



TO: Business Board

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DATE: March 24, 2003 for April 7, 2003

AGENDA ITEM: 3(c)

ITEM IDENTIFICATION:

Amendments to the Service and UTAM Personnel Agreement between the Governing Council of the University of Toronto and the University of Toronto Asset Management Corporation (UTAM)

JURISDICTIONAL INFORMATION:

The Business Board is responsible for approval of the conditions for the delegation of authority to a University-controlled asset management corporation for the management of the investment of University funds and pension funds.

PREVIOUS ACTION TAKEN:

This agreement was last amended and approved at the Business Board meeting of January 21, 2002.

HIGHLIGHTS:

The proposed amendments to the service and UTAM personnel agreement reflect the changes made to the Investment Policy for University Funds. Responsibility for asset mix becomes an accountability of UTAM in accordance with return and risk objectives specified in the Investment Policy for University Funds. Performance benchmarks have been moved from the Investment Policy for University Funds to form an integral part of the service agreement. Other minor changes have been made to reflect movement from the policy to the service agreement of requirements relating to securities lending, exercise of proxies, and specifics regarding investments, such as categories and subcategories of investments. See clauses 3(e), 3(f), 3(i), 10, and Schedule C for the changes. The attached revised agreement is black lined to show the changes from the previous agreement.

At the present time, the performance benchmarks in Schedule C are the same as those in the previous Investment Policy for University Funds and are the same as those contained in the Pension Master Trust Investment Policy.

FINANCIAL AND/OR PLANNING IMPLICATIONS:

The proposed amendments clarify the accountabilities of UTAM.

RECOMMENDATION:

It is recommended that the Business Board approve the attached Service and UTAM Personnel Agreement for signature.

AMENDED AND RESTATED SERVICE AND UTAM PERSONNEL AGREEMENT
made as of the ~~7th Day of April, 2003~~ 21st day of January, 2002

B E T W E E N:

THE GOVERNING COUNCIL OF THE UNIVERSITY
OF TORONTO

(hereinafter called the "University")

OF THE FIRST PART

and

UNIVERSITY OF TORONTO ASSET MANAGEMENT
CORPORATION

(hereinafter called "UTAM")

OF THE SECOND PART

WHEREAS UTAM was incorporated pursuant to the Corporations Act (Ontario) by Letters Patent dated April 25, 2000, for the following objects, inter alia:

"(a) to manage, or see to and supervise the management of, the money, investments, investment funds and pension funds that come into the hands or are under the administration of The Governing Council of the University of Toronto, subject to and in accordance with the applicable policies from time to time approved by or on behalf of the Council; and

(b) to carry out such other duties and responsibilities on behalf of the said Council as may be properly delegated or assigned to the Corporation;"

AND WHEREAS UTAM and the University entered into a service agreement dated the 1st day of May, 2000 (the "Original Agreement"), pursuant to which the University appointed UTAM to be its investment manager in accordance with the terms therein set out;

AND WHEREAS UTAM and the University wish to execute this amended and restated agreement (the "Agreement") in order to (i) clarify the nature of the relationship between UTAM and the University and the extent of UTAM's authority to act as agent for the University; and (ii) set out certain terms of employment applicable to personnel employed by UTAM.

WITNESSETH that in consideration of the premises and the mutual agreements and covenants herein contained, the parties hereto agree with each other as follows:

1. This Agreement amends, restates and replaces in its entirety the Original Agreement (which is of no further force and effect), and constitutes the entire agreement between the parties with respect to the subject matter hereof.

2. The University hereby appoints UTAM as its agent to act on its behalf as the sole and exclusive manager (subject to any permitted subdelegation hereunder) of such of the money, investments, investment funds and pension funds that come into the hands or are under the administration of the University as it determines to place under the management of UTAM (the "Managed Assets"), upon and subject to the terms and conditions of this Agreement and for an indefinite term, terminable by the University (i) forthwith upon any material breach of this Agreement by UTAM; or (ii) upon three month's prior written notice to UTAM.

