

HEALTH SERVICES AND SUPPORT – FACILITIES SUBSECTOR

Joint Facilities Benefits Trust

Agreement and Declaration of Trust

Pursuant to the 2014-2019 Health Services & Support Facilities Subsector Collective Agreement between the FBA and the HEABC, dated June 24, 2014, this Agreement and Declaration of Trust establishes the Joint Facilities Benefits Trust and records its terms and conditions.

TABLE OF CONTENTS

ARTICLE 1 – DEFINITIONS	7
ARTICLE 2 – SETTLEMENT AND INTERPRETATION	12
2.1 SETTLEMENT OF TRUST FUND	12
2.2 INTERPRETATION.....	12
2.3 CONFLICT.	12
ARTICLE 3 – NAME AND TITLE, PAYMENTS	12
3.1 NAME AND TITLE	12
3.2 MANNER OF PAYMENT.....	12
3.3 LEGAL SOURCES OF PAYMENTS.	13
ARTICLE 4 – THE TRUST	13
4.1 ESTABLISHMENT.	13
4.2 EMPLOYEE LIFE AND HEALTH TRUST	13
4.3 PURPOSE.....	13
4.4 RIGHTS OR INTEREST	13
4.5 SEIZURE OR ATTACHMENT.....	13
4.6 NO DIVERSION	14
4.7 NO GUARANTEE	14
4.8 BINDING EFFECT	14
ARTICLE 5 – THE PLAN.....	14
5.1 THE PLAN DOCUMENT	14
5.2 AMENDMENTS.....	15
5.3 RULES AND CONSTRAINTS	15
ARTICLE 6 – PARTICIPATING EMPLOYER OBLIGATIONS	15
6.1 MANDATORY PARTICIPATION.....	15
6.2 PARTICIPATION AGREEMENT	15
6.3 EFFECTIVE DATE OF PARTICIPATION OF PARTICIPATING EMPLOYER.....	15
6.4 CONTRIBUTIONS BY PARTICIPATING EMPLOYERS.	16

6.5	DETERMINATION OF EMPLOYER CONTRIBUTIONS.....	16
6.6	INTEREST.....	16
6.7	ENFORCEMENT.....	16
6.8	NATURE OF RIGHT OF ACTION.....	16
6.9	NON-PAYMENT BY ONE CONTRIBUTOR.....	17
6.10	CONTRIBUTIONS HELD IN TRUST.....	17
6.11	OBLIGATION TO FURNISH INFORMATION.....	17
6.12	AUDITS.....	17
6.13	PARTICIPATING EMPLOYER FAILURE TO COMPLY.....	18
6.14	SECURITY.....	18
6.15	GRACE PERIOD.....	19
ARTICLE 7 – EMPLOYEE CONTRIBUTIONS.....		19
7.1	DEDUCTION AND REMITTANCE OF EMPLOYEE CONTRIBUTIONS.....	19
7.2	DETERMINATION OF EMPLOYEE CONTRIBUTIONS.....	19
ARTICLE 8 – TRUSTEES.....		19
8.1	COMPOSITION OF BOARD OF TRUSTEES.....	19
8.2	TERM AND RENEWAL.....	19
8.3	ADDITIONAL RENEWALS.....	20
8.4	QUALIFICATION OF TRUSTEES.....	20
8.5	ACCEPTANCE OF TRUST.....	20
8.6	RESIGNATION, REMOVAL, INCAPACITY OR DEATH.....	20
8.7	CONVEYANCE OF PROPERTY.....	22
8.8	NO CONFLICT.....	22
8.9	VALIDITY OF ACTIONS OF THE TRUSTEES.....	22
8.10	FEES AND EXPENSES.....	22
8.11	APPOINTMENT OF ASSOCIATE CHAIR AND DEPUTY ASSOCIATE CHAIR.....	23
8.12	ORIGINAL ASSOCIATE CHAIR AND DEPUTY ASSOCIATE CHAIR.....	23
8.13	FUNCTIONS OF ASSOCIATE CHAIR AND DEPUTY ASSOCIATE CHAIR.....	23
8.14	REMOVAL AND RESIGNATION.....	23
8.15	CHAIR.....	24
8.16	MINUTES OF MEETINGS.....	24

8.17	EXECUTION OF DOCUMENTS AND CHEQUES.....	24
8.18	MEETINGS.....	24
8.19	SPECIAL MEETINGS.....	25
8.20	MEETINGS BY CONFERENCE CALL OR CONSENT IN WRITING.	25
8.21	QUORUM	25
8.22	BLOCK VOTING.....	25
8.23	TRUSTEES' DEADLOCK.....	25
8.24	ANNUAL MEETING WITH THE PARTIES.....	27
ARTICLE 9 – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE		28
9.1	NO LIABILITY.....	28
9.2	AUTHORITY OF TRUSTEES.....	28
9.3	LIABILITY AND INDEMNITY	28
9.4	FIDUCIARY LIABILITY AND OTHER INSURANCE	28
9.5	LIABILITY OF THE PARTIES	28
9.6	INDEMNITY BY HEABC.....	29
ARTICLE 10 – POWERS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEES....		29
10.1	ADMINISTRATION.....	29
10.2	COLLECTION OF CONTRIBUTIONS.....	30
10.3	POWERS	30
10.4	APPOINTMENT OF CUSTODIAN	37
10.5	APPOINTMENT OF ADMINISTRATIVE AGENT.....	37
10.6	EMPLOYEES.....	37
10.7	RECORDS	37
10.8	ANNUAL AUDIT.....	38
10.9	DESIGNATION OF TRUSTEES.....	38
ARTICLE 11 – COMPOSITION OF BENEFICIARIES		38
11.1	CLASS OF BENEFICIARIES.....	38
11.2	KEY EMPLOYEES.....	38
ARTICLE 12 – ADMINISTRATIVE INFORMATION.....		38

12.1	REPORTS OF ACTIVITIES.....	38
12.2	BENEFITS INFORMATION	39
12.3	ANNUAL REPORT	39
12.4	INFORMATION REQUESTS	39
ARTICLE 13 – AMENDMENTS TO TRUST AGREEMENT.....		40
13.1	AMENDMENT.....	40
13.2	CORPUS OR INCOME.	40
ARTICLE 14 – WITHDRAWAL AND TERMINATION.....		40
14.1	WITHDRAWAL OF PARTICIPATING EMPLOYER.	40
14.2	TERMINATION OF A PARTICIPATING EMPLOYER.....	40
ARTICLE 15 – FUNDING OF THE PLAN		40
15.1	ACTUARIAL VALUATIONS	40
15.2	FUNDING POLICY	40
15.3	ORIGINAL FUNDING POLICY.....	41
15.4	CONFLICT	41
15.5	PREPARATION OF POLICY.....	41
15.6	NOTICE.....	41
ARTICLE 16 – TRANSFER OF ASSETS.....		41
16.1	TRANSFER OF FUND TO SUCCESSOR TRUST	41
16.2	RELEASE AND DISCHARGE OF THE TRUSTEES.....	42
ARTICLE 17 – AMALGAMATION OR MERGER OF TRUST FUND.....		42
17.1	ABILITY TO MERGE OR AMALGAMATE	42
ARTICLE 18 – TERMINATION.....		43
18.1	TERMINATION OF TRUST AGREEMENT	43
18.2	NOTIFICATION OF TERMINATION.....	44
ARTICLE 19 – TRUSTEES ACCOUNTS.....		44
19.1	TRUSTEES’ ACCOUNTS.	44
19.2	AUDIT REQUIREMENT	44

ARTICLE 20 – NOTICE AND DISCLOSURE.....	44
20.1 NOTICES.....	44
20.2 NOTICE TO THE TRUSTEES.....	44
20.3 CHANGE IN NOTICE PERIOD.....	44
20.4 REPORTS TO BENEFICIARIES.....	45
20.5 DISCLOSURE CONCERNING EMPLOYERS, BENEFICIARIES & OTHERS.....	45
ARTICLE 21 – MISCELLANEOUS.....	45
21.1 ILLEGALITY.....	45
21.2 FISCAL YEAR.....	45
21.3 SITUS.....	45
SCHEDULE A.....	49
SCHEDULE B.....	51
SCHEDULE C.....	52

THIS AGREEMENT AND DECLARATION OF TRUST made as of the 1st day of August, 2015.

BETWEEN:

HEALTH EMPLOYERS ASSOCIATION OF BRITISH COLUMBIA ("HEABC")

OF THE FIRST PART

- and -

HEALTH SERVICES AND SUPPORT FACILITIES SUBSECTOR BARGAINING ASSOCIATION ("FBA")

OF THE SECOND PART

- and -

DONISA BERNARDO, JONATHAN CHAPNICK,
ADRIAN DAVID, RICK FOLKA,
ADRIENNE HOOK, DEAN LEVANGIE,
CHRIS KINKAID, SELENA KONGPREECHA,
MARTIN POCHURKO, CATHY STASHYN

(hereinafter referred to collectively as the "Original Trustees")

OF THE THIRD PART

WHEREAS the employers association known as the HEABC and the association of unions known as the FBA are parties to the 2014-2019 Health Services & Support Facilities Subsector Collective Agreement dated June 24, 2014, which requires the provision of benefits to certain employees;

AND WHEREAS pursuant to the Memorandum of Understanding Re: Health and Welfare

Benefits (the "MOU") forming part of the 2014-2019 Health Services & Support Facilities Subsector Collective Agreement dated June 24, 2014, such benefits must be provided through a jointly trustee fund (the "Fund"), and, for this purpose, a trust known as the Joint Facilities Benefits Trust (the "Trust") must be established;

AND WHEREAS this Agreement and Declaration of Trust (the "Trust Agreement") establishes the Trust and records its terms and conditions;

AND WHEREAS any employer bound by the terms and conditions of the Collective Agreement, save and except the BC Emergency Health Services and the BC Ambulance Service, must participate in the Trust;

AND WHEREAS it is intended that the Trust and the terms hereof will at all times meet the requirements for an "employee life and health trust" within the meaning of the *Income Tax Act* (Canada);

AND WHEREAS the Original Trustees are willing to exercise the authority granted to them herein;

AND WHEREAS the Original Trustees desire to declare the trusts, terms and conditions upon which the Trustees agree to hold the contributions and all future property acquired by the Trustees in trust for the Beneficiaries of the Trust;

NOW THEREFORE, for value received and in consideration of these premises and of the promises and mutual covenants contained herein, the Original Trustees declare and the HEABC and the FBA agree as follows:

ARTICLE 1 – DEFINITIONS

- (a) **"Actuary"** means the person, corporation or firm appointed by the Trustees to be the actuary of the Plan, and who is, or in the case of a firm or corporation, whose staff member is, a Fellow of the Canadian Institute of Actuaries;

- (b) **“Administrative Agent”** means a person or persons, an employee or employees, a firm, a corporation, or another entity appointed from time to time by the Trustees to perform duties and responsibilities related to the administration of the Trust and the Fund and the Plan.
- (c) **“Applicable Legislation”** means all statutes of Canada or a province of Canada, together with the regulations thereunder, as amended from time to time, which require compliance by the Trust or Fund or Plan, including the *Personal Information Protection Act*, S.B.C. 2003, c. 63 and the *Income Tax Act* (Canada);
- (d) **“Auditor”** means the person or firm appointed from time to time by the Trustees to audit the financial statements of the Trust and the Fund;
- (e) **“Authorized Investments”** means investments made by the Trustees in accordance with any investment guidelines they may adopt from time to time, provided that the Trustees may not make a loan to or make an investment in a Participating Employer, or a person or partnership with whom the Participating Employer does not deal at arm’s length;
- (f) **“Beneficiary”** means a Participating Employee and his or her eligible dependents and beneficiaries as defined in the Plan;
- (g) **“Benefits”** means such benefits that qualify as “designated employee benefits” under s.144.1(1) of the *Income Tax Act* (Canada), as amended from time to time, and are provided by the Trustees pursuant to this Trust Agreement and the Plan Document, and includes Non-LTD Benefits and LTD Benefits;
- (h) **“Board of Trustees”** means the Board of Trustees of the Trust, which consists of the Trustees;
- (i) **“Collective Agreement”** means the Health Services and Support Facilities Subsector collective agreement between the HEABC and the FBA, together with any and all supplements, extensions and renewals thereof and successor agreements thereto;

- (j) **"Consultant"** means such person, firm or corporation as may be from time to time appointed by the Trustees for the purpose of consulting with and advising the Trustees with respect to the Plan;
- (k) **"Contributions"** means Employer Contributions and Employee Contributions;
- (l) **"Employee Contributions"** means any and all sums of money that may or must be paid by a Beneficiary to the Fund;
- (m) **"Employer Contributions"** means any and all sums of money determined in accordance with the Funding Formula, which must be paid to the Trust by Participating Employers pursuant to the Collective Agreement;
- (n) **"FBA"** means the association of unions known as the Health Services and Support Facilities Subsector Bargaining Association and more commonly known as the Facilities Bargaining Association, as defined by the FBA Articles of Association as amended from time to time, representing the employees of the employers who are bound by the Collective Agreement and for whom the FBA has been certified as the sole bargaining agent, and includes a union or association of unions that is a successor to the FBA as a whole;
- (o) **"FBA Trustee"** means a Trustee appointed by the FBA;
- (p) **"Fund"** means the Joint Facilities Benefits Trust Fund, which consists of:
 - (i) the Settlement Amount paid to the Original Trustees;
 - (ii) Contributions;
 - (iii) all other property or sums of money acquired or received at any time by the Trustees;
 - (iv) all capital accretions and income arising from all property referred to in subparagraphs (i), (ii) and (iii) above;
 - (v) less any authorized payments therefrom.

- (q) **"Funding Formula"** means the funding mechanism and employer payment provisions agreed to in the Collective Agreement and the *Joint Facilities Benefits Trust: Working Group Terms of Reference* attached thereto, in accordance with which Participating Employers must contribute to the Trust;
- (r) **"Funding Policy"** means the funding policy adopted and amended from time to time by the Trustees in accordance with this Trust Agreement;
- (s) **"HBT"** means the Healthcare Benefit Trust established by an agreement and declaration of trust among the HEABC and Gordon R. Anderson, A.H. (Bert) Gurney, Alice D. Laberge, Peter Lusztig and D.J. Ian MacDonald, dated December 1, 1993;
- (t) **"HEABC"** means the employers association known as the Health Employers Association of British Columbia, which is an employers' organization accredited by the Labour Relations Board of British Columbia and authorized to bargain collectively on behalf of and bind by the Collective Agreement certain employers, and includes an employer or employers' organization that is a successor to the HEABC as a whole;
- (u) **"HEABC Trustee"** means a Trustee appointed by the HEABC;
- (v) **"Income Tax Act (Canada)"** means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), including any regulations made thereunder, as the same may be amended from time to time;
- (w) **"Insurance Company"** means an insurance company licensed to carry on business in Canada;
- (x) **"LTD Benefits"** means Benefits that are long-term disability benefits;
- (y) **"Non-LTD Benefits"** means Benefits that are not long-term disability benefits;
- (z) **"Original Funding Policy"** means the initial Funding Policy adopted by the Trustees pursuant to Article 15 of this Trust Agreement;
- (aa) **"Original Trustees"** means the original persons appointed pursuant to the provisions of this Trust Agreement to administer the Fund and the Trust and the Plan;

- (bb) **“Participating Employee”** means an employee or former employee of a Participating Employer or a former Participating Employer, who pursuant to the Plan may or must enrol in the Plan or a portion thereof, and who is so enrolled;
- (cc) **“Participating Employer”** means any employer bound by the terms and conditions of the Collective Agreement, save and except the BC Emergency Health Services and the BC Ambulance Service, whether or not the employer is a member of HEABC;
- (dd) **“Participation Agreement”** means the agreement between the Trustees and a Participating Employer in the form attached hereto as Schedule A;
- (ee) **“Party” or “Parties”** means HEABC and FBA individually or collectively as the context requires;
- (ff) **“Plan” or “Plan Document”** means the “Joint Facilities Benefits Trust Plan,” which sets out the terms of the benefits plan funded out of the Fund, as established by the Trustees pursuant to Article 5 of this Trust Agreement, and as amended from time to time;
- (gg) **“Prime Rate”** means the rate of interest per annum from time to time publicly quoted by the Royal Bank of Canada, Main Branch, in Vancouver, British Columbia, as being the reference rate of interest (commonly known as its “prime rate”) used by it to determine rates it will charge on loans to its commercial customers of varying degrees of creditworthiness;
- (hh) **“Recording Secretary”** means the recording secretary appointed by the Trustees pursuant to the terms of this Trust Agreement;
- (ii) **“Reserve”** means a contingency reserve or benefit liability established by the Trustees in accordance with this Trust Agreement;
- (jj) **“Scope of Coverage”** means the portion or portions of the Plan in which, pursuant to the Plan, a class of Beneficiaries may or must enrol;

- (kk) **“Settlement Amount”** means the sum of TEN DOLLARS (\$10.00) paid by HEABC to the Original Trustees to settle the Trust;
- (ll) **“Trust”** means the Joint Facilities Benefits Trust, which holds the Fund and provides Benefits to Beneficiaries under the Plan;
- (mm) **“Trust Agreement”** means this agreement and declaration of trust and any amendment to it and any instrument supplemental or ancillary to it and any amendment to any such instrument; and
- (nn) **“Trustee”** means each of the Original Trustees and, thereafter, each person appointed from time to time in accordance with this Trust Agreement as a successor to an Original Trustee.

ARTICLE 2 – SETTLEMENT AND INTERPRETATION

- 2.1 **Settlement of Trust Fund.** The Original Trustees acknowledge receipt of the Settlement Amount from HEABC to be held in trust pursuant to this Trust Agreement.
- 2.2 **Interpretation.** In this Trust Agreement, unless the context otherwise requires or it is otherwise specifically provided, words in the singular include the plural and vice-versa, and words in one gender include all genders. The headings in this document are for convenience only and do not form part of this Trust Agreement.
- 2.3 **Conflict.** In the event of any inconsistency between this Trust Agreement and the Plan Document, the terms of this Trust Agreement will prevail.

ARTICLE 3 – NAME AND TITLE, PAYMENTS

- 3.1 **Name and Title.** The title to all assets of the Fund will be jointly vested in the Trustees. The Trustees will jointly hold the property of the Fund and will deal with it in accordance with the terms of this Trust Agreement.
- 3.2 **Manner of Payment.** All payments and Contributions to the Fund will be made payable to the "Joint Facilities Benefits Trust Fund" and all Contributions will be remitted to the Trustees

no later than the calendar month immediately following the dates upon which such Contributions were collected or deducted at source.

- 3.3 **Legal Sources of Payments.** The Trustees may accept money or property from sources other than those described in this Trust Agreement provided that acceptance from any such other source is not contrary to the terms of this Trust Agreement and does not cause the Trust to lose its status as an “employee life and health trust” within the meaning of the *Income Tax Act* (Canada).

ARTICLE 4 – THE TRUST

- 4.1 **Establishment.** The Trust is hereby established.
- 4.2 **Employee Life and Health Trust.** The Trust is an employee life and health trust in accordance with s. 144.1 of the *Income Tax Act* (Canada).
- 4.3 **Purpose.** The only purpose of the Trust is to provide Benefits to the Beneficiaries.
- 4.4 **Rights or Interest.** Neither the Parties hereto, nor any Participating Employer, Beneficiary or any other person, association, firm or corporation, will have any right, title or interest in or to the assets of the Fund, except as specifically provided by this Trust Agreement or the Plan Document and as may be permitted by Applicable Legislation provided however that nothing in the Trust Agreement will prevent a Contribution, made by a Participating Employer or Beneficiary by mistake of fact, from being returned by the Trustees to such person within one (1) year after the payment of such Contribution.
- 4.5 **Seizure or Attachment.** Subject to the Plan Document and the laws of the Province of British Columbia, no monies, property or equity of any nature whatsoever in the Fund, or policies or benefits or monies payable therefrom, will be subject in any manner by any Beneficiary or person claiming through such Beneficiary or otherwise, to anticipation, alienation, seizure, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, execution, mortgage, lien or charge. If by reason of any seizure or sale or any attempted sale under any legal, equitable or other process or by way of any suit or proceedings, any Benefit becomes payable to any person other than the Beneficiary for whom the same is intended, as provided in the Plan Document, the Trustees will have the power to withhold payment of such benefit to such Beneficiary until

such anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, mortgage, lien, charge or seizure or other legal process is cancelled or withdrawn, and the Trustees will have the right to use and apply the amount of such Benefit during such period as the Trustees may deem best for the support and maintenance of such Beneficiary.

- 4.6 **No Diversion.** Except as otherwise provided herein, at no time will any part of the corpus or income of the Fund be used for or diverted to purposes other than the provision of Benefits for the exclusive benefit of the Beneficiaries, and in connection therewith the payment of reasonable costs of establishment, amendment and administration of the Trust and Plan and the investment of the Fund.
- 4.7 **No Guarantee.** Nothing contained in this Trust Agreement or the Plan Document will constitute a guarantee that the assets of the Fund will be sufficient to pay any Benefits offered from time to time under the Plan to any person throughout her lifetime or make any other payment. The obligation of the Trustees to pay Benefits provided under the Plan is expressly conditioned on the sufficiency of Fund assets.
- 4.8 **Binding Effect.** It is hereby agreed that this Trust Agreement is binding on the FBA and its constituent unions, the HEABC, the Participating Employers and all Beneficiaries and their respective heirs, executors, administrators, successors and assigns.

