

CONFIDENTIALITY AGREEMENT

MADE effective as of _____ (the "Effective Date").

WHEREAS:

- A. **[Employer Full Name]** (the "Employer") is the sponsor and administrator of the **[Plan Name]**, **[Type of Plan]** registered pension plan for employees of the Employer (the "Plan Members").
- B. The Board Of Trustees of the Colleges of Applied Arts and Technology Pension Plan ("CAAT") administers a multi-employer jointly sponsored pension plan ("JSPP") with equal cost sharing between participating employers and their eligible employees.
- C. The Employer and CAAT (each a "party" and, together, the "Parties") wish to discuss the potential participation of the Plan Members in CAAT's JSPP (the "Purpose").
- D. In connection with the Purpose, each Party may disclose Confidential Information to the other, where the "Discloser" is the Party disclosing Confidential Information and the "Recipient" is the Party receiving the Confidential Information; and
- E. The Parties desire to protect the confidentiality of the Confidential Information which they disclose to each other subject to the conditions set forth herein, and applicable law.

NOW THEREFORE in consideration of the premises and covenants herein contained (including without limitation, the opportunity to participate in meetings relating to the Purpose or otherwise), the parties hereto agree as follows:

- 1. For the purposes of this Agreement, and except as described in Section 3 hereof, "Confidential Information" means all information disclosed by the Discloser to the Recipient (its employees, officers, contractors and professional advisors), in connection with the Purpose, whether in writing, orally, by electronic means or by any other medium, including (without limitation) financial and demographic information, data, documents, plans, reports, calculations, policies and any and all other information relating to the Parties' respective pension plans and any information relating to third parties contained therein.
- 2. The Recipient shall use the Confidential Information only for the Purpose and shall not disclose the Confidential Information to other parties, except the Recipient's directors, officers, employees, professional advisors and consultants

who are subject to an obligation of confidentiality, allow access to, duplicate or use the Confidential Information in any other manner. In addition, the Recipient shall disclose Confidential Information only to such persons on a "need-to-know" basis in connection with the Purpose. Except as permitted under Sections 3 and 4 hereof, the Recipient shall hold all Confidential Information in strict confidence and protect such Confidential Information with a reasonable degree of care reflecting the nature of the Confidential Information.

3. Notwithstanding any other provision herein, Confidential Information shall not include information:
 - (a) that has been independently developed by the Recipient as supported by documentation sufficient to establish same;
 - (b) which at the time of disclosure is publicly available;
 - (c) which, after disclosure, is published or otherwise becomes publicly available through no fault of the Recipient but only after and only to the extent that it is published or otherwise becomes publicly available;
 - (d) which the Recipient can demonstrate was in its possession at the time of disclosure and was not acquired (directly or indirectly) from the Discloser, or from a third party under a similar obligation of confidence;
 - (e) which the Recipient can show was received by it after the time of disclosure hereunder from a third party who did not require the Recipient to hold it in confidence and who did not acquire it directly or indirectly from the Discloser under an obligation of confidence;
 - (f) that discloses the participation of the Employer in the Plan or references the Employer as a participating employer in the Plan, including references or disclosures made in the Plan terms, the CAAT website, annual reports, member newsletters, and press releases and other collateral materials used by CAAT to inform prospective members and employers consistent with current practice; or
 - (g) that the Discloser authorizes the Recipient to disclose pursuant to a written notice signed by the Discloser prior to the disclosure.
4. If the Recipient is required by applicable law or any governmental, judicial or regulatory authority having jurisdiction to disclose any Confidential Information, the Recipient shall (to the extent permissible by such law or governmental, judicial or regulatory authority) promptly provide the Discloser with written notice of such requirement.
5. Within ten (10) business days of (a) a written request of the Discloser or (b) termination of this Agreement pursuant to Section 11, and subject to applicable law, the Recipient shall either return, destroy or permanently erase (at the Discloser's option) all Confidential Information and all copies or duplications thereof, in whatever media or form. Notwithstanding the foregoing, if any

Confidential Information is incorporated in documents created by the Recipient, or to the extent any Confidential Information cannot be returned, destroyed or permanently erased after using commercially reasonable efforts, then the Recipient shall keep such Confidential Information strictly confidential in accordance with this Agreement and shall refrain from using the Confidential Information for any purpose whatsoever. Within ten (10) business days following a request by the Discloser, the Recipient shall certify to the Discloser the Recipient's compliance with the terms of this Section 5.

6. Nothing in this Agreement shall require the Discloser to provide any Confidential Information whatsoever to the Recipient in any given instance.
7. Nothing herein shall be construed as giving the Recipient any right, title, license, interest in or ownership of the Confidential Information.
8. The Discloser does not make any representations or warranties in relation to any of the Confidential Information, including its adequacy or suitability for the Purpose.
9. The Recipient acknowledges that unauthorized disclosure or use of any of the Confidential Information could cause irreparable harm and significant injury to the Discloser and, as such, monetary damages may not be a sufficient remedy for any breach of this Agreement. Accordingly, the Discloser shall have the right to seek and obtain specific performance or injunctive relief or both to enforce the obligations in this Agreement in addition to any other rights and remedies it may have.
10. This Agreement shall be effective as of the Effective Date and shall terminate upon the date that is three (3) years after the Effective Date, or such earlier or later date as the Parties may agree.
11. This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein and both parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of Ontario.
12. No waiver of or failure to enforce any right or remedy herein provided will be effective for any purpose unless specifically set forth in a document signed by both parties. No waiver of any right or remedy in respect of any occurrence or event on one occasion will be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion.

- 13. The Recipient shall not assign or transfer this Agreement for any reason without the prior written consent of the Discloser which consent may not be unreasonably withheld.
- 14. This Agreement may be executed by the parties in separate counterparts and delivered by facsimile or electronic (pdf format) transmission, each of which when so executed and delivered will be deemed to be an original, and all such counterparts will together constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**THE COLLEGES OF APPLIED ARTS
AND TECHNOLOGY PENSION PLAN**

Per: _____
Name:
Title:

[EMPLOYER FULL NAME]

Per: _____
Name:
Title: