

**FRANKLIN TEMPLETON INVESTMENTS CORP.**

**EDUCATION SAVINGS PLAN**

**PLAN TEXT**

**(Individual Plan)**

**1. DEFINED TERMS**

- (a) **Accumulated Income Payment** means any amount paid out of the Plan, other than a payment described in any of sections 14(a) and 14(c) to 14(f), to the extent that the amount so paid exceeds the fair market value of any consideration given to the Plan for the payment of the amount.
- (b) **Applicable Grant Legislation** means the *Canada Education Savings Act* (Canada), the *Taxation Act* (Quebec) with respect to the Quebec Education Savings Incentive, and any other provincial education savings plan legislation that may be enacted and come into force from time to time, as the case may be, and any regulations thereunder, as may be amended from time to time.
- (c) **Applicable Tax Legislation** means the *Income Tax Act* (Canada), the regulations thereunder and any applicable provincial income tax legislation relating to education savings plans, all as may be amended from time to time.
- (d) **Application** means the Subscriber's application for a Franklin Templeton Investments Corp. Education Savings Plan.
- (e) **Assets of the Plan** means all amounts contributed to the Plan (including transfers to the Plan from another RESP), all Government Grants received by the Plan and all earnings and gains derived from investments, net of any losses and fees, charges and disbursements payable pursuant to section 13 and any other payments from the Plan, and includes all investments and uninvested cash held from time to time by the Trustee in accordance with the Plan.
- (f) **Beneficiary** means the individual, designated by the Subscriber in accordance with section 3, to whom or on whose behalf an Educational Assistance Payment will be paid if the individual qualifies under the Plan.
- (g) **Designated Educational Institution** means an educational institution in Canada that is a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act*, designated by an appropriate authority under the *Canada Student Financial Assistance Act*, or designated by the Minister of Education of the Province of Quebec for the purpose of *An Act respecting financial assistance for education expenses*, R.S.Q., c. A-13.3.

- (h) **Designated Provincial Program** means a program administered pursuant to an agreement entered into under section 12 of the *Canada Education Savings Act* (Canada), or a program, such as the Quebec Education Savings Incentive, established under the laws of a province to encourage the financing of children's post-secondary education through savings in registered education savings plans.
- (i) **Educational Assistance Payment** means any amount, other than a Refund of Payments, paid out of the Plan in accordance with section 10(a) to or for the Beneficiary to assist the Beneficiary to further his or her education at a Post-Secondary School Level.
- (j) **Estate Representative** means an executor, an administrator, an administrator with the will annexed, a liquidator or an estate trustee with a will or without a will, whether one or more than one is appointed.
- (k) **Final Contribution Date** means
  - (i) where the Plan is not a Specified Plan, the last day of the 31<sup>st</sup> year following the Plan Commencement Year, and
  - (ii) where the Plan is a Specified Plan, the last day of the 35<sup>th</sup> year following the Plan Commencement Year.
- (l) **Final Termination Date** means
  - (i) where the Plan is not a Specified Plan, the last day of the 35<sup>th</sup> year following the Plan Commencement Year, and
  - (ii) where the Plan is a Specified Plan, the last day of the 40<sup>th</sup> year following the Plan Commencement Year.
- (m) **Government Grants** mean:
  - (i) the Canada Education Savings Grant paid or payable under Section 5 of the *Canada Education Savings Act* (Canada),
  - (ii) the Canada Learning Bond paid or payable under Section 6 of the *Canada Education Savings Act* (Canada),
  - (iii) the Quebec Education Savings Incentive paid or payable under the *Taxation Act* (Quebec) in respect of contributions made after February 20, 2007, and
  - (iv) any grant payable under any other provincial education savings plan legislation which may be enacted and come into force from time to time, and any regulations thereunder, as may be amended from time to time.