3. In acting as agent for the University in providing investment management services (the "Services") hereunder, subject to the terms and conditions hereof (including, UTAM's obligations in section 6 hereof to act in accordance with the Investment Policies (as hereinafter defined)), UTAM shall have the power and authority to take all such actions and execute all such documents as may be necessary or desirable in order for it to properly manage the Managed Assets, including without limitation, the power and authority to:

(a) invest and re-invest the Managed Assets and the proceeds thereof in accordance with the Investment Policies (as hereinafter defined);

(b) acquire hold, manage, lease, repair, improve, alter, demolish, dispose of and otherwise deal with lands, buildings and other interests in real estate on behalf of and for the benefit of the University;

(c) employ and retain the services of investment managers, counsellors, advisers and other investment professionals and experts and delegate investment powers to such persons;

(d) provide directions to, oversee any administration by and otherwise correspond with duly appointed trustees, custodians and subcustodians of the Managed Assets;

(e) Investment Strategy: UTAM shall establish an investment strategy designed to meet the University's return and risk objectives. The strategy should take into account all the factors which UTAM believes are relevant, including asset mix, choice of asset classes, active versus passive management, and investment philosophy and approval. UTAM shall develop and put in place relevant and appropriate policies to deal with all relevant risks, reflecting a prudent approach. This will include, but not necessarily be restricted to, portfolio diversification, asset class limits, concentration limits, use of derivatives, compliance with relevant legislation and conflicts of interest.

Performance benchmarks against market indices and peer universes will be established for both the fund and individual asset classes. The agreed to benchmarks will form an integral part of this agreement, establish investment mandates, policies, guidelines and procedures (including determining asset allocations and performance benchmarks) in accordance with the University's Investment Policies;

(f)

(f)(g) buy, sell, assign, transfer, exchange, convert or convey shares, stocks, bonds, debentures, rights, warrants, options or other securities;

(g)(h) borrow money to purchase securities, purchase securities on margin or short-sell securities;

~~(h)~~(i) exercise any proxy or voting rights and give any consents or waivers associated with any securities in which the Managed Assets are invested; in the best interests of the fund, unless otherwise advised by the University.

~~(i)~~(i) open accounts with banks, trust companies and other financial institutions and give instructions with respect to such accounts as may be necessary in order to invest the Managed Assets;

~~(i)~~(k) enter into agreements relating to synthetic investment products including debt, equity, commodity, interest rate and currency futures, options, swaps and forward contracts, agreements relating to securities lending, investment and indemnity agreements and other agreements of every nature whatsoever related to the investment of the Managed Assets; and

~~(k)~~(l) take any action contemplated by or incidental to implementing the Investment Policies.

4. Any matter with respect to which UTAM is authorized to act as the University's agent in providing the Services hereunder may be undertaken by such officer or officers of UTAM as are authorized to take such action in accordance with a resolution of the directors of UTAM. All agreements and other documents executed by UTAM as agent for the University shall be executed by such officer or officers of UTAM as are authorized to execute same in accordance with resolutions of the directors of UTAM (in force from time to time) in the following manner, and if so executed, the University acknowledges that such agreement or document is binding upon the University:

“UNIVERSITY OF TORONTO
ASSET MANAGEMENT CORPORATION
as agent on behalf of the
GOVERNING COUNCIL OF
THE UNIVERSITY OF TORONTO

Per: _____”

5. Subject to the prior approval of the senior officer of the University responsible for financial matters as so designated by the President of the University (the “CFO”) on behalf of the University in each instance, and upon such terms and conditions as the CFO may prescribe, UTAM may also, as provided in its said Letters Patent, and provided that the quality, level and timeliness of the Services provided to the University are not impaired in any way:

- (i) manage, or see to and supervise the management of, the money, investments, investment funds and pension funds that come into the hands or are under the administration of any university, college or institution that is federated or affiliated with the University; and
- (ii) manage, or see to and supervise the management of, the money, investments, investment funds and pension funds that come into the hands or are under the administration of other charitable or non-charitable, philanthropic and not-for-profit organizations, institutes and associations.

