

THIS TRUST AGREEMENT made the 27th day of April, 2002

B E T W E E N:

[Names of Individual Trustees]

(the “Trustees”)

-and-

The United Church of Canada

WHEREAS The United Church of Canada has established and maintains the United Church of Canada Pension Plan (the “Plan”) for the benefit of eligible employees of the Employers;

AND WHEREAS the Executive of General Council is the administrator of the Plan;

AND WHEREAS the Church has appointed the Trustees as trustee of the Trust Fund established in conjunction with the Plan and to assist with the administration of the Plan and the Trust Fund;

AND WHEREAS the Church and the Trustees have agreed to enter into this Agreement to provide for the appointment and duties of the Trustees in respect of the Plan and the Trust Fund;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties each intending to be legally bound, agree as follows:

Definitions

“Act” means the *Pension Benefits Act (Ontario)*, as amended from time to time, including any regulations made under the *Pension Benefits Act*.

“Actuary” means a person or firm of which at least one person is a Fellow of the Canadian Institute of Actuaries.

“Agreement” means this Trust Agreement, as amended from time to time.

“Board of Trustees” means the group of persons who have accepted from time to time to act as Trustees, pursuant to the provisions of this Agreement.

“Church” means the Executive of General Council of The United Church of Canada, or the Sub-Executive of General Council as it may be permitted to act on behalf of the Executive of General Council pursuant to the bylaws of The United Church of Canada.

“Custodian” means the trust company appointed by the Trustees to hold the assets of the Trust Fund.

“Employer” shall mean an employer who has signed a participation agreement with respect to

the Plan.

“Investment Manager” means any persons, firms or corporations 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.

“Member” shall mean any person on whose behalf an Employer is making contributions to the Fund or who is otherwise eligible for benefits as a member or former member of the Plan.

“Plan” means the United Church of Canada Pension Plan.

“Trust Fund” means all of the property held pursuant to this Agreement as such shall exist from time to time together with any earnings, profits, increments and accruals arising therefrom, including all amounts delivered to and accepted by the Board of Trustees, less any payments and disbursements made therefrom.

“Trustee” means a person appointed as a member of the Board of Trustees in accordance with Article 3 of this Agreement.

1 Establishment of Trust Fund

- 1.1 The Trust Fund is hereby created and established for the purpose of providing pension benefits and other payments to Members, as may be approved from time to time in accordance with the Plan.
- 1.2 The Board of Trustees shall receive the assets of the Plan held by the predecessor trustees pursuant to an agreement dated January 1, 1986 between the predecessor trustees and the Church. The Trust Fund shall include all contributions or other payments received by the Board of Trustees and that are added to the Trust Fund, together with any income and accretions thereon.
- 1.3 The Board of Trustees hereby accepts the trusts herein contained and hereby agrees to receive, hold, maintain, manage, administer, invest and distribute the assets of the Trust Fund subject to the provisions of this Agreement, the Plan and applicable legislation. The Board of Trustees shall at all times act as trustee of the Plan and Trust Fund. The Board of Trustees shall jointly hold all property, enter into contracts and act in all manners on behalf of the Trust Fund, subject to the provisions of this Agreement, the Plan and applicable legislation. Title to all assets of the Trust Fund shall be jointly vested in and remain exclusively with the Board of Trustees, except as otherwise provided in this Agreement or required by law.
- 1.4 Except as otherwise set out in this Agreement or in the Plan, none of the parties to this Agreement, or any 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.

- 1.5 Subject to the Plan and any applicable legislation, no assets of the Trust Fund 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.
- 1.6 No party to this Agreement nor any Employer or Member shall be liable or responsible for any debts, liabilities or obligations of the Trustees, except as set out in this Agreement.

2 **The Plan**

- 2.1 The Plan document forms part of this Agreement. The current Plan document is set out at Schedule 1 to this Agreement.
- 2.2 The Plan document at Schedule 1 to this Agreement may be further amended or restated at any time in accordance with its terms, the terms of this Agreement and any governing legislation.

3 **The Board of Trustees**

- 3.1 The Trust Fund and the Plan shall be administered in accordance with the provisions of this Agreement, the Plan and all governing legislation by the Board of Trustees. The Board of Trustees shall be comprised of between five and eleven members.
- 3.2 An even number of Trustees between four and ten shall be appointed by the Church. No person shall be eligible to serve as a Trustee if he or she is an employee of the Church or of an Employer or if he or she is otherwise involved in the governance of the Plan. One other Trustee shall be appointed by the mutual agreement of Trustees appointed by the Church.
- 3.3 Each Trustee, upon the execution of this Agreement or, in the case of a successor Trustee, after signing an Acceptance of Trust in the form set forth in Schedule 2 attached hereto, shall be deemed to accept the trusts created and established by this Agreement and to consent to act as a Trustee.
- 3.4 Each Trustee shall be appointed to a term not to exceed three years, although a Trustee, may be reappointed to successive terms not to exceed three years at a time.
- 3.5 A Trustee may by deed resign from his or her appointment. In the event of the incapacity or resignation by deed of a Trustee, such Trustee shall be fully discharged from all future duties and responsibilities in respect of this Agreement and the trusts created under it. Notice of such incapacity or resignation shall be in writing by him or her, or on his or her

behalf, and be sent to the Unit Leader, Ministry and Employment Policies and Services. Such 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 under it as of the date of death.

- 3.6 Subject to this Section, the Church may, upon sending written notice to the Unit Leader, Ministry and Employment Policies and Services, remove any Trustee 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 trusts created under it.
- 3.7 In the event that any Trustee shall die, become incapacitated, resign or be removed in accordance with this Agreement, a successor trustee shall be designated by the Church as soon as possible thereafter. Any successor Trustee so designated shall immediately, upon written Acceptance of Trust in the form set out in Schedule 2 to this Agreement being filed with the Board of Trustees and the Unit Leader, Ministry and Employment Policies and Services become vested with all of the rights, powers and duties of a trustee under this Agreement, with the like effect as if he or she had originally been named as a Trustee.
- 3.8 (a) The Trustees shall appoint a Chair from their membership who shall chair the meetings of the Board of Trustees.
- (b) The term of the Chair shall be two years, unless otherwise resolved by the Trustees.
- 3.9 The Board of Trustees, and each of the Trustees acting in said capacity shall at all times act in the best interests of the Members and the beneficiaries of the Plan and the Trust Fund, even where such interests may conflict with the desires and the interests of the Church, any individual Employer or Member.

4 **Meetings of the Board of Trustees and Conduct of Meetings**

- 4.1 The Chair shall cause written notice of the meetings of the Board of Trustees to be served upon the Trustees, no less than fourteen days prior to the date of the meeting. The Board of Trustees shall meet at least quarterly.
- 4.2 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 Trustees with the notice of meeting.
- 4.3 The notice of meeting may be served upon the Trustees by delivering it to the address for

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service provided for this purpose to all other Trustees. 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 fifth business day after mailing, except where there is an interruption or cessation in postal service at any time prior to the fifth business day after mailing, in which case there shall be no deemed service. A notice served by delivery or by facsimile transmission shall be deemed to have been given on the day of delivery or transmission provided such transmission or deliver takes place during regular business hours.