- (n) **Plan** means the education savings plan established by the Application and this Plan Text.
- (o) **Plan Commencement Year** means:
  - (i) the year in which the Plan was originally entered into, or
  - (ii) where an amount has been transferred to the Plan from another RESP, the earlier of the year in which the Plan was originally entered into and the year in which the other RESP was established.
- (p) **Post-Secondary Educational Institution** means:
  - (i) a Designated Educational Institution in Canada,
  - (ii) an educational institution in Canada that is certified by the Minister of Employment and Social Development to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation, or
  - (iii) an educational institution outside Canada that provides courses at a Post-Secondary School Level and that is:
    - A. a university, college or other educational institution at which the Beneficiary was enrolled in a course of not less than 13 consecutive weeks, or
    - B. a university at which the Beneficiary was enrolled on a full-time basis in a course of not less than three consecutive weeks.
- (q) **Post-Secondary School Level** includes a program of courses at an educational institution in Canada that is certified by the Minister of Employment and Social Development to be an educational institution providing courses, other than courses designed for university credit, of a technical or vocational nature designed to furnish a person with skills for, or improve a person's skills in, an occupation.
- (r) **Prohibited Investments** means Assets of the Plan (other than prescribed excluded Property as that term is defined in the Applicable Tax Legislation) that is:
  - (i) a debt of the Subscriber;
  - (ii) a share of the capital stock of, an interest in or a debt of:
    - A. a corporation, partnership or trust in which the Subscriber has a significant interest;

- B. a person or partnership that does not deal at arm's length with the Subscriber or with a person or partnership described in subparagraph A.;
- (iii) an interest in, or right to acquire, a share, interest or debt described in paragraph (i) or (ii); or
- (iv) prescribed property (as that term is defined in the Applicable Tax Legislation).
- (s) **Promoter** means Franklin Templeton Investments Corp. or any successor Promoter under section 19.
- (t) **Public Primary Caregiver** of a beneficiary under an education savings plan in respect of whom a special allowance is payable under the *Children's Special Allowances Act*, means the department, agency or institution that maintains the beneficiary or the public trustee or public curator of the province in which the beneficiary resides.
- (u) **Qualified Investment** means any investment, which is a qualified investment for a registered educational savings plan according to Applicable Tax Legislation.
- (v) **Qualifying Educational Program** means a program at a Post-Secondary School Level of not less than 3 consecutive weeks' duration that requires that each student taking the program spend not less than 10 hours per week on courses or work in the program.
- (w) **Refund of Payments** means
  - (i) a refund of a contribution, if the contribution was made otherwise than by way of a transfer from another RESP, or
  - (ii) a refund of an amount that was paid into the Plan by way of a transfer from another RESP, where the amount would have been a refund of payments under the other RESP if it had been paid directly to a subscriber under the other RESP.
- (x) **RESP** means a "registered education savings plan" as defined in the Applicable Tax Legislation.
- (y) **RESP Lifetime Limit** means the "RESP lifetime limit" as defined in the Applicable Tax Legislation.
- (z) **RRSP** means a registered retirement savings plan as defined in the Applicable Tax Legislation.

- (aa) **Specified Educational Program** means a program at a Post-Secondary School Level of not less than three consecutive weeks' duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program.
- (bb) **Specified Plan** means an education savings plan:
- (i) that does not allow more than one Beneficiary at any one time,
  - (ii) under which the Beneficiary is an individual in respect of whom paragraphs 118.3(1)(a) to (b) of the *Income Tax Act* (Canada) apply for the Beneficiary's taxation year that ends in the 31st year following the Plan Commencement Year, and
  - (iii) that provides that, at all times after the end of the 35th year following the Plan Commencement Year, no other individual may be designated as a Beneficiary.
- (cc) **Subscriber**, at any time, means:
- (i) each individual (other than a trust) or the public primary caregiver (as defined in the Applicable Tax Legislation) identified as a Subscriber in the Application,
  - (ii) another individual (other than a trust) or another public primary caregiver who has before that time, under a written agreement, acquired a public primary caregiver's rights as a Subscriber under the Plan,
  - (iii) an individual who has before that time acquired a Subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a Subscriber under the Plan in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership, or
  - (iv) after the death of an individual described in any of (i) to (iii) above, any other person (including the estate of the deceased individual) who acquires the individual's right as a subscriber under the Plan or who makes contributions into the Plan in respect of the Beneficiary,

but does not include an individual or a public primary caregiver whose rights as a Subscriber under the Plan had, before that time, been acquired by an individual or public primary caregiver in the circumstances described in (ii) or (iii) above.

Where two individuals are identified as Subscribers in the Application, each individual must be a spouse or common-law partner of the other. When the context requires or permits, the singular "Subscriber" shall be read as if the plural "Subscribers" was used.

(dd) **Trustee** means The Royal Trust Company or any replacement Trustee appointed pursuant to section 16.

## 2. **AGREEMENT**

The application of the Subscriber for a Franklin Templeton Investments Corp. Education Savings Plan and this Plan Text constitute an agreement between the Promoter, the Trustee and the Subscriber for an education savings plan.

## 3. **BENEFICIARY**

Any individual may be designated by the Subscriber in the Application as the Beneficiary. A designation made after 2003 can only be made if:

- (a) the individual's social insurance number is provided to the Promoter before the designation and the individual is resident in Canada at the time of the designation, or
- (b) the designation is made in conjunction with a transfer of property into the Plan from another RESP under which the individual was a beneficiary immediately before the transfer and, except where the individual is not a resident of Canada and was not assigned a social insurance number before the designation is made, the individual's social insurance number is provided to the Promoter before the designation.

At any time, subject to the conditions above, the Subscriber may designate a replacement Beneficiary by delivering to the Promoter written notice of such designation in a form satisfactory to, and containing the information required by, the Promoter. If more than one such replacement designation has been delivered to the Promoter, the one bearing the latest date will govern.

## 4. **NOTICE OF BENEFICIARY DESIGNATION**

Within 90 days after a Beneficiary has been designated by the Subscriber, the Promoter shall notify the Beneficiary (or, where the Beneficiary is under 19 years of age at the time of designation and either ordinarily resides with a parent or legal guardian of the Beneficiary or is maintained by a public primary caregiver (as defined in the Applicable Tax Legislation) of the Beneficiary, that parent, legal guardian or public primary caregiver) in writing of the existence of the Plan and the name and address of the Subscriber.

## 5. **CONTRIBUTIONS**

Contributions into the Plan do not include amounts paid into the Plan under or because of the Applicable Grant Legislation or, pursuant to the Income Tax Act, amounts paid into the Plan under or because of a Designated Provincial Program, or any other program that has a similar purpose to a Designated Provincial Program and that is funded, directly or

indirectly, by a province (other than an amount paid into the plan by a Public Primary Caregiver in its capacity as Subscriber under the plan).

No contribution may be made to the Plan other than a contribution made by or on behalf of the Subscriber in respect of the Beneficiary or a contribution made by way of transfer from another RESP, provided that:

- (a) the Beneficiary is resident in Canada when the contribution is made and, unless the Plan was entered into before 1999, the Beneficiary's social insurance number is provided to the Promoter before the contribution is made, or
- (b) the contribution is made by way of transfer from another RESP under which the Beneficiary was a beneficiary immediately before the transfer, or
- (c) the contribution is made by way of transfer from another RESP, and the parent (as that term is defined at paragraph 252(2)(a) of the *Income Tax Act* (Canada)) of the Beneficiary was the parent of an individual who was a beneficiary under the other RESP and the Beneficiary was under 21 years of age when the Plan was entered into and the Beneficiary is a resident in Canada when the contribution by way of transfer is made and, unless the Plan was entered into before 1999, the Beneficiary's social insurance number is provided to the Promoter before the contribution by way of transfer is made.

Notwithstanding the foregoing:

- (d) no contribution shall be less than the minimum contribution amount, if any, established by the Promoter from time to time,
- (e) no contribution may be made to the Plan by or on behalf of the Subscriber after the Final Contribution Date, and
- (f) a contribution by way of transfer from another RESP will not be permitted if the other RESP has made an accumulated income payment.

The Subscriber is solely responsible for ensuring that the total amount of contributions made in respect of the Beneficiary under the Plan and any other RESPs does not exceed the RESP Lifetime Limit.

## **6. GOVERNMENT GRANTS**

Where the Beneficiary is eligible for Government Grants under the Applicable Grant Legislation, at the request of the Subscriber and upon completion and delivery of all forms required under the Applicable Grant Legislation and by the Promoter, the Promoter will apply for Government Grants in respect of the Beneficiary. The Promoter and the Trustee are not responsible for determining whether the Beneficiary is eligible for Government Grants.

The Promoter will cause the Trustee to pay out of the Assets of the Plan any refund of Government Grants required under the Applicable Grant Legislation and Applicable Tax Legislation.

## 7. INVESTING

The Assets of the Plan will be invested in accordance with the Subscriber's instructions, in a form satisfactory to the Promoter, provided that any proposed investment complies with the Promoter's investment requirements, if any, communicated to the Subscriber from time to time. The Promoter may, in its sole discretion, retain a portion of the Assets of the Plan in cash for the administration of the Plan. If the Plan has a cash deficit, as determined by the Promoter in its sole discretion, the Promoter may cause the realization of investments in the Plan, at the Promoter's choosing, to cover such cash deficit including for the purposes of paying expenses, taxes, fees and other amounts including for greater certainty, fees and other amounts payable under section 13.

Any uninvested cash will be placed on deposit with the Trustee or an affiliate of the Trustee. The interest payable to the Plan in respect of such cash balances will be determined by the Promoter from time to time in its sole discretion with no obligation to pay a minimum amount or rate. The Trustee will pay interest to the Promoter for inclusion in the Plan and the Promoter shall credit the Assets of the Plan with appropriate interest. The Trustee shall have no responsibility to ensure the interest is included in the Assets of the Plan by the Promoter and will not be liable if such inclusion is not made.

Any segregated fund investments will be held in nominee name. The Promoter and Subscriber shall designate the Trustee as the beneficiary under any segregated fund held under the Plan. Upon the death of the Subscriber, the proceeds of the segregated fund shall be paid to the Plan and form part of the Assets of the Plan to be dealt with according to the terms of this Plan Text.

It is the sole responsibility of the Subscriber to select investments of the Plan and to determine whether any investment should be purchased, sold or retained by the Plan. In the absence of any instructions from the Subscriber, the Promoter may, in its sole discretion, cause the realization of sufficient investments to permit the payment of any amounts required to be paid under the Plan.

The investment of the assets of the Plan shall not be limited in any way to investments authorized for trustees under, or to the criteria in planning or the requirements for diversifying the investment of the assets of the Plan as may be prescribed for trustees by, any applicable federal, provincial or territorial legislation.

It is the sole responsibility of the Subscriber to ensure that investments of the Plan are and remain Qualified Investments and that any such investment is not and continues not to be a Prohibited Investment. After March 22, 2017, the Promoter shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Plan holds a non-Qualified Investment.



## **8. CORPORATE ACTIONS**

The Promoter and the Trustee will not have any duty or responsibility to vote, subscribe, convert or tender the Assets of the Plan in respect of any merger, consolidation, reorganization, receivership, bankruptcy, insolvency proceedings, take-over bids, issuer bids, rights offerings or similar events with respect to the investments of the Plan, except in accordance with a direction from the Subscriber.

## **9. REFUND OF PAYMENTS**

At any time, the Subscriber may, in a written form satisfactory to the Promoter, request a Refund of Payments, such amount not to exceed the value of the Assets of the Plan less the total amount of all Government Grants held in the Plan.

Within 30 days of receipt of the written request by the Promoter (or such shorter period as the Promoter may determine in its sole discretion), the Refund of Payments will be paid to the Subscriber or to the Beneficiary if so directed by the Subscriber in writing.

Where there is more than one Subscriber at the time a Refund of Payments is requested, the Refund of Payments is deemed to be owed to both Subscribers jointly and may be paid either to both Subscribers or to either one of them, as directed by the Subscribers. Absent such direction, the Refund of Payments will be paid to both Subscribers jointly. Any Refund of Payments made to one or both Subscribers, as the case may be, shall constitute a valid discharge to the Promoter and Trustee for the Refund of Payments paid.

## **10. EDUCATIONAL ASSISTANCE AND OTHER PAYMENTS**

Upon receipt of instructions from the Subscriber in a form satisfactory to the Promoter, the Promoter shall cause the Trustee to pay out of the Assets of the Plan, including any Government Grants held in the Plan subject to the provisions of the Applicable Grant Legislation, such amount or amounts as the Subscriber directs:

- (a) to or for the Beneficiary as an Educational Assistance Payment
  - (i) provided either that the Beneficiary
    - A. is enrolled at a Post-Secondary Educational Institution as a student in a Qualifying Educational Program, or
    - B. has attained the age of 16 years and is enrolled as a student in a Specified Educational Program at a Post-Secondary Educational Institution; and
  - (ii) further provided either that the Beneficiary
    - A. has satisfied the condition set out in section 10(a)(i)A., and

- a) has done so throughout at least 13 consecutive weeks in the 12-month period that ends at that time, or
  - b) the total of the Educational Assistance Payment and all other education assistance payments made under this Plan and any other RESP of the Promoter to or for the Beneficiary in the 12-month period that ends at that time does not exceed \$5,000 or any greater amount that the Minister designated for the purposes of the *Canada Education Savings Act* (Canada) approves in writing with respect to the Beneficiary, or
- B. satisfies the condition set out in section 10(a)(i)B. and the total of the payment and all other educational assistance payments made under a RESP of the Promoter to or for the Beneficiary in the 13-week period that ends at that time does not exceed \$2,500 or any greater amount that the Minister designated for the purpose of the *Canada Education Savings Act* (Canada) approves in writing with respect to the Beneficiary.

Notwithstanding the above, an Educational Assistance Payment may be paid at any time in the six-month period immediately following the time at which the Beneficiary ceases to be enrolled as a student in the Qualifying Educational Program or the Specified Educational Program if the Educational Assistance Payment would have complied with the above requirements had it been made immediately before that time.

The Trustee will cause all or a portion of each Educational Assistance Payment to be paid from any Government Grants held in the Plan as permitted by and pursuant to the terms of the Applicable Grant Legislation.

The Promoter will determine whether the conditions for paying an Educational Assistance Payment have been satisfied and such determination shall be final and binding on the Subscriber and Beneficiary;

- (b) to, or to a trust in favour of, a Designated Educational Institution in Canada;
- (c) to another RESP so long as no Accumulated Income Payment has been paid under section 10(d); or
- (d) as an Accumulated Income Payment provided that:
  - (i) the payment is made to, or on behalf of, a Subscriber who is resident in Canada for tax purposes when the payment is made,
  - (ii) the payment is not made jointly to, or on behalf of, more than one Subscriber, and

- (iii) any of
  - A. the payment is made after the 9<sup>th</sup> year that follows the Plan Commencement Year and each individual (other than a deceased individual) who is or was a Beneficiary has attained 21 years of age before the payment is made and is not, when the payment is made, eligible under the Plan to receive an Educational Assistance Payment,
  - B. the payment is made in the 35<sup>th</sup> year following the Plan Commencement Year where the Plan is not a Specified Plan,
  - C. the payment is made in the 40<sup>th</sup> year following the Plan Commencement Year where the Plan is a Specified Plan, or
  - D. each individual who was a Beneficiary is deceased when the payment is made.

At the Subscriber's request and on receipt of the requisite supporting documentation, where the Beneficiary suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the Beneficiary from enrolling in a Qualifying Educational Program at a Post-Secondary Educational Institution, the Promoter will apply to the Minister of National Revenue for permission to waive the condition in section 10(d)(iii)(A) for making Accumulated Income Payments.

Where there is more than one Subscriber at the time an Accumulated Income Payment is requested, the payment shall be made to the Subscriber who requested it. Any such payment made to either one of the Subscribers, as requested, shall constitute a valid discharge to the Promoter and Trustee for the payment made.

## **11. TERMINATION**

The Plan will be terminated on the earliest of the following dates:

- (a) the date indicated by the Subscriber in the Application or such other date designated by the Subscriber by written instrument satisfactory to the Promoter. (If more than one such instrument has been delivered to the Promoter, the one bearing the latest date will govern.),
- (b) the last day of February in the year following the year in which the first Accumulated Income Payment is made from the Plan,
- (c) the date the registration of the Plan as a RESP is revoked by the Minister of National Revenue, and
- (d) the Final Termination Date.