Examples of institutions falling under (i) above are the universities federated and colleges affiliated with the University, its affiliated teaching hospitals and The Toronto School of Theology and its member institutions. Examples of organizations falling under (ii) above are other universities, community colleges and educational and research institutes. The services provided under (i) and (ii) above are referred to as "Other Services".

6. UTAM will be subject to and act in accordance with relevant investment policies of, or approved by, the University or its Business Board (the "Business Board"), as amended from time to time, (the "Investment Policies") including without limitation, the following:

University Funds Investment Policy and regulations thereunder
Expendable Fund Investment Pool Background Paper
Pension Fund Master Trust Investment Policy
Long-Term Capital Appreciation Pool Policy and regulations thereunder
Policy for the Preservation of Capital of Endowment Funds and regulations thereunder
Social and Political Issues with respect to University Investment

and such other policies as are declared by the University or its Business Board to be applicable to UTAM. In addition, UTAM will be subject to and act in accordance with other policies and instructions that may be approved from time to time by the University or the Business Board. Those instructions may relate, without limitation, to pooling or not pooling certain University funds for investment purposes, steps aimed at the preservation of the capital of University funds, and social and political criteria governing investments.

7. It shall be the duty of UTAM and its President and Chief Executive Officer to achieve the maximum possible rate of return on each Managed Asset, consistent with (i) applicable law, (ii) the Investment Policies referred to in the preceding clause hereof, (iii) a prudent standard of care for the safety of the capital and due attention to the special purposes and needs of each fund, and (iv) general good and prudent investment practices.

8. UTAM will observe and comply with all applicable laws and regulations of the Province of Ontario and of Canada that apply to its operations ("Applicable Laws") and will make on behalf of itself and the University, or assist the University in making, any necessary returns to and filings with the Ontario Securities Commission as required by the Securities Act and Regulations thereunder and the Financial Services Commission of Ontario as required by the Pension Benefits Act and Regulations thereunder or with any other applicable regulator. The University shall not be liable for, and UTAM shall

indemnify and save the University harmless from any liability, loss or damages arising from (i) any action taken by UTAM which is outside the scope of its authority hereunder including any breach by UTAM of Applicable Laws; (ii) UTAM's provision of Other Services or (iii) any other activity or business undertaken by UTAM other than as agent for the University.

9. The University reserves the right to determine from time to time the annual payout from the earnings of its Long-Term Capital Appreciation Pool or any successor pool or pools and UTAM will not have any authority or responsibility whatsoever with respect to decisions regarding such payout or regarding the management, use or disposition of the monies, including surpluses, in the University's Pension Plans. In addition, UTAM will not have any authority or responsibility whatsoever with respect to decisions concerning the amortization of any unfunded liability in the University's Pension Plans. The University may from time to time seek the advice of UTAM and UTAM may from time to time offer its advice to the CFO regarding these matters but the provision of such advice will be the extent of UTAM involvement in these decisions. Similarly, UTAM may from time to time provide advice to the CFO with respect to the establishment of Investment Policies and to changes in those policies, and the CFO may accept such advice and make a recommendation to the Business Board accordingly. Once a policy or policies are established for Managed Assets and for other funds under its administration, UTAM will invest and manage the investment of such funds precisely in accordance with such policies.

10. The securities representing Managed Assets from time to time shall be held on behalf of the University in the name(s) of such trustee(s) or nominee(s) as may be directed by the CFO, but not in the name of UTAM. The securities of the LTCAP or EFIP may be loaned to investment dealers and banks as part of the trustee/custodian's lending program when it is deemed that such lending may add incremental return to the fund at minimal risk and provided the loan is collateralized in accordance with industry standards and marked-to-market and adjusted on a daily basis. The valuation of securities, including private placements and other infrequently traded securities shall be determined by the trustee/custodian of the fund. In the case of direct investments in real

estate and resource properties, the valuation shall be based on independent opinions of qualified appraisers at a minimum of every three years.

11. Although elected annually, it is anticipated, as an operating guideline, that directors of UTAM other than ex officio directors will serve for a three-year term, which term may be renewed for a ~~further~~further three years on the recommendation of the Board of UTAM but at the option of the President of the University. The intention of this guideline is to ensure an appropriate balance between continuity and renewal, but exceptions thereto may be made from time to time on the recommendation of the President of the University. As a further operating guideline, the election and retirement of directors should be in rotation so that the normal three-year terms of office would be staggered and one-third of the elected directors would retire from office in each year (subject to re-election). It is further anticipated that the director who is a member or retired member of the faculty or staff of the University would be expected to serve for a three-year term, renewable for a further three years, but would not be affected by the rotation of elected directors.

12. The University will pay UTAM for the Services an amount which will enable it to recover the appropriate costs of its operations, on the basis of a service fee expressed in terms of a stated number of basis points to be applied to the market value of the Managed Assets, determined as at the immediately preceding September 30, such rate to be determined annually by the CFO, acting reasonably, following consultation with the President of UTAM and with a view to ensuring that UTAM is able to provide the Services at an acceptable standard. UTAM will charge such fee against and recover it from each fund forming part of the Managed Assets at the rate of one-twelfth thereof monthly during its ensuing financial year. To the extent that UTAM provides Other Services and recovers a portion of the costs of its operations from fees charged for such Other Services, the fee paid by the University for Services shall be reduced by a corresponding amount to be determined by the CFO in his/her discretion.

13. UTAM will prepare an annual operating budget based upon the projected revenue of UTAM from the service fees determined in accordance with the process

described in the preceding clause hereof and will submit the same in November of each year for approval to the CFO.

14. UTAM will provide the following reports:

- (a) to the CFO, for forwarding to the President and senior officers of the University, a quarterly investment report which shall include at least the following information:
 - (i) the actual rate of return for each fund forming part of the Managed Assets for the latest quarter, year to date, last twelve months and last four years;
 - (ii) qualitative commentary on results;
 - (iii) the asset mix for each fund forming part of the Managed Assets, including the proportion of equity investments in Canada, the U.S. and elsewhere, the proportion of each asset class managed actively and in index funds, and the proportion of each foreign asset class subject to currency risk;
 - (iv) investment returns of each major fund forming part of the Managed Assets compared to benchmarks and also to the performance of comparable funds, as reported by a performance measurement service;
 - (v) investment returns of each asset class relative to benchmark indices and to the performance of the asset class in comparable funds;
 - (vi) the portfolio managers employed for each fund forming part of the Managed Assets with an assessment of their investment performance compared to benchmark indices and the returns relative to other managers of comparable assets;

- (vii) UTAM's economic and investment outlook and strategies planned in the light of that outlook;
 - (viii) if and as requested by the CFO, copies of quarterly reports from some or all external portfolio managers;
 - (ix) any significant changes in UTAM's key investment personnel and significant developments in its organization;
 - (x) any other material matter that the management of UTAM, in its reasonable judgment, decides should be brought to the attention of the CFO; and
 - (xi) such other information and material as may be requested by the CFO acting reasonably;
- (b) to the CFO, at least annually or more frequently as the Business Board may from time to time determine, for forwarding to the President of the University and the Business Board together with the CFO's concurrence and/or advice, a full and extensive investment report which shall include at least the following information:
- (i) investment performance as measured against the rate-of-return objectives and benchmarks established in the Investment Policies, and the reasons for the results;
 - (ii) portfolio risk compared to the risk tolerances established in the Investment Policies;
 - (iii) the costs of managing each fund forming part of the Managed Assets;
 - (iv) UTAM's own investment decisions (in contrast to the decisions made by any external portfolio managers);

- (v) an appropriate statement to indicate that UTAM is in compliance with all applicable University and Business Board policies (including, without limitation, Investment Policies);
 - (vi) any other material matter that the management of UTAM, in its reasonable judgment, decides should be brought to the attention of the CFO, President of the University and the Business Board; and
 - (vii) such other information and material as may be requested by the CFO acting reasonably; and
- (c) to the CFO, for forwarding to the President of the University and the Business Board, the annual audited financial statements of UTAM, within two months of the end of its financial year.

15. UTAM will make its Chair of the Board, President and chief executive officer and other senior officers and personnel, as appropriate, available to:

- (i) the Business Board at least annually, for a full and extensive review of UTAM's investment reports;
- (ii) the President of the University and his or her associates, at least quarterly;
- (iii) the Connaught Committee of the University, at least annually, and semi-annually if so requested by the CFO;
- (iv) the President and another representative of The University of Toronto Faculty Association and of any other University employee group designated for this purpose by the CFO, at least semi-annually in order to provide appropriate information; and
- (v) any other interested University of Toronto group or individual, as directed by the CFO;

and UTAM will give due consideration to any concerns raised by any such body, group or individual.

16. UTAM agrees to maintain, or cause to be maintained (as applicable) accurate books and records in accordance with generally accepted accounting principles, including accurate and complete records of all of investments of Managed Assets and all other activities undertaken by it as agent on behalf of the University in providing the Services hereunder, and to provide the University, on reasonable notice during regular business hours, with access thereto for purposes of inspecting, auditing or copying same.

17. UTAM will pay the remuneration and compensation of its directors, officers and employees, including the Chair of the Board, subject to and in accordance with clause 22 of its By-law No. 1 and the University's Policy on Appointments and Remuneration, as amended from time to time. In addition, the specific compensation arrangements for the President and Chief Executive Officer of UTAM shall be subject to the approval of the President of the University.

18. In order to meet the requirements of the University's Policy on Appointments and Remuneration, UTAM will prepare and submit to the President of the University for his or her recommendation to and approval by the Senior Salary Committee of the University, a statement dealing with the proposed senior executive compensation policy and core pay principles for UTAM. The proposal should identify clearly the senior officer and senior staff positions, the holders of which would be governed by the proposed principles, and should include provision for the submission by UTAM of an annual report to the Senior Salary Committee as to the compensation paid for each named position and for each compensated director. Similar to the private sector model, UTAM shall report the compensation of its five most highly remunerated executives in its annual report and, similar to the public sector model, shall disclose the amounts of salary and benefits paid in the previous year to or in respect of its employees to whom UTAM paid at least \$100,000 as salary.

19. Any decision by UTAM to change its office location and to lease office space (or additional space) other than from the University shall be subject to the approval of the CFO, and in any such event, the University will expect UTAM to obtain and maintain offices of a quality similar to that occupied by senior administrators of the University and not of a grandiose or extravagant nature.

20. UTAM will be responsible for providing all services, facilities and equipment necessary for its operations, including without limitation, telephone, print management, photocopying, facsimile, computer printing and scanning and computing equipment and special application software systems. UTAM may, at its option, lease some or all of such services, facilities and equipment from the University or may acquire its own.

21. UTAM may utilize the accounting, bookkeeping, payroll, purchasing, insurance and risk management, environmental, health and safety, consultation, pension administration, benefits administration and similar administrative services of the University in connection with the operations of UTAM, including without limitation, use of the University's AMS system and services of the office of the University's Controller, at rates of compensation comparable to those charged to the University's other ancillaries, to be agreed upon between the parties. At the request of either party, each such service so utilized shall be the subject of an addendum to this Agreement.

22. The University recognizes that it may be appropriate at some future time for UTAM to have its own separate payroll administration for its staff, in which event such a change shall be subject to the approval of the CFO.

23. To the extent permitted by the Canadian Universities Reciprocal Insurance Exchange or other insurance carrier or carriers, the University will make available to UTAM access to the University's insurance coverages for direct physical loss to physical property, comprehensive general liability, directors' and officers' errors and omissions liability, automobile and such other coverages as the parties may agree upon from time to time. UTAM will pay its appropriate share of premiums for any such insurance. At its option, if it is advantageous to do so, UTAM may obtain any insurance coverage other than through the University, subject to the approval of the CFO.

24. If the University's insurers do not make available to UTAM coverage for directors' and officers' liability pursuant to the preceding clause hereof, UTAM will arrange for appropriate directors' and officers' errors and omissions liability insurance coverage, in amounts and upon terms to be approved by the CFO. As provided in By-law No. 1 of UTAM, the directors and officers of UTAM will be indemnified to the extent set out in clause 56 thereof. To the extent that the proceeds of such insurance and any funds of UTAM are not sufficient to satisfy the indemnity provided for in that clause, the University will indemnify the directors and officers of UTAM to the same extent as therein provided and will pay for the legal and other defence costs in the event of an action against indemnified directors and officers, all with the exception of claims, actions, costs, charges and expenses occasioned by the wilful neglect or wilful default of the officer or director.

