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**THE BC GOVERNMENT EMPLOYEES  
COMMUNITY SERVICES FUND TRUST**

Made as of \_\_\_\_\_ March, 2009

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**Bull, Housser  
& Tupper LLP**

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**SCHEDULE A - CHANGE IN TRUSTEES**

**THE BC GOVERNMENT EMPLOYEES  
COMMUNITY SERVICES FUND TRUST**

THIS TRUST DECLARATION dated the \_\_\_\_\_ day of March, 2009 is made by HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the "Trustee").

WHEREAS:

- A. Some time prior to 1979, the Trustee established a trust known as the "BC Government Employees Community Services Fund";
- B. This trust was not documented in writing but became a registered charity in Canada pursuant to the Tax Act;
- C. Again, some time prior to 1979, the trust had its status as a registered charity revoked, presumably because of the failure to file the necessary federal information return;
- D. The trust was reinstated as a registered charity in or about February of 1979;
- E. For administrative and other reasons, the Trustee wishes to formally document the terms of the trust.

The Trustee declares as follows:

**1. SETTLEMENT OF TRUST FUND**

**1.1 Settlement of Trust Fund**

The Trustee declares that it is the legal owner of the Settlement Amount and that it holds the Settlement Amount in accordance with the terms of this Declaration.

**1.2 Trust Irrevocable**

This Declaration is irrevocable.

**1.3 Additional Contributions**

The Trustee may accept an additional gift of property to the Trust from a Donor provided that such gift is irrevocable. Such gift may be undesignated, or designated to a specific Qualified Donee.

**2. DEFINITIONS**

**2.1 Definitions**

In this Declaration, including, without limitation, this section, unless the context otherwise requires or it is otherwise specifically provided:

- (a) "**Attorney General Act**" means the Attorney General Act, RSBC 1996 c.22;

- (b) **“Board”** means the Persons appointed by the Trustee to administer the Trust in accordance with Part 4 hereof;
- (c) **“Crown Proceeding Act”** means the *Crown Proceeding Act*, RSBC 1996 c. 89;
- (d) **“Declaration”** means this Declaration and any amendment to it and any instrument supplemental or ancillary to it and any amendment to any such instrument;
- (e) **“Distribution Date”** means a future date chosen at any time by the Trustee as evidenced by a written instrument signed by the Trustee;
- (f) **“Donor”** means any Person who makes a gift of property to the Trustee to be used in accordance with the Purposes;
- (g) **“Financial Administration Act”** means the *Financial Administration Act*, RSBC 1996 c. 138;
- (h) **“Income”** means interest, dividends and any realized increase in the capital of the Trust Fund;
- (i) **“Person”** includes individuals, trusts, estates, firms, corporations, companies, partnerships, syndicates, unincorporated associations, foundations, organizations, or entities;
- (j) **“Purpose Fund”** means a fund or funds established by the Trustee at any time, to which Donors may contribute, which makes grants for specified Purposes;
- (k) **“Purposes”** means the funding of programs beneficial to the community conducted by organizations which are Qualified Donees;
- (l) **“Qualified Donee”** or **“Qualified Donees”** means an entity described in subsection 110.1(1)(a) of the Tax Act;
- (m) **“Settlement Amount”** means the sum of \$1,361,191.38 in Canadian currency;
- (n) **“Tax Act”** means the *Income Tax Act (Canada)* RSC 1985 c.1, 5th Supplement, and all amendments thereto;
- (o) **“Trustee”** means Her Majesty the Queen in Right of the Province of British Columbia; and
- (p) **“Trust Fund”** means:
  - (i) the Settlement Amount;
  - (ii) all other property given to the Trustee at any time; and
  - (iii) all capital accretions and income arising from all property referred to in paragraphs (i) and (ii) above.

### **3. INTERPRETATION**

#### **3.1 Interpretation**

In this Declaration, unless the context otherwise requires or it is otherwise specifically provided, words importing the singular include the plural and vice-versa and words importing gender shall include the masculine, feminine and neuter genders. The headings in this document are for convenience only and do not form part of this Declaration.

