

THIS AGREEMENT is made as of the date of the enrolment application shown on the cover page attached hereto.

BETWEEN:

EMBARK STUDENT FOUNDATION, a not-for-profit corporation continued under the *Canada Not For Profit Corporations Act* (hereinafter called the “**Foundation**”), sponsor and promoter of the “FAMILY SINGLE STUDENT EDUCATION SAVINGS PLAN”

- and -

THE INDIVIDUAL(S) OR OTHER ENTITY NAMED AS SUBSCRIBER(S) IN THE ENROLMENT APPLICATION SHOWN ON THE COVER PAGE ATTACHED HERETO (hereinafter called the “**Subscriber**”),

WHEREAS the Foundation is established and operates for the purpose of providing educational assistance payments to students in Post-Secondary Programs of Study at Recognized Institutions and for the purpose of the advancement of education;

AND WHEREAS the Subscriber wishes to make monies available to provide the person designated herein with the opportunity of obtaining a post-secondary education and for the purpose of the advancement of education;

AND WHEREAS the Subscriber has applied to enter into this education savings plan with the Foundation under which, in consideration of Contributions made by the Subscriber, and/or Government Grants received in respect of the Beneficiary, the Foundation agrees to pay, or cause to be paid, to the Beneficiary designated herein educational assistance payments, all in accordance with the terms of this Agreement;

AND WHEREAS the Foundation has appointed Embark Student Corp. (the “**Manager**”) as Manager and Distributor of Units of the Family Single Student Education Savings Plan;

AND WHEREAS the Foundation has also delegated to Embark Student Corp. (the “**Agent**”) certain of its duties as promoter of education savings plans;

NOW THEREFORE the Subscriber and the Foundation, in consideration of the terms and agreements hereinafter provided, hereby covenant and agree as follows:

## DEFINITIONS

1. Whenever used in this Agreement or the Application, the following terms shall have the meanings set out below:
  - (a) **Act** is the *Income Tax Act* (Canada), as may be amended from time to time.
  - (b) **Agreement** is this agreement, including the cover page, and any riders and amendments hereto.
  - (c) **Application** is the enrolment application for a Plan as signed by the Subscriber which is deemed to form part of this Agreement.
  - (d) **BCTESP Regulation** is the *British Columbia Training and Education Savings Program Regulation* adopted under the *Special Account Appropriation and Control Act* (British Columbia), as may be amended from time to time.
  - (e) **Beneficiary** is a person, designated by a subscriber of an RESP, to whom or on whose behalf an educational assistance payment under the RESP is agreed to be paid if the person qualifies under the RESP.
  - (f) **CESA** is the *Canada Education Savings Act* (Canada) and any regulations thereunder, as may be amended from time to time, and Part III.1 of the *Department of Human Resources Development Act* (Canada), as it read immediately before its repeal, and any regulations thereunder.
  - (g) **CESG** is the Canada Education Savings Grant paid pursuant to CESA.
  - (h) **Contribution** is the amount of any and all Deposits, less the insurance premiums, on which the RESP Limits and Government Grants apply. Contributions do not include any Government Grants received by the Trustee in respect of the Student (other than an amount paid into the Plan by a Public Primary Caregiver in its capacity as Subscriber under the Plan.)
  - (i) **Date of Discontinuation** is the date a Unit or Units under this Agreement is discontinued pursuant to paragraph 29 hereof.
  - (j) **Date of Maturity** is, subject to a change of Maturity Year pursuant to this Agreement, the date of maturity as specified on the cover page of this Agreement being July 31 in the Maturity Year.
  - (k) **Date of Termination** is the date this Agreement is terminated pursuant to paragraph 34 hereof.
  - (l) **Default Event** occurs when the Subscriber, after three years from the date in which this Agreement was entered into, fails to achieve and maintain a balance in the SSA of at least \$350, consisting of Contributions made by or on behalf of the Subscriber in accordance with this Agreement, subject to the Fees and any income earned the Contributions.
  - (m) **Deposit** is the amount given to the Depository and includes insurance premiums.
  - (n) **Depository** is any trust company or chartered bank authorized to accept monies on deposit that is approved by the Trustee and that is a member of the Canada Deposit Insurance Corporation.



- (o) **Designated Provincial Program** means a program administered pursuant to an agreement entered into under section 12 of the CESA or a program, such as the QESI, established under the laws of a province to encourage the financing of children's post-secondary education through savings in registered education savings plans.
- (p) **Distributor** means a registered scholarship plan dealer responsible for the sale and distribution of education savings plans.
- (q) **EAP** is an educational assistance payment which is an amount, other than a refund of Contributions, paid under the terms of this Agreement to or for an individual to assist the individual to further his or her education at a Post-Secondary School Level. No EAPs will be paid under this Agreement after the Date of Termination.
- (r) **Fees** means, collectively the enrolment, Depository and other such fees and group insurance premiums referred in paragraphs 43 through 49 of this Agreement.
- (s) **Government Grants** are (i) CESA grants administered under CESA; (ii) the Canada Learning Bond administered under CESA; (iii) the Saskatchewan Advantage Grant for Education Savings administered under the SAGES Act; (iv) the QESI; (v) the BCTESP grant administered under the BCTESP Regulation; (vi) any other Designated Provincial Program; and (vii) any amount paid into the Plan under or because of any program that has a similar purpose to a Designated Provincial Program and that is funded, directly or indirectly, by a province.
- (t) **Grant Account** is the government grant account set up to hold any Government Grants received by the Trustee in respect of the Student and any income earned thereon. The funds in the Grant Account are held in trust by the Trustee.
- (u) **Grant Agreements** means the agreements entered into by the Foundation and the Trustee in respect of Government Grants, as amended, restated and/or replaced from time to time.
- (v) **Grant Legislation** is (i) the CESA, (ii) any federal or provincial legislation respecting a Government Grant program, such as the SAGES Act and the BCTESP Regulation, that is administered pursuant to an agreement entered into under section 12 of CESA, and (iii) any federal or provincial legislation respecting a Government Grant program, such as the QESI, that encourage the financing of children's post-secondary education through savings in registered education savings plans.
- (w) **Investment Fund Manager** means a person or company who has the power and exercises the responsibility to direct the affairs of an investment fund.
- (x) **Maturity Year** is the maturity year specified in the Application being the year in which the Student is anticipated to enrol in his or her first academic year of post-secondary education or, where the Maturity Year has been changed under the terms of this Agreement, that other year.
- (y) **Plan** is a Family Single Student Education Savings Plan.
- (z) **Post-Enrolment Contributions** is a Contribution, as defined herein, that is determined in respect of additional Units subscribed to by the Subscriber after the Subscriber first enrolls in the Plan.



