



MINISTERIAL ORDER No. 42/2020

**DEPARTMENT OF TREASURY BOARD AND FINANCE
PROVINCE OF ALBERTA**

***Alberta Investment Management Corporation Act* (ss. 6(4) and (5))
Teachers' Pension Plans Act (ss. 17.2(1), (2) and (3))**

**TