

TRUSTEE AND ADVISOR AGREEMENT

THIS AGREEMENT made this 17th day of August, 1998.

BETWEEN:

ROYAL TRUST CORPORATION OF CANADA, a body corporate (the "Trustee")

- and -

SUPPORT AND TRUSTEE ADVISORY SERVICES OF BRAMPTON CALEDON, a body corporate (the "Advisor")

RECITALS

The Trustee is a corporate trustee authorized to provide trustee services under the *Loan and Trust Corporations Act*, R.S.O. 1990, C.1.25.

The Advisor is a non-profit charitable organization incorporated under the *Corporations Act*, R.S.O. 1990, c.C.38.

The Advisor promotes the personal and financial security and well-being of individuals with developmental disabilities by:

- (a) assisting families who wish to establish a trust fund for a family member with a developmental disability to have access to trustee services; and by
- (b) providing guidance and advice to trustees regarding the use of trust funds to meet the needs (including disability-related needs) of individual beneficiaries of trusts.

The purposes of this Agreement are to:

- (a) provide families with access to trustee services and advice regarding the use and expenditure of trust funds for, and on behalf of, individuals with developmental disabilities who are beneficiaries of the trusts; and
- (b) establish the general terms and conditions upon which the Trustee will provide trustee services with the advice and recommendations of the Advisor pursuant to appointments made by Participants under Wills and Inter Vivos Trust Agreements.

IN CONSIDERATION of the covenants contained in this Agreement, the parties agree to the following terms and conditions:

1. DEFINITIONS

1.1 For all purposes under this Agreement:

"**Advisor**" means Support and Trustee Advisory Services of Brampton Caledon or any substitute advisor.

"**Beneficiary**" or "**Beneficiaries**" means individuals with a developmental disability who are named as beneficiaries under a trust fund established by a Participant;

"**Initial Capital Sum**" means the sum of money that establishes a sub-account for a beneficiary.

"**Participant**" means an individual or individuals who have signed a Participation Agreement with the Advisor and who comply with the provisions of section 5 of this Agreement.

"**Participation Agreement**" means an agreement between the Advisor and participants.

"**Substitute Advisor**" means an advisor nominated and confirmed pursuant to section 15.

"**Trust Fund**" or "**Trust Funds**" means an inter vivos or testamentary trust established by a Participant for a beneficiary with a developmental disability and which satisfies the provisions of Section 5 of this Agreement.

"**Trustee**" means Royal Trust Corporation of Canada or any replacement trustee.

"**Trustee Services**" means services provided by the Trustee under section 3.

2. TRUSTEE AND ADVISOR ARRANGEMENT

2.1 This Agreement establishes an arrangement for the provision of trustee services to participants who comply with the provisions of Section 5. The terms of this Agreement will be incorporated by reference into trust funds established by participants.

3. TRUSTEE SERVICES

3.1 The Trustee agrees to provide trustee services to participants. Trustee services shall include the following:

- (a) the investment and management of funds held in trust in accordance with the terms and conditions of trust funds established pursuant to the provisions of this agreement;
- (b) the disbursement of trust income or capital in accordance with the terms and conditions of trust funds established pursuant to the provisions of this Agreement;
- (c) the maintenance of records on capital, income and disbursements as outlined in section 7;
- (d) the preparation and filing of T-3 Trust returns or other reports required by law;
- (e) upon the death of beneficiaries, the preparation and the final distribution of the funds held in trust for a deceased beneficiary.

4. ROLE OF ADVISOR

- 4.1 The Advisor shall maintain contact with and determine the financial needs of beneficiaries of trust funds and shall provide advice and recommendations to the trustee regarding the use of trust funds for beneficiaries.
- 4.2 The role of Advisor as specified in subsection 4.1 shall not be considered as prohibiting the Trustee from making direct contact with beneficiaries of trust funds.

5. CONDITIONS AND PROCESS FOR PARTICIPATION

5.1 Participation in the Trustee and Advisor arrangement shall be subject to the following conditions:

- (a) participants shall be required to contribute an initial capital sum of at least \$10,000 cash to a trust fund for a beneficiary;
- (b) the Trustee shall be the sole trustee of a trust fund established pursuant to this Agreement; and
- (c) the Advisor, whether the original or substitute advisor, shall be the only named advisor to the Trustee.

5.2 Trust Funds established pursuant to the provisions of this Agreement shall be effective when:

- (a) participants execute a Participation Agreement with the Advisor;
- (b) participants execute a Trust Agreement or Will which establishes a trust fund and which contain standard provisions; and
- (c) in the case of an inter vivos trust, when an initial capital sum is transferred, accepted by and deposited with the Trustee; and

- (d) in the case of a testamentary trust when an initial capital sum is transferred by the estate trustee and accepted and deposited with the Trustee.