ARTICLE 5 – THE PLAN

- 5.1 **The Plan Document.** The Trustees will establish the Plan Document, which will set out the text of the Plan, including a description of:
- (a) the Benefits;
 - (b) the Beneficiaries;
 - (c) the Scope of Coverage;
 - (d) the conditions or criteria that Beneficiaries must meet to receive certain Benefits; and
 - (e) such other terms as the Trustees deem necessary to include.

- 5.2 **Amendments.** Subject to the rules and constraints set out in subparagraph 5.3 below, the Trustees may, at any time, change or modify the Plan Document. Any such change or modification may take effect retroactively or otherwise, as the Trustees decide.
- 5.3 **Rules and Constraints.** In establishing or amending the Plan Document, the Trustees must adhere to the following rules and constraints:
- (a) The Benefits provided under the 2014-2019 Health Services and Support Facilities Subsector Collective Agreement dated June 24, 2014 will be maintained unless amended by the Trustees.
 - (b) The FBA Trustees have the exclusive right to change or modify the Non-LTD Benefits.
 - (c) Any change or modification to the LTD Benefits must be made by the Board of Trustees.
 - (d) The Plan Document must comply with this Trust Agreement.

ARTICLE 6 – PARTICIPATING EMPLOYER OBLIGATIONS

- 6.1 **Mandatory Participation.** Every employer bound by the terms and conditions of the Collective Agreement, whether or not the employer is a member of HEABC, but save and except the BC Emergency Health Services and the BC Ambulance Service, is required to participate in the Trust and the Plan.
- 6.2 **Participation Agreement.** Each Participating Employer must execute a Participation Agreement and deliver a certified copy of the Participation Agreement to the Trustees:
- (a) by March 1, 2016; or
 - (b) within sixty (60) days of becoming a Participating Employer.
- 6.3 **Effective Date of Participation of Participating Employer.** An employer becomes a Participating Employer on the date the employer becomes bound by the terms and conditions of the Collective Agreement.

- 6.4 **Contributions by Participating Employers.** In consideration of being accepted by the Trustees for participation in the Trust, each Participating Employer agrees with the Parties and the Trustees and promises to promptly pay to the Trustees, or to such person, firm or corporation as the Trustees may from time to time direct, all Contributions which the Participating Employer is required to pay. The Participating Employers' absolute obligation to make Employer Contributions to the Fund will not be subject to any set-off or counter-claim which a Participating Employer may have for any liability of any Beneficiary.
- 6.5 **Determination of Employer Contributions.** Each Participating Employer will pay Employer Contributions to the Fund in such amount determined by the Funding Formula and in such manner and form, and by such dates, prescribed by the Trustees.
- 6.6 **Interest.** Whenever and so often as a Participating Employer fails to pay Contributions within 30 days of the date upon which such Contributions were due to be paid, such Participating Employer will also pay, as liquidated damages, interest at two (2) percentage points above the Prime Rate from the date the Contributions were due to be paid until the actual date of payment thereof both before and after judgement.
- 6.7 **Enforcement.** Whenever and so often as a Participating Employer fails to pay Contributions, the Trustees have the right to commence and prosecute legal action in the names of the Trustees against the defaulting Participating Employer for the recovery and payment of the amount of such Contributions accrued due and payable at the date of the commencement of such action, including for interest as provided under this Trust Agreement. The amount of such Contributions and interest, will, for all purposes, be deemed to be held in trust by the Participating Employer for the Trustees. The Trustees may also claim such further and other relief whether with respect to future payments of Contributions or otherwise as may be available to the Trustees. Participating Employers that fail to pay Contributions are also liable for, and will pay to the Fund, all legal fees and disbursements for the collection of Contributions, and interest, reasonably incurred on a full indemnity basis.
- 6.8 **Nature of Right of Action.** The right of action hereby conferred upon the Trustees will be in addition to and independent of any other procedure or remedy which may be available to the Trustees, or to any other person whomsoever. No Participating Employer will be entitled to

have such action delayed, stayed or otherwise postponed on the ground that the claim of the Trustees in such action might also be a claim capable of being dealt with by a trade union or Participating Employer under a Collective Agreement.

- 6.9 **Non-Payment by One Contributor.** Non-payment by anyone required to make Contributions to the Fund will not relieve any other person of her or its obligations to make such payments.
- 6.10 **Contributions Held in Trust.** Contributions to the Fund payable by a Participating Employer are deemed to be held in trust by the Participating Employer for the Trustees until remitted to the Fund.
- 6.11 **Obligation to Furnish Information.** In consideration of being accepted by the Trustees for participation in the Trust, each Participating Employer agrees with the Trustees that it will promptly provide the Trustees or their designates with such reports, payroll records, timesheets and accounting information and other data as the Trustees may reasonably require and request from it and consider necessary for the proper administration of the Trust, including, but not limited to, the determination of eligibility to participate in the Plan and the determination of the Benefits to be provided under the Plan.
- 6.12 **Audits.** Each Participating Employer agrees that upon the written demand of the Trustees, it will permit a professional accountant acting on the Trustees' behalf, or in accordance with their instructions, to:
- (a) enter upon that Participating Employer's premises at any reasonable time or times, upon giving one (1) week's written notice, for the purpose of carrying out an inspection, audit or examination of all books of account, documents, payrolls, records, or any other material which may be relevant to the said inspection, audit or examination; and,
 - (b) make inquiries of the Participating Employer or any persons employed or otherwise engaged by the Participating Employer, which persons will cooperate and will produce all books of account, documents, payrolls, records, or any other material which may be relevant to the said inspection, audit or examination,

in order to ensure that the Participating Employer has been complying with the terms and conditions of the Participation Agreement, Collective Agreement, this Trust Agreement and the

Plan, including and without limiting the generality of the foregoing, complying with its obligations to make Contributions to the Fund. It is agreed that the professional accountant will not reveal any of the information or documents reviewed or obtained, unless such inspection, audit or examination reveals that a Participating Employer has failed to carry out her obligations under the Participation Agreement, Collective Agreement, the Plan or this Trust Agreement.

6.13 **Participating Employer Failure to Comply.** In the event that a Participating Employer has failed to carry out its obligations under the Participation Agreement, the Collective Agreement, this Trust Agreement or the Plan, the Participating Employer will forthwith, upon written demand from the Trustees:

- (a) pay to the Trustees all sums which may have been determined by the said inspection, audit or examination or otherwise, to be due and owing by the Participating Employer, as well as interest at Prime Rate + 2% from the due date until all such sums are paid to the Trustees;
- (b) complete and remit any information forms or other related and supporting documents which may be required of the Participating Employer; and
- (c) pay to the Trustees all costs, expenses, or losses, incurred by the Trust in connection with or arising out of any inspection, audit or examination or other proceedings or steps taken in respect to any such failure.

6.14 **Security.** The Trustees may require a Participating Employer who has failed to make contributions on time in three (3) consecutive months, to furnish cash deposits, in such amounts and at such times as are reasonably determined by the Trustees, provided the Participating Employer has been given reasonable notice of such requirement. The Trustees may also require a Participating Employer to furnish a bond or letter of credit acceptable to the Trustees for an amount equivalent to a maximum of six (6) months' of reasonably anticipated Contributions. Such bond or letter of credit, at the expiry of six (6) months, will be renewed at the request of the Trustees. If the Participating Employer fails to comply with such request at least ten (10) days prior to the expiry of the current bond or letter of credit, then the Trustees will be entitled to convert such bond or letter of credit to a cash deposit.

- 6.15 **Grace Period.** The Trustees are authorized to establish a reasonable and lawful grace period by which Contributions must be received.

ARTICLE 7 – EMPLOYEE CONTRIBUTIONS

- 7.1 **Deduction and Remittance of Employee Contributions.** A Participating Employer will deduct from the wages of a Participating Employee in their employ the amount of any Employee Contributions that the Participating Employee is required to make, and will remit such Employee Contributions to the Fund within thirty (30) days of the deduction. The amount of the Employee Contributions will be deemed to be held in trust by the Participating Employer from the time that the Employee Contributions ought to have been deducted until the time they are remitted to the Trustees. In the event that the Participating Employee is not receiving wages, the Participating Employer will collect the amount of any Employee Contributions that the Participating Employee is required to make, and will remit such Employee Contributions to the Fund within thirty (30) days of the collection. The amount of the Employee Contributions will be deemed to be held in trust by the Participating Employer from the time that the Employee Contributions ought to have been collected until the time they are remitted to the Trustees.
- 7.2 **Determination of Employee Contributions.** Each Participating Employee will pay Employee Contributions to the Fund in the amounts, manner and form, and by the dates prescribed by the Collective Agreement or otherwise by the Parties in writing.

ARTICLE 8 – TRUSTEES

- 8.1 **Composition of Board of Trustees.** The Board of Trustees will consist of ten (10) Trustees as follows:
- (a) Five (5) FBA Trustees.
 - (b) Five (5) HEABC Trustees.
- 8.2 **Term and Renewal.** Each Trustee will be appointed to serve a four (4) year term, which may be renewed twice for a total of twelve (12) years of consecutive service.

- 8.3 **Additional Renewals.** A Trustee who has served on the Board for a total of twelve (12) or more consecutive years may be renewed upon mutual agreement of the Parties. A Party will not unreasonably refuse to agree to such a renewal.
- 8.4 **Qualification of Trustees.** Trustees must be residents of Canada.
- 8.5 **Acceptance of Trust.** Each person, upon signing this Trust Agreement as one of the Original Trustees, or, in the case of a successor Trustee, immediately upon signing and filing with the Trustees an Acceptance of Trust in the form set out in Schedule B attached hereto, will be deemed to accept the trusts created and established by this Trust Agreement, to have consented to act as a Trustee and to have agreed to administer the Trust as set out herein, from that date forward.
- 8.6 **Resignation, Removal, Incapacity or Death.**
- (a) **Resignation.** A Trustee may resign by giving notice in writing to the remaining Trustees, the HEABC and the FBA. Any such notice must state the date, not prior to the actual date of the notice, on which such resignation is to take effect. Such resignation will take effect on the date stated in the notice or the date of delivery of the notice, whichever is later.
 - (b) **Removal by Party.** A Trustee may be removed at any time and for any reason by her appointing Party, upon that Party giving seven (7) days' written notice to the Trustee, the remaining Trustees and the other Party. The effective date of removal will be the day immediately following the expiry of the notice period.
 - (c) **Automatic Removal.** A Trustee will be automatically removed if a receiving order is made against him or her or if he or she makes an assignment under the *Bankruptcy Act*.
 - (d) **Incapacity.** If a Trustee becomes incapable of acting as a Trustee, the appointment of the Trustee may be terminated by notice from the Trustee, or her personal representatives, to the Party that appointed the Trustee and the remaining Trustees.