- (aa) **Post-Secondary Program of Study** is a “qualifying educational program”, as that term is defined in subsection 146.1(1) of the Act and, in particular, it means a program at a Post-Secondary School Level of not less than three consecutive weeks duration that requires that each Beneficiary taking the program spend not less than ten hours per week on courses or work in the program, and that is acceptable to the Foundation.
- (bb) **Post-Secondary School Level** includes a program of courses, at an institution described in subparagraph (a)(ii) of the definition “designated educational institution” in subsection 118.6(1) of the Act, of a technical or vocational nature designed to furnish a person with skills for, or improve a person’s skills in, an occupation.
- (cc) **Public Primary Caregiver** is a “public primary caregiver” as that term is defined in subsection 146.1(1) of the Act.
- (dd) **Primary Caregiver** is a “Primary Caregiver” as that term is defined in subsection 2(1) of CESA.
- (ee) **Qualified Investments** are “qualified investments” as that term is defined in subsection 146.1(1) of the Act.
- (ff) **Qualifying Institution** is an educational institution in Canada described at subparagraph 118.6(1)(a)(i) of the Act as 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 Minister of Education of the Province of Quebec for the purposes of the *Act respecting financial assistance for education expenses*, chapter A-13.3 of the Revised Statutes of Quebec.
- (gg) **QESI** is the Quebec refundable tax credit for education savings.
- (hh) **Recognized Institution** is a “post-secondary educational institution”, as that term is defined in subsection 146.1(1) of the Act and, in particular, it means: (i) an educational institution in Canada that is (A) a Qualifying Institution, or (B) certified by the Minister of Human Resources and Skills Development Canada 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 (ii) an educational institution outside Canada that is a university, college or other educational institution that provides courses at a Post-Secondary School Level at which a Beneficiary was enrolled in a course of not less than thirteen consecutive weeks, and that is acceptable to the Foundation.
- (ii) **RESP** is an education savings plan that has been registered for the purposes of the Act.
- (jj) **RESP Limits** are the RESP annual Contribution limit of \$1,500 for 1990 to 1995, \$2,000 for 1996 and \$4,000 for 1997 to 2006 and the RESP lifetime Contribution limit of \$31,500 for 1990 to 1995, \$42,000 for 1996 to 2006 and \$50,000 for 2007 and subsequent years, both as prescribed under the Act, or such other amounts as may be stipulated in the Act from time to time.
- (kk) **RRSP** is a retirement savings plan that has been registered for the purposes of the Act.



- (ll) **SAGES Act** is the *Saskatchewan Advantage Grant for Education Savings (SAGES) Act* and any regulations thereunder, as may be amended from time to time. On March 22, 2017, the Saskatchewan provincial government announced a temporary suspension of the SAGES program, effective January 1, 2018. As result, SAGES will not be paid on contributions made to a RESP after December 31, 2017.
- (mm) **Specified Educational Program** is a program at a Post-Secondary School Level of not less than three consecutive weeks duration that requires the Beneficiary taking the program to spend not less than 12 hours per month on courses in the program.
- (nn) **SSA** is the Subscriber's Savings Account the assets of which are held by the Trustee, in trust, pursuant to the terms of the Trust Agreement and consist of all Contributions made by or on behalf of the Subscriber in accordance with this Agreement, subject to the Fees, and any income earned thereon.
- (oo) **Student** is the person designated by the Subscriber in the Application as Beneficiary or any person duly substituted for such Student in accordance with the terms of this Agreement.

Notwithstanding the foregoing, as of January 1, 2004, a person can only be designated as Beneficiary under this Agreement if that person's Social Insurance Number is provided to the Manager before the designation and either

- (i) the person is resident in Canada when the designation is made, or
  - (ii) the designation is made in conjunction with a transfer of property into the Plan governed by this Agreement from another RESP under which the person was a Beneficiary immediately before the transfer, in which case the person's Social Insurance Number need not be provided in respect of the designation if that person is not a resident of Canada for the purposes of the Act and was not assigned a Social Insurance Number before the designation is made.
- (pp) **Subscriber** is at any time, (i) the individual (or spouse or common-law partner of the individual), but not a trust, who enters into this Agreement, (ii) the Public Primary Caregiver who enters into this Agreement, (iii) an individual or another Public Primary Caregiver who has, before that time under a written agreement, acquired a Public Primary Caregiver's rights as a Subscriber under this Agreement, (iv) an individual who has before that time acquired a Subscriber's rights under this Agreement 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 the Subscriber under this Agreement, in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership, or (v) any person (including the estate of the Subscriber) who, after the death of the Subscriber, acquires the Subscriber's rights as a Subscriber under this Agreement or who makes Contributions, in accordance with the terms of this Agreement, in respect of the Student.

Where there are two Subscribers under this Agreement, any action permitted or required to be taken by the Subscriber shall be taken by all such individuals acting together. It is a requirement under the Act that both such individuals be spouses or common-law partners of each other.

- (qq) **Trust Agreement** is the agreement, as may be amended from time to time, in effect between the Foundation and the Trustee.



- (rr) **Trustee** is the trust company, licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee, acting from time to time as the Trustee under the Trust Agreement. All trusts governed by the plan are resident in Canada.
- (ss) **Unit** is a unit of participation in a Plan, as specified on the cover page of this Agreement. The Subscriber may purchase more than one Unit for the Student, or part thereof, provided that the amount contributed by or on behalf of the Subscriber to purchase the Units does not exceed the RESP Limits.

### SAVINGS ACCOUNT

2. The Subscriber agrees to make Deposits to the Depository in accordance with the Application. The Subscriber may change the manner of making Deposits and/or the amount of the Deposits by arrangement with the Manager. Contributions made on behalf of the Student cannot exceed the RESP Limits. Deposits may be made up to the thirty-first year following the year in which this Agreement was entered into.

As of January 1, 2004, no Contribution may be made by the Subscriber on behalf of the Student unless either

- (a) the Student is resident in Canada when the Contribution is made and, if this Agreement was entered into after 1998, the Student's Social Insurance Number is provided to the Manager before the Contribution is made, or
- (b) the Contribution is made by way of transfer from another RESP under which the Student was a Beneficiary immediately before the transfer.
3. Notwithstanding the definition of "Student" and notwithstanding paragraph 2 hereof, as of January 1, 2004, where a Deposit has been made by the Subscriber (whether made before January 1, 2004 or after December 31, 2003) on behalf of the Student whose Social Insurance Number has not been provided to the Manager (other than in circumstances described in paragraph 2(b) hereof):
- (a) effective ●, 2022 the Subscriber agrees to provide the Social Insurance Number of the Student no later than the date which is twelve (12) months following the date on which this Agreement was entered into; and
- (b) until the Social Insurance Number of the Student has been provided within the time period specified in (a) above, the Subscriber hereby irrevocably authorizes and directs as follows:
- (i) the full amount of any such Deposit (including the portion that would otherwise have been deductible in respect of the Fees) (plus any amount of income earned on Contributions made prior to January 1, 2004) shall be held in the name of the Foundation (rather than the Plan governed by this Agreement) and deposited in an escrow account (the "Escrow Account"). The Foundation shall be entitled to deduct or cause to be deducted the Fees from the Escrow Account provided that any amount so deducted in respect of the enrolment fee and depository fee referred to in paragraphs 44(a) and 44(b) hereof shall be deposited back to the Escrow Account upon the Subscriber providing the Student's Social Insurance Number within the time period specified in (a) above. If the Subscriber fails to provide the Student's Social Insurance Number within the time period specified in (a) above (such possibility hereafter being referred to as the



“**Condition Subsequent**”), the transfer provided for herein will retroactively be deemed null and void and any amount held in the Escrow Account, including any income earned thereon, but less the Fees, shall be returned to the Subscriber;

- (ii) upon the Subscriber providing the Student’s Social Insurance Number within the time period specified in (a) above, the ownership of the funds transferred to the Escrow Account by the Subscriber (excluding any amount that was income earned on Contributions made prior to January 1, 2004, any income earned on the funds and less the Fees) will be transferred back to the Subscriber and will be held by the Foundation as agent of the Subscriber. The Subscriber hereby directs the Foundation to transfer or to cause to be transferred such funds (including the return of the enrolment fee and depository fee described in (i) above, but excluding any income earned in the Escrow Account and less the Fees) to the Trustee in respect of the Plan governed by this Agreement. The Foundation will transfer or cause to be transferred any income remaining in the Escrow Account (including any amount transferred to the Escrow Account that was income earned on Contributions made prior to January 1, 2004) to the Trustee as a Contribution made by the Foundation on behalf of the Subscriber. It is acknowledged that:
- A. the original amount transferred to the Escrow Account (including the return of the enrolment fee and depository fee described in (i) above and less the Fees) shall be a Contribution made by the Subscriber to the Plan governed by this Agreement,
  - B. the enrolment fee and depository fee referred to in paragraphs 44(a) and 44(b) hereof will be deducted from such Contribution pursuant to the terms of this Agreement,
  - C. the Contribution made by the Foundation (being the amount of any income remaining in the Escrow Account, including any amount transferred to the Escrow Account that was income earned on Contributions made prior to January 1, 2004) shall be a Contribution made by the Foundation on behalf of the Subscriber to the Plan governed by this Agreement,
  - D. all Contributions to the Plan governed by this Agreement from the funds in the Escrow Account will be subject to the RESP Limits, and
  - E. for the purpose of applying the provisions of this Agreement, except for this paragraph 3, the date of application for this Agreement will be the date this Agreement was entered into or the date the Student’s Social Insurance Number was provided to the Manager, whichever is later; and
- (iii) should the Condition Subsequent occur as a result of the Subscriber’s failure to provide the Student’s Social Insurance Number within the time period specified in (a) above, it is acknowledged that any income earned on the funds held in the Escrow Account must be included in the taxable income of the Subscriber in the year in which such funds are returned to the Subscriber.