25. The following provisions shall apply to those employees of UTAM named in Schedules "A" and "B" appended hereto (the "Scheduled Employees"). For clarity, it is understood that the following provisions are not intended to apply to individuals employed by UTAM who are not Scheduled Employees.

- (a) (i) For Scheduled Employees who are represented by the United Steelworkers of America (hereinafter called the "union"), compensation, benefits and the terms and conditions of employment until June 30, 2002, shall be those provided in the Memoranda of Settlement for First Collective Agreements between the University and the union dated the 18th day of December 1999, which collective agreements remain in force until June 30, 2002. Those Scheduled Employees are identified as such on Schedule "A" appended hereto.
- (ii) For Scheduled Employees who are not represented by a trade union, compensation and benefits shall be subject to at least the same increment as that approved by the Business Board on March 27th, 2000 for non-unionized University employees. Those Scheduled Employees are identified on Schedule "B" appended hereto. Scheduled Employees on

Schedule "B" continue their employment with UTAM with the same service they had as employees of the University and are subject to UTAM's own staff policies for non-unionized employees.

- (iii) Scheduled Employees retain any remaining vacation entitlements, and entitlements for time off for overtime, which they had as employees of the University, subject to the limits contained in clauses 22.05 and 24.08 of the Collective Agreement for the "Staff Appointed" Bargaining Unit between the University and the union, or subject to the vacation and overtime carry-forward provisions in the University's current policies for non-union staff or the Senior Management Group, as applicable to the UTAM staff members before May 1, 2000.
- (b) UTAM will indemnify and hold harmless the University from any liabilities, expenses, costs, damages, suits, actions, claims or demands which arose as a result of the failure of UTAM to make offers of employment on the terms set out in the Original Agreement.
- (c) Employees of the University who were offered employment in accordance with the Original Agreement and who did not accept such offer remain the responsibility of the University. The University assumes all liabilities and costs associated with the continuation or termination of the employment of such employees.
- (d) Scheduled Employees are the exclusive responsibility of UTAM and UTAM assumes and absorbs all liabilities and costs associated with the continuation or termination of the employment of such Scheduled Employees. UTAM will indemnify and hold the University harmless from any liabilities, expenses, costs, damages, suits, actions, claims or demands relating to the employment of such Scheduled Employees with either the University or UTAM, or the termination of such employment.

- (e) With respect to the Scheduled Employees listed on Schedule "A" hereto, UTAM assumes all of the rights and obligations of the University under (i) the applicable collective agreements; and (ii) the Labour Relations Act.
- (f) UTAM is responsible for payment of all statutory deductions, remittances and assessments in respect of its employees. UTAM has an agreement with the University to provide payroll services, through which the University makes payments of the statutory deductions, remittances and assessments in respect of UTAMs employees.
- (g) The University will provide group life insurance and survivor income benefit, long-term disability insurance, extended health care, semiprivate hospital and dental and vision care plans for UTAM employees that are the same as those provided for participating or covered regular employees of the University and from the same carriers that provide those benefits for regular University employees, and UTAM will pay to the University the amount required to pay the employer share of cost of those benefits. UTAM may, at its option and at a time of its choosing, but upon reasonable notice, establish and administer separate benefit plans for its own employees.
- (h) Except as described below, all Scheduled Employees, who are members of the University of Toronto Pension Plan, continue as members of the Plan and are subject to the same terms and conditions of and entitled to the same benefits under that Plan as if they continued to be regular employees of the University, and their University service is included for the purposes of determining their entitlement upon retirement from employment with UTAM. UTAM will pay to the University such amounts as may be determined by the University in consultation with the actuaries of the Plan to be necessary to properly fund the liability under the Plan in respect of members who are Scheduled Employees.

