

Trust Agreement
Shared Risk Plan for Academic Employees of the
University of New Brunswick

Amended and restated as at October 7, 2021

CERTIFIED COPY:

Jennifer Morrison

Signature

Jennifer Morrison

Name

October 8, 2021

Date

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ARTICLE 1 - DEFINITIONS

- 1.1 The definitions as stated in this Article shall apply to this Agreement, to any by-laws and the regulations adopted hereunder and to agreements with investment managers for investment and reinvestments of assets except as may be otherwise specifically provided:
- (a) "Actuary" means the actuary appointed pursuant to Article 8.11 herein;
 - (b) "Agreement", "Declaration of Trust" and "Trust Agreement" mean this instrument, as amended from time to time;
 - (c) "Association" means the Association of University of New Brunswick Teachers or its successor bargaining agent;
 - (d) "Association Trustees" means those Trustees appointed pursuant to Article 6;
 - (e) "Board of Trustees" means the University and Association Trustees together and further means the Pension Board referred to in the Plan;
 - (f) "Collective Agreement" means a collective agreement in force between the Association and the University;
 - (g) "Contributions" means payments made or to be made to the Fund by the employer or employees pursuant to a collective agreement, the Plan or any other agreement in writing;
 - (h) "Employee" means any person who is an academic employee of the University as defined in Section 1 of the Plan;
 - (i) "Employer" means the University of New Brunswick;
 - (j) "Employer Contribution" means payments made to the Fund on behalf of Employees by the Employer;
 - (k) "Employee Contribution" means payments made to the Fund by Employees on their own behalf;
 - (l) "Employer Trustees" means those Trustees appointed pursuant to Article 7;
 - (m) "Funding Policy" means the funding policy for the Plan, as amended from time to time in accordance with the Plan and the *Pension Benefits Act*;
 - (n) "Investment Manager" means an investment manager appointed pursuant to Article 8.12;
 - (o) "Investment Policy" means the investment policy for the Plan, as amended from time to time in accordance with the Plan and *Pension Benefits Act*;
 - (p) "Joint Chairpersons" means the Trustees appointed pursuant to Article 8.13(a) and "Chairperson" refers, as the context may require, to the Joint Chairperson who is a University Trustee or who is an Association Trustee;
 - (q) "Pension Plan" or "Plan" means the pension plan adopted by the Trustees, being the Pension Plan for Academic Employees of the University of the University of New Brunswick, dated the 17th day of December, 1992 and agreed upon by the

University and the Association and includes any amendments thereto including amendments to convert the Plan to a shared risk pension plan;

- (r) "Trustee" means a University Trustee or Association Trustee and "Trustees" means both the University and Association Trustees together;
- (s) "Trust Fund" or "Fund" means The University of New Brunswick Academic Employees Shared Risk Pension Plan Trust Fund, being the capital and income derived there from and contributions received and held by the Trustees for the benefit of the members of the Plan, and for greater certainty, includes the funds transferred on conversion to a shared risk pension plan together with the capital and income derived thereafter and contributions received and held by the Trustees for the benefit of the members of the Plan;
- (t) "University" means The University of New Brunswick.

ARTICLE 2 - GENERAL INTERPRETATION

- 2.1 Whenever power is given to any person, officer or functionary to do an act or thing, all such power shall be understood to be also given as is necessary to enable such person, officer or functionary to enforce the doing of such an act or thing.
- 2.2 Unless otherwise provided herein, when any act or thing is required to be done by more than two persons, a majority of them may do it.
- 2.3 Whenever forms are prescribed, slight deviations therefrom not affecting the substance in any way do not invalidate them.
- 2.4 If a power is conferred to make any rules, regulations or by-laws, the power shall be construed as including the power, exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, regulations or by-laws and make others.
- 2.5 Words importing male persons include female persons and vice versa, and corporations.
- 2.6 Words in the singular include the plural, and words in the plural include the singular.
- 2.7 Words authorizing the appointment of any officers or functionary, or any deputy with the exception of a Trustee, include the power of removing or suspending him and reappointing another in his stead, at the discretion of the authority in whom the power of appointment is vested.

ARTICLE 3 - PURPOSE OF THE TRUST FUND

3.1 Confirmation of Trust

The trust that was in existence on the conversion of the Plan to a shared risk pension plan as administered by the Trustees is hereby confirmed to continue notwithstanding the conversion of the Plan to a shared risk pension plan.

3.2 Trust Property

The Trustees are hereby confirmed to be vested with all right, title and interest in and to the Trust Fund for the uses, purposes and duties set forth in this Agreement. The Trustees shall jointly hold the Fund and act in all matters on behalf of the Fund under the name of the "Trustees of The University of New Brunswick Academic Employees Shared Risk Pension Plan Trust Fund".

3.3 Purpose of Trust

The Fund shall be used exclusively for the purpose of establishing and maintaining the Plan. Under no circumstances shall any portion of the capital or income of the Fund directly or indirectly revert or accrue to the benefit of the Parties to this Agreement or any of the Trustees other than for the purpose of the Fund, except that in the event that the Trust Fund shall terminate, the Parties agree to the procedure for the division of any assets specified in Article 11 hereof.

ARTICLE 4 - COMMENCEMENT AND COLLECTION OF CONTRIBUTIONS

4.1 Contributions

Those academic employees as defined in the Plan shall be the contributors to the Fund with the University matching the amount to be paid by such eligible employees. The University shall pay the contributions to the Trust Fund, with the commencement of the payment of contributions to the Fund to be determined by the Trustees in accordance with the Plan.

4.2 Commencement of Coverage

The payment of pension benefits to any Employee or former Employee shall commence only after the Trustees have made a determination that such person has met the eligibility requirements set out in the Plan.

4.3 Collection of Contributions

- (a) All contributions to the Fund shall be payable to the Fund and paid in accordance with the Plan. The University shall make all reports on contributions as required by law and the Trustees;
- (b) Non-payment by the Employer of any contribution when due shall not relieve it of its obligation to make such payment;
- (c) The Trustees may take any action necessary to enforce payment of the contributions due pursuant to a Collective Agreement or the Plan; and in the event there is a dispute as to whether or not contributions are payable and such dispute has been referred to arbitration pursuant to a Collective Agreement, the Trustees shall await the determination of the dispute by an arbitrator pursuant to the aforesaid Collective Agreement. Once the Trustees have concluded that a delinquency exists, they may take whatever action they consider necessary to enforce payment of the delinquency and may require interest at a rate to be fixed by them to be payable on the amount outstanding. As well, the Employer, when delinquent shall be responsible for all expenses incurred by the Trustees in the collection of the monies due and owing as specified by them. Expenses incurred by Trustees shall include but not be limited to legal expenses and disbursements, sheriffs' fees, court costs, witness fees, and similar matters, and they shall be due and payable by the Employer immediately upon receipt of notice from the Trustees. In the event that the Employer shall refuse or neglect to pay, the Trustees may commence action to collect the amount outstanding from the Employer as well as costs incurred in the collection of the monies;
- (d) Except as provided in this Article, the financial liability of the University shall in no event exceed the obligation to make contributions as set out in the Plan.

ARTICLE 5 - TRUSTEES

- 5.1 The operation and administration of the Fund shall be the Joint responsibility of a Board of Trustees, ten (10) in number, half of whom shall be appointed by the Association and half of whom shall be appointed by the Employer, as provided in Articles 6 and 7. All Trustees shall be persons who have a direct interest in the well being of the University of New Brunswick.
- 5.2 The Trustees agree to accept the trusteeship and agree to act in that capacity strictly in accordance with the provisions of this Agreement. Each Trustee shall execute an Acceptance of Trusteeship in the form set forth in Schedule "A" hereto.
- 5.3 Each Trustee shall continue to serve until his resignation, incapacity, removal by the Superintendent, death or termination of his term as a Trustee on the Board of Trustees.
- (a) Initial appointments to the Board of Trustees shall be for a term of three (3) years. Subsequent appointments to the Board of Trustees shall be for a term of not less than three (3) years and not greater than five (5) years, as determined by the party appointing the Trustee. Such appointments to the Board of Trustees may be renewed.
- 5.4 A Trustee may be removed by the Superintendent in accordance with the *Pension Benefits Act*. In these circumstances, the Party that appointed the removed Trustee shall appoint a replacement Trustee within sixty (60) days failing which a replacement Trustee may be appointed by the Superintendent in accordance with the *Pension Benefits Act*.
- 5.5 In the event of the incapacity or resignation of a Trustee, such Trustee shall be fully discharged from all future duties, responsibilities and liabilities, except as set out in Article 8.6, in respect of this Agreement, upon notice in writing being received from him or an agent on his behalf, at the office of the Fund, to the remaining Trustees and the office of the party who appointed him. The notice shall state the date of such resignation or incapacity and shall be effective as of that date. In the event of the death of a Trustee, his heirs, administrators, executors, and assigns, shall be fully discharged from all future duties and responsibilities in respect of this Agreement as of the date of his death.
- 5.6 In the event of the inability, refusal or incapacity of a Trustee to act as a Trustee, the remaining Trustees shall possess and may exercise any and all the powers of such Trustee for a reasonable time pending the return of the Trustee, or until the assumption of his powers, duties and obligations by his successor.
- 5.7 Upon expiration of the term of any Trustee, a successor, who may be the same or another person, shall be appointed in the manner set forth in this Section 5. If no other successor to a Trustee has been appointed as described in this Section 5 prior to the end of the Trustee's term, then such Trustee shall be deemed to have been appointed for a further term.
- 5.8 Any successor Trustee shall become vested with all the property, rights, powers, duties and obligations of a Trustee hereunder immediately upon his designation as a successor Trustee and upon his execution of an Acceptance of Trusteeship. All the Trustees then in office as well as other appropriate persons shall be notified immediately. No Trustees shall be responsible for any act or omission of the Trustees or any of them which occurred prior to his appointment.
- 5.9 No Trustee shall be compensated in any manner for attending to the affairs of the Trust, except that reasonable expenses incurred by the Trustee shall be reimbursed by the Fund upon production of receipts.

- 5.10 The Trustees may adopt such policies, procedures, by-laws and regulations as they deem necessary for the carrying out of their obligation under provisions of this Agreement and under the terms of the Plan.

ARTICLE 6 - ASSOCIATION TRUSTEES

6.1 Subject to the provisions of Article 5, the Association shall appoint five (5) Trustees.

6.2 Removed

ARTICLE 7 - UNIVERSITY TRUSTEES

7.1 Subject to the provisions of Article 5, the University shall appoint five (5) Trustees.

7.2 Removed

ARTICLE 8 - POWERS, DUTIES AND OBLIGATIONS OF TRUSTEES

8.1 Duty of Disclosure

The Trustees shall have the duty to report regularly and openly on all matters which arise with respect to the operation of the Trust to the University and the Association. The Trustees, however, shall not be required to report on matters which concern entitlement to individual benefits by a specific beneficiary.

8.2 Property and Assistance

The Trustees are authorized and empowered to lease such premises and lease or purchase such materials, supplies and equipment and to retain and employ such services or persons as they, in their discretion, deem necessary or appropriate for the performance of their duties, and to pay the cost thereof out of the Fund.

8.3 Declaration of Interest

- (a) In the event that a Trustee finds himself in a position whereby he will personally benefit directly or indirectly from the Fund, excepting the provision of benefits under the Plan, the Trustee shall declare the nature and extent of such benefit immediately upon becoming aware of it, and shall not partake in any decisions affecting the matter.
- (b) It is expressly understood and agreed that notwithstanding anything contained in the Agreement to the contrary, no Trustee shall, except when acting as a Trustee, act in concert with other Trustees, receive or otherwise have control over any of the monies which at any time form a part of the Fund, except for the receipt of expenses incurred by the Trustee and authorized by the terms of this Agreement.

8.4 Construction of Agreements

The Trustees shall have the power to construe the provisions of this Agreement and the Plan and any of the terms contained therein; and any construction adopted by the Trustees in good faith shall be binding upon the Association, the University and the Employees and their families, dependents, beneficiaries and legal representatives.

