

TEACHERS' PENSION PLAN

JOINT TRUST AGREEMENT

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**TEACHERS' PENSION PLAN
JOINT TRUST AGREEMENT**

THIS JOINT TRUST AGREEMENT is made the 2nd day of April, 2001,

BETWEEN:

Her Majesty the Queen in Right of the Province of British
Columbia as represented by the Minister of Finance and Corporate
Relations

(the "**Government**")

AND:

the British Columbia Teachers' Federation

(the "**BCTF**").

WHEREAS:

- A. Pursuant to the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357 (the "**PTA**"), a pension plan was provided for the benefit of teachers and certain other public service employees;
- B. Pursuant to s. 4 of the PTA, the Teachers' Pension Fund (the "**Pension Fund**") was continued under the PTA;
- C. The *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44 (the "**Act**"), which received Royal Assent on July 15, 1999, introduced certain changes to British Columbia's four statutory pension plans, including the plan provided for under the PTA;
- D. Pursuant to s. 2 of Schedule D to the Act ("**Schedule D**"), the plan provided for under the PTA was continued on April 1, 2000 as the Teachers' Pension Plan (the "**Pension Plan**") under Schedule D and the regulations made pursuant to s. 16(1) of Schedule D (the "**Statutory Pension Plan Rules**");
- E. Pursuant to s. 9 of Schedule D, the Pension Fund constituted under the PTA was further continued under Schedule D effective April 1, 2000;
- F. In conjunction with the continuation of the Pension Plan and the Pension Fund under Schedule D, the PTA was repealed effective April 1, 2000 pursuant to s. 124(d) of the Act;
- G. The Act established an agency known as the British Columbia Pension Corporation to provide pension plan administration services to British Columbia's statutory pension plans, including the Pension Plan;

- H. The Act also established an agency known as the British Columbia Investment Management Corporation which may provide investment management services to British Columbia's statutory pension plans, including the Pension Plan;
- I. Section 18 of Schedule D provides that the parties hereto may enter into a unanimous joint management agreement that provides for, but is not limited to, all of the following:
- (a) the continuation of the Pension Plan and the Pension Fund for the benefit of plan members;
 - (b) the joint management of the Pension Plan and the Pension Fund;
 - (c) the establishment of who will manage the joint management agreement;
 - (d) the establishment of an arrangement to hold and invest the Pension Fund;
 - (e) the composition of the board of trustees, including the appointment of trustees and the delineation of their powers, functions and duties;
 - (f) the sharing by the employers and plan members of gains or surplus and of liability for deficiencies in the Pension Fund;
 - (g) the method for amending the Pension Plan by the agreement of the Partners;
 - (h) the resolution of disputes; and
 - (i) any other matter on which agreement is reached;
- J. Once this Joint Trust Agreement is concluded pursuant to s. 18 of Schedule D, s. 1 of the Act is amended pursuant to s. 115 of the Act, and Part 1 of Schedule D is repealed pursuant to s. 122 of the Act, this Joint Trust Agreement and the Pension Plan Rules, as hereinafter defined, will govern the Pension Plan and the Pension Fund.
- K. By letter dated March 3, 2000 from the Minister of Finance and Corporate Relations to the President of the BCTF (the "**Minister's Letter**"), the Minister proposed that pursuant to s. 18(6) of Schedule D discussions be initiated regarding a joint management agreement.
- L. The Governance Committee of the Teachers' Pension Board approved in principle on June 7, 2000 an agreement in committee subject to ratification by the plan member organizations and the government. A booklet entitled "Joint Trusteeship of the Teachers' Pension Plan" was then prepared by the Teachers' Pension Board and distributed to members to provide information to them on the issue of joint trusteeship before ratification votes were held. The booklet included a section entitled "The Proposed Joint Management Agreement – an overview" in which the following principles of joint trusteeship were stated:
- (a) equal sharing of responsibility for management of the pension assets in the best interest of the beneficiaries;

- (b) agreement on the sharing of contributions;
- (c) equal sharing of responsibility for any unfunded liabilities generated during the period of joint trusteeship;
- (d) equal ownership of any surplus generated during the period of joint trusteeship; and
- (e) protection of the plan from unilateral actions by government.

M. As a result of the discussions initiated by the Minister's Letter, and pursuant to s. 18 of Schedule D, the parties wish to enter into this Joint Trust Agreement to provide for, among other things, the joint management of the Pension Plan and the Pension Fund and for that purpose have made this Joint Trust Agreement.

THEREFORE THE PARTIES AGREE as follows:

PREAMBLE

The purpose of this Joint Trust Agreement is to provide for the prudent management of the Pension Plan and the Pension Fund in a framework where the Plan Members and Employers share the responsibility of plan governance and share the risks and rewards of plan sponsorship.

ARTICLE 1. - INTERPRETATION

1.1. Definitions.

In this Joint Trust Agreement, unless the context requires another meaning, the following defined terms have the following meanings:

- (a) **"Act"** means the *Public Sector Pension Plans Act*, S.B.C. 1999, c. 44.
- (b) **"Basic Account"** means the basic account of the Pension Fund established pursuant to s. 75 of the Statutory Pension Plan Rules and continued in accordance with s. 75 of the Pension Plan Rules.
- (c) **"Board"** or **"Board of Trustees"** means the Teachers' Pension Board of Trustees constituted under this Joint Trust Agreement, which Board shall consist of the individuals appointed from time to time to act as Trustees in accordance with the terms of this Joint Trust Agreement.
- (d) **"Chair"** means the chair of the Board appointed pursuant to Section 5.1.
- (e) **"Effective Date"** means the date ss. 115 and 122 of the Act come into force.
- (f) **"Employees"** means those persons who are considered eligible employees under s. 3 of the Pension Plan Rules.

- (g) “**Employers**” means those persons or other bodies who are considered eligible employers under s. 2 of the Pension Plan Rules.
- (h) “**Employer Trustees**” means those Trustees appointed by the Plan Employer Partner as described in subsection 4.1(a) of this Joint Trust Agreement.
- (i) “**Family Relations Act**” means the *Family Relations Act*, R.S.B.C. 1996, c. 128.
- (j) “**Government**” means Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Finance and Corporate Relations.
- (k) “**Inflation Adjustment Account**” means the inflation adjustment account of the Pension Fund established pursuant to s. 75 of the Statutory Pension Plan Rules and continued in accordance with s. 75 of the Pension Plan Rules.
- (l) “**ITA**” means the *Income Tax Act* (Canada).
- (m) “**Investment Management Corporation**” means the British Columbia Investment Management Corporation established under s. 16 of the Act.
- (n) “**Joint Trust Agreement**” means this Joint Trust Agreement which is a joint management agreement entered into pursuant to s. 18 of Schedule D.
- (o) “**Member Trustees**” means those Trustees appointed by the Plan Member Partner as described in subsection 4.1(b).
- (p) “**Partners**” means the Plan Employer Partner and the Plan Member Partner, and “**Partner**” means either of them.
- (q) “**PBSA**” means the *Pension Benefits Standards Act*, R.S.B.C. 1996, c. 352.
- (r) “**Pension Corporation**” means the British Columbia Pension Corporation established under s. 5 of the Act.
- (s) “**Pension Fund**” means the Teachers’ Pension Fund which, pursuant to s. 9 of Schedule D, was continued under Schedule D and which is further continued in accordance with this Joint Trust Agreement.
- (t) “**Pension Plan**” means the Teachers’ Pension Plan which, pursuant to s. 2(1) of Schedule D, was continued under Schedule D and the Statutory Pension Plan Rules and which is further continued in accordance with this Joint Trust Agreement.
- (u) “**Pension Plan Rules**” means the plan rules made under Article 11, which continue and replace the Statutory Pension Plan Rules. The initial Pension Plan Rules are attached as Exhibit 1.
- (v) “**Plan Administrative Agent**” means the Pension Corporation.
- (w) “**Plan Employer Partner**” means the Government.

- (x) **“Plan Investment Agent”** means the Investment Management Corporation or an investment manager referred to in Section 7.3.
- (y) **“Plan Member”** means a member, as that term is defined in the Pension Plan Rules.
- (z) **“Plan Member Partner”** means the BCTF.
- (aa) **“PTA”** means the *Pension (Teachers) Act*, R.S.B.C. 1996, c. 357.
- (bb) **“Schedule D”** means Schedule D to the Act.
- (cc) **“School Act”** means the *School Act*, R.S.B.C 1996, c. 412.
- (dd) **“Statutory Pension Plan Rules”** means the *Teachers’ Pension Plan Regulation*, B.C. Reg. 115/2000, made pursuant to s. 16(1) of Schedule D.
- (ee) **“Treasury Board”** means the body continued by s. 3 of the *Financial Administration Act*, R.S.B.C. 1996, c. 138.
- (ff) **“Trustees”** means the initial persons appointed pursuant to the terms of this Joint Trust Agreement to administer the Pension Plan and manage the Pension Fund and those persons appointed from time to time in accordance with this Joint Trust Agreement as their successors.

1.2. Use of Plural or Gender-Specific Terms.

In this Joint Trust Agreement according to the context:

- (a) gender-specific terms include both genders and include a corporation, partnership, society, association or union;
- (b) words in the singular include the plural and words in the plural include the singular; and
- (c) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression will have corresponding meanings.

1.3. Headings.

The headings used in this Joint Trust Agreement are for ease of reference only and shall form no part of this Joint Trust Agreement.

1.4. Use of Certain Terms.

The expressions “herein”, “hereof”, “hereto”, “above”, “below” and similar expressions used in any Article, Section, subsection or paragraph of this Joint Trust Agreement refer and relate to the whole of this Joint Trust Agreement and not to that Article, Section, subsection or paragraph only, unless otherwise expressly provided.

1.5. Statutory References.

In this Joint Trust Agreement, any reference to a statute shall include the regulations promulgated under that statute and any final judicial decisions interpreting the same, with all amendments made thereto and in force from time to time, and any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant to that statute.

1.6. Recitals, Preamble, Appendices and Exhibit.

The recitals, the Preamble and the various Appendices hereto form part of this Joint Trust Agreement. The Pension Plan Rules attached as Exhibit 1 do not form part of this Agreement.

1.7. Survival of Provisions.

The provisions of this Joint Trust Agreement which, by their context are meant to survive the termination of this Joint Trust Agreement, shall so survive the termination of this Joint Trust Agreement.

1.8. Conflict Between Pension Plan Rules and Joint Trust Agreement.

If there is any conflict between the Pension Plan Rules and this Joint Trust Agreement, this Joint Trust Agreement shall prevail and govern.

1.9. Other Joint Management Agreements.

Joint management agreements may be concluded pursuant to s. 18 of each of Schedule B and C of the Act. Those agreements are the product of different negotiating processes among different parties, and any differences between those agreements and this Joint Trust Agreement shall have no bearing on the interpretation of this Joint Trust Agreement.

ARTICLE 2. - JOINT TRUST AGREEMENT

2.1. Acknowledgement by the Partners.

This Joint Trust Agreement is made pursuant to, and constitutes a joint management agreement for the purposes of, s. 18(2) of Schedule D.

2.2. Effective Date.

On the Effective Date, the terms and conditions of this Joint Trust Agreement and the Pension Plan Rules shall come into force and thereafter govern the Pension Plan and the Pension Fund.

2.3. Registration of Pension Plan with Regulatory Authorities.

The adoption of this Joint Trust Agreement and the Pension Plan Rules shall for the purposes of the PBSA and the ITA be considered an amendment to the Pension Plan, and the Board shall make application on that basis to register this Joint Trust Agreement, the Pension Plan Rules and

any other documentation which is required to be registered under the PBSA and the ITA in respect of the Pension Plan and the Pension Plan Rules.

2.4. Status of Board under PBSA and ITA.

It is confirmed that for the purposes of the PBSA and the ITA the Board is the “administrator” of the Pension Plan.

2.5. Status of Joint Trust Agreement under PBSA.

This Joint Trust Agreement and the Pension Plan Rules made pursuant to it continue the multi-employer plan constituted under Schedule D. Pursuant to s. 12 of the PBSA, all Employers are bound by this Joint Trust Agreement and any amendments to it.

**ARTICLE 3. - CONTINUATION OF THE PENSION PLAN
AND PENSION FUND**

3.1. Pension Plan Continued.

- (a) Effective the Effective Date, the pension plan continued under Schedule D and the Statutory Pension Plan Rules is further continued under this Joint Trust Agreement and the Pension Plan Rules.
- (b) An entity who immediately before the Effective Date was an “employer” to whom Schedule D applied continues to be an Employer, and those persons who were eligible employees of that entity continue to be Employees, on and after the Effective Date.
- (c) A person who immediately before the Effective Date was a “member” to whom Schedule D applied continues to be a Plan Member under the Pension Plan on and after the Effective Date.
- (d) Any rights vested in an individual under the pension plan provided for by and under Schedule D continue to apply to the individual, in the same manner and to the same extent, under the pension plan continued under this Joint Trust Agreement and the Pension Plan Rules.
- (e) The fiscal year end of the Pension Plan is December 31st, or any other date that the Board may establish as the fiscal year end for the Pension Plan.

3.2. Pension Fund Continued.

- (a) On the Effective Date, the Pension Fund continued under Schedule D is further continued under this Joint Trust Agreement.
- (b) The Pension Fund held by the trustee described in s. 3(6) of Schedule D is hereby conveyed to the Board, which shall hold the Pension Fund in trust in accordance with this Joint Trust Agreement. The Partners and the Board shall take all necessary steps, including entering into appropriate custodial arrangements and an asset transfer agreement with the trustee described in s. 3(6) of Schedule D, to ensure that legal title to

the Pension Fund is vested in the Board, and that the Board can exercise and discharge all rights and obligations associated with the ownership of the Pension Fund.

- (c) The Pension Fund shall consist of cash, investments and other assets held by the Board.
- (d) The contributions from Employers and Plan Members and any other payments or assets paid or delivered to and received by the Board for the purposes of the Pension Fund, including returns on investments, form part of the Pension Fund.
- (e) Benefits and disbursements payable under this Joint Trust Agreement and the Pension Plan Rules must be paid from the Pension Fund and, for this purpose, the Pension Fund must be considered one and indivisible.
- (f) The following fees, expenses and disbursements, as are reasonably necessary and approved by the Board, must be paid from the Pension Fund:
 - (i) the fees, expenses and disbursements of the Board incurred in administering the Pension Plan and managing the Pension Fund;
 - (ii) any expenses incurred by a Trustee in attending or participating in any program of trustee education;
 - (iii) the fees, expenses and disbursements of, and amounts requisitioned by, the Pension Corporation and the Investment Management Corporation, or the amount payable to other investment managers, to operate and administer the Pension Plan and to manage the Pension Fund;
 - (iv) any other expenses incurred in the administration of this Joint Trust Agreement and the Pension Plan Rules.

3.3. Pension Fund Held for Purposes set out in Joint Trust Agreement.

The Pension Fund is for the sole benefit of the Plan Members. The Partners and the Employers shall have no claim on the assets of the Pension Fund other than as expressly provided for in this Joint Trust Agreement. Without limitation, nothing in this Section 3.3 derogates from the Board's ability to apply surplus assets to the reduction of Employer contribution rates in accordance with Section 10.3, or pay surplus assets to the Employers pursuant to Section 13.5.

ARTICLE 4. - APPOINTMENT AND REPLACEMENT OF TRUSTEES

4.1. Board of Trustees Established.

Subject to Section 5.1, the Board shall consist of ten Trustees appointed as follows:

- (a) five persons appointed by the Government, which individuals may be, but need not be, employees of the Government or a school district, as defined in the *School Act*; and
- (b) five persons appointed by BCTF who are Plan Members selected from teachers, retirees and excluded employees.

4.2. Acceptance by Trustees.

Each Trustee and successor Trustee, upon signing an Acceptance of Trust in the form set forth in Appendix A attached hereto, thereby accepts the trusts established by this Joint Trust Agreement and consents to act as a Trustee.

4.3. Terms for Employer Trustees.

Except as otherwise described herein, the first five Employer Trustees shall be appointed for initial terms as follows:

- (a) two Trustees each appointed for initial terms of one year;
- (b) one Trustee appointed for an initial term of two years; and
- (c) two Trustees each appointed for initial terms of three years.

The term of every Employer Trustee shall be stated on his or her Acceptance of Trust completed pursuant to Section 4.2.

4.4. Terms for Member Trustees.

Except as otherwise described herein, the first five Member Trustees shall be appointed for initial terms as follows:

- (a) one Trustee appointed for an initial term of one year;
- (b) two Trustees each appointed for initial terms of two years; and
- (c) two Trustees each appointed for initial terms of three years.

The term of every Member Trustee shall be stated on his or her Acceptance of Trust completed pursuant to Section 4.2.

4.5. Term.

Trustees shall serve for terms ending on December 31st. The initial one, two and three year terms described in Sections 4.3 and 4.4 shall be for the periods ending December 31, 2001, December 31, 2002 and December 31, 2003, respectively. Upon the expiration of the initial terms of the Trustees as set out in Sections 4.3 and 4.4, the subsequent terms for Trustees appointed under Section 4.1 or subsection 5.1(b) shall be made for three years provided that no more than four appointments shall be scheduled to expire in any single calendar year. If an individual is appointed Trustee pursuant to Section 4.10, his or her initial term shall be for the balance of what would have been the remainder of the term of the Trustee whose death, resignation or removal from office necessitated the appointment of that Trustee.

4.6. Renewal.

An appointment under Section 4.1 or subsection 5.1(b) may be renewed by the party who appointed the Trustee.

4.7. Removal.

Despite Section 4.1 or subsection 5.1(b), but subject to Sections 4.9 and 4.10, a Trustee appointed to the Board may be removed at any time by the party who appointed that Trustee.

4.8. Residency.

Each Trustee must be a permanent resident of Canada.

4.9. Appointment of Trustees on Expiration of Term.

No later than six months prior to the expiry date of a Trustee's term, the Chair shall give written notice to the party who appointed the Trustee, and that party shall renew the appointment of the Trustee or appoint a successor Trustee. If the party does not renew the appointment of the incumbent Trustee or appoint a successor Trustee within four months after the expiry of the term, the Trustees shall appoint a successor to fill the vacant position. The successor shall not be removed during that term by that party unless the Trustees agree.

4.10. Appointment of Trustees on Death, etc.

If a Trustee dies, resigns or is removed from office, the party who appointed the Trustee must forthwith appoint a successor Trustee. If that party fails to appoint a successor Trustee within two months of the Trustee's ceasing to serve, the Chair shall give written notice to the party who appointed the Trustee. The party who appointed the Trustee shall have a further two months from the date upon which the notice is received to appoint a successor Trustee. If the party does not appoint a successor Trustee during that period the Trustees shall appoint a successor to fill the vacant position. The successor shall not be removed during that term by that party unless the Trustees agree.

4.11. Special Quorum and Voting Procedures for Trustee Appointment and Removal.

Despite any other provision of this Joint Trust Agreement, the quorum requirements for a resolution described in Section 4.9 and 4.10 is a simple majority of the Trustees, and the majority requirement for a resolution described in Sections 4.9 and 4.10 is a simple majority of the Trustees present at the meeting and voting on the resolution.

4.12. Resignation of a Trustee.

A Trustee may resign by giving written notice thereof to the party who appointed him or her, who shall promptly notify all the other Trustees. The effective date of a resignation shall be stated in the notice of resignation, which date may be no earlier than the date the Trustee signs the resignation, failing which it shall be the date when the party who appointed the Trustee receives the written notice of resignation.

4.13. Death of a Trustee.

If a Trustee dies, his or her heirs, administrators, executors and assigns shall be fully discharged from all future duties and responsibilities in respect of this Joint Trust Agreement as of the date of the Trustee's death. A deceased Trustee's estate shall not be discharged from, and shall remain liable for, any of the deceased's liabilities arising hereunder prior to the date of death.

4.14. Discharge of Trustees.

If a Trustee resigns, is removed or the Trustee's term expires, he or she shall be fully discharged from all future duties and responsibilities in respect of this Joint Trust Agreement as of the date of such resignation, removal or the expiration of his or her term, as the case may be. However, a Trustee who resigns, is removed or whose term expires shall not be discharged from, and shall remain liable for, any of the Trustee's liabilities arising hereunder prior to the effective date of his or her resignation, removal or the expiration of his or her term, as the case may be.

4.15. Termination of Trusteeship.

A Trustee who resigns, is removed or whose term expires without being reappointed and the personal representatives of any deceased Trustee, all as the case may be, must forthwith turn over to the Trustees any and all records, books, documents, money and other property and assets in his or her possession, forming part of the Pension Fund or incidental to his or her duties as Trustee under this Agreement or relating to the administration of the Pension Fund or the Pension Plan. In addition, any such individual shall convey, assign or transfer to the Trustees any or all rights or property of that individual in the Pension Fund, excluding any rights or property that individual has in his or her capacity as a Plan Member, and shall, if necessary, convey, assign or transfer to the Trustees any or all rights or property of that individual in the Pension Fund as the Trustees may direct. Despite the foregoing, if the Board considers it appropriate, a former Trustee may have reasonable access to any of his or her records, books or documents turned over to the Trustees as described above.

4.16. Former Trustee Purporting to Act.

If a Trustee resigns, is removed or is not reappointed upon the expiration of his or her term but purports to continue to act as a Trustee, the Board may do such things and take such action at law or equity as it determines necessary to cause the person to cease to purport to act as a Trustee including, without limitation, making application to a court of competent jurisdiction for the relief, including injunctive relief, as may be appropriate in the circumstances.

ARTICLE 5. - BOARD OPERATION

5.1. Chair of Board.

The Trustees appointed under Section 4.1 must:

- (a) designate one of the Trustees appointed under Section 4.1 as chair of the Board; or
- (b) appoint a person, not appointed pursuant to Section 4.1, as a Trustee and designate that person as chair of the Board.

5.2. Term of Chair.

- (a) A Chair designated pursuant to subsection 5.1(a) shall serve for a term determined by the Trustees, which term shall not exceed one year, subject to that individual's resignation, death or removal in accordance with subsection 5.2(d).
- (b) A Chair appointed pursuant to subsection 5.1(b) shall serve for a term determined by the Trustees, which term shall not exceed one year, subject to that individual's resignation, death or removal by the Trustees in accordance with subsection 5.2(d).
- (c) A designation pursuant to subsection 5.1(a) or an appointment pursuant to subsection 5.1(b) may be renewed by the Trustees appointed under Section 4.1.
- (d) The Trustees appointed under Section 4.1 may remove at any time a Chair designated pursuant to subsection 5.1(a) or appointed pursuant to subsection 5.1(b).
- (e) A Chair designated pursuant to subsection 5.1(a) who ceases to hold office for any reason shall not cease to be a Trustee because he or she has ceased to be Chair. The person who ceased to be Chair shall remain a Trustee until he or she ceases to be a Trustee in accordance with the provisions of this Joint Trust Agreement.
- (f) A Chair designated pursuant to subsection 5.1(a) who ceases to be a Trustee for any reason shall cease to be Chair effective the date upon which the person ceases to be a Trustee.
- (g) A Chair appointed pursuant to subsection 5.1(b) who ceases to hold office as Chair for any reason shall cease to be a Trustee effective the date upon which the person ceases to be Chair.
- (h) If a Chair ceases to hold office at any time for any reason, the Trustees appointed under Section 4.1 shall forthwith designate a replacement in accordance with Section 5.1.

5.3. Voting by Chair.

- (a) A Chair designated pursuant to subsection 5.1(a) is not entitled to a second or casting vote.
- (b) A Chair appointed pursuant to subsection 5.1(b) is not entitled to a vote at any duly called and constituted meeting of the Board of Trustees.

5.4. Voting.

Subject to Section 5.3, each Trustee appointed pursuant to this Joint Trust Agreement shall have one vote at any duly called and constituted meeting of the Board of Trustees.

5.5. Quorum.

- (a) A quorum at a meeting of the Board shall consist of seven of the Trustees appointed under Section 4.1.

- (b) If a quorum is not present within one-half hour of the time specified for a meeting of the Board, the Trustees present may adjourn the meeting to a fixed time and place but may not transact any other business.
- (c) If during a meeting a quorum is lost, the Trustees remaining at the meeting shall not transact any business except to fix a time and place for a continuation of the meeting.
- (d) If the Trustees meet when a Trustee position is vacant, the meeting is validly constituted as long as a quorum is present.

5.6. Decisions.

Subject to other provisions of this Joint Trust Agreement, all decisions of the Board must be made by a resolution passed by a majority vote of at least seven of the Trustees appointed under Section 4.1 present at a duly called and constituted meeting of the Board.

5.7. Resolutions in Writing.

Despite Section 5.6, if all of the Trustees then in office could form a quorum if they met, any decision of the Board may be made by unanimous consent in writing signed by all Trustees then in office without a meeting of the Trustees.

5.8. Trustee Expenses and Remuneration.

The Board may pay from the Pension Fund:

- (a) to a Trustee or a person appointed to a committee of the Board an allowance for reasonable travel and other expenses necessarily incurred by that person in carrying out the business of the Board;
- (b) to a Trustee or a person appointed to a committee of the Board, if the Trustee or person is not receiving remuneration from any other source for acting as a Trustee or as a committee member, remuneration that has been set by the Board and is consistent with Treasury Board guidelines; and
- (c) to an organization specified by a Trustee or a person appointed to a committee of the Board, remuneration for the services of the Trustee or person at the rate set by the Board under subsection (b).

5.9. Frequency of Meetings.

- (a) The Trustees shall meet no less frequently than three times per calendar year. The Chair shall set the date and location of each meeting.
- (b) Any three Trustees may request the Chair to convene a meeting of the Board, which request shall be in writing and shall include the information reasonably required by the Chair to fulfil the agenda provisions contained herein. If requested as described above, no later than 14 days following receipt of the written request the Chair shall give notice to the Trustees setting out the date and location of the meeting, which meeting must be held

within two months of the date upon which the request to convene a meeting was received by the Chair.

- (c) If the office of the Chair is vacant, any two Employer Trustees and any two Member Trustees acting jointly may exercise the powers otherwise given to the Chair to set the date and location of a meeting, and give notice of it to the other Trustees.
- (d) Board meetings must be held in British Columbia. If a Trustee participating in a meeting does so by means of telephone conference or such other communication facilities as are permitted by Section 5.14, that Trustee will be deemed to be in British Columbia for the purposes of the meeting.

5.10. Notice of Meeting.

The Chair, or any other person delegated to do so by the Board, shall cause written notice of each meeting of the Board to be given to the Trustees no less than seven days prior to the date of the meeting. The notice of a meeting shall specify the date, time and location of the meeting, and shall include an agenda of matters to be addressed at the meeting. The agenda for each meeting shall be distributed with the notice of meeting. Whenever possible, any reports or other documentation to be considered at a meeting shall be provided to the Trustees with the notice of the meeting. For greater certainty, nothing in this Section 5.10 precludes a Trustee from bringing forth any matter for discussion at a meeting, and business not included in the agenda for a meeting may be conducted at a meeting.

5.11. Waiver of Notice.

A Trustee may waive notice of a meeting of the Board in writing. A Trustee shall be deemed to have waived notice of a meeting of the Board by attending at the meeting without objection.

5.12. Recording Secretary.

The Trustees shall appoint a recording secretary who need not be a Trustee to keep minutes or records of all meetings, proceedings and acts of the Trustees. Those minutes or records of Trustee meetings must be provided to the Trustees for verification at the next meeting of the Board.

5.13. Chair of Meeting.

The Chair shall act as chair of a meeting of the Board of Trustees. If the Chair is not in attendance at a meeting, the Trustees present at the meeting shall select a chair for the meeting from their number.

5.14. Telephone Meetings.

A meeting of the Board or any committee of the Board may be held, or a Trustee may participate in a meeting of the Board, by means of telephone or such other communication facilities which permit all persons participating in the meeting to speak to and hear each other, and a Trustee participating in a meeting by that means is deemed to be present at the meeting and will be counted in determining whether a quorum is present.

5.15. Resolution of Disputes.

Any disputes amongst the Trustees in the administration of this Joint Trust Agreement will be sent to the Partners for resolution.

5.16. Defect in Appointment, etc.

Despite that it is subsequently discovered or determined that there exists some defect in the appointment, removal or qualification of any Trustee, all acts and proceedings of the Trustees done and carried on in good faith while the defect existed shall be valid and effective.

5.17. Execution of Documents.

All agreements and other documents to be executed by the Board shall after being approved by the Board be signed by one Employer Trustee and one Member Trustee, or by other persons as the Board may from time to time direct. All cheques payable out of the Pension Fund shall be signed by one Employer Trustee and one Member Trustee, or by other persons or in other manners as the Board may from time to time direct.

5.18. Power to Enter Into Agreements.

The Board may:

- (a) retain the services of persons for the purpose of assisting the Board with the administration of the Pension Plan and the management of the Pension Fund; and
- (b) enter into agreements, including the agreements contemplated by subsection 6.3(b).

5.19. Enforcement of Contributions.

Every Employer and Plan Member is required to make contributions and other payments to the Board and the Pension Fund in the amounts and at the times specified in the Pension Plan Rules. The Board may enforce the payment or delivery of contributions or transfers or any other payments due to it by action in any court in the name of the Board as a debt due to the Board.

5.20. Procedures and Meetings.

The Board must make rules regarding the conduct of the business of the Board including, but not limited to:

- (a) appointing committees of the Board and delegating functions to them;
- (b) allowing non-Board members to serve as members of a committee;
- (c) setting the remuneration of eligible Board members and persons serving on committees; and
- (d) establishing the practice and procedure for appeals to the Board.

5.21. Formal Name of Board.

The Board shall enter into agreements and act in all matters in the name of the "Teachers' Pension Board of Trustees".

ARTICLE 6. - POWERS, FUNCTIONS AND DUTIES OF THE BOARD

6.1. General.

The Board has all powers necessary to enable it to administer the Pension Plan and manage the Pension Fund, subject only to the limitations set out in this Joint Trust Agreement, the Pension Plan Rules, the Act, the PBSA and all other applicable laws.

6.2. Management and Investment of Pension Fund.

The Board must invest and manage the Pension Fund in a prudent manner. Without limitation, the Board must:

- (a) establish a written statement of investment policies and procedures for the Pension Fund in accordance with the PBSA;
- (b) monitor the performance of the Plan Administrative Agent and the Plan Investment Agents;
- (c) ensure that the money and assets of the Pension Fund are invested or loaned in the best financial interests of the Plan Members and, in doing that, must:
 - (i) exercise the care, diligence and skill that a person of ordinary prudence would exercise when dealing with the property of another person; and
 - (ii) make the investments and loans in accordance with the provisions of the PBSA and other regulatory requirements;
- (d) ensure that the Plan Administrative Agent keeps an account of all money and assets received and paid out of the Pension Fund and keeps an accounting of the assets and liabilities of the Pension Fund;
- (e) ensure that the Plan Administrative Agent keeps an individual record of contributions made by each Plan Member; and
- (f) ensure that the Pension Plan and Pension Fund are administered in compliance with this Joint Trust Agreement, the Pension Plan Rules, the Act, the PBSA and all applicable laws.

6.3. Direction to Plan Administrative Agent.

The Board must direct the Plan Administrative Agent respecting:

- (a) the application of the Pension Plan Rules;

- (b) the negotiation of agreements on behalf of the Board with a person, class of persons or body, including agreements which may differ from the Pension Plan Rules, respecting:
 - (i) portability of pension benefits;
 - (ii) pension-based early retirement incentive programs;
 - (iii) continuation of Pension Plan membership in the case of employer merger or reorganization;
 - (iv) provision of benefits in addition to those provided for in the Pension Plan Rules;
 - (v) reporting requirements on behalf of Employers under the ITA; and
 - (vi) any other agreements the Board considers to be advisable;
- (c) the implementation of any agreements entered into by the Board; and
- (d) the service standards necessary for providing the appropriate quality and level of service to Plan Members.