6. MAINTAINING OF ACCOUNTS

6.1 The Trustee shall maintain a trust account or trust accounts in the name of each individual who is a Beneficiary of a trust fund established pursuant to this Agreement.

6.2 Each account shall be comprised of the following:

- (a) the initial capital sum contributed by a participant for a Beneficiary together with such further contributions made by a participant, or his or her executors, administrators or other representatives, or by third parties together with capital gains realized from time to time; and
- (b) any interest or dividends earned and accumulated from time to time on capital contributions.

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- (c) payments made to or on behalf of a Beneficiary from time to time; and
- (d) deductions made for the payment of fees, taxes or expenses as are authorized by the trust document or are required by law.

7. RECORDS AND REPORTING

7.1 The Trustee shall maintain a record of accounts of Beneficiaries of trust funds established pursuant to this Agreement. The record shall include the following information on each trust account:

- (a) the name and address of the Participant;
- (b) the name and address of the Beneficiary;
- (c) the effective date of participation (the date of transfer of minimum requirement to the Trustee);
- (d) the amount of the initial capital contribution to a trust fund and the date and source of contribution;
- (e) the amount of additional contributions to a trust fund and the date and source of contribution;
- (f) the name(s) and address(es) of individuals or organizations who are the named remainder beneficiaries of the trust fund.

7.2 The Trustee shall report to the Advisor semi-annually on the status of trust funds established pursuant to this Agreement. The report shall indicate:

- (a) a statement of assets in each trust fund; and
- (b) capital receipts and disbursements as well as income receipts and disbursements during the reporting period.

7.3 The Advisor shall maintain a record of participants and beneficiaries for whom it is or will be providing advice to the Trustee. The records shall include:

- (i) the names and current addresses of participants;
- (ii) the names and current addresses of beneficiaries;
- (iii) the date of execution of Participation Agreements; and
- (iv) the names and current addresses of individuals who have been designated by Participants to receive reports from the Advisor.

7.4 The Advisor shall notify the Trustee of the execution of each Participation Agreement and, within sixty (60) days of the date of execution, provide the Trustee with a copy of the completed Participation Agreement.

7.5 The Advisor shall notify the Trustee of any changes of address for participants and beneficiaries of which it becomes aware.

7.6 At its discretion, and from time to time, the Trustee shall be entitled to request information from the Advisor regarding disbursements for any or all trust funds, including information about the date, amount, payee and purpose of each disbursement. Within fifteen (15) days of receiving a request for information, the Advisor shall provide a written statement to the Trustee.

8. FEES

8.1 Subject to subsections 8.3, 8.4 and section 13, the Trustee shall be entitled to charge fees for trustee services to trust funds in accordance with Schedule "A" of this Agreement.

8.2 Upon the submission of an invoice by the Advisor, the Trustee shall be entitled to pay the Advisor fees from trust funds in accordance with Schedule "B" of this Agreement.

8.3 Fees for trustee services may be renegotiated by the Trustee and Advisor from time to time and Schedule "A" may be amended in accordance with Section 13 of this Agreement.

8.4 Fees for the preparation of annual T-3 returns shall be subject to review five years from the date of this Agreement.

9. INDEMNIFICATION OF TRUSTEE

9.1 Subject to subsections 9.2 and 9.3, the Trustee, and each of its agents and employees, shall be and are hereby indemnified by the Advisor against all claims, liabilities, fines or penalties and against all costs and expenses (including legal fees and disbursements and the cost of reasonable settlements) imposed upon or incurred by the Trustee as a result of acting upon the advice of the Advisor in the disbursement of trust funds established pursuant to this Agreement.

9.2 The Trustee and its agents or employees shall not be indemnified with respect to matters in which the Trustee and its agents or employees shall be determined to have been guilty of wilful misconduct in the performance of any duty under this Agreement.

9.3 The right of indemnification under this Agreement shall not be exclusive of, or prejudicial to, other rights to which any person may be entitled as a matter of law or otherwise.

10. REPLACEMENT OF TRUSTEE

10.1 The Trustee may by deed declare its intention to be discharged from its responsibilities as Trustee of trusts established by participants pursuant to this Agreement. The Trustee shall give the Advisor six (6) months notice in writing of its intention to be discharged from its responsibilities as Trustee.

10.2 The Advisor may request that the Trustee be replaced by another corporate trustee or, alternatively, by an individual trustee or trustees. The Trustee shall be given six (6) months' notice in writing of the Advisor's intention to request that a replacement trustee be appointed.

10.3 In the event that the Trustee resigns or is replaced, the Advisor shall have the authority to nominate a new trustee or trustees of trusts established by participants pursuant to this Agreement. The Advisor shall nominate a new corporate trustee, or alternatively, an individual trustee or trustees, immediately upon the resignation or replacement of the Trustee.

10.4 Any replacement trustee(s) nominated or appointed pursuant to this section or by an order of a court of competent jurisdiction is authorized and empowered to act upon and be bound by the provisions of this Agreement.

11. SUBSTITUTION OF ADVISOR

11.1 Subject to subsections 11.2, 11.3 and 11.4, in the event that the Advisor becomes or is likely to become an inactive organization, the Advisor shall, subject to confirmation by a court of competent jurisdiction and prior to any dissolution, nominate Brampton Caledon Community Living as a substitute advisor.

11.2 The Advisor shall be deemed to be an inactive organization when:

- (a) the membership of the organization votes to dissolve the corporation pursuant to its governing by-laws; or
- (b) the Advisor notifies the Trustee in writing of its intention to discontinue providing advice and recommendations to the Trustee regarding payments from the Trust Fund to or on behalf of the Beneficiaries; or
- (c) the relevant government Ministry has taken steps to wind up the corporation pursuant to legislative authority.

11.3 Should Brampton Caledon Community Living be unwilling or unable to accept the nomination as a substitute advisor, the Advisor shall, subject to confirmation by a court of competent jurisdiction and prior to any dissolution, nominate an alternate organization with similar purposes, or alternatively, an individual or individuals, to be a substitute advisor.

11.4 The Advisor shall give the Trustee at least ninety (90) days notice in writing of its appointment of a substitute advisor. The notice shall state the date upon which the substitution shall become effective.

11.5 The Trustee may request that the Advisor be substituted by another advisor. The Advisor shall be given six (6) months notice in writing of the Trustee's intention to request that a substituted advisor be appointed.

11.6 Any substitute advisor nominated or appointed pursuant to this section or by an order of a court of competent jurisdiction is authorized and empowered to act upon and be bound by the provisions of this Agreement.

12. RELATIONSHIP BETWEEN TRUSTEE AND ADVISOR

12.1 The Trustee and Advisor agree that they will review their relationship under this agreement three (3) years following the date of execution.

12.2 The Trustee or the Advisor may at any time request in writing that the operation of the relationship between Trustee and the Advisor be reviewed. A request for a review shall be honoured within three (3) months following the date of the request.

12.3 The parties shall by mutual agreement determine the format and procedure for any review conducted pursuant to this section.

12.4 Any disputes between the Trustee and Advisor that cannot be resolved by the parties shall be referred to a single independent arbitrator who will be appointed jointly by the parties. The decision of any arbitrator shall not be binding.

13. AMENDMENTS FOR ADMINISTRATIVE MATTERS

13.1 The Trustee and Advisor may, by mutual consent, amend provisions of this Agreement dealing with administrative matters. Amendments shall be in writing and duly executed by both parties.

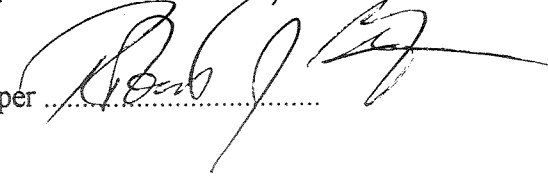
14. ENFORCEABILITY

14.1 This Agreement shall be enforceable by and against the heirs, successors and assigns of the parties and shall be subject to all relevant federal and provincial laws applicable in the Province of Ontario.

SIGNED, SEALED AND DELIVERED by the parties this 17th day of August, 1998.

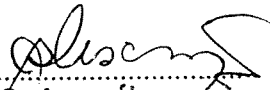
**SUPPORT AND TRUSTEE ADVISORY SERVICES OF
BRAMPTON CALEDON**

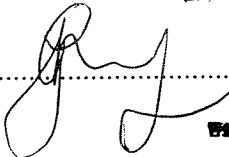
per 

per 

(corporate seal)

ROYAL TRUST CORPORATION OF CANADA

per 
J. S. Ascroft SENIOR TRUST OFFICER

per 
GILLIAN M. MUSK
MANAGER
ESTATE AND TRUST SERVICES

(corporate seal)

SCHEDULE "A"

TRUSTEE FEES

Under subsection 8.1 of this Agreement the Trustee is entitled to fees for trustee services. Fees shall be charged monthly against income on hand in trust funds as follows:

- .75% per annum of market value of capital held charged to income. This fee is based on 4 distributions to or on behalf of a Beneficiary per calendar year (subject to a minimum fee of \$15.00 per month);
- Where distributions to or on behalf of a Beneficiary exceed 4 in any calendar year, \$20.00 for each additional distribution;
- \$100.00 + GST for the preparation of an annual T-3 Return for each trust fund.

SCHEDULE "B"

ADVISOR FEES

Under subsection 8.2 of this Agreement the Advisor is entitled to fees for advisory services. Upon the submission of an invoice by the Advisor, fees shall be charged semi-annually in advance against trust funds as follows:

- up to .75% per annum of market value of capital held charged to income. This fee is based on an unlimited number of distributions to or on behalf of a Beneficiary per calendar year.