disability Savings Act and any similar legislation, and regulations thereunder, all as may be amended from time to time.
- 1.4 "Assistance Holdback Amount" has the meaning assigned under regulations adopted under the Canada Disability Savings Act.
- 1.5 "Designated Provincial Program" means a program that supports savings in Registered Disability Savings Plans and that is established under the laws of a province.
- 1.6 "Direction" means a written or oral instruction, as required by and in a form satisfactory to its recipient, from a Holder or the Beneficiary to the Agent or Trustee.
- 1.7 "Disability Assistance Payment" means any payment made from the Plan to the Beneficiary or to the Beneficiary's estate.
- 1.8 "Disability Savings Plan" means an arrangement between:
- (a) an issuer that is Licenced or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, and with which the Specified Minister has entered into an agreement that applies to the arrangement for the purposes of the *Canada Disability Savings Act*, and
 - (b) one or more of the following:
 - (i) a beneficiary, and, in relation to the beneficiary if he or she were the Beneficiary;
 - (ii) a Qualifying Person other than a Qualifying Family Member at the time the arrangement is entered into,
 - (iii) if the arrangement is entered into before 2023, a Qualifying Family Member who, at the time the arrangement is entered into, is a Qualifying Person in relation to the Beneficiary,
 - (iv) a Qualifying Family Member who, at the time the arrangement is entered into, is not a Qualifying Person in relation to the Beneficiary but is a Holder of another Registered Disability Savings Plan of the Beneficiary, and
 - (v) a Legal Parent of the Beneficiary who, at the time the arrangement is entered into, is not a Qualifying Person in relation to the Beneficiary but is a Holder of another Registered Disability Savings Plan of the Beneficiary;
- under which one or more contributions are to be made in trust to the issuer to be invested, used or otherwise applied by the issuer for the purpose of making payments from the arrangement to the Beneficiary, and that is entered into in a taxation year in respect of which the Beneficiary is a DTC-Eligible Individual.
- 1.9 "DTC Election" means an election by the Holder, where the Beneficiary is not a DTC-Eligible Individual for a particular taxation year if:
- (a) a medical doctor Licenced to practise under the laws of a province certifies in writing that the nature of the Beneficiary's condition is such that, in the professional opinion of the medical doctor, the Beneficiary is likely to become a DTC-Eligible Individual for a future taxation year;
 - (b) the Beneficiary was a DTC-Eligible Individual for the year that immediately precedes the particular taxation year;
 - (c) the Holder makes the election in a manner and format acceptable to the Specified Minister before the end of the year immediately following the particular taxation year and provides the election and the medical certification in respect of the Beneficiary to the Trustee; and
 - (d) the Trustee notifies the Specified Minister of the election in a manner and format acceptable to the Specified Minister; such election ceasing to be valid at the earlier of (i) the beginning of the first taxation year for which the Beneficiary is again a DTC-Eligible Individual and (ii) the end of the fourth taxation year following the particular taxation year.
- 1.10 "DTC-Eligible Individual" means an individual in respect of whom an amount is deductible, or would, if the Tax Act were read without reference to paragraph 118.3(1)(c) of the Tax Act, be deductible, under section 118.3.
- 1.11 "Government Funded Benefit" means the Canada Disability Savings Grant and/or Canada Disability Savings Bond.
- 1.12 "Holder" means:
- (a) an entity that has entered into the Plan with the Trustee;
 - (b) an entity who receives rights as a successor or assignee of an entity who entered into the Plan with the Trustee; and
 - (c) the Beneficiary, if the Beneficiary has rights under the Plan to make decisions concerning the Plan, unless the Beneficiary's only right is to request that Disability Assistance Payments be made.