6.4. Functions and Duties.

The Board must carry out the following functions and duties:

- (a) adopt an annual budget for Pension Plan administration, investment management of the Pension Fund and the activities of the Board;
- (b) prepare an annual report, including audited financial statements, on the Pension Plan and Pension Fund;
- (c) obtain an actuarial valuation and report on the Pension Plan and the Pension Fund at least every three years;
- (d) retain professional, technical and other advisors that it considers necessary and determine the remuneration and reimbursement for expenses to which they are entitled;
- (e) provide for the financial administration of the Pension Plan by:
 - (i) having an accounting system established for the proper reporting and accountability to the Board in a timely manner and at a reasonable cost;
 - (ii) having annual financial statements of the Pension Plan prepared in accordance with generally accepted accounting principles;
 - (iii) having a financial reporting audit performed on the financial statements referred to in subparagraph (ii); and

- (iv) providing to the Minister of Finance and Corporate Relations for the Province of British Columbia and to the Partners an annual report on the Pension Plan, including the audited financial statements.

6.5. Resolutions, Committees and Appointments.

The Board may:

- (a) pass resolutions it considers necessary or advisable to administer the Pension Fund and the Pension Plan and to exercise the Board's powers and perform its duties;
- (b) establish committees or panels of the Board, and determine the composition, duties, responsibilities, limitations and operating procedures of those committees or panels;
- (c) appoint persons other than Trustees to a committee or panel referred to in subsection (b), and set the term of appointment to the committee or panel that applies to those persons;
- (d) appoint Trustees to the boards of the Pension Corporation and the Investment Management Corporation, or to the boards of directors or trustees of other bodies corporate or trusts; and
- (e) rescind an appointment made under subsections (c) or (d).

6.6. Power to Settle Claims.

The Board may, if and as it thinks fit, compromise, compound, abandon, submit to arbitration or otherwise settle a debt, account, claim or other thing relating to the Pension Plan or the Pension Fund. For any of these purposes, the Board may enter, give, execute and do the agreements, instruments of composition or arrangement, releases and other things that the Board considers expedient.

ARTICLE 7. - PLAN ADMINISTRATION AND INVESTMENT

7.1. Pension Corporation.

The Board must retain the services of the Pension Corporation upon terms satisfactory to the Board, which terms shall be set out in a service agreement between the Board and the Pension Corporation, to carry out the Board's responsibilities respecting the administration of the Pension Plan. Without limitation, the service agreement must require the Pension Corporation to discharge the responsibilities of the Board under the ITA relating to the administration of the Pension Plan, and any other responsibilities that the Act imposes on the Pension Corporation in respect of the Pension Plan or the Pension Fund.

7.2. Investment Management Corporation.

The Board must appoint the Investment Management Corporation as the investment manager of the Pension Fund upon terms satisfactory to the Board, which terms shall be set out in an investment management agreement between the Board and the Investment Management Corporation.

7.3. Other Investment Managers.

Despite Section 7.2, after December 31, 2002 the Board may appoint agencies other than the Investment Management Corporation as the investment manager(s) of some or all of the Pension Fund if, in the opinion of the Board, the alternative funds management services are in the best financial interests of the Plan Members. If the Board appoints investment managers other than the Investment Management Corporation, it shall do so upon terms satisfactory to the Board, which terms shall be set out in an investment management agreement between the Board and the investment manager.

ARTICLE 8. - APPEALS FROM DECISION OF PLAN ADMINISTRATIVE AGENT

8.1. Decision of Plan Administrative Agent.

A person, an organization, or a person and an organization, directly affected by a decision of the Plan Administrative Agent in the application of the Pension Plan Rules (the "**Affected Party**") may, by written notice to the Board, appeal all or part of the decision in accordance with the procedure set out in this Section.

8.2. Appeals to Plan Administrative Agent.

- (a) The Affected Party may, in writing, submit an appeal to the Plan Administrative Agent.
- (b) The Plan Administrative Agent will render its decision within 30 school days, as used in the *School Act*, of the receipt of the appeal from the Affected Party.
- (c) The Plan Administrative Agent shall cause copies of the appeal and reply to be provided to the Board, to the Affected Party and, subject to applicable law, the organization that normally represents the category of Plan Members to which the Affected Party belongs.

8.3. Appeals to Board.

- (a) Failing satisfactory resolution of the appeal under Section 8.2, the Affected Party may within 30 school days, as used in the *School Act*, of receipt of a decision from the Plan Administrative Agent under Section 8.2, submit the appeal to the Board or to a panel consisting of one or more Trustees appointed by the Board to consider appeals.
- (b) If a panel consists of more than one person, the Chair must preside over the panel or designate the person who is to chair the panel.
- (c) For an appeal referred to a panel:
 - (i) the panel has all the jurisdiction and may exercise the powers and perform the duties of the Board; and
 - (ii) a decision of the panel is a decision of the Board.

8.4. Appeal to Third Party

- (a) Failing satisfactory resolution of the appeal under Section 8.3, the Affected Party may, within 30 school days, as used in the *School Act*, of the receipt of the decision from the Board or panel, submit the appeal to determination and award of a single arbitrator.
- (b) The arbitrator will be chosen by lot from a list of arbitrators periodically agreed to by the Partners.
- (c) The decision of the arbitrator, made in writing, will be final and binding upon the Board, the Pension Plan and the Affected Party.
- (d) The Affected Party and the Board will share equally the costs of the arbitrator.

8.5. Appeals to be Dealt With Promptly.

The Board, to the degree that it has control, must ensure that each appeal by an Affected Party is dealt with promptly and efficiently.

**ARTICLE 9. - INDEMNIFICATION,
LIMITATION OF LIABILITY AND INSURANCE**

9.1. Indemnification.

A Trustee must be indemnified out of the Pension Fund against all costs, charges and expenses actually and reasonably incurred by that person, including an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding to which the person is made a party because of being or having been a Trustee, and including an action brought by the Board, if:

- (a) the Trustee acted in good faith; and
- (b) in the case of a criminal action or proceeding, the Trustee had reasonable grounds for believing that his or her conduct was lawful.

9.2. Liability for Losses in Pension Fund.

The Trustees, individually or collectively, shall not be liable for the making, retention or sale of any investment or reinvestment made by them in accordance with this Joint Trust Agreement or in accordance with any other legal duties nor for any loss to or diminution of the Pension Fund, except a loss or diminution that resulted from a Trustee's not acting in good faith, and no individual Trustee shall incur any liability for any loss or diminution unless he or she was a party to the action that resulted in the loss or diminution.

9.3. Liability for Other Matters.

The Trustees, individually or collectively, shall not be responsible or liable for:

- (a) any matter, cause or thing arising due to the invalidity of all or any part of this Joint Trust Agreement or the Pension Plan Rules;
- (b) any delay occasioned by any restriction or provision in:
 - (i) this Joint Trust Agreement;
 - (ii) the Pension Plan Rules;
 - (iii) any contract procured in the course of the administration of the Pension Plan or Pension Fund; or
 - (iv) by any other procedure;
- (c) any contributions required to be paid to the Pension Fund other than the contributions a Trustee may be required or permitted to make under the Pension Plan in the Trustee's capacity as a Plan Member.

9.4. Reliance on Documents, etc.

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 have been made, executed, delivered or assembled by the appropriate parties.

9.5. Reliance on Advisors.

So long as the Trustees exercise reasonable care in the selection, instruction and supervision of a professional advisor, then subject to Section 14.4 the Trustees shall incur no liability, either collectively or individually, in acting and relying upon the opinions or advice of the professional advisor.

9.6. Further Assurances.

The Trustees shall do such things and execute and deliver such documents in order that any and all funds required to be paid out of the Pension Fund by way of indemnity as herein set forth are paid as required from time to time.

9.7. Recourse Solely Against Pension Fund.

A Plan Member or person claiming through a Plan Member shall have recourse solely to the Pension Fund for any benefit or other payment under the Pension Plan.

9.8. Acting as a Director or Trustee of Other Body.

- (a) The Board may pay from the Pension Fund an amount it considers appropriate in the circumstances to indemnify, fully or partly, a Trustee against costs, loss or damages

incurred or awarded against him or her as a result of any act or omission done, or omitted to be done, in good faith as trustee of another trust, or as director of a body corporate, to which the Trustee was appointed by the Board as trustee or director for the purpose of representing the Board in the operation of that other trust or body corporate.

- (b) Despite subsection (a), where a loss suffered by the Trustee in serving as trustee of another trust, or as director of a body corporate, as described in subsection (a) results from liability to pay the deductible amount under an insurance policy that insured the other trust or body corporate, or its trustees and directors, against the loss except for the deductible amount, then the Board shall pay from the Pension Fund the amount necessary to indemnify the Trustee for liability to pay that part of the deductible amount that the Trustees consider was a reasonable deductible amount.

9.9. Financial Responsibility for the Pension Plan.

The Employers' and Plan Members' sole financial obligation in respect of the Pension Plan is to make contributions and other payments to the Board and the Pension Fund in the amounts and at the times specified in the Pension Plan Rules. Without limitation, no Plan Member, Employer, Partner, union or association that represents any of the Plan Members shall be liable or responsible for any debts, liabilities, obligations, or deficiencies of the Board, the Pension Plan or the Pension Fund.

9.10. No Liability for Trustees Appointed.

A Partner is not liable for any of the acts or obligations of a Trustee solely because the Trustee is or was an officer or employee of the Partner, or the Partner appointed the Trustee.

9.11. Extended Meaning of Trustee, etc.

- (a) Any reference in this Joint Trust Agreement to the indemnification or other protection of a Trustee shall, unless the context clearly indicates otherwise, include a person appointed to a committee or a panel under subsection 6.5(c).
- (b) Any reference in this Joint Trust Agreement to the indemnification or other protection of a Trustee or a person appointed to a committee or panel under subsection 6.5(c) shall, unless the context clearly indicates otherwise, apply to individuals who formerly held these positions on or after the Effective Date, and to the personal representatives of any such individuals.

9.12. Bonding.

The Board may procure insurance or fidelity bonds for those persons the Board considers appropriate. Those persons may be insured or bonded in the amounts and in the manner decided by the Board. The cost of the insurance or bonds must be paid out of the Pension Fund.

9.13. Fiduciary Liability and Other Insurance.

The Board may purchase and maintain the errors and omissions insurance or fiduciary liability insurance, or insurance of a similar nature or description, it considers necessary for the Board,

any Trustee or anyone else engaged in the administration or operation of the Pension Plan or Pension Fund. The cost of this insurance shall be paid from the Pension Fund.

ARTICLE 10.- ENGAGEMENT OF ACTUARY AND AUDITOR

10.1. Appointment of an Actuary.

The Board must engage the services of an actuary to prepare all actuarial reports and perform all actuarial valuations required by the Board. The fees of the actuary must be paid from the Pension Fund.

10.2. Appointment of an Auditor.

The Board must engage the services of an auditor to perform, at least once in each year, an audit of the financial statements of the Pension Plan, including the accounts of the Board. The fees of the auditor must be paid from the Pension Fund.

10.3. Actuarial Valuation Reports.

- (a) The Board must have the Pension Plan reviewed, and the results of the review set out in the form of an actuarial valuation report for a going-concern valuation in the manner and at the times specified in the PBSA and the regulations under the PBSA.
- (b) Subject to the transitional funding arrangements set out in Appendix B of this Joint Trust Agreement, if an actuarial valuation report indicates that there is a requirement to increase contribution rates to the Basic Account, the increase must be shared equally between the Employers and the Plan Members, and the Board must amend the Pension Plan Rules accordingly.
- (c) Subject to the transitional funding arrangements set out in Appendix B of this Joint Trust Agreement, if an actuarial valuation report indicates that the Pension Plan has surplus assets, as defined in the PBSA, such assets will be considered unallocated surplus assets of the Pension Fund unless and until the Board elects to apply the surplus assets in one or more of the following manners:
 - (i) transfer all or a portion of the surplus assets to the reserve established within the Pension Fund for stabilizing contribution rates;
 - (ii) transfer all or a portion of the surplus assets to the Inflation Adjustment Account, an account within the Pension Fund established to provide for indexing of benefits for retired Plan Members;
 - (iii) apply all or a portion of the surplus assets to an equal reduction or elimination of Employer and Plan Member contribution rates to the Basic Account for a period of time;
 - (iv) apply all or a portion of the surplus assets to fund changes to the benefit provisions set out in the Pension Plan Rules as provided in Section 11.5.

- (d) Any reference in subsection (c) to surplus assets shall be interpreted as a reference to the surplus assets associated with the benefits payable from the Basic Account.
- (e) Any action taken by the Board under subsection (b) or (c) must comply with the PBSA funding requirements for a going-concern valuation, and must result in the Pension Plan's being funded in accordance with such funding requirements.

ARTICLE 11. – TEACHERS' PENSION PLAN RULES

11.1. Pension Plan Rules.

- (a) The Board may make plan rules, applicable generally or to a specified person or class of persons, prescribing the Pension Plan Rules. Without limitation, the Board may group or classify Employers and Plan Members in any way it considers necessary or desirable for the purposes of the Pension Plan, including the provision or payment of pension benefits under the Pension Plan. The Board may also provide in the Pension Plan Rules for different benefits and different levels of benefits for different groups or classes of Plan Members so as to take into account any variable affecting the administration or funding of the Pension Plan.
- (b) In making plan rules under this Joint Trust Agreement, the Board may delegate a matter to a person and confer a discretionary power on a person.
- (c) Beginning the Effective Date, the Statutory Pension Plan Rules are continued and replaced with the Pension Plan Rules attached as Exhibit 1.
- (d) Beginning the Effective Date, the Board may amend, repeal or replace the Pension Plan Rules as provided in this Joint Trust Agreement.

11.2. Amendment to Pension Plan Rules to Comply with Law.

Despite Sections 11.3 and 11.4, the Board must amend the Pension Plan Rules to the extent necessary to keep the Pension Plan Rules in compliance with the *Family Relations Act*, the ITA, the PBSA and any other enactment applicable to the Pension Plan, the Pension Fund and the benefits payable under the Pension Plan.

11.3. Amendment Requested by Partners.

The Partners may direct the Board to amend the Pension Plan Rules, and the Board must so amend the Pension Plan Rules if:

- (a) the Partners have first received and considered the advice of the Board respecting both the cost and the administrative impact of implementing the proposed amendment;
- (b) the proposed amendment is not inconsistent with Section 11.2, the Trustees' fiduciary responsibilities or any funding policy adopted by the Board; and
- (c) the proposed amendment will not result in the Pension Plan failing to be funded in accordance with the PBSA's going-concern funding requirements.

11.4. Recommendation of Amendments to the Partners by Board.

The Board may make recommendations to the Partners respecting amendments to the Pension Plan Rules that the Board considers to be in the best interests of the Plan Members and, with the approval of the Partners respecting those recommendations, the Board may so amend the Pension Plan Rules.

11.5. Amendments to Pension Plan Rules by Board.

- (a) Despite Sections 11.3 and 11.4, the Board may amend the Pension Plan Rules if:
- (i) there is no resulting increase in the contribution rates for the non-indexed basic benefits;
 - (ii) there is no resulting increase in the contribution rates for the indexing of benefits;
 - (iii) there is no creation of, or increase in, an unfunded liability;
 - (iv) the proposed amendment is consistent with the Trustees' fiduciary responsibilities; and
 - (v) the proposed amendment does not conflict with Section 13.5.
- (b) For the purposes of subsection 11.5(a), when considering an amendment to the Pension Plan Rules respecting a benefit improvement, the Board must determine the cost of the benefit improvement based on the open group of Plan Members and using a 25 year amortization schedule for the Pension Plan surplus assets that will be used to fund the benefit improvement.

11.6. Retroactive Amendment.

Any amendment to the Pension Plan Rules may take effect retroactively or otherwise as the Partners or the Board, as the case may be, direct.

ARTICLE 12. – EMPLOYER WITHDRAWAL

12.1. Employer Withdrawal.

Withdrawal from the Pension Plan by an Employer is permitted only if:

- (a) terms and conditions for withdrawal are established by the Board; and
- (b) those terms and conditions are followed by the Employer wishing to withdraw.

ARTICLE 13. – AMENDMENT AND TERMINATION OF AGREEMENT

13.1. Amendment to Joint Trust Agreement.

This Joint Trust Agreement may be amended at any time by the Partners but only after first consulting with the Trustees. This power of amendment is to be construed as being subject to no

restrictions other than those imposed by law. Without limitation, the power of amendment reserved to the Partners under this Section 13.1 and Section 11.3 includes the power to revoke, in whole or in part, the trusts created under this Joint Trust Agreement or the Pension Plan Rules.

13.2. Amendment by Board.

Despite any other provision in this Joint Trust Agreement, the Board may amend this Joint Trust Agreement without the approval of the Partners in the manner necessary to maintain the Pension Plan's registration under the PBSA and the ITA, or as is otherwise necessary to comply with applicable law.

13.3. Retroactive Amendment.

Any amendment to this Joint Trust Agreement may take place retroactively or otherwise as the Partners or the Board, as the case may be, may direct, provided that no amendment shall be made which retroactively increases the duty of care required of a present or former Trustee or retroactively diminishes their right to indemnity under this Joint Trust Agreement.

13.4. Termination of Joint Trust Agreement or Pension Plan.

This Joint Trust Agreement or the Pension Plan may be terminated, in whole or in part, at any time by the Partners but only after first consulting with the Trustees.

13.5. Termination of Entire Pension Plan.

If the Pension Plan is terminated in its entirety, the assets of the Pension Fund shall be disbursed in accordance with the Pension Plan Rules, provided that the Pension Plan Rules must always, and shall be deemed to always, provide that if any surplus assets remain in the Pension Fund after full provision has been made for all entitlements to receive a pension in respect of the Plan Members' membership in the Pension Plan, one half of such surplus assets must be used to provide pension improvements or other benefits to the Plan Members, and the other half must be paid to the Employers.

ARTICLE 14. – FIDUCIARY RESPONSIBILITIES

14.1. No Conflict of Interest.

- (a) Except as provided in subsection (c), no Trustee shall knowingly permit his or her other interests to conflict with his or her powers, duties and responsibilities in respect of the Pension Plan and Pension Fund.
- (b) Entitlement to a pension or other benefit under the Pension Plan does not create a conflict of interest.
- (c) Subsection (a) does not apply to any determination made by the Trustees pursuant to subsection 10.3(c). In making any determination relating to the application of surplus assets pursuant to subsection 10.3(c), the Trustees are not acting in a fiduciary capacity. When acting under subsection 10.3(c), a Trustee may take into account the financial and other interests of the party that appointed him or her as Trustee, and any other factor the

Trustee considers appropriate, including factors unrelated to the Pension Plan or the Pension Fund.

14.2. Committee and Panel Members.

If the Board appoints a person to a committee or panel under subsection 6.5(c), the Board shall personally select the person and be satisfied of the person's qualifications and ability to perform the duties for which such person is appointed, and the Board shall carry out such supervision of the committee and panel members as is prudent and reasonable. A person appointed to a committee or panel under subsection 6.5(c) shall be subject to the same duty of care as the Board, and is not entitled to any payment from the Pension Fund other than the usual and reasonable fees and expenses for services provided by the committee or panel member in respect of the Pension Plan and Pension Fund.

14.3. Use of Agents.

Subject to Article 7, the Board may employ or appoint agents to carry out any act required to be done in the administration of the Pension Plan or in the administration and investment of the Pension Fund. If the Board employs or appoints an agent, the Board shall personally select the agent and be satisfied of the agent's qualifications and suitability to perform the duties for which the agent is employed or appointed, and the Board shall supervise these agents. Any agent so appointed or employed is subject to the same duty of care as the Board, and is not entitled to any payment from the Pension Fund other than a pension benefit provided in accordance with the Pension Plan Rules, if applicable, and the usual and reasonable fees and expenses for the services provided by the agent in respect of the Pension Plan and Pension Fund.

14.4. Restrictions on Benefits Payable to Trustees.

No Trustee is entitled to any benefit from the Pension Plan or Pension Fund other than a pension benefit provided for in the Pension Plan Rules, and any remuneration and reimbursement of expenses related to the administration of the Pension Plan or the administration and investment of the Pension Fund permitted by the common law or provided for in this Joint Trust Agreement or the Pension Plan Rules.

ARTICLE 15. – TRANSITIONAL PROVISIONS

15.1. Validation of Existing Calculations.

All benefit calculations based on the rules that were in effect at the time of the calculation under the PTA and the regulations thereunder or the Act and the Statutory Pension Plan Rules are accepted as having been validly made for the purposes of this Joint Trust Agreement.

15.2. Agreements Under Schedule D.

This Joint Trust Agreement shall apply to all agreements made under Part 1 of Schedule D that were in effect on the Effective Date, as if those agreements had been made by the Board under the authority of this Joint Trust Agreement.

15.3. Plan Rules.

The Board may make such plan rules as it considers necessary or advisable for meeting or removing any difficulty arising out of the repeal of Part 1 of Schedule D and its replacement with this Joint Trust Agreement pursuant to Part 2 of Schedule D, and for preserving and giving effect to the rights of all persons accrued or accruing under Part 1 of Schedule D except as those rights are expressly varied by this Joint Trust Agreement, and those plan rules may be made to apply generally or to a particular case.

15.4. Funding Arrangements.

The funding arrangements for the Pension Plan during the transitional period are as described in Appendix B attached hereto. Subject to Section 11.2, the Board shall amend the Pension Plan Rules, where necessary, to implement the terms of the funding arrangements set out in Appendix B.

ARTICLE 16. – MISCELLANEOUS PROVISIONS

16.1. Methods of Giving Notice.

- (a) All notices, requests, demands or other communications provided for herein shall be given in writing and shall be effectively given if delivered personally, or sent by prepaid post, facsimile or e-mail transmission to the respective last known address, facsimile number or e-mail address of the recipient of the communication.
- (b) A notice, request, demand and other communication shall be deemed to have been received when delivered, or if mailed, on the fifth business day after the mailing thereof, or, if sent by facsimile, on the day that the sending facsimile machine confirms that the facsimile transmission has been sent, or, if sent by e-mail, on the day that satisfactory proof that the e-mail transmission has been sent, provided that in the event of a strike or other interruption in the normal delivery of the mail after the mailing of any notice, request, demand or other communication hereunder, but before the deemed receipt thereof as provided herein, that notice, request, demand or other communication shall not be deemed to have been received by the party for whom the same is intended, unless the same is actually delivered or sent via facsimile to such party as contemplated herein.

16.2. No Duty to Inquire.

All persons dealing with the Board do not have to inquire into any decision or authority of the Board or into the ability of the Board to receive any monies, securities or other property paid or delivered to the Board and may rely upon any document required to be executed by the Board which has been executed as provided herein, as having been duly authorized.

16.3. Severance of Illegal Provisions.

If any provision of this Joint Trust Agreement or the Pension Plan Rules is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining portions of this Joint Trust Agreement or the Pension Plan Rules, unless the illegality or invalidity materially

prevents the accomplishment of the respective objectives and purposes of the Pension Plan Rules or this Joint Trust Agreement as determined by the Board.

16.4. Binding Effect of Pension Plan Rules, etc.

The Pension Plan Rules and amendments thereto and all of the Board's decisions, rules, regulations, policies and procedures made or established in accordance with this Joint Trust Agreement or the Pension Plan Rules, shall be binding upon the Trustees, the Partners, the Employers, the Plan Members and their respective beneficiaries, dependents, estates, heirs, executors, administrators, successors and assigns.

16.5. Further Assurances.

Each Trustee 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 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 Joint Trust Agreement.

16.6. Governing Law.

The Province of British Columbia is the location for legal purposes of the Pension Fund. All questions pertaining to the validity, construction and administration of this Joint Trust Agreement or the Pension Plan Rules shall be determined in accordance with the laws of the Province of British Columbia. Any litigation which arises pursuant to or in connection with this Joint Trust Agreement, the Pension Plan Rules or any of their respective provisions, shall be referred to the courts in the Province of British Columbia.

16.7. Counterpart Execution.

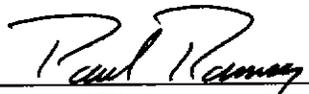
This Joint Trust Agreement may be signed in counterparts.