8.5 General Duties and Powers

The Trustees shall have the duty and responsibility to ensure that the Trust Fund operates so that the purpose of the Fund is achieved. Except as otherwise provided in the Plan or this Agreement, and notwithstanding the generality of the foregoing, the Trustees shall have the following powers:

- (a) to establish and administer the Fund on behalf of Employees to ensure that the benefits of the Fund are used for the purpose of providing pension benefits as determined by the Trustees in accordance with the Plan;
- (b) to attend to:
 - (i) all measurements and reporting required by the *Pension Benefits Act*, including regular actuarial evaluations and stochastic modeling of the assets and liabilities of the Plan;

- (ii) establishing an Investment Policy subject to annual review for the purpose of ensuring that the desired security for both the base benefits and the ancillary benefits (as defined in the *Pension Benefits Act*, and/or the Plan) that are expected to be achieved;
 - (iii) administering and investing the Plan in accordance with the *Pension Benefits Act*, the Investment Policy and the Funding Policy. For greater clarity, this includes the power to increase or decrease contributions and benefits in accordance with the Funding Policy; and
 - (iv) all other requirements of an administrator under the *Pension Benefits Act*.
- (c) to hire such independent counsel, instructors, directors, educators and other such assistance, professional or otherwise, as may be required for the performance of their duties and to ensure the fulfillment of the objectives of the Trust;
 - (d) to enter into any and all contracts and agreements, either with private individuals, corporations or with any government agencies, which can, directly or indirectly, assist in the purposes of carrying out the terms of this Agreement and the Plan;
 - (e) to collect, compromise, settle, submit to arbitration, and release claims or demands in favour of or against the Fund on such terms and conditions as the Trustees may deem advisable;
 - (f) to pay out of the Fund all real and personal property taxes, income taxes and any other taxes of any kind levied or assessed upon the Trustees (acting in their capacity as Trustees) or the Fund, or any monies or securities forming part thereof;
 - (g) to receive for the purposes of and on behalf of the Fund, contributions or payments from any source whatsoever to the extent permitted by law;
 - (h) to appoint such agents, Investment Managers, brokers, bankers and others as they consider necessary or desirable for the purposes of investing the capital and income of the Fund on such terms as the Trustees determine from time to time;
 - (i) to authorize such persons to invest, reinvest and divest the monies of the Fund; however, notwithstanding the generality of the foregoing, the Trustees may direct its investment counsellors as to the particular nature and type of investment that, in the absolute discretion of the Trustees, meets the objectives of the Trustees;
 - (j) to pay out of the Fund such fees and expenses to such persons making investments on behalf of the Fund as may reasonably be required;
 - (k) to obtain from the Employer such information as may be deemed necessary for the proper administration of the Fund, and is permitted by law;
 - (l) to pay from the Fund all reasonable and necessary expenses, costs and fees in connection with the collection of contributions and administration of the Fund and the Plan including, but not limited to, the expenses of employment of actuaries, agents, Investment Managers, legal, accounting, medical, and other experts, pre-retirement counsel, clerical assistance, the leasing of premises or purchasing or leasing of materials, supplies and equipment, notwithstanding that such professional personnel or other personnel may have been or are employed by the Association or the University;

- (m) to do all acts, including the establishment of separate committees for the purpose of administration of funds, and such other acts whether or not expressly authorized herein which the Trustees deem necessary to accomplish the general objectives and enable the Employees to obtain benefits under the Plan in the most efficient and economical manner;
- (n) to determine eligibility of persons to participate in the Plan;
- (o) to authorize borrowings at a chartered bank, trust company or credit union, when necessary for the effective operation of the Fund;
- (p) to purchase reasonable errors and omissions insurance coverage to indemnify the Trustees for personal liability (subject to Article 8.6(b)) and to pay the cost of such insurance from the Fund;
- (q) to the extent not hereinbefore enumerated, all the powers under the *Trustees Act* of the Province of New Brunswick, except that the Trustees in investing the Fund shall not be restricted to investments authorized by the Act.

