A - OPSEU Pension Plan (Plan text).pdf

PLAN TEXT

ONTARIO PUBLIC SERVICE EMPLOYEES UNION PENSION PLAN

CONTENTS

ARTICLE I
INTRODUCTION

The *Public Service Superannuation Act* was enacted in 1920 to provide pension benefits for public service employees. The Plan was contributory with the employer matching employee contributions into the Plan fund.

The *Superannuation Adjustment Benefits Act* was enacted in 1976 to provide automatic escalation to contributors to the Public Service Superannuation Fund. It was separate from the *Public Service Superannuation Act* and yet was administered jointly as a benefit under the *Public Service Superannuation Act*. It was contributory with both employees and employer making equal contributions. It was funded on a partial pay-as-you-go.

On December 31, 1989, the Province of Ontario enacted *The Public Service Pension Act*, governing the pension plans for civil servants of the Province. The *Public Service Pension Act* repealed the *Public Service Superannuation Act*, as amended, and the pension plan which had been established thereunder was continued under the new legislation. Inflation protection under the *Superannuation Adjustment Benefits Act* was incorporated directly into the new pension legislation. Effective January 1, 1990, all of the assets and liabilities of the Public Service Superannuation Fund and of the Public Service Superannuation Adjustment Fund maintained in the Consolidated Revenue Fund were transferred to the Public Service Pension Plan.

Pursuant to a Sponsorship Agreement dated April 18, 1994, the Crown in right of Ontario and the Ontario Public Service Employees Union agreed to establish a separate pension plan for members of the public service pension plan who are members of OPSEU and certain other designated bargaining units. Pursuant to the Sponsorship Agreement, assets and liabilities in respect of members of the Public Service Pension Plan who became members of the OPSEU pension plan were transferred from the Public Service Pension Plan to the Plan.

ARTICLE 2
DEFINITIONS

In this document,

"actuary" means the person or firm appointed as such from time to time by the Board and who is, or one of whose employees is, a Fellow of the Canadian Institute of Actuaries;

"annual salary rate" means the hourly, weekly or other rate at which a person's salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

"average annual salary" means the average of the member's annual salary rate in each month of the period of sixty consecutive months of membership in the Plan that produces the highest average, but if the member does not have a period of sixty consecutive months of membership in the Plan, "average annual salary" means the average of the member's annual salary rate in each month of the member's longest period of consecutive months of membership in the Plan;

"average year's maximum pensionable earnings", with respect to any member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member ceases to be a member of the Plan and for each of the two preceding years;

"Board" means the Board of Trustees established by the Trust Agreement;

"Board actuary" means an actuary employed or engaged by the Board;

"business day" means a day, other than a Saturday or Sunday, on which banks in Ontario are generally open for the transaction of normal banking business;

"child" has the same meaning as in the *Family Law Act* (Ontario);

"commuted value" means the present value of a pension benefit determined on the basis of assumptions adopted by the Board on the advice of the actuary and which conforms to the requirements of the *Pension Benefits Act* and the *Income Tax Act* (Canada);

"continuous", in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

"credit", when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member's employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member's employment for which contributions are made to the Fund and:

(a) credit shall include periods of service purchased by a member in accordance with section 7.4 or pursuant to a reciprocal arrangement; and

(b) for persons who were members of the Plan on January 1, 1993, credit shall include the period of time for which contributions were made to the PSPF or a predecessor plan, provided such contributions have been transferred to the Fund;

"Crown" means the Crown in right of Ontario;

"Crown Agency" means an agency of the Crown that employs Crown Employees;

"Crown Employee" has the same meaning as set out in the *Crown Employees Collective Bargaining Act*, 1993, S.O. 1993, c.38;

"employee" means a person who is employed by an employer referred to in section 3.1, 3.2 or 3.3;

"employer" means the employer of a member;

"Factor 80 benefits" means the early retirement benefits described under Article 17 of this Plan;

"former member" means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

(a) is entitled, either immediately or at a future time, to payment of a pension benefit under the Plan, or

(b) is entitled to receive any other payment under the Plan;

"Fund" means the OPSEU Pension Fund;

"illness" means a physical or mental impairment that prevents an individual from performing the duties of employment in which the individual was engaged before the onset of the impairment;

"member" means a person,

(a) who is required to join the Plan, or

(b) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

"OPSEU" means the Ontario Public Service Employees Union;

"OPSEU Pension Act" means the *Ontario Public Service Employees' Union Pension Act*;

"payment date" means the last business day in each month;

"pension" means a pension benefit that is being paid to a person under the Plan;

"pension benefit" means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

"Pension Benefits Act" means the Pension Benefits Act, R.S.O. 1990 and the regulations thereto, as amended from time to time;

"Plan" means the OPSEU Pension Plan set out in this document;

"Plan Year" means the calendar year;

"PSPF" means the Public Service Pension Fund of the Public Service Pension Plan under the *Public Service Pension Act*;

"PSPP" means the Public Service Pension Plan under the *Public Service Pension Act*;

"salary", in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member's salary;

"sponsors" means the Crown and OPSEU, and the singular refers to either;

"Sponsorship Agreement" means the agreement dated April 18, 1994, between the Crown and OPSEU, providing for the establishment of the Plan;

"spouse" means either of a man and woman who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act* (Ontario), of a child;

"totally and permanently disabled" means, in relation to an individual, suffering from a physical or mental impairment that prevents the individual from engaging in any employment for which the individual is reasonably suited by virtue of his or her education, training or experience and that can reasonably be expected to last for the remainder of the individual's lifetime.

"Transferred Initial Unfunded Liability" means that portion of the initial unfunded liability determined under section 10 of the *Public Service Pension Act* which is transferred to the Fund pursuant to the Sponsorship Agreement;

"Trust Agreement" means the agreement made October 25, 1994 between the Crown and OPSEU.

ARTICLE 3
PLAN MEMBERSHIP

3.1 Mandatory Membership

The following persons who have not attained sixty-five years of age shall become members of the Plan the later of January 1, 1993 and the date of the person's commencement of employment in accordance with this subsection:

(a) Persons who are civil servants within the meaning of the *Public Service Act* and who are employed in a designated bargaining unit represented by OPSEU.

(b) Persons in a bargaining unit that is represented by OPSEU who are employed by any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that was designated by order of the Lieutenant Governor in Council as one whose employees in that class were required to be members of the PSPP at any time up to and including December 31, 1992 or in a class that would have been required to be members of the PSPP at any time up to and including December 31, 1994, had the OPSEU Plan not been created and established.

(c) Persons who are Crown Employees and employed in a bargaining unit represented by OPSEU, if the sponsors have agreed in writing that such employees shall become members of the Plan.

(d) Persons who are employed by the Toronto Area Transit Operating Authority, and in a bargaining unit represented by the Amalgamated Transit Union ("ATU") Local 1587.

(e) Persons who are employed by the Liquor Control Board of Ontario, (or the Liquor Licence Board of Ontario), and in a bargaining unit represented by the Ontario Liquor Board Employees Union ("OLBEU").

(f) Persons who are employed by housing authorities created pursuant to the Housing Development Act, and in a bargaining unit represented by CUPE Local 3096.

(g) Persons who are employees of the Board, whether or not such persons are employed in a bargaining unit represented by OPSEU.

3.2 Elective Membership

Persons to whom section 3.1 does not apply, who are employed,

(a) by the Crown under the *Public Service Act*;

(b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class were members of the PSPP at any time up to and including December 31, 1992 or would have been members of the PSPP between January 1, 1993 and December 31, 1994, had the OPSEU Plan not been created and established;

(c) as Crown Employees if the sponsors have agreed in writing that such employees shall become members of the Plan; or

(d) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are required by any Act to be members of the PSPP,

in a bargaining unit that was represented on January 1, 1993 or at any time thereafter by OPSEU are entitled to become members of the Plan upon filing with the Board a written election to be a member. Persons who otherwise are eligible to become members of the Plan pursuant to this section 3.2 and who had elected to become members of the PSPP prior to January 1, 1993 are members of the Plan effective January 1, 1993.

3.3 Future Membership

(1) Except as provided in subsection (4), (5) and (6), in the event that OPSEU acquires bargaining rights in any manner with respect to any Crown

Employees and OPSEU or the Crown Agency which employs such employees requests in writing that it become an employer in the Plan, the sponsors may agree in writing to such employees becoming members of the Plan.

(2) Where a request is made under subsection (1), the Crown shall exercise its discretion to agree or not to agree, acting reasonably, after considering the following factors:

(a) the financial position of the Crown Agency and its capacity to meet contribution obligations;

(b) the adequacy of information regarding the proposed new Plan members and the liabilities associated with them;

(c) the adequacy of existing pension arrangements for the prospective Plan members;

(d) the willingness of the Crown Agency to co-operate with the Board in meeting its employer obligations under the Plan;

(e) the willingness of the Crown Agency to execute a participation agreement in a form set by the Board;

(f) the extent to which the the Crown Agency is or is not controlled by the Crown through legislation or agreement; and

(g) whether pension benefits are covered by the collective agreement between OPSEU and the employer of the Crown Employees or whether they would be covered by a collective agreement if the Crown agrees to the Crown Employees becoming members of the Plan.

(3) If the Crown does not agree to the Crown Employees becoming members of the Plan, after consideration of the factors in subsection (2) of this section 3.3, the Crown shall respond to OPSEU and the Crown Agency, in writing, setting out its reasons in relation to the factors.

(4) Despite subsection (1), in the event that OPSEU acquires bargaining rights with respect to any Crown Employees that are employed in a Crown Agency that is created after January 1, 1995 and such Agency is a successor employer to the Crown or Crown Agency within the meaning of the *Labour Relations Act*, as modified by Section 10 of the *Crown Employees Collective Bargaining Act, 1993*, S.O. 1993, c.38, and the Crown Employees were members of the Plan immediately prior to the creation of such Crown Agency, OPSEU may notify the Crown that the employees in the bargaining unit shall continue as members of the Plan as of the date specified, and:

(a) the Crown shall cause the Crown Agency to execute a participation agreement in a form set by the Board; and

(b) the Board shall cause the employees to become members of the Plan as of the specified date.

(5) Despite subsection (1), in the event that OPSEU acquires bargaining rights with respect to any employees that are employed by an employer within the meaning of the PSPP, OPSEU may notify the Crown that the employees in that bargaining unit shall become members of the Plan as of the date specified by OPSEU, and:

(a) the Crown shall cause the employees to cease being members of the PSPP as of the specified date; and

(b) the Board shall cause the employees to become members of the Plan as of the specified date.

(6) Despite subsection (1), in the event that OPSEU has bargaining rights with respect to employees of an organization that is not a Crown Agency and such organization is a successor employer to the Crown or a Crown Agency within the meaning of the *Labour Relations Act*, as modified by section 10 of the *Crown Employees Collective Bargaining Act, 1993* and the employees were members of the Plan immediately prior to their transfer to the successor employer and the transfer to the successor employer occurred on or after January 1, 1995, OPSEU may notify the Crown that the employees in the bargaining unit shall continue as members of the OPSEU Plan until the expiry of the Collective Agreement which governed such employees as employees of the Crown or Crown Agency or the substitution of a new Collective Agreement between the successor employer and OPSEU, whichever occurs first, and:

(a) the Crown shall use its best effort to have the successor employer execute a participation agreement in a form set by the Board for a period which shall terminate on the expiry or substitution of the Collective Agreement or on the date which is agreed to by OPSEU and the successor employer, whichever occurs first; and

(b) the Board shall cause the employees to cease being members of the Plan on the expiry or substitution of the Collective Agreement or on the date which is agreed to by OPSEU and the successor employer, whichever occurs first.

(7) In the event that CUPE Local 3096, the ATU or the OLBEU acquire bargaining rights with respect to Housing Authorities established under the *Housing Development Act*, The Toronto Area Transit Operating Authority, the Liquor Control Board of Ontario respectively, they may request membership in the Plan for the affected employees as of a specified date and if the sponsors agree in writing, then:

(a) the Crown shall cause the employees to cease being members of the PSPP as of the specified date, if the employees were members of the PSPP; and

(b) the Board shall cause the employees to become members of the OPSEU Plan as of the specified date:

(8) In the event that a bargaining unit consisting of 50 or more members of the Plan commences participation in the PSPP, whether by cessation of representation by a bargaining agent or otherwise, any transfer of assets from the Plan to the PSPP in respect of such transferring members shall be made in accordance with the *Pension Benefits Act*, provided, however, that any such transfer shall be exempt from the application of subsection 19(7) of the Regulations to the *Pension Benefits Act*.

(9) Subject only to subsection (8), all transfers of assets from the Plan, whether to another pension plan as a result of cessation of participation in the Plan, or by reason of the termination, death or retirement of a member or members of the Plan, shall be made in accordance with the *Pension Benefits Act*.

3.4 Termination of Membership

A member ceases to be a member of the Plan upon termination by death or otherwise of the employment or circumstances that required or entitled him or her to be a member of the Plan or upon attaining the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act (Canada)* and regulations made thereunder for the registration under that Act of a pension fund or plan.

3.5 Termination of Membership for Terminally Ill Employees

Despite sections 3.1 and 3.2, a member may cease to be a member of the Plan upon satisfying the Board, on the basis of medical evidence presented, that he or she has a life expectancy of less than twenty-four months.

3.6 Persons Not Entitled to be Members

A person is not entitled to be a member of the Plan if the person has attained the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act (Canada)* and regulations made thereunder for the registration under that Act of a pension fund or plan.

ARTICLE 4
CONTRIBUTIONS

4.1 Contributions to and Payments From Fund

Contributions required to be made under this Plan by an employer or by any member, including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.

4.2 Contributions by Members

Subject to sections 4.3 and 4.6, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

(a) 8 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

(b) 6.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

4.3 Contributions by Members From April 1, 1994 to March 31, 1997

Notwithstanding section 4.2, subject to section 4.6, for the period from April 1, 1994 to March 31, 1997 every member shall contribute to the Fund from the salary paid to the member for the calendar year,

(a) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

(b) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

4.4 Deduction of Contributions

The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.

4.5 When No Contribution Required

A member may cease to contribute to the Fund on or after attaining sixty-five years of age.

4.6 Contributions by Employer

Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of section 4.3, in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs.

4.7 Contributions by Employer from April 1, 1994 to March 31, 1995

For the purposes of section 4.6 and subject to section 4.8, during the period from April 1, 1994 to March 31, 1995, the aggregate amount of all contributions deducted from members referred to in section 4.6 shall be computed pursuant to section 4.3.

4.8 Threshold Salary Rate

(1) In this section, the threshold salary rate for the year is the annual salary rate which if,

(a) the member had attained age 65 and qualified for a pension, and

(b) the member's average annual salary equalled the threshold salary rate, and

(c) the member's average year's maximum pensionable earnings was the *Year's Maximum Pensionable Earnings under the Canada Pension Plan*,

then the pension computed under subsection 10.9(1), less the reduction under subsection 10.9(4), would equal the defined benefit limit for the year as defined in Part LXXXV of the Regulations under the *Income Tax Act* (Canada).

(2) Despite section 4.6, when a member's salary rate in any pay period commencing with the first pay date in January, 1995, exceeds the threshold salary rate for the year, the employer's contribution under section 4.6 shall be reduced by two times the member's contribution under section 4.2, and under 4.3 where applicable, on the salary rate exceeding the threshold salary rate for the year.

(3) The Board shall make a payment from the Fund to the Minister of Finance for Ontario of an amount which in the opinion of the Board, is a reasonable estimate of the sum total of contributions made to the Fund in the years 1993 and 1994 by employers under the Plan that would not have been made if the contribution reduction under subsection (2) of this section 4.8 has been in effect commencing with the month of January, 1993.

4.9 Special Funds

If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Board for the purpose.

ARTICLE 5
INTEREST

5.1 Interest on Member Contributions

Interest on members' accumulated contributions, including interest previously credited to the member, shall be credited, as to the frequency and rate of interest, as determined by the Board from time to time, provided that, in any event, such interest shall be calculated not less frequently and at a rate not less than as prescribed by the *Pension Benefits Act*.

5.2 Interest on Lump Sum Payments

Interest on a lump sum amount due as a result of the termination, retirement or death of a member shall accrue at the rate used in section 5.1 from the date the lump sum payment is due until the beginning of the month payment is made from the Fund.

5.3 Interest on Transfer Amounts

In the event that an election is made pursuant to section 10.8, interest shall accrue on the commuted value of the pension from the date of termination or death, as applicable, to the beginning of the month of payment at a rate of interest determined by the Board from time to time, provided that, in any event, such interest shall be calculated at a rate not less than as prescribed by the *Pension Benefits Act*.

ARTICLE 6
FUNDING

6.1 Interim Funding

(1) For the period beginning on April 1, 1994 and ending with March 31, 1997, no payment shall be made by any employer to the Fund with respect to any of the following disclosed by a going concern or a solvency valuation of the Plan made at any time after December 31, 1992:

(a) any going concern unfunded liability, including the additional unfunded liability for the benefits referred to subsection (6).

(b) any actuarial loss.

(c) any solvency deficiency.

(2) Employer contributions, special payments or any other payments required to be made by an employer to the Fund by any statute or otherwise at law shall be reduced for the period April 1, 1994 to March 31, 1997 pursuant

to and in accordance with subsections 15(2) and 15(3) of the *OPSEU Pension Act*.

(3) Member contributions shall be reduced for the period April 1, 1994 to March 31, 1997 in accordance with section 4.3.

(4) Employer contributions shall be reduced for the period April 1, 1994 to March 31, 1995 in accordance with section 4.7.

(5) The total amount of reductions set out in subsection (2) shall be applied:

(a) first, to eliminate the special payments otherwise payable by an employer for that period;

(b) second, to reduce the employer contributions otherwise payable for that period after the application of section 4.7;

(c) third, to reduce any other payment by an employer to the Fund otherwise payable for that period;

(6) The cost of Factor 80 benefits shall be borne by the Fund from June 1, *1993, to and including March 31, 2000.*

6.2 Future Funding

Subject to Section 18 of the *OPSEU Pension Act* regarding the application of actuarial gains and losses, from April 1, 1997 forward, the Plan shall be funded in accordance with the *Pension Benefits Act*, the *Income Tax Act* (Canada) and such other legislation as may be applicable to the Plan from time to time.

6.3 Actuarial Gains and Losses

(1) Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the reductions in employer and member contributions, special payments or any other payments described in section 6.1 (the "Interim Funding Reductions") such net actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997, will be applied to reduce the remaining amount of the Transferred Initial Unfunded Liability as of March 31, 1997. The Crown's special contribution requirements will be restated over the period April 1, 1997 through December 1, 2029, in order to liquidate the resulting balance of the Transferred Initial Unfunded Liability over that period.

(2) Any net actuarial losses remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the Interim Funding Reductions, such net actuarial losses to be accumulated with interest at the valuation rate of interest to March 31, 1997, will be liquidated through future additional contributions from employers and the members as collectively bargained by the Crown and OPSEU.

(3) Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the Interim Funding Reductions and the effect of subsection 6.3(1) and any actuarial gains disclosed under an actuarial valuation prepared as of December 31, 1996, all such actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997, and any actuarial gains disclosed under an actuarial valuation prepared as of a date after March 31, 1997, will be utilized in the following order:

(a) until the Transferred Initial Unfunded Liability is fully liquidated:

(i) 50% of the gain shall be used to reduce the remaining Transferred Initial Unfunded Liability and the period of amortization over which the Transferred Initial Unfunded Liability is to be fully liquidated shall be adjusted to reflect the reduction; and

(ii) 50% of the gain shall be used for the benefit of Plan members;

(b) after the Transferred Initial Unfunded Liability is fully liquidated, 100% of the remaining gains shall be used for the benefit of the Plan members subject to the *Pension Benefits Act* until the aggregate gains so utilized equal the amount utilized under subsection 6.3(1);

(c) thereafter, the remaining gains shall be used equally for the benefit of employers and OPSEU subject to the following:

(i) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of employers, to be applied against any special payments required to be made by any employers and thereafter to reduce employers' normal costs; and

(ii) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of Plan members.

(4) Subject to the *Income Tax Act* (Canada) and the regulations thereto, actuarial gains may be used to establish rate stabilization funds. Actuarial gains for the benefit of Plan members under subsection 6.3(3) may be used to establish a rate stabilization fund for the benefit of the Plan members. Actuarial gains for the benefit of employers under clause 6.3(3)(c)(i) may be used to establish a rate stabilization fund for the benefit of employers.

(5) In the event of any actuarial loss or solvency deficiency, contributions by members and employers shall be increased in equal amounts to liquidate the actuarial loss or solvency deficiency in accordance with the *Pension Benefits Act*. The contribution increase will be automatic, and effective as of the first day of January of the year after the actuarial valuation is filed, or such earlier date as may be required by the *Pension Benefits Act*; provided that no contribution increase will be provided for any actuarial

loss or solvency deficiency prior to April 1, 1997, and provided further that the members and employers may provide for their payments in respect of such actuarial loss or solvency deficiency from their rate stabilization funds, at their option.

6.4 Surplus

No surplus shall be paid out of the Fund to any employer.

ARTICLE 7
LEAVES OF ABSENCE

7.1 Leave of Absence With Pay

If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2 or 4.3.

7.2 Leave of Absence Without Pay

(1) If a member is granted a leave of absence from employment for more than one month and receives no salary during the leave and does not elect to make contributions to the Fund during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless the member contributes to the Fund in accordance with section 7.4.

(2) A member who is granted a leave of absence of more than one month without pay because of illness, pregnancy or the adoption of a child may elect to make contributions to the Fund during the leave, in which case the member shall contribute an amount equal to the amount the member would have contributed if the leave had not been granted.

(3) A member who is granted a leave of absence of more than one month without pay for special or educational purposes may elect to make contributions to the Fund during the leave, in which case the member shall contribute twice the amount the member would have contributed to the Fund if the leave had not been granted.

(4) In calculating the amount a member is required to contribute under subsections (2) and (3), the amount shall be based on the annual salary of the member immediately prior to the commencement of the leave of absence.

(5) In determining contributions to be made under this section, the annual salary rate on which contributions under this section are based shall be increased in each year subsequent to the year in which the leave of absence commenced by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation.

(6) If a member is granted a leave of absence from employment for less than one month and receives no salary during the leave, the member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with sections 4.2 and 4.3, an amount equal to the amount the member would have contributed if the leave had not been granted.

(7) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member.

(8) Subject to subsection (9), the combined credit obtained by a member with respect to periods after 1990 under subsections (2) and (3), clauses 7.4(1)(e) and (f) and section 12 shall not exceed a total of five years.

(9) Where a member is granted a leave of absence for pregnancy or the adoption of a child, the five year limit on the member's combined credit specified in subsection (8) shall be increased by the total of such periods of leave, or by three years, whichever is less.

7.3 Disability

(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the *Public Service Act*, to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.

(2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (7), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.

(3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with Article 4 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.

(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with Article 4 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

(5) In determining contributions to be made under this section, the annual salary rate on which contributions under this section are based shall be increased in each year subsequent to the year the disability was incurred by the same percentage as that by which an adjusted pension is increased in that year under Article 11 to adjust for inflation.

(6) In applying Article 11 to calculate the increase of the annual salary rate of a member in accordance with subsection (5), the value of the variable E in the formulas mentioned in Article 11 is the number of full months in the year when the member ceased employment as a result of a disability that are in the period beginning with the effective date of the last salary increase received by the member before the cessation of employment and ending with the 31st day of December in the year when the member ceased employment as a result of a disability.

(7) Subsections (2), (3), (4), (5) and (6) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member or attains sixty-five years of age, whichever first occurs.

(8) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

(9) The annual salary rate on which contributions pursuant to subsection (2) are based shall be included in the computation of the average annual salary of a member.

7.4 Purchase of Prior Service

(1) On such terms and conditions as are fixed by the Board and provided that credit shall not be purchased in respect of any period of time for which credit in the Plan has been previously purchased or otherwise provided, a member may purchase credit in the Plan,

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is approved by the Board;

(b) for a period of service with an employer who contributed to the Fund or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

(c) for a period of employment prior to January 1, 1992 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,

(i) the member has credit for that period of employment in a pension plan that was a registered pension plan under the *Income Tax Act* (Canada) and was provided by the person to employees, and

(ii) the member's credit in the plan referred to in subclause (i) is reduced by the period for which credit is purchased in the Plan, and a payment is made to the Fund by the plan referred to in subclause (i) of the amount that represents the member's entitlement in that plan for the period for which credit is purchased in the Plan;

(d) for a period of employment after December 31, 1991 with a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member became a member and if,

(i) the member has or had credit for that period of employment in a pension plan that is or was a plan registered under the *Income Tax Act* (Canada) and was provided by the person to employees,

(ii) the member ceased to be a member of the plan referred to in subclause (i), and

(iii) any approval required by Her Majesty in right of Canada for the purchase of credit in the Plan has been obtained;

(e) for a leave of absence without pay for more than one month for special or educational purposes; or

(f) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.

(2) To purchase credit referred to in clause (1)(c) or (d), a member shall pay to the Fund the amount determined by the Board on the recommendation of the Board actuary to be equal to the actuarial value of the additional expected benefits to which the member will become entitled because of obtaining the credit, less the amount transferred from the plan referred to in subsection 1(c).

(3) To purchase the credit referred to in clause (1)(b) or (f), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) the following contribution rate:

(i) for periods of prior service between April 1, 1994 and March 31, 1997, the contribution rate in effect during that period; and

(ii) for periods of prior service between January 1, 1990 and March 31, 1994 and for any period of prior service after March 31, 1997, the contribution rate specified in section 4.2, provided that section 4.3 and section 4.6 shall not be applicable; and

(iii) for service prior to January 1, 1990, as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

(c) the length in years of the period of prior service for which credit is purchased.

(4) Despite subsection (3), if any payment has been made from the Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1)(b), and if the total amount paid, including interest thereon at such rate as the Board determines, exceeds the amount determined under subsection (3) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount.

(5) To purchase credit referred to in clause (1)(a) or (e), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) twice the following contribution rate:

(i) for periods of prior service between April 1, 1994 and March 31, 1997, the contribution rate in effect during that period; and

(ii) for periods of prior service between January 1, 1990 and March 31, 1994 and for any period of prior service after March 31, 1997, the contribution rate specified in section 4.2, provided that section 4.3 and section 4.6 shall not be applicable; and

(iii) for service prior to January 1, 1990, as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

(c) the length in years of the period of prior service for which credit is purchased.