The Subscriber acknowledges that, as of January 1, 2004, an individual is not permitted to be designated as a Beneficiary under a Plan (other than in circumstances described in (ii) of the definition of “Student”), and Contributions in respect of an individual or Student cannot be transferred to the Trustee (other than in circumstances described in paragraph 2(b) hereof), unless the Student’s Social Insurance Number has been provided to the Manager.

Upon receipt of the Student’s Social Insurance Number within the time period specified in (a) above, if the Plan governed by this Agreement has not otherwise been registered as an RESP, the Agent will apply for registration of this Agreement as an RESP. In the event that the Condition Subsequent occurs or this Agreement is determined by the Canada Revenue Agency not to be registerable as an RESP, this Agreement shall be terminated.

4. If this Agreement has otherwise been maintained in good standing for at least three years (including the making of all Deposits in accordance with the Application), the Subscriber can elect to no longer make Deposits in accordance with the Application and to either make no additional Contributions to the SSA or make such additional Contributions as the Subscriber wishes, subject to the RESP Limits. Contributions may be made up to the thirty-first year following the year in which this Agreement was entered into. Upon making such an election, any insurance coverage will cease.
5. Deposits, less any premiums deducted pursuant to paragraph 43 hereof, or Contributions, as the case may be, are transferred by the Depository to the Trustee as they are received.
6. Pursuant to the terms of the Trust Agreement, the Trustee agrees to irrevocably hold, invest and reinvest all such transfers referred to in paragraph 5 in the SSA. All Contributions received by the Trustee in respect of the Student, subject to the Fees, together with all income earned thereon, will be irrevocably held by the Trustee for:
  - (a) a refund of Contributions pursuant to paragraph 14, 15 or 36 hereof;
  - (b) a payment of accumulated income payments pursuant to paragraph 35 or 41 hereof;
  - (c) a payment to a trust governed by another RESP pursuant to paragraph 27 hereof; and/or
  - (d) at the direction of the Foundation, a payment to, or to a trust in favour of, a Qualifying Institution.
7. The funds held in the trust will be invested and reinvested in investments that are (a) Qualified Investments; and (b) permitted by the Canadian Securities Administrators.
8. The Subscriber is entitled to a refund of the Contributions subject to the Fees, at any time.

#### **GOVERNMENT GRANTS**

9. Pursuant to the terms of the Grant Agreement and CESA, where the Student is eligible to receive CESGs, each year in which Contributions have been made by or on behalf of the Subscriber, the Foundation, as agent of the Trustee, will apply, or will cause the Agent to apply, for CESGs in respect of the Student at the request of the Subscriber and upon receiving any information required under CESA.
10. Pursuant to the terms of the applicable Grant Legislation, where the Student is eligible to receive Government Grants, the Foundation, as agent of the Trustee, will apply, or will





cause the Agent to apply, for a Government Grant in respect of the Student upon receiving a written request from the Subscriber and/or the Primary Caregiver of the Student, where required. The Subscriber hereby consents to the Foundation providing, or causing the Agent to provide, any information respecting this Agreement that is required by the applicable Grant Legislation in applying for a Government Grant.

11. All Government Grants in respect of the Student that have been received by the Trustee under this Agreement, and all income earned thereon, will be held in the Grant Account and will be invested pursuant to paragraph 7 hereof.
12. Pursuant to the terms of the Trust Agreement and applicable Grant Legislation, the Trustee agrees to irrevocably hold, invest and reinvest the assets of the Grant Account, subject to the Fees, for:
  - (a) a payment of EAPs pursuant to paragraph 35 or 39 hereof or as otherwise permitted under the Act;
  - (b) a payment of accumulated income payments pursuant to paragraph 35 or 41 hereof;
  - (c) a refund of Government Grants, and/or any income earned thereon, pursuant to paragraph 35 or 42 hereof;
  - (d) a payment to a trust governed by another RESP pursuant to paragraph 27 hereof; and/or
  - (e) at the direction of the Foundation, a payment to, or to a trust in favour of, a Qualifying Institution.

#### **TRANSFER OF INCOME AND PAYMENT TO STUDENT**

13. Pursuant to the terms of the Trust Agreement, the Trustee agrees to irrevocably hold, invest and reinvest the income earned on assets of the SSA, subject to the Fees, for:
  - (a) a payment of accumulated income payments pursuant to paragraph 35 or 41 hereof;
  - (b) a payment to a trust governed by another RESP pursuant to paragraph 27 hereof;
  - (c) a payment of EAPs pursuant to paragraph 35 or 39 hereof or as otherwise permitted under the Act; and/or
  - (d) at the direction of the Foundation, a payment to, or to a trust in favour of, a Qualifying Institution.
14. On the Date of Termination or Date of Discontinuation, if the Date of Termination or Date of Discontinuation is earlier than the Date of Maturity, the Subscriber is entitled to a return of all Contributions held in the SSA, or all Contributions held in respect of the Unit(s) being discontinued (being the Contributions made by or on behalf of the Subscriber, subject to the Fees).
15. If the preceding paragraph is not applicable, the Contributions held in the SSA at the Date of Maturity (being the Contributions made by or on behalf of the Subscriber subject to the Fees) will remain in the SSA until the Date of Termination as per paragraph 34 or a written request is received from the Subscriber requesting full or partial refund of contributions.



16. Any and all income earned on Contributions held in the SSA, before and after the Date of Maturity will continue to be held in the SSA as and when earned or received.
17. Any refund of Contributions to the Subscriber will be subject to all Deposit cheques for such Contributions having cleared the banking system.