Similarly, any Scheduled Employees who are entitled to benefits pursuant to the University's Supplemental Retirement Arrangement (S.R.A.) retain their qualification for those supplemental retirement benefits. UTAM will pay to the

University such amounts as may be determined by the University in consultation with the University's actuaries to be necessary to cover the cost of providing supplemental retirement benefits in respect of Scheduled Employees who are eligible for the S.R.A..

Notwithstanding the above, UTAM may decide to establish its own pension or retirement arrangements for its senior professional employees. If it does so, any Scheduled Employee who qualifies for the new UTAM retirement arrangements may, at his or her option, remain a member of the University of Toronto Pension Plan and retain eligibility for payments under the S.R.A., or that employee may choose instead to adopt the new UTAM retirement arrangements.

- (i) With respect to a Scheduled Employee, or a dependent (as defined in the University's Policy on Tuition Waiver for Dependents in force immediately prior to May 1, 2000) of a Scheduled Employee, who was covered by the University's policies on tuition waiver and tuition waiver for dependents, as the case may be, immediately prior to May 1, 2000 the University will continue to extend the benefit of such policies to such Scheduled Employee or dependent, as the case may be, to the same extent as if such Scheduled Employee had continued in the employment of the University, so long as such Scheduled Employee continues in the employment of UTAM.
- (j) The University will charge to UTAM and UTAM will pay an amount to be determined by the University (consistent with the determination of its share with respect to its own employees) as UTAM's share of the costs of such benefits as are provided to the employees of UTAM under the University employee benefit plans, including without limitation, the proper share of UTAM of unfunded liabilities under the University of Toronto Pension Plan, adjusted for any surplus or deficit in respect of such employees against future contributions by UTAM, and an appropriate share of out-of-pocket costs. The last-mentioned liabilities shall be calculated and allocated to UTAM in such manner as the actuaries of that Plan determine.

(k) The Staff Housing Loan Program of the University will be available to employees of UTAM.

(l) At any time when the University no longer administers the payroll of UTAM, it will deliver all documents, books, records and information relating to the payroll of UTAM's employees to UTAM, subject to a right of access thereto at all reasonable times by or for the benefit of the University, for the purposes of inspection and copying.

26. UTAM will appoint auditors, approved in advance by the University, to perform all required auditing services and will retain the University's solicitors for all legal matters except that UTAM may retain legal counsel having specialized knowledge or experience for investment transactions, subject to the approval of the CFO.

27. Until otherwise directed by the President of the University, the CFO is designated as the University's officer for the purposes of administering this Agreement on behalf of the University and of liaison with UTAM.

28. Nothing contained in this Agreement shall be construed to give UTAM or any of its officers, directors or employees the power to take any action on behalf of the University which is outside the scope of its authority hereunder, or shall constitute the parties as joint venturers, partners, co-owners or otherwise as participants in a joint undertaking.

29. For the purposes of this Agreement, the term "Confidential Information" shall mean any and all data and non-public information, written or oral, provided by one party hereto (the "Disclosing Party") to the other party hereto (the "Receiving Party") which relates in any way to the Disclosing Party or any elements of its business, including any and all technical information, compilations, programs, methods, designs, know-how, notes, memoranda, information relating to marketing, promotion, business practices, policies and strategies, proprietary investment products, financial models or analyses or other documents or records which are generated by the Receiving Party's review of any of the foregoing.

The Receiving Party acknowledges and agrees that all Confidential Information of the Disclosing Party is the property of the Disclosing Party and that the Disclosing Party owns all right, title and interest in and to such Confidential Information regardless of whether any of the Confidential Information was created, generated, developed, produced or prepared by the Disclosing Party and regardless of whether any of the Confidential Information came into being before or after the execution of this Agreement. The Receiving Party agrees on its behalf, and agrees to cause its directors, officers and employees, to keep secret and maintain the confidentiality of the Confidential Information and not to use the Confidential Information except in connection with carrying out its obligations or exercising its rights hereunder. Notwithstanding the foregoing, UTAM shall have the right to disclose Confidential Information to its investment managers, professional consultants and other authorized delegates described in paragraph 3(c) of this Agreement, who have a need to know such information in order to assist in the provision of the Services hereunder and who agree to be bound by the terms of this paragraph 29.

