

# PRIMERICA CONCERT EDUCATION SAVINGS PLAN (Family Plan)

## TERMS AND CONDITIONS

### 1. THE PLAN

The application for a Primerica Concert Education Savings Plan (the "Application") and these terms and conditions constitute an agreement between PFSL Fund Management Ltd. ("PFSL"), B2B Trustco ("B2B") and the Subscriber or Subscribers (the "Plan") pursuant to which, in consideration of payments made by the Subscriber hereunder, PFSL agrees to pay or cause to be paid to or for the Beneficiary Educational Assistance Payments in accordance with this Plan, and B2B accepts the office of trustee hereunder for such purpose.

### 2. DEFINITIONS

For purposes of the Plan:

**"Accumulated Income Payment" (AIP)** means an amount paid or payable under the Plan, other than an Educational Assistance Payment; Refund of Contributions; payment to, or to a trust in favour of, a Designated Educational Institution; a repayment of amounts under the *Canada Education Savings Act* (Canada) (hereinafter referred to as the "CESA") section 5 or, if the plan was entered into prior to section 5 of the CESA coming into force, Part III.1 of the *Department of Human Resources Development Act* (Canada), as it read immediately before the coming into force of section 19 of the CESA; or a designated provincial program; or payment to a trust that irrevocably holds property pursuant to a RESP that is not revoked or revocable, to the extent that the amounts so paid exceed the fair market value of any consideration to the Plan for the payment of the amount.

**"B2B"** means B2B Trustco, the trustee of the Plan.

**"Applicable Government Grant Legislation"** means the CESA or, if the plan was entered into prior to section 5 of the CESA coming into force, Part III.1 of the *Department of Human Resources Development Act* as it read immediately before the coming into force of section 19 of the CESA; the corresponding Canada Education Savings Regulations; and any other applicable Federal or Provincial legislation and regulation applicable to encourage the financing of children's post-secondary education, including but not limited to; BCTESG, SAGES, QESI, as they may be amended from time to time.

**"Applicable RESP Legislation"** means Applicable Tax Legislation and Applicable Government Grant Legislation.

**"Applicable Tax Legislation"** means the provisions of the *Income Tax Act* (Canada) and the regulations thereunder and, if applicable, any income tax legislation of the Province in Canada indicated by each Subscriber's address shown in the Application.

**"BCTESG"** means the British Columbia Training and Education Savings Grant, administered by the Government of British Columbia for children born on or after January 1, 2006, and for children who are residents in British Columbia at the time of the BCTESG application.

**"Beneficiary" or "Beneficiaries"** means the individual or individuals designated by each Subscriber as the Beneficiary to whom or on whose behalf Educational Assistance Payments are agreed to be paid if the requirements of the Plan and the Applicable Tax Legislation are satisfied at the time the Educational Assistance Payments are made.

**"Canada Learning Bond"** means the bond payable or paid under section 6 of the CESA.

**"CES grant"** means Canada Education Savings Grant provided for under the CESA.

**"Designated Educational Institution"** means an educational institution in Canada that is a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act*, designated by an appropriate authority under the *Canada Student Financial Assistance Act*, or designated by the Province of Quebec for the purposes of the *Act Respecting Financial Assistance For Education Expenses* which is permitted to receive payments hereunder designated by each Subscriber from time to time.

**"Educational Assistance Payment"** means any amount, other than a Refund of Contributions pursuant to section 10 hereof, paid under the Plan in accordance with the Applicable RESP Legislation to or for the Beneficiary to assist the Beneficiary to further his or her education at a Post-Secondary Educational Institution.

**"Eligible Transfer"** means a transfer of Plan Property to another RESP where any beneficiary under the transferee RESP was a beneficiary under the Plan, or where a Beneficiary under the Plan has not attained age 21 and is a sibling of a Beneficiary under the transferee Plan.

**"Government Grant"** means:

- the CES Grant;
- the Canada Learning Bond;
- a payment made under a program established under the laws of a province to encourage the financing of children's post-secondary education through savings in registered education savings plans or any grant, bond or payment made pursuant to an agreement with the government of any province for the purposes of section 12 of the CESA,
- a payment made under any other program that has similar purpose to a program under paragraph (c) hereof and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a Public primary caregiver in its capacity as subscriber under the Plan); and
- a program prescribed as a designated provincial program under Applicable Tax Legislation.

**"Grant Amount"** means the aggregate amount of all the Government Grant monies determined by ESDC or Revenu Quebec paid into the Plan pursuant to sections 6 and 12 hereof less:

- any Government Grant monies paid out of the Plan pursuant to sections 11 and 12 hereof; and
- the portion of Education Assistance Payments paid to or on behalf of the Beneficiary pursuant to section 9 hereof attributable to Government Grant monies paid into the Plan.

**"ESDA"** means the Department of Employment and Social Development Act.

**"ESDC"** means Employment and Social Development Canada.

**"Minister"** means the Minister of Employment and Social Development.

**"Plan Property"** consists of Subscriber contributions to the Plan, Government Grant monies paid into the Plan by a province or by the Minister under the CESA or, if the plan was entered into prior to section 5 of the CESA coming into force, Part III.1 of the *Department of Human Resources Development Act* (Canada), as it read immediately before the coming into force of section 19 of the CESA, in respect thereof, and monies transferred into the Plan pursuant to section 12 hereof, if any, and any income earned or net gains realized and losses incurred in respect thereof, net of any applicable fees and other charges as provided in section 18 hereof.

**"PFSL"** means PFSL Fund Management Ltd., the promoter of the Plan.

**"Post-Secondary Educational Institution"** means an educational institution in Canada that is a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act*, designated

by an appropriate authority under the *Canada Student Financial Assistance Act*, designated by the Minister of Education, Recreation and Sports of the Province of Quebec for the purposes of Quebec's Act Respecting Financial Assistance For Education Expenses or, certified by the Minister to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation, or a university outside Canada that provides courses at a post-secondary school level at which the Beneficiary is enrolled in a full-time course of not less than 3 consecutive weeks or a college or other educational institution outside Canada that provides courses at a post-secondary school level and at which the Beneficiary was enrolled in a course of not less than 13 consecutive weeks.

**"Public primary caregiver"** means the department, agency or institution that maintains the Beneficiary or the public trustee or public curator of the province in which the Beneficiary resides.

**"QESI"** means the Quebec Education Savings Incentive, being a refundable tax credit defined as an "education savings incentive" under the *Taxation Act* (Quebec).

**"Qualifying Educational Program"** means a program at a post-secondary school level of not less than 3 consecutive weeks duration that requires that each student taking the program spend not less than 10 hours per week on courses or work in the program.

**"Refund of Contributions"** means a refund of a Subscriber contribution that has been made at a previous time if the contribution was made into the particular plan by or on behalf of the Subscriber otherwise than by way of a transfer from another RESP, or a refund of an amount that was paid into the Plan at a previous time by way of transfer from another RESP where the amount would have been a refund of contributions under the other RESP if it had been paid at the time of transfer directly to a Subscriber under the other RESP.

**"RESP"** means a "registered education savings plan" as defined under subsection 146.1(1) of the *Income Tax Act* (Canada).

**"RESP Lifetime Limit"** means the maximum amount of total contributions permitted to be made to an RESP in respect of the Beneficiary as provided by subsection 204.9(1) of the *Income Tax Act* (Canada), as amended from time to time.

**"RDSP"** means a Registered Disability Savings Plan that satisfies the conditions of section 146.4 of the *Income Tax Act* (Canada).

**"RRSP"** means a "registered retirement savings plan" as defined under subsection 146(1) of the *Income Tax Act* (Canada).

**"SAGES"** means the Saskatchewan Advantage Grant for Education Savings program administered by the Government of Saskatchewan for children, who are residents of Saskatchewan at the time a contribution is made.

**"Specified Educational Program"** means a program at a post-secondary school level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program;

**"Subscriber" or "Subscribers"** means

- each individual (other than a trust) or the public primary caregiver identified as the subscriber in the Application;
- another individual (other than a trust) or another public primary caregiver who has, under a written agreement, acquired a public primary caregiver's rights as a subscriber;
- the individual who has acquired the subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property between the individual and a subscriber under the Plan in settlement of rights arising out of, or on the breakdown of, their marriage or common law partnership; and
- a person (other than a trust) who has acquired a subscriber's rights under the Plan after the death of the individual described in (a) to (b), any other person (including the estate of the deceased individual) who acquires the individual's rights as a subscriber under the plan or who makes contributions to the Plan in respect of a Beneficiary.

An individual who has disposed of his or her subscriber's rights under the Plan to his or her spouse or former spouse or common law partner on the breakdown of their marriage or common law partnership, as described in clause (b) above, ceases to be a "Subscriber" under the Plan.

Where two individuals are identified as subscribers in the Application, each individual must be the spouse or common law partner of the other within the meaning of the Applicable Tax Legislation, however, the Plan does not have to be divided on the separation or divorce of joint subscribers. When a Plan has two Subscribers, each is treated as a single subscriber for all purposes, except for the purposes of providing instructions for payments pursuant to subsection 9(d) and section 10 hereof, the exercise of voting rights pursuant to section 14 hereof and for the designation of a termination date pursuant to subsection 15(a) hereof, all of which must be authorized by both subscribers.

**"Trust"** means any person who irrevocably holds property under an education savings plan for any one or more of the following purposes:

- the payment to or on behalf of a Beneficiary pursuant to subsection 9(a) hereof of Educational Assistance Payments;
- the payment pursuant to subsection 9(d) hereof of Accumulated Income Payments provided that the payment is made to, or on behalf of, a person resident in Canada and not jointly to, or on behalf of, more than one such person, as permitted under the Applicable Tax Legislation;
- the Refund of Contributions pursuant to section 10 hereof;
- the payment pursuant to subsection 9(b) hereof to or to a trust in favour of a Designated Educational Institution in Canada;
- the payment pursuant to subsection 9(c) hereof to a trust that irrevocably holds property pursuant to a RESP within the meaning of the Applicable Tax Legislation for any of the purposes set out in subsections (a) to (f) hereof, as permitted by the Applicable RESP Legislation; or
- the repayment of amounts (and amounts related to those payments) under the CESA or under a program administered pursuant to an agreement entered into under section 12 of

that Act or pursuant to a designated provincial program as defined in Applicable Tax Legislation.

### 3. RESPONSIBILITY FOR AND REGISTRATION OF THE PLAN

B2B agrees that it has the responsibility for irrevocably holding in trust all of the assets of the Plan. B2B agrees to act as trustee of the Plan Property and to be responsible therefor in accordance with the Plan. B2B may delegate to PFSL certain duties with respect to the assets of the Plan (other than the duty to hold the Plan Property) and PFSL may sub-delegate some or all of these duties. As the promoter of the Plan, PFSL agrees that it has ultimate responsibility for the Plan and its administration and will apply for registration of the Plan with the relevant tax authorities in accordance with the Applicable Tax Legislation. PFSL will also attend to the timely application for the Government Grants on behalf of each Subscriber who has so requested in the attached Government Grant application form

and who has provided the requisite Social Insurance Numbers and undertakings. The Social Insurance Numbers obtained for a purpose related to an application for a Government Grant will not be knowingly used, communicated or allowed to be communicated for any other purpose. To ensure the timely registration of the Plan and or application of Government Grants, the Subscriber has the ultimate responsibility to ensure that the requisite information is sufficient, accurate and provided to PFSL prior to December 31 in the year in which the registration and or application was delivered. For the QESI, no separate application form is required. B2B will apply for all eligibility beneficiaries. If the Subscriber does not wish for PFSL to apply for QESI on behalf of the Beneficiary, the Subscriber must inform PFSL in writing. PFSL must be a resident of Canada as per paragraph 146.1(2)(c) of the *Income Tax Act* (Canada).

#### 4. PURPOSE OF THE PLAN

Subject to the payment of applicable fees and disbursements as provided in section 18 hereof and the refund of Government Grant monies as provided in section 11 hereof, PFSL agrees to pay, or cause to be paid, the Educational Assistance Payments, and to arrange for B2B to irrevocably hold all of the Plan Property, in trust in accordance with the Plan for any one or more of the purposes described in the definition of Trust, or such other purposes as are permitted by the Applicable RESP Legislation from time to time.

#### 5. SUBSCRIBER ACCOUNT

PFSL will maintain, in accordance with the Applicable Government Grant Legislation, an account for, and in the name of, the Subscriber or Subscribers in which will be recorded:

- (a) all the amounts paid into and out of the Plan by and to the Subscriber or Subscribers pursuant to sections 6, 10, and 12 hereof, the Beneficiary on whose behalf these payments were made and the date of receipt by PFSL of the contributions made to the Plan and whether such payments attracted payment or repayment of Government Grant monies;
- (b) all the Government Grant monies paid into and out of the Plan pursuant to sections 6, 11 and 12 hereof, as well as the portion of Educational Assistance Payments paid to or on behalf of the Beneficiary pursuant to section 9 hereof that is attributable to Government Grant monies paid into the Plan;
- (c) all the transfers made into and out of the Plan pursuant to section 12 hereof;
- (d) all the investments and investment transactions made pursuant to sections 7 and 13 hereof;
- (e) all the investment income, gains and losses earned or incurred by the Plan and all payments of such income and gains made to each Subscriber pursuant to subsection 9(d) hereof;
- (f) all the amounts paid to or on behalf of the Beneficiary as an Educational Assistance Payment pursuant to subsection 9(a) hereof and the date of such payments;
- (g) all the amounts paid to Designated Educational Institutions, to other trusts, or any other amounts paid to each Subscriber or at the Subscriber's direction pursuant to subsections 9(b) to (d) hereof and the date of such payments;
- (h) all fees, disbursements and other applicable charges payable pursuant to section 18 hereof; and
- (i) such other information as PFSL or B2B may decide, or be required to keep by the Applicable RESP Legislation and the agreements between B2B and PFSL, respectively, and the Minister, from time to time.

PFSL will forward to the Subscriber at least annually statements of the Plan showing all of the above information for the period from the date of the last statement to the date of the current statement. The valuation of the Plan Property provided on the statement will conclusively establish the market value of the Plan as of the statement's date, provided that the Subscriber does not raise a valid concern about PFSL's valuation or the statement PFSL sends the Subscriber within 180 days of receiving the statement.

In addition, this and any other information related to the Plan will be provided to, and be open to inspection or audits by, the Minister of National Revenue and the Minister from time to time, as required by the Applicable Tax Legislation, the Applicable Government Grant Legislation or any other applicable legislation or agreement between PFSL and B2B, respectively, and the Minister.

#### 6. CONTRIBUTIONS TO THE PLAN

Contributions may be made to the Plan by or on behalf of each Subscriber in respect of the Beneficiary periodically or by way of a lump sum payment in money or other property (provided that the registered ownership of such property has been changed to reflect ownership by the Plan) subject to the RESP Lifetime Limit and such minimum limits as established by PFSL and subject to such other conditions as may be imposed by the Applicable Tax Legislation and, if applicable, by PFSL from time to time. Contributions may also be made by way of transfer from another RESP provided that such RESP has not made any Accumulated Income Payments prior to such transfer and subject to such other conditions imposed by the Applicable Tax Legislation from time to time. Contributions to the Plan do not include amounts paid into the Plan under or because of one or more Government Grants.

When the Beneficiary under the Plan is also the beneficiary under other RESPs (including a replacement beneficiary who inherits the contribution history of the Beneficiary he or she replaced) each Subscriber will be responsible for ensuring that the total of all contributions in a year, in respect of that Beneficiary, will not exceed the RESP Lifetime Limit and will be responsible for any penalties that may be imposed by the Applicable RESP Legislation as a result of contributing to the Plan in excess of such limits.

No contributions may be made to the Plan by or for the Subscriber after the 31st year following the year in which the Plan is entered into. No contributions may be made to the Plan by or for the Subscriber unless (a) the Beneficiary in respect of whom the contribution is made has a Canadian Social Insurance Number (SIN) that is provided to the Promoter before the contribution is made and is resident in Canada when the contribution is made, or (b) the contribution is made by way of a transfer from a RESP under which the Beneficiary was a beneficiary immediately before the transfer. A contribution may be made to the Plan in respect of a Beneficiary if the Beneficiary had not attained age 31 years before the contribution is made or the contribution is made by way of transfer from another RESP that allows more than one beneficiary at any one time.

#### 7. INVESTMENTS

PFSL, on behalf of B2B will, on the written (including electronic) directions of the Subscriber, invest the Plan Property in the investment products PFSL makes available for investment by the Plan (including any mutual funds or other forms of pooled investment products), even though these kind of investments may not be authorized by law for other trustees or may be considered a delegation of the trustee's investment duties, provided that such investments constitute qualified investments for RESPs within the meaning of the Applicable Tax Legislation. From time to time, PFSL may authorize additional investments to be made available to the Plan as PFSL considers advisable without being limited to investments authorized by law for trustees, provided that such investments constitute qualified investments for RESPs under the Applicable Tax Legislation. PFSL shall use the care, diligence and skill of a reasonably prudent person to minimize the possibility of non-qualified investments and will not be liable for any loss in connection with such investments being made available in good faith.

If PFSL receives no investment instructions from the Subscriber, PFSL will invest the Plan Property in units of PCS Canadian Money Market Fund until PFSL is instructed to do otherwise. PFSL will reinvest all distributions of net income and net realized capital gains received by the Plan in respect of any particular investment, net of any applicable fees and other charges as provided in section 18 hereof and Government Grant repayments as provided in section 11 hereof, if any, in additional investments

of the same type unless PFSL is otherwise instructed by the Subscriber. Where the Plan has two Subscribers, each Subscriber can provide PFSL with instructions regarding the investment and reinvestment of the Plan Property.

Without restricting the generality of the foregoing, it will be the sole responsibility of the Subscriber to choose from the investments which have been made available to the Plan and to determine whether any investment should be purchased, sold or retained by PFSL as part of the Plan. Neither PFSL nor B2B will be liable to the Subscriber if such investments produce losses of any nature whatsoever for the Plan, whether or not PFSL or B2B has communicated to the Subscriber any information PFSL or B2B may have received with respect to the foregoing at any particular time. The Subscriber acknowledges that any failure to comply with Applicable RESP Legislation may also result in revocation of the Plan by the Minister of National Revenue.

#### 8. BENEFICIARIES

The Subscriber will provide in the Application the name or names of one or more Beneficiaries in respect of the Plan, provided that at any time and from time to time thereafter, the Subscriber will be entitled to revoke the designation of the Beneficiary and designate an alternative Beneficiary in respect of the Plan by written notice in the manner required by PFSL. The Subscriber's or Subscribers' written instructions should clearly explain the desired change, identify the Plan by its account number, be signed and dated by the Subscriber and delivered to PFSL. Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers. If more than one such instrument is delivered to us, the one bearing the latest execution date will govern. In certain circumstances, a newly designated Beneficiary may inherit the contribution history of the Beneficiary he or she replaced which may give rise to a penalty tax. No person may be a designated Beneficiary with respect to the Plan unless the Beneficiary has a Canadian Social Insurance Number (SIN) that is provided to the Promoter prior to the designation being made and either the Beneficiary is resident in Canada when the designation is made or the designation is made in conjunction with a transfer of property into the Plan from a RESP under which the individual was a beneficiary immediately before the transfer. A designated Beneficiary must be resident in the applicable Canadian province at the time specified by Applicable Government Grant Legislation in order for the Plan to be eligible to receive any available provincial Grant Amounts in respect of that Beneficiary. Each Beneficiary under the Plan is required to be connected to each living Subscriber under the Plan or to have been connected to a deceased original Subscriber under the Plan by blood relationship or adoption. An individual may become a Beneficiary under the Plan at any particular time only if he or she had not attained age 21 years of age before the particular time, or immediately before the particular time he or she was a beneficiary under another RESP that allows more than one beneficiary at any one time.

Within 90 days after being notified in writing by the Subscriber that an individual has become the Beneficiary hereunder and of the address of the individual, PFSL will provide written notice to the Beneficiary (or where the Beneficiary is under 19 years of age at that time and ordinarily resides with his or her parent/guardian, that parent/guardian or is maintained by a primary public caregiver of the Beneficiary, that public primary caregiver) at such address of the existence of the Plan and the name and address of the Subscriber.

#### 9. EDUCATIONAL ASSISTANCE AND OTHER PAYMENTS

Upon receipt of a written direction from the Subscriber in the form B2B or PFSL on its behalf requires, subject to such reasonable requirements as PFSL may impose, to the extent of the Plan Property and to the Applicable Tax Legislation, B2B will transfer or otherwise realize the Plan Property to the extent necessary to pay out of the Plan such amount as the Subscriber directs:

- (a) as an Educational Assistance Payment to the Beneficiary provided that the Beneficiary
  - (i) is enrolled in a Qualifying Educational Program at a Post-Secondary Educational Institution either as a part-time or full-time student; and who, in the preceding 12-month period, or
  - (ii) before that time, attained the age of 16 years and is, at that time enrolled as a student in a Specified Educational Program at a Post-Secondary Educational Institution; and
- a. the individual satisfies at that time, the condition set out in clause (a)(i), and
  1. has satisfied the conditions in paragraphs (a) of this section 9 throughout at least 13 consecutive weeks; or
  2. did not receive Educational Assistance Payments (including this payment) which, in total, are in excess of \$5,000 (or such greater amount as the Minister responsible for the purposes of the CESA approved in writing with respect to the Beneficiary) from RESPs administered by PFSL. At the Subscriber's request and upon receipt of the requisite supporting documentation, PFSL will apply to the Minister responsible for the purposes of the CESA for the above mentioned approval; or
- b. the individual satisfied, at that time, the condition set out in clause (a)(ii) and the total of the payment and all other Educational Assistance Payments made under a registered education savings plan of the promoter for the individual in the 13-week period that ends at that time does not exceed \$2,500 or any greater amount that the Minister designated for the purpose of CESA approves in writing with respect to the individual.

When an Educational Assistance Payment is made to the Beneficiary, a corresponding payment of Government Grant monies paid into the Plan and income earned thereon will also be made to the Beneficiary, provided that the Subscriber confirms in writing, as part of this written direction, that the Beneficiary is a resident of Canada and undertakes to inform PFSL of any changes in the circumstances of the Beneficiary when the Subscriber makes further contributions to or requests an Educational Assistance Payment to be paid by the Plan;

- (b) to, or to a trust in favour of, a Designated Educational Institution;
- (c) pursuant to section 12 hereof to a trust that irrevocably holds money or property transferred to it pursuant to a RESP within the meaning of the Applicable Tax Legislation for any of the purposes set out in section 4 hereof. Following such transfer from a RESP to the Plan, the effective date the Plan is deemed to have been entered into is the earlier of the day on which the transferee plan was entered into, and the day on which the transferor plan was entered into;
- (d) subject to subsection 146.1(2.2) of the *Income Tax Act* (Canada), as Accumulated Income Payments to each Subscriber, to a person, after the Subscriber's death in cash or, provided that certain conditions in the *Income Tax Act* (Canada) are met, to the Subscriber's RRSP or to the Subscriber's spousal RRSP or a transfer up to a maximum of \$50,000 to the Subscriber's RRSP or the Subscriber's Spousal RRSP provided that all of the following conditions are met:
  - (i) the payment is made to, or on behalf of, a subscriber resident in Canada and not jointly to, or on behalf of, more than one such subscriber; and
  - (ii) any of:
    - a. Each current or previous Beneficiary under the Plan has attained 21 years of age before the payment and is not eligible to receive an Educational Assistance Payment and the payment is made after the 9<sup>th</sup> year in which the plan is entered into;
    - b. The payment is made in the 35<sup>th</sup>; or
    - c. Each individual who was a Beneficiary under the Plan is deceased.

The Plan shall be terminated before the end of February of the year following the year in which the first Accumulated Income Payment is made out of the Plan under this paragraph (d). At the Subscriber's request and upon receipt of the requisite supporting documentation, where the Beneficiary suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the Beneficiary from enrolling in a Qualifying Educational Program at a Post-

Secondary Educational Institution as a full-time or part-time student, PFSL will apply to the Minister of National Revenue to waive the application of the conditions in 9(d)(ii)(a) in order to permit an Accumulated Income Payment. Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers. Notwithstanding the foregoing, the decision to grant such a waiver shall be at the sole discretion of the Minister of National Revenue;

- (d.1) Effective January 1, 2014 an Accumulated Income Payment may be made to a RDSP if:
- (i) a Subscriber and a holder of such RDSP jointly elect such payment in prescribed form;
  - (ii) at the time such election is made the Beneficiary is a beneficiary of such RDSP who meets the age and residency requirements in relation to RDSPs at the time payment is made; and
  - (iii) either a. or b. is met:
    - a. the Beneficiary has a severe and prolonged mental impairment that can reasonably be expected to prevent the Beneficiary enrolling in a Qualifying Educational Program at a post-secondary educational institution; or
    - b. 1. the RESP has been in existence for at least 10 years and each living individual who is or was a Beneficiary is at least 21 years of age and is not pursuing post-secondary educational; or  
2. the RESP has been in existence for more than 35 years since it was entered into.

When such Accumulated Income Payment is made to a RDSP, contributions in the RESP will be returned to you on a tax-free basis, any remaining grant in the Plan will be repaid to the federal and/or provincial governments in accordance with the applicable laws and the RESP will be terminated by the end of February of the year after the year in which payment is made. The Plan shall be terminated before the end of February of the year following the year in which the first Accumulated Income Payment is made out of the Plan under this paragraph (d.1).

- (e) pursuant to section 10 hereof as a Refund of Contributions;
- (f) pursuant to section 11 hereof as a refund to the federal or applicable provincial government of Government Grant monies paid into the Plan; or
- (g) as an Educational Assistance Payment to an individual in the six-month period immediately following the particular time at which the individual ceased to be enrolled in a Qualifying Educational Program or a Specified Educational Program, as the case may be, if the payment would have qualified under paragraph (a) of this Section 9 had the payment been made immediately before the particular time, in which case the payment shall be deemed to have been made immediately before the particular time.

PFSL will determine whether any conditions precedent to the payment of any amount pursuant to subsections (a) through (g) of this section 9 have been satisfied and such determination will be final and binding on the Subscriber, the Beneficiary and all other persons who may be eligible to receive payments pursuant to the Plan. At the Subscriber's request and upon receipt of the requisite supporting documentation, PFSL will apply to the Minister of National Revenue to waive the application of the conditions in 9(d)(ii)(a) in order to permit an Accumulated Income Payment. All payments of any kind made from the Plan will be net of any fees and charges as provided in section 18 hereof, any Government Grant refunds as provided in section 11 hereof and any applicable withholding taxes under the Applicable Tax Legislation. For greater certainty, no payments will be made out of the Plan when the fair market value of Plan Property is less than the Grant Amount, unless the distribution is an Educational Assistance Payment made to the Beneficiary and all the Educational Assistance Payment is attributable to Government Grant payments.

#### 10. REFUND OF CONTRIBUTIONS

Upon receipt of written notice by B2B or PFSL on its behalf in the form required by it and, subject to such reasonable requirements as PFSL may impose, the Applicable Tax Legislation, the Applicable Government Grant Legislation which requires PFSL to repay Government Grant monies to ESDC or a province in certain circumstances, and to the extent of the Plan Property, the Subscriber will be entitled to at any time receive a Refund of Contributions from the Plan net of any fees and charges as provided in section 18 hereof, and net of the amount of Government Grant refunds as provided in section 11 hereof or direct that such a refund be made by B2B or PFSL on its behalf to the Beneficiary(ies). When such a Refund of Contributions is made a corresponding refund of Government Grant monies paid into the Plan will be made to ESDC or a province pursuant to section 11 hereof and may result in restriction of future payments of Government Grant monies in respect of the Beneficiaries under the Plan.

Where the Plan has two Subscribers, the written instructions must be signed by both Subscribers.

#### 11. REFUND OF GOVERNMENT GRANT MONIES PAID INTO THE PLAN

In prescribed circumstances and in accordance with Applicable RESP Legislation, refund of Government Grants to ESDC or the appropriate Provincial department will be made when and as required.

With Respect to CES grants:

- (a) where contributions in respect of which Government Grants have been received are withdrawn from the Plan other than by way of transfer to another RESP at any time when there is no Beneficiary eligible, the lesser of the proportional amount determined by the formula under section 11(1)(a) of the Canada Education Savings Regulations and (b) the balance in the grant account of the RESP immediately before the withdrawal, will be repaid to ESDC; and
- (b) where
  - (i) the Plan is terminated;
  - (ii) the registration of the Plan is revoked;
  - (iii) an Accumulated Income Payment or a payment to, or to a trust in favour of, a Designated Educational Institution is made;
  - (iv) an Educational Assistance Payment is made to an ineligible Beneficiary;
  - (v) an ineligible transfer to another RESP occurs;
  - (vi) an ineligible replacement of a Beneficiary occurs; and
  - (vii) a Beneficiary, who is not a sibling, is added to a sibling-only plan after additional CES grants have been paid,

the Grant Amount immediately before the occurrence of such an event will be repaid to ESDC.

With respect to Canada Learning Bonds:

Refunds of Canada Learning Bond monies paid into the Plan will be made to ESDC or the applicable Province when and as required by the Applicable RESP Legislation, as follows:

- (a) where a Beneficiary ceases to be a Beneficiary of the RESP, the repayment amount is equal to the lesser of: (i) the sum of all of the Beneficiary's Canada Learning Bonds received; and (ii) the fair market value of the property held in connection with the RESP, less the total balances of the Canada Learning Bonds of all other Beneficiaries, immediately before the Beneficiary ceases to be a Beneficiary; and
- (b) where
  - (i) the Plan is terminated;
  - (ii) the registration of the Plan is revoked;
  - (iii) an Accumulated Income Payment or a payment to, or to a trust in favour of, a Designated Educational Institution is made;
  - (iv) an Educational Assistance Payment is made to an ineligible Beneficiary;
  - (v) an ineligible transfer to another RESP occurs;

- (vi) an ineligible replacement of a Beneficiary occurs; and
- (vii) a Beneficiary, who is not a sibling, is added to a sibling-only plan after additional CES grants have been paid,

the Grant Amount immediately before the occurrence of such an event will be repaid to ESDC.

Refunds of Government Grant monies paid into the Plan will also be made to ESDC or a province when the Government Grant monies were paid into the Plan in error.

Unless any losses are caused by the dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard of B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof, neither B2B nor PFSL is responsible for ensuring the repayment of any excess amount of the total of all or any Government Grant payments received by the Beneficiary when the Beneficiary is the Beneficiary under more than one RESP over the maximum amount permitted by the Applicable RESP Legislation. This responsibility rests with the Subscriber of the Plan.

#### 12. TRANSFERS

Each Subscriber may at any time request in writing that B2B or PFSL on its behalf transfer monies (including Government Grant monies) into and out of the Plan from and to a trust that irrevocably holds money or property pursuant to another RESP. Such transfers will be made in accordance with the Applicable Tax Legislation and in the manner required by the Applicable Government Grant Legislation. For greater certainty, permitted transfers requested by a Subscriber will be made even if they give rise to adverse tax consequences or result in repayment of Government Grant monies paid into the Plan or restrictions on future payments of Government Grant monies into the Plan in respect of the Beneficiaries under the Plan.

#### 13. TRUSTEE'S POWER TO LIQUIDATE PROPERTY

B2B may retain in cash such portion of the Plan Property as it in its sole discretion determines is advisable for the administration of the Plan. Without limiting the generality of the foregoing, B2B may liquidate investments of the Plan to provide for payment pursuant to sections 10 and 12 hereof, payment of any taxes (including interest and penalties) applicable in respect of the Plan, repayment of Government Grant monies paid into the Plan pursuant to section 11 hereof and payment of its fees and reimbursement of disbursements and payment of other reasonable charges pursuant to section 18 hereof. If the Subscriber fails to direct B2B or PFSL on its behalf as to which investments of the Plan to liquidate, B2B may sell such investments of the Plan as it in its sole discretion determines is appropriate. If B2B is required to exercise such discretion, it may make an additional charge against the Plan. If the Plan Property is not sufficient to fully make any such payment or reimbursement, the Subscriber and the Beneficiaries will be responsible for any shortfall as provided in section 21 hereof.

#### 14. VOTING RIGHTS

B2B, as trustee, will exercise voting rights in respect of investments of the Plan on behalf of the Subscriber at all shareholders' meetings in favour of management's proposals. However, the Subscriber may request in writing the right to vote at a shareholders' meeting in respect of units of shares of mutual funds or any other securities held in the Plan. B2B will comply with the Subscriber's request as long as B2B or PFSL on its behalf receives the request at least 48 hours before the meeting. Where the Plan has two Subscribers such request must be executed by both Subscribers.

#### 15. TERMINATION DATE

Notwithstanding anything herein to the contrary, the termination date of the Plan will be the earlier of:

- (a) the date designated by the Subscriber from time to time in writing;
- (b) the last day of February in the year following the year in which the first Accumulated Income Payment was made pursuant to subsection 9(d) hereof; and
- (c) the last day of the 35<sup>th</sup> year.

The Subscriber may change the termination date he or she has designated under subsection 15(a) to a date that is not later than the earlier of the dates set out in subsections 15(b) and 15(c) by providing written instructions in a form satisfactory to B2B. Where the Plan has two Subscribers, this designation must be signed by both Subscribers. Except when the termination date of the Plan has been changed by the Subscriber to a date that is less than a year from the time the designation notice of the new termination date is received by PFSL or B2B, PFSL will notify the Subscriber of the termination date of the Plan not less than six months prior to the termination date. At the same time, or if no termination notice is given, upon receipt of a notice designating a new termination date, PFSL will inform the Subscriber that unless the Subscriber provides PFSL with instructions with respect to the Plan Property the Subscriber will lose the ability to transfer any Accumulated Income Payments to an RRSP (as described in subsection 9(d) hereof) on a roll over basis.

On or before the termination date of the Plan, B2B, or PFSL on its behalf, will make payments in accordance with the instructions of the Subscriber or both Subscribers, jointly, pursuant to sections 9 and 10 hereof, net of any withholding taxes, any applicable fees and charges pursuant to section 18 hereof and any amount of Government Grant refunds as provided in section 11 hereof. If no instructions are provided with respect to some or all of the Plan Property, B2B, or PFSL on its behalf, will, in respect of those amounts for which instructions have not been provided, net of any applicable fees and charges pursuant to section 18 hereof and any amount of Government Grant refunds as provided in section 11 hereof:

- (a) invest the portion, if any, which could be refunded pursuant to section 10, in a PCS Canadian Money Market Fund in the name of the Subscriber (where the Plan has two Subscribers this amount will be invested in the names of both Subscribers, jointly); and
- (b) pay the amount remaining after the investment pursuant to (a), to, or to a trust in favour of, a Designated Educational Institution in Canada, at B2B's sole discretion and in conformity with the Applicable Tax Legislation. If no such trusts or educational institutions were designated, B2B will make an Accumulated Income Payment of such amount, net of any withholding taxes required according to the Applicable Tax Legislation, to a PCS Canadian Money Market Fund in the name of the Subscriber. Where the Plan has two Subscribers, half of this amount will be invested in the name of each of the Subscribers.

PFSL and B2B will be entitled to collect fees for the administration of his PCS Canadian Money Market Fund directly from such account(s).

For greater certainty, in the event that the Trust governed by the Plan is terminated, the property held in the Trust will be used for the purposes described in the definition of "Trust" herein.

#### 16. SUBSCRIBER'S DEATH

If the Subscriber dies prior to the Termination Date of the Plan, the Subscriber's heirs, executors, administrators or other legal representatives, or any other person designated by the Subscriber's will may continue the Plan on behalf of the deceased Subscriber.

#### 17. RIGHT TO EMPLOY AGENTS

B2B irrevocably holds the Plan Property. Without in any way detracting from the ultimate responsibility of B2B for the Plan Property, B2B may, and each Subscriber expressly authorizes B2B to delegate to PFSL, PFSL's successors and assigns, and any other agent or agents, including any one or more affiliates of B2B, as agents of B2B (with power to delegate these powers, authorities or duties) the performance of certain of B2B's duties and obligations (other than the duty to hold the Plan Property) under the Plan as B2B in its sole and absolute discretion may from time to time determine. To the extent that B2B delegated the performance of all or a portion of the activities of the Trust regarding the Plan Property to PFSL, such delegation shall be deemed to be in the best interests of the trust, the Subscriber and the Beneficiary(ies). The Subscriber also authorizes B2B to and B2B may pay PFSL

and other agents all or a portion of the fees and reimbursements paid to B2B under the Plan pursuant to section 18 hereof. B2B will notify the Minister of the appointment of PFSL or any other such agent in accordance with the terms of the Government Grant agreement between B2B and the Minister.

#### **18. FEES AND DISBURSEMENTS**

B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) will be entitled to compensation for their services hereunder as well as reimbursement of disbursements and expenses B2B or PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) incur in performing their duties under the Plan. For greater certainty, B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) will be entitled to pay all taxes and Government Grant refunds from the Plan property. All fees and reimbursement of disbursements provided for under the Plan will be determined by PFSL from time to time and are outlined in the Subscriber's account statement.

B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) are also entitled to receive a reasonable fee, which B2B establishes, for any exceptional services B2B performs as trustee, including having to exercise its discretion.

These fees and reimbursements will be deducted from the Plan Property (first from any earnings or investments and then from other assets) and B2B may sell any assets of the Plan as B2B considers necessary for this purpose. In some cases, B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) may allow the Subscriber to pay directly instead of from the Plan Property. The Subscriber will be given 30 days written notice before any changes are made to these fees. Reimbursements do not apply to taxes for which PFSL is liable and that cannot be charged against or reimbursed from the Plan Property in accordance with Applicable Tax Legislation.

#### **19. AMENDMENTS**

PFSL may from time to time in its discretion amend the Plan with the concurrence of the Minister of National Revenue if required and, if applicable, with the concurrence of provincial tax authorities, after giving 30 days' notice in writing to the Subscriber; provided, however, that any such amendments will not disqualify the Plan as a RESP within the meaning of Applicable Tax Legislation and will not disqualify the Beneficiaries as recipients of Government Grant monies according to the Applicable Government Grant Legislation. Should the Applicable RESP Legislation be amended, PFSL will administer the Plan in accordance with such legislation, as amended, until such time as the amended Plan is approved by the Minister of National Revenue. In the event that the Plan must be amended to ensure that the Plan continues to comply with the Applicable Tax Legislation or the Applicable Government Grant Legislation as amended from time to time, PFSL is not required to give the Subscriber prior notice of such amendments to the Plan and such amendments will be effective immediately after they have been made.

#### **20. NOTICE**

Any notice given to B2B or PFSL will be sufficiently given if mailed, postage prepaid, addressed to, respectively:

B2B Trustco c/o PFSL Fund Management Ltd., 6985 Financial Drive, Suite 400, Mississauga, Ontario L5N 0G3.

and will be considered to have been given on the day that the notice is actually delivered or received by B2B or PFSL at such address. Any notice, statement, tax form or receipt given by B2B or PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) to the Subscriber or the Beneficiary will be sufficiently given if delivered to the Subscriber or Beneficiary or if mailed, postage prepaid, addressed to the Subscriber or the Beneficiary at the last address given to B2B or PFSL (or any other agent appointed by B2B pursuant to section 17 hereof), and any such notice, statement or receipt will be considered to have been given at the time of delivery to the Subscriber or the Beneficiary personally or if mailed, on the day of mailing to the Subscriber or the Beneficiary.

#### **21. LIMITATION ON LIABILITY**

The Subscriber and each Beneficiary will at all times indemnify and save harmless B2B, PFSL and any other agents appointed by B2B pursuant to section 17 hereof in respect of any costs incurred by or taxes (including interest and penalties) which may be imposed, on B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof under the Applicable RESP Legislation in respect of the Plan, the receipt and time of receipt of any Government Grant monies paid into the Plan, any refunds of Government Grant monies which may be required under the Applicable RESP Legislation, or any losses or damages or tax liability suffered or incurred by the Plan, including as a result of: (i) the investment, re-investment, sale or other transfer of Plan Property, and the liquidation of investments by B2B or PFSL; (ii) any payment of any kind made from the Plan; (iii) any breach of the Government Grant agreements between B2B and PFSL, respectively, and the Minister, the Applicable Tax Legislation or the Applicable Government Grant Legislation; (iv) contributions in respect of the beneficiary when the Beneficiary is also the beneficiary under other RESPs (including a replacement Beneficiary who inherits the contribution history of the beneficiary he or she replaced) made to such plans which, in total, exceed the RESP Lifetime Limit; and (v) PFSL or B2B acting or declining to act upon instructions given to PFSL or B2B, as the case may be, whether by a Subscriber or any person purporting to be a Subscriber, unless the losses are caused by the dishonesty, bad faith, willful misconduct, gross negligence or reckless disregard of B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof.

B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof may reimburse themselves for or may pay any such Government Grant refunds, taxes or costs out of the Plan Property. This does not include taxes for which PFSL is liable and that cannot be charged against or reimbursed from the Plan Property in accordance with Applicable Tax Legislation. Where such property is not sufficient to fully reimburse B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof for such Government Grant refunds, taxes or costs or to pay such Government Grant refunds, taxes or costs, as the case may be, the Subscriber will at all times indemnify and save harmless B2B, PFSL or any other agents appointed by B2B pursuant to section 17 hereof for the amount of any shortfall.

The foregoing indemnification and the limitations of liability shall survive the termination or revocation of the Plan.

#### **22. SUCCESSOR TRUSTEE**

B2B, upon giving PFSL or any other agent appointed by it pursuant to section 17 hereof at least 90 days' written notice or such other period of notice as PFSL or any other agent appointed by it pursuant to section 17 hereof may accept or the Applicable RESP Legislation may dictate (the "Notice Period"), may resign as the trustee of the Plan. PFSL may remove B2B as trustee by giving B2B 30 days' written notice or such other Notice Period (or no notice if B2B can no longer act as trustee), provided that a successor trustee has been appointed in writing. If B2B stops being a trustee for any reason, B2B will appoint in writing within that 90 day period or that other Notice Period a successor trustee designated by PFSL. However, if PFSL doesn't recommend a successor trustee within 60 days, or such other period as the Applicable RESP Legislation may dictate, after receiving B2B's written notice of resignation, B2B may do so. The successor trustee must be a corporation resident in Canada and authorized under the laws of the province of each Subscriber's residence indicated in the Application to carry out its duties and responsibilities as trustee under the Plan. B2B will notify the Minister prior to its resignation hereunder and prior to the appointment of a replacement trustee in accordance with the terms of the Government Grant agreement between B2B and the Minister. PFSL or any other agent appointed by B2B pursuant to section 17 hereof will notify the Minister prior to effecting B2B's

removal hereunder in accordance with the terms of the Government Grant agreement between PFSL or that agent and the Minister. Notice of the replacement of B2B hereunder will be given by PFSL or B2B to each Subscriber and to the Minister of National Revenue.

The replacement trustee will enter into a Government Grant agreement with the Minister. Effective upon the resignation or removal of B2B in accordance with the foregoing terms, B2B will execute and deliver to the replacement trustee all conveyances, transfers and further assurances as may be necessary or desirable to give effect to the appointment of the replacement trustee, and the replacement trustee will thereupon agree to be bound by the terms hereof (in which case all references herein to B2B will include the replacement trustee). B2B will transfer all books and records and investments of the Plan to the replacement trustee in order to permit the orderly administration of the Plan. However, B2B will not transfer any Government Grant monies in the Plan to the replacement trustee until such time as the replacement trustee has entered into a Government Grant agreement with the Minister. Notwithstanding any other provision of this Agreement, any trust company resulting from the merger, amalgamation or continuation of B2B or succeeding to substantially all of the trusteeship business of B2B (either by sale of such business or otherwise) shall thereupon automatically become the replacement trustee hereunder without further act or formality.

#### **23. INFORMATION/TAX SLIPS**

PFSL will provide the Subscriber, each Beneficiary and other applicable persons with such information regarding amounts paid to or from the Plan and other transactions of the Plan as is required to be provided under the Applicable Tax Legislation to enable such persons to complete their respective income tax returns. PFSL will also file with the Minister of National Revenue any returns required by the Applicable Tax Legislation such as an information return regarding the investments of the Plan.

#### **24. SUCCESSORS AND ASSIGNS**

These terms and conditions will be binding upon the successors and assigns of B2B and of PFSL.

#### **25. PROOF OF INFORMATION**

The Subscriber certifies that the information provided to PFSL in respect of the Plan is correct and undertakes to provide PFSL with further proof of any information relating to the Plan as may be required.

#### **26. GOVERNMENT GRANT AGREEMENT**

B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof) may, and each Subscriber expressly authorizes B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof), respectively, to enter into, amend, extend and terminate the Government Grant agreement between B2B and PFSL (or any other agent appointed by B2B pursuant to section 17 hereof), respectively, and the Minister in order to provide each Subscriber with access to the Government Grant program pursuant to the Applicable Government Grant Legislation.

#### **27. ENGLISH LANGUAGE**

The Subscriber has requested that the Plan be established in English. The Subscriber confirms that s/he has expressly requested all communications relating to the Plan be in English, including, the application, these terms and conditions, all notices and all statements.

Le souscripteur a demandé que le régime soit rédigé en anglais. Le souscripteur confirme avoir expressément demandé que tous les communications s'y rapportant soient rédigés en anglais, y compris, la demande, ces modalités, tous les avis et tous les états de comptes.

#### **28. ACCESS TO FILE (for use in Québec only)**

The Subscriber understands that the information contained in the Application shall be maintained in a file at PFSL's place of business. The object of this file is to enable B2B, PFSL and their respective agents or representatives to access the Application, answer any questions the Subscriber or Beneficiary(ies) may have regarding the Application and the file in general, manage the account and follow any instructions received by the Subscriber on an ongoing basis.

Subject to the Applicable Tax Legislation, personal information contained in this file may be used by B2B or PFSL to make any decision relevant to the object of the file and only B2B's or PFSL's employees, agents, representatives and any other persons required for the execution of B2B's or PFSL's duties and obligations or any other persons expressly authorized in writing by the Subscriber may have access to the file.

Furthermore, the Subscriber understands that his/her file will be kept at PFSL's place of business and that the Subscriber and Beneficiary(ies) are entitled to consult their file at the same address and, when applicable, to have it corrected. The Subscriber or Beneficiary must, in order to exercise these rights, send a written notice to B2B.

#### **29. GOVERNING LAW**

The Plan will be governed by and interpreted in accordance with the laws of Ontario, the Applicable RESP Legislation and any other laws of Canada applicable therein and all provisions hereof will be administered according to such laws.