- 4.4 A Trustee may waive the service of notice herein and shall be deemed to have done so by attending at such meeting without objection.
- 4.5 The Chair may call special meetings of the Board of Trustees, subject to the notice provisions contained herein.
- 4.6 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 thirty days following receipt of the request and information required for the agenda.
- 4.7 The Chair may call extraordinary meetings of the Board of Trustees on twenty four hours notice. The notice of such an extraordinary meeting need not be in writing, but must specify the date, time, location and the reasons for the meeting and must be communicated by the Chair in such fashion as to ensure that the Trustees receive such notice. The requirements of Sections 4.2, 4.3, 4.9 do not apply to extraordinary meetings.
- 4.8 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 Board of Trustees.
- 4.9 With the exception of the meetings described in Section 4.7, all meetings of the Board of Trustees shall be held at a location to be resolved by the Board of Trustees. In addition, all records and minutes of the Board of Trustees shall be kept at the office of the Unit Leader, Ministry and Employment Policies and Services.
- 4.10 Any resolutions of the Board of Trustees shall require a vote of the majority of the Trustees present.
- 4.11 A quorum for the transaction of business at any meeting of the Board of Trustees shall consist of not less than seventy percent (or the next highest whole number) of the Trustees present in person or participating by means of a telephone conference call. No proxies shall be permitted at any time.
- 4.12 One of the Trustees shall act as recording secretary at any meeting of the Board of

Trustees. Proper minutes will be prepared in draft form and provided to the Trustees for verification and approval at the following meeting.

- 4.13 A resolution in writing, signed by all of the Trustees, is valid as if it had been passed at a meeting of the Board of Trustees. Such resolutions may be executed in counterpart.
- 4.14 The Board of Trustees may establish such advisory committees, working groups or other bodies as they deem necessary from time to time, by way of a simple majority vote of the Board of Trustees at any meeting. The Board of Trustees shall, however, establish an Investment Committee and a Pension Plan Advisory Committee and shall define the mandate of each of them.
- 4.15 Unless the Board of Trustees resolves otherwise, any meeting of the Board of Trustees, may be held by way of a telephone or telecommunications conference provided that the Trustees participating in the said conference shall have the opportunity to consider the business of the Board of Trustees, move and vote on motions as at any other meeting of the Board of Trustees. The provisions of this Section 4 shall apply with such necessary modifications to such telephone or telecommunications conferences.

5 Dispute Resolution

- 5.1 A deadlock shall be deemed to exist where a proposal, motion or resolution made by the Board of Trustees or any Trustee or 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.
- 5.2 In the event of a deadlock, a further meeting of the Board of 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, the Chair shall decide the matter.

6 Powers, Duties and Responsibilities of the Board of Trustees

- 6.1 The operation and administration of the Plan and the custody, investment and management of the Fund shall be the responsibility of the Board of Trustees and it is hereby given the authorization and power so to do, subject to the limitations and conditions contained in this Agreement and the Plan.
- 6.2 The Board of Trustees shall use all reasonable means to collect and receive all contributions due to the Trust Fund and shall, promptly after receipt, deposit such contributions in a special Trust Fund account established with a Custodian.
- 6.3 The Board of Trustees shall incur no liability collectively and no individual Trustee shall incur personal liability in acting, upon any documents, data or information believed by it, him or her to be genuine and accurate and to have been made, executed, delivered or assembled by the proper parties.

- 6.4 No Trustee shall be liable for the act or omission of any other Trustee. The Fund shall indemnify and save harmless the Board of Trustees and the Trustees individually 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 judgment, 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 Trustee with respect to any matter or thing arising out of his or her own dishonesty, bad faith, wilful misconduct or gross negligence.
- 6.5 The Board of Trustees and the Trustees individually shall be indemnified and saved harmless by the Church, to the extent not paid by the Trust Fund, 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 judgment, arising out of actions required in written instructions from the Church in respect of a matter for which the Church has the authority under this Agreement to instruct the Board of Trustees, except that this indemnity shall not, in any way, extend so as to protect any Trustee with respect to any matter or thing arising out of his or her own dishonesty, bad faith, wilful misconduct or gross negligence.
- 6.6 The Board of Trustees is hereby empowered, in addition to any other power, as set forth herein or conferred by law:
- (a) to administer the Plan and the Trust Fund for the benefit of the Members, and other beneficiaries, as the case may be, subject to the terms of this Agreement and the Plan, and the requirements of applicable federal and provincial legislation;
 - (b) to adopt such procedures, policies, rules and regulations necessary for the carrying out of their trusts, consistent with the provisions of this Agreement, the Plan text and the requirements of applicable provincial and federal legislation;
 - (c) to enter into agreements with a Custodian or Investment Manager(s) selected by the Board of Trustees, for the purpose of providing investment management or advice, or for the purpose of acting as a depository or custodian for safekeeping of assets of the Trust Fund, or for any other purpose as the Board of Trustees shall deem necessary or desirable and to authorize any such Custodian or Investment Manager to commingle any monies deposited with them in any mutual or pooled pension fund administered or managed by any of them subject to any applicable laws of Ontario and Canada;
 - (d) to pay or provide for the payment of benefits from the Trust Fund in accordance with the terms of the Plan and applicable laws of Ontario and