8.6 Personal Liability

- (a) The Trustees and any individual or successor Trustee:
 - (i) shall not be personally liable for any liabilities or debts of the Fund contracted by them as Trustees or for the nonfulfillment of contracts or benefits, but the same shall be paid out of the Fund;
 - (ii) shall have in their favour a first lien and charge against the Fund for his or their security and indemnification against any liability of any kind which the Trustees or any of them incur, including the costs of defense of litigation on a solicitor client basis.
- (b) Notwithstanding the generality of paragraph (a) above, nothing shall exempt any Trustee from liability arising out of his own willful misconduct, bad faith or gross negligence, or entitle such Trustee to indemnification for any amounts paid or incurred as a result thereof, including the costs of litigation;
- (c) The Trustees and each Individual Trustee shall not be liable for any error of judgment or loss arising out of any act or omission in the execution of their duties so long as they or he acts in good faith and without gross negligence, nor shall any Trustee, in the absence of his own willful misconduct, bad faith or gross negligence, be personally liable for the acts or omissions of himself or any other Trustee or any agent or attorney of the Trustees;
- (d) No Trustee shall be liable or responsible for any act or default of any other Trustee whether acting singly or jointly unless such Trustee acted in collusion with such other Trustee in a willful or grossly negligent manner, or for any losses or expenses resulting from or occasioned by anything done or neglected to be done in the administration of the Fund prior to his becoming a Trustee;
- (e) The Trustees shall be fully protected in acting upon any instrument, application, notice, request, certificate, or paper believed by them to be genuine and to be signed or presented by the proper person or persons and shall be under no duty to make any investigation or inquiry as to any statement contained in any writing but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained;

- (f) Neither the University nor the Association nor a Trustee's employer shall in any way be liable with respect to any of the acts, omissions or obligations of the Trustees, individually or collectively. The Fund shall bear sole liability for the actions of the Trustees.

8.7 Books of Account, Records and Minutes

- (a) The Trustees shall keep true and accurate books of account and records of all their transactions, meetings and any action taken at such meetings or by informal action of the Trustees and such other data as may be necessary for the proper administration of the Fund. The books, accounts and records shall be audited annually or more often by an independent chartered accountant as selected by the Trustees. Copies of such audit shall be available at all times upon reasonable notice for inspection by signatories to this Agreement or their respective servants or agents at the principal office of the Fund;
- (b) The Trustees shall prepare, execute, file and retain records of all reports required by law or deemed by them to be necessary or appropriate for the proper administration of the Fund. The Trustees shall also maintain on a current basis all information necessary for the actuarial studies required to be made from time to time in connection with the Fund;
- (c) The Trustees shall submit an annual report including a copy of the audited financial statements to the parties within six (6) months after the Trust's fiscal year.

8.8 Execution of Documents

- (a) The Trustees may authorize a Trustee or the Actuary to execute a notice or instrument in writing on behalf of the Trustees;
- (b) Unless specifically authorized, all notices or other written instruments, signed on behalf of the Trustees, shall be signed by not less than one Association Trustee and one University Trustee.

8.9 Deposit, Withdrawal and Co-Mingling of Funds

- (a) All monies received by the Trustees shall be deposited by them in an account maintained in one or more Canadian chartered banks, trust companies or credit unions as the Trustees may designate for that purpose. All accounts shall be drawn upon only by cheques signed by the Trustees who are, from time to time, authorized in writing by resolution of the Trustees to sign cheques. No cheques signed by the Trustees shall be valid unless signed by one University Trustee and one Association Trustee;
- (b) Where the Trustees have procured one or more individual or group insurance or annuity contracts or appointed an Investment Manager pursuant to the provisions of this Agreement, the Trustees may designate and authorize the insurance or annuity contract issuer or such Investment Manager to sign cheques upon such separate and specific bank, trust or insurance accounts as the Trustees may designate and establish for that purpose;
- (c) The Trustees are authorized to receive and co-mingle all contributions and monies received by them.

8.10 Bonding and Insurance

- (a) The Trustees and any employees or appointees of the Trustees who are empowered and authorized to sign cheques as outlined above, shall be bonded by a surety company in such amounts as may be determined by the Trustees. The cost of the bonds shall be paid by the Fund;
- (b) The Trustees may further insure against negligence of the Trustees and against loss due to fire or other causes of all other properties of the Fund and such insurance premiums shall be paid by the Fund.

8.11 Actuary

The Trustees shall appoint an independent actuary to advise the Trustees and may, with or without cause, remove the Actuary and appoint a successor. The Actuary shall assume such duties and responsibilities as may be delegated to him by the Trustees.

8.12 Investment Manager

The Trustees may appoint one or more Investment Managers to invest the monies in the Fund, and may at any time, with or without cause, remove any Investment Manager and appoint a successor. An Investment Manager shall assume such duties and responsibilities as may be delegated to him by the Trustees.