#### **CHANGE OF STUDENT**

18. At any time prior to the Date of Termination, the Subscriber may, on written notice to the Manager, designate another Student (a "Substitute Student") in place of the original Student provided that, if the Substitute Student is not the same age as the original Student, the Subscriber must agree to such variation in the amount of subsequent Contributions required as may be determined by the Manager, subject to the RESP Limits (in such case, the Maturity Year may be changed so as to conform with the year of need of the Substitute Student).
19. Notwithstanding the preceding paragraph, provided that this Agreement has otherwise been maintained in good standing for at least three years, at any time prior to the Date of Termination, the Subscriber may, on written notice to the Manager, designate a Substitute Student in place of the original Student and elect to no longer make Deposits in accordance with the Application and to either make no additional Contributions to the SSA or make such additional Contributions as the Subscriber wishes, subject to the RESP Limits (in such case, the Maturity Year may be changed so as to conform with the year of need of the Substitute Student). Upon making such an election, any insurance coverage will cease.
20. Notwithstanding any change of Student, the date of application for this Agreement remains the date of application in respect of the original Student for the purpose of calculating the maximum time period for which Contributions can be made by or on behalf of the Subscriber under this Agreement (being the date of application to the thirty-first year following the year this Agreement was entered into and the date on which this Agreement must be terminated (being the end of the thirty-fifth year following the year in which this Agreement was entered into) and, as such, the date by which all EAPs to the Student must be paid.
21. Where there has been a change of Student, for the purposes of determining whether the RESP Limits have been exceeded, all of the Contributions made under this Agreement in respect of the original Student will be deemed to be Contributions made in respect of the Substitute Student unless the Substitute Student is under twenty-one years of age and either (a) a parent of the Substitute Student was a parent of the original Student, or (b) both the original Student and the Substitute Student are under twenty-one years of age and are connected to an original Subscriber by blood or adoption for the purposes of the Act.
22. Where there has been a change of Student, the Agent shall, where required under the terms of the applicable Grant Legislation, cause to be paid out of the Grant Account a refund of all or a portion of any Government Grant received by the Trustee in respect of the Student, and/or any income earned thereon.

#### **PLAN TRANSFER**

23. Subject to the Act and the Grant Legislation, assets held by a trust governed by another RESP (including Government Grants and income earned thereon where permitted) may be directly transferred to the Trustee and/or form part of the assets held by the Trustee under this Agreement.



- (a) Effective ●, 2022, Subscribers of the former Heritage Plans, whose assets are transferred to the Trustee under this Agreement, will be automatically enrolled in the insurance program associated with this Plan, unless the Subscriber was not enrolled in the insurance program associated with the Heritage Plans, at which point such Subscriber may choose to, but is not obligated to, enroll in the insurance program associated with this Plan.
24. For the purpose of determining whether such a transfer results in RESP Limits being exceeded, amounts representing Contributions made to the other RESP will be deemed to be Contributions made under this Agreement unless the Beneficiary of the other RESP was the Student or the Student had not attained twenty-one years of age at the time of the transfer and a parent of the Student was a parent of the Beneficiary of the other RESP.
25. For the purpose of calculating the maximum time period for which Contributions can be made by or on behalf of the Subscriber under this Agreement (being the date of application to the thirty-first year following the year this Agreement was entered into and the date on which this Agreement must be terminated (being the end of the thirty-fifth year following the year in which this Agreement was entered into) and, as such, the date by which all EAPs to the Student must be paid, where a transfer to the Trustee has occurred pursuant to paragraph 23 hereof, this Agreement shall be deemed to have been entered into on the earlier of the day on which this Agreement was entered into and the day on which the other RESP was entered into.
26. Notwithstanding paragraph 23 hereof, a transfer of assets to the Trustee pursuant to paragraph 23 hereof will not be permitted if the other RESP has made an accumulated income payment as defined in the Act.
27. Subject to the Act, upon receipt of a written request from the Subscriber, the Manager will transfer all or a portion of the assets held in the SSA and the income earned on these assets, subject to the Fees, to a trust governed by another RESP.
28. All or a portion of any Government Grant received by the Trustee in respect of the Student, and/or any income earned thereon, will be transferred, along with the assets pursuant to paragraph 27 hereof, to a trust governed by another RESP only when such a transfer is permitted by the applicable Grant Legislation.

#### **DISCONTINUATION AND TERMINATION**

29. A Unit or Units under this Agreement, or any portion thereof, will be discontinued upon
- (a) fifteen (15) days after the Manager sends the Subscriber a final notice of a Default Event which must be sent at least fifteen (15) days after the day on which the Manager sends the first such notice of a Default Event;
- (b) the Subscriber making a written request to the Manager to terminate such Unit or Units, or any portion thereof, provided that where the Subscriber does not request the termination of all Units under this Agreement, the remaining Unit or Units, or portion thereof, will continue only so long as the minimum Deposits, as set out in the prospectus in respect of the Plan that was in effect at the time this Agreement was entered into, are maintained.
30. Upon discontinuation of a Unit or Units under this Agreement, the Subscriber is entitled to a return of all Contributions, subject to the Fees, referable to such Unit or Units being discontinued. In addition, if a Subscriber requests an accumulated income payment, this Agreement will be immediately terminated if no funds remain in the Plan governed by this



Agreement. If the Contributions are refunded to the Subscriber, the Agent will cause to be repaid any Government Grants, and/or any income earned thereon, that must be repaid pursuant to the applicable Grant Legislation.