- 1.13 "Incapable Person" means someone in respect of whom:
- (a) the Public Guardian and Trustee or another person has been appointed as committee of the estate or guardian of property, statutory or otherwise, of such person, in any manner and for any reason; or
 - (b) at least one letter of opinion has been given by a physician duly qualified to practise in the jurisdiction where that person resides that such person is incapable of managing property due to disability.
- 1.14 "Legal Parent" means someone:
- (a) who is identified on the Beneficiary's birth certificate as the Beneficiary's parent;
 - (b) whose paternity in respect of the Beneficiary has been recognized by a court of competent jurisdiction; or
 - (c) who is an adoptive parent of the Beneficiary pursuant to an act of a court of competent jurisdiction; and who has not lost his or her parental rights in respect of the Beneficiary in accordance with applicable law.
- 1.15 "Lifetime Disability Assistance Payments means Disability Assistance Payments that, after they begin to be paid, are payable at least annually until the earlier of the day on which the Beneficiary dies and the day on which the Plan is terminated.
- 1.16 "Maximum Age means 59 years of age or such other age as may be prescribed from time to time by the Tax Act.
- 1.17 "Plan means this TD Waterhouse Disability Savings Plan established and maintained on behalf of the Beneficiary.
- 1.18 "Plan Trust means the trust governed by the Plan.
- 1.19 "Prescribed Annuity Contract" means an annuity contract as described in paragraph (b) of the definition "qualified investment" in subsection 205(1) of the Tax Act.
- 1.20 "Property" means all amounts contributed to the Plan (including transfers to the Plan from another Registered Disability Savings Plan and Specified RDSP Payments), all Government Funded Benefits received by the Plan Trust and all earnings and gains derived from investments, net of any expenses payable and any other payments from the Plan Trust, and includes all investments and uninvested cash held from time to time by the Trustee in accordance with the Plan.
- 1.21 "Qualifying Family Member" means an individual who is a Legal Parent or a Spouse of the Beneficiary.
- 1.22 "Qualifying Person", in relation to the Beneficiary, at any time, means:
- (a) if the Beneficiary has not, at or before that time, attained the age of majority, a Legal Parent or an Administrator;
 - (b) if the Beneficiary has, at or before that time, attained the age of majority but is an Incapable Person, an Administrator; and
 - (c) a Qualifying Family Member if:
 - (i) at or before that time, the Beneficiary has attained the age of majority and is not a Beneficiary under a disability savings plan;
 - (ii) at that time, there is no Administrator; and
 - (iii) in the Trustee's opinion after reasonable inquiry, the Beneficiary's contractual competence to enter into a disability savings plan at that time is in doubt.
- 1.23 "Registered Disability Savings Plan" means a Disability Savings Plan that satisfies the conditions of subsection 146.4(2) of the Tax Act.
- 1.24 "Specified Minister" means the Minister as designated in the Canada Disability Savings Act.
- 1.25 "Specified RDSP Payment" means a payment that is made to the Plan after June 2011, that complies with section 4.1(a)(b), (c), (d), (e) and (g), and that has been designated in a prescribed form by, at the time the payment is made, the Holder and Beneficiary where the Beneficiary is the child or grandchild of:
- (a) a deceased annuitant under a registered retirement savings plan or a registered retirement income fund, or
 - (b) a deceased member of a registered pension plan, a pooled registered pension plan or a specified pension plan, and was financially dependent on the deceased for support, by reason of mental or physical infirmity, at the time of the deceased's death.
- 1.26 "Specified" Year means the particular calendar year in which a medical doctor Licenced to practice under the laws of a province (or of the place where the Beneficiary resides) certifies in writing that the Beneficiary's state of health is such that, in the professional opinion of the medical doctor, the Beneficiary is not likely to survive more than five years, and each of the five calendar years following the particular calendar year, but does not include any calendar year prior to the calendar year in which the certification is provided to the Trustee.
- 1.27 "Spouse" means a spouse or common-law partner of the Beneficiary who is not living separate and apart from the Beneficiary by reason of a breakdown of their marriage or common-law partnership.
- 1.28 "Tax Act" means the Income Tax Act (Canada).

Article 2 - Registration of the Plan

- 2.1 The Plan will be registered if, at the time the Plan is entered into:
- (a) the Beneficiary is a DTC-Eligible Individual in respect of the taxation year in which the Plan is entered into;
 - (b) the Trustee has been provided with the social insurance number of the Beneficiary and the social insurance number or business number, as the case may be, of each entity with which the Plan is entered into;

- (c) the Beneficiary is resident in Canada, except where the Beneficiary is the beneficiary under another Registered Disability Savings Plan; and
 - (d) the Beneficiary is not a beneficiary under another Registered Disability Savings Plan, unless such plan is terminated (i) prior to December 14, 2012, within 120 days (or any later day that the Specified Minister considers reasonable in the circumstances) after the Plan is entered into and (ii) on and after December 14, 2012, without delay.
- 2.2 The Plan will not be considered registered:
- (a) unless the Trustee notifies the Specified Minister of the Plan's existence in prescribed form containing prescribed information (i) prior to December 14, 2012, within 60 days after the Plan is entered into and (ii) on and after December 14, 2012, without delay; and
 - (b) if the Beneficiary is also the beneficiary of another Registered Disability Savings Plan at the time the Plan is established, such plan has not been terminated prior to December 14, 2012, within the time period referred to in section 2.1(d) and on and after December 14, 2012, without delay.
- 2.3 The Trustee hereby confirms that:
- (a) the Minister of National Revenue has approved the specimen plan on which the Plan is based;
 - (b) the Plan shall be operated exclusively for the benefit of the Beneficiary, and no right of the Beneficiary to receive payments from the Plan is capable, either in whole or in part, of surrender or assignment; and
 - (c) the Trustee shall be entitled to rely on the information provided by the Holder(s) including, without limiting the generality of this provision, the age of the Beneficiary, and on the continued confirmation by the Holder(s) of the Beneficiary's residence and status as a DTC-Eligible Individual.
- 2.4 The Trustee and the Holder(s) acknowledge and agree that the designation of the Beneficiary is irrevocable.
- 2.5 Should the Trustee be advised by the Specified Minister or the Minister of National Revenue that the Plan has failed to be registered because the Beneficiary is not a DTC-Eligible Individual or for any other reason resulting from any action or inaction of the Holder(s), the Plan shall be terminated and, contrary to what is provided in Articles 6, 7 and 8, the Property distributed to the Holder(s) and other contributor(s) in proportion to the amounts contributed by each (subject to the repayment, as soon as practicably possible, of any Property that constitutes Government Funded Benefits and the reversal of Specified RDSP Payments).

Article 3 - Change of Holders

- 3.1 There must be at least one Holder at all times.
- Where it appears that there may be no Holder at any particular time, the Trustee shall, in its entire and sole discretion, take appropriate steps to request that the Minister of National Revenue exercise its authority to prevent the Plan from terminating until a Holder may be found. In the event that the Trustee, in its entire and sole discretion, does not take such step, the Minister refuses to exercise his authority, or the Minister does exercise his authority but any condition or requirement imposed by him is not subsequently fulfilled, the Plan shall be terminated in accordance with Article 8.
- 3.2 A Holder shall not cease to be a Holder while a Qualifying Person unless and until there is another Holder.
- Where a Holder (other than a Legal Parent) ceases to be a Qualifying Person, the entity shall then cease to be a Holder.
- 3.3 Subject to section 3.5, a Qualifying Family Member shall cease to be a Holder and:
- (a) the Beneficiary shall become the Holder if the Beneficiary is determined to be contractually competent by a competent tribunal or other authority under the laws of a province or, in the Trustee's opinion after reasonable inquiry, the Beneficiary's contractual competence to enter into a disability savings plan is no longer in doubt, and the Beneficiary notifies the Trustee that he/she chooses to become the Holder; or
 - (b) the Administrator that is appointed and is legally authorized to act on behalf of the Beneficiary shall become the Holder.
- 3.4 Subject to section 3.5, any of the following may be a successor or assignee of a Holder and acquire such Holder's rights:
- (a) the Beneficiary who has attained the age of majority and is not an Incapable Person;
 - (b) the Beneficiary's estate;
 - (c) a Holder at the time the rights are acquired;
 - (d) a Qualifying Person (other than a Qualifying Family Member) at the time the rights are acquired, or
 - (e) an individual who is a Legal Parent and was previously a Holder.
- 3.5 Where an entity becomes a Holder after the Plan is entered into, the entity shall not be permitted to exercise his/her/its rights as a Holder:
- (a) until the Trustee has been advised of the entity having become a Holder and been provided with the entity's Social Insurance Number or business number, as the case may be (except to the extent otherwise permitted by the Minister of National Revenue or the Specified Minister); and
 - (b) until such entity has provided to the Trustee any other information, and completed any document expressing agreement to be a Holder, as the Trustee may, from time to time, determine to be appropriate.
- 3.6 Where the Beneficiary, who has been determined to be contractually competent to enter into a disability savings plan or whose contractual competence to enter into a disability savings plan is no longer in doubt, has notified the Trustee that he/she chooses to become the Holder, he/she shall not be permitted to exercise his/her/its rights as a Holder until he/she has provided to the Trustee any other information, and completed any document expressing agreement to be a Holder, as the Trustee may, from time to time, determine to be appropriate.