(6) Any credit referred to in subsection (1) may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

(a) the earlier of the day on which the member for whom credit is to be purchased became a member of the Plan or the PSPP; and

(b) the last day of the most recent continuous period for which credit is being purchased.

(7) If the amount payable by a member to purchase credit under this section exceeds $500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.

(8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (5) or Article 15.

(9) The period for which a member may purchase credit under this section is limited to that permitted in the *Income Tax Act* (Canada) and the Regulations.

(10) Credit for service prior to 1992 given after 1991 pursuant to this section is limited to a maximum of two years of accumulated credit for leaves of absence for special or educational purposes.

7.5 Contribution, salary and service record

The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

ARTICLE 8
TERMINATION AND DEATH BENEFITS

8.1 Refunds Before Twenty-Four Months' Membership

A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of sections 8.9 and 8.10, as the case requires.

8.2 Refund Before Ten Years' Membership

A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by section 8.9.

8.3 Refund Before Age Forty-five

A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by section 8.9 if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

8.4 Refund After Age Sixty-five

(1) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of section 8.9 and 8.10, as the case requires, and to the payment provided by section 8.11.

(2) A member who has attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by section 8.9 and to the payment provided by section 8.11.

8.5 Refund on Death Where No Survivor

(1) When the cessation of membership referred to in section 8.1, 8.2 or 8.4 occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those sections, but not a payment described in section 8.11, shall be paid to a person designated by the member in accordance with this section or, if no such refund recipient is designated, to the member's estate.

(2) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund provided by section 8.9 shall be paid to a person designated by the member in accordance with this Article 8 or, if no such refund recipient is designated, to the member's estate.

8.6 Refund on Death to Survivor

Despite sections 8.1, 8.2 and 8.4, if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

(a) if the death is a cessation of membership referred to in sections 8.1 or 8.4(1), to the refund provided by either or both of sections 8.9 or 8.10 and to the payment provided by section 8.11; or

(b) if the death is a cessation of membership referred to in section 8.2 or 8.4(2), to the refund provided by section 8.9 and to the payment provided by section 8.11.

8.7 Refund When Contributions Exceed Pension

(1) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member to the date of payment under Article 5 exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to a person designated by the member in accordance with this section or, if no such payment recipient is designated, to the former member's estate.

(2) Despite subsection (1), if a former member who is in receipt of a pension dies and is survived by a child or children under eighteen years of age or by a spouse from whom the former member is not living separate and apart, and if none of them is entitled to a survivor pension under the Plan as a result of the death of the former member, the amount, if any, by which the aggregate of such of the amounts mentioned in sections 8.9 and 8.10 as are applicable and of the additional amount mentioned in section 8.11 exceeds the total payments made from the Fund to the former member shall be paid to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the former member under eighteen years of age at the former member's death.

8.8 Refund for Disabled Member

Despite sections 8.1, 8.2 and 8.4, a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of an illness which the Board finds to have caused him or her to be totally and permanently disabled is entitled, upon application to the Board, to be paid from the Fund the amount, if any, by which,

(a) the aggregate of such of the amounts mentioned in sections 8.9 and 8.10 as are applicable and of the additional amount mentioned in section 8.11,

exceeds,

(b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under section 8.12.

8.9 Pre-1987 Service Refund

A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to a predecessor fund by the member, or on behalf of the member pursuant to section 21(2) of the *Public Service Superannuation Act* or section 10(2) of the PSPP, in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund or a predecessor fund to the member.

8.10 Post-1986 Service Refund

A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor fund by a member, or on behalf of the member pursuant to section 21(2) of the *Public Service Superannuation Act*, section 10(2) of the PSPP or subsection 7.3(2) of the Plan, in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited in the Fund or the predecessor fund to the member.

8.11 Additional Payment

A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

(a) the amount of a refund to which the person is also entitled under either or both of sections 8.9 and 8.10,

less

(b) any portion of the amount of the refund that is attributable to a payment made by the person under subsections 7.4(2) or 7.4(5) or Article 15 and interest credited to the member in respect thereof.

8.12 50 Per Cent Rule

The amount by which the total of the contributions, other than contributions made under subsections 7.4(2) or 7.4(5) or Article 15 of the Plan, or subsections 11(2) or 11(4) or section 36 of the PSPP, made to the Fund and any predecessor fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund or the predecessor fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsections 7.4(2) or 7.4(5) or Article 15 of the Plan, or subsections 11(2) or 11(4) or section 36 of the PSPP, in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member, shall be refunded to the former member.

8.13 Excess Past Service Payments Refunded

The amount by which the total of the payment to the Fund and any predecessor fund made under subsections 7.4(2) or 7.4(5) or Article 15 of the Plan, or subsections 11(2) or 11(4) or section 36 of the PSPP, and the interest credited to the member on that payment in accordance with the *Pension Benefits Act* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to transfer under subsection 10.8(1) shall be refunded to the former member.

8.14 Lump Sum Payments

A payment or refund to be made under this section shall be paid in a lump sum payment.

8.15 Credit Reduced

A refund made under this section, other than sections 8.12 and 8.13, reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated.

8.16 Child

For the purpose of sections 8.5, 8.6 and 8.7, a child shall be deemed not to have attained eighteen years of age if the child would, for the purpose of section 10.17, be deemed not to have attained that age.

8.17 Return of Unauthorized Contributions

Where in the opinion of the Board, a payment made to the Fund by a person in purported reliance on Articles 4 or 7 is found to have been made without proper authority, the Board shall return to the person the unauthorized payment, together with interest as if the unauthorized payment were a refund under sections 8.9 or 8.10, as the case may be.

8.18 Designation of Recipient

The designation by a member of a refund or payment recipient for the purposes of this section shall be made and delivered to the Board in such form and manner as the Board may require.

8.19 Same Sex Spouse Plan

No payment or amount of pension equivalent to a survivor pension shall be paid to a child under subsection 8.7(2), subsection 10.13(6), clause 10.17(1)(b) or section 19.9 as long as the former member has a same sex spouse as defined in the Public Service Same Sex Spouse Plan, entitled to a Supplementary Benefit under that plan.

ARTICLE 9
DISABILITY BENEFITS

9.1 Disability pension

(1) Subject to subsection (2), where a member with ten or more years of credit or with ten or more years of continuous membership in the Plan applies to the Board and is found by the Board to be totally and permanently disabled, upon resigning from employment, the member is entitled to a disability pension under this section and calculated in accordance with Article 10.

(2) The Board may at any time review the case of any former member to whom a pension is being paid under this section and,

(a) if the former member applied for the disability pension after December 31, 1991 and, in the opinion of the Board, is no longer totally and permanently disabled, the payment of the disability pension shall cease; or

(b) if the former member applied for the disability pension before January 1, 1992 and has, in the opinion of the Board, recovered sufficiently to perform his or her duties, or to perform other duties in the public service, the Board shall report the case to the former employer of the member or to such person designated by the former employer of the member, and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, whereupon the former member shall be considered for re-employment and, in the event re-employment is offered, payment of the disability pension shall cease whether or not the offer of re-employment is accepted.

9.2 Other Pension Entitlement Not Affected

The termination of the payment of a pension under this section in accordance with clause 9.1(2)(b) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan.

ARTICLE 10
RETIREMENT AND OTHER VESTED BENEFITS

10.1 Pension at Age Sixty-five

Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

10.2 Pension at Age Sixty

Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.

10.3 Ninety-year Rule

Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.

10.4 Commencement of Pension

Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.

10.5 Deferred pension

(1) Every member who has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, who ceases to be a member, and who is neither in receipt of a pension provided for in Article 9 nor entitled to a pension provided for in sections 10.1, 10.2 or 10.3 is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.

10.6 Pre-1966 Credit

(1) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in Article 9 nor entitled to a

pension provided for in sections 10.1, 10.2 or 10.3, is entitled to a pension computed in accordance with the Plan.

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty years of age, or if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 10.9, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

10.7 Revocation of Election

An election made under subsection 10.5(2) or 10.6(2) may, with the approval of the Board, be revoked by the member or former member, and a new election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the new election is delivered to the Board nor earlier than is permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, and is not later than the latest month permitted by subsection 10.5(2) or 10.6(2), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

10.8 Transfer of Commuted Value of Pension

(1) A former member who is entitled to a pension under sections 10.5 or 10.6 and who has not attained fifty-five years of age in the case of a pension mentioned in section 10.5 or has not attained fifty years of age in the case of a pension mentioned in section 10.6 may require the commuted value of the pension to be paid, subject to section 42 of the *Pension Benefits Act*,

(a) to the pension fund of another pension plan that agrees to accept the payment;

(b) into a retirement savings arrangement or other retirement vehicle prescribed under the *Pension Benefits Act*; or

(c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in section 10.5, or fifty years of age, if the pension the commuted value of which is paid is mentioned in section 10.6, and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act*.

(2) Despite subsection (1) and subject to subsections (4), (5) and (7), the Board will pay the commuted value referred to in subsection (1) in a lump sum to a former member who applies to the Board for the payment and who is determined by the Board, on the basis of medical evidence presented, to have a life expectancy of less than twenty-four months.

(3) Subject to subsections (4) and (6), payment of amounts out of a retirement savings arrangement prescribed under the *Pension Benefits Act* into which the commuted value of the pension had been previously paid pursuant to subsection (1) will be permitted for any former member who applies to the financial institution that is the trustee of the registered savings arrangement for consent to the payment and who is found by the trustee, on the basis of medical evidence, to have a life expectancy of less than twenty-four months.

(4) Any payments under subsection (2) and (3) will be subject to the provisions of a domestic contract as defined in Part IV of the *Family Law Act* and to any order under Part I of that Act, to the extent permitted by the *Pension Benefits Act*.

(5) Where the former member had a spouse at the time of the application in subsection (2), no payment shall be made by the Board unless the person who was the spouse at the time of the application files with the Board a waiver of all further claims against the Plan, the Fund and the Board that is substantially the same as Form 4 under the *Pension Benefits Act*.

(6) Where the former member had designated the same person as the beneficiary under subsection 10.16(5) as the refund recipient under section 8.5 and as the payment recipient under subsection 8.7(1) of the Plan and those designations of that person are effective at the time of the application in subsection 10.8(2), no payment shall be made by the Board unless the person who was so designated files with the Board a waiver of all further claims against the Plan, the Fund and the Board.

(7) Where the former member had a spouse at the time of the application in subsection (3), no payment shall be made by the financial institution that is the trustee of the registered savings arrangement unless the person who was the spouse at the time of the application files with the trustee a waiver of all further claims against the trustee that is substantially the same as Form 4 under the *Pension Benefits Act*.

(8) Where the former member had designated the same person as the beneficiary under subsection 10.16(5) as the refund recipient under section 8.5 and as the payment recipient under subsection 8.7(1) of the Plan and those designations of that person are effective at the time of the application in subsection 10.8(3), no payment shall be made by the financial institution that is the trustee of the registered savings arrangement unless the person who was so designated files with the trustee a waiver of all further claims against the trustee.

(9) A payment under subsection (2) or (3) discharges and releases the Board, the Plan and the Fund or the financial institution as the case may be from all claims.

10.9 Computation of Pension

(1) Subject to section 10.1, subsection 10.5(1) and the other subsections of this section 10.9, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year.

(2) The credit used in computing the pension in subsection (1) shall not exceed thirty-five years with respect to service prior to 1992.

(3) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, and while the former member is not in receipt of a disability pension under the *Canada Pension Plan* shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (6), until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

(4) When a former member,

(a) who is in receipt of a pension attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of:

(c) 0.7 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

(d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

(5) The annual amount of every pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with

the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

(6) The annual amount of every pension provided for in subsection (3) shall, after computation in accordance with subsection (3), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (4), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

(7) If the annual amount of pension computed in accordance with subsection (1),

(a) less the reduction required by subsection (4) and, if applicable, subsection (6); and

(b) plus,

(i) the annual amount of any disability pension to the former member from the *Canada Pension Plan*, or

(ii) the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age,

other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

(c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and

(d) has attained sixty-five years of age or is receiving a disability pension under the *Canada Pension Plan*, is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (4) and, if applicable, subsection (6).

(8) There shall be excluded from the period of time mentioned in section 10.6 and subsections (3) and (7) any period of time for which a former member has credit in the Plan and for which the former member was employed by a person who did not, during or after that period of time, contribute to the Fund or a predecessor fund under the Plan or the *Public Service Superannuation Act*.

(9) Subsection (8) does not apply to a former member who established in accordance with subsection 14(8a) of the *Public Service Superannuation Act* as it read on the 31st day of December 1989, a date of commencement of service that is on or before the 31st day of December, 1965.

(10) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

1. Determine the present value of the pension payable to the former member and the spouse on the assumption that a survivor pension is payable to the spouse equal to one-half of the former member's pension computed in accordance with this section, other than this subsection, that the survivor pension is payable for the lifetime of the surviving spouse, and that, if the spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, no survivor pension is payable to the spouse.

2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 10.13(1).

3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

(11) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and,

(a) any part of a month that is less than fifteen days shall be disregarded; and

(b) any part of a month that is fifteen days or more shall be deemed to be a month.

10.10 Application for pension

The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof.

10.11 Payment of Pension

Unless otherwise expressly provided in this Plan, a pension,

(a) is payable in monthly instalments for life; and

(b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

10.12 Commutation of Pension

If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 10.9(5) and (6), is not more than,

(a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or

(b) such greater amount as is permitted by the *Pension Benefits Act*,

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

10.13 Pension to Surviving Spouse

(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies.

(2) If a survivor pension under subsection (1) or subsection 10.15(1) is payable as the result of the death of a former member before attaining sixty-five years of age and before the reduction of his or her pension in accordance with subsection 10.9(4), the annual amount of pension on which the survivor pension is based shall be reduced in accordance with that subsection as though the former member had attained sixty-five years of age immediately before his or her death.

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart,

(a) may elect that the spouse receive a survivor pension under subsection (1) of 50 per cent rather than 60 per cent if the member or former member and the spouse are not or were not living separate and apart when the member or former member ceases or ceased to be a member of the Plan; or

(b) may waive the spouse's entitlement to a survivor pension under subsection (1),

by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, containing the election or waiver.

(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

(5) The reduction required by subsection 10.9(10) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member.

(6)(a) When the spouse of a former member to whom a survivor pension is paid under this section, section 10.14 or 10.17 dies, or when a member or former member who has been predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, dies, an annual amount of pension equal to that survivor pension, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the person, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

(b) Subject to clause (c), where a member or former member dies, and the member or former member had no spouse who is entitled to a pension under this plan on the date of his or her death, and the former member was not predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, an annual amount of pension equal to 50 percent of the annual pension that the member or former member is or would be entitled to receive in the month when the former member died, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

(c) Where the member or former member died before attaining sixty-five years of age, the annual amount of pension on which the survivor pension in clause (b) is based shall be reduced in accordance with subsection 10.9(4) as though the former member had attained sixty-five years of age immediately before his or her death.

10.14 Increased Survivor Pension

(1) The amount of the survivor pension payable under section 10.13 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence.

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age.

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan.

(4) The annual amount of pension computed in accordance with section 10.9 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction, and the increased survivor pension shall be paid in lieu of that provided for in section 10.13.

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence.

10.15 Post-retirement Marriage

(1) Subject to subsection 10.13(2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 10.13, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 10.13 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death.

(2) A direction mentioned in subsection (1) must be delivered to the Board,

(a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or

(b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

10.16 Survivor Pension on Death Before Payment of Pension

(1) If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan,

(a) dies while a member of the Plan; or

(b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,

(c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;

(d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or

(e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

(a) a single lump sum payment equal to the commuted value payable under subsection (1); or

(b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

10.17 Survivor Pension For Pre-1987 Credit

(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to one-half of the member's or former member's pension computed in accordance with section 10.9 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or service before 1987 is payable,

(a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or

(b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

(2) Payment of a survivor pension under this section shall commence in the month following the month in which the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse.

(3) For the purpose of this section and subsection 10.13(6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of,

(a) a secondary school; or

(b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

ARTICLE 11
INFLATION ADJUSTMENT

11.1 Formulas

In the formulas in this section,

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year,

"D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

"E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

11.2 Definitions

In this section,

"accumulated adjustment ratio", for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

"adjustment ratio", for the pension of a person, means,

(a) for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,

(b) for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

"[(D - 1.000) x E / 12] + 1.000", and

(c) for the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the ratio determined by the formula "A + B" calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

(a) for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and

(b) for the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula "A + B - C";

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act (Canada)*;

"pension" for the purposes of this Article only means a pension to which a person is entitled from the Plan, other than the adjustment for inflation provided by this Article.

11.3 Payment of Inflation Adjustment

The annual amount of pension benefit payable to a person from the Fund shall, commencing with the year when payment of the pension benefit is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid.

ARTICLE 12
PRE-RETIREMENT PART-TIME EMPLOYMENT

12.1 Part-time Employee

A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in section 12.2 and gives the notice of election required by section 12.3.

12.2 Conditions

The conditions referred to in section 12.1 are,

(a) that the employee's part-time employment must be and continue to be,

(i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or

(ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by section 12.3 and before the employee's retirement on the date provided for in the notice;

(b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by section 12.3 and before receiving a pension under the Plan;

(c) that during the period of part-time employment specified by the employee in the notice given in accordance with section 12.3, contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and

(d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

12.3 Notice

A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating,

(a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;

(b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and

(c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

12.4 Contributions

Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in section 12.2,

(a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;

(b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and

(c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

12.5 Resumption of Full-time Employment

If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by section 12.3 and before receiving his or her pension, the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to section 12.4.

12.6 Refund of Contributions

Contributions to the Fund under this section in excess of those required after the application of section 12.5 shall be refunded to the person who paid them.

12.7 Public Service

In this section, "public service" has the same meaning as in the *Public Service Act.*

ARTICLE 13
RE-EMPLOYMENT

13.1 Reduction and Recomputation

(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

(a) three times the monthly salary paid to the former member in that period of three months; and

(b) the pension payable to the former member in that period of three months if this section were not applicable to the former member,

exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.

(2) If a former member referred to in subsection (1) becomes a member of the Plan, the pension of the former member shall cease to be paid as long as he or she remains a member.

(3) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan, and any pension payable on termination of the re-employment or engagement shall be recalculated to take into account the additional credit and any pension earlier received by the person.

13.2 Reduction Not to Apply

Despite subsection 13.1(1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides.

ARTICLE 14
ADMINISTRATION

14.1 Board

The Plan and the the Fund shall be administered by the Ontario Pension Board in accordance with Section 42 of the Sponsorship Agreement and thereafter by the Board. The duties, powers and responsibilities of the Board are as set out in the Trust Agreement made between the Crown and OPSEU on October 27, 1994.

14.2 Expenses

The expenses of the operation of the Board, the administration of the Plan and the administration and investment of the Fund shall be paid out of the Fund.

14.3 Information

(1) The Board shall provide each member and each eligible employee under the *Pension Benefits Act* with a written explanation of the terms and conditions of the Plan applicable to the member or eligible employee, together with an explanation of the rights and duties of the member or eligible employee with reference to the benefits available to the member or eligible employee under the terms of the Plan.

(2) The Board shall provide a notice of written explanation of an amendment to the Plan to each member, or any other person entitled to payment from the Fund, who is affected by the amendment, within the applicable time period prescribed under the *Pension Benefits Act*.

(3) The Board shall provide a written statement to each member containing the information prescribed under the *Pension Benefits Act* in respect of the member's benefits under the Plan.

(4) When a member of the Plan terminates employment or otherwise ceases to be a member, the Board shall give to the member or to any other person who becomes entitled to a benefit under the Fund, written statements setting out the information prescribed under the *Pension Benefits Act* in respect of the benefits of the member or other person.

(5) The Board shall make available for inspection by eligible individuals the documents and information concerning the Plan and the Fund as prescribed under the *Pension Benefits Act*.

ARTICLE 15
TRANSFERS

15.1 Transfer to Plan of Credit in Other Plans

If the Board enters into a written agreement with an employer to whom the Plan does not extend for the transfer to the Plan of credit for a person's service with that employer, the person shall, on becoming a member and requesting a transfer of credit to the Plan in accordance with the agreement, pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

15.2 Transfer to Other Plan of Credit in Plan

If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.

15.3 Transfer Agreements Prevail

Sections 15.1 and 15.2 apply despite section 7.4 or Article 8.

ARTICLE 16
INCOME TAX ACT

16.1 Application of Income Tax Act

(1) All provisions of the Plan shall be interpreted, read and administered so as to comply with with the *Income Tax Act* (Canada) and Regulations for all credit accruing in the Plan and all contributions to the Plan after December 31, 1991.

(2) Without limiting the generality of subsection (1), and for the purpose of reading, interpreting and administering the Plan in compliance with the

Income Tax Act (Canada) and Regulations for all credit accruing in the Plan and all contributions to the Plan after December 31, 1991,

(a) the total amount of contributions by a member in Article 4 cannot exceed the limit set out in the *Income Tax Act* (Canada) and Regulations;

(b) the computation of a pension under section 10.9 is subject to those provisions of the *Income Tax Act* (Canada) and Regulations that limit the lifetime retirement benefits and the amount of bridging benefits, as defined in the Regulations to the *Income Tax Act* (Canada), that may be paid to a member;

(c) the adjustment of a pension under Article 11 for all credits accrued in the Plan after December 31, 1991 is limited to the extent permitted in the *Income Tax Act* (Canada) and Regulations; and

(d) the period or periods of part time employment for which a member is eligible for determination of his or her pension in accordance with Article 12 is limited to that permitted in the *Income Tax Act* (Canada) and Regulations.

ARTICLE 17
FACTOR 80 WINDOW

17.1 Application

This Article applies to the Niagara Parks Commission the Ontario Lottery Corporation, the Teachers' Pension Plan Board and the Toronto Area Transit Operating Authority effective June 23, 1994 and to any other employer as of the later of June 1, 1993 and the date that such employer commences participation in the Plan.

17.2 Pension benefit

(1) Subject to subsection (2), every member who,

(a) before April 1, 2000, attains credit in the Plan for a period of time that when added to the member's age on that date totals eighty years;

(b) not later than ninety-two calendar days from the last day of the later of the month during which the member attained the credit set out in clause (a) and the month in which this Article commenced to apply to the member's employer, delivers a written notice of resignation to his or her deputy minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,

(i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or

(ii) the last day of a leave of absence which has been approved or to which the member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and

(c) resigns from employment not later than,

(i) ninety-two calendar days after the last day the notice mentioned in clause (b) could be delivered, or

(ii) the last day of the leave of absence mentioned in subclause (b)(ii),

is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsection 10.9(5) or subsection 10.9(6) of the Plan.

(3) Subsection (2) does not apply to a member who,

(a) has been given notice of release from employment because his or her employer or deputy minister has considered it necessary by reason of shortage of work or funds or the abolition or a position or other material change in organization, and

(b) has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment.

17.3 Commencement

Payment of a pension to which a member is entitled under this section shall commence in the month following the month in which the member resigned from employment.

17.4 No Refund

An employer shall not be entitled to any payment or refund in respect of any payment made by such employer prior to May 1, 1994 for any benefits provided to any member under this section.

17.5 Re-employment

If a former member who is receiving a pension under this section is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, payment of the pension that the former member is receiving shall be subject to all of the provisions of Article 13 of the Plan.

17.6 No other pension

A member who is eligible for a pension under this section is not also eligible for a pension under Article 9 or Sections 10.1, 10.2, 10.3, 10.5 or 10.6.

ARTICLE 18
AMENDMENT AND TERMINATION

18.1 Amendments to the Plan

(1) The Plan shall be amended only by agreement in writing between the sponsors.

(2) No amendment shall operate to reduce the pension benefits which have accrued to any member in respect of employment before the effective date of such amendment, except to the extent to which such reductions are specifically authorized by section 19.10.

(3) No amendment shall authorize or permit the return of any contributions or any other assets of the Fund, including surplus, to an employer unless required by law or as permitted by the Pension Benefits Act, in the case of an overpayment.

18.2 Termination of the Plan

If the Plan is wound up in whole or in part, the assets in the Fund shall first be allocated for the provision of benefits in accordance with terms of the Plan, the *Pension Benefits Act*, the *Income Tax Act* (Canada) and any other applicable legislation or agreement between the sponsors.

18.3 Surplus

If after provision for benefits payable to or in respect of members of the wind up, in whole or in part, of the Plan, assets remain in the Fund or the part of the Fund affected by a partial windup, such assets shall be applied as determined by OPSEU subject to the *Pension Benefits Act* and the *Income Tax Act* (Canada) for the exclusive benefit of the members and former members, their beneficiaries and dependents.

ARTICLE 19
GENERAL

19.1 Void transactions

Every transaction that purports to assign, charge, anticipate, surrender or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void.

19.2 Exemption from seizure

The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment.

19.3 Order or separation

Subject to section 51 of the *Pension Benefits Act*, sections 19.1 and 19.2 do not apply to prevent the operation of any order under the *Family Law Act* or the provisions of a domestic contract, as defined in Part IV of that Act.

19.4 Order for support or maintenance

Subsections 19.1 and 19.2 do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund.

19.5 Application of Section 19.4

Section 19.4 applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1992.

19.6 Payment into other funds

Despite sections 19.1 and 19.2, if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid,

(a) into another registered pension plan;

(b) into a registered retirement savings plan or a registered retirement income fund that meets the requirements of the *Income Tax Act* (Canada);

(c) to an insurance company to purchase an immediate or deferred life annuity; or

(d) into a pension plan approved by the Board,

the refund or payment shall be so paid.

19.7 Payment to estate

A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the payment may be paid into the Supreme Court of Ontario to the credit of the member's estate.

19.8 Missing beneficiary

If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.

19.9 Beneficiary later found

If the spouse or child or designated beneficiary referred to in section 19.8 is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection 19.8, be paid to the spouse or child or designated beneficiary, as the case may be.

19.10 Amendment to Avoid Revocation of Plan

Notwithstanding Article 18 of this Plan, the Plan may be amended and contributions refunded or benefits reduced solely to avoid revocation of the Plan under the *Income Tax Act* (Canada), provided, however, that any such amendment, refund or reduction shall be subject to the prior written consent of the Superintendent of Pensions, if such consent is required.

AMENDMENT NO. 5 TO THE OPSEU PENSION PLAN

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

("ONTARIO")

PARTY OF THE FIRST PART

- and -

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

("OPSEU")

PARTY OF THE SECOND PART

WHEREAS Ontario and OPSEU are the sponsors of the OPSEU Pension Plan and may amend the OPSEU Pension Plan from time to time;

NOW, THEREFORE, Ontario and OPSEU agree as follows:

1. The definition of "average year's maximum pensionable earnings" in Article 2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

"average year's maximum pensionable earnings", with respect to any member or former member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member or former member ceases or ceased to be a member of the Plan and for each of the four preceding years;

2. Section 4.3 of the OPSEU Pension Plan is hereby amended by adding the following:

4.3.1 Contributions by Members from December 1, 1999 to November 30, 2002

Notwithstanding section 4.2, and subject to section 4.6, beginning with the pay period that includes December 1, 1999, and ending with the pay period immediately prior to the pay period that includes December 1, 2002, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

(a) 4 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

(b) 2.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 4 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

3. **Section 4.6 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

4.6 Contributions by Employer

Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of sections 4.3 and 4.3.1, in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs.

4. **Subsection 4.8(2) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(2) Despite section 4.6, when a member's salary rate in any pay period, commencing with the first pay date in January 1995, exceeds the threshold salary rate for the year, the employer's contribution under 4.6 shall be reduced by two times the member's contribution under section 4.2, and under sections 4.3 and 4.3.1 where applicable, on the annual salary rate in excess of the threshold salary rate for the year, however the total reduction in any year shall not exceed the maximum contribution reduction amount defined in subsection 4.8(1).

5. **Section 7.1 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

7.1 Leave of Absence With Pay

If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2, 4.3 or 4.3.1.

6. **Subsection 7.2(6) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(6) If a member is granted a leave of absence for less than one month and receives no salary during the leave, the member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with sections 4.2, 4.3, and 4.3.1, an amount equal to the amount the member would have contributed if the leave had not been granted.

7. Clause 7.4(3)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(b) the following contribution rate:

(i) for periods of prior service between April 1, 1994 and March 31, 1997, and between December 1, 1999 and November 30, 2002, the Member's contribution rate in effect during these periods; and

(ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2002, the Member's contribution rate specified in section 4.2; and

(iii) for service prior to January 1, 1990, the Member's contribution rate as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

8. Clause 7.4(5)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(b) the following contribution rate:

(i) for periods of prior service between April 1, 1994 and March 31, 1997, twice the Member's contribution rate in effect during that period; and

(ii) for periods of prior service between December 1, 1999 and November 30, 2002, the sum of the respective employer's and Member's contribution rates in effect during that period; and

(iii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2002, twice the Member's contribution rate specified in section 4.2; and

(iv) for service prior to January 1, 1990, twice the Member's contribution rate as determined under the *Public Service Superannuation Act*, as amended, and under the *Superannuation Benefits Act*, as amended, or any predecessor Acts; and

9. Subsection 10.9(3) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(3) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (6), until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

10. Subsection 10.9(4) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(4) When a former member,

(a) who is in receipt of a pension attains sixty-five years of age; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of

(c) 0.675 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

(d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

11. **Section 10.9 of the OPSEU Pension Plan is hereby amended by adding the following subsections:**

(5.1) Notwithstanding subsection (5), for every former member who ceases membership in the Plan on or after attaining fifty-five years of age, and who commences to receive a pension during the period from December 1, 1999 to November 30, 2004, the annual amount of pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month of the earliest of the following dates:

(a) the date the member would attain sixty-five years of age,

(b) the date that the former member would have met the requirements of section 10.2 if the former member had been a member of the Plan after the date of cessation of Plan membership,

(c) the date that the former member would have met the requirements of section 10.3 if the former member had been a member of the Plan after the date of cessation of Plan membership,

and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

(5.2) For the purpose of subsection 5.1, in determining the date that the member would have met the requirements of paragraph (b) or (c), the former member's age at the date of pension commencement and the former member's credit in the Plan at the date of cessation of Plan membership shall be used.

12. **Subsection 10.9(6) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(6) The annual amount of every pension provided for in subsection (3) shall, after computation in accordance with subsection (3), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age, and upon the occurrence of this event, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (4), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

13. **Subsection 10.9(7) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(7) If the annual amount of pension computed in accordance with subsection (1),

(a) less the reduction required by subsection (4) and, if applicable, subsection (6); and

(b) plus the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age, other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

(c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and

(d) has attained sixty-five years of age,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (4) and, if applicable, subsection (6).

14. **Subsection 10.9(10) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(10) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, and that spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

1. Determine the present value of the pension payable to the former member on the assumption that no survivor pension is payable to the spouse.

2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 10.13(1).

3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

15. Section 10.9 of the OPSEU Pension Plan is hereby amended by adding the following subsection:

(12) If, on December 1, 1999, a former member, or surviving spouse or child of the former member, is in receipt of a pension under the Plan, the annual amount of pension payable as of December 1, 1999, shall be recalculated, effective on that day, in accordance with the definition of "average year's maximum pensionable earnings" in Article 2, this section 10.9, and sections 10.13, 10.14, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 1999.

16. Section 10.12 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

10.12 If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 10.9(5), (5.1), and (6), is not more than,

(a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or

(b) such greater amount as is permitted by the *Pension Benefits Act,*

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

17. **Subsection 10.13(3) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart, may waive the spouse's entitlement to a survivor pension under subsection (1), by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, containing the election or waiver.

18. **Clause 10.13(6)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(b) Subject to clause (c), where a member or former member dies, and the member or former member had no spouse who is entitled to a pension under this plan on the date of his or her death, and the former member was not predeceased by a spouse to whom a survivor pension would have been paid under this section, section 10.14 or 10.17, an annual amount of pension equal to 60 per cent of the annual pension that the member or former member is or would be entitled to receive in the month when the former member died, shall be paid to or among such of the child or children of the former member on whose death the survivor pension became payable as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any remaining under that age.

19. **Subsection 10.17(1) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to sixty per cent of the member's or former member's pension computed in accordance with section 10.9 as though the member or former member had attained sixty-five years of age

and on the basis only of his or her credit in the Plan for employment or services before 1987 is payable,

(a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or

(b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

20. Section 17.2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

17.2 Pension Benefit

(1) Subject to subsection (2), every member who,

(a) before April 1, 2002, attains credit in the Plan for a period of time that when added to the member's age on that date totals eighty years;

(b) not later than ninety-two calendar days from the last day of the later of the month during which the member attained the credit set out in clause (a) and the month in which this Article commenced to apply to the member's employer, delivers a written notice of resignation to his or her deputy minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,

(i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or

(ii) the last day of a leave of absence which has been approved or to which the member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and

(c) resigns from employment not later than,

(i) ninety-two calendar days after the last day the notice mentioned in clause (b) could be delivered, or

(ii) the last day of the leave of absence mentioned in subclause (b)(ii),

is entitled to a pension computed in accordance with the Plan, but without any reduction by subsection 10.9(5), 10.9(5.1) or 10.9(6) of the Plan.

(2) Subsection (1) does not apply to the following persons

(a) a member who

(i) has been given notice of release from employment because his or her employer or Deputy Minister has considered it necessary by reason of shortage or work or funds or the abolition of a position or other material change in organization, and

(ii) has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment; and

(b) a person who would otherwise be eligible for a pension under subsection (1) before April 1, 2000 but who, on or after July 1, 1998, transfers to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with Article 15, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Article and the actuarial value of the pension to which the member is otherwise entitled under this Plan; and

(c) a person who would otherwise be eligible for a pension under subsection (1) between April 1, 2000 and March 31, 2002, but who, on or after December 1, 1999, transfers to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with Article 15, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Article and the actuarial value of the pension to which the member is otherwise entitled under this Plan.

Dated at Toronto, Ontario this 26th day of November, 1999.

SIGNED IN THE PRESENCE OF	HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET
Witness SYLVIA MOUSTACALIS Print Name	By: Secretary of Management Board of Cabinet and Deputy Minister of Management Board Secretariat
	ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
Witness Heather Gavin. Print Name	By: President, OPSEU

AMENDMENT NO. 9 TO THE OPSEU PENSION PLAN

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

("ONTARIO")

PARTY OF THE FIRST PART

-and-

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

("OPSEU")

PARTY OF THE SECOND PART

WHEREAS Ontario and OPSEU are the sponsors of the OPSEU Pension Plan and may amend the OPSEU Pension Plan from time to time;

NOW, THEREFORE, Ontario and OPSEU agree as follows:

1. **Article 2 of the OPSEU Pension Plan is hereby amended effective December 1, 2002 by adding the following:**

   "divested member" means a former member who, before December 1, 2002, or for the purposes of section 17.2.1 before November 1, 2002, in conjunction with the sale, assignment or other disposition of his or her employer's business or all or part of the assets of the employer's business, became an employee of the successor employer and a member of a pension plan provided by the successor employer, but does not include a former member who commenced receiving payment of a pension benefit under the Plan before December 1, 2002, or for the purposes of section 17.2.1 before November 1, 2002.

2. **Section 4.2 of the OPSEU Pension Plan is hereby amended by deleting the phrase "Subject to sections 4.3, 4.5 and 4.5.1, every member shall**

contribute to the Fund from the salary paid to the member for the calendar year," and replacing it with the following:

> Subject to sections 4.3, 4.3.1, 4.3.2, 4.5 and 4.5.1, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

3. **Article 4 of the OPSEU Pension Plan is hereby amended by adding the following:**

4.3.2 Contributions by Members from December 1, 2002 to November 30, 2005

Notwithstanding section 4.2, and subject to section 4.6, every member shall contribute to the Fund from the salary paid to the member for the applicable calendar year as follows:

(a) beginning with the pay period that includes December 1, 2002, and ending with the pay period immediately prior to the pay period that includes December 1, 2003,

i. 5 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

ii. 3.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

iii. 5 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

(b) beginning with the pay period that includes December 1, 2003, and ending with the pay period immediately prior to the pay period that includes December 1, 2004,

i. 6 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

ii. 4.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

iii. 6 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan.*

(c) beginning with the pay period that includes December 1, 2004, and ending with the pay period that includes November 30, 2005,

(i) 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

(ii) 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(iii) 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan.*

4. **Section 4.5.1(a) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(a) the contributions specified under sections 4.2, 4.3, 4.3.1 and 4.3.2 and deducted from the member's salary under section 4.4 shall not exceed the annual limit set out in the ***Income Tax Act (Canada)*** and Regulations for the calendar year, and

5. **Section 4.6 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

4.6 Contributions by Employer

Subject to section 4.7, section 4.8 and Article 6, on each payment date, the employer shall pay into the Fund an amount equal to the aggregate amount of all contributions deducted from the members under section 4.2, or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1, or 4.3.2 in the month ended next before the month in which the payment date occurs, or made by or on behalf of members in respect of the month ended next before the month in which the payment date occurs.

6. **Section 4.8(2) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

4.8(2) Despite section 4.6, when a member's salary rate in any pay period, commencing with the first pay date in January 1995, exceeds the threshold salary rate for the year, the employer's contribution under 4.6 shall be reduced by two times the member's contribution under section 4.2, and under sections 4.3, 4.3.1, and 4.3.2 where applicable, on the annual salary rate in excess of the threshold salary rate for the year, however the total reduction in any year shall not exceed the maximum contribution reduction amount defined in section 4.8(1).

7. **Section 7.1 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

7.1 Leave of Absence With Pay

If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by sections 4.2, 4.3, 4.3.1, or 4.3.2.

8. **Sections 7.1A(3)(a) and (b) of the OPSEU Pension Plan are hereby rescinded and replaced by the following:**

(a) the contributions set out in sections 4.2, 4.3, 4.3.1 or 4.3.2, as applicable shall continue to be made by or on behalf of the member, in accordance with the member's collective agreement, based on the annual salary of the member immediately prior to the commencement of the leave of absence;

(b) the employer's liability under section 4.6 shall be calculated using the aggregate amount of contributions deducted from the members under section 4.2 or that would have been deducted under section 4.2 but for the application of sections 4.3, 4.3.1 or 4.3.2 whether or not such contributions were actually deducted from the member.

9. **Section 7.2(6) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(6) If a member is granted a leave of absence for less than one month and receives no salary during the leave, the member shall make contributions to the Fund during the leave or after the end of the leave, and shall contribute, in accordance with sections 4.2, 4.3, 4.3.1 and 4.3.2, an amount equal to the amount the member would have contributed if the leave had not been granted.

10. **Section 7.4(3)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(b) the following contribution rate:

(i) for service prior to January 1, 1990, the Member's contribution rate as determined under the ***Public Service Superannuation Act***, as amended, and under the ***Superannuation Benefits Act***, as amended, or any predecessor Acts; and

(ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2005, the Member's contribution rate specified in section 4.2; and

(iii) for periods of prior service between April 1, 1994 and March 31, 1997, and between December 1, 1999 and November 30, 2002, the Member's contribution rate in effect during these periods; and

(iv) for periods of prior service between December 1, 2002 and November 30, 2005, the Member's contribution rates in effect during this period.

11. **Section 7.4(5)(b) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(b) the following contribution rate:

(i) for service prior to January 1, 1990, twice the Member's contribution rate as determined under the ***Public Service Superannuation Act,*** as amended, and under the ***Superannuation Benefits Act,*** as amended, or any predecessor Acts; and

(ii) for periods of prior service between January 1, 1990 and March 31, 1994, and between April 1, 1997 and November 30, 1999, and for any period of prior service on or after December 1, 2005, twice the Member's contribution rate specified in section 4.2; and

(iii) for periods of prior service between April 1, 1994 and March 31, 1997, twice the Member's contribution rate in effect during that period; and

(iv) for periods of prior service between December 1, 1999 and November 30, 2002, the sum of the respective employer's and Member's contribution rates in effect during that period; and

(v) for periods of prior service between December 1, 2002 and November 30, 2005, the sum of the respective employer's and Member's contribution rates in effect during this period.

12. **Section 10.3A of the OPSEU Pension Plan is hereby rescinded and replaced effective April 1, 2002 by the following:**

(a) A member is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan, if by taking one or more leaves of absence described in section 7.1A and satisfying the conditions in that section, he or she, attains prior to January 1, 2005, credit in the Plan, that when added to that members age totals eighty years.

(b) For greater certainty a divested member is entitled to a pension computed in accordance with the Plan, but without any reduction required either by subsections 10.9(5) or 10.9(6) of the Plan, if by taking one or more leaves of absence described in section 7.1A and satisfying the conditions in that section, he or she, attains prior to

January 1, 2005, credit in the Plan, that when added to that members age totals eighty years.

13. **Section 10.9 (4) of the OPSEU Pension Plan is hereby rescinded and replaced effective December 1, 2002 by the following:**

(4) When a former member who is not a divested member,

(a) who is in receipt of a pension attains sixty-five years of age; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of:

(c) 0.655 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

14. **Article 10 of the OPSEU Pension Plan is amended effective December 1, 2002 by adding the following:**

(4.1) When a former member who is a divested member,

(a) who is in receipt of a pension attains sixty-five years of age; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of pension computed under subsection (1) shall be reduced by the product of:

(c) 0.675 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

15. **Section 10.9(5) of the OPSEU Pension Plan is amended effective December 1, 2002 by adding "or (4.1)" after the two references to "subsection (4)" in this section.**

16. **Section 10.9 (5.1) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

(5.1) Notwithstanding subsection (5), for every former member who is not a divested member who ceases membership in the Plan on or after attaining fifty-five years of age, and who commences to receive a pension during the period from December 1, 1999 to December 31, 2005, the annual amount of pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month of the earliest of the following dates:

(a) the date the member would attain sixty-five years of age,

(b) the date that the former member would have met the requirements of section 10.2 if the former member had been a member of the Plan after the date of cessation of Plan membership,

(c) the date that the former member would have met the requirements of section 10.3 if the former member had been a member of the Plan after the date of cessation of Plan membership,

and when the reduction required by subsection (4) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4) and shall, if applicable, be recalculated on that basis.

17. Article 10.9 of the OPSEU Pension Plan is hereby amended by adding the following:

(5.1.1) Notwithstanding subsection (5), for every former member who is a divested member who ceases employment with the successor employer on or after attaining fifty-five years of age, and who commences to receive a pension during the period from December 1, 1999 to November 30, 2004, the annual amount of pension provided for in subsection (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month of the earliest of the following dates:

(a) the date the member would attain sixty-five years of age,

(b) the date that the former member would have met the requirements of section 10.2 if the former member had been a member of the Plan after the date of cessation of Plan membership,

(c) the date that the former member would have met the requirements of section 10.3 if the former member had been a member of the Plan after the date of cessation of Plan membership,

and when the reduction required by subsection (4.1) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (4.1) and shall, if applicable, be recalculated on that basis.

18. Section 10.9(5.2) of the OPSEU Pension Plan is hereby amended by deleting the phrase "For the purpose of subsection 5.1" and replacing it with "For the purpose of subsection 5.1 and 5.1.1".

19. Section 10.9(6) of the OPSEU Pension Plan is hereby amended effective December 1, 2002 by adding "or subsection (4.1)" after "subsection (4)" in the sixth line.

20. **Section 10.9(7)(a) of the OPSEU Pension Plan is hereby amended effective December 1, 2002 by adding "or subsection (4.1)" after "subsection (4)".**

21. **Section 10.9 of the OPSEU Pension Plan is amended effective December 1, 2002 by adding the following:**

(12.1) If, on December 1, 2002, a former member who is not a divested member, or surviving spouse or child of a former member who is not a divested member, is in receipt of a pension calculated with reference to subsection 10.9(4) as it read on November 30, 2002, the annual amount of pension payable as of December 1, 2002, shall be recalculated, effective on that day, in accordance with this section 10.9, and sections 10.13, 10.14, 10.15, 10.16 and 10.17, whichever are applicable, as these provisions read on December 1, 2002.

22. **Section 10.13(2) of the OPSEU Pension Plan is hereby rescinded and replaced effective December 1, 2002 by the following:**

(2) If a survivor pension under subsection (1), subsection 10.14(1), or subsection 10.15(1) is payable as the result of the death of a former member who is not a divested member before such deceased former member attained sixty-five years of age, the annual amount of pension on which the survivor pension is based shall be reduced in accordance with subsection 10.9(4) as of the month following the month during which the deceased former member would have attained sixty-five years of age.

23. **Section 10.13 of the OPSEU Pension Plan is hereby amended effective December 1, 2002 by adding the following:**

(2.1) If a survivor pension under subsection (1), subsection 10.14(1), or subsection 10.15(1) is payable as the result of the death of a former member who is a divested member before such deceased former member attained sixty-five years of age, the annual amount of pension on which the survivor pension is based shall be reduced in accordance with subsection 10.9(4.1) as though the former member had attained sixty-five years of age immediately before his or her death.

24. **Section 10.13(6)(c) of the OPSEU Pension Plan is hereby rescinded and replaced effective December 1, 2002 by the following:**

(c) Where the member or former member who is not a divested member died before attaining sixty-five years of age, the annual amount of pension on which the survivor pension in clause (b) is based shall be reduced in accordance with subsection 10.9(4) effective as of the month following the month during which the deceased former member would have attained age sixty-five years of age.

25. **Section 10.13 of the OPSEU Pension Plan is hereby amended effective December 1, 2002 by adding the following:**

(6)(c.1) Where the member or former member who is a divested member died before attaining sixty-five years of age, the annual amount of pension on which the survivor pension in clause (b) is based shall be reduced in accordance with subsection 10.9(4.1) as though the former member had attained sixty-five years of age immediately before his or her death.

26. **Section 10.14 of the OPSEU Pension Plan is amended effective December 1, 2002 by adding the following:**

(1.1) For the purposes of section 10.14(1), where the former member who is not a divested member dies before attaining sixty-five years of age, the annual amount of pension of the former member on which the survivor pension is based shall be calculated in accordance with section 10.13(2).

27. **Section 10.14 of the OPSEU Pension Plan is amended effective December 1, 2002 by adding the following:**

(1.2) For the purposes of section 10.14(1), where the former member who is a divested member dies before attaining sixty-five years of age, the annual amount of pension of the former member on which the survivor pension is based shall be calculated in accordance with section 10.13(2.1).

28. **Section 17.2 of the OPSEU Pension Plan is hereby rescinded and replaced effective November 1, 2002 by the following:**

17.2 Pension Benefit

(1) Subject to subsections (2) and (3), every member who,

(a) on or before March 31, 2005, attains credit in the Plan for a period of time that when added to the member's age on that date totals eighty years;

(b) not later than ninety-two calendar days from the last day of the month during which the member attained the credit set out in clause (a) delivers a written notice of resignation to his or her Deputy Minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,

(i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or

(ii) the last day of a leave of absence which has been approved or to which the member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and

(c) resigns from employment not later than,

(i) ninety-two calendar days after the last day the notice mentioned in clause (b) or subsection (2), as applicable, could be delivered, or

(ii) the last day of the leave of absence mentioned in subclause (b)(ii),

is entitled to a pension computed in accordance with the Plan, but without any reduction required by subsections 10.9(5), 10.9(5.1) or 10.9(6) of the Plan.

(2) Despite subsection 1(b), where after March 31, 2002 and before May 1, 2002, a member satisfies the criteria outlined in subsection (1)(a), the last day that the notice may be delivered under subsection (b) shall be August 31, 2002.

(3) Subsection (1) does not apply to the following persons:

(a) a member who

(i) has been given notice of release from employment because his or her employer or Deputy Minister has considered it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization, and

(ii)has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment; and

(b) a person who would otherwise be eligible for a pension under subsection (1) on or before March 31, 2005, but who, on or after November 1, 2002, transferred to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with section 15.1, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Section and the actuarial value of the pension to which the member is otherwise entitled under this Plan.

29. Article 17 of the OPSEU Pension Plan is amended effective November 1, 2002 by adding the following:

17.2.1

(1) Subject to subsection (2) and (3), every divested member who,

(a) before November 1, 2002, attained credit in the Plan for a period of time that when added to the divested member's age on that date totals eighty years;

(b) not later than ninety-two calendar days from the last day of the month during which the divested member attained the credit set out in clause (a) delivers a written notice of resignation to his or her Deputy Minister or other person to whom he or she reports which specifies an effective date of resignation that is not later than,

(i) ninety-two calendar days from the last day that the notice under this clause could be delivered, or

(ii) the last day of a leave of absence which has been approved or to which the divested member is entitled and which commenced not later than ninety-two calendar days from the last day that the notice under this clause could be delivered; and

(c) resigns from employment not later than,

(i) ninety-two calendar days after the last day the notice mentioned in clause (b) or subsection (2), as applicable, could be delivered, or

(ii) the last day of the leave of absence mentioned in subclause (b)(ii),

is entitled to a pension computed in accordance with the Plan, but without any reduction required by subsections 10.9(5), 10.9(5.1) or 10.9(6) of the Plan.

(2) Despite subsection 1(b), where after March 31, 2002 and before May 1, 2002, a divested member satisfies the criteria outlined in subsection (1)(a), the last day that the notice may be delivered under subsection (b) shall be August 31, 2002.

(3) Subsection (1) does not apply to the following persons:

(a) a divested member who

(i) has been given notice of release from employment because his or her employer or Deputy Minister has considered it necessary by reason of shortage of work or funds or the abolition of a position or other material change in organization, and

(ii)has not waived all entitlement to benefits, payments, opportunities for assignments to other positions or other considerations resulting from the notice of release from employment; and

(b) a person who would otherwise be eligible for a pension under subsection (1) on or before November 1, 2002, but who, on or after July 1, 1998, transferred to the Plan credit for their service with an employer to whom the Plan does not extend, in accordance with section 15.1, unless the person pays to the Board such amount, as is determined by the Board, on such terms and conditions as are fixed by the Board, in respect of the difference between the actuarial value of a pension determined under this Section and the actuarial value of the pension to which the member is otherwise entitled under this Plan.

Dated at Toronto, Ontario this 7th day of November, 2002.

SIGNED IN THE PRESENCE OF	)	HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET
Christine Primeau Witness	)	By: ______ Secretary of Management Board of Cabinet and Deputy Minister of Management Board Secretariat
Christine Primeau Print Name	)	
	)	ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
F. Lofranco Witness	)	By: ______ President, OPSEU
Filomena Lofranco Print Name	)	

AMENDMENT NO. 11 TO THE OPSEU PENSION PLAN

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

("ONTARIO")

PARTY OF THE FIRST PART

-and-

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

("OPSEU")

PARTY OF THE SECOND PART

WHEREAS Ontario and OPSEU are the sponsors of the OPSEU Pension Plan and may amend the OPSEU Pension Plan from time to time;

NOW, THEREFORE, Ontario and OPSEU agree as follows:

1. **The definition of "child" in Article 2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

   "child" is a child within the meaning of the ***Family Law Act*** who is dependent on the member or the spouse of a member and who is

   - Under the age of 18 years; or
   - If over 18 years, continuously in full time attendance at a secondary school or, immediately following secondary school, for up to five years continuously in full time attendance at a post-secondary educational institution.

2. **The definition of "transfer value" in Article 2 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:**

"transfer value" means:

(a) in respect of a transfer under the Multi-Lateral Portability Agreement (MOPPs), the actuarial present value of the transferring member's credit in the Plan calculated as required under Article 4 of MOPPs and in accordance with the provisions of the Plan as of the date of the member's termination of Plan membership;

(b) in respect of a transfer under a reciprocal transfer agreement other than MOPPs, the transfer value of the transferring member's credit in the Plan calculated as required under the applicable transfer agreement entered into pursuant to section 15.2 of the Plan in accordance with the provisions of the Plan as of the date of the member's termination of Plan membership; or

(c) in respect of transfers under the provisions of the Plan between the Plan and the Public Service Pension Plan, the actuarial present value of the transferring member's credit in the Plan calculated as required under the applicable provisions of this Plan as of the date of the member's termination of Plan membership

3. Section 3.4(1) of the OPSEU Pension Plan is hereby rescinded and replaced effective January 1, 1993 by the following:

A member ceases to be a member of the Plan upon termination by death or otherwise of the employment or circumstances that required or entitled him or her to be a member of the Plan or on the date under the ***Income Tax Act*** (Canada) and Regulations at which retirement benefits must commence to be paid.