- (e) **Death.** In the event of the death of a Trustee, her heirs, administrators, executors and assigns will be fully discharged from all duties, responsibilities and liabilities in respect of the Trust Agreement arising after the date of death.
- (f) **Remaining Trustees.** In the event of the death, resignation, incapacity or removal of any one or more of the Trustees, the remaining Trustees will have jointly all the powers, rights, estates and interests of the Trustees as provided hereunder and will be charged with all duties of the Trustees hereunder.
- (g) **Status.** Any Trustee, upon the expiry of her term and in the absence of reappointment, or upon her resignation, removal, incapacity, or death, and the personal representatives of any incapacitated or deceased Trustee, will forthwith turn over to the other Trustees, any and all records, books and documents in any form, in the possession of the Trustee incidental to her duties as a Trustee under this Trust Agreement or relating to the administration of the Trust.
- (h) **Appointment of Replacement Trustees.** When a Trustee dies, resigns, is removed or reaches the end of his or her term and is not re-appointed, a successor Trustee will be immediately appointed by the applicable Party. Any such successor Trustee, immediately upon completing and filing with the Recording Secretary an Acceptance of Trust in the form of Schedule B, is vested with all the property, rights, powers and duties of a Trustee hereunder from that date forward as if originally named as a Trustee.
- (i) **Discharge of Trustees.** Any Trustee, upon the expiry of her term and in the absence of reappointment, or upon her resignation, removal, incapacity, or death, will thereafter be discharged of and from all future duties, obligations and responsibilities under this Trust Agreement.
- (j) **Indemnity.** Any Trustee, upon the expiry of her term and in the absence of reappointment, or upon her resignation, removal, incapacity, or death, and the personal representatives of any incapacitated or deceased Trustee, will be entitled to receive from each continuing Trustee or new Trustee an indemnity on the terms described in Article 9.3 of this Trust Agreement.

- 8.7 **Conveyance of Property.** Every person ceasing to be a Trustee hereunder is deemed to have conveyed, assigned, transferred or made over to the remaining Trustees upon the effective date of cessation (the "Cessation Date") any or all the rights to and property of the Fund and the Trust, and will, if necessary, convey, assign, transfer and make over to the remaining Trustees upon the Cessation Date any or all the rights and property of the Fund as the remaining Trustees may direct. Each Trustee, completing and filing an Acceptance of Trust in the form set out in Schedule B, constitutes and appoints the remaining Trustees as her attorneys, to sign all documents and deeds in such Trustee's name as may be necessary to convey her legal interest in the rights to and property of the Fund to the other Trustees upon the Cessation Date. Upon the appointment of a successor Trustee, and immediately upon her signing and filing with the Trustees an Acceptance of Trust in the form set out in Schedule B, the Trustees will be deemed to have conveyed, assigned, transferred or made over to the successor Trustee all the rights to and property of the Trust, and will sign all documents and deeds as may be necessary to convey a joint legal interest in the rights to and property of the Trust to the successor Trustee.
- 8.8 **No Conflict.** A person is not disentitled from serving as a Trustees solely because they are:
- (a) a Beneficiary;
 - (b) an officer or employee of the HEABC or its members; or
 - (c) an officer or employee of the FBA or its constituent unions.
- 8.9 **Validity of Actions of the Trustees.** Notwithstanding that it is subsequently discovered or determined that there existed some defect in the appointment, removal or qualifications of any Trustee, or, that at the time a decision or action of the Trustees was taken there was not appointed the required number of Trustees, all acts and proceedings taken by the Trustees in good faith at any time while any such defect existed will nevertheless be valid and effective.
- 8.10 **Fees and Expenses.** Trustees will not be entitled to any fee or payment on account of their holding office. However, subject to the approval of the Trustees, a Trustee may be reimbursed from the Fund for her actual expenses incurred in attending each meeting of the Trustees at which the Trustee is physically present, the reasonable expenses incurred for attending educational conferences or courses for which conferences or courses the prior approval of the

Trustees has been obtained and the actual expenses in carrying out any other duty in connection with the Trust, all in accordance with policies to be established from time to time by the Trustees.

- 8.11 **Appointment of Associate Chair and Deputy Associate Chair.** On a rotating basis, the HEABC will, from among the HEABC Trustees, appoint an Associate Chair or a Deputy Associate Chair of the Board of Trustees for a two (2) year term, which will coincide with that HEABC Trustee's term of appointment as a Trustee, and the FBA will, from among the FBA Trustees, appoint an Associate Chair or a Deputy Associate Chair of the Board of Trustees for a two (2) year term, which will coincide with that FBA Trustee's term of appointment as a Trustee.
- 8.12 **Original Associate Chair and Deputy Associate Chair.** Among the Original Trustees, the original Associate Chair will be appointed by the FBA and the original Deputy Associate Chair will be appointed by the HEABC.
- 8.13 **Functions of Associate Chair and Deputy Associate Chair.** The function of the Associate Chair will be to chair all meetings of the Board of Trustees, to advise, from time to time, the Parties concerning the status of the Trust, to liaise with the Parties as and when necessary, and generally to perform such other duties as required by this Trust Agreement. The Associate Chair will consult with the Deputy Associate Chair in relation to the performance of these functions and duties. The function of the Deputy Associate Chair is to substitute for the Associate Chair when the Associate Chair is unable to perform her functions or is not present at a meeting of the Board of Trustees.
- 8.14 **Removal and Resignation.** The appointing Party may remove an Associate Chair at any time, and the Associate Chair may resign her office at any time. The appointing Party may remove a Deputy Associate Chair at any time, and the Deputy Associate Chair may resign her office at any time. An Associate Chair or Deputy Associate Chair who ceases to hold office for any reason will not automatically cease to be a Trustee simply because she has ceased to hold her office as Associate Chair or Deputy Associate Chair. Upon removal or resignation of an Associate Chair or a Deputy Associate Chair, the appointing Party will forthwith designate a replacement for the remainder of the existing term of appointment.

- 8.15 **Chair.** The Parties will select and appoint a Chair of the Board of Trustees in the event of a deadlock of the Trustees ("Trustees' Deadlock"), as defined in this Trust Agreement.
- 8.16 **Minutes of Meetings.** The Trustees will appoint a Recording Secretary who will keep minutes and records of all meetings, proceedings and acts of the Trustees. Such minutes need not be verbatim.
- 8.17 **Execution of Documents and Cheques.** All documents to be executed by the Trustees and all cheques payable out of the Fund will be signed by at least one HEABC Trustee and one FBA Trustee or by such other persons as the Trustees may by resolution appoint.
- 8.18 **Meetings.**
- (a) The Board of Trustees will hold at least four (4) meetings each year, one of which will be designated as the annual meeting of the Board of Trustees. The Associate Chair, in consultation with the Deputy Associate Chair, will be responsible for setting the dates of each such annual meeting, provided that the annual meeting must be held within six (6) months of the end of the fiscal year of the Fund.
 - (b) Each meeting of the Board of Trustees will be held at a time and place to be determined by the Associate Chair in consultation with the Deputy Associate Chair.
 - (c) At least fourteen (14) days' written notice will be provided to the Trustees of any meeting, provided that such notice may be waived by the consent, in writing, of all Trustees, or by a unanimous resolution of the Trustees.
 - (d) At each annual meeting of the Board of Trustees, the Trustees will consider, among other things:
 - (i) a financial statement from the Auditor covering the immediately preceding fiscal period of the Fund;
 - (ii) the Administrative Agent's report relating to the period since the inception of the Fund or from the date of the last preceding annual meeting as the case may be; and

(iii) the appointment or re-appointment of the Auditor.

8.19 **Special Meetings.** The Associate Chair, in consultation with the Deputy Associate Chair, or any two (2) or more Trustees may call a special meeting of the Trustees at any time by giving at least three (3) days' written notice of the time and place thereof to each Trustee. Meetings of the Trustees may be held at any time without notice if all Trustees consent thereto.

8.20 **Meetings by Conference Call or Consent in Writing.** Any meeting of the Trustees may be held by means of a conference telephone call or such other electronic means as deemed appropriate by the Trustees. Any decision is effective without a meeting of the Trustees if evidenced by instrument in writing signed by all the Trustees, which may be signed in counterparts.

8.21 **Quorum.**

- (a) A quorum will consist of three (3) HEABC Trustees and three (3) FBA Trustees, and must include the Associate Chair or the Deputy Associate Chair.
- (b) If a quorum is not present within one hour of the time specified for a meeting of the Board of Trustees, the Trustees present may adjourn the meeting to a fixed time and place but may not transact any other business. If, during the course of a meeting a quorum is lost, no further business may be transacted by the remaining Trustees, except that they may adjourn the meeting to a fixed time and place.

8.22 **Block Voting.** The HEABC Trustees, collectively, will have one official vote at any duly called and constituted meeting of the Board of Trustees. The FBA Trustees, collectively, will have one official vote at any duly called and constituted meeting of the Board of Trustees. The decisions of the Board of Trustees will be determined by a majority vote. The Associate Chair and Deputy Associate Chair will not have voting rights beyond this system of block voting.

8.23 **Trustees' Deadlock.** A Trustees' Deadlock, as defined below, will be resolved as follows:

- (a) **Definition.** A Trustees' Deadlock will be deemed to exist wherever:

- (i) a proposal, motion or resolution made by a Trustee is neither adopted nor rejected by a majority vote; or
 - (ii) a proposal, motion, or resolution cannot be made at a meeting due to lack of a quorum at two (2) consecutively called meetings.
- (b) **Trustee Meeting.** In the event of a Trustees' Deadlock, a meeting of the Board of Trustees will be held at least ten (10) days but not more than thirty (30) days after the deadlock has arisen for the purpose of resolving the matter in dispute. If the matter is not resolved at such meeting, the Associate Chair or Deputy Associate Chair must forthwith notify the Parties in writing, and must request that the Parties select and appoint a Chair of the Board of Trustees for the purpose of casting a tie-breaking vote on the matter in dispute.
- (c) **Appointment of Chair.** The Parties will mutually select and appoint a Chair forthwith upon receiving notice of a Trustees' Deadlock. The Chair may be selected from a roster of candidates mutually agreed to by the Parties from time to time. The Parties must notify the Trustees in writing of their selection and appointment within thirty (30) days of receiving notice of the Trustees' Deadlock. If the Parties fail to select and appoint a Chair within this thirty (30) day period, the Trustees must select and appoint a Chair within an additional ten (10) days.
- (d) **Application for Directions.** If the Trustees fail to select and appoint a Chair within the additional ten (10) days described above, the Associate Chair or Deputy Associate Chair must, pursuant to s. 86 of the *Trustee Act*, apply forthwith to a BC Supreme Court judge in chambers for the opinion of the court on the matter in dispute, which will be binding on the Board of Trustees, the Parties, the constituent unions of the FBA, the Participating Employers, and the Beneficiaries.
- (e) **Acceptance of Appointment.** A person will be deemed to accept an appointment as Chair of the Board of Trustees upon signing and filing with the Board of Trustees an acceptance of Trust in the form set out in Schedule B. Once appointed, the Chair will be a fiduciary with respect to the Trust and the Beneficiaries.