Article 4 - Contributions and Transfers to the Plan

- 4.1 No contribution (including, for purposes of section 4.1(a), (b), (c), (d), (e) and (g), a Specified RDSP Payment) may be made to the Plan at any time or in respect of the taxation year that includes that time:
- (a) by any entity that is not a Holder, except with written consent of the Holder(s), and with written consent of the Trustee which consent shall not be unreasonably withheld;
 - (b) if the Beneficiary is not a DTC-Eligible Individual;
 - (c) if the Beneficiary died before that time;
 - (d) if the Beneficiary attained the Maximum Age before the calendar year that includes that time (unless the contribution consists of a transfer from another Registered Disability Savings Plan of the Beneficiary);
 - (e) if the Beneficiary is not then resident in Canada (unless the contribution consists of a transfer from another Registered Disability Savings Plan of the Beneficiary);
 - (f) which is less than the minimum contribution amount, if any, established by the Trustee from time to time; or
 - (g) if the total of that and all other contributions then made to the Plan or to any other Registered Disability Savings Plan of the Beneficiary (other than as a transfer from another Registered Disability Savings Plan of the Beneficiary) would exceed \$200,000.

A contribution does not include Government Funded Benefits, amounts from a Designated Provincial Program or from another program that has a similar purpose and is funded directly or indirectly by a province (other than an amount paid by a Qualifying Person that is a public department, agency or institution, that is legally authorized to act on behalf of the Beneficiary, or an amount transferred to the Plan which complies with section 7.1).

Other than for the purposes of this section, paragraphs 6.4(a), (b), and (c), and from January 1, 2014, paragraph (b) of the definition of "advantage" in subsection 205(1) of the Tax Act, a Specified RDSP Payment or an accumulated income payment made to the Plan under subsection 146.1(1.2) of the Tax Act is not considered a contribution to the Plan.

- 4.2 Where a transfer is made to the Plan from another Registered Disability Savings Plan of the Beneficiary, and the Beneficiary has attained the Maximum Age before the calendar year in which the transfer occurs, the Trustee shall undertake to make (in addition to any other Disability Assistance Payments that would otherwise have been made from the Plan in the year) one or more Disability Assistance Payments from the Plan in the year, the total of which is equal to the amount, if any, by which:
- (a) the total amount of Disability Assistance Payments that would have been required to be made from the transferring Registered Disability Savings Plan in the year if the transfer had not occurred exceeds
 - (b) the total amount of Disability Assistance Payments made from the transferring Registered Disability Savings Plan in the year.
- 4.3 The Trustee will apply for Government Funded Benefits in respect of a Beneficiary who is eligible therefore, upon Direction of the Holder(s) and upon completion and delivery of all forms required under the Applicable Legislation, but the Trustee shall not be responsible for determining whether the Beneficiary is eligible for Government Funded Benefits.