4. Section 3.6 of the OPSEU Pension Plan is hereby rescinded and replaced effective January 1, 1993 by the following:

A person is not entitled to be a member of the Plan after the date under the ***Income Tax Act*** (Canada) and Regulations at which retirement benefits must commence to be paid.

5. Article 4 of the OPSEU Pension Plan is hereby amended by adding the following:

4.10 For greater certainty, the contributions made by the employer under sections 4.6 and 4.7, as modified by subsection 4.8(2), shall comply with the conditions applicable to eligible contributions under section 147.2(2) of the ***Income Tax Act*** (Canada).

6. Section 4.2 of the OPSEU Pension Plan is hereby rescinded and replaced effective April 1, 2004 by the following:

4.2 Subject to sections 4.3, 4.3.1, 4.3.2, 4.5 and 4.5.1, every member shall contribute to the Fund from the salary paid to the member for the calendar year,

(a) 6.4 per cent of the amount of salary that does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(b) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

7. Section 4.3.2 (c) of the OPSEU Pension Plan is hereby rescinded and replaced effective April 1, 2004 by the following:

(c) beginning with the pay period that includes December 1, 2004, and ending with the pay period immediately prior to the pay period that includes January 1, 2005,

i. 7 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan;*

ii. 5.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan;* and

iii. 7 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan.*

8. Section 7.2(8) of the of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(8) Subject to subsection (9), the combined credit obtained by a member with respect to periods after 1990 under subsections (1), (2), (3) and (6), clause 7.1A and section 12 shall not exceed a total of five years.

9. Section 7.4(6) of the OPSEU Pension Plan is hereby rescinded and replaced effective January 1, 1993 by the following:

7.4(6) Any credit referred to in subsection (1), and any credit transferred from another pension plan that is not paid for by the amount transferred to the Plan under sections 7.4(5.1) and Article 15, may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

(a) the earlier of the day on which the member for whom credit is to be purchased first became, and continuously remained, a member of the Plan or the PSPP;

(b) the last day of the most recent continuous period for which credit is being purchased; and

(c) in the case of credits referred to under clause (1)(g), the first day of membership in the Plan.

10. Section 8.12 of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

8.12 The amount by which the total of the contributions, other than any contributions made under subsections 7.4(2) or 7.4(5), any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or top-up payments made under section 36 of the PSPP, made to the Fund and any predecessor fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund or the predecessor fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsections 7.4(2) or 7.4(5), any credit related to any top-up payments under sections 7.4(5.1) (b), or Article 15 of the Plan, or subsections 11(2) or 11(4) of the PSPP or credit related to any top-up payments made under section 36 of the PSPP, in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member, shall be refunded to the former member.

11. Section 10.8(1) of the OPSEU Pension Plan is hereby rescinded and replaced effective December 1, 1996 by the following:

(1) A former member who is entitled to a pension under sections 10.5 or 10.6 and who has not attained fifty-five years of age in the case of a pension mentioned in section 10.5 or has not attained fifty years of age in the case of a pension mentioned in section 10.6 may require the commuted value of the pension to be paid, subject to section 42 of the ***Pension Benefits Act*** or, may at any later time elect, provided that the former member has not attained fifty-five years of age or has not attained fifty years of age in the case of a pension mentioned in section 10.6 when making such a later election,

(a) to the pension fund of another pension plan that agrees to accept the payment;

(b) into a retirement savings arrangement or other retirement vehicle prescribed under the ***Pension Benefits Act***; or

(c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in section 10.5, or fifty years of age, if the pension the commuted value of which is paid is mentioned in section 10.6, and if the contract to purchase the annuity meets the requirements prescribed under the ***Pension Benefits Act***.

12. Section 15.4 of the OPSEU Pension Plan is hereby rescinded and replaced and is effective with terminations of employment on or after July 1, 2004 by the following:

If under the terms of a transfer agreement referred to in section 15.2 or in respect of transfers under the provisions of the Plan between the Plan and the Public Service Pension Plan, the amount of the commuted value of the member's credit determined as of the date of the member's termination of Plan membership exceeds the amount paid to the importing plan, the excess amount with interest shall be paid to the transferring member

13. Subsection 17.2A(4) of the OPSEU Pension Plan is hereby rescinded and replaced by the following:

(4) The restriction set out in clause 17.2(3)(a) on entitlement to a pension under Article 17 does not apply to a pension under subsection (2).

Dated at Toronto, Ontario this ____ day of April, 2004.

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

By: ______________________

Secretary of Management Board of Cabinet and Deputy Minister of Management Board

____

Witness

Secretariat

____

Print Name of witness

ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

By: ______________________

President, OPSEU

____

Witness
OPSEU

____

Print Name of witness

B - OPSEU Sponsorship Agreement and amendments.pdf

THIS SPONSORSHIP AGREEMENT made as of this 18th day of April, 1994.

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET
("Ontario")

- and -

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
("OPSEU")

A. PREAMBLE

Whereas s. 6 of the Public Service Pension Act, R.S.O. 1990, c.P.48 ("PSPA") permits the Lieutenant Governor in Council to amend the Public Service Pension Plan ("PSPP") to, among other things, establish a separate pension plan for any class or classes of persons who are members of the PSPP and to direct the transfer from the Public Service Pension Fund to any fund related to such separately established pension plan any amount specified to represent the value, as determined by an actuarial valuation, of the pension benefits of persons who will be members of such separately established pension plan; and

Whereas Ontario and OPSEU propose to enter into an agreement pursuant to which a separate pension plan will be established for those members of OPSEU who are now members of the PSPP, which plan will be funded in part by a transfer of assets from the Public Service Pension Fund; and

Whereas Ontario and OPSEU propose that the separate pension plan established for the members of OPSEU who are now members of the PSPP will be jointly managed by Ontario and OPSEU;

Therefore Ontario and OPSEU hereby agree to establish a pension plan on the terms set out below:

B. INTRODUCTION

1. The terms used in this agreement shall have the meanings given to them in the draft Agreement and Declaration of Trust attached hereto as Appendix "A", and the document attached as Appendix "C", and:

(a) the pension plan established by this agreement will be referred to as the "OPSEU Plan" or the "Plan";

(b) the OPSEU Pension Fund established by this agreement will be referred to as the "OPSEU Fund" or the "Fund";

(c) the Pension Benefits Act, R.S.O. 1990, c.P.8, as amended, and all Regulations made thereunder will be referred to as the "PBA";

(d) the Public Service Pension Act, R.S.O. 1990, c.P.48 will be referred to as the "PSPA", the Public Service Pension Plan established pursuant to the PSPA will be referred to as the "PSPP", and the Public Service Pension Fund established pursuant to the PSPA will be referred to as the "PSPF", provided that, effective as of January 1, 1993, the "PSPP" and "PSPF" will be amended to reflect the amendments made by the Implementing Legislation referred to herein;

(e) "Factor 80" means the early retirement program described at s. 41 of the PSPP and in the social contract sectoral agreement, and extended to March 31, 2000;

(f) "Sponsors" means Ontario and OPSEU; and

(g) in determining any "solvency gain" or "solvency deficiency" of the Plan, solvency assets shall include the present value of future special payments required to liquidate the Transferred Initial Unfunded Liability.

2. Ontario and OPSEU agree to establish the Plan and the Fund, in accordance with the terms described herein. The Plan shall be a single employer pension plan.

3. The Plan will be a successor pension plan to the PSPP created pursuant to the PSPA.

4. The Plan and Fund will be administered and managed by a Board of Trustees, pursuant to an Agreement and Declaration of Trust made between the Sponsors substantially in the form attached hereto as Appendix "A", and which is hereinafter referred to as the "Trust Agreement". The Sponsors shall finalize the terms of the Trust Agreement, which shall be consistent with the terms of this agreement, and shall execute and cause the Trustees to execute the Trust Agreement on October 30, 1994.

5. Ontario will enact legislation (the "Implementing Legislation") with respect to certain aspects of the Plan's successorship to the PSPP, and certain aspects of the Plan and Fund. The essential elements of the Implementing Legislation applicable to the Plan are described in Section K of this agreement.

6. Each of OPSEU and Ontario acknowledge and agree that they have a collective bargaining relationship with each other that applies to all issues pertaining to the Plan except as otherwise provided by this agreement.

7. The Plan and Fund shall be governed by this agreement, the Trust Agreement, the Plan, the Implementing Legislation, the PBA, the Income Tax Act (Canada) ("ITA") and any collective agreement between the parties, as well as any rules and regulations made pursuant to any of these documents. If any provision of

these documents is found to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the documents.

8. OPSEU and Ontario agree that the Board of Trustees of the OPSEU Fund shall not be a Crown agency.

9. OPSEU and Ontario agree that the Plan and the Fund shall be subject to all of the provisions of the PBA, except for those identified in Section K, below.

10. OPSEU and Ontario agree:

(a) that the Plan and the Fund shall not be exempted from any statutory provision, except those provisions as described in section K; and

(b) that the Plan and the Fund shall not be made subject to any statutory provision that does not apply generally to pension plans in Ontario except those provisions as described in section K,

except with the consent of OPSEU.

11. Ontario may designate one or more persons to act in Ontario's place under this agreement. OPSEU may designate one or more persons to act in its place under this agreement.

12. The Plan shall be effective as of the 1st day of January, 1993 (the "Effective Date").

13. The Plan and the Fund shall be established on or before the 1st day of January, 1995 (the "Joint Sponsorship Date").

14. If the Trustees advise the Sponsors that a change must be made to the Plan or Fund to comply with any law, then the Sponsors agree that they will meet as soon as possible to discuss such change and will work together in good faith to achieve a resolution with respect to any such required change.

15. Either Sponsor may ask the actuary hired by the Trustees to provide or prepare any information that the Sponsor thinks it needs in discussing changes to the Plan. The cost of the actuary in preparing that information will be paid out of the Fund. The information will be provided to both Sponsors.

16. Either Sponsor may audit the Plan and the Fund at any time at the expense of that Sponsor. The Trustees will cooperate in the audit.

17. Ontario shall make its best efforts to cause the Ontario Pension Board ("OPB") to provide to OPSEU, on or before April 22, 1994, and on an ongoing basis until the transition is complete, disclosure of, and all documentation in relation to:

(a) any claims or potential claims by or against the OPB or any real estate or resource corporation in which it holds an interest, except for individual claims for Benefits;

(b) the provision of payroll and related information with respect to OPSEU Plan members provided by Ontario to the OPB;

(c) the timetable for the development and implementation of PRISM and all other particulars with respect to PRISM;

(d) contractual relationships with respect to the administration of the PSPP, the custody of the PSPF's assets, the investment of the PSPF's assets, the provision of advice to the OPB or its wholly owned corporations, the retainer of professionals, professional firms or professional corporations;

(e) all policies and practices used by the OPB in the administration and interpretation of the PSPP;

(f) an inventory of the operational assets of the OPB, including a physical description of them, their acquisition costs and acquisition dates; and

(g) an inventory of all investments held directly or indirectly by the OPB, including a description of them, their acquisition costs, their current market values, and any material facts within the knowledge of the OPB that may affect their market or actuarial values.

18. Notwithstanding paragraph 17, Ontario shall cause the OPB to disclose, and provide all documentation in respect of the matters listed in paragraph 17 as of a date that is two weeks after the Implementing Legislation is enacted.

19. This agreement is subject to ratification by OPSEU on or before May 13, 1994.

C. COLLECTIVE BARGAINING

20. The Sponsors may collectively bargain with respect to the Plan and may amend this agreement, the Trust Agreement, the Plan or any Plan documents adopted by the Sponsors, without the agreement of any other employer, trade union or person, provided, however, that no agreement or amendment shall:

(a) be inconsistent with the purposes of the Trust Fund;

(b) divert the Trust Fund, or any part thereof, to a purpose other than the provision of benefits for the Plan members;

(c) authorize the return of contributions or any other assets of the Fund to Ontario or to other Participating Employers unless required by law or as permitted by the PBA in the case of an overpayment pursuant to Section 78(4) thereof, as amended from time to time;

(d) eliminate the annual audit or restrict the availability of information to the Sponsors;

(e) provide for the administration of the Plan and the Fund other than by an equal number of Trustees appointed by Ontario and Trustees appointed by OPSEU with each Trustee having equal voting privileges;

(f) provide for or permit any payment of surplus out of the Fund to Ontario, or any employer participating in the Plan. For greater certainty, the use of actuarial gains to offset Employer Contributions and any going concern unfunded liability or solvency deficiency does not constitute the payment of surplus out of the Fund; or

(g) remove the right of the Sponsors to appoint Trustees.

21. Collective bargaining agents other than OPSEU that represent members of the Plan may collectively bargain, with those members' employers, with respect to the following types of benefit improvements for those members, provided that the full cost of any such improvements is paid for by the members and the employer covered by the improvement:

(a) early retirement benefits;

(b) pensions payable to surviving spouses; and

(c) disability benefits.

The Sponsors agree to amend the Plan as necessary to provide for such benefit improvements and contribution increases provided that the Trustees are satisfied, on the basis of their Actuary's advice, that the benefit improvement is properly funded.

D. THE TRUST AGREEMENT

22. The powers, duties and responsibilities of the Trustees shall be set out in the Trust Agreement.

23. The Trustees will be responsible for the administration of the Plan and the custody, investment and management of the Fund and all of the matters set out in this agreement or the Trust Agreement.

24. The powers, duties and responsibilities of the Trustees will include the following:

(a) to administer the Plan for the benefit of the Plan's members, their beneficiaries and dependents , as the case may be, subject to the terms of this agreement, the Trust Agreement and the Plan text, and all applicable federal and provincial legislation;

(b) to adopt such procedures, policies, rules or regulations, necessary for the carrying out of their trusts, consistent with the provisions of this agreement, the Trust Agreement, the Plan text and the requirements of applicable provincial and federal legislation;

(c) to enter into agreements with a Bank, Trust Company, Credit Union, Insurance Company or Investment Manager, selected by the Trustees, for the purpose of providing investment management or advice, or for the purpose of acting as a depository for safekeeping of assets of the Trust Fund, or for any other purpose as the Trustees shall deem necessary or desirable and to authorize any such Bank, Trust Company, Credit Union, Insurance Company, or Investment Manager to commingle any monies deposited with them in any mutual or pooled pension fund administered or managed by any of them;

(d) to pay or provide for the payment of Benefits to those persons eligible to receive them;

(e) to pay from the Fund all reasonable expenses for collecting contributions and administering and investing the Fund and administering the Plan including, but not limited to, all compensation and all reasonable and necessary costs and fees which may be incurred in connection with the employment of such legal, actuarial, accounting, expert and clerical assistance as the Trustees, in their discretion, may find necessary or expedient in the performance of their duties. The Trustees shall be completely and fully protected in acting and relying reasonably and in good faith upon the opinions or advice of the aforementioned persons;

(f) to enter into any and all contracts and agreements for carrying out the terms of this agreement, the Trust Agreement and the Plan and for the administration of the Plan and the administration and investment of the Fund and to do all acts as they, in their discretion, may deem necessary and advisable;

(g) to compromise, settle, arbitrate and release claims or demands in favour of, or against the Plan and Fund, or the Trustees, on such terms and conditions as the Trustees may deem advisable;

(h) to establish procedures to be followed in filing applications for Benefits and for the furnishing and certification of evidence necessary to establish a right to such Benefits;

(i) to pay out of the Fund, all real and personal property taxes, income taxes and other taxes of any and all kinds, levied or assessed under existing or future laws, upon or in respect of the Fund or any money, property or securities forming a part thereof;

(j) to receive payments from any source whatsoever, to the extent permitted by law and this agreement;

(k) to invest and reinvest such portion of the Fund as is not required for current expenditures, in any type of investments that are permitted by applicable federal and provincial laws and regulations, except that any restrictions on investments set out in the Trustees Act shall not apply, and by the Statement of Investment Policies and Goals established by the Trustees, and to take any and all actions with respect to the holding, buying, selling or exchanging such investments as they, in their sole discretion, may deem appropriate or necessary;

(l) to hold in uninvested cash, without any liability for interest thereon, such sums as they reasonably deem necessary or advisable for the reasonably current cash requirements of the Fund;

(m) to exercise all rights or privileges granted by the provisions of any contract entered into by the Trustees with any Insurance Company, Bank, Trust Company, Credit Union or Investment Manager, or Custodian, and to make any alteration, modification, amendment or cancellation of such contract, or to take any other action respecting such contracts which they, in their discretion, may deem necessary or advisable;

(n) to do all acts, whether or not previously authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder;

(o) to enter into reciprocal arrangements with other like or similar funds or plans, in such manner and subject to such terms and conditions as the Trustees may deem desirable;

(p) to delegate any of their administrative powers or duties or such other powers and duties as may be permitted by s. 22(5) of the PBA to any of their agents or employees, in such manner and subject to such terms and conditions as the Trustees may deem necessary or appropriate; provided that such agents or employees report to the Trustees as may be required by them;

(q) to lease or purchase such lands, premises, materials, supplies and equipment as the Trustees deem necessary or appropriate in the performance of their duties;

(r) to enter into cost-sharing agreements with OPSEU, any other union, or any other pension or welfare funds to permit the Trustees to share expenses pertaining to the administration of the Fund, provided that any amounts paid by the Fund to OPSEU, any other union, or any other trust fund, in respect of the above expenses, shall be approved by the auditor of the Fund as being necessary and reasonable; and provided further, that such cost-sharing agreement provide that the Trustees may terminate such agreement at any time, subject to such notice as may be required;

(s) to incorporate corporations, the shares of which shall be held by or on behalf of the Trustees for purposes of administering the Fund, making investments of the Fund or holding any investment;

(t) to authorize the preparation of and to file an actuarial valuation in accordance with the PBA and any other governing legislation;

(u) to approve the actuarial methods and assumptions to be used in the administration of the Plan and used in the actuarial valuations of the Plan, prepared by the Actuary;

(v) to consult with the Sponsors during the preparation of an actuarial valuation and to make their best efforts to respond to any questions, comments or recommendations of the Sponsors, provided that, the Trustees shall be solely and exclusively responsible for the content of any actuarial valuation filed in accordance with the PBA and any other governing legislation;

(w) to give a copy of every actuarial valuation prepared for the Trustees to each Sponsor and to give each Sponsor any information requested by it as quickly as possible;

(x) to have the Plan and the Fund audited every year;

(y) to prepare a report at the end of every fiscal year describing how the Plan and the Fund have been doing in that year;

(z) to hold a meeting with both Sponsors at least once each year to explain the annual report to them and to answer any questions they may have about the Plan and the Fund;

(aa) to advise the Sponsors in respect of any changes to the Plan that need to be made to comply with any applicable law; and

(bb) to advise the Sponsors in respect of changes that the Trustees consider would improve the administration of the Plan.

25. The Board of Trustees shall be comprised of 10 Trustees, 5 of whom shall be appointed by OPSEU, and 5 of whom shall be appointed by Ontario.

26. Each Trustee shall serve at the discretion of the Sponsor that appoints the Trustee.

27. There shall not be any alternate Trustees permitted to act in the place of any of the Trustees.

28. The Trustees shall, from among their number, appoint a Chair and Vice-Chair. The Chair, or in the Chair's absence, the Vice-Chair, shall chair the meetings of the Board. The Chair shall also chair the Administration Committee, and the Vice-Chair shall chair the Investment Committee. The Chair and Vice-Chair shall vote at all meetings of the Board of Trustees or its Committees.

29. The term of the Chair and the Vice-Chair shall be two years.

30. At all times, a Trustee nominated by the Trustees appointed by OPSEU shall be either the Chair or the Vice-Chair, and the other position shall be filled by a Trustee nominated by the Trustees appointed by Ontario. If a Trustee who is Chair or Vice-Chair ceases at any time or for any reason, to be a Trustee, then his or her position shall be filled for the balance of the term, by a Trustee appointed by the same Sponsor. The term of any replacement Chair or Vice-Chair shall be deemed to have commenced at the commencement or deemed commencement of the predecessor Trustee's term.

31. At the end of their first terms, the Chair and Vice-Chair, or their replacements if any, will exchange positions. At the end of their second terms, the Chair and Vice-Chair will cease to hold those positions, and the Trustees shall select a new Chair and Vice-Chair in accordance with paragraphs 28 and 30.

32. Any resolutions of the Trustees, shall require a vote of the majority of the Trustees present, provided that at least one Employer Trustee and one Union Trustee have supported the resolution. The Chair shall not be entitled to a second vote in the event of a deadlock.

33. A deadlock shall be deemed to exist where a proposal, motion or resolution made by the Trustees is neither adopted nor rejected by a majority vote , or where a resolution or motion is unable to be made at a meeting due to lack of a quorum of two consecutively called meetings.

34. In the event of a deadlock, a further meeting of the Trustees shall be held no later than ten days after the deadlock has arisen for the purpose of resolving the matter in dispute. If the matter is not resolved at such meeting, any five Trustees may require the naming of an eleventh Trustee, who shall cast the deciding vote at the next scheduled or special meeting. The eleventh Trustee shall be one of three persons as shall be determined by the Sponsors from time to time who shall rotate in order between them as determined by the Sponsors, except that if any one of them is unavailable within 30 days of the dispute arising to resolve the matter in dispute, the eleventh Trustee shall pass to the next person, or if such person is not available within 30 days, to the next available person or to such other person as may be agreed by the Sponsors. If the Sponsors cannot agree on an eleventh Trustee, he or she shall be appointed by the Chief Justice of Ontario.

35. The eleventh Trustee shall attend a meeting at which time he or she shall review all relevant documentation and entertain submissions from the remaining Trustees or any group of Trustees with respect to the matter in issue. The eleventh Trustee shall cast a tie-breaking vote and shall make his or her determination within seven days of the meeting at which submissions are made. The decision of the eleventh Trustee shall be final and binding on all other

Trustees, the Sponsors, Participating Employers, Employees and their beneficiaries. The provisions of paragraph 32 shall not apply in respect of any vote utilizing the eleventh Trustee. Upon rendering his or her decision, the eleventh Trustee shall be functus and shall cease to be a Trustee.

36. The reasonable expenses and fees of the eleventh Trustee shall be paid out of the Fund.

E. THE PLAN

37. The Sponsors will adopt a Plan, to be effective January 1, 1993.

38. The Plan shall be the same in all material respects as the PSPP, as it was on April 18, 1994, except that the OPSEU Plan will be modified to be consistent with the terms of this agreement. These modifications shall include the following:

(a) Ontario may proceed to amend the PSPP in accordance with the list of "housekeeping amendments" attached as Appendix "B" to this agreement;

(b) subsections 7(3), (4), (5), and (7) of the PSPP shall be deleted;

(c) the provisions of this agreement with respect to the Plan's membership, and the transfers of bargaining units or acquisitions of bargaining rights, if any, shall apply;

(d) the provisions of this agreement with respect to contributions, actuarial gains, actuarial losses, solvency deficiencies and the initial unfunded liability, shall apply;

(e) Factor 80 benefits shall be provided under the Plan to March 31, 2000 for all Plan Members;

(f) the Plan shall provide that no amount of surplus shall be paid out of the Fund to Ontario or any Participating Employer.

39. OPSEU Plan Members shall be:

(a) effective as of the later of January 1, 1993 and the date of the commencement of their employment with a Participating Employer, persons who are:

(i) civil servants within the meaning of the Public Service Act and are employed in a designated bargaining unit, for the purposes of section 22 of the Crown Employees Collective Bargaining Act,

(ii) employed by agencies, boards, commissions, foundations or organizations established by an Act of the Legislature that were designated by the order of the Lieutenant Governor in Council as one whose employees in that class were required to be members of the PSPP on December 31, 1992 or in a class that would have been required to be members of the PSPP at any time up to and including December 31, 1994, and are employed in a bargaining unit that was represented by OPSEU on January 1, 1993 or that was represented by OPSEU at any time thereafter;

(iii) employed by Go Transit ("GO"), and in a bargaining unit represented by the Amalgamated Transit Union ("ATU") Local 1587 on that date, provided that the ATU consents to the participation of these employees in the OPSEU Plan by notice in writing to the Sponsors on or before May 13, 1994;

(iv) employed by the Liquor Control Board of Ontario ("LCBO") or the Liquor License Board of Ontario ("LLBO"), and in a bargaining unit represented by the Ontario Liquor Board Employees' Union ("OLBEU") on that date, provided that the OLBEU consents to the participation of these employees in the OPSEU Plan by notice in writing to the Sponsors on or before May 13, 1994;

(v) employed by the Metropolitan Toronto Housing Authority ("MTHA"), and in a bargaining unit represented by the Canadian Union of Public Employees ("CUPE") Local 767 on that date, provided that CUPE consents to the participation of these employees in the OPSEU Plan by notice in writing to the Sponsors on or before May 13, 1994; and

(vi) employed by the Ontario Housing Corporation ("OHC"), and in a bargaining unit represented by CUPE Local 3096 on that date, provided that CUPE consents to the participation of these employees in the OPSEU Plan by notice in writing to the Sponsors on or before May 13, 1994.

(b) persons to whom subsection (1) does not apply, and who had elected to be members of the PSPP prior to January 1, 1993, or who filed an election with the OPB or were eligible to file an election with the OPB pursuant to s. 2(2)(b) of the PSPP after December 31, 1992, and are employed by Ontario under the Public Service Act in a bargaining unit represented by OPSEU, or by any agency, board, commission, foundation or organization established by an Act of the Legislature in a bargaining unit represented by OPSEU, the OLBEU, ATU, Local 1587, CUPE Local 767 or CUPE Local 3096.

40. The Sponsors agree to discuss in good faith the future membership of the Plan and the acquisition of bargaining rights to discuss whether employees of employers who are not Ontario Crown agencies, boards and commissions should become members of the Plan and, if so, the terms of such membership.

41. The Plan may be amended only by agreement in writing between OPSEU and Ontario.

F. INTERIM ADMINISTRATION OF THE PLAN

42. The OPB shall administer the Plan and manage the Fund as administrator, as that term is used in the PBA, subject to this agreement and subject to the Implementing Legislation, until January 1, 1995, or such other date as may be determined by the Sponsors.

43. (1) Subject to any agreement reached pursuant to subsection (2), the OPB shall be the agent of the Sponsors for the purposes of effecting the transition from the PSPP and the PSPF to the Plan and the Fund and, in particular:

(a) the OPB shall cooperate with the Trustees to effect the transfer of the Plan and the Fund as contemplated by this agreement;

(b) the OPB shall provide the Sponsors and the Trustees, or such persons as they may designate, with copies of all documents, information, data and software that are in the possession or within the power or under the control of the OPB that the Sponsors and Trustees may reasonably require for the purpose of establishing or administering the OPSEU Plan and establishing and managing the Fund;

(c) the OPB shall permit such observers as may be specified by either Sponsor to attend at any meeting of the OPB, or any of its Committees, or any of its wholly owned corporations that relates to the administration or investment of the Plan or the Fund;

(d) the OPB shall provide access to such inspectors or auditors as may be specified by either Sponsor to all of its books, records, documents, agreements, data bases and computer hardware and software, and all of the books, records, documents, agreements, data bases and computer hardware and software of any corporation wholly owned by the OPB;

(e) from the effective date of this agreement to the Joint Sponsorship Date, or such other date as the Trustees assume all administrative and investment functions with respect to the Plan, the OPB shall:

(i) incur only those expenses or make those capital purchases with respect to the Plan as are necessary to administer the Plan and manage the Fund until the transition is complete;

(ii) not contract for any goods or services of any kind whatsoever in respect of the Plan having the cost in excess of $15,000.00 without the consent of the Sponsors; and

(f) On January 1, 1995, or such later date as may be specified by the Trustees, all administrative and investment functions with respect to the Plan shall be assumed directly by the Trustees, or by such agents as they may designate.

(2) Each of OPSEU and Ontario shall use their best efforts to negotiate with each other and with the OPB concerning the transfer to the OPSEU Plan of software and data and such other matters as the Sponsors may agree; provided, however, that if a unanimous agreement is not reached, any of OPSEU, Ontario and the OPB may refer the issue to an expedited final and binding arbitration, in which the Mississauga Pensions Group of Price Waterhouse Limited ("Price Waterhouse") (or such member of that group as Price Waterhouse may designate) shall act as arbitrator. The Arbitrations Act, 1991, shall not apply to any such arbitration. The Sponsors will agree on an expedited arbitration procedure which will be made binding upon the OPB. The Sponsors agree that Price Waterhouse shall not be prevented from acting by reason of any conflicts of interests and this provision shall be made binding upon the OPB.

44. For the purposes of effecting this transition, the Sponsors shall act through transition teams. OPSEU's transition team shall consist of Heather Gavin, Shirley McVittie, Len Hupet, Leah Casselman, Grant MacGillivray and Paul Lane. Ontario will name its transition team by April 19, 1994. Both Sponsors reserve the right to alter the composition of their transition teams from time to time.

45. Each Sponsor shall have the right to retain such advisors as are reasonably necessary to effect this transition in a prudent manner. The costs of each Sponsor's advisors, and all disbursements, shall be paid from the Fund. Employees

of Ontario on Ontario's transition team shall be paid by Ontario. The members of OPSEU's transition team shall be granted time off with pay pursuant to Article 28 of the Collective Agreement between OPSEU and Ontario from April 11, 1994 to January l, 1995. In addition, Ethel LaValley, Gus Collins and Noreen Angus will be provided time off with pay pursuant to Article 28 of the Collective Agreement from April 11, 1994 to May 20, 1994, inclusive.

46. Ontario's transition team will report to the Secretary of the Management Board of Cabinet. OPSEU's transition team shall report to the President of OPSEU.

G. PAYROLL DATA

47. (a) For the purposes of this section, the term "payroll data" shall mean all information in any manner relevant to Plan Members' employment and entitlement to salary and benefits, and shall include, but shall not be limited to, employees' full names, addresses, birthdates, Social Insurance Numbers, start dates, spouses, beneficiaries, wages, benefits, seniority and termination dates.

(b) Ontario shall, on or prior to the Joint Sponsorship Date, provide to the Trustees all payroll data respecting Plan Members. The payroll Data shall be accurate. It shall be accessible to the Trustees for the purpose of establishing and administering the Plan and managing the Fund.

(c) Commencing on or before the Joint Sponsorship Date, Ontario and each Participating Employer will provide and continue to provide, to the Trustees, all changes to their payroll data respecting Plan Members, including, but not limited to, all new hirings, salary and benefit alterations, name changes, changes in marital status, beneficiary changes, terminations and address changes. Such payroll data changes shall be provided forthwith as they occur.

(d) All payroll data required to be provided to the Trustees will be provided on a without cost basis.

H. TRANSFER OF ASSETS OF PSPF AND SPECIAL FUNDING

48. As of the Effective Date:

(a) all the obligations for benefits with respect to the OPSEU Members will be transferred from the PSPP to the Plan; and

(b) in consideration of the transfer of obligations, the portion of the assets of the PSPP equal to the Transferable Assets will be assumed by the Plan.

49. Ontario will undertake to pay the pro-rata share of special payments established for the purposes of the PSPP to the Plan to liquidate the Transferred Initial Unfunded Liability assumed by the Plan.

50. The Transferable Assets will be placed in a separate account under the PSPF as of the Effective Date. The separate account will be adjusted between the Effective Date and the Joint Sponsorship Date for all the customary transactions on an accrual basis including Plan Members' contributions and Ontario's matching employer and special contributions (subject to the contribution reductions described in paragraphs 52 and 53), any benefit payments with respect to Plan Members, administration expenses related to the operation of PSPP and the Public Service Pension Fund with respect to Plan Members, expenses for the set up of the Plan and the Fund, interest, dividends, capital gains or losses (realized and unrealized), principal repayments with respect to the Transferable Assets and any other receipts or payments attributable to the Transferable Assets or Plan Members' obligations. As of the Joint Sponsorship Date, an amount of assets equal to the balance of the separate account will be transferred from the PSPF to the Fund. The transfer of assets will be in kind and not in cash, to the extent possible.

51. Upon the transfer of assets from the PSPF to the Fund described in paragraph 50, the PSPP will be discharged of all obligations with respect to any benefits related to OPSEU Members and assumed by the Plan.

52. Ontario shall reduce the special contributions and then the matching employer contributions otherwise required from Ontario under the Plan for the period April 1, 1994 through March 31, 1997 in the amounts that are the greater of (a) and (b) where :

(a) is the appropriate amount from the following table:

(i) April 1, 1994 to March 31, 1995: $130 million;

(ii) April 1, 1995 to March 31, 1996: $131 million; and

(iii) April 1, 1996 to March 31, 1997: $131 million; and

(b) for each year commencing on or after April 1, 1994 and ending March 31, 1997 equals the sum of (i) and (ii), prior to the contribution reductions provided herein, where:

(i) is the amount of special contributions otherwise payable by Ontario for the Transferred Initial Unfunded Liability for the year; and

(ii) is the amount calculated for the year under subparagraph (iii);

(iii) is the appropriate amount from the table below multiplied by the proportion described in subparagraph (iv):

- April 1, 1994 to March 31, 1995: ($312 minus $123) million;
- April 1, 1995 to March 31, 1996: ($315 minus $130) million; and
- April 1, 1996 to March 31, 1997: ($315 minus $137) million;

(iv) is the proportion obtained from the formula (A/B + .008) where:

- A equals OPSEU Members' contributions to the PSPP; and

- B equals all members' contributions to the PSPP,

for the year commencing after December 31, 1992 as calculated by the Board Actuary on the basis of the data upon which the Actuarial Report was prepared.

53. Ontario and the Members of the Plan will further reduce their contributions to the Plan as follows:

(a) a reduction shall be made in each Member's contribution equal to 1% of salary for the period April 1, 1994 to March 31, 1997;

(b) a reduction shall be made in the matching employer contribution required from Ontario equal to 1% of members' aggregate salaries for the period April 1, 1994 to March 31, 1995; and

(c) a reduction shall be made in an amount equal to the aggregate special payments required to amortize any unfunded liability with respect to Factor 80 by March 31, 1997.

54. Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the reductions described in paragraphs 52, and 53, such net actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997 will be applied to reduce the remaining amount of the Transferred Initial Unfunded Liability as of March 31, 1997. Ontario's special contribution requirements will be restated over the period April 1, 1997 through December 1, 2029, in order to liquidate the resulting balance of the Transferred Initial Unfunded Liability over that period.

55. Any net actuarial losses remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the reductions described in paragraphs 52, and 53, such net actuarial losses to be accumulated with interest at the valuation rate of interest to March 31, 1997 will be liquidated through

future additional contributions from Ontario and the members as collectively bargained.

56. Any net actuarial gains remaining as at December 31, 1995, as determined by an actuarial valuation as of that date, after recognizing the effect of paragraphs 52, 53, and 54, and any actuarial gains disclosed under an actuarial valuation prepared as of December 31, 1996, all such actuarial gains to be accumulated with interest at the valuation rate of interest to March 31, 1997, and any actuarial gains disclosed under an actuarial valuation prepared as of a date after March 31, 1997, will be utilized in the following order:

(a) until the Transferred Initial Unfunded Liability is fully liquidated:

(i) 50% of the gain shall be used to reduce the remaining Transferred Initial Unfunded Liability and the period of amortization over which the Transferred Initial Unfunded Liability is to be fully liquidated shall be adjusted to reflect the reduction; and

(ii) 50% of the gain shall be used for the benefit of Plan Members;

(b) after the Transferred Initial Unfunded Liability is fully liquidated, 100% of the remaining gains shall be used for the benefit of the Plan Members subject to the PBA until the aggregate gains so utilized equal the amount utilized under paragraph 54;

(c) thereafter, the remaining gains shall be used equally for the benefit of Ontario and OPSEU subject to the following:

(i) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of Ontario, to be applied against any special payments required to be made by Ontario and thereafter to reduce Ontario's normal costs; and

(ii) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of Plan Members.

57. Subject to the Income Tax Act (Canada), actuarial gains may be used to establish rate stabilization funds. Actuarial gains for the benefit of Plan Members under paragraph 56 may be used to establish a rate stabilization fund for the benefit of the Members. Actuarial gains for the benefit of Ontario under Section 56(c)(i) may be used to establish a rate stabilization fund for the benefit of Ontario.

58. In the event of any actuarial loss or solvency deficiency, contributions by the Members and Ontario shall be increased in equal amounts to liquidate the actuarial loss or solvency deficiency in accordance with the PBA. The contribution increase will be automatic, and effective as of the first day of January of the year after the actuarial valuation was filed, or such earlier date as may be required by the PBA; provided that no contribution increase will be provided for any actuarial loss or solvency deficiency prior to April 1, 1997, and provided further that the Members, and Ontario, may provide for their payments in respect of such actuarial loss or solvency deficiency from their rate stabilization funds, at their option.

I. COSTS OF THE SUCCESSORSHIP

59. The reasonable costs incurred by the Sponsors, between March 28, 1994 and the date on which the Trustees assume all administrative and investment functions with respect to the OPSEU Plan and the OPSEU Fund, other than costs in respect of their own officers and employees, shall be paid from the Fund.

60. The reasonable costs incurred by the Trustees, between the date of their appointments and the date on which the Trustees assume all administrative and investment functions with respect to the Plan and the Fund, shall be paid from the Fund.

J. TIMETABLES

61. The Sponsors shall make their best efforts to complete the following things on or before the following dates:

Action:	**Date:**
Finalize sponsorship agreement	April 18, 1994
Execute sponsorship agreement	April 18, 1994
Name transition team	April 19, 1994
Finalize trust agreement	April 22, 1994
Disclosure by OPB	April 22, 1994
Draft plan text to OPSEU	April 29, 1994
Draft plan text finalized and adopted	May 18, 1994
Ratification	May 13, 1994
Sponsors appoint trustees	October 29, 1994
Execute trust agreement	October 30, 1994
Trustees adopt statement of investment goals and policies	October 30, 1994
Plan text filed with PCO and with Revenue Canada	Within 2 weeks of en-actment of legislation
Plan manager appointed	Within 2 weeks of en-actment of legislation
Plan manager hires team	August 30, 1994
Appointment of actuary, auditor,	October 30, 1994

lawyer, custodian, investment managers	
Office space, furnishings, supplies in place	January 1, 1995
Trustees' employees in place	January 1, 1995
Assets transferred to OPSEU Fund	January 1, 1995;

K. IMPLEMENTING LEGISLATION

62. To give effect to the terms of this agreement, Ontario will make its best efforts to implement by legislation, regulation or order in council as follows:

(a) Transitional Matters:

(a) to continue the PSPP as the pension plan for the members of the PSPP who do not become members of the OPSEU Plan;

(b) to provide for the registration of amendments to the PSPP by the Superintendent of Pensions;

(c) to provide for the transfer of assets and liabilities from the PSPP and from the Public Service Pension Fund to the OPSEU Plan and Fund in accordance with this agreement;

(d) to provide that the amendments to the PSPP contemplated by this agreement do not constitute an adverse amendment under s. 26 of the PBA requiring notice to members;

(e) to provide for the registration of the OPSEU Plan by the Superintendent of Pensions;

(f) to provide for the payment by Ontario of special payments and matching contributions into the OPSEU Fund for the period April 1, 1994 to March 31, 1997 in accordance with this agreement;

(g) to provide that no new obligation to make special payments into the Fund shall be created for the period up to and including March 31, 1997;

(h) to provide for the payments out of the Fund in accordance with Section I;

(i) to require the OPB to transfer the Transferable Assets in the separate account from the PSPF to the Fund as of the Joint Sponsorship Date, with such assets to be determined by the Sponsors, provided that the Fund shall receive, to the extent possible, a pro rata share of investments in each class and category of investments held by the PSPF;

(b) Exemptions of the OPSEU Plan from the PBA and Other Statutory Matters:

(j) to provide that the liquidation of the initial unfunded liability described in ss. 8 to 10 of the PSPA is solely the responsibility of Ontario;

(k) to provide that the portion of the initial unfunded liability described in ss. 8 to 10 of the PSPA that is assumed by the OPSEU Plan will continue to be liquidated through a series of special payments over 40 years as described in s. 10 of the PSPA; for greater clarity, the initial unfunded liability shall be liquidated in accordance with this agreement and not in accordance with s. 11 of the PSPA;

(l) to provide that notwithstanding the PBA and the regulations thereunder, the receipt and holding by the Board of Trustees of debentures issued under s. 7 of the PSPA shall not be considered to be imprudent or unreasonable or contrary to the PBA and regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board of Trustees and any committee of the Board of Trustees in determining future investments of the assets of the OPSEU Plan, and to exempt the OPSEU plan from the provisions of ss. 22(1) and s. 62 of the PBA to this extent only;

(m) to exempt the OPSEU Plan from the provisions of s. 5 of the Regulations of the PBA with respect to the funding of the initial going concern unfunded liability only;

(n) to exempt the OPSEU Plan and the PSPP from the provisions of s. 19(7) of the Regulations of the PBA with respect to subsequent transfers between the two plans of bargaining units;

(o) to provide that the costs of the Factor 80 program (as set out in s. 41 of the PSPP) will be paid out of the Public Service Pension Fund and out of the Fund;

(p) to provide for the application of actuarial gains in the OPSEU plan as described in Section H of this Agreement;

(q) to require those Ontario Crown agencies, boards and commissions who employ members of OPSEU to be participating employers of the OPSEU Plan as defined in the Trust Agreement;

(r) to provide for the status of the OPSEU Plan as described in paragraphs 2 and 8, above;

(s) to provide for the transfer of bargaining units and groups of members between the OPSEU Plan and the PSPP in accordance with this agreement;

(t) to require that in the preparation of any actuarial valuation report the actuary will prepare the report in accordance with the requirements of the Implementing Legislation, using assumptions appropriate for the Plan and methods consistent with sound principles established by precedent and common usage within the actuarial profession and otherwise in accordance with the PBA;

(u) to provide that employees of the OPSEU Fund may be members of the OPSEU Plan; and

(v) to bind the Ontario Pension Board (the "OPB") and the PSPP to comply with the terms of this agreement.

63. To the extent possible, Ontario intends to implement the Implementing Legislation through one bill.

64. The legislation referred to in Section K may be reviewed in draft form by OPSEU's lawyer, actuary, Heather Gavin and Len Hupet, at the offices of Ontario's legal counsel, provided that OPSEU will not be permitted to retain a copy of the draft legislation.

L. ENFORCEMENT

65. Any dispute with respect to the interpretation or application of this agreement or the terms of any other agreement or document that the Sponsors must execute pursuant to this agreement, may be referred by either Sponsor to final and binding arbitration. Either of the parties may notify the other in writing of its desire to submit a difference or dispute to arbitration and the notice shall contain the name of the first party's appointment to an Arbitration Board. The recipient of the notice shall within five (5) days inform the other party of the name of its appointee to the Arbitration Board. The two (2) appointees so selected shall, within five (5) days of the appointment of the second of them, appoint a third person who shall be the Chairperson. If the recipient of a notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a Chairperson within the time limit, either party may request that the appointment shall be made by the Chief Justice for Ontario. For greater certainty, no decision of the arbitrator can impose any additional financial burden or obligation on any of the sponsors, the OPB or the PSPF that is not agreed to as part of this agreement or otherwise agreed to between the parties.

M. MISCELLANEOUS

66. Upon proclamation of the Implementing Legislation, OPSEU will withdraw, with prejudice (but without any admission that such proceedings were not meritorious) and without costs, all legal proceedings commenced on or before April 18, 1994, concerning the establishment and administration of the PSPP.

67. The OPSEU Plan and Fund will not assume any costs associated with any rate stabilization fund that may be established for the PSPP.

68. Each of the parties hereto agrees to promptly do, make, execute, deliver or cause to be done, made, executed or delivered all such further acts, documents and things as may reasonably be required for the purpose of giving effect to this agreement, whether before or after the Joint Sponsorship Date.

IN WITNESS WHEREOF the parties hereto have hereunto executed this Sponsorship Agreement at Toronto, Ontario, on the 18th day of April, 1994.

FOR OPSEU	FOR ONTARIO:
Leah Casselman	Jennifer Brown
Heather Gavin	

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APPENDIX "B"

OUTSTANDING TECHNICAL/HOUSEKEEPING AMENDMENTS TO PSPP

March 31, 1994

- **Amend Section 8:**
  - To clarify where a leave of absence is for:
    - more than one month: the member may contribute and receive credit for service;
    - one month or less: contributions are required, and credit is automatic.
  - To limit the length of credited service for leaves of absence for a member to 5 years, and to an additional 3 years for pregnancy/adoption of child. The limitation is required by the *Income Tax Act*, and has been in effect since January 1, 1992.
- **Revoke Section 9 of the Plan:**
  - The Income Tax Act does not permit a plan to bridge a member to retirement after the member is terminated from employment.
- **Amend Section 11:**
  - reflect the conditions that Revenue Canada require in the case of buybacks with a prior employer
- **Amend section 13:**
  - to permit the designation of a refund recipient. This would tie in with a requirement under the Same-sex spouse supplementary plan that a member designate the same-sex spouse as the refund recipient under the Plan. The purpose is to ensure that the total outlays for same-sex situations do not exceed those for similarly situated other-sex situations. [Similar amendments will be required in other parts of the plan]
- **Amend section 14:**
  - reflect the limitations on the payment of disability pensions stipulated under the *Income Tax Act*. Related amendments will be required in other parts of the plan.
- **Amend section 19:**
  - clarify that when a former member who is pre-deceased by his/her spouse dies, and the member has eligible children, that the spousal pension is payable to the children
- **Amend section 26:**
  - clarify that where a pensioner is re-employed and commences to contribute to the plan, that the payment of the pension ceases

- **Amend section 27**:
  - add the term "surrender" to the list of prohibited transactions. This requirement was brought to the attention of the Ontario Pension Board by Revenue Canada.

APPENDIX "C"

1. Definitions:

(a) "Actuarial Report" means the report on the actuarial valuation of the Ontario Public Service Pension Plan as at December 31, 1992 prepared by William M. Mercer Limited and dated February, 1994;

(b) "Board Actuary" means William M. Mercer Limited;

(c) "Debentures" means the special provincial debentures held under the Public Service Pension Plan as at December 31, 1992 and described in Appendix 5 of the Actuarial Report including accrued interest on the debentures;

(d) "Government Actuary" means the Chief Actuary, Ontario Management Board Secretariat;

(e) "Marketable Assets" means all securities, instruments and assets, other than the Debentures, held under the Public Service Pension Plan as at December 31, 1992, including receivables and fixed assets;

(f) "Net Actuarial Liability" means the sum of the value of future benefits in respect of former members and active members less the value of future contributions of employees and the employer as at December 31, 1992, as described in the valuation balance sheet included on page 29 of the Actuarial Report;

(g) "OPSEU Actuary" means an actuary or a firm of actuaries appointed by OPSEU for the purposes of this Appendix C;

(h) "OPSEU Net Actuarial Liability" means the portion of the Net Actuarial Liability that pertains to OPSEU members based on the data with respect to the OPSEU Members and the members of the PSPP as included in the Actuarial Report, as calculated by the Board Actuary and verified for overall reasonableness by the Government Actuary and the OPSEU Actuary; and

(i) for the purposes of this Appendix "C" and Section H only, "OPSEU Members" means persons described in paragraphs 39 (a) and (b) who were members of the PSPP on December 31, 1992.

2. Transferable Assets:

The percentage of each of the two classes of assets, namely the Debentures and the Marketable Assets, that will constitute Transferable Assets as of the Effective Date will be the product of (a) and (b) below, where:

(a) is the percentage obtained by dividing the OPSEU Net Actuarial Liability by the Net Actuarial Liability; and

(b) is 1 + (1.4 / 27.6)

3. Transferred Initial Unfunded Liability:

(a) The Transferred Initial Unfunded Liability of the Plan as of December 31, 1992 equals (i) plus (ii) minus (iii) below, where:

(i) is OPSEU Net Actuarial Liability;

(ii) the percentage in s. 2(a) above multiplied by the provision for actuarial expenses set forth in the balance sheet on page 29 of the Actuarial Report; and

(iii) is the actuarial value of the Transferable Assets using the methods described in the Actuarial Report as calculated by the Board Actuary and verified for overall reasonableness by the Government Actuary and the OPSEU Actuary.

(b) The special payments that Ontario undertakes to pay to the Plan will be the pro-rata share of the special payments established under the PSPP remaining as of December 31, 1992 as described in the Actuarial Report. The pro-rata share equals (i) divided by (ii), below, where:

(i) is the Transferred Initial Unfunded Liability of the Plan described in sub-paragraph 3(a) of this Schedule; and

(ii) is the value of remaining payments against initial unfunded liability less the experience gain, both as stated in the valuation balance sheet included on page 29 of the Actuarial Report.

AMENDMENT NO. 1 TO THE SPONSORSHIP AMENDMENT AND ASSET TRANSFER AGREEMENT MADE AS OF DECEMBER 12, 1994 (THE "ASSET TRANSFER AGREEMENT")

B E T W E E N

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET
("Ontario")

PARTY OF THE FIRST PART

- and -

THE ONTARIO PENSION BOARD
("OPB")

PARTY OF THE SECOND PART

- and -

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
("OPSEU")

PARTY OF THE THIRD PART

- and -

THE TRUSTEES OF THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION PENSION PLAN TRUST FUND
(the "Trustees")

PARTY OF THE FOURTH PART

Preamble:

1. OPSEU and Ontario agreed to create the OPSEU Pension Plan for members of the Ontario Public Service represented by OPSEU. The terms of their agreement are in a Sponsorship Agreement dated April 18, 1994, as amended by the Asset Transfer Agreement and Amendment No. 2 to the Sponsorship Agreement.

2. Ontario, OPSEU, the OPB and the Trustees then entered into the Asset Transfer Agreement on December 12, 1994 to set out the mechanisms and timetables for transferring assets from the OPB to the Trustees.

3. Three types of assets were transferred - Marketable Assets, Debentures, and the right to receive special payments in respect of an initial unfunded liability of the Public Service Pension Plan ("PSPP").

4. The Asset Transfer Agreement anticipated an initial asset transfer, and two subsequent adjustments. The initial asset transfer was made in December 1994.

5. The first adjustment, called the Roll Forward Adjustment, was made in April 1996. This adjustment was necessary because the transfer of assets was as at December 31, 1992, but did not take place until December 1994. The Roll Forward Adjustment accounted for certain activity between January 1, 1993 and December 31, 1994, and adjusted for certain estimates in the initial asset transfer.

6. The second adjustment, called the Purification Adjustment, was scheduled for April 15, 1996 (with a possible delay until October 15, 1996 if Ontario and OPSEU agreed), but has not yet been made. It is necessary because the initial asset transfer, the determination of the Transferred Initial Unfunded Liability and the related special payments and the Roll Forward Adjustment, were made on the basis of plan affiliation and plan member data that was not accurate.

7. A project to review and correct the data, known as the "purification project", was initiated in 1994. It was anticipated that the purification project would be complete before April 15, 1996. But it is only partially complete and is not expected to be finished until 1998.

8. The part of the purification project that will be completed by December 31, 1996 relates to "plan affiliation data". For the purposes of the Asset Transfer Agreement, "plan affiliation data" means data which identifies whether a person was an active or inactive member of the Public Service Pension Plan ("PSPP") or the OPSEU Pension Plan on December 31, 1992 and between January 1, 1993 and December 31, 1994, whether or not the person was previously identified as a member of either plan.

9. The purification project has not yet corrected general "plan member data", such as the member's date of birth, years of service, salary history and significant pension entitlement related transactions.

10. Since the purification project is not finished, the Purification Adjustment cannot be completed in its entirety as set out in the Asset Transfer Agreement. However, because the purification project will be completed with respect to Plan affiliation data by December 31, 1996, the Purification Adjustment can be made in part.

11. Accordingly, the parties wish to amend the Asset Transfer Agreement to provide for a two-stage Purification Adjustment. The first stage of the Purification Adjustment - with respect to "plan affiliation data" - shall be made in April 1997. The second stage - with respect to "plan member data" - will be made when the purification project is complete.

12. Further, in order to simplify the two-stage Purification Adjustment, the Debentures will only be reissued by Ontario in the first stage of the adjustment. Any adjustment to the Debentures that would have been made because of changes to "plan member data", will instead be paid in cash.