#### **3.2 Decisions of the Trustee**

The Trustee will be entitled and empowered to exercise alone all such powers and discretions conferred by this Declaration or conferred by law.

### **4. DELEGATION TO BOARD**

#### **4.1 Establishment of Board**

Notwithstanding section 3.2 hereof, the Trustee may, in its discretion, delegate some or all of its powers and responsibilities to the Board by instrument in writing, as amended by the Trustee from time to time.

#### **4.2 Composition of Board**

In the event the Trustee decides to establish a Board, it will appoint five (5) Persons by instrument in writing who must be active employees of the Province of British Columbia who may be appointed or removed as the Trustee in its discretion thinks fit from time to time.

#### **4.3 Decisions of Board**

The Board must meet no fewer than four (4) times in each calendar year. The quorum for all meetings of the Board is three (3) Persons. Meetings may be conducted in person or by teleconference or other communication media provided that all Persons in attendance can communicate with each other. Decisions made at a meeting of the Board are passed by the majority voting in favour. Decisions of the Board made outside of a meeting must be approved in writing by all members of the Board.

### **5. TRUST EXPENSES**

#### **5.1 Commitment of Province of British Columbia**

Subject to the applicable provisions of the *Financial Administration Act*, the Province of British Columbia may pay to the Trustee such amount as it thinks fit toward the Trustee's reasonable expenses incurred in the administration of the Trust.

#### **5.2 Administrative Expenses**

Any contribution made by the Province of British Columbia pursuant to section 5.1 hereof will be applied toward the payment of any administrative expenses of the Trust Fund and any debts

and liabilities of the Trustee properly chargeable to the Trust Fund and thereafter, any distributions of income or capital from the Trust Fund are subject to and made after paying or providing for the payment of the administrative expenses of the Trust Fund and any debts and liabilities of the Trustee properly chargeable to the Trust Fund.

## **6. DISPOSITIVE PROVISIONS**

### **6.1 Distributions of Income and Capital Before Distribution Date**

Subject to the terms and conditions of this Declaration, until the Distribution Date the Trustee may:

- (a) invest and re-invest the capital and Income of the Trust Fund;
- (b) accumulate and add to the capital the net annual Income of the Trust Fund, or so much thereof as the Trustee from time to time considers appropriate;
- (c) pay or apply from time to time all or any part of the Income of the Trust Fund for the Purposes or in accordance with a Purpose Fund as the Trustee in its discretion considers appropriate; and
- (d) pay or apply from time to time all or any part of the capital of the Trust Fund for the Purposes or in accordance with a Purpose Fund as the Trustee in its discretion considers appropriate.

### **6.2 Distribution on Distribution Date**

On the Distribution Date the Trustee will distribute the Trust Fund then remaining to one or more Qualified Donees.

### **6.3 No Reversion to Settlor**

Further, notwithstanding any other provision of this Declaration, no part of the Trust Fund will, in any event, revert to the Settlor.

## **7. TRUSTEE POWERS**

### **7.1 Power to Sell**

The Trustee may sell, exchange, lease, grant any option, or otherwise alienate or dispose of any property of the Trust Fund for such consideration and upon such terms and conditions as the Trustee thinks fit and it may execute and deliver all deeds or other instruments to make good and sufficient title thereto and to give full and valid discharges therefor.

### **7.2 Power to Retain**

The Trustee may retain any property forming part of the Trust Fund in the actual state or condition in which the same is received by the Trustee for so long as the Trustee thinks fit.

### **7.3 Power to Invest**

Subject to the applicable provisions of the *Financial Administration Act*, the Trustee will have absolute discretion in the investment, reinvestment and management of the Trust Fund with respect to any particular investment or any scheme of investment, including investments in mutual funds, common trust funds, unit trusts and other similar investments.

### **7.4 Power to Retain Experts**

The Trustee may engage such Persons as it considers advisable to assist in the management of the Trust Fund including, without limitation, an agent, lawyer, accountant, financial or investment advisor or manager, broker, real estate agent, auctioneer, surveyor, valuer, appraiser or insurance advisor. It may delegate to and rely upon such Persons as the Trustee deems advisable from time to time and pay to such Persons out of the Trust Fund, charged first to Income and any balance to capital, any fees or charges thereby incurred.

### **7.5 Power to Hold Trust Fund in Names of Nominee or in Bearer Form**

The Trustee may hold the whole or any part of the Trust Fund in the name or names of any nominees of the Trustee or in bearer form and deposit with any such nominee or any custodian any property or documents of title in respect of any property forming part of the Trust Fund.

### **7.6 Power to Deal with Securities**

The Trustee 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 issue proxies in respect thereof), whether or not affecting the security or the apparent security of the Trust Fund.

### **7.7 Power to Maintain One Fund or Several Funds**

The Trustee may hold, manage and invest any funds held hereunder as a consolidated fund in which each separate fund will have an appropriate undivided interest.

### **7.8 Power to Determine Capital and Income**

Unless otherwise expressly provided or required by applicable law, the Trustee will determine whether any property received by it as Trustee will be treated as Income or capital and whether any outgoings or liabilities will be charged against Income or capital for the purposes of any one or more of the trusts, powers, and provisions contained in this Declaration or implied by law.

### **7.9 Power to Allocate Assets in Specie**

In setting aside any fund, or making any division or distribution of the Trust Fund either wholly or in part, the Trustee may:

- (a) fix the value of the Trust Fund or any share thereof; and



- (b) divide, set aside or pay over *in specie* any asset forming part of the Trust Fund at the time of such division or payment as the Trustee sees fit, at such valuation as the Trustee may fix, taking into account any deduction or accretion which it judges appropriate having in mind future contingencies, expectations, liabilities or credits relevant to such asset including, without limitation, any tax liability or credit.

#### **7.10 Power to Institute or Defend Proceedings at Law**

Subject to the *Attorney General Act* and the *Crown Proceeding Act*, the Trustee may institute and defend proceedings at law in any way relating to or arising out of the affairs of the Trust, the Trust Fund, and this Declaration and proceed to the final determination thereof or compromise the same as it considers advisable.

#### **7.11 Banking Arrangements**

Subject to the applicable provisions of the *Financial Administration Act*, the Trustee may appoint from time to time any bank, trust company or other company to be the banker or one of the bankers for the purposes of the Trust Fund and from time to time may revoke any such appointment. The Trustee may authorize in writing any Person or Persons on its behalf to:

- (a) sign, endorse, make, draw and/or accept any cheques, promissory notes, bills of exchange or other negotiable instruments;
- (b) 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
- (c) 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 the Trustee.

#### **7.12 Power to Indemnify**

Subject to the applicable provisions of the *Financial Administration Act*, the Trustee may indemnify and enter into any indemnity in favour of any trustee or other Person in respect of any actual, contingent or prospective liability arising in respect of the Trust Fund or otherwise pursuant to this Declaration. The Trustee may apply the whole or any part of the Trust Fund by way of mortgage, pledge or otherwise as security for such indemnity.

#### **7.13 Acknowledgement from Charity**

The acknowledgment by any Person purporting to be the secretary or treasurer or other officer, as the case may be, of any Qualified Donee receiving a distribution from the Trust Fund will be a full and sufficient discharge to the Trustee with respect thereto, and the Trustee is neither bound to see to the application thereof nor to the authority to give such receipt.

## **7.14 Exercise of Powers and Discretion**

In addition, all of the powers and discretions conferred upon the Trustee by this Declaration and by law will be exercised by it in its absolute discretion.