31. Provided that the Date of Termination has not been reached, the Subscriber may reactivate a discontinued Unit or Units up to two years after the date on which the Unit or Units was discontinued upon payment of the following:
- (a) any and all Contributions referable to such Unit or Units previously refunded to the Subscriber,
  - (b) all missed Deposits referable to such Unit or Units that would normally have been paid during the period that such Unit or Units was discontinued, plus
  - (c) the income that would have been earned on all missed Contributions and refunded Contributions referable to such Unit or Units during the period that the Unit or Units was discontinued.

The aggregate of any such payments (less any insurance premiums paid pursuant to paragraph 43) to reactivate a discontinued Unit or Units must not exceed the RESP limits. If the Unit or Units is reactivated, any CESG room used up is not reinstated.

32. Alternatively, provided that this Agreement has otherwise been maintained in good standing for at least three years prior to the Date of Discontinuation, up to two years after the date on which a Unit or Units is discontinued, the Subscriber may elect to reactivate a discontinued Unit or Units upon payment of the minimum Deposit amount, as indicated in the prospectus in respect of the Plan that was in effect at the time this Agreement was entered into, and to either make no additional Contributions or make such additional Contributions as the Subscriber wishes, subject to the RESP Limits.
33. During the period that a Unit or Units is discontinued, any insurance coverage referable to that Unit or Units will cease. Insurance coverage will be reactivated once the Subscriber reactivates the discontinued Unit or Units pursuant to paragraph 31 hereof.
34. This Agreement will be terminated on the earliest of:
- (a) twelve (12) months after the date this Agreement was entered into, if the Subscriber has failed to provide a valid Social Insurance Number for the Student, as required by paragraph 3(a) hereof;
  - (b) the date on which the Subscriber requests a refund of all Contributions made under this Agreement, along with an accumulated income payment, resulting in no funds remaining in the Plan governed by this Agreement (except for any Government Grants and/or income earned thereon that will have to be repaid to the government);
  - (c) the date on which the Subscriber requests a refund of all Contributions made under this Agreement, if such request is made within sixty days after the date of signing the Application;
  - (d) the day on which all of the assets held by the Trustee under this Agreement are transferred to a trust governed by another RESP pursuant to paragraphs 27 and 28 hereof (except for any Government Grants and/or income earned thereon that will have to be repaid to the government);



- (e) the day on which the Subscriber makes a written request to the Manager to terminate this Agreement, if such request is made within sixty days after the date of signing the Application;
  - (f) on the last day of February in the year following the year in which an accumulated income payment was made pursuant to paragraph • hereof; and
  - (g) December 31 of the thirty-fifth year following the year in which this Agreement is entered into.
35. If, on the Date of Termination, any income remains in the SSA or Grant Account, as the case may be, such income will be paid out as follows:
- (a) at the request of the Subscriber, and subject to paragraph 41 hereof, as an accumulated income payment,
  - (b) at the request of the Subscriber, as a payment of EAPs pursuant to paragraph 38 hereof or as otherwise permitted under the Act;
  - (c) where required under the applicable Grant Legislation, as a repayment to the government of the income earned on a Government Grant; and/or
  - (d) at the direction of the Foundation, as a payment to, or to a trust in favour of, a Qualifying Institution.
36. Upon termination of this Agreement, the Subscriber is entitled to:
- (a) if this Agreement is terminated within sixty days after the date of signing the Application, a return of all Contributions plus any enrolment fee deducted and group insurance premiums paid, or
  - (b) in any other case, a return of any Contributions remaining in the SSA subject to the Fees.

#### **ENROLMENT IN A RECOGNIZED INSTITUTION**

37. The Subscriber agrees that, prior to the enrolment of the Student in any Post-Secondary Program of Study or Specified Educational Program, the Subscriber and/or the Student will ensure that such a program is at a Recognized Institution.

#### **EDUCATION ASSISTANCE PAYMENTS**

38. Subject to any restrictions under the Act, upon receipt of a written direction on a prescribed form from the Subscriber to the Manager, EAPs will be paid from the income earned on assets of the SSA to or on behalf of the Student at such time or times and in such amount or amounts as the Subscriber or the Student directs, provided that:
- (a) prior to the payment of an EAP, the Subscriber or the Student furnishes proof satisfactory to the Manager that either:
    - (i) the Student has been accepted and enrolled as a full-time or part-time Student by a Recognized Institution in a Post-Secondary Program of Study, or



- (ii) the Student has before that time attained the age of 16 years, and has been accepted and enrolled by a Recognized Institution in a Specified Educational Program; and
- (b) either
  - (i) the Student has satisfied the condition in (a)(i) above, and
    - A. has satisfied such condition throughout at least thirteen consecutive weeks in the twelve-month period that ends at the time of payment, or
    - B. the total of the EAP to be paid, and all other EAPs made under Foundation sponsored RESPs (including any payment of EAPs from the Grant Account), to or for the Student in the twelve-month period that ends at the time of payment does not exceed \$5,000 (unless written approval for a greater amount has been obtained by the Subscriber from the Minister of Families, Children and Social Development Canada), or
  - (ii) the Student has satisfied the condition in (a)(ii) above and the total of the EAP to be paid, and all other EAPs made under Foundation sponsored RESPs (including any payment of EAPs from the Grant Account), to or for the Student in the thirteen week period that ends at the time of payment does not exceed \$2,500 (unless written approval for a greater amount has been obtained by the Subscriber from the Minister of Human Resources and Skills Development Canada).

Notwithstanding the foregoing, the Foundation reserves the right to establish a maximum number of payments per year.