Amendments

1. Part C of Schedule "1" to the Asset Transfer Agreement is replaced with the following:

"C. **Purification Adjustment**

The Purification Adjustment shall be made in two stages. The first stage, called Purification Adjustment (Plan Affiliation), shall be made on or before April 15, 1997. The second stage, called Purification Adjustment (Member Data), shall be made on or before December 15, 1998.

C1. **Purification Adjustment (Plan Affiliation)**

The Purification Adjustment (Plan Affiliation) will equal the Plan Affiliation Transfer Amount rolled forward to December 31, 1995 less $30,799,235[1]. The Plan Affiliation Transfer Amount will be calculated in the same way as the Roll Forward Transfer Amount except as outlined below.

(a) Split of Debentures and Marketable asset position on December 31, 1992.

(i) The OPSEU and Total Net Actuarial Liabilities will be recalculated by Mercer's by January 11, 1997 then verified for reasonableness by the OPT and Government actuaries. These calculations will be based upon the actual active and inactive membership and the actual split between the two

[1] $30,799,235 assumes no accounts payable adjustment is needed as OPB has paid all outstanding accounts related to the roll forward period.

pension plans.

(ii) The asset split transfer percentage will be recalculated using the revised actuarial liabilities calculated above and applying the formula provided in the Sponsorship Agreement. This asset split transfer percentage will be used to determine the split of the Final Debentures in the Asset Transfer Agreement.

(b) Roll Forward activity from January 1, 1993 to December 31, 1994.

As the initial asset split will change as of December 31, 1992, this will have an impact on the split of the unfunded liability payments, the proportionate share of payments which were received in the roll forward period on the Debentures, as well as any of the Roll Forward items that are dependent upon the proportionate share of the asset pools (ie. income/loss on marketable investments (excluding real estate), unrealized gains/losses and investment expenses, etc.). Further, the final plan affiliation data will change the allocation of contributions and entitlement payments in the roll forward period.

C2. **Purification Adjustment (Member Data)**

The Purification Adjustment (Member Data) will equal the Member Data Transfer Amount less the Plan Affiliation Transfer

Amount, both rolled forward to December 31, 1995. The Member Data Transfer Amount will be calculated in the same way as the Plan Affiliation Transfer Amount, except as outlined below.

(a) Split of Debentures and Marketable Asset position on December 31, 1992.

(i) The OPSEU and Total Net Actuarial Liabilities will be recalculated by Mercer's by June 1, 1998 then verified for reasonableness by the OPT and Government actuaries. These calculations will be based upon plan member data (eg. data such as a member's date of birth, years of service, salary history and significant pension entitlement related transactions) resulting from the purification project.

The final asset split transfer percentage will be recalculated using the revised actuarial liabilities calculated above and applying the formula provided in the Sponsorship Agreement. The final asset split transfer percentage will be applied to the Debentures and the Marketable Assets, but will be paid in cash by the OPT or the OPB, as the case may be.

(b) Roll Forward activity from January 1, 1993 to December 31, 1994.

As the initial asset split will change as of December 31, 1992, this will have an impact on the split of the unfunded liability payments, the proportionate share of payments which were received in the Roll Forward period on the Debentures, as well as any of the Roll Forward items that are dependent upon the proportionate share of the asset pools (ie. income/loss on marketable investments (excluding real estate), unrealized gains/losses and investment expenses, etc.). Further, the final plan affiliation data will change the allocation of contributions and entitlement payments in the roll forward period.

2. The following provisions of Part D of Schedule "1" to the Asset Transfer Agreement are hereby amended:

(i) Section D(1)(b) is replaced with the following:

"(b) the value of total plan marketable assets at December 31, 1992 as taken from the audited financial statements after making the following adjustments, the first four of which are outlined in the Lease Agreement dated September 26, 1994:

(i) subtract the net book value of the fixed assets which amounts to $2,889.000;

(ii) add the accounts payable and accrued charges of $4,042,000;

(iii) add income tax payable and accrued charges of $5,202,000;

(iv) subtract contributions receivable of $66,454,000;

(v) **for the Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data), subtract the transfer amount related to the divestiture of the Community Services in Hastings, Lennox and Addington, as at December 31, 1992 [Note to Draft: Is this the correct legal reference];**

(vi) **for the Purification Adjustment (Member Data), add the buyback receivable as at December 31, 1992, provided that each Plan's buyback receivable as at January 1, 1993 shall be credited against their opening asset position."**

(ii) The second and third paragraphs of Section D(2) are replaced with the following:

"In calculating **the Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data),** the interest income and principal payments received on the Debentures will be allocated based on the asset transfer percentage as determined in section 2 of Appendix "C" of the Sponsorship Agreement.

In addition to the **Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data)**, the change in the split of the Debentures will also impact the split of the payments that should have been received by each of the Plans subsequent to December 31, 1994. The adjustments required are outlined in Schedule "E" of this Schedule."

(iii) The second and third paragraphs of section D(10) are replaced with the following:

"In calculating the **Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data)**, the asset transfer percentage will be used in applying the methodology outlined specifically in the Sponsorship Agreement *(Appendix "C")* and the *interim* payments received on account of the unfunded liability so adjusted.

In addition to the **Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data)**, the change in the asset transfer percentage may also impact the split of the payments that should have been received by each of the plans subsequent to December 31, 1994. The adjustment required is dealt with in section "E" of this Schedule."

(iv) The first paragraph of section D(13) is replaced with the following:

"Operating expenses will be treated on a cash basis in the roll forward period. Consequently, the accruals and accounts payable are being reversed at the beginning of the period. Accruals will be recognized at the end of the period and allocated between the Plans, as appropriate.

When the Purification Adjustment (Plan Affiliation) is settled, any over or under accruals will be credited to the appropriate plan and paid in cash."

3. Section 4.05 of the Asset Transfer Agreement is replaced with the following:

"4.05 Effective on the date of the Purification Adjustment (Plan Affiliation), the New Debentures shall again be surrendered and exchanged for Final Debentures ("Final Debentures") which reflect the percentage of Debentures to be held by each of the OPSEU Fund and the PSP Fund on the date of the Purification Adjustment (Plan Affiliation)."

4. Section 4.07 of the Asset Transfer Agreement is replaced with the following:

"4.07 Upon the issuance of the Final Debentures, and then again upon the making of the Purification Adjustment (Member Data), there shall be an adjustment between the PSP Fund and the OPSEU Fund for payments on the Debentures and interest thereon for the period from 12.01 a.m. of December 19, 1994 to the date of the payment of the adjustments as between the OPSEU Fund and the PSP Fund, which adjustments shall be paid in cash. There shall also be a third adjustment reflecting the application of Roll Forward Methodology set out in Schedule "1" to the first two adjustments. Interest on the payments until October 15, 1996 shall be calculated at the highest guaranteed investment certificate rate payable by the Royal Bank for a period of one year commencing January 1, 1995 (the "GIC Rate"), and interest from October 15, 1996 to the date of payment shall be calculated at CANSIM series B14045 for the preceding calender year plus 3%. The adjustments shall be calculated by Price Waterhouse and subject to verification of all the Parties on thirty (30) days' notice, and then paid forthwith after the expiry of the thirty (30) days".

5. Section 5.03 of the Asset Transfer Agreement is replaced with the following:

"5.03 The estimated Transferred Initial Unfunded Liability as of December 31, 1992 shall be adjusted in accordance with the Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data) pursuant to Schedule "1" of this Agreement. Payments shall be made accordingly, with interest payable on any adjustments to unfunded liability payments made from December 31, 1994 to October 15, 1996 calculated at the GIC Rate, and interest on any adjustments to unfunded liability payments after October 15, 1996 at the CANSIM series B14045 rate plus 3%. Thereafter, Ontario shall make payments in respect of unfunded liabilities as adjusted pursuant to this Agreement".

6. Section 8.01 of the Asset Transfer Agreement is replaced with the following:

"8.01 In accordance with Schedule "1" of this Agreement, there shall be two adjustments made subsequent to the Transfer Date as defined in Schedule "1", which adjustments shall be known as the Purification Adjustment (Plan Affiliation) and the Purification Adjustment (Member Data). The Purification Adjustment (Plan Affiliation) shall be made on or before April 15, 1997, and the Purification Adjustment (Member Data) shall be made on or before December 15, 1998. Interest in respect of such adjustments from the Transfer Date to October 15, 1996 shall be paid at the GIC Rate, and interest in respect of such adjustments after October 15, 1996 shall be calculated at CANSIM series B14045 rate for the preceding calender year plus 3%.

7. Section 9.01 of the Asset Transfer Agreement is replaced with the following:

> "9.01 For purposes of implementing the terms of this Agreement, the parties will meet from time to time and make their best efforts to resolve any issues in dispute. If any payment has not been made by the date stipulated for it in this Agreement the parties shall meet on a weekly basis until the appropriate payment is made. Nothing in this provision restricts any party from initiating the arbitration process set out in section 11.01 with respect to a late payment.

Dated at Toronto, Ontario this day of , 1996.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF	)	**ONTARIO PENSION BOARD**
	)	**By:**
______________________ Witness	)	______________________
	)	**By:**
______________________ Witness	)	______________________

	)	**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET**
	)	**By:**
Witness	)	Chair of Management Board of Cabinet
	)	ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
	)	**By:**
Witness	)	**By:**
Witness	)	
	)	**THE TRUSTEES OF THE OPSEU PENSION PLAN TRUST FUND**
	)	**By:**
Witness	)	**By:**

AMENDMENT NO. 2 TO THE SPONSORSHIP AGREEMENT

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET ("ONTARIO")

PARTY OF THE FIRST PART

-and-

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION ("OPSEU")

PARTY OF THE SECOND PART

I. PREAMBLE:

December 31, 1995 Actuarial Valuation of the OPSEU Plan

1. OPSEU and Ontario entered into a Sponsorship Agreement dated April 18, 1994 (the "Sponsorship Agreement") to create the OPSEU Pension Plan. It refers to an actuarial valuation of the OPSEU Pension Plan as of December 31, 1995 and contains provisions governing the application of any net actuarial gains or net actuarial losses shown in that valuation.

2. It is important to both Ontario and OPSEU that the December 31, 1995 valuation be reliable. However, the data to be used by the OPSEU Pension Plan Trust Fund's ("OPT") actuaries in performing the valuation is, as of the date of this Agreement, in the process of being reviewed and corrected as part of a "purification project". This means that a valuation performed with such data may misstate the Plan's actuarial status, and that net actuarial gains or losses may be over or under stated.

3. It is, however, desirable to perform a December 31, 1995 valuation prior to March 31, 1997, or as soon thereafter as possible, in order, among other things, to determine the appropriate level of special payments for the Transferred Initial Unfunded Liability.

4. Accordingly, OPSEU and Ontario agree that the December 31, 1995 actuarial valuation will be performed in May 1997 based on accurate plan affiliation data and the best available plan member data at the time.

<u>Adjustments to the Asset Transfer Because of Corrected Member Data</u>

5. OPSEU, Ontario, the Trustees of the OPT (the "Trustees") and the Ontario Pension Board ("OPB") entered into a Sponsorship Amendment and Asset Transfer Agreement on December 12, 1994 (the "Asset Transfer Agreement"), to govern the transfer of assets from the OPB to the Trustees. The Asset Transfer Agreement was amended and restated on (the "Restated Asset Transfer Agreement").

6. The Restated Asset Transfer Agreement requires an adjustment to the initial asset transfer, known as the Purification Adjustment (Plan Affiliation). The purpose of this adjustment is to redetermine the December 31, 1992 asset split between the two plans, and the appropriate allocation of calendar year 1993 and 1994 income (including gains) and disbursements between the Plans, on the basis of accurate plan affiliation data. The Restated Asset Transfer Agreement does not, however, provide a mechanism for redetermining the December 31, 1992 asset split on the basis of accurate. plan member data.

7. Accordingly, the amendment herein provides for adjustments to the December 31, 1992 asset position on the basis of accurate plan member data.

II. GENERAL PROVISIONS

1. In this Amending Agreement, all terms which are defined in the Sponsorship Agreement shall have the same meaning herein unless the context or Amending Agreement otherwise requires.

2. The parties acknowledge and agree that the purposes of this Amending Agreement are:

(a) to provide for the performance of OPSEU Plan's December 31, 1995 actuarial valuation in May 1997;

(b) to provide for the performance of an actuarial valuation of the OPSEU Plan as at December 31, 1992 on the basis of accurate plan member data, and for a comparison between the Plan's liabilities disclosed by such valuation and the OPSEU Plan's December 31, 1992 liabilities as disclosed in the actuarial valuation of the PSPP as of December 31, 1992 performed by William M. Mercer on [Date] (the "December 31, 1992 Valuation").

Other than as is expressly provided herein, nothing in this agreement limits, removes or changes any right, claim or obligation provided in the Sponsorship Agreement or Asset Transfer Agreement as those agreements are amended from time to time.

III. AMENDMENTS

1. Ontario and OPSEU agree to amend the Sponsorship Agreement by adding the following:

58a

(a) The parties agree that the December 31, 1992 Valuation will be restated on the basis of accurate plan member data by Buck Consultants Ltd, or such other entity as may be agreed by Ontario and OPSEU, on or before December 31, 2001 (the "Restated 1992 Valuation"). The Restated 1992 Valuation shall use the same actuarial method and assumptions disclosed in the December 31, 1992 Valuation Report, but shall be performed, subject to paragraph (g), with accurate plan member data.

(b) In the event that the Restated 1992 Valuation discloses a loss, attributable to accurate plan member data, in comparison with the December 31, 1992 Valuation, the loss shall be accumulated with interest in accordance with paragraph (h) to March 31, 2002 (the "accumulated actuarial loss").

(c) On each of March 31, 2002 and April 1, 2002, Ontario shall pay a lump sum amount to the OPT equal to one half of the lesser of:

(i) 50% of the amount of the accumulated actuarial loss; and

(ii) $20,000,000.

(d) Ontario shall amortize the balance of the accumulated actuarial loss over six years from March 31, 2002. The interest rate to be applied for the purpose of calculating the stream of special payments shall be the valuation rate of the OPSEU Plan as of December 31, 2001.

(e) Despite (c) and (d) above, Ontario may make payments to OPT at any time for the purpose of set off against any actuarial loss that may be disclosed in the Restated 1992 Valuation. Where such payment or payments are made, interest for the portion of the actuarial loss that is set off by a payment shall accumulate in accordance with paragraph (h) up to the date of the payment. Despite (b) above, where such payments are made to OPT, the accumulated actuarial loss shall not include any payments made by Ontario under this paragraph or interest on such amount of the actuarial loss that is set off by such payment after the payment or payments are made. Despite (d) above, Ontario may also, after March 31, 2002 prepay a part or all of the special payments set out in (d) above. Any special payments that remain after any prepayment by Ontario shall be restated at the time of the prepayment, taking into account interest at the rate for such special payments set out in (d) above. In the event that the lump sum prepayment exceeds the amount described in (c), or Ontario's prepayments on account of the special payments exceed the value of the amounts payable under (d), Ontario shall be credited for any such overpayment without interest.

(f) Any actuarial-gain disclosed by the Restated 1992 Valuation, plus interest to March 31, 2002 calculated in accordance with subsection (h) (the "accumulated actuarial gain"), shall be applied against the outstanding balance as of March 31, 2002, of the Transferred Initial Unfunded Liability to reduce the remaining amortization period, or, if the Transferred Initial Unfunded Liability has already been liquidated or is less than the actuarial gain, then the gain or the amount of the gain in excess of the outstanding balance of the Transferred Initial Unfunded Liability, as the case may be, up to $20,000,000 for each twelve (12) month. period beginning April 1, 2002 and on each anniversary thereof, shall be applied as directed by Ontario. Interest shall accrue on such amounts of the gain carried forward from year to year after March 31, 2002, at the valuation rate of the OPSEU Plan as of December 31, 2001.

(g) Ontario shall review and correct all plan member data for OPSEU Plan members as at December 31, 1992, which shall incorporate such plan member data corrections as are provided to Ontario by the OPT. On or before December 31 , 2001 Ontario shall provide the OPT with a detailed list of plan member data changes made as at December 31, 1992, such that the calculations required by paragraphs (a) - (e) may be performed.

(h) For the purposes of this section, interest will be calculated at:

(i) the rate of return of the PSP Fund from January 1, 1993 to December 31, 1994, being 13.2% for 1993 and 6.65% for 1994;

(ii) the GIC Rate as defined in the Restated Asset Transfer Agreement, being 8.64% from January 1, 1995 to December 31, 1995 and 5.75% from January 1, 1996 to October 15, 1996;

(iii) the CANSIM B14045 rate calculated and compounded monthly, from and after October 16, 1996.

58b In this Agreement,

(a) "plan affiliation data" means data which identifies whether a person was an active or inactive member of the Public Service Pension Plan ("PSPP") or the OPSEU Pension Plan on December 3 1, 1992 and between January 1, 1993 and December 31, 1995, whether or not the person was previously identified as a member of either plan;

(b) "plan member data" means data relevant to the determination of benefits under the plan, including the member's date of birth, years of service, salary history and significant pension entitlement related transactions;

(c) "purification project" means a project led by Ontario to obtain accurate payroll data (including plan member data plan affiliation data) for the PSPP and the OPSEU Plan as at December 31, 1992 and for the period January 1, 1993 to December 31, 1994.

2. Ontario and OPSEU agree to amend the Sponsorship Agreement by adding the following:

> "65a For purposes of implementing the terms of this Agreement, the parties will meet from time to time and make their best efforts to resolve any issues in dispute. If any payment has not been made as of the date stipulated for it in this Agreement, then the parties shall meet on a weekly basis until the appropriate payment is made. For purposes of clarity, nothing in this provision restricts any party from initiating the arbitration process set out in section 65".

3. In consideration for entering into this Agreement, Ontario shall pay $50,000 to OPSEU for its reasonable fees. costs and expenses from November 1, 1996 to the date hereof, and to pay $50,000 to the OPSEU Pension Trust Fund for their expenses. Such payments shall be made within fifteen (15) working days of the execution of the Restated Asset Transfer Agreement between Ontario, OPSEU, the OPT and the Ontario Pension Board

Dated at Toronto, Ontario this 13th day of June 1997.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF	HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET
Witness	By: Chair of Management Board of Cabinet

	)	ONTARIO PUBLIC SERVICE EMPLOYEES' UNION
Heather Gavin	)	By: Leah Paul
Witness	)	
Heather Gavin	)	By: [illegible]
Witness	)	

C - OPSEU Agreement and Declaration of Trust.pdf

AGREEMENT AND DECLARATION OF TRUST

OF

OPSEU PENSION PLAN TRUST FUND

MADE AS OF THE 25TH DAY OF OCTOBER, 1994

THIS AGREEMENT AND DECLARATION OF TRUST made as of this 25th day of October, 1994.

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET

("Ontario")

OF THE FIRST PART

- and -

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

("OPSEU")

OF THE SECOND PART

- and -

THE TRUSTEES OF THE OPSEU PENSION PLAN TRUST FUND

(hereinafter the "Trustees")

OF THE THIRD PART

WHEREAS OPSEU and Ontario have established the OPSEU Pension Plan (the "Plan") for certain members of the Public Service Pension Plan who are employed by Ontario and by Ontario Crown agencies, boards and commissions;

AND WHEREAS Ontario and OPSEU (collectively, the "Sponsors") wish to provide for the creation of a Board of Trustees to administer the Plan and to administer and invest the OPSEU Pension Plan Trust Fund in accordance with the provisions of the *Pension Benefits Act*, R.S.O. 1990, as amended ("*PBA*") and the terms of the Sponsorship Agreement dated April 18, 1994 between the Sponsors (the Sponsorship Agreement");

NOW THEREFORE in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

ARTICLE I - RECITALS

1.01 The parties acknowledge and agree that the recitals contained herein are true in substance and in fact.

ARTICLE II - DEFINITIONS

2.01 "Actuary" shall mean the person or firm appointed as such, from time to time, by the Trustees and who is, or one of whose employees is, a Fellow of the Canadian Institute of Actuaries.

2.02 "Agreement and Declaration of Trust" or "Agreement" shall mean this instrument, including any amendments or modification thereof.

2.03 "Auditor" shall mean such person, firm or corporation as may, from time to time, be appointed by the Trustees as auditor of the Trust Fund, provided that such person, or at least one principal of such firm or corporation, is a public accountant licensed to practice as such in the province of Ontario.

2.04 "Benefits" shall mean all pension and related benefits, including disability, death and termination benefits, among others, as may, from time to time, be provided to Members and/or their beneficiaries or dependents, as set forth in the Plan.

2.05 "Contributions" shall mean sums of money paid or payable to the Trust Fund in an amount and manner set out in the Plan:

(a) by a Participating Employer, pursuant to applicable legislation, the Plan, a Collective Agreement or other agreement requiring employer contributions to the Plan;

(b) by any Member pursuant to applicable legislation, the Plan, a Collective Agreement or other agreement requiring employee contributions to the Plan; or

(c) pursuant to any reciprocal agreement.

2.06 "Collective Agreement" shall mean any written collective agreement by and between a union with collective bargaining rights for members of the Plan, and a Participating Employer, which provides, among other things, for Contributions to this Fund, with any amendments, supplements, modifications thereto or renewals thereof.

2.07 "Eligibility Requirements" shall mean the rules, regulations and procedures established, from time to time, by the Trustees for determining the eligibility, or the discontinuance of eligibility, for Benefits, in accordance with the Plan.

2.08 "Investment Manager" shall mean any persons, firms or corporations as may, from time to time, be appointed by the Trustees, to act in the capacity of financial advisors or managers regarding the investment and management of the assets of the Trust Fund.

2.09 "Member" means a member of the Plan, as defined in the Plan.

2.10 "Participating Employer" shall mean Ontario and such Ontario Crown agencies, boards, commissions, foundations or organizations established by an *Act* of the Legislature that employ Members and such other employers that employ Members as set forth in the Plan or the Sponsorship Agreement or as may otherwise be determined by the Sponsors.

2.11 "Plan" shall mean the OPSEU Pension Plan, as amended from time to time, which Plan shall be registered and subject to the Sponsorship Agreement, and shall comply with the *PBA* and all Regulations made thereunder, subject to any exemptions under the *OPSEU Pension Act*, 1994, and the *Income Tax Act* (Canada) ("ITA"), or successor legislation thereto.

2.12 "Plan Manager" shall mean such person, firm or corporation as may, from time to time, be appointed, hired or retained by the Trustees, for the purpose of the administration of the Trust Fund and Plan, in accordance with the provisions of this Agreement.

2.13 "Sponsorship Agreement" shall mean the Sponsorship Agreement made as of the 18th day of April, 1994 between Ontario and OPSEU, as amended from time to time.

2.14 "Trustees" or "Board of Trustees" shall mean 10 persons designated from time to time as Trustees, pursuant to the provisions of the Sponsorship Agreement and/or this Agreement.

2.15 "Trust Company" shall mean a trust company which is licensed to carry on business in Ontario.

2.16 "Trust Fund" or "Fund" shall mean all of the assets of the Plan trust fund consolidated with all funds and assets received from time to time by way of Contributions, together with all increments, earnings and profits accruing from the administration and investment of the said Fund.

ARTICLE III - ESTABLISHMENT OF THE TRUST FUND

3.01 The Plan and the Trust Fund are established as successor pension plan and trust fund to the Public Service Pension Plan and Public Service Pension Plan trust fund and the Trustees shall at all times act as Trustees of the said Plan and Fund to be known as the "OPSEU Pension Plan Trust Fund". The Trustees shall jointly hold all property, enter into contracts and act in all matters on behalf of the Trust Fund, subject to the provisions of this Agreement. The title to all assets of the Trust Fund shall be jointly vested in and remain exclusively with the Trustees, except as otherwise provided herein.

3.02 The Trust Fund is created, established and maintained, and the Trustees agree to receive, hold, administer and invest the Trust Fund, for the purpose of providing such Benefits as may be approved in accordance with the Plan, as amended from time to time.

3.03 All payments into the Trust Fund made from time to time to the Trustees, together with any income or accretions thereon, shall constitute a trust fund to be administered and invested by the Trustees in accordance with the terms of this Agreement and the Plan.

3.04 Except as otherwise set out in this Agreement and in the Plan, none of the parties, or any Participating Employer, Member or any other person, association, firm or corporation, shall have any right, title or interest in or to the assets of the Trust Fund.

3.05 Subject to the Plan and any applicable legislation, no monies, property or equity of any nature whatsoever, in the Fund, or policies or Benefits or monies payable therefrom, shall be subject in any manner by any Member or person claiming through such Member or, otherwise, to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, garnishment, execution, mortgage, lien or charge.

3.06 None of the parties hereto, nor any Participating Employer or Member shall be liable or responsible for any debts, liabilities or obligations of the Trustees, except as set out in this Agreement.

ARTICLE IV - THE PLAN TEXT

4.01 The Plan shall be administered by the Trustees in accordance with the provisions of this Agreement and the Plan text.

4.02 Subject to the terms of the Sponsorship Agreement, the Sponsors may amend the Plan from time to time.

4.03 The Trustees shall have no power to amend either the Plan or this Agreement.

ARTICLE V - THE TRUSTEES

5.01 Subject to Article VII, the Trust Fund and the Plan shall be administered by a joint Board of Trustees having ten members. För greater certainty, there shall not be any alternate Trustees permitted to act in the place of any of the Trustees.

5.02 Five of the Trustees shall be appointed by Ontario and shall be hereinafter referred to as the "Employer Trustees". Five of the Trustees shall be appointed by OPSEU and shall be known as the "Union Trustees".

5.03 In the event that any party declines to appoint a Trustee, such persons shall be appointed, in the case of a Union Trustee, by a majority of the remaining Union Trustees and in the case of an Employer Trustee, by a majority of the remaining Employer Trustees.

5.04 Each Trustee, upon the execution of this Agreement, or in the case of a successor Trustee, after signing an Acceptance of Trusts in the form set forth in Schedule A attached hereto, shall be deemed to accept the trusts created and established by this Agreement and to consent to act as a Trustee.