Where any Assets of the Plan remain on or immediately before the termination of the Plan, the Promoter shall cause the Trustee to pay from the Assets of the Plan:

- (e) any fees or charges that remain unpaid,
- (f) a Refund of Payments to the Subscriber in the amount that would be permitted under section 9,
- (g) a repayment of any Government Grants as required under the Applicable Grant Legislation, and
- (h) any amount remaining in the Plan after the payments described in (e), (f) and (g) above, to the Designated Educational Institution in Canada designated by the Subscriber or, where such designation has not been made, chosen by the Promoter.

## **12. DESIGNATED EDUCATIONAL INSTITUTION IN CANADA**

The Subscriber shall designate a Designated Education Institution in Canada in the Application or otherwise in a form satisfactory to the Promoter. At any time, the Subscriber may change the Designated Educational Institution in Canada by delivering to the Promoter written notice of such change in a form satisfactory to, and containing the information required by, the Promoter. If more than one such notice has been delivered to the Promoter, the one bearing the latest date will govern.

## **13. FEES AND CHARGES**

Subject to any limitations in the Applicable Grant Legislation, the Promoter and the Trustee shall be entitled to such reasonable fees and charges as may be established from time to time for their services under the Plan and to reimbursement for all costs and disbursements (including all taxes) reasonably incurred in the performance of their duties hereunder including brokerage fees, commissions and other expenses incurred in the making of any investment. The Promoter and the Trustee are entitled to change the amount of such fees or charges in the future, upon reasonable notice to the Subscriber. Unless paid directly to the Promoter and Trustee, all amounts payable pursuant to this section (together with any applicable taxes) shall be charged against, and deducted from, the Assets of the Plan (excluding any Government Grants) in such manner as the Promoter and the Trustee determine and the Promoter may, in its sole discretion, cause the realization of investments held in the Plan, at the Promoter's choosing, for the purpose of paying such fees and other amounts.

The Subscriber authorizes both the Promoter and the Trustee, together or separately, to appoint and employ agents to who both may delegate, respectively any of the Promoter's and the Trustee's powers, duties and responsibilities under the Plan.

#### **14. APPOINTMENT AND RESPONSIBILITIES OF TRUSTEE**

The Trustee agrees to act as trustee of the Assets of the Plan and shall, subject to the payment of fees and charges pursuant to section 13, irrevocably hold, invest and reinvest the Assets of the Plan for the following purposes:

- (a) the payment of Educational Assistance Payments,
- (b) the payment of Accumulated Income Payments,
- (c) the Refund of Payments,
- (d) the repayment of amounts (and the payment of amounts related to that repayment) under the *Canada Education Savings Act* (Canada) or under a Designated Provincial Program,
- (e) the payment to, or to a trust in favour of, Designated Educational Institutions in Canada, or
- (f) the payment to a trust that irrevocably holds property pursuant to a registered education savings plan for any of the purposes set out in (a) to (e) above.

The Trustee shall file all information returns and other documents in respect of the Plan as required under the Applicable Tax Legislation and the Applicable Grant Legislation.

#### **15. SELF-DEALING**

The Trustee's services are not exclusive and, subject to the limitations otherwise provided in these terms and conditions on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefor and without being in breach of these terms and conditions.

#### **16. REPLACING THE TRUSTEE**

The Trustee may resign as trustee of the Plan by providing written notice of such resignation within the notice period agreed upon by the Promoter and the Trustee in writing. The Trustee will resign upon receiving 90 days' written notice from the Promoter so long as it is satisfied that the proposed replacement Trustee will properly assume and fulfill the Trustee's duties and liabilities hereunder.

Upon receiving notice of resignation from the Trustee, or upon providing notice to the Trustee to resign, the Promoter shall forthwith select a replacement Trustee. If the Promoter fails to nominate a replacement Trustee within 30 days after receipt of the notice of resignation or providing the notice to the Trustee to resign, the Trustee shall be

entitled to appoint a replacement Trustee. The resignation of the Trustee will not be effective until the replacement Trustee has been appointed and until notice of the replacement has been provided by the Promoter to the Minister of Employment and Social Development and any other governmental authority which may require such notice.