Article 5 - Investment of the Property

- 5.1 The Trustee will, on Direction of the Holder(s), invest the Property, provided that the Trustee may in its sole discretion decline to make any particular investment for any reason including, without limitation, if the proposed investment and related documentation do not comply with the Trustee's administrative requirements, which may be modified from time to time. The Holder(s) will have the right to designate a person or persons in a satisfactory form as may be determined by the Trustee, as his or her attorney for the purpose of giving any such Directions and the Agent and Trustee both will be released from any claims or liability to the Holder(s) in acting pursuant to such Directions unless it has received written notice that such person or persons is not or has ceased to be the Holder(s)'s attorney and the Trustee has acknowledged receipt of such notice in writing.
- 5.2 The Trustee may require the Holder(s) to provide such documentation in respect of any investment or proposed investment as the Trustee in its sole discretion deems necessary. Contributions and transfers to the Plan may be invested and reinvested in any eligible securities and/or deposits, including securities issued or managed by, or deposits with, the Trustee and any of its affiliates, as the Holder(s) may direct from time to time. The Trustee may, at its discretion, hold uninvested balances in the Trustee or in any affiliate of the Trustee.
- 5.3 Pending the investment of any uninvested cash in the Plan Trust, the Trustee will hold such cash in a segregated account and may pay interest thereon on such terms and at such rate or rates as it may from time to time establish, provided that such cash has been deposited with the Trustee.
- 5.4 The Trustee shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that Plan holds a non-qualified investment for purposes of the Tax Act. If the Trustee determines, in its sole discretion, that any investment is or becomes a non-qualified investment for purposes of the Tax Act, the Trustee may, at its sole discretion, withdraw such investment from the Plan Trust in-kind or by way of realization of the investment in cash and, in such event, the Holder(s) acknowledge(s) that he or she is liable for the tax consequences of such withdrawal.
- 5.5 The Trustee must hold any investment in its own name, in the name of its nominee, in bearer form or in such other name as the Trustee may determine. The Trustee may generally exercise the power of an owner with respect to the Property, including the right to vote or to give proxies to vote in respect thereof, and to pay any assessment, taxes or charges in connection therewith or the income or gains derived therefrom.

Article 6 - Payments from the Plan

- 6.1 Subject to sections 6.3 to 6.5, at any time upon the delivery to the Trustee of a Direction from the Holder(s) (or, where section 6.4(c) is applicable, from the Beneficiary who is not a Holder), the Trustee shall make payments to the Beneficiary from the Plan. No payments may be made from the Plan other than:
- A Disability Assistance Payment;
 - a transfer from the Plan in accordance with section 7.1;
 - the repayment of Government Funded Benefits or under a Designated Provincial Program; and
 - any other payment required to be made under Applicable Legislation.
- 6.2 Lifetime Disability Assistance Payments shall begin to be paid no later than the end of the particular calendar year in which the Beneficiary attains the age of 60 years or such other age as is prescribed from time to time by the Tax Act or, if the Plan is established in or after the particular year, in the calendar year following the calendar year in which the Plan is established.
- 6.3 The total amount of Lifetime Disability Assistance Payments made in any particular calendar year (other than a Specified Year) shall not exceed the amount determined by the formula set out in paragraph 146.4(4)(l) of the Tax Act. In the absence of a Direction to the contrary and subject to section 6.5, the Holder(s) shall be deemed to have directed that Lifetime Disability Assistance Payments be made in such amount.
- 6.4 Where the total of all Government Funded Benefits paid before the beginning of a calendar year to the Plan and any other Registered Disability Savings Plan of the Beneficiary exceeds the total of all contributions made (other than as a transfer from another Registered Disability Savings Plan of the Beneficiary) before the beginning of the calendar year to the Plan or any other Registered Disability Savings Plan of the Beneficiary:
- if the calendar year is not a Specified Year, the total amount of Disability Assistance Payments made in the calendar year shall not exceed (i) prior to January 1, 2014, the amount determined by the formula set out in paragraph 146.4(4)(l) of the Tax Act and, (ii) on and after January 1, 2014, the "specified maximum amount" as that term is defined in subsection 146.4(1) of the Tax Act. In calculating that total amount, any payment made following a transfer in the calendar year from another Registered Disability Savings Plan is to be disregarded if it is made to satisfy the undertaking described at section 4.2, or in lieu of a payment that would otherwise have been permitted to be made from the other Registered Disability Savings Plan in the calendar year had the transfer not occurred;
 - if the Beneficiary attained the age of 27 years or such other age as is prescribed from time to time by the Tax Act, but not the Maximum Age, before the calendar year and is not then an Incapable Person, the Beneficiary has the right to direct that, within the constraints imposed by sections 6.4(a) and 6.6, one or more Disability Assistance Payments be made in the calendar year; and
 - prior to January 1, 2014, if the Beneficiary attained the Maximum Age before the calendar year, the total amount of Disability Assistance Payments made in the calendar year shall not be less than the amount determined by the formula set out in paragraph 146.4(4)(l) of the Tax Act (or such lesser amount as is supported by the Property).
- 6.5 On and after January 1, 2014, if the Beneficiary attained the Maximum Age before the calendar year, the total amount of Disability Assistance Payments made in the calendar year shall not be less than the amount determined by the formula set out in paragraph 146.4(4)(l) of the Tax Act (or such lesser amount as is supported by the Property).
- 6.6 No Disability Assistance Payment may be made from the Plan Trust if it would result in the fair market value of the Property immediately after the payment being less than the Assistance Holdback Amount in relation to the Plan.