## **8. INDEMNITIES**

### **8.1 Liability of Trustee**

The Trustee will only be liable, answerable and accountable for its own actual fraud, wilful default or gross negligence. Subject to the foregoing, no Trustee will be liable for any loss or damage which may occur to the Trust Fund or any part thereof (including any company, corporation, partnership or other entity whose shares or ownership interests are comprised directly or indirectly in the Trust Fund) or the income thereof at any time from any cause whatsoever, including:

- (a) the exercise or failure to exercise of a discretion or power, or the refusal or failure to concur in the exercise of a discretion or power;
- (b) the failure to attend to, interfere with, or inquire into the management of corporations, companies and other entities, the shares or other ownership interests of which form part of the Trust Fund, including without limitation;
  - (i) the reliance on information given at meetings or otherwise by the management of such corporations, companies and other entities;
  - (ii) the failure to act upon any information received from inquiring into the management of such corporations, companies, or other entities, or otherwise; and
  - (iii) the failure to require the management of any such corporations, companies or other entities to consult and inform the Trustee so that the Trustee may intervene if necessary to safeguard the interests of the Trust Fund;
- (c) the reliance in good faith upon the opinion or advice of counsel as to the interpretation of this Declaration in any respect, or as to any other issue that may arise; or
- (d) the reliance in good faith upon the opinion or advice of any other professional Person in a matter apparently falling within his or her professional expertise.

Every Trustee will be entitled, in the purported exercise of his, her or its duties and discretions hereunder (including without limitation the management or administration of or the performance of other services to any company, corporation, partnership or other entity whose shares or ownership interests are comprised directly or indirectly in the Trust Fund), to be indemnified out of the Trust Fund against all expenses and liabilities notwithstanding that:

- (i) such exercise constituted a breach of such Trustee's duties; or

- (ii) proceedings are brought by any Person in respect of an alleged breach of duty by such Trustee,

unless it is established that such breach of duty was brought about by such Trustee's own actual fraud, wilful default or gross negligence.

All indemnities, protections and exculpations granted by this Declaration will extend to each current and former director, officer or employee of any Trustee and will be in addition to all rights to indemnity granted or implied by law.

## **8.2 Power to Restrict Discretion by Written Instrument**

The Trustee will have power by written instrument at any time or times to extinguish or revocably or irrevocably to restrict in any manner all or any of the powers and discretions conferred upon it by any provision of this Trust.

## **8.3 Corporate Trustee's Exercise of Discretion**

Any Trustee which is a corporation may exercise or concur in the exercise of any discretion or power conferred in this Declaration or conferred by law on the Trustee by a resolution of such corporation, by its board of directors, or by its governing body. Such Trustee may delegate the right and power to exercise or concur in the exercise of any such discretion or power to any one or more of its directors, officers or employees or to such other Person or Persons as such Trustee thinks proper.

## **9. TRUSTEE'S ACCOUNTS**

### **9.1 Trustee's Accounts**

The Trustee will keep such books, records and accounts as are necessary and appropriate to document the assets and transactions of the Trust Fund.

## **10. POSTING OF SECURITY**

### **10.1 Posting of Security**

The Trustee will not be required to post a bond or give security for the due and faithful administration of the Trust Fund or for the discharge of the trusts hereby created. However, if such a bond is required by law, such bond will be in the lowest amount possible and, unless required by law, without surety.

## **11. GOVERNING LAW**

### **11.1 Governing Law**

This Declaration will be construed and take effect in accordance with the laws British Columbia, the courts of which will be the forum for the administration hereof.

## **11.2 Severability**

If any provision or part of this Declaration is invalid or unenforceable for any reason, this will not affect the validity or enforceability of any other provision or part. Each and every provision and part of this Declaration will be severable from every other provision or part and will be valid and enforceable and will be given effect to the extent permitted by law.

## **12. NOTICE AND DISCLOSURE**

### **12.1 Notice**

Any notice under the terms and conditions of this Declaration 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 e-mail or facsimile sending machine, to the last known e-mail address or facsimile number of the Person entitled to receive such notice as shown in the records of the Trustee.

### **12.2 Notice to Trustee**

Notwithstanding section 12.1, a notice hereunder to the Trustee will only be effective as and when actually received by the Trustee.

### **12.3 Change in Notice Period**

Notwithstanding any other provision of this Declaration, any notice period required to be given under the terms of this Declaration may be reduced or dispensed with by agreement between the Person(s) required to give such notice and the Person(s) entitled to receive it.