Upon the appointment of a replacement Trustee, the replacement Trustee shall, without further act or formality, be and become the Trustee hereunder and, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the Assets of the Plan as if the replacement Trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement Trustee all such conveyances, transfers and further assurances as may be necessary or advisable to give effect to the appointment of the replacement Trustee.

Any replacement Trustee must be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee will become the replacement Trustee without further act or formality, subject to prior notice being provided to the Minister of Employment and Social Development and any other governmental authority which may require such prior notice.

The Promoter shall give notice of the replacement of the Trustee to the Subscriber, the Minister of National Revenue, and any other governmental authority which may require such notice.

## **17. RESPONSIBILITIES OF THE PROMOTER**

The Promoter has ultimate responsibility for the Plan, including the administration of the Plan in accordance with these terms and conditions. The Promoter will apply for the registration of the Plan as a RESP in accordance with the Applicable Tax Legislation.

The Promoter shall file all information returns and other documents in respect of the Plan as required under the Applicable Tax Legislation and the Applicable Grant Legislation.

## **18. STATEMENTS AND RECORDS**

The Promoter will maintain an account for the Plan in which will be recorded:

- (a) contributions to the Plan by or on behalf of the Subscriber,
- (b) investments, investment transactions and investment income, gains and losses,
- (c) Educational Assistance Payments,

- (d) amounts transferred to another RESP,
- (e) Government Grants repayments,
- (f) amounts paid to Designated Educational Institutions in Canada,
- (g) the Refund of Payments available to be made to the Subscriber and the Refunds of Payments already made,
- (h) the amount of fees and other charges payable by the Plan,
- (i) Accumulated Income Payments, and
- (j) the balance of any Government Grants held in the Plan and any other information required under an agreement between the Promoter and the Department of Employment and Social Development Canada or any other governmental authority respecting Government Grants.

An annual (or more frequent at the sole discretion of the Promoter) statement will be sent to the Subscriber showing the transactions affecting the Plan for the preceding year.

#### **19. REPLACING THE PROMOTER**

Provided the written consent of the Trustee has been obtained, such consent not to be unreasonably withheld, at any time, the Promoter may assign its rights and obligations under the Plan to any other corporation resident in Canada that is authorized to assume and discharge the obligations of the Promoter under the Plan so long as prior notice has been provided by the Promoter to the Minister of Employment and Social Development and any other governmental authority which may require such prior notice. Any such assignee shall execute any agreements and other documents that are necessary for the purpose of assuming such rights and obligations.

The successor Promoter shall give notice of the replacement of the Promoter to the Subscriber, the Minister of National Revenue, and any other governmental authority which may require such notice.

#### **20. LIMITATION OF LIABILITY OF TRUSTEE AND PROMOTER**

Other than those taxes for which the Promoter is liable and that cannot be charged against or deducted from the Assets of the Plan in accordance with Applicable Tax Legislation:

- a) the Promoter and the Trustee shall not be liable for any loss or damage suffered or incurred by the Plan, a Subscriber or the Beneficiary as a result of the purchase, sale or retention of any investment including any loss resulting from the Promoter or the Trustee acting on the direction of an agent appointed by a Subscriber to provide investment direction;

- b) the Promoter and the Trustee shall not be liable in their personal capacity for any tax, interest or penalty which may be imposed on the Trustee in respect of the Plan under Applicable Tax Legislation, as a result of payments out of the Plan or the purchase, sale or retention of any investment that is not a Qualified Investment;
- c) the Subscriber will at all times indemnify the Promoter and the Trustee and save the Promoter and the Trustee harmless in respect of any Government Grant repayments required to be made or taxes which may be imposed on the Promoter or the Trustee as a result of the acquisition, retention or transfer of any investments or as a result of payments or distributions out of the Plan made in accordance with these terms and conditions or as a result of the Promoter or the Trustee acting or declining to act upon any instructions given to the Promoter or the Trustee, whether by the Subscriber or any agent appointed by the Subscriber to provide investment direction.

## **21. AMENDMENTS TO THE PLAN**

The Trustee or Promoter may change the terms of this Plan Text periodically. The Subscriber will be provided with notice of any such changes. No change to these terms and conditions shall have the effect of disqualifying the Plan as a RESP or disqualifying the Beneficiary as a recipient of Government Grants under the Applicable Grant Legislation and any change may be retroactive.

## **22. NOTICE**

Any notice given by the Subscriber to the Promoter or Trustee shall be sufficiently given if delivered to the office of the Promoter where the Plan is administered or, if mailed, postage prepaid, addressed to the Promoter at such office and shall be deemed to have been given on the date such notice is delivered or received by the Promoter.

Any notice, statement or receipt to be given by the Promoter to the Subscriber shall be sufficiently given if delivered electronically or personally to the Subscriber or, if mailed, postage prepaid, addressed to the Subscriber at the address set out in the Application unless the Subscriber or, where applicable, the Subscriber's Estate Representative or personal representative has notified the Promoter of a new address. Any such notice, statement or receipt shall be deemed to have been given at the time of delivery to the Subscriber electronically or personally or, if mailed, on the third day after mailing.

## **23. SUBSCRIBER INSTRUCTIONS**

All directions, instructions, designations and other information to be provided under the Plan by the Subscriber must be in a form acceptable to the Promoter and the Trustee.



**24. PRIVACY**

The Subscriber agrees that any information provided by the Subscriber to the Promoter may be used by and shared between the Trustee, the Government of Canada and the applicable province or territory as required for the administration of the Plan in accordance with these terms and conditions, Applicable Grant Legislation, Applicable Tax Legislation and otherwise in accordance with applicable laws.

**25. DATE OF BIRTH, SOCIAL INSURANCE NUMBER AND RESIDENCY**

The Subscriber's statement of the Beneficiary's date of birth and social insurance number on the Application or a written designation shall be deemed to be a certification of the Beneficiary's age and social insurance number and an undertaking by the Subscriber to provide any further evidence of proof of age or social insurance number as may be required by the Promoter.

The Trustee and Promoter shall be entitled to rely upon the Promoter's records as to the current address of the Beneficiary and the Subscriber as establishing his or her respective residency and domicile for the operation of the Plan and any payments from it, subject to the receipt of any written notice to the contrary respecting a change in residency or domicile prior to such payment being made.

**26. SUBSCRIBER DEATH**

The Promoter and the Trustee are each authorized as each determines advisable in its sole discretion to release any information about the Plan after the Subscriber's death to either the Subscriber's Estate Representative or the Beneficiary, or both. If the Beneficiary is a minor at the time of his or her death, such information may be released to his or her custodial parent, legal guardian or Public Primary Caregiver.

Where a Subscriber dies at a time when there are two Subscribers:

- (a) if the Plan was opened outside of the Province of Quebec, the survivor shall assume all rights, privileges and obligations of the deceased Subscriber and the heirs, successors, assigns and legal representatives of the deceased Subscriber shall have no rights under the Plan; or
- (b) if the Plan was opened in the Province of Quebec, the *Civil Code of Quebec* and other applicable laws will apply.

**27. PAYMENT INTO COURT**

If there is a dispute about who is legally authorized to direct and receive payments from the Plan after the death of the Subscriber, the Promoter and the Trustee are entitled to either apply to the court for directions or to pay all or a portion of the Assets of the Plan into court and, in either case, fully recover any legal costs incurred in this regard as a cost or disbursement in respect of the Plan. The Promoter and the Trustee will not be liable for any penalty, or any loss or damage resulting from the repayment of Government

Grants as required under the Applicable Grant Legislation, that may occur as a result of any such payment of Assets of the Plan into court.

**28. HEIRS, REPRESENTATIVES AND ASSIGNS**

These terms and conditions shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives and assigns of the Subscriber and upon the respective successors and assigns of the Trustee and the Promoter and their directors, officers, employees and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives and assigns.

**29. LANGUAGE**

The parties hereto have requested that all documents relating to the Plan be in English. Les parties ont demandé que tout document se rapportant au régime soit en anglais.

**30. GOVERNING LAW**

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

The Subscriber expressly agrees that any action arising out of or relating to the Plan shall be filed only in a court located in Canada and the Subscriber irrevocably consents and submits to the jurisdiction of such court for the purposes of litigating any such action.

(1/17/2019)