8.13 Meetings of the Trustees

- (a) The Trustees shall appoint Joint Chairpersons, one of whom shall be a University Trustee and one of whom shall be an Association Trustee.

Policies and Procedures Manual

- (b) The Trustees shall agree upon a policies and procedures manual concerning their procedures which may be amended from time to time.

Date, Time and Location of Board Meetings

- (c) The Board of Trustees shall meet at least twice in each calendar year. The date, time and location for each Board meeting will be determined by the Joint Chairpersons;
- (d) Written notice of the date, time and location of each Board meeting shall be given by the Joint Chairpersons or their designates to each member at least ten working days in advance of the meeting, unless waived in writing;
- (e) An emergency meeting may be called with less than ten working days notice if the Joint Chairpersons agree that an emergency exists.

Notices and Agenda for Board Meetings

- (f) Subject to paragraph (g), written notice of the date, time, and location of each Board meeting shall be given by the Secretary (as appointed under the Plan) to each Trustee at least ten working days in advance of the meeting, unless waived in writing;

- (g) Emergency meetings may be called with less than ten working days notice if the Joint Chairpersons agree that an emergency exists. Paragraph (h) does not apply to emergency meetings;
- (h) A packet of information shall be prepared for each Trustee for use at all meetings. The packet will include an agenda, a copy of the minutes from the previous meeting, committee reports, and any other information which will be needed for business;
- (i) The Joint Chairpersons shall propose an agenda for all Board meetings. To be included on the proposed agenda, an item must be approved by at least one of the Joint Chairpersons;
- (j) The proposed agenda shall be submitted to the Board for approval as the first item of business at each Board meeting. The Board may approve the proposed agenda or may make such amendments as it considers appropriate;
- (k) Prior to each Board meeting, the Secretary shall prepare a proposed agenda for review by the joint chairpersons;
- (l) Any Trustee or Plan member who wishes to have an item included on the proposed agenda for the next meeting may notify the Secretary in writing and the Secretary shall bring that item to the attention of the Joint Chairpersons.

Conduct of Meetings

- (m) A quorum of the Board of Trustees shall be six members including three members appointed by the Employer and three members appointed by the Association. If at any meeting the number of members appointed by the Employer and the Association is not equal, the excess members on any side shall have no vote. The non-voting members will be determined by agreement among the members on that side;
- (n) All actions of the Board of Trustees shall be by majority decision of those Trustees voting;
- (o) The Joint Chairpersons shall be voting members;
- (p) In the event of a tie vote relating to a matter of administration or interpretation of the Plan, this Agreement, or the policies and procedures manual the Board of Trustees shall hold a second meeting within two months in order to vote on the issue again, and if that meeting also produces a tie vote, the Board of Trustees shall appoint an independent arbitrator whose decision shall be final and conclusive. The arbitrator shall not have any powers to revise or amend the Plan, this Agreement or the policies and procedures manual;
- (q) Prior to the second meeting referred to in paragraph (p) above, the Joint Chairpersons shall prepare a list of at least two mutually acceptable independent arbitrators. In the event that the meeting produces a second tie vote, the Board shall, at that same meeting, appoint an independent arbitrator from the list prepared by the Joint Chairpersons;
- (r) In the event that the Joint Chairpersons are able to agree on only one independent arbitrator for inclusion on the list, they may submit the name of that arbitrator to the Board and the Board may appoint that arbitrator to arbitrate the matter. In the event that the Joint Chairpersons are unable to agree on an independent arbitrator, or

are able to agree on only one and that one is not acceptable to the Board, then an independent arbitrator may be appointed in accordance with the provisions of the *Arbitration Act*.

Committees

- (s) Ad hoc committees may be established by the Board to assist the Board. The Board will approve terms of reference for each ad hoc committee and will determine membership of the committee.

Minutes

- (t) Resolutions or minutes in writing signed by one (1) Association Trustee and one (1) University Trustee, provided the Trustee attended that meeting, shall be deemed for all purposes to be acts of the Trustees to the effect as if they had been duly passed by proper vote at a duly constituted meeting. It shall be the duty of the Joint Chairpersons or their designates to record such resolutions or minutes in the Board of Trustee's Minute Book under their proper date;
- (u) The minutes of any meeting of the Trustees or any portion thereof or any decision made by or on behalf of the Trustees may be certified from time to time by the signature of any two Trustees, provided one is an University Trustee and one is an Association Trustee.

