OPTrust Select – Features Supporting Current Governance Structure and JSPP Status

The following summarizes the manner in which the OPSEU Pension Plan and OPTrust Select (together, the "**Plan**") will fulfil the representation requirements of s. 3.1(1)3 and 4 of the General Regulation under the Pension Benefits Act (the "**PBA Regulation**"):

1. **PBA Regulations Require Plan Documents to Satisfy the Criteria for JSPP Status:**

   - Section 3.1(1) of the PBA Regulation provides, in relevant part that "a pension plan must, *by virtue of the documents that create and support the plan*, satisfy the following additional criteria in order to be a jointly sponsored pension plan:"

   - The criteria in s. 3.1(1)3 and 4 are that employers or their representative and members or their representatives are jointly responsible for making all decisions about (1) the terms and conditions of the pension plan and any amendments to the pension plan and (2) the appointment of the administrator or the selection of persons to certain bodies that act as administrator.

   - Section 3.1(2) of the PBA Regulation provides that the documents that create and support a JSPP must set out the methods by which the decisions in s. 3.1(1)3 and 4 are to be made.

2. **Plan Documents Set Out Representative Structure and How Decisions are Made:**

   - The Sponsorship Agreement between Ontario and OPSEU, which is one of the documents that creates and supports the Plan, currently provides that Ontario and OPSEU are the Plan sponsors and have exclusive authority (1) to amend the Plan, Sponsorship Agreement and Trust Agreement and (2) to appoint Trustees.

   - Ontario and OPSEU have exercised this authority since the inception of the Plan and while employees represented by other unions, and employee groups not represented by any union, have participated in the Plan. Employee groups that are not represented by OPSEU continue to participate in the Plan today.

   - Ontario and OPSEU acknowledge that they exercise their powers of amendment and Trustee appointment as representatives of all employers under the Plan and all members of the Plan, respectively. For clarity, Ontario and OPSEU intend to amend the Sponsorship Agreement to provide that Ontario is the sole representative of employers under the Plan and OPSEU is the sole representative of Plan members for the purposes of s. 3.1(1)3 and 4 of the PBA Regulation.

3. **OPTrust Select Employers Will Agree that Ontario is their Representative through Participation Agreements:** As a precondition of participation in OPTrust Select, each employer who wishes to participate will enter into a Participation Agreement with the Trustees, containing certain set terms.

   The draft template Participation Agreement for OPTrust Select contains full disclosure regarding the governance structure of the Plan and the implications of JSPP status.

Among other things, each employer will be required to agree and acknowledge as follows:

- the Plan is a jointly sponsored pension plan for purposes of the PBA and the PBA Regulation;
- for purposes of s. 3.1(1)3 and 4 of the PBA Regulation, Ontario is the sole representative of employers who participate in the Plan (including OPTrust Select Employers) and OPSEU is the sole representative of members (including OPTrust Select Members);
- the Sponsors have the exclusive authority and discretion to
    - determine the terms and conditions of the Plan and amend the Plan, including amending member and employer contribution rates and member benefits in accordance with applicable law;
    - appoint and remove the Trustees; …

4. **Unions Representing OPTrust Select Members Will Acknowledge that OPSEU Is the Representative of OPTrust Select Members for Purpose of the Plan:** In addition to agreeing to the foregoing, any participating employer in OPTrust Select will also be required to
    - Disclose whether a union represents any employees that will be eligible to participate in OPTrust Select (whether at the time of signing the Participation Agreement or at any time subsequently);
    - Make disclosure to any union representing the employer's employees of the relevant Plan documents; and
    - As a condition of participation, submit a certificate from the union making the same acknowledgements regarding the governance and JSPP status of the Plan as are made by the employer in the Participation Agreement. In other words, each union representing employees who participate in OPTrust Select will acknowledge that OPSEU is the sole representative of members (including employees represented by such union) for purposes of s. 3.1(1) of the PBA Regulation. If a union does not provide the certificate, the employer will not be permitted to participate in OPTrust Select.
5. **Unrepresented Employees Will Receive Detailed Disclosure of Governance Structure and Implications of JSPP Status:** The Trustees propose to prepare disclosure of the same information to all employees who will be eligible to participate in OPTrust Select upon the Participation Agreement being signed. Each Participation Agreement will include a representation by the employer that "the Employer has provided its Employees with all of the employee communications and other information about the Plan provided to it by the Trustees and has provided time during business hours, or will do so on or before the Plan Participation Date, for all Employees who are eligible for Plan membership to review the communications and to meet with employees of the

Trustees to ask any questions they may have about OPTrust Select and their rights and obligations thereunder." Furthermore, for non-union members, an acknowledgement of representation by OPSEU into enrolment forms can be inserted.

6. **OPTrust Select Employers Will Have Right to Withdraw:** Employers will be permitted to withdraw from participation in OPTrust Select upon one year's notice to the Trustees for any reason. That is, if an employer dissatisfied with OPTrust Select, it may discontinue participation.