39. Only where the Subscriber or the Student certifies in writing that the Student is a resident of Canada for the purposes of the Act, the Agent will, subject to the conditions set out in paragraph 38 hereof and in accordance with the applicable Grant Legislation, cause all or a portion of the Government Grants held in the Grant Account, and/or any income earned thereon, to be paid to or on behalf of the Student as an EAP.

#### **CHANGE OF MATURITY YEAR**

40. Where it appears that the Student may become qualified to receive EAPs prior to or after the Maturity Year, such Maturity Year shall, on application of the Subscriber or the Student, be changed to an earlier or later year, as applicable.

#### **ACCUMULATED INCOME PAYMENTS**

41. Subject to any restrictions under the Act and the Grant Legislation, upon receipt of a written direction on a prescribed form from the Subscriber, the Manager will cause accumulated income payments to be made from the income earned on the assets of the SSA or Grant Account (other than the principal amount of any Government Grants received by the Trustee in respect of the Student) as the case may be, in such amount or amounts as the Subscriber directs:
- (a) to or on behalf of the Subscriber; or



- (b) where the Subscriber is the original Subscriber and subject to the maximum amount as permitted by the Act, to the original Subscriber's RRSP or spousal or common-law partner plan, as defined in the Act,

provided that the payment as described above will be made only if

- (c) the payment is not made jointly to, or on behalf of, more than one Subscriber;
- (d) the Subscriber is a resident of Canada, for the purposes of the Act, at the time of payment; and
- (e) any of
- (i) the payment is made after the ninth year that follows the year in which this Agreement was entered into and each individual (other than a deceased individual) who is or was a Beneficiary under this Agreement has attained twenty-one years of age before the payment is made and is not, when the payment is made, eligible under this Agreement to receive an EAP,
  - (ii) the payment is made in the thirty-fifth year following the year in which this Agreement was entered into, or
  - (iii) each individual who was a Beneficiary under this Agreement is deceased when the payment is made.

Notwithstanding the foregoing, the Minister of National Revenue may, on written application from the Foundation, waive the application of the conditions in paragraph 41(e)(i) where a Beneficiary suffers from a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a Post-Secondary Program of Study at a Recognized Institution.

#### **REFUND OF GOVERNMENT GRANTS**

42. As and when required under the applicable Grant Legislation, the Agent shall, in accordance with the applicable Grant Legislation, cause to be paid out of the Grant Account a refund of all or a portion of the Government Grants received by the Trustee in respect of the Student and/or any income earned thereon.

#### **FEES AND OTHER DEDUCTIONS**

43. The Subscriber irrevocably authorizes and directs the Manager to withdraw from Deposits made by the Subscriber to the Depository, prior to the transfer of the balance of the Deposits into the SSA, group insurance premiums, to be remitted to the insurance carrier or as it may direct, unless the Subscriber is a resident of Quebec and has declined the group insurance, the Subscriber has attained sixty-five years of age by the date hereof and the Subscriber has provided his or her date of birth, or the Subscriber is to make a one time Deposit, in accordance with his or her Application, to the SSA.
44. The Subscriber irrevocably authorizes and directs the Manager to withdraw from the Contributions transferred to the SSA:
- (a) an enrolment fee, not to exceed \$100 per Unit (plus applicable taxes) including the pro-rata equivalent related to all partial Units subscribed for such fee to be paid as follows:





- (i) in respect of the first \$50 of enrolment fee (or the pro-rata equivalent related to a partial Unit), plus applicable taxes, the fee will be paid from the first \$50 (or the pro-rata equivalent) of Contributions made by the Subscriber in respect of a Unit (or partial Unit); and
  - (ii) in respect of the remaining \$50 of enrolment fee (or the pro-rata equivalent related to a partial Unit), plus applicable taxes, the fee will be paid from 50% of the subsequent Contributions made by the Subscriber in respect of a Unit (or partial Unit);
    - A. notwithstanding sub-paragraph (a), effective ●, 2022, no enrolment fees will be charged or withdrawn, if the Subscriber is making Post-Enrolment Contributions, as defined herein.
  - (b) annual Depository fees in such amounts as shall from time to time be agreed upon by the Foundation, provided, however, that only one annual Depository fee is payable regardless of the number of Units purchased for a Student so long as all such Units are purchased at the same time and have the same method of Deposit;
    - (i) notwithstanding sub-paragraph (b), as soon as January 1 but no later than June 30, 2020, the annual Depository fees will be eliminated; and
  - (c) any other special process fees as shall from time to time be agreed upon by the Foundation.
45. No fees described in paragraphs 44(a) and (b) will be withdrawn from a Contribution where:
- (a) the Subscriber is a subscriber under another RESP governed by a Family Group Education Savings Plan that has reached the Date of Maturity, as defined in that other RESP, within the six months prior to the making of the Contribution;
  - (b) the total number of Units purchased with the Contribution, plus the number of Units purchased with any prior Contribution governed by this paragraph 45, does not exceed the total number of Units purchased by the Subscriber under that other RESP; and
  - (c) the beneficiary designated under the terms of that other RESP is the Student.
46. An administration fee of up to 5/10 of 1% per annum (plus applicable taxes) will be paid in respect of funds standing to the credit of the plan accounts, being the SSA, income earned on the assets in the SSA and Grant Account (the “**Plan Accounts**”), and will be paid monthly in arrears and charged against income on the aggregate amounts held in such accounts prior to income allocation to the Plan Accounts. The Foundation will also be entitled to establish, from time to time, reasonable additional service charges and shall be entitled to the reimbursement of all disbursements made in respect of this Agreement.
- (a) Effective January 1, 2020, the administration fee referred to above will increase from 5/10 of 1% per annum, to 6/10 of 1% per annum, for all Subscribers enrolling into this Agreement on or following this date.
47. The Trustee shall be paid fees and expenses and/or an annual custodial fee in the amount and frequency as may be set out in the Trust Agreement or agreed by the Foundation and the Trustee and charged to the Plan Accounts on a pro-rata basis against income prior to income allocation to the Plan Accounts.