Article 7 - Transfer from, and Termination and Amendment of the Plan

- 7.1 Upon a Direction from the Holder(s), the Trustee shall transfer the Property (or an amount equal to the value of the Plan Trust) to another Registered Disability Savings Plan of the Beneficiary, together with (i) prior to December 14, 2012, all information in its possession that may reasonably be considered necessary for compliance with the requirements of Applicable Legislation and (ii) on and after December 14, 2012, all information in its possession (other than information provided to the issuer of the other Registered Disability Savings Plan by the Specified Minister) that may reasonably be considered necessary for compliance with the requirements of Applicable Legislation, and with any conditions and obligations imposed under, Applicable Legislation. Where the Plan has accepted Specified RDSP Payments, the recipient Registered Disability Savings Plan must be one that also accepts such payments. Upon such transfer, neither the Agent nor the Trustee shall be subject to any further liability or duty with respect to the Plan. Where an amount is transferred from the Plan, the Plan shall be terminated immediately after the transfer.
- 7.2 The Plan will terminate when no Property remains in the Plan Trust, or by the end of the calendar year following the earlier of:
- the calendar year in which the Beneficiary dies, and
 - (i) prior to January 1, 2014, the first calendar year throughout which the Beneficiary has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1) of the Tax Act, and (ii) on and after January 1, 2014, the first calendar year if a DTC Election is made that includes the time that the DTC Election ceases to be valid, and, in any other case, throughout which the Beneficiary has no severe and prolonged impairments with the effects described in paragraph 118.3(1)(a.1) of the Tax Act.

Where any Property remains in the Plan Trust (after taking into consideration the Assistance Holdback Amount, Designated Provincial Program repayments and any other repayments under Applicable Legislation), the Trustee shall pay such remainder to the Beneficiary or the Beneficiary's estate, as the case may be, after having paid from the Property any fees, charges, disbursements and expenses that remain unpaid.

7.3 Subject to:

- (a) having amended, with the Minister of National Revenue's approval, the specimen plan on which the Plan is based; and
- (b) no change to the terms and conditions of the Plan having the effect of disqualifying the Plan as a Registered Disability Savings Plan or disqualifying the Beneficiary as a recipient of Government Funded Benefits under Applicable Legislation; the Trustee may, from time to time and in its discretion, amend the terms of the Plan (which amendment may have retroactive effect):
- (c) without notice, provided that the amendment is made for the purpose of satisfying a requirement imposed by Applicable Legislation or, at its effective date, the amendment will not in the Trustee's sole opinion adversely affect the rights of the Holder(s) or the Beneficiary; and
- (d) in all other cases, by giving 30 days notice to the Holder(s).

7.4 Notwithstanding anything to the contrary herein, the Trustee shall not amend the Plan before receiving notification from the Minister of National Revenue that, in the Minister's opinion, a plan whose terms are identical to the amended Plan would, if entered into by an entity eligible to enter into a Disability Savings Plan, comply with the conditions set out in subsection 146.4(4) of the Tax Act.

Article 8 - Non-Compliance of the Plan

8.1 Where, at any time, the Plan fails to comply with a condition set out in subsection 146.4(4) of the Tax Act, there is a failure to administer the Plan in accordance with its terms, or a person fails to comply with a condition or an obligation imposed, with respect to the Plan, under Applicable Legislation, and the Specified Minister has notified the Minister of National Revenue that, in the Specified Minister's opinion, it is appropriate that the Plan be considered to be non-compliant because of such failure:

- (a) the Plan shall cease, as of the particular time, to be a Registered Disability Savings Plan;
- (b) a Disability Assistance Payment equal to the amount, if any, by which the fair market value of the Property at the relevant time exceeds the Assistance Holdback Amount in relation to the Plan shall be deemed to have been made from the Plan Trust at the relevant time immediately before the particular time to the Beneficiary (or, if the Beneficiary is deceased at the relevant time, to the Beneficiary's estate); and
- (c) if the Plan is non-compliant because of a Disability Assistance Payment that breaches section 6.5, a Disability Assistance Payment equal to the amount by which the lesser of:
 - (i) the Assistance Holdback Amount in relation to the Plan; and
 - (ii) the fair market value of the Property at the relevant time; exceeds
 - (iii) the fair market value of the Property immediately after the particular time (and in respect of which the non-taxable portion is nil)

shall be deemed to have been made from the Plan Trust at the relevant time (in addition to the payment deemed by clause (b) to have been made) to the Beneficiary (or, if the Beneficiary is deceased at the relevant time, to the Beneficiary's estate).