## **13. TRUSTEE EXPENSE REIMBURSEMENT**

### **13.1 Expense Reimbursement**

Any Person who acts as a Trustee of the Trust is entitled to be reimbursed for all expenses properly incurred.

## **14. APPOINTMENT, REMOVAL, RESIGNATION OF TRUSTEE**

### **14.1 Appointment of Trustees**

The power of appointment of:

- (a) one or more new Trustees, and
- (b) one or more Trustees in the place of any removed Trustee or any Trustee resigning or vacating his, her or its trusteeship,

will be exercised in writing by the Trustee. Upon appointing a successor Trustee, the office of the Trustee being so replaced will be deemed to be automatically determined and vacated and such Trustees will be discharged from the trusts hereof. Such appointment will be deemed to operate so as to vest all of the property forming the Trust Fund in the successor Trustee(s) jointly with the remaining Trustee(s), if any.

#### **14.2 Resignation of Trustee**

Any Trustee may at any time resign the trusteeship on giving not less than thirty (30) days written notice addressed to the other Trustees. Upon the expiration of the said notice period, a retiring Trustee will have no responsibility for the trusts hereof except to do what is reasonably necessary to transfer the Trust Fund into the name(s) of or under the control of the successor Trustee(s) and will not be liable for any acts of the Trustees which take place after the expiration of the notice period. Notwithstanding the foregoing, prior to the resignation of a sole Trustee, a new Trustee must be appointed in accordance with section 14.1.

#### **14.3 Indemnification of Retiring or Removed Trustee**

A retiring or removed Trustee will be entitled to require and receive from each continuing Trustee or new Trustee an indemnity in the terms described in section 7.12 of this Declaration.

Any Trustee will have the right on retirement or removal or upon otherwise ceasing to be a Trustee or upon distribution or withdrawal of assets forming part or all of the Trust Fund, unless otherwise indemnified to the Trustee's satisfaction, to withhold such assets as the Trustee will in good faith consider necessary on account of liabilities whether vested, contingent or otherwise to which he, she or it may as Trustee be subject or otherwise in order to satisfy his, her or its rights of indemnification granted by this Declaration or by law.

#### **14.4 Notice of Changes in Trusteeship**

Notices of all changes in the trusteeship will be attached to this Declaration as Schedule "A" and will be signed by the surviving, continuing and new Trustees. Every such notice will be sufficient evidence as to the identity of the Trustee for the time being to any Person having dealings with the Trustee.

### **15. AMENDMENTS TO DECLARATION**

#### **15.1 Amendments**

This Declaration may be amended in any manner whatsoever from time to time by the Trustee as evidenced by deed in writing, provided that no such amendment will:

- (a) take effect if it would be regarded as having the effect of revoking this Declaration; or

- (b) amend or delete this section, section 6.3, section 9.1, or section 2.1(k) provided however that section 2.1(k) can be amended to ensure compliance with the Tax Act or to maintain the charitable registration of the Trust.

**IN WITNESS WHEREOF** the Trustee has caused this Declaration to be executed the day and year first above written.

SIGNED on behalf of Her Majesty the )  
 Queen in Right of the Province of )  
 British Columbia by the )  
 Minister of Advanced Education and )  
 Labour Market Development )  
 this \_\_\_\_\_ of March, 2009 )  
 in the presence of: )

)  
 )  
 )  
 )

\_\_\_\_\_

*(Witness)*

\_\_\_\_\_

**Honourable Murray Coell**  
 Minister of Advanced Education and Labour  
 Market Development

**SCHEDULE A - CHANGE IN TRUSTEES**

DATE: \_\_\_\_\_ March, 2009

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**THE BC GOVERNMENT EMPLOYEES COMMUNITY  
SERVICES FUND TRUST**

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**BULL, HOUSSER & TUPPER LLP**  
BARRISTERS & SOLICITORS  
#3000 - 1055 WEST GEORGIA  
VANCOUVER, B.C. V6E 3R3  
(604) 687-6575  
Attention: Margaret H. Mason

File # 07-1909

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