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Canada to those persons eligible to receive them as authorized by the Unit Leader, Ministry and Employment Policies and Services or his or her delegate;

- (e) to pay from the Fund all reasonable expenses incurred in 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 retaining of such legal, actuarial, accounting, expert and clerical assistance as the Board of Trustees, in their discretion, may find necessary or expedient in the performance of their duties. The Board of Trustees and the individual Trustees shall be completely and fully protected in acting and relying reasonable and in good faith upon the opinions or advice of the aforementioned persons;
- (f) to enter into contracts and agreements for carrying out the terms of this 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 the Trust Fund, or the Board of Trustees, on such terms and conditions as the Board of Trustees may deem advisable;
- (h) to establish procedures to be followed in filing applications for benefits from the Plan and for the furnishing and certification of evidence necessary to establish a right to such benefits;
- (i) to pay out of the Trust Fund, all real and personal property taxes, income taxes and other taxes of any and all kinds, properly 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 accept payments to the Trust Fund from any source whatsoever, to the extent permitted by law, 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 Procedures established by the Board of Trustees, and to take any and all actions with respect to the holding, buying, selling or exchanging of such investments as they, in their sole discretion, may deem appropriate or necessary.
- (l) to hold as uninvested cash, without any liability for interest thereon, such

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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 Board of Trustees with any Custodian or Investment Manager, 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;
- (o) to delegate any of their administrative powers or duties or such other powers and duties as may be permitted by subsection 22(5) of the Act to any of their agents or employees, in such manner and subject to such terms and conditions as the Board of Trustees may deem necessary or appropriate; provided that such agents or employees report to the Board of Trustees as may be required in writing by it;
- (p) to lease or purchase such materials, supplies and equipment as the Board of Trustees deems necessary or appropriate in the performance of its duties hereunder;
- (q) to authorize the preparation of and to file an actuarial valuation in accordance with the Act and any other governing legislation and at such frequency as is required by the Act or any other governing legislation or at such greater frequency as may be directed by the Church;
- (r) to consult with the Church during the preparation of an actuarial valuation and to make their best efforts to respond to any questions, comments or recommendations of the Church provided that the Board of Trustees shall be solely and exclusively responsible for the content of any actuarial valuation filed in accordance with the Act and any other governing legislation;
- (s) to provide a copy of every actuarial valuation prepared for the Board of Trustees to the Church and provide to the Church any information requested by it;
- (t) to hold a meeting with the Church at least twice each year to explain its annual report to the Church and to answer any questions regarding the Plan and the Trust Fund;
- (u) to make changes to the Plan that are required to be made to comply with any applicable law;
- (v) to take instruction from the Church regarding possible amendments to the Plan, and to advise on the feasibility or consequences of implementing any

such amendments and to report to the Church on the results of the Board of Trustee's actions in accordance with such instructions;

- (w) to advise the Church in respect of changes that the Board of Trustees considers would improve the administration of the Plan;
- (x) to take all steps, whether or not previously authorized herein, which the Board of Trustees may deem necessary or proper for the protection of the Trust Fund.

6.7 The Board of Trustees may purchase such errors and omissions and fiduciary liability insurance for the Board of Trustees, the Trustees, and all persons involved in the administration of the Plan and the Trust Fund as the Board of Trustees deems necessary. The cost of such insurance may be paid out of the Trust Fund.

6.8 The Board of Trustees shall appoint an auditor of the Trust Fund who shall serve until his or her successor is appointed.

6.9 The Board of Trustees may require any 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 the Trust Fund.

7 Contributions to the Trust Fund and Funding

7.1 Contributions payable by an Employer that are due to the Trust Fund are deemed to be held in trust by the Employer for the beneficiaries of the Trust Fund until remitted to the Trust Fund.

7.2 Every Employer shall provide the Board of Trustees with such information and reports that may be required by the Board of Trustees from time to time, and every Employer shall provide access to their records during regular business hours to the Board of Trustees or any agent appointed by the Board of Trustees for the purposes of determining benefit entitlements, appropriate contribution levels or such other matters as are necessary for the Board of Trustees to carry out their duties under this Agreement and the Plan.

8 Amendment

8.1 Any amendment to this Agreement shall require the unanimous written agreement of the parties to this Agreement. No amendment, however, shall authorize or permit any part of the Trust Fund to be used for or diverted to purposes other than the purposes of the Plan.

8.2 Not later than three years following the execution of this Agreement, the Church shall examine and to consider any proposed amendments to this Agreement at least in respect of, the composition of the Board of Trustees, including the method of appointing the

Board of Trustees and the terms and conditions of such appointments.

9 General Provisions

- 9.1 Trustees may be reimbursed out of the Trust Fund for their reasonable expenses incurred in the discharge of their responsibilities for the administration of the Plan and the Trust Fund. Trustees may be paid an honorarium out of the Trust Fund, the amount of which shall be established by the Church and shall be reasonable in relation to the duties and obligations of the Trustees.
- 9.2 All notices, requests, demands or other communications provided for herein to be given, shall be given in the manner set out in this Section 9.2. Notices to the Church, and the Trustees shall be given to them at their last known address as appears on the records of the Church. Notices to the Trust Fund shall be given to the Chair of the Board of Trustees.
- 9.3 If any provision of this Agreement, the Plan, or the rules or regulations made pursuant thereto are held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of this Agreement, the Plan, or the said rules or regulations.
- 9.4 Wherever the singular or masculine is used throughout this Agreement, the same shall be construed as meaning the plural or feminine or a body corporate where the context or the parties hereto so requires.
- 9.5 The headings used herein are for ease of reference only and shall not be deemed to form part of this Agreement.
- 9.6 Each of the parties hereto shall cooperate with every other party to effectively implement this Agreement and shall, from time to time, 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 for more effectively implementing and carrying out the intent of this Agreement.
- 9.7 The Province of Ontario shall be deemed to be the situs of the Trust 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.
- 9.8 The year end for the Trust Fund shall be December 31st.
- 9.9 This Agreement must be executed by all parties hereto but may be executed in several counterparts each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute the one and the same Agreement.

10 **Termination**

- 10.1 This Agreement may be terminated or revoked by the Church at any time.
- 10.2 In the event of the termination of the Plan, the Trustees shall dispose of the Trust Fund in accordance with the Plan.
- 10.3 In the event that the Trust Fund is terminated in whole or in part while the Plan continues in force, the Trustees shall transfer the Trust Fund or such part thereof as to which the termination of the Trust Fund applies, to such persons as the Church shall direct.

In witness whereof the parties hereto have executed in counterpart this Trust Agreement as of the date set out above

THE UNITED CHURCH OF CANADA

By: _____
Authorized Signing Officer

And: _____
Authorized Signing Officer

Witness:

SCHEDULE 1

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[insert current plan document]

SCHEDULE 2

ACCEPTANCE OF TRUST

TO: THE UNITED CHURCH OF CANADA (the “Church”)

AND TO: THE TRUSTEES (the “Trustees”) OF THE UNITED CHURCH OF CANADA PENSION PLAN (the “Plan”)

1. Pursuant to an Agreement and Declaration of Trust (the “Trust Agreement”) dated the 27th day of April, 2002, between the Church and the Trustees, the Church 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 the Church/the Trustees (*circle, as appropriate*) 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 (...), 2002.

Trustee

Witness