Notwithstanding the foregoing, the term Confidential Information shall not include information which:

- (a) at the time of disclosure is in the public domain;
- (b) the Receiving Party can prove was independently developed or known by it on a non-confidential basis or was lawfully disclosed to it by a third party which, to the best of its knowledge, had a legal right to disclose the same; or
- (c) is required to be disclosed by the Receiving Party in accordance with applicable law or any order of any court of competent jurisdiction, after notice to the Disclosing Party.

30. Each party hereto hereby grants to the other party a non-exclusive licence to use and reproduce the other party's name and any trademarks (including any logos and/or symbols related thereto) associated therewith in connection with the provision of the Services hereunder.

31. This Agreement shall come into force and be effective as at and from the date first written above.

32. The University, in consultation with UTAM, will conduct a review of the terms of this Agreement after it has been in effect for three years.

33. This Agreement expresses the entire understanding between the parties with respect to the subject matter and there are no representations, warranties or collateral terms and conditions with respect thereto except as expressly provided herein.

34. Except as herein otherwise expressly provided, no modification or amendment of this Agreement shall be binding unless in writing and executed by the parties hereto.

35. This Agreement is not assignable and shall enure to the benefit of and be binding upon the parties hereto and their respective successors.

36. The invalidity of any particular provision of this Agreement shall not affect the validity of any other provision and in such event, the Agreement shall be construed as if the invalid provision had been omitted.

37. No waiver, condonation, excusing, overlooking or forgiving of any breach or non-observance or non-performance of any of the terms and conditions hereof by one party shall be binding on that party unless evidenced or confirmed as such by a writing, nor shall the same prejudice the rights of the waiving party with respect to any future breach, non-observance or non-performance.

38. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

39. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and hand-delivered, in the case of notice to the University, to it in care of the Office of the Chief Financial Officer, Simcoe Hall, 27 King's College Circle, Toronto, M5S 1A1, marked for the attention of that officer, and in the case of notice to UTAM, to it at 480 University Avenue, Suite 210, Toronto, M5G 1V2, marked for the

attention of its President, with a copy similarly delivered and marked for the attention of its Chair of the Board, and any notice so delivered shall be deemed to have been

received and become effective on the second business day following the day of delivery.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed under the hands of their respective officers, duly authorized, and their respective corporate seals.

THE GOVERNING COUNCIL OF THE
UNIVERSITY OF TORONTO

President

Chief Financial Officer

UNIVERSITY OF TORONTO ASSET
MANAGEMENT CORPORATION

Chair of the Board

President

Schedule "A"

USWA – Union Members

Helen Shun Mun Wong

Maria Wus

Schedule "B"

Non-Union Members

Lisa Chung

Laurie Lawson

Richard Bojankiewicz

Vera Lau

|

Schedule C

The investment returns achieved by UTAM are compared to performance benchmarks against market indices and peer universes. Effective April 7, 2003, these benchmarks are:

LTCAP

<u>Scotia Capital Bond Universe</u>	<u>12%</u>
<u>Scotia Capital Long Bond Index</u>	<u>8%</u>
<u>S&P/TSX Composite</u>	<u>10%</u>
<u>Russell 3000</u>	<u>35%</u>
<u>MSCI EAFE</u>	<u>35%</u>

Pension Master Trust

<u>Scotia Capital Bond Universe</u>	<u>30%</u>
<u>Scotia Capital Long Bond Index</u>	<u>10%</u>
<u>S&P/TSX Composite</u>	<u>10%</u>
<u>Russell 3000</u>	<u>25%</u>
<u>MSCI EAFE</u>	<u>25%</u>

EFIP

<u>91 Day T-Bills</u>	<u>15%</u>
<u>Scotia Capital Short-Term Bond Index</u>	<u>25%</u>
<u>S&P/TSX Composite</u>	<u>5%</u>
<u>Russell 3000</u>	<u>20%</u>
<u>MSCI EAFE</u>	<u>20%</u>
<u>91-Day T-bills +250 basis points</u>	<u>15%</u>