- (f) **Dispute Resolution Meeting.** Upon acceptance of her appointment, the Chair must convene a meeting of the Board of Trustees to resolve the matter in dispute. The meeting must take place within thirty (30) days of the Chair's acceptance of her appointment. The Chair may determine the meeting procedure, except that the process must be reasonably expeditious, and the Chair must take reasonable steps to assist the Trustees in reaching a mediated resolution, before proceeding to an adjudicative process. The Chair may receive and accept evidence and information on oath, affidavit or otherwise as she determines proper, whether or not the evidence is admissible in a court of law.
- (g) **Tie-Breaking Vote.** Within seven (7) days of the dispute resolution meeting described above, and if a mediated resolution has not been reached, the Chair must issue a written decision, casting a tie-breaking vote and providing brief reasons. The decision of the Chair will be final and binding on the Board of Trustees, the Parties, the constituent unions of the FBA, the Participating Employers, and the Beneficiaries. However, the decision of the Chair cannot have the effect of amending or contravening this Trust Agreement.
- (h) **Discharge of Chair.** Upon resolving the matter in dispute, either by assisting the Trustees in reaching a mediated resolution, or issuing a written decision and casting a tie-breaking vote, the function of the Chair will be completed and such person will cease to act as a Trustee.
- (i) **Expenses of Chair.** The reasonable expenses and fees of the Chair will be paid out of the Fund.

8.24 **Annual Meeting with the Parties.** The Board of Trustees will convene an annual meeting with representatives of the HEABC and FBA to discuss matters of interest to the Trustees, the HEABC or the FBA.

ARTICLE 9 – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

- 9.1 **No Liability.** The Trustees will incur no liability, either collectively or individually, in acting in accordance with this Trust Agreement, or upon any documents, data or information reasonably believed by them to be genuine and accurate and to have been made, executed, delivered or assembled by the proper parties.
- 9.2 **Authority of Trustees.** All persons dealing with the Trustees are released from inquiry into any decision or authority of the Trustees and from seeing to the application of any monies, securities or other property paid or delivered to the Trustees and may rely upon any document required to be executed by the Trustees which has been executed as provided herein, as having been duly authorized.
- 9.3 **Liability and Indemnity.** No Trustee will be liable for the act or omission of any other Trustee. The Fund will indemnify and save harmless the Trustees, their employees, assigns, executors, heirs and each of them, of, from and against any loss, expense, claim, demand, action or thing of any nature whatsoever, arising out of the performance or purported performance of their duties or responsibilities hereunder except that this indemnity will not, in any way, extend so as to protect any Trustee with respect to any matter or thing arising out of her own dishonesty, wilful misconduct or gross negligence.
- 9.4 **Fiduciary Liability and Other Insurance.** The Trustees may purchase and maintain such errors and omissions insurance or fiduciary liability insurance (or insurance of a similar nature or description) as it deems necessary for the Board of Trustees, an individual Trustee, or anyone else engaged in the administration or operation of the Trust. The cost of all such insurance will be paid out of the Fund.
- 9.5 **Liability of the Parties.** Neither the FBA nor the HEABC is a fiduciary with respect to the Trust, and neither the FBA nor the HEABC will be responsible or liable for:
- (a) any matter, cause or thing arising due to the validity of all or any part of this Trust Agreement or the Plan text;

- (b) any delay occasioned by any restriction or provision in this Trust Agreement, the rules and regulations of the Trustees issued hereunder, or any contract to which the Trustees are party;
- (c) any act or omission of the Trustees, either individually or collectively;
- (d) any investment of the Fund, including the making or retention of any deposit or investment of the Fund, or any portion thereof, or the disposition of any such investment, or the failure to make any investment of the Fund, or any portion thereof, or any loss or diminution of the Fund;
- (e) any of the obligations or acts of the Trustees notwithstanding that such Trustees may be associated with the HEABC or the FBA or a Participating Employer or a constituent union of the FBA;
- (f) any Contributions required to be paid to the Fund, other than its own Contributions as may be required by this Trust Agreement, a Participation Agreement, the Plan, or the Collective Agreement;
- (g) any losses, expenses, claims, demands or actions in connection with the establishment of the Trust; or
- (h) the provision or failure to provide any Benefits.

9.6 **Indemnity by HEABC.** The HEABC will indemnify and save harmless the FBA, the constituent unions of the FBA and the Trustees from any and all claims from the HBT, the HEABC and the Government of the Province of British Columbia, including any exit levies from the HBT or any other person or entity. In the event of conflict between this provision and any other provision of the Trust Agreement, this provision will prevail.

ARTICLE 10 – POWERS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEES

10.1 **Administration.** The administration of the Trust will be the responsibility of the Trustees, and they will administer the Trust in accordance with the express powers given to them pursuant to this Trust Agreement and the Plan Document. The terms of this Trust Agreement and the Plan

Document will be construed and administered so as to comply with the requirements to be an “employee life and health trust” under subsection 144.1 of the *Income Tax Act* (Canada). Any term of this Trust Agreement or the Plan Document that would otherwise be inconsistent with the requirements of such provisions will be modified to the extent necessary to comply with such requirements. Subject to the provisions of this Trust Agreement and Applicable Legislation, the Trustees will have sole, absolute and discretionary authority to adopt such policies, rules and regulations and take all actions that they deem desirable for the administration of the Trust, to interpret the terms of the Plan Document and Trust Agreement and to make findings of fact and decide any and all matters arising hereunder or in connection with the administration of the Trust. The decisions of the Trustees will be final and binding on the Parties, the constituent unions of the FBA, the Participating Employers, and the Beneficiaries.

- 10.2 **Collection of Contributions.** The Trustees may use all reasonable means to collect and receive all Contributions due to the Fund, and will, promptly after receipt, deposit such Contributions in a Fund account, established in a reputable bank, trust company, credit union, or other financial institution.
- 10.3 **Powers.** Subject to the provisions of this Trust Agreement, and to the duties, powers and responsibilities expressly reserved to the Parties, the Trustees have in relation to the Trust all the powers that a natural person would have if such person were the beneficial owner of the Fund, including without limitation the specific powers set forth below:
- (a) **Power to Make Arrangements for Provision of Benefits.** The Trustees may provide Benefits in accordance with the Plan that are fully insured, partially insured self-insured, or otherwise funded or underwritten, as determined from time to time by the Trustees in their sole discretion, and in accordance with this Trust Agreement may make such arrangements and agreements, including insurance arrangements, on behalf of the Trust, with corporations, firms or persons to provide the Benefits required to be provided pursuant to the Plan Document and this Trust Agreement from time to time.
 - (b) **Power to Establish Reserves.** The Trustees may, based on actuarial advice and in accordance with the Funding Policy, establish Reserves to enable the Trust to provide the Benefits to the Beneficiaries.

- (c) **Power to Interpret Trust Agreement and Plan Document.** In a manner consistent with the provisions of the Plan Document, this Trust Agreement and Applicable Legislation, the Trustees will construe the provisions of the Plan Document and this Trust Agreement and any construction adopted by the Trustees will be binding upon HEABC, the FBA, Participating Employers, the constituent unions of the FBA, and the Beneficiaries.
- (d) **Action by Trustees.** The Trustees may, if they deem it necessary, seek a judicial determination or declaratory judgement on any questions of the construction of this Trust Agreement or the Plan Document, or obtain directions as to any action hereunder. Any such determination will be binding upon HEABC, the FBA, Participating Employers, the constituent unions of the FBA, and the Beneficiaries.
- (e) **Power to Make Rules and Policies.** The Trustees may make, revise and enforce such policies, rules and regulations as the Trustees consider advisable for the effective administration of the Trust, so long as those policies, rules and regulations are consistent with the provisions of this Trust Agreement.
- (f) **Power to Determine Evidence.** The Trustees may determine the standard of proof and the sufficiency of evidence as to any factual question arising pursuant to the Plan Document.
- (g) **Power to Determine Benefits and Related Matters.** Subject to Article 5 of this Trust Agreement, the Trustees may determine and decide:
 - (i) the Benefits, and the type, extent or amount thereof;
 - (ii) the conditions or criteria that Beneficiaries must meet to receive a particular Benefit;
 - (iii) whether a Beneficiary meets the conditions or criteria for receiving a particular Benefit;
 - (iv) whether or not a review or hearing will be granted to any person who may be affected by any determination or decision of the Trustees.

Determinations and decisions of the Trustees will be final and binding upon all parties and persons whomsoever.

- (h) **Power to Sell.** The Trustees may sell, exchange, lease, grant any option, or otherwise alienate or dispose of any property of the Trust for such consideration and upon such terms and conditions as they think fit and they may execute and deliver all deeds or other instruments to make good and sufficient title thereto and to give full and valid discharges therefor.
- (i) **Power to Retain.** The Trustees may retain any property forming part of the Trust in the actual state or condition in which the same is received by the Trustees for so long as the Trustees consider appropriate.
- (j) **Power to Invest.** The Trustees may invest and re-invest portions of the Fund in any investments and schemes of investment that are Authorized Investments and are permitted by Applicable Legislation, including, without limiting the generality of the foregoing, investments in mutual funds, common trust funds and pooled funds.
- (k) **Power to Hold Cash.** The Trustees may hold in uninvested cash, without any liability for interest thereon, such sums as they deem necessary or advisable for the reasonably current cash requirements of the Trust.
- (l) **Power to Hold Fund in Names of Nominee.** The Trustees may hold the whole or any part of the Fund in the name or names of any nominees of the Trustees or agents for the Trustees and deposit with any such agent or nominee or any custodian any property or documents of title in respect of any property forming part of the Fund;
- (m) **Policy and Guidelines.** The Trustees will establish a written investment policy setting out the Authorized Investments and will adopt financial risk management guidelines. The Trustees will, on an annual basis or more frequently, review and monitor their compliance with the investment policy and financial risk management guidelines.
- (n) **Investment Advice.** The Trustees must retain an external investment advisor to provide them with investment advice. The Trustees may rely on any such advice if a prudent investor would rely upon the advice under comparable circumstances. The

Trustees must request all external investment advisors to disclose all conflicts in writing, including any material interest such advisor may have in any transaction involving the Trust.