8.14 Form of Execution

- (a) All conveyances, mortgages, discharges of mortgage, assignments of mortgages, transfers of stocks, debentures, bonds and other securities, agreements and other documents relating to the Fund or to any investment thereof required to be executed by the Trustees may be executed on behalf of the Trustees by such person or persons or corporations or in any other such manner as the Trustees may from time to time provide;
- (b) 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 9 - ADDITIONAL EMPLOYERS AND ADDITIONAL ASSOCIATIONS

- 9.1 The agreement in writing of both parties to this Agreement is necessary for a new employer or association to join the Plan. Such agreement in writing shall set forth such terms and conditions as the Parties may determine for the new employer or association to join the Plan.

ARTICLE 10 - AMENDMENTS

- 10.1 This Declaration of Trust may be amended to any extent at any time by the parties, except that no amendment shall divert the Fund as then constituted, or any part thereof, to any purpose other than for the benefit of the beneficiaries as set out in the Plan or such other benefits as from time to time have been approved by the Trustees and further, Article 8.7 as it pertains to the requirement of an annual audit shall never be amended.

ARTICLE 11 - TERMINATION OF THIS AGREEMENT

- 11.1 This Declaration of Trust may be terminated by either party when there is no longer in force a collective bargaining relationship between the University and the Association or at any time agreed to by the parties.
- 11.2 In case of such termination, the Trustees shall wind up the business of the Trust within nine months of receipt of written notice by the parties that they are no longer willing to continue in effect the Plan for which the Trust was created.
- 11.3 In event of the termination of the Plan the Board of Trustees shall:
- (a) make provision out of the Fund for the payment of expenses incurred up to the date of termination of the Plan and the expenses incident to such termination;
 - (b) provide for distribution of the assets of the Fund in accordance with the terms of the Plan and "applicable legislation" (as defined in the Plan); and
 - (c) arrange for a final audit and report its transactions and accounts, for the purpose of terminating its trusteeship.

If, upon the termination of the Plan, in whole or in part, there are not sufficient assets in the Fund to pay all benefits, there is no liability on the University to contribute to the Plan greater than the obligation of the University under section 3 of the Plan.

ARTICLE 12 - GENERAL PROVISIONS

- 12.1 In the event that a nominating party for Trustees shall cease to exist as bargaining agent, the Trustees last appointed by that nominating party shall continue to serve and shall act as though they were appointed by the Trustees as a whole. Replacements, if necessary, for the Trustees nominated by the defunct body shall be made by the remaining Association Trustees or University Trustees in the event a replacement is necessary. This sub-clause applies to all parties to this Agreement.
- 12.2 No Employee or any person claiming by or through such Employee, including his family, dependents, beneficiary, or legal representative, shall have any right, title or interest in or to the Fund or any property of the Fund or any part thereof, except as may be specifically determined by the Trustees in accordance with the terms of the Plan or as may be governed by applicable law.
- 12.3 No monies, property or equity of any nature whatsoever in the Fund, contracts, benefits, or monies payable therefrom, shall be subject in any manner by an Employee or person claiming through such Employee to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, mortgage, lien or charge, and any attempt to cause the same to be subject thereto shall be null and void.
- 12.4 All questions pertaining to validity, construction and administration of this Agreement shall be determined in accordance with the laws of the Province of New Brunswick.
- 12.5 Should any provision of this Agreement or the Plan be deemed to be unlawful and invalid for any reason, the same shall be deemed severable and such finding shall not adversely affect the validity of the remainder of this Agreement unless such illegality or invalidity shall make the functioning of the Fund and the Plan impossible or impractical and, in such event, the parties shall immediately adopt a new provision to take the place of the illegal or invalid provision so as to permit the Plan to continue.
- 12.6 This fiscal year of the Fund shall be as determined by the Trustees.
- 12.7 Until such time as the Plan text to convert the Plan to a shared risk pension plan is finalized, the Trustees shall administer the Plan in accordance with the terms of the Shared Risk Agreement.