Article 9 - The Trustee

9.1 The Holder(s) authorize(s) the Trustee to perform, and the Trustee may delegate to the Agent the performance of, the following duties and responsibilities:

- (a) to receive contributions, transfers and Government Funded Benefits to the Plan;
- (b) to make Disability Assistance Payments and transfers from the Plan and repay Government Funded Benefits;
- (c) to invest and reinvest the Property in accordance with the Directions of the Holder(s);
- (d) to hold the Property in safekeeping;
- (e) to maintain the Plan;
- (f) to provide statements to the Holder(s); and
- (g) to perform such other duties and responsibilities of the Trustee as the Trustee may determine from time to time, in accordance with Applicable Legislation.

9.2 The Trustee shall, however, remain ultimately responsible for the administration of the Plan pursuant to the provisions hereof. The Holder(s) also authorize(s) the Trustee to, and the Trustee may, pay the Agent all or a portion of the fees paid by the Holder(s) to the Trustee hereunder and may reimburse the Agent for its out-of-pocket expenses in performing the duties and responsibilities delegated to the Agent by the Trustee, as agreed upon between the Agent and the Trustee. To the extent applicable, the Holder(s) acknowledge(s) that the Agent may earn normal brokerage commissions on investment and reinvestment transactions processed by the Agent.

- 9.3 The Trustee, upon giving the Agent at least 30 days' written notice (or immediately if the Agent is for any reason incapable of acting in accordance with the terms of the Plan), may resign, and the Agent, upon giving the Trustee at least 90 days' written notice (or immediately if the Trustee is for any reason incapable of acting as Trustee hereunder), may remove the Trustee as the trustee of the Plan, provided that a successor trustee has been appointed by the Agent in writing. If the Agent fails to designate a successor trustee within 60 days after it has received notice of the Trustee's intended resignation, the Trustee may appoint its successor trustee. Such successor trustee shall, within 90 days of its appointment, give written notice of its appointment to the Holder. A successor trustee shall have the same power, rights and obligations as the Trustee. The Trustee shall execute and deliver to the successor trustee all conveyances, transfers and further assurances as may be necessary or desirable to give effect to the appointment of the successor trustee. Any successor trustee shall be a corporation resident in Canada and authorized under the laws of the province of residence of the Holder(s) indicated in the Application to carry out its duties and responsibilities as trustee of the Plan. Subject to the requirements of Canada Revenue Agency, any corporation resulting in the merger, consolidation or amalgamation to which the Trustee is a party or which purchases all or substantially all of the trust business of the Trustee shall be the successor trustee hereunder without the execution of any other instrument or document except notice to the Agent and to the Holder(s).
- 9.4 The Trustee will be entitled to such reasonable fees and other charges as the Trustee or Agent may establish from time to time for the Plan and to reimbursement for disbursements and expenses reasonably incurred by it in performing its duties hereunder. All such fees and other amounts (together with any goods and services tax or other taxes applicable thereto) will, unless paid directly to the Trustee, be charged against and deducted from the Property in such manner as the Trustee determines, and the Trustee may realize assets of the Plan Trust in its absolute discretion for the purposes of paying such fees and other amounts. Any such realization shall be made at such price or prices as the Trustee or the Agent at its sole discretion may determine and neither the Trustee nor the Agent shall be responsible for any loss occasioned by any such realization.
- 9.5 Where the Holder is a Qualifying Family Member, the Trustee shall so notify the Beneficiary without delay in writing and include in the notification information setting out the circumstances in which the Holder may be replaced by the Beneficiary or an Administrator, and collect and use any information provided by the Holder that is relevant to the administration and operation of the Plan.