- (o) **Power to Comingle.** The Trustees may commingle all or part of the Fund with assets of other trust funds for the purpose of making joint, collective or participating investments with respect to such commingled assets, if separate accounts reflecting the share of the Fund are maintained.
- (p) **Power to Engage.** The Trustees may engage advisors to assist in the management or administration of the Trust, including, without limitation, an employee, agent, Administrative Agent, custodian, lawyer, accountant, actuary, financial or investment advisor or benefits consultant, manager, broker, surveyor, valuer, and appraiser. The Trustees may delegate to and rely upon such advisors, authorize subdelegation, and make payments to advisors out of the Fund for any fees or charges incurred.
- (q) **Power to Delegate.** The Trustees may delegate any of their administrative powers or duties to any committee of the Trustees, including any committee that is a joint committee that includes trustees of other similar trusts funds, or to any of their agents or employees, where it is reasonable and prudent under the circumstances to do so.
- (r) **Power to Enter Reciprocal Arrangements.** The Trustees may enter into reciprocal agreements or arrangements for the transfer or sharing, on an equitable basis, of services or benefits with other similar trusts, funds or plans.
- (s) **Power to Receive Interim Funding.** The Trustees may receive or borrow funds from HEABC on an interim basis to ensure that the Trust is sufficiently funded to pay the Benefits described in the Plan Document during its initial start-up phase.
- (t) **Power to Borrow.** To the extent permitted by Applicable Legislation, the Trustees may borrow such sums of money as may be required to fund the payment of Benefits but only if such borrowing is required for the payment of Benefits on a short term basis to prevent the distress sale of long-term investments. The Trustees may mortgage, pledge or charge the income and/or capital of the Trust to secure the payment of any money so

borrowed. The Trustees may execute and deliver under seal or otherwise such instruments evidencing the indebtedness and the security so given which they consider necessary or desirable.

- (u) **Power to Incorporate.** The Trustees may incorporate corporations, the shares of which will be held by or on behalf of the Trustees for purposes of administering the Trust, making investments of the Trust, or holding any Authorized Investment.
- (v) **Power to Join in Corporate Reorganizations.** The Trustees may consent to and join in any plan for the reconstruction, reorganization, merger, amalgamation, consolidation, liquidation, wind up or dissolution of any company or corporation the shares, bonds or other securities of which are held as investments of the Fund and authorize the sale of the undertaking or the assets of any such company or corporation, and in pursuance of any such plan accept any shares or securities in lieu of or in exchange for the shares or other interest held by them in such company or corporation.
- (w) **Power to Deal with Securities.** The Trustees may vote upon or in respect of any shares, securities, bonds, notes or other evidence of interest in or obligations of any corporation, company or other entity, and may issue proxies in respect thereof.
- (x) **Power to Maintain One Fund or Several Funds.** The Trustees may hold, manage and invest any funds held hereunder as a consolidated fund in which each separate fund will have an appropriate undivided interest.
- (y) **Power to Insure.** The Trustees may purchase and maintain any policy of insurance and apply any part of the Fund towards the payment of any premium for effecting or maintaining of any such policy. All monies and benefits under any such policy will constitute part of the capital of the Fund.
- (z) **Power to Deal with Incapacitated Beneficiary.** The Trustees may direct the payment of any Benefits payable to an incapacitated Beneficiary to the legal guardian or court-appointed committee of such Beneficiary whose receipt will be a sufficient discharge to the Trustees. The Trustees are not bound to see to the application of any Benefits so paid. The Trustees will establish a policy for the payment of Benefits to

minors or incapacitated Beneficiaries and must specifically ensure that a trustee be appointed to receive the interest of any minor intended to receive any Benefits.

- (aa) **Power to Initiate and Defend.** The Trustees may initiate and defend proceedings at law in any way relating to or arising out of the affairs of the Trust or this Trust Agreement, and may proceed to the final determination thereof or compromise the same as they consider advisable.
- (bb) **Banking Arrangements.** The Trustees may appoint from time to time any credit union, bank, trust company or other company to be the banker or one of the bankers for the purposes of the Fund and from time to time may revoke any such appointment. Any two (2) or more Trustees, including at least one (1) HEABC Trustee and at least one (1) FBA Trustee, or any person or persons appointed by the Trustees by resolution specifying the specific authorities of such individuals, may be authorized in writing on behalf of the Trustees, to:
 - (i) sign, endorse, make, draw or accept any cheques, promissory notes, bills of exchange or other negotiable instruments;
 - (ii) receive from the banker and where applicable give receipts for all statements of accounts, cheques and other debit vouchers, unpaid and unaccepted bills of exchange and other negotiable instruments; and
 - (iii) negotiate with, deposit with or transfer to the said banker any cheques, promissory notes, bills of exchange or other negotiable instruments and orders for the payment of money and for the said purpose to draw, make, sign, endorse all or any of the foregoing, and such signatures will be binding upon all the Trustees.
- (cc) **Taxes, etc.** The Trustees may:
 - (i) pay all or any part of any taxes in respect of the Trust, or any part thereof, out of the Fund; and

- (ii) take any other action concerning the taxation of the Trust, or any transactions relating thereto, including, without limitation, conducting inquiries into tax matters, obtaining rulings, opinions and similar material from taxation authorities, contesting the actions or determinations of taxing authorities and conducting objections, appeals, or litigation of any nature whatsoever.
- (dd) **Power to Share Costs.** The Trustees may enter into written agreements with the HBT or any successor or similar trust, to share certain expenses pertaining to the administration of the Trust, with respect to such matters as:
- (i) costs of collection and disbursement of funds pursuant to the provisions of this Trust Agreement, the Plan or any other agreement;
 - (ii) salaries of office and supervisory staff;
 - (iii) cost of office equipment, supplies and incidental materials;
 - (iv) costs of computer equipment and facilities and computer maintenance;
 - (v) rent of office space, furnishings, fixtures and office equipment;
 - (vi) cost of producing Participating Employer lists and addresses;
 - (vii) legal, consulting, actuarial and audit fees; and
 - (viii) such other costs that in the opinion of the Trustees may be shared,

provided that the Fund is fairly compensated for any expenses incurred in connection with such a cost sharing agreement, or alternatively, provided that any amounts paid by the Fund to any other trust fund, in respect of the above costs and expenses, will be certified by the Auditor as being necessary and reasonable; and provided further, that such agreement provide that the Trustees may terminate such agreement at any time, with no more than thirty (30) days' notice to all other parties.

- 10.4 **Appointment of Custodian.** The Trustees may appoint a Custodian who may be assigned such duties and responsibilities as the Trustees deem necessary and advisable. Without limiting the foregoing, the responsibilities of the Custodian may be to:
- (a) hold and account for the money or other property it receives, and be responsible for the collection of any deposits, contributions, remittances, or transfers due to the Fund unless otherwise directed by the Trustees; and
 - (b) apply the assets of the Fund to pay:
 - (i) all reasonable costs, charges, and expenses (including, but not limited to, all brokerage fees and transfer tax expenses and other expenses) incurred in connection with the sale or purchase of investments;
 - (ii) all real and personal property taxes, income taxes and other taxes of any kind at any time levied or assessed under any present or future law upon, or with respect to, the Trust or any property included therein; and
 - (iii) all legal, actuarial, accounting and financial advisory expenses reasonably incurred and previously approved by the Trustees in connection with the establishment, amendment, administration and operation of the Trust.
- 10.5 **Appointment of Administrative Agent.** The Trustees may engage one or more Administrative Agents to administer all or part of the Trust, and may delegate to such agent or agents such duties and responsibilities as the Trustees see fit. The Trustees will monitor the performance of such agents and will require that any Administrative Agent, insofar as it performs duties or discharges responsibilities in relation to the Trust, act solely and exclusively in the best interests of the Beneficiaries.
- 10.6 **Employees.** The Trustees may hire, employ and terminate employees on such terms and conditions as the Trustees deem necessary and appropriate.
- 10.7 **Records.** The Trustees will maintain suitable and adequate records of and for the administration of the Trust.

- 10.8 **Annual Audit.** The books of account and records of the Trustees, including the books of account and records pertaining to the Fund, will be audited at least once every year by the Auditor, as of the fiscal year end of the Fund. A statement of the results of the annual audit will be available for inspection by interested persons, as defined by the Trustees, at the principal office of the Trust and at such other suitable place as the Board of Trustees may designate from time to time. Copies of such statement will be delivered to each Trustee within sixty (60) days after the statement is prepared.
- 10.9 **Designation of Trustees.** The name of the Fund may be used to designate the Trustees collectively, and all instruments may be executed by or for the Trustees in such name.

ARTICLE 11 – COMPOSITION OF BENEFICIARIES

- 11.1 **Class of Beneficiaries.** The Trust will at all times meet the requirements related to classes of beneficiaries set out in section 144.1 of the *Income Tax Act* (Canada).
- 11.2 **Key Employees.** The Trust will at all times meet the requirements related to key employees set out in section 144.1 of the *Income Tax Act* (Canada).

ARTICLE 12 – ADMINISTRATIVE INFORMATION

- 12.1 **Reports of Activities.** In the event the Trustees:

- (a) enter into an agreement with a provider of Benefits;
- (b) alter a policy of the Trustees relative to the Plan; or
- (c) communicate with the Beneficiaries as a whole,

the Trustees will, within thirty (30) days of such decision, agreement, alteration or communication, and without charge, provide to the Parties the name of the new provider of Benefits, a copy of such altered policy if such policy is in writing, or a copy of the communication to the Beneficiaries.

- 12.2 **Benefits Information.** Subject to privacy legislation, on an annual basis the Trustees will, without charge, provide the following information to the Parties in respect of the previous fiscal year:
- (a) total Contributions received from each Participating Employer;
 - (b) total number of claims associated with each Participating Employer, distinguishing between claims for non-LTD Benefits and claims for LTD Benefits; and
 - (c) total costs attributed to non-LTD Benefits and total costs attributed to LTD Benefits.
- 12.3 **Annual Report.** On an annual basis the Trustees will, without charge, provide an annual report to the Parties, which will include the following information in respect of the previous fiscal year:
- (a) audited financial statements;
 - (b) actuarial valuation report;
 - (c) the funding position for the year and projected funding position to December 31;
 - (d) a summary of the annual investment performance; and
 - (e) a discussion and analysis of the material issues affecting the Trust.
- 12.4 **Information Requests.** A Party may request, and the Trustees must provide, specific information regarding the Trust. The requesting Party must cover all reasonable costs associated with the information request. If the Parties jointly request the information, such costs will be borne equally by each Party. Any information requested by one Party will be provided to the other Party. Subject to Applicable Legislation, anonymized, individual level claim information may be provided.

ARTICLE 13 – AMENDMENTS TO TRUST AGREEMENT

- 13.1 **Amendment.** The Parties may, by mutual agreement, amend this Trust Agreement in whole or in part by an instrument in writing. Any such amendment may take effect retroactively or otherwise as the Parties decide.
- 13.2 **Corpus or Income.** No amendment will authorize or permit any part of the corpus or income of the Trust to be used for or diverted to purposes other than for the exclusive benefit of the Beneficiaries.

ARTICLE 14 – WITHDRAWAL AND TERMINATION

- 14.1 **Withdrawal of Participating Employer.** No Participating Employer has the right to withdraw in whole or in part from participation in the Trust and the Plan, except if such Participating Employer no longer employs employees covered by the Collective Agreement, in which case such Participating Employer may only withdraw on such terms as may be prescribed by the Trustees.
- 14.2 **Termination of a Participating Employer.** The Parties may terminate a Participating Employer's participation in the Trust and the Plan if the Participating Employer fails to pay Contributions, but such termination will not affect the rights of the Trustees against the Participating Employer under this Trust Agreement.

ARTICLE 15 – FUNDING OF THE PLAN

- 15.1 **Actuarial Valuations.** The Actuary will prepare annual actuarial valuations of the Trust as at December 31. The actuarial methods and assumptions used in such valuations will be in accordance with generally accepted actuarial principles.
- 15.2 **Funding Policy.** Subject to subparagraph 15.3 below, the Trustees will adopt and adhere to a Funding Policy, and may amend it from time to time, governing, among other things:
- (a) the actuarial methods and assumptions to be used in actuarial valuations;
 - (b) the margins or explicit reserves, if any, to be used in the actuarial valuations;

- (c) the consequences of any excess or deficiency of assets relative to the liabilities as may be disclosed in any actuarial valuation.

- 15.3 **Original Funding Policy.** The Original Funding Policy will be agreed to by the Parties. During the period of time between the adoption of the Original Funding Policy and the second annual actuarial valuation of the Trust, amendments to the Funding Policy may only be made by the Parties, based on expert advice, and will be adopted by the Trustees.
- 15.4 **Conflict.** The Funding Policy must not conflict with this Trust Agreement or applicable laws.
- 15.5 **Preparation of Policy.** After the second annual actuarial valuation of the Trust, the Trustees may select and retain a qualified advisor to amend or revise the Funding Policy in accordance with the guidelines set out in Schedule C. The selection of the advisor will be subject to the approval of the Parties. Such approval will be based on the advisor's qualifications, experience and reputation, and will not be unreasonably denied.
- 15.6 **Notice.** Within ten (10) days of preparing, reviewing or amending the Funding Policy, the Trustees must notify the Parties, in writing, of such preparation, review or amendment, and must attach an updated copy of the Funding Policy.

ARTICLE 16 – TRANSFER OF ASSETS

- 16.1 **Transfer of Fund to Successor Trust.** If at any time hereafter:
 - (a) some or all Participating Employees entitled to benefits under this Trust Agreement become or are about to become covered by and entitled to benefits under another health and welfare trust or employee life and health trust as described in Applicable Legislation (the "Successor Trust") which provides benefits either identical, or substantially similar to the benefits provided under this Trust Agreement; and
 - (b) the Trustees, in their discretion, but with the consent of the FBA and the HEABC, decide it would be advantageous to transfer and pay some or all of the Fund to the trustee of the Successor Trust (on behalf of Beneficiaries who at the time of such payment and transfer are entitled to receive a benefit or benefits under this Trust

Agreement for the purpose of providing for such persons a benefit or benefits under the Successor Trust); then

- (c) if the trustee of the Successor Trust undertakes and agrees to accept and to discharge all liabilities of the Trustees with respect to the provision of such benefits to such Beneficiaries; and
- (d) if the trustee of the Successor Trust agrees that the benefits to be provided to such Beneficiaries under the Successor Trust will be at least as great as those provided under the Trust at the date of such payment and transfer;

the Trustees may pay such assets to the trustee of the Successor Trust for such purpose.

- 16.2 **Release and Discharge of the Trustees.** If the entirety of the Fund is paid to the trustee of the Successor Trust in accordance with this Trust Agreement, then as soon as the Trustees decide to make such transfer, the article of this Trust Agreement governing termination of the Fund applies to and governs the actions of the Trustees. Upon such payment to the trustee of the Successor Trust being effected, all of the trusts contained herein will cease and terminate and the Trustees are relieved and released of and from all future obligations, responsibilities and liabilities imposed upon them by and pursuant to this Trust Agreement and otherwise. If the entirety of the Fund is not paid to the trustee of the Successor Trust, then upon payment to the trustee of the Successor Trust of the assets which are to be so paid, all of the trusts contained herein with respect to such portion of the Fund will cease and terminate, and with respect thereto and with respect to the persons referred to in paragraph 16.1(b) above, the Trustees are relieved and released of and from all future obligations, responsibilities and liabilities imposed upon them pursuant to this Trust Agreement.

ARTICLE 17 – AMALGAMATION OR MERGER OF TRUST FUND

- 17.1 **Ability to Merge or Amalgamate.** The Trustees, with the consent of the Parties, may amalgamate or merge the Trust and Fund created by this Trust Agreement with one or more similar trusts and funds (the “Amalgamated Fund”) provided that the Trustees are satisfied that any amalgamation or merger will not have the effect of depriving any Beneficiary of any right to Benefits to which such Beneficiary had become entitled or which had accrued to their

credit, and that the rights of such Beneficiary under the Amalgamated Fund and the benefit plan thereunder will, at the effective date of the amalgamation or merger be the substantial equivalent of their rights under this Trust Agreement and the Plan Document. In connection with such amalgamation the Trustees, with the consent of the Parties, may enter into an amalgamation or merger agreement with the trustee or sponsor of one or more other trusts, amend or terminate this Trust Agreement, transfer or cause the custodian or custodians (if any) to transfer and deliver the Fund to the trustee or custodian of the Amalgamated Fund, and execute and deliver all such other documents and instruments and do or cause to be done such other acts as may be required to carry out any such amalgamation.

ARTICLE 18 – TERMINATION

18.1 **Termination of Trust Agreement.** The Parties may terminate this Trust Agreement by instrument in writing and written notice thereof indicating the date of termination being forwarded to the Trustees, in which case the Trustees will wind up and terminate the Trust within one hundred and twenty (120) days of such date of termination as follows:

- (a) provide for a final audit and accounting for the purpose of the termination of the Trust;
- (b) make payment or provision for payment out of the Fund of all expenses of the Trust including the expenses incidental to such termination;
- (c) reduce the Benefits to the extent necessary in the event the balance of the Fund is insufficient to pay the entirety of the Benefits accrued to the date upon which the Trust Agreement and the Plan are terminated; and
- (d) pay the Fund then remaining, if any, as follows:
 - (i) pay, or to make arrangements to provide, the accrued Benefits determined by the Trustees to be owing to the Beneficiaries in accordance with the Plan Document, and distribute any excess to the Beneficiaries in cash or as may be permitted by Applicable Legislation; or
 - (ii) pay the same to the trustee of the Successor Trust in accordance with Article 16 above.

- 18.2 **Notification of Termination.** Upon termination of the Trust, the Trustees will forthwith notify the Participating Employers and the constituent unions of the FBA, and any other necessary parties, and the Trustees will continue as Trustees for the purpose of winding up the affairs of the Trust.

ARTICLE 19 – TRUSTEES ACCOUNTS

- 19.1 **Trustees' Accounts.** The Trustees will keep such books, records and accounts as are necessary and appropriate to document the assets and transactions of the Trust.
- 19.2 **Audit Requirement.** The Trustees will cause the Trust to be audited on an annual basis. The auditor's report will be available for inspection by the Parties, the Participating Employers, the constituent unions of the FBA, and the Beneficiaries.

ARTICLE 20 – NOTICE AND DISCLOSURE

- 20.1 **Notices.** Any notice under the terms and conditions of this Trust Agreement may be given to a person by any of the following methods and, in respect of the following methods, will be deemed to be duly given as follows:
- (a) upon receipt, if delivered personally;
 - (b) on the seventh day after the date of sending, if sent by regular mail to the last known address of the person entitled to receive such notice as shown in the records of the Trustees and whether or not actually received; or
 - (c) at the time when the appropriate confirmation is received, if sent by telecopier, facsimile sending machine, or electronic mail to the last known telecopier number, facsimile number or electronic mail address of the person entitled to receive such notice as shown in the records of the Trustees.
- 20.2 **Notice to the Trustees.** Notwithstanding the above, a notice hereunder to a Trustee will only be effective as and when actually received by such Trustee.
- 20.3 **Change in Notice Period.** Notwithstanding any other provision of this Trust Agreement, any notice period required to be given under the terms of this Trust Agreement may be reduced or

dispensed with by agreement between the person required to give such notice and the person(s) entitled to receive it.

20.4 **Reports to Beneficiaries.** The Trustees will publish an annual report to the Beneficiaries, and may also publish such other reports, bulletins or communications as the Trustees see fit.

20.5 **Disclosure Concerning Participating Employers, Beneficiaries and Others.** Subject to privacy legislation, the Trustees will be entitled to make disclosures concerning:

- (a) any Beneficiary or Participating Employer;
- (b) any person who is or may be in any way interested hereunder or referred to herein;
- (c) the Trust or any part thereof (which will include any corporation, company, partnership or other entity, and the assets and affairs thereof, whose shares or other ownership interests that are comprised directly or indirectly in the Trust); or
- (d) the affairs of any or all of those referred to in subparagraphs (a), (b) and (c);

but only if in the opinion of the Trustees, disclosure is requisite or desirable in the performance of Trustees' functions as Trustees, or if so ordered by a court of competent jurisdiction.

ARTICLE 21 – MISCELLANEOUS

21.1 **Illegality.** If any provision of the Trust Agreement or the rules and regulations made pursuant hereto, or any steps in the administration of the Trust, are held to be illegal or invalid for any reason, such illegality or invalidity will not affect the remaining portions of the Trust Agreement, the Plan Document, or the said rules and regulations, unless such illegality or invalidity prevents accomplishment of the objectives and purposes of the Collective Agreement, this Trust Agreement or the Plan Document.

21.2 **Fiscal Year.** The fiscal year of the Fund will end on the 31st day of December, in each year.