48. Portfolio managers may be retained by the Manager from time to time and any fees to be paid for their services will be paid from the Plan Accounts on a pro-rata basis.
49. Effective as soon as January 1 but no later than June 30, 2020, the fees referred to in paragraphs 46, 47 and 48 will be eliminated and replaced with a consolidated management fee that will not exceed 1% per annum, and will be calculated on the average market value of the combined assets held in the Plan Accounts, and will be paid monthly, in arrears, and charged against income on the aggregate amounts held in such accounts prior to income allocation to the Plan Accounts.

#### **REGISTRATION**

50. Pursuant to the Act, the Foundation will apply for registration of this Agreement as an RESP.

#### **AMENDMENTS**

51. The Foundation may, with the approval of the Trustee, but without the approval of the Subscriber or the Student, alter, amend, modify or add to the provisions contained in this Agreement and/or the Trust Agreement if such alteration, amendment, modification or addition is:
- (a) for the purpose of adapting the Plan governed by this Agreement to any change in the Act or the Grant Legislation or ensuring continuing compliance with the applicable laws, regulations, requirements or policies of any governmental authority having jurisdiction over the Trustee or over this Agreement, including for the purpose of maintaining the status of this Agreement as an RESP and/or the continued qualification for Government Grants; or
  - (b) necessary or desirable in the opinion of the Foundation and such alteration, amendment, modification or addition, in the opinion of the Trustee on the advice of counsel to the Foundation, is not prejudicial to the Subscriber or the Student.

Notice of any material amendment pursuant to this paragraph 51 shall be given in writing to the Subscriber and shall take effect on a date to be specified therein. The date shall be not less than thirty days after the date that such notice of the amendment is mailed to the Subscriber. Notice of any other amendment pursuant to this paragraph 51 shall be given, in writing, to the Subscriber which notice may be provided at any time within fifteen months of the effective date of such amendment.

52. Where, in the opinion of the Trustee on the advice of counsel to the Foundation, such alteration, amendment, modification or addition would not be permitted under paragraph 51 hereof, this Agreement and/or the Trust Agreement may be so amended, modified, altered or added to only with the consent of the Subscribers as evidenced by a majority of the votes cast at a meeting of Subscribers duly called for that purpose in accordance with the provisions of the Trust Agreement.

#### **OTHER MATTERS**

53. The Foundation hereby agrees to be bound by all the terms and conditions of this Agreement and the Trust Agreement. The Foundation shall have ultimate responsibility for administration of this Agreement.
54. The Trustee shall irrevocably hold all of the assets of the trust, less the Fees, for:



- (a) a payment of EAPs, as permitted under the Act;
  - (b) a refund of Contributions pursuant to paragraph 14, 15 or 36 hereof;
  - (c) a payment to a trust governed by another RESP pursuant to paragraphs 27 and 28 hereof;
  - (d) a refund of Government Grants and/or any income earned thereon pursuant to paragraph 35 or 42 hereof;
  - (e) a payment of accumulated income payments pursuant to paragraph 35 or 41 hereof; and/or
  - (f) at the direction of the Foundation, a payment to, or to a trust in favour of, a Qualifying Institution.
55. Notwithstanding any other provision of this Agreement, the Foundation hereby agrees with the Subscriber that all income to be paid or credited to the SSA or Grant Account shall be held and used in accordance with the terms of the Trust Agreement, this Agreement and the provisions of the Act and the Grant Legislation.
56. The Trust Agreement provides that the Trustee will assume the responsibilities of the Foundation as administrator of this Agreement in the event the Foundation is declared bankrupt, wound up, dissolved or is found by a court of competent jurisdiction to be incapable of performing or to have failed to perform its responsibilities pursuant to the Trust Agreement and this Agreement, provided that the Trustee shall have no obligation to assume any financial liability of the Foundation.
57. The Student, or the Student's parent or the Public Primary Caregiver where the Student is under nineteen years of age and ordinarily resides with the parent or the Public Primary Caregiver, as the case may be, will be notified within ninety days of the designation of the Student under this Agreement and the name and address of the Subscriber.
58. This Agreement, as defined, contains and shall be deemed to contain the whole and entire agreement between the parties hereto and no representation, warranty, covenant or agreement made or purported to be made by or on behalf of any of the parties hereto shall be binding or enforceable against any of the parties hereto unless contained herein.
59. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same Agreement.
60. This Agreement shall enure to the benefit of and be binding upon the heirs and executors of the Subscriber.
61. In this Agreement, unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa.
62. The Trust Agreement shall be available for inspection by the Subscriber at any time during normal business hours at the offices of the Foundation at Suite 1000, 50 Burnhamthorpe Road West, Mississauga, Ontario, L5B 4A5 or at such other address as the Foundation may specify by notice to the Subscriber sent to the Subscriber's last known postal address.



- 63. Any notice or other communication required to be given pursuant to this Agreement shall be in writing and shall be sent by prepaid mail to Embark Student Corp. at the address shown in paragraph 62 hereof.
- 64. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**EMBARK STUDENT FOUNDATION**

Per: \_\_\_\_\_  
VICE-PRESIDENT, FINANCE

Per: \_\_\_\_\_  
CHIEF RISK & COMPLIANCE  
OFFICER