Article 10 - Limitations of Liability/Indemnity

- 10.1 Neither the Trustee nor the Agent shall be liable for the making, retention or sale of any investment or reinvestment as herein provided or for any loss or diminution of the Property.
- 10.2 The Holder(s) and any successor, executor and administrator thereof shall at all times indemnify and save harmless the Trustee and the Agent in respect of any taxes, assessments or other charges levied or imposed by any governmental authority upon or in respect of the Plan. Notwithstanding the foregoing, neither the Trustee nor the Agent is entitled to reimbursement from the Plan for any charges, taxes or penalties imposed on the Trustee under subsection 162(7) of the Tax Act for failure to comply with subsection 207.01(5) of the Tax Act.
- 10.3 The Trustee and the Agent shall be entitled to and shall be fully protected in acting upon any Direction believed by the Trustee or the Agent to be genuine and to be signed or presented by the proper person(s). The Trustee and the Agent shall be under no duty to make any investigation or inquiry as to any statement contained in any Direction but shall be entitled to accept the same as conclusive evidence of the truth and accuracy of the statement therein contained.
- When the Plan is terminated and the Property distributed, the Trustee and the Agent shall be released and discharged from any further responsibility or obligation in connection herewith.
- 10.4 Except as otherwise provided herein, neither the Trustee nor the Agent shall be liable for any loss incurred by the Plan, by the Holder(s) or by the Beneficiary unless due to the negligence, willful misconduct or lack of good faith of the Trustee or the Agent.
- 10.5 Should the Trustee be advised, as contemplated in section 2.4 that the Plan has failed to be registered, the Holder(s) will indemnify the Trustee and the Agent and save them harmless in respect of any costs which may be imposed personally on the Trustee or the Agent as a result of the establishment, the failure to register and the termination of the Plan and the investment and subsequent distribution of the Property.
- 10.6 If, after reasonable inquiry, the Trustee is of the opinion that the Beneficiary's contractual competence to enter into a disability savings plan is in doubt, no action lies against the Trustee for entering into the Plan with a Qualifying Family Member.

Article 11 - General

- 11.1 Any notice given by the Trustee to a Holder shall be sufficiently given if (i) sent to a Holder electronically or (ii) mailed, postage prepaid, to the Holder at the address set out in the Application or at any subsequent address of which the Holder shall have notified the Trustee, and any such notice shall be deemed to have been given on the day of delivery if sent electronically or on the day of mailing.
- 11.2 No advantage, as that term is defined at subsection 207.01 of the Tax Act, may be extended to someone who is or does not deal at arm's length with a Holder or the Beneficiary.
- 11.3 Property of the Plan Trust shall not be used as security for indebtedness of any kind.

- 11.4 The Trustee shall:
- (a) where an entity becomes a Holder after the Plan is entered into, so notify the Specified Minister in prescribed form containing prescribed information on or before the day that is 60 days after the later of (i) the day on which the Trustee is advised of the new Holder and (ii) the day on which the Trustee is provided with the new Holder's Social Insurance Number or business number, as the case may be;
 - (b) where the Trustee becomes aware that the Plan is, or is likely to become, non-compliant, notify the Minister of National Revenue and the Specified Minister of this fact on or before the day that is 30 days after the day on which the Trustee becomes so aware; and
 - (c) exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that a Holder may become liable to pay tax under Part XI of the Tax Act in connection with the Plan.
- 11.5 The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada, approved by the Canada Revenue Agency and any other applicable authority, and authorized to assume and discharge the obligations of the Agent under the Plan, provided that such corporation shall execute any agreement which is necessary or advisable for the purpose of assuming such rights and obligations and further provided that no such assignment may be made without prior written consent of the Trustee, which consent may not be unreasonably withheld.
- 11.6 The terms of the Plan shall be binding upon the heirs, executor, administrators and assigns of the Holder(s) and upon the respective successors and assigns of the Agent and Trustee.
- 11.7 The Plan will be governed by and construed in accordance with the laws of Ontario, the Tax Act and any other laws of Canada, which may be applicable.
- 11.8 The parties hereto have requested that the Plan and all related documents be written, and the Plan be established, in English. Les parties ont demandé que le régime et tous documents y afférents soit rédigés, et le régime soit établi, en anglais.