5.05 Each Trustee shall continue to serve until death, incapacity, resignation or removal, as hereinafter provided.

5.06 In the event of the incapacity or resignation of a Trustee, such Trustee shall be fully discharged from all future duties and responsibilities in respect of this Agreement and the trusts created hereby, upon notice in writing being sent by him or her, or on his or her behalf, to the office of the Plan Manager. 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 or her heirs, administrators, executors and assigns shall be fully discharged from all future duties and responsibilities in respect of this Agreement and the trusts created hereby as of the date of death.

5.07 Any party appointing a Trustee may, upon sending written notice to the office of the Plan Manager, remove a Trustee appointed by it, at any time. Such removed Trustee shall be deemed to no longer be a Trustee, effective as of the date the notice is delivered and shall be fully discharged from all future duties and responsibilities in respect of this Agreement and the trust as of that date.

5.08 In the event that any Trustee shall die, become incapacitated, resign or be removed, a successor Trustee shall immediately be designated by the appointing party. Any successor Trustee so designated shall immediately, upon an Acceptance of Trusts being filed in writing with the Trustees and with the office of the Plan Manager, become vested with all of the rights, powers and duties of a Trustee under the Agreement, with the like effect as if he or she had been originally named as Trustee.

5.09 In the event that either of the Sponsors shall cease to exist, any successor organization shall be entitled to appoint the Trustee or Trustees previously appointed by such Sponsor that has ceased to exist.

5.10 (a) The Trustees shall, from among their number, appoint a Chair and Vice-Chair. The Chair, or in the Chair's absence, the Vice-Chair, shall chair the meetings of the Board. The Chair shall also chair the Administration Committee, and the Vice-Chair shall chair the Investment Committee. The Chair and Vice-Chair shall vote at all meetings of the Board of Trustees or its Committees.

(b) The term of the Chair and the Vice-Chair shall be two years.

(c) At all times, a Trustee nominated by the Trustees appointed by OPSEU shall be either the Chair or the Vice-Chair, and the other position shall be filled by a Trustee nominated by the Trustees appointed by Ontario. If a Trustee who is Chair or Vice-Chair ceases at any time or for any reason to be a Chair or Vice-Chair, then his or her position shall be filled for the balance of the term by a Trustee appointed by the same Sponsor. The term of any replacement Chair or Vice-Chair shall be deemed to have commenced at the commencement or deemed commencement of the predecessor's term.

(d) At the end of their first terms, the Chair and Vice-Chair, or their replacements, if any, will exchange positions. At the end of their second terms, the Chair and Vice-Chair will cease to hold those positions, and the Trustees shall select a new Chair and Vice-Chair in accordance with paragraphs (a) and (c) of this Article 5.10.

5.11 Any resolutions of the Trustees shall require a vote of the majority of the Trustees present, provided that at least one Employer Trustee and one Union Trustee have supported the resolution. The Chair and Vice-Chair shall be entitled to vote on all resolutions but shall not be entitled to a second vote in the event of a deadlock.

ARTICLE VI - MEETINGS OF THE TRUSTEES AND CONDUCT OF MEETINGS

6.01 The Chair, or an officer of the Plan Manager delegated to do so by the Chair, shall cause written notice of the meetings of the Board to be served upon the Trustees, no less than 14 days prior to the date of the meeting.

6.02 The notice of meeting shall specify the date, time and location of the meeting, and shall include an agenda of matters to be addressed at such meeting. Whenever possible, any reports or other documentation to be considered at such meeting shall be provided to the members of the Board with the notice of meeting.

6.03 The notice of meeting may be served by delivering it to the address for service provided pursuant to this Agreement. Service may be effected by prepaid registered mail, delivery or facsimile transmission. In the case of service by mail, notice shall be deemed to have been given on the third day after mailing. A notice served by delivery or by facsimile shall be deemed to have been given on the day of delivery or transmission provided such transmission or delivery takes place during regular business hours.

6.04 A Trustee may waive the service of notice herein, and shall be deemed to have done so by attending at such meeting without objection.

6.05 There shall be at least six meetings of the Trustees in each year, to be held in the months of February, April, June, August, October and December, unless otherwise agreed to by the Trustees.

6.06 The Chair may call special meetings of the Trustees, subject to the notice provisions contained herein.

6.07 Any three Trustees may require the Chair to call a special meeting. Such request shall be in writing and include such information as is reasonably required by the Chair to fulfil the agenda provisions contained herein. Upon receipt of such request, the Chair shall call the special meeting for a date not later than 30 days following receipt of the request and information required for the agenda.

6.08 The agenda for each meeting and draft minutes of the previous meeting shall be distributed with the notice of meeting. The agenda shall permit any Trustee to introduce any new business at any meeting of the Trustees.

6.09 All meetings of the Board shall be held at the office of the Plan Manager, or such other location agreed upon by resolution of the Trustees. In addition, all records and minutes of the Trustees shall be kept at the offices of the Plan Manager.

6.10 A quorum for the transaction of business at any meeting of the Trustees shall consist of not less than six Trustees present in person or participating by means of a telephone conference call. No proxies shall be permitted at any time.

6.11 The Plan Manager or any of its employees shall act as recording secretary at any meeting of the Trustees. Proper minutes will be prepared and provided to the Trustees for verification at the following meeting.

6.12 A resolution in writing, signed by all Trustees, is valid as if it had been passed at a meeting of the Trustees. Such resolutions may be executed in counterpart.

6.13 The Trustees may establish such standing and ad hoc committees as they deem necessary from time to time, by way of a simple majority vote of the Trustees at any meeting. The Trustees shall, however, establish an Administrative Committee and an Investment Committee, and shall define the mandate of each of them.

6.14 Committees of the Trustees shall consist of an equal number of Employer and Union Trustees, and may include observers and such expert resource persons as the Trustees may deem advisable, provided that only Trustees shall be entitled to vote or move motions.

ARTICLE VII - DISPUTE RESOLUTION

7.01 A deadlock shall be deemed to exist where a proposal, motion or resolution made by the Trustees is neither adopted nor rejected by a majority vote or where a resolution or motion is unable to be made at a meeting due to lack of a quorum at two consecutively called meetings.

7.02 In the event of a deadlock, a further meeting of the Trustees shall be held no later than ten days after the deadlock has arisen for the purpose of resolving the matter in dispute. If the matter is not resolved at such meeting, any five Trustees may require the naming of an eleventh Trustee, who shall cast the deciding vote at the next scheduled or special meeting. The eleventh Trustee shall be one of three persons as shall be determined by the Sponsors from time to time who shall rotate in order between them as determined by the Sponsors, except that if any one of them is unavailable within 30 days of the dispute arising to resolve the matter in dispute, the eleventh Trustee shall pass to the next person, or if such person is not available within 30 days, to the next available person or to such other person as may be agreed by the Sponsors. If the Sponsors cannot agree on an eleventh Trustee, he or she shall be appointed by the Chief Justice of Ontario.

7.03 The eleventh Trustee shall attend a meeting at which time he or she shall review all relevant documentation and entertain submissions from the remaining Trustees or any group of Trustees with respect to the matter in issue. The eleventh Trustee shall cast a tie-breaking vote and shall make his or her determination within seven days of the meeting at which submissions are made. The decision of the eleventh Trustee shall be final and binding on all other Trustees, the Sponsors, Participating Employers, Members and their beneficiaries. The provisions of Article 5.11 shall not apply in respect of any vote utilizing the eleventh Trustee. Upon rendering his or her decision, the eleventh Trustee shall be *functus* and shall cease to be a Trustee.

7.04 The reasonable expenses and fees of the eleventh Trustee shall be paid out of the Fund.

ARTICLE VIII - POWERS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEES

8.01 The operation and administration of the Plan and the custody, investment and management of the Fund shall be the responsibility of the Trustees and they are hereby given the authorization and power so to do, subject to the limitations and conditions contained in the Sponsorship Agreement and this Agreement.

8.02 The Trustees shall use all reasonable means to collect and receive all Contributions due to the Fund, and shall, promptly after receipt, deposit such Contributions in a special Trust Fund account established with a reputable bank that is a scheduled bank under the *Bank Act* (Canada) (a "Bank"), Trust Company, Credit Union or other financial institution.

8.03 The Trustees shall incur no liability, either collectively or individually, in acting upon any documents, date or information believed by them to be genuine and accurate and to have been made, executed, delivered or assembled by the proper parties.

8.04 No Trustee shall be liable for the act or omission of any other Trustee. The Fund shall indemnify and save harmless the Trustees, their employees and the heirs of the Trustees and their employees, and each of them, from and against any loss, expense, claim, demand, action or thing of any nature whatsoever, including any amount paid to settle an action or to satisfy a judgement, arising out of the performance or purported performance of their duties or responsibilities hereunder, except that this indemnity shall not, in any way, extend so as to protect any person with respect to any matter or thing arising out of his or her own dishonesty, wilful misconduct or gross negligence. Every payment made for the indemnification shall be an administrative expense of the Board.

8.05 The Trustees are hereby empowered, in addition to any other powers, as set forth herein or conferred by law:

(a) to administer the Plan for the benefit of the Members, their beneficiaries and dependants, as the case may be, subject to the terms of the Sponsorship Agreement, this Agreement and the Plan Text, and the requirements of applicable federal and provincial legislation;

(b) to adopt such procedures, policies, rules or regulations, necessary for the carrying out of their trusts, consistent with the provisions of this Agreement, the Sponsorship Agreement, the Plan text and the requirements of applicable provincial and federal legislation;

(c) to enter into agreements with a Bank, Trust Company, Insurance Company, Credit Union or Investment Manager, selected by the Trustees, for the purpose of providing investment management or advice, or for the purpose of acting as a depository for safekeeping of assets of the Trust Fund, or for any other purpose as the Trustees shall deem necessary or desirable and to authorize any such Bank, Trust Company, Credit Union, Insurance Company, or Investment Manager to commingle any monies deposited with them in any mutual or pooled pension fund administered or managed by any of them;

(d) to pay or provide for the payment of Benefits to those persons eligible to receive them;

(e) to pay from the Fund all reasonable expenses for collecting Contributions and administering and investing the Fund and administering the Plan including, but not limited to, all compensation and all reasonable and necessary costs and fees which may be incurred in connection with the employment of such legal, actuarial, accounting, expert and clerical assistance as the Trustees, in their discretion, may find necessary or expedient in the performance of their duties. The Trustees shall be completely and fully protected in acting and relying reasonably and in good faith upon the opinions or advice of the aforementioned persons;

(f) to enter into any and all contracts and agreements for carrying out the terms of this Agreement, the Sponsorship Agreement and the Plan text and for the administration of the Plan and the administration and investment of the Fund and to do all acts as they, in their discretion, may deem necessary and advisable;

(g) to compromise, settle, arbitrate and release claims or demands in favour of, or against the Plan and Fund, or the Trustees, on such terms and conditions as the Trustees may deem advisable;

(h) to establish procedures to be followed in filing applications for Benefits and for the furnishing and certification of evidence necessary to establish a right to such Benefits;

(i) to pay out of the Fund, all real and personal property taxes, income taxes and other taxes of any and all kinds, levied or assessed under existing or future laws, upon or in respect of the Fund or any money, property or securities forming a part thereof;

(j) to receive payments from any source whatsoever, to the extent permitted by law, the Sponsorship Agreement, the Plan and this Agreement;

(k) to invest and reinvest such portion of the Fund as is not required for current expenditures, in any type of investments that are permitted by applicable federal and provincial laws and regulations, and by the Statement of Investment Policies and Goals, except that any restrictions on investments set out in the *Trustee Act* shall not apply, and to take any and all actions with respect to the holding, buying, selling or exchanging such investments as they, in their sole discretion, may deem appropriate or necessary;

(l) to hold in uninvested cash, without any liability for interest thereon, such sums as they reasonably deem necessary or advisable for the reasonably current cash requirements of the Fund;

(m) to exercise all rights or privileges granted by the provisions of any contract entered into by the Trustees with any Insurance Company, Bank, Trust Company, Credit Union or Investment Manager, or Custodian, and to make any alteration, modification, amendment or cancellation of such contract, or to take any other action respecting such contracts which they, in their discretion, may deem necessary or advisable;

(n) to do all acts, whether or not previously authorized herein, which the Trustees may deem necessary or proper for the protection of the property held hereunder;

(o) to enter into reciprocal arrangements with other like or similar funds or plans, in such manner and subject to such terms and conditions as the Trustees may deem desirable;

(p) to delegate any of their administrative powers or duties or such other powers and duties as may be permitted by ss.22(5) of the *PBA* to any of their agents or employees, in such manner and subject to such terms and conditions as the Trustees may deem necessary or appropriate; provided that such agents or employees report to the Trustees as may be required by them;

(q) to lease or purchase such lands, premises, materials, supplies and equipment as the Trustees deem necessary or appropriate in the performance of their duties;

(r) to enter into cost-sharing agreements with OPSEU, any other union, or any other trust funds providing non-pension benefits to the Members, to permit the Trustees to share expenses pertaining to the administration of the Fund, provided that any amounts paid by the Fund to OPSEU, any other union, or any other trust fund, in respect of the above expenses, shall be approved by the auditor of the Fund as being necessary and reasonable; and provided further, that such cost-sharing agreement provide that the Trustees may terminate such agreement at any time, subject to such notice as may be required;

(s) to incorporate corporations, the shares of which shall be held by or on behalf of the Trustees for purposes of administering the Fund, making investments of the Fund or holding any investment;

(t) to authorize the preparation of and to file an actuarial valuation in accordance with the *PBA* and any other governing legislation;

(u) to approve the actuarial methods and assumptions to be used in the administration of the Plan and used in the actuarial valuations of the Plan, prepared by the Actuary;

(v) to consult with the Sponsors during the preparation of an actuarial valuation and to make their best efforts to respond to any questions, comments or recommendations of the Sponsors, provided that the Trustees shall be solely and exclusively responsible for the content of any actuarial valuation filed in accordance with the *PBA* and any other governing legislation;

(w) to give a copy of every actuarial valuation prepared for the Trustees to each Sponsor and to give each Sponsor any information requested by it as quickly as possible;

(x) to have the Plan and the Fund audited every year;

(y) to prepare a report at the end of every fiscal year describing how the Plan and the Fund have been doing in that year;

(z) to hold a meeting with both Sponsors at least once each year to explain the annual report to them and to answer any questions they may have about the Plan and the Fund;

(aa) to advise the Sponsors in respect of any changes to the Plan that need to be made to comply with any applicable law; and

(bb) to advise the Sponsors in respect of changes that the Trustees consider would improve the administration of the Plan.

8.06 The Trustees shall procure fidelity bonds for the persons authorized to receive, handle, deal with, or draw upon the monies in the fund for any purpose whatsoever. Such persons shall be bonded in such amounts and in such manner as the Trustees may determine. The cost of such bonds shall be paid out of the Fund.

8.07 The Trustees may purchase such errors and omissions and fiduciary liability insurance as they deem necessary. The cost of such insurance may be paid out of the Fund.

8.08 The Trustees shall promptly appoint an Auditor of the Fund who shall serve until his or her successor is appointed.

8.09 The Trustees may require any Participating Employer or Member to submit to them, any information, data, report or documents relevant to, and suitable for the purposes of administration of the Plan and Fund;

8.10 The Trustees shall maintain suitable and adequate records of and for the administration of the Fund.

8.11 The books of account and records of the Trustees, including the books of account and records pertaining to the Fund, shall be audited at least once every year by the Auditor of the Fund, as of the fiscal year-end of the Fund. A statement of the results of the annual audit shall be available for inspection by Members and by Sponsors at the office of the Plan Manager and at such other suitable place as the Trustees may designate from time to time. Copies of such statement shall be delivered to each Trustee within sixty (60) days after that statement is prepared.

8.12 The Trustees shall appoint, hire or retain a Plan Manager and may, at any time, but subject to any agreement reached between the Trustees and the Plan Manager, with or without cause, remove the Plan Manager and appoint, hire or retain a successor. The Plan Manager shall assume the responsibility of accounting for payments and such duties and responsibilities, as may be delegated to him or her hereby, or from time to time by the Trustees. Without limiting the generality of the foregoing, the rights, duties and obligations of the Plan Manager shall include:

(a) to submit a report to the Trustees as soon as possible after the end of each fiscal year and on such interim basis as the Trustees may order, of the status of the Fund, financial or otherwise;

(b) to attend such meetings of the Trustees, or committees thereof, as required by direction of the Trustees, and to execute such instructions, as may be given to him or her, and to attend such meetings in connection with the Fund, as required by direction of the Trustees;

(c) to keep such records as are necessary to determine each Member's or his or her beneficiaries' or dependents' Benefits under the Plan and to determine the amount of such Benefits as they become due;

(d) to deal with all communications to Members and others, with respect to the Fund and the Plan and the terms of the Sponsorship Agreement and the Agreement;

(e) to validate all claims against the Fund and obtain all necessary declarations, certificates or other evidence required for the proper administration of the Fund;

(f) to advise the Trustees if a Participating Employer is delinquent in or not contributing to the Fund as may be required; and

(g) to obtain and supervise such outside administrative services as may be required by the Trustees from time to time.

8.13 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.

8.14 The Trustees may commence such legal proceedings as they deem necessary and appropriate in connection with the enforcement of this Agreement, the administration of the Plan and administration and investment of the Fund, as well as defending any legal proceedings which may be brought against them, the reasonable expenses for which shall be paid by the Fund, except with respect to any proceedings brought against any Trustee in relation to any matter or thing arising out of his or her dishonesty, wilful misconduct or gross negligence.

8.15 The Trustees may, from time to time, borrow money for a period not exceeding ninety (90) days for short term contingencies from any Bank, Trust Company, or Credit Union on such terms and conditions as may be necessary and appropriate in the circumstances, provided that such borrowing shall only be for the purposes of:

(a) providing for the payment of any Benefit authorized by the Trustees; or

(b) permitting the orderly disposition of investments and the acquisition of any new investments during the planned conversion of any investments,

in order to avoid a distress sale of any investment of the Fund that would otherwise be necessary to pay such Benefits or acquire new investments.

8.16 The Trustees may seek the advice, opinion or direction of an appropriate court on any matter pertaining to the Sponsorship Agreement, the Trust Agreement, the Plan or the administration of the Fund.

ARTICLE IX - CONTRIBUTIONS TO THE FUND AND FUNDING

9.01 The Participating Employer shall, and where applicable, the Members shall:

(a) pay all Contributions to the Fund in an amount and in the manner required by the Plan; and

(b) complete and remit to the Fund, such report forms, whether or not any Contributions are, in fact, due for any particular period, in the manner and form determined by the Trustees from time to time.

9.02 Contributions to the Fund payable by a Participating Employer are deemed to be held in trust by the Participating Employer for the Trustees of the Fund until remitted to the Fund.

9.03 The Participating Employer shall provide the Trustees with such information and reports that may be required from time to time and shall provide access to their records during regular business hours to the Trustees or any agent appointed by the Trustees for the purposes of determining Benefit entitlements, appropriate Contribution levels or such other matters as are necessary for the Trustees to carry out their duties under this Agreement and the Plan.

9.04 Where a Participating Employer has failed to remit Contributions to the Trustees in an amount and manner required by the Plan, subject to applicable legislation, such Participating Employer shall be liable for interest thereon at the greater of the Fund earnings rate for the period of delinquency, or the appropriate rate chargeable for pre-judgment interest under the *Courts of Justice Act*, R.S.O., 1990 or any successor legislation. The Trustees are authorized to establish a reasonable and lawful grace period by which Contributions must be received.

9.05 Subject to any cost-sharing agreement entered into pursuant to or in accordance with Section 8.05 (r) of this Agreement, if a Participating Employer becomes delinquent in its Contributions and the Trustees are required to take legal action or such other action to recover outstanding Contributions, the Participating Employer shall be liable for all reasonable fees of collection including legal, actuarial and accounting fees as well as any court fees or disbursements.

ARTICLE X - AMENDMENT OF TRUST AGREEMENT

10.01 Any amendment to this Agreement shall require unanimous written agreement of the Sponsors or shall be made pursuant to such dispute resolution mechanism as may be agreed to by them. No amendment, shall however:

(a) be inconsistent with the purposes of the Trust Fund;

(b) divert the Trust Fund, or any part thereof, to a purpose other than the provision of Benefits for Members. For greater certainty, the use of actuarial gains to offset Employer Contributions and any going concern unfunded liability or solvency deficiency does not constitute the diversion of the Trust Fund for a purpose other than the provision of Benefits for Members;

(c) authorize the return of contributions or any other assets of the Fund to Ontario or to other Participating Employers unless required by law or as permitted by the *PBA* in the case of an overpayment pursuant to Section 78(4) thereof, as amended from time to time;

(d) eliminate the annual audit or restrict the availability of information to the Sponsors;

(e) provide for the administration of the Plan and the Fund other than by an equal number of Trustees appointed by Ontario and Trustees appointed by OPSEU with each Trustee having equal voting privileges;

(f) provide for or permit any payment of surplus out of the Fund to Ontario, or any Participating Employer. For greater certainty, the use of actuarial gains to offset Employer Contributions and any going concern unfunded liability or solvency deficiency does not constitute the payment of surplus out of the Fund; or

(g) remove the right of the Sponsors to appoint Trustees.

10.02 The Sponsors may amend this Agreement, the Sponsorship Agreement, the Plan text or any other Plan documents adopted by them, without the agreement of any other employer, trade union or person.

ARTICLE XI - ACTUARIAL GAINS

11.01 While the Plan is ongoing, each of the Sponsors shall be permitted to apply any actuarial gains realized by the Plan from time to time, in accordance with and pursuant to the Sponsorship Agreement, any Collective Agreement and applicable law respecting the application of such gains.

ARTICLE XII - TERMINATION

12.01 This Agreement may be terminated by unanimous agreement of the Sponsors, in which case the Trustees shall wind-up and terminate the Plan and the Trust Fund within six (6) months thereafter. As part of the termination of the Plan and the Fund, the Trustees shall:

(a) provide for a final audit and accounting for the purposes of the termination of the Fund;

(b) provide for payment out of the Trust Fund of all Benefits, expenses, claims and obligations including the expenses incidental to the termination of the Fund;

(c) distribute the balance or surplus, if any, of the Fund in accordance with the applicable provisions of the Plan, subject always to the applicable federal and provincial legislation, provided, however, that no part of the capital or income of the Fund shall be used for, or diverted to purposes other than for the exclusive benefit of the Members, their beneficiaries or dependants, except as may otherwise be provided by this Agreement. Under no circumstances shall any portion of the capital or income of the Fund, directly or indirectly, revert or accrue to the benefit of any Participating Employer, OPSEU, or the Trustees, except in the case of any Trustee who is a Member and receives his or her share of Fund assets in accordance with the same distribution formula as is applicable to all other Members.

12.02 Upon termination of the Plan and Trust Fund in accordance with this Article, the Trustees shall forthwith notify the Sponsors, all Participating Employers and any other necessary parties, and the Trustees shall continue as Trustees for the purpose of winding up the affairs of the Trust.

12.03 In lieu of termination, the Trustees, with the written consent of the Sponsors, may elect to establish a successor pension plan within a reasonable period to provide similar benefits for some or all of the Members under this Agreement and to do all such acts and things and execute such documents as may be necessary for this purpose.

ARTICLE XIII - GENERAL PROVISIONS

13.01 The undersigned Trustees having been designated to serve as Employer and Union Trustees, as the case may be, hereby accept the trusts created and established by this Agreement, consent to act as Trustees and agree to be bound by this Agreement and to administer the Trust Fund for the purposes set forth in this Agreement and in the Plan. Trustees shall serve without remuneration but may be reimbursed out of the Fund for their reasonable expenses and, if the Trustee is a public servant, for his or her lost wages.

13.02 All notices, requests, demands or other communications provided for herein to be given, shall be given within the time limits set out in Article 6.03 of this Agreement. Notices to the Sponsors, Trustees, Participating Employers or Members shall be given to them at their last known address as appears on the records of the Plan Manager of the Fund. Notices to the Fund shall be given to the Plan Manager.

13.03 If any provision of the Sponsorship Agreement, this Agreement, the Plan, the rules and regulations made pursuant thereto, or any actions in the administration and investment of the Fund are held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the Sponsorship Agreement, this Agreement, the Plan, or the said rules and regulations.

13.04 Wherever the singular and any word connoting gender is inserted throughout this Agreement, the same shall be construed as meaning the plural, masculine, feminine or a body corporate where the context so requires.

13.05 The headings used herein are for ease of reference only and shall not be deemed to form part of this Agreement.

13.06 Each of the parties hereto shall, from time to time and at any time hereafter upon reasonable written request to do so, make, do, execute and deliver, or cause to be made, done, executed and delivered, all such further acts, deeds, assurances, things and written instruments as may be necessary in the opinion of any party, for more effectively implementing and carrying out the intent of the Sponsorship Agreement and this Agreement.

13.07 The Province of Ontario shall be deemed to be the situs of the Fund and all questions pertaining to the validity, construction and administration of this Agreement and the Plan shall be determined in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

ARTICLE XIV - MISCELLANEOUS

14.01 The Sponsors shall, at the request of the Trustees made by resolution of the Trustees, convene and meet with respect to any issue referred to the Sponsors by the Trustees. The Sponsors shall also meet at least once every calendar year.

14.02 Either Sponsor may ask the Actuary to provide or prepare any information that the Sponsor thinks it needs in discussing changes to the Plan. The Trustees shall instruct the Actuary to prepare the information, and will pay the Actuary from the Fund. The Trustees shall instruct the Actuary to provide the information to both Sponsors.

14.03 Either Sponsor may audit the Plan and the Fund at any time at the expense of that Sponsor. The Trustees will cooperate fully with the Sponsor in the conduct of the audit.

In witness whereof the parties hereto have hereunto executed this Trust Agreement as of the date and year first above written.

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

Per:

F. Upshaw

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE CHAIR OF THE MANAGEMENT BOARD OF CABINET

Per: Brian Charlton

THE TRUSTEES OF THE OPSEU PENSION PLAN TRUST FUND

Per:

Heather Gavin

Colleen Parrish

SCHEDULE "A"

ACCEPTANCE OF TRUST

TO: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO ("Ontario")

AND TO: THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION ("OPSEU")

AND TO: THE TRUSTEES (the "Trustees") OF THE TRUST FUND FOR THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION PENSION PLAN (the "Plan")

1. Pursuant to an Agreement and Declaration of Trust (the "Trust Agreement") dated the 25th day of October, 1994, between Ontario, OPSEU and the Trustees, Ontario and OPSEU created and established a trust fund (the "Fund") for the purpose of providing benefits under, pursuant to and in accordance with the Plan.