21.3 **Situs.** The Province of British Columbia will be deemed to be the situs of the Trust and all questions pertaining to the validity, construction and administration of the Trust Agreement and the Plan Document will be determined in accordance with the laws of the Province of

British Columbia. The Trust will be administered such that throughout each taxation year it is resident in Canada for purposes of the *Income Tax Act* (Canada) determined without reference to section 94 of that Act.

IN WITNESS WHEREOF the Parties hereto, in consideration of the mutual promises and undertakings herein set forth, and intending to be legally bound hereby, have caused this Trust Agreement to be executed as of the date and year first above written.

SIGNED, SEALED AND
DELIVERED in the presence of

B. Gergely
Barb Gergely
5000 North Fraser Way
Burnaby, BC
Admin Assistant

FBA

Per:

Name:

Title:

I/We have the authority to bind the FBA

Cathy Fraser
CATHY FRASER
EXECUTIVE ASSISTANT
200 - 1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

HEABC

Per:

Name:

Title: Executive Director

I/We have the authority to bind HEABC

Cathy Fraser
CATHY FRASER
200 - 1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee


Per:

Name:

Title: TRUSTEE, ASSOCIATE CHAIR

Cathy Fraser
CATHY FRASER
200-1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee

Per: 
Name: DORA A BERNARDO
Title: Trustee


Cathy Fraser
CATHY FRASER
200-1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee

Per: 
Name: SELENA KONGPREELHA
Title: TRUSTEE


Cathy Fraser
CATHY FRASER
200-1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee

Per: 
Name: Catherine Stashyn
Title: Trustee

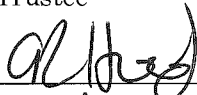
Cathy Fraser
CATHY FRASER
200-1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee

Per: 
Name: Martin Pochyko
Title: Trustee, Deputy Associate Chair

Cathy Fraser
CATHY FRASER
200-1333 WEST BROADWAY
VANCOUVER, BC
EXECUTIVE ASSISTANT

Original Trustee

Per: 
Name: Adrienne Hook
Title: Trustee

Cathy Fraser
 CATHY FRASER
 200 - 1333 WEST BROADWAY
 VANCOUVER, BC
 EXECUTIVE ASSISTANT

Original Trustee

Per: 

Name: Chris Kinkaid
 Title: Trustee

Cathy Fraser
 CATHY FRASER
 200 - 1333 WEST BROADWAY
 VANCOUVER, BC
 EXECUTIVE ASSISTANT

Original Trustee

Per: 

Name: RICK FOLKA
 Title: TRUSTEE

Cathy Fraser
 CATHY FRASER
 200 - 1333 WEST BROADWAY
 VANCOUVER, BC
 EXECUTIVE ASSISTANT

Original Trustee

Per: 

Name: ADRIAN DAVID
 Title: TRUSTEE

Cathy Fraser
 CATHY FRASER
 200 - 1333 WEST BROADWAY
 VANCOUVER, BC
 EXECUTIVE ASSISTANT

Original Trustee

Per: 

Name: DEAN LEVANGIE
 Title: TRUSTEE

SCHEDULE A
JOINT FACILITIES BENEFITS TRUST: PARTICIPATION AGREEMENT

BETWEEN:

The Trustees of the Joint Facilities Benefits Trust (the "Board")

AND:

_____ (the "Employer")

1. The Employer acknowledges receipt of copies of the Agreement and Declaration of Trust for the Joint Facilities Benefits Trust (the "Trust Agreement") and the Joint Facilities Benefits Trust Plan (the "Plan").
2. Capitalized terms used in this Participation Agreement and not defined in this Participation Agreement have the meanings given to them in the Trust Agreement.
3. For clarity, in this Participation Agreement, "Parties" means the Health Employers' Association of British Columbia and the Facilities Bargaining Association, collectively.
4. The Employer is required to participate in the Joint Facilities Benefits Trust (the "Trust") as a "Participating Employer."
5. By executing this Participation Agreement, the Employer:
 - a. warrants and represents that it has full and sufficient authority to enter into this Participation Agreement;
 - b. agrees to provide the Board such information and documentation reasonably required to verify the truth and accuracy of the foregoing warranty and representation;
 - c. further agrees:
 - i. to pay and remit Contributions to the Trustees in accordance with the Trust Agreement and Plan;

- ii. to furnish the Board promptly with reports, payroll records, timesheets, accounting information and any other information as the Board may from time to time reasonably require;
- iii. to be bound by all the terms and provisions of the Trust Agreement and the Plan, as each is amended from time to time;
- iv. to duly perform all of the obligations and duties, and accept all the liabilities, imposed upon Participating Employers by the Trust Agreement and the Plan; and
- v. that this Participation Agreement, when approved and accepted by the Board, will be binding on the Employer and the Employer's successors;

SIGNED, SEALED AND
DELIVERED in the presence of

The Employer

Per: _____

Name: _____

Title: _____

I/We have the authority to bind the
Employer

6. The Board hereby accepts the Employer's application to participate in the Trust, effective the date the employer became or becomes bound by the terms and conditions of the Collective Agreement.

SIGNED, SEALED AND
DELIVERED in the presence of

The Board

Per: _____

Name: _____

Title: _____

I/We have the authority to bind the
Board

SCHEDULE B
JOINT FACILITIES BENEFITS TRUST: ACCEPTANCE OF TRUST

TO: The Trustees of the Joint Facilities Benefits Trust

The undersigned, having been appointed to serve as a Trustee of the Joint Facilities Benefits Trust (the "Trust") in accordance with the Agreement and Declaration of Trust dated ▼ (the "Trust Agreement") hereby accepts the trusts created and established by the Trust Agreement and consents to act as a Trustee thereunder, and agrees to administer the Plan and the Fund in accordance with the provisions of the Trust Agreement.

DATED at _____, British Columbia, this day of , 20▼.

_____)	
)	
)	
)	
)	
Signature of Witness)	_____▼
)	
Name of Witness)	
)	
Address)	
)	
Occupation)	
)	

Receipt is hereby acknowledged this day of , 20▼.

 ▼ [determine and insert correct title]

SCHEDULE C

JOINT FACILITIES BENEFITS TRUST: FUNDING POLICY GUIDELINES

It is the policy of the Trustees to prudently fund the Plan, to maintain sufficient assets to pay all claims and fund all required and recommended Reserves, and to put in place appropriate risk management arrangements matched to the Plan's specific Benefits.

Funding decisions have a significant impact on the Trust and its Beneficiaries. These decisions affect the security of Benefits, and the ongoing viability of the Plan. As a result, funding decisions should not be made on an ad hoc basis.

The exercise of developing a Funding Policy leads to more robust governance by trustees, by improving the identification, understanding and management of the risk factors that affect the variability of funding requirements and the security of benefits.

The Trustees' will therefore adopt a Funding Policy, which will adhere to the following guidelines and principles.

Purpose

1. The principal goal of the Funding Policy is to ensure that there are sufficient assets to deliver promised benefits on an ongoing basis.

Role of Parties

2. The Trustees' selection of an advisor to prepare, review or amend the Funding Policy is subject to the Parties' approval, in accordance with the terms of the Trust Agreement.
3. The Parties are entitled to notice as follows:

- a. Within ten (10) days of preparing, reviewing or amending the Funding Policy, the Trustees must notify the Parties, in writing, of such preparation, review or amendment, and must attach an updated copy of the Funding Policy.
 - b. The Trustees must notify the Parties forthwith of any significant changes to the security of the Benefits, the stability of the Plan, or the financial position of the Plan.
4. The Parties are not fiduciaries in respect of the Trust or the Beneficiaries.

Role of Trustees

5. The Trustees must establish a Funding Policy.
6. The Trustees must select and retain a qualified advisor to prepare, review or amend the Funding Policy.
7. The Trustees are fiduciaries in respect of the Trust and the Beneficiaries.

Development of Policy

8. In developing the Funding Policy, the Trustees will consider all relevant issues and factors, which may include:
 - a. security of the Benefits;
 - b. stability of the Plan;
 - c. demographic characteristics of the Beneficiaries;
 - d. financial position of the Plan; and

- e. requirements under other documents and agreements, such as the Trust Agreement and the Collective Agreement.

Elements of Policy

9. The Funding Policy must document:

- a. the Trustees' funding objectives;
- b. the Trustees' understanding of the risk factors that influence future financing obligations;
- c. the Trustees' risk tolerance;
- d. any Reserves or contingencies established to enable the Trust to provide the Benefits to the Beneficiaries;
- e. specific policies related to matters that affect the funding of the Plan; and
- f. management and implementation issues around the establishment and ongoing maintenance of the Funding Policy.

10. The Funding Policy must include:

- a. an overview of the features of the Plan, related financial information, and relevant characteristics of the Parties and their funding arrangement for the Plan;
- b. an indication of how the Trustees' funding objectives integrate with the Plan's Investment Policy, as well as the Plan's objectives;

- c. a description of the key risks that are faced by the Plan from the perspectives of the Parties, the Trustees and the Beneficiaries, such as the extent to which the Plan's assets are mismatched against its liabilities or the demographic characteristics of the Beneficiaries;
- d. a description of the structure of the Plan's assets and liabilities, as it affects funding risk;
- e. a description of the approach that the Trustees' will follow with respect to changes to benefits (including benefit reductions or restructuring) and issues related to the use of fixed contributions, such as how the Plan's financial position will affect benefit levels and in what manner benefit levels may be adjusted, provided that:
 - i. the Trustees, in the event of a funding shortfall, will consider measures that do not impact Benefits or impose costs on Beneficiaries, before consideration of any other measures or amendments to the Plan Document; and
 - ii. the policy must specify a funded ratio below which the Trustees will be required to take corrective action.
- f. details of any scenario testing practices (used to evaluate the effect of different hypothetical situations on the Plan's funding position), such as the frequency of testing, the timeline for projections, and the specific risks to be evaluated;
- g. a description of any funding targets, expressed in relation to benefit liabilities and contingency reserves or some other measure, depending on the Plan's funding objectives.
- h. a description of any mechanisms that would allow flexibility in funding and accommodate potential short term operational requirements;
- i. a description of acceptable uses of funding excess, including the factors that may be considered in deciding how and when to use the funding excess, such as any desired margins;

- j. guidance to the Actuary, in terms of selecting actuarial methods and assumptions that are appropriate for the Trustees' approach to risk management;
- k. standards for the frequency of actuarial valuations;
- l. a description of the circumstances or events that trigger a review or amendment of the Funding Policy;
- m. a description of roles and responsibilities in relation to oversight of the Funding Policy, including the frequency of regular reviews; and
- n. a description of the Trustees' communication policy, with respect to sharing funding and related information with Beneficiaries and other stakeholders.