16.8. Binding Effect of Joint Trust Agreement.

This Joint Trust Agreement and any document prepared in connection with the Pension Plan or the Pension Fund is binding upon the Trustees, the Partners, the Employers and the Plan Members and their respective beneficiaries, dependants, estates, heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties have executed this Joint Trust Agreement as of the date first written above.

**HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA, as represented by the
Minister of Finance and Corporate
Relations**



Minister of Finance and Corporate Relations

**THE BRITISH COLUMBIA TEACHERS'
FEDERATION**

Per: 

President

APPENDIX A

THE TEACHERS' PENSION PLAN Appointment and Acceptance of Trust

TO: THE TEACHERS' PENSION BOARD OF TRUSTEES

The undersigned acknowledges receipt of a copy of the Teachers' Pension Plan Joint Trust Agreement (the "**Agreement**") pursuant to which the Teachers' Pension Plan (the "**Pension Plan**") and the Teachers' Pension Fund (the "**Pension Fund**") are established.

The undersigned is hereby appointed to act as a Trustee of the Pension Plan and the Pension Fund by the appointing party described below for a term of _____ years ending on _____.

The undersigned confirms that the undersigned is a permanent resident of Canada, and agrees to immediately notify the other Trustees if this ever ceases to be the case.

The undersigned consents to act as a Trustee of the Pension Plan and Pension Fund pursuant to the terms of the Agreement.

The undersigned hereby accepts the trusts created and established by the Agreement, and agrees to administer the Pension Plan and Pension Fund in accordance with the provisions of the Agreement.

The undersigned agrees that until further notice communications may be sent to the undersigned at the following addresses or number appropriate to the communication:

[Street address]

[Facsimile number]

[E-mail address]

DATED at _____, British Columbia, this _____ day of _____, _____.

[Name of Appointing Party]

Trustee

Per: _____

APPENDIX B

TEACHERS' PENSION PLAN

FUNDING ARRANGEMENTS FOR TRANSITIONAL PERIOD

1. Terminology

- (a) In this Appendix B, "**actuarial gain**", "**unfunded liability**" and "**surplus assets**" have the meanings given to those phrases in the PBSA and the regulations under the PBSA. The determination of whether the Pension Plan has an actuarial gain, an unfunded liability or surplus assets shall be made with reference only to the benefits payable from the Basic Account.
- (b) The "**Transitional Period**" for the Pension Plan and Pension Fund shall commence on the Effective Date and shall end when the rebalancing of contribution rates and the benefit improvements described in subsections 4(b) and 4(c), respectively, have been achieved.

2. Financial Agreement

- (a) Subject to subsections (c) and (d), Employer contribution rates to the Basic Account shall be increased by 1% of Plan Members' salary, as defined in s. 96 of the Pension Plan Rules, effective the first day of the month following the date that is 30 days after the Effective Date, to eliminate the remaining unfunded actuarial liability of the Pension Plan.
- (b) Plan Member contribution rates to the Inflation Adjustment Account shall be increased by 1% of Plan Members' salary, as defined in s. 96 of the Pension Plan Rules, effective the first day of the month following the date that is 30 days after the Effective Date, to strengthen the funding of the Pension Plan's indexing arrangement.
- (c) If the date as of which Employer contributions increase pursuant to subsection (a) is after January 1, 2001, the Government shall contribute to the Basic Account an amount equal to the aggregate amount all Employers who are boards of school trustees would have contributed to the Basic Account during the period from January 1, 2001 to the date specified in subsection (a) had the increase described in subsection (a) become effective January 1, 2001.
- (d) The Board shall cause an interim actuarial report to be prepared as at December 31, 2000.

3. Increase in Contribution Rates During Transitional Period

If during the Transitional Period an actuarial valuation report indicates that the contribution rates to the Basic Account then in effect are insufficient to cause the Pension

Plan to be fully funded on a going-concern basis, and that there is thus a requirement to increase contribution rates to the Basic Account, the increase shall be shared equally between the Employers and the Plan Members, and the Board shall amend the Pension Plan Rules accordingly.

4. Use of Actuarial Gains and Surplus Assets During Transitional Period

During the Transitional Period, the powers of the Board with respect to the use of any surplus assets or actuarial gains in the Pension Plan which are identified in a regularly scheduled actuarial valuation are limited to achieving the following objectives, in the following order:

(a) Elimination of Unfunded Liabilities.

If an actuarial valuation report indicates that an actuarial gain has occurred since the last valuation, the gain must first be applied to reduce any unfunded liability. If an actuarial valuation report indicates that the Pension Plan has surplus assets, the surplus assets must be applied in the manners described in subsections (b) and (c), in that order.

(b) Rebalancing of Contribution Rates.

Surplus assets must first be used to rebalance between Employers and Plan Members the contribution rates to the Basic Account and the Inflation Adjustment Account. This is to be accomplished by allocating 50% of the first 2% of Employer contribution rate reduction in the Basic Account to the Inflation Adjustment Account, thus balancing the Employer and Plan Member Inflation Adjustment Account contribution rates. The next 2% of contribution rate reduction is to be applied to the Employer Basic Account contribution rate, thus balancing the Employer and Plan Member Basic Account contribution rates. For the purposes of rebalancing, the 0.13% differential in Employer and Plan Member Inflation Adjustment Account contribution rates will continue.

The table set out in Section 5 of this Appendix provides a numerical example of the rebalancing described in the foregoing paragraph. Section 6 of this Appendix provides a description of the methodology used for applying surplus assets to reductions in the Employer contribution rates.

(c) Specified Benefit Improvements.

After the rebalancing of Employer and Plan Member contribution rates under subsection 4(b) has been completed, any further surplus assets are to be used to provide the following specified benefit improvements, in the following order:

- (i) change the normal form of the pension from a single life without guarantee to a single life with a ten-year guarantee;

- (ii) change the benefit formula from 1.3/2.0% to 1.35/2.0%;
and
- (iii) change the benefit formula from 1.35/2.0% to 1.4/2.0%.

The cost of these benefit improvements will be paid from the surplus assets using a 25-year amortization schedule, and will be valued on the open group of Plan Members.

These benefit improvements will apply only to those individuals who are active Plan Members at the date each benefit improvement is implemented, and will apply to all of the benefits such individuals are entitled to under the Pension Plan.

5. Numerical Example of Rebalancing of Contribution Rates

“BA” = Basic Account

“IAA” = Inflation Adjustment Account

	Employer Contribution Rates		Plan Member Contribution Rates	
	BA	IAA	BA	IAA
Current	9.5	1.13	6.5	1.0
Proposed	10.5	1.13	6.5	2.0
Change	9.5	1.63	6.5	2.0
Change	8.5	2.13	6.5	2.0
Change	7.5	2.13	6.5	2.0
Final	6.5	2.13	6.5	2.0

The information contained in this table assumes that all the actuarial reports prepared during the period covered in the Example indicate that surplus assets exist.

In the above table, the Basic Account contribution rates are decreased by 1.5% for a Plan Member's earnings that are below the Canada Pension Plan YMPE.

6. Employer Contribution Rate Reduction Methodology

The following rules shall be applied in applying surplus assets to reductions in Employer contribution rates to the Basic Account during the Transitional Period:

- (a) Surplus assets shall first be fully applied toward reducing the Employer contribution rate, by a level percentage of Plan Members' salaries, based on the closed active group calculation, including projected future benefits and contributions, as long as the resulting Employer contribution rate exceeds the normal actuarial cost (net of Plan Member contributions).
- (b) If the resulting Employer contribution rate drops below the normal actuarial cost (net of Plan Member contributions), the rate reduction shall be limited to an amount such that the resulting contribution rate does not drop below the normal actuarial cost (net of Plan Member contributions) reduced by the surplus assets amortized, as a level percentage of Plan Members' salaries on an open group basis, over not less than 25 years.

7. Powers of Board after Transitional Period

Following the Transitional Period, the powers of the Board regarding the use of actuarial gains and surplus assets will be as set out in subsection 10.3(c) of the Joint Trust Agreement.

EXHIBIT 1

TEACHERS' PENSION PLAN RULES

Note: please [click here](#) to view the most current pension rules.