2. The undersigned has been designated by [Ontario] [OPSEU] [the Trustees] as a Trustee of the Fund, pursuant to the Trust Agreement.

3. In consideration of the sum of $1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned consents to be a Trustee of the Fund and accepts the trusts created and established by the Trust Agreement and agrees to be bound by the terms and conditions of the Trust Agreement and to administer the Fund and the Plan in accordance with and for the purposes set forth in the Trust Agreement.

DATED this • day of • , 199•

AMENDMENT NO. 1 TO THE AGREEMENT AND DECLARATION OF TRUST

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

("Ontario")

OF THE FIRST PART

-and-

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

("OPSEU")

OF THE SECOND PART

WHEREAS Ontario and OPSEU are parties to an Agreement and Declaration of Trust made as of the 25th day of October, 1994 (the "Trust Agreement");

AND WHEREAS Ontario and OPSEU have the power to amend the Trust Agreement by unanimous written agreement pursuant to Article 10.01 thereof;

AND WHEREAS Ontario and OPSEU wish to amend section 8.06 of the Trust Agreement to recognize the use of insurance as well as fidelity bonds;

NOW THEREFORE Ontario and OPSEU agree as follows:

1. **SECTION 8.06 IS AMENDED EFFECTIVE OCTOBER 25TH, 1994 TO READ AS FOLLOWS:**

    8.06 The Trustees shall procure fidelity bonds <u>or other insurance</u> for the persons authorized to receive, handle, deal with, or draw upon the monies in the fund for any purpose whatsoever. Such persons shall be bonded <u>or insured</u> in such amounts and such manner as the Trustees may determine. The cost of such bonds <u>or insurance</u> shall be paid out of the Fund.

In witness whereof the parties hereto have hereunto executed this Amendment to the Trust Agreement on the _________ day of ___________, 2006.

THE ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

Per: ______________________

____
Witness

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE SECRETARY OF THE MANAGEMENT BOARD OF CABINET

Per: ______________________

____
Witness

D - OPSEU Funding Policy Board-Approved Policy.pdf

OPTrust

FUNDING POLICY

Board-Approved Policy

Effective date:	July 17, 2014
Next review date:	July 2015

OPTrust

Table of Contents

1 Introduction

This *Funding Policy* has been developed to provide a framework for effective funding related decision-making on the OPSEU Pension Plan ("Plan") by OPSEU Pension Trust ("OPTrust"). It sets out a framework for ensuring that assets are sufficient to meet the benefits promised.

The Policy is in direct support to OPTrust's mission to '.....deliver sustainable pension security for all our members'.

1.1 Purpose

This *Funding Policy* identifies the Plan's funding objectives and methods to achieve those objectives by integrating both asset and liability management. The policy does not expand or otherwise change the existing rights and obligations of Trustees, members and Sponsors.

The OPSEU Pension Plan is a 2% best average earnings plan that is integrated with the Canada Pension Plan. The Plan provides for annual automatic indexation to allow pensioners to maintain their purchasing power as measured by the change in the Consumer Price Index.

The Plan is a jointly sponsored pension plan (jointly governed and jointly funded as defined by the *Pension Benefits Act*) with sponsorship shared between the Province of Ontario and the Ontario Public Service Employees Union (the "Sponsors").

This policy takes a two-tier approach with respect to addressing funding issues by (i) establishing objectives for matters under the control of the OPTrust, and (ii) providing information and/or recommendations for the Sponsors. One of the recommendations addresses the priorities for surplus use and deficit funding. While OPTrust does recognize that decisions regarding the use of surplus or in most cases deficit funding are the purview of the Sponsors, it is important that recommendations by the Board of Trustees to the Sponsors are made as suggested by the *Sponsorship Agreement* **[SA, s.24 (bb)].**

1.2 Scope

The effective execution of this policy relies on the support of Sponsors on such matters as maintaining stabilization reserves, making decisions regarding the use of surplus, and with respect to funding deficits through contribution increases or future benefit reductions. Recommendations on these matters, which are outside the control of the OPTrust, are provided as information for the Sponsors, and can be found in Section 6 of this Policy.

There are a number of other legal and policy documents which, in conjunction with this Policy, affect the funding activities of the OPTrust. Where appropriate, references to applicable documents have been added:

OPSEU Pension Plan Text – defines the contribution rates and the benefits to be earned.

Sponsorship Agreement **("SA")** and *Trust Agreement* **("TA")** – defines the roles and responsibilities for the Plan Sponsors and the administrator, with particular emphasis on Plan funding. In essence, the Sponsorship Agreement was the initial funding policy.

Statement of Investment Policies and Procedures **("SIP&P")** – defines the target and acceptable range of asset mix to be used to meet the investment objectives to fund the promised benefits in the Plan.

OPSEU Pension Act, 1994 **("Act")** – Enabling legislation that created the OPSEU Pension Plan and set out certain requirements for the Plan in terms of the Pension Benefits Act.

Pension Benefits Act, 1990 **("PBA")** – Regulating act for pension plans in Ontario. Prescribes the minimum requirements for a registered pension plan.

Reg 909 of the Pension Benefits Act, 1990 **("PBA Reg 909")** – Regulations under the PBA.

Income Tax Act **("ITA")** – Regulating act for all registered pension plans in Canada. Prescribes the maximum allowable benefits and contributions in a registered pension plan.

JSPP Framework Letter of Agreement **("JSPP Framework")** between the sponsors defines how deficits will be dealt with, should they arise, up to 12:01 a.m. on December 31, 2017

A description of this policy (but not the actual policy) is provided in the Plan's Annual Report in the Funding section of the Management Discussion and Analysis.

Between 2013 and 2017, the ability to increase contributions to fund a deficit has been limited in accordance with the *JSPP Funding Framework Agreement*.

1.3 Ownership and Authorities

The following documents the roles and responsibilities of the Plan's stakeholders.

Board of Trustees

- Engage an actuarial firm and lead actuary who is a Fellow of the Canadian Institute of Actuaries. **[TA, s.2.01]**
- Review and approve actuarial methods and assumptions recommended by the Actuary. **[TA, s.8.05 (u)]**
- Review and adopt valuation report prepared by the Actuary. **[TA, s.8.05 (v)]**
- Decide when to prepare and file full valuation reports within the statutory filing requirements of the PBA. **[TA, s.8.05 (t)]**
- Approve all asset liability studies, the long term asset allocation policy targets, annual investment pacing plans, and any changes to these targets and plans
- Recommend to the sponsors any plan design and any amendments.
- Propose to the Sponsors plan text changes, contribution rate changes, use of the RSFs and the *Funding Policy*.

- In the event that the Plan document is not amended to account for a funding loss, OPTrust shall increase the contribution rates for both employers and employees to amortize the deficit as required by the PBA.
- Approve the *Funding Policy*.

OPTrust Management

- Provide member data and financial information to the Actuary and respond to any queries.
- Consult with the Sponsors during the preparation of an actuarial valuation and respond to any questions, comments or recommendations by the Sponsors. **[TA, s.8.05 (v)]**
- Provide the Sponsors with a copy of any filed or interim funding valuations. **[TA, s.8.05 (u)]**
- Conduct asset liability studies.
- Perform annual short-term funding projections to monitor the financial well being of the Plan.
- Identify any matters that should be raised with the Sponsors. **[TA, s.8.05 (aa) & (bb)]**
- File the valuation report with the Financial Services Commission of Ontario and the Canada Revenue Agency.

Sponsors

- Amend the Plan as required to reflect benefit changes or to account for changes in contribution rates.
- Decide how to apply actuarial gains and how to fund actuarial losses.
- May request cost estimates from the Actuary, but must share results with the other Sponsor.

Actuary

- Prepare funding, financial, solvency and wind-up actuarial valuations at the request of OPTrust.
- Prepare cost estimates at the request of the Sponsors.
- Review actuarial assumptions for appropriateness and, if warranted, recommend, in conjunction with OPTrust, an alternative set of assumptions to the Board.
- Advise the Board on the use of appropriate actuarial cost method and other matters relating to the effective funding of the Plan.
- Respond to questions from FSCO or CRA regarding filed valuation reports.

2 Funding Objectives

2.1 Goal 1 – Security of Promised Benefits

Objective 1.1: Provide the benefits promised under the Plan.

The Province of Ontario and Plan members are jointly responsible for their respective portions of plan deficit. They are reliant on the sufficiency of investment returns to maintain existing contribution levels and to have funds available to meet the benefit commitment to the members. Providing all benefits promised under the terms of the Plan is of primary importance to both Sponsors.

Although wind-up and solvency valuations are prepared with each filed valuation, OPTrust's primary interest is the going-concern valuation. The Plan, along with other JSPPs, has been exempt from solvency funding under the PBA **[PBA Reg 909, s. 1.3.1(3)]**. The wind-up valuation is also of less significance since the enabling legislation generally prevents the Plan from being wound up **[Act, s. 11(3), PBA Reg 909, s. 47.3]**. Solvency and wind-up valuations are designed to ensure short-term funding security, which is of secondary importance to the Plan. The going concern valuation focuses on the long-term security of benefits provided under the Plan, and the results of this valuation are the primary consideration of the Funding Policy.

Objective 1.2: Establish contribution rates that, in conjunction with investment returns, are sufficient to pay the promised benefits to both members and beneficiaries.

Contribution rates are set out in the Plan text and are currently 9.4% of member salaries up to the Yearly Maximum Pensionable Earnings (YMPE) and 11% thereafter. The YMPE and maximum earnings are prescribed under the *Canada Pension Plan Act* (Canada).

The current contribution rates, in combination with anticipated investment returns, are meant to be sufficient to fund Plan expenses and benefits as they are being accrued by Plan members.

2.2 Goal 2 – Stability of Contributions

Objective 2.1: Minimize the likelihood of having to significantly increase contribution rates above existing levels or reduce prospective benefits

A real deficit excludes the rate stabilization reserves (RSF) from the liability of the Plan. If a real deficit is identified, and an actuarial valuation report on the Plan is to be filed with the Financial Services Commission of Ontario (FSCO) then the real deficit must be eliminated before the filing is to occur. Under current legislation a real deficit can be eliminated by either an increase in the contribution rates, a reduction in prospective benefits or a combination of the two.

Since neither outcome is desirable, the Plan created a contribution rate stabilization reserve (also referred to as an RSF). This reserve is the sum of past unspent surpluses that were evenly allocated to each Sponsor. The RSF is meant to allow OPTrust to draw on reserves prior to the resorting to benefit reductions or contribution rate increases.

The level of funds to be set aside for stabilization purposes, and the choice of whether to use stabilization funds or increase member and employer contributions, is the decision of the Sponsors. However, OPTrust will provide actuarial information to the Sponsors to assist in understanding the impact of various levels of stabilization funds and the associated risk of increased contributions and reduced prospective benefits.

Should the Sponsors decide not to use their respective stabilization funds to meet the additional contribution requirement, or if the Sponsors cannot agree to prospective benefit reductions, OPTrust shall increase contributions sufficiently to pay for the deficit **[SA, s.58]**.

2.3 Goal 3 – Fairness of Funding among Generations and Distinct Groups

Objective 3.1: Achieve fairness of funding among generations and groups of members.

This objective is met within a framework which provides for:

- Level contributions as a percentage of pay by the employer and member over the service life of the member.
- Level pension benefits over different generations and groups of members.
- Prudent and equitable distribution of gains and losses between classes and generations of members. The distribution of gains is the responsibility of the Sponsors. However, the OPTrust will support the Sponsors by providing timely and accurate advice.
- Adequate current funding so as to avoid placing a burden of deficits on future generations. Likewise, it is important that any appropriate conservatism not be overly excessive in order to avoid excessive transfer of surplus monies to future generations.

3 Tools to Achieve Objectives

3.1 Margins of Conservatism

Establishing appropriate margins of conservatism in the assumptions chosen will provide greater assurance of benefit security. This is because, over time, actuarial gains will exceed actuarial losses.

To ensure that Goal 2 is also met, it is important that the margins for conservatism be appropriate in the circumstances. Too high a margin could force the current generation of members to pay higher than normal contribution rates.

1. Investment Return Assumption

In order to meet the above-stated objectives with reasonable certainty, a margin for conservatism will be incorporated in the investment return assumption.

The real rate of return assumption (difference between the investment return and inflation assumption) is a key driver in terms of the funded position of the Plan. Liabilities are based on plan benefits that are indexed using the assumed inflation rate and then discounted to the valuation date using the expected investment return. While the expected investment return and inflation assumptions are important, the relationship between them has a greater impact on the plan liabilities. In choosing an appropriate real rate of return assumption, it is important to consider the asset mix of the Fund and the real rate of return one can expect to achieve on the Plan investments, giving due consideration to the considerable risk of not being able to achieve the expected real rate of return.

Asset liability studies establish a mix of investments which maximize returns, given the particular risk appetite of the Plan and its Board of Trustees.

An Economic Assumption Review will be performed by the Plan on a regular basis. Based on the results of that Review, a margin of conservatism for funding purposes in the rate of return assumption will be assumed. The margin for conservatism will not be lower than 0.25% per annum, meaning the real rate of return assumption used to value the liabilities will be at least 25 basis points less than what the OPTrust anticipates the long-term real rate of return will be.

The margin of conservatism included in the real rate of return assumption will be reviewed annually to ensure that overall margins of conservatism remain appropriate.

2. Non-Investment Assumptions

All other assumptions used in the valuation of the Plan's liabilities shall be close to OPTrust's best estimate of long-term expected experience, based on the advice of the actuary and results of regular experience studies and assumption reviews. This approach will increase transparency and facilitate a better understanding of the effects of the various assumptions on the Plan liabilities.

A complete list of current assumptions can be found in the most recently filed valuation report.

3.2 Actuarial Methods

The following valuation methods are employed in determining the financial position of the Plan on a going-concern basis.

1. Actuarial Asset Value Adjustment

The actuarial asset value adjustment defers differences between actual investment income earned on the fund and the expected investment income based on the investment return assumption, and recognizes this difference evenly over the valuation year and the following four years. The actuarial or smoothed asset value is used for purposes of determining the Plan surplus or deficit. By spreading these differences over five years, the impact of a single year's investment-related gains or losses is significantly reduced. This method contributes to reduced volatility in the required funding levels. It is therefore an appropriate method for achieving Objective 2 – stability of contributions.

For the going-concern valuation, the actuarial asset value adjustment serves to strengthen margins of conservatism during a period of strong investment performance and tends to result in reduced margins during a period of weak investment returns. Over the long term, however, the actuarial asset value adjustment is neutral since all gains and losses will be recognized eventually.

In years where the Plan experiences large losses, a determination will be made by the Trustees, in consultation with the Plan's actuary, on whether or not a cap on deferred losses should be employed to proactively deal with larger than normal funding losses at any given valuation. The basic concept of smoothing losses is that, over the five year period, one would expect to have enough gains in future years of the smoothing period to cover the losses being deferred. Where that expectation is unrealistic, OPTrust will employ a cap on deferred losses.

The amount on the cap will be determined by OPTrust and will be based on a number of factors such as the size of the loss relative to assets, management's view on the prospects of investment return recovery, the volatility of the Plan's asset mix, the size of the rate stabilization reserves and the level of margins of conservatism in the valuation methodology.

2. Actuarial Cost Method

For funding valuations, the OPTrust uses the Modified Aggregate Cost Method to value the liabilities of the Plan. This method is a level cost method that recognizes both the costs of future benefits and the present value of future contributions for the existing Plan membership. This method provides for more stability in contribution levels over time, as opposed to more common accrued benefit cost methods. It measures whether the assets on hand plus the present value of expected future contributions of the current Plan membership are sufficient to pay the expected future benefits – and specifically addresses goals 2 and 3.

The Regulations under the Pension Benefits Act (PBA) explicitly allow for the use of this method in determining funding requirements of the Plan **[PBA Reg 909, s. 14(7)]**, provided some tests are performed. Comparison must be made to an accrued benefit method in order to ensure that contributions are sufficient to fund the pension benefits provided by the Plan **[PBA Reg 909, s. 17(1)]**.

3.3 Rate Stabilization Reserves

Rate Stabilization Reserves (also referred to as RSFs) are the sum of past unspent surpluses that were evenly allocated to each Sponsor. The RSF is meant to allow OPTrust to draw on reserves prior to resorting to benefit reductions or contribution rate increases.

The sufficiency of the levels of stabilization funds will be examined as asset liability studies are conducted by the Plan.

RSFs are controlled by the Sponsors as per their allocated amounts. They are included as a liability in the going concern balance sheet. Each year the RSFs are reconciled, where special payments are subtracted and interest is credited at the nominal discount rate used to value the plan liability for the prior year.

Special payments will be calculated in the following manner:

- Any new reported funding deficit will be amortized over a period of 15 years
- Should a new surplus arise then existing special payments will be pro-rated to reduce the payment amount and not the scheduled amortization period

It should also be noted that there are limits on the amount of surplus accumulation in the Plan as permitted by the ITA.

4 Procedures for Monitoring and Reporting

The Plan will use the following procedures to monitor and report on the effective execution of the Funding Policy.

4.1 Funding Valuations

A funding valuation is required to be filed with regulators at least once every three years in accordance with the requirements of the Pension Benefits Act, Ontario **[PBA, Reg 909, s.14(1)]**. A single four year valuation period was afforded to the Plan as part of the Jointly Sponsored Pension Plan Framework agreement **[PBA, Reg 909, s.47.7.2]**. A funding valuation may be filed with regulators more often to meet the Funding Policy objectives.

In the opinion of the Trustees, it may be appropriate to file a valuation earlier than the three-year statutory requirement. So long as the Plan does not have a real deficit, a funding valuation will be filed with regulators to provide increased flexibility. Other factors influencing the timing of a valuation include the amount of deferred gains/losses in the smoothing account, anticipated gains or losses during the year, and the timing of additional contributions required over normal levels.

Funding valuations, whether filed with regulators or not, will be completed every year to the same high level of quality and accuracy.

4.2 Regular Assumption Reviews

Demographic and economic assumptions will be reviewed formally in conjunction with the actuary prior to the filing of any funding valuation no less than once every five years. On the advice of the actuary, the Trustees will determine if an earlier review is warranted.

4.3 Demographic Experience Studies

Formal demographic experience studies shall be conducted every five years in order to assess the continued appropriateness of demographic assumptions for the Plan. The experience to be studied would normally include but not necessarily be limited to retirement, termination, pre- and post-retirement death, and wage and salary increases.

4.4 Five-Year Forecast and Sensitivity Analysis

Annually, a five-year forecast of the financial position of the Plan will be examined to determine the expected funded position of the Plan during the forecast period. This forecast will be conducted on a deterministic basis and will serve the following purposes:

- Assess the future impact of poor or favourable investment returns on the financial position of the plan and funding levels.
- Examine the impact of deferred gains and losses on the Plan's funded position over the forecast period.
- Examine the potential risk of having to reduce benefits or increase contributions.

4.5 Asset Liability Study

An asset liability study, a stochastic study, will be completed every three to five years in order to establish the optimal asset mix for the Plan based on the Plan's funding objectives and investment risk tolerance as determined by the Board of Trustees.

The Plan has accepted the risk of an asset liability mismatch and has conducted a risk budgeting exercise that estimates the risk due to the level of mismatch. The risk will be monitored regularly in our studies in order to make sure that it continues to be manageable through our surplus and rate stabilization reserve strategies.

4.6 Assessing the Impact of New Entrants

The valuation methods described in Section 3 are used to present the financial position of the Plan for the current membership only. To the extent that the present value of expected future benefits for new entrants is less than the present value of expected future contributions made in respect of them, actuarial gains will result.

The impact of new entrants will be monitored by:

- Calculating the actuarial loss/gain from new entrants when a valuation is performed.
- Calculating the contribution rate that would be required to fully fund the benefits for new entrants.
- Breaking down the contribution rate by the individual benefits that make up the Plan's full provisions.

Should new entrants become a significant source of gains or losses to the Plan, the above monitoring procedures will enable the Trustees to recommend the necessary corrective action to Sponsors in a timely manner.

5 Recommended Principles for Use of Surplus

5.1 Use of Surplus

OPTrust recognizes that decisions on the use of surplus are reserved to the Sponsors. However, in the interests of providing information to the Sponsors, OPTrust has recommended a number of principles for the Sponsors to consider when determining how to use surplus that arises from time to time, designed to minimize the risk to future Plan funding. They are as follows, in order:

1. Use surplus to pay for any past unfunded liability that has not been fully paid through previous valuations where amortization of prior deficits is incomplete.
2. Restore benefits previously lost due to prior deficits.
3. Restore stabilization reserves to recommended levels to protect against future adverse actuarial and investment experience.
4. If the current employee and employer contribution rates are above the normal rate specified in OPTrust Management studies, use surplus to return contributions back to the normal rate.
5. If surplus is still available, consider temporary contribution reductions as the most predictable way to reduce the surplus in the Plan
6. When considering Plan improvements, establish a preference for temporary benefit improvements over permanent Plan changes since temporary improvements will be prepaid from existing surplus and are less likely to have an impact on future contribution rates.
7. When considering permanent Plan improvements, recommend those that better rationalize the overall Plan design, such as provisions that present an undue hardship or level of unfairness to Plan members.

5.2 Surplus Management

Because the ITA limits the amount of surplus that can accumulate in a pension plan, it is important for each Sponsor to ensure that their respective amount of accumulated surplus not exceed 50% of the ITA limit. If this 50% threshold is exceeded, the balance inherent in the funding arrangements may be affected. Specifically, the employer's ability to contribute may be limited by the ITA rules.

OPTrust proposes that the employer's surplus level be limited to 12.5% of net actuarial liabilities. This ensures the employer sufficient flexibility to make decisions about managing surplus, without compromising their ability to meet additional contribution requirements.

For the OPSEU Sponsor, surplus needs to be maintained at a level such that future amortization payments required as a result of new actuarial losses can be accommodated, while at the same time allowing for benefit improvements and/or contribution reductions to remove any excess. Therefore, it is recommended that OPSEU's surplus level also be limited to 12.5% of net actuarial liabilities.

6 Recommended Principles for Dealing with Deficits

6.1 Filed Valuation with an Effective Date Prior to December 31, 2017

The Sponsors of the Plan, in their letter of agreement dated December 19, 2012, outlined how a filed valuation deficit will be funded during the freeze period of December 31, 2012 to December 31, 2017.

The deficit must first be funded by reducing prospective benefits. Any benefit reductions, however will not exceed 20% of the aggregate value of future benefits determined at the date of the benefit reductions, based on the Plan provisions in effect on December 31, 2012. Once the benefit reduction limit is reached the Sponsors make use of the usual tools, such as increasing the contribution rate for employers and employees and/or prospective benefit reductions beyond the benefit reduction limits.

As of December 31, 2012 the total aggregate value of future benefits is approximately $4.4 Billion. The benefit reduction limit is thus $0.9 Billion.

Within the principles of minimizing member impact, improving member benefit equity and recognizing the importance of member acceptance, the Board of Trustees will recommend the following order of benefit changes to eliminate a deficit during the JSPP Funding Framework Agreement as follows:

1. A balance of contractual and ad-hoc indexation
2. 100% ad-hoc indexation
3. Eliminate subsidization of the 60% survivor benefit for members with a spouse at retirement
4. Lengthening the period for the best average salary calculation in the pension formula to best 7 or best 10.

7 Term of Policy

This document will be reviewed annually and amended as appropriate to recognize changes in the Funding Policy, the Plan or governing legislation.

8 Revision History

Date	Description
July 17, 2014	Updated section 6 of the policy with regards to dealing with deficits during the JSPP framework. Added which actual benefits would be affected based on approvals received by Board on April 3rd, 2014.

9 Appendix

9.1 Income Tax Limits on Surplus

The ITA **[ITA s. 147.2 (2)(d)]** places limits on the level of surplus that can be accumulated in a pension plan. An amounts in excess of this limit is called "excess actuarial surplus". When these limits are reached:

- the employer can no longer make contributions to the plan.
- employees can continue to make contributions since the ITA surplus rules do not apply to employee contributions.

Excess actuarial surplus for the employer occurs when surplus assets exceed 25% of actuarial liabilities:

The formula for determining surplus is as follows:

- Net assets available for benefits (market value of assets +/– actuarial asset adjustment)

  less

- *Net actuarial liabilities (Total actuarial liabilities less the present value of future contributions).*

This means that stabilization funds are considered to be part of surplus for purposes of determining the excess actuarial surplus.

9.2 Financial Framework

Overview of the Plan's Financial Position
An overview of the Plan's financial position can be found in the most recently filed valuation report as well the annual report posted annually on OPTrust's website.

Sharing Arrangement for Costs and Risks

Actuarial Losses

In the event of any actuarial loss or solvency deficiency, contributions by the members and their employer shall be increased in equal amounts to liquidate the actuarial loss or solvency deficiency in accordance with the PBA **[PBA, Reg 909, s. 5(1)(e)]**. However, in no event shall the members be required to pay more into the Plan than the employer. This is a requirement under the PBA's provisions for jointly-sponsored pension plans. **[PBA, Reg 909, s. 3.1(1)]**

The amortization period for scheduled payments must begin no later than 12 months after the valuation date and the scheduled payment must be a level percentage of the sum of pensionable earnings of the members of the pension plan at the valuation date, projected to the date when the payments commence and projected annually until the end of the amortization period **[PBA, Reg 909, s. 5(1.2)(1)]**. Projected pensionable earnings must be determined using the same actuarial assumptions used in the going-concern valuation taking into account any expected material decline in the sum of pensionable earnings **[PBA, Reg 909, s. 5(1.2)(2)]**.

Actuarial Gains

Gains are shared equally by the employer and OPSEU, subject to the following:

(i) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of employers, to be applied against any special payments required to be made by any employers and thereafter to reduce employers' normal costs **[SA, s. 56 (c) (i)]**; and

(ii) 50% of the gain or such other amount as may be collectively bargained shall be used for the benefit of Plan members **[SA, s. 56 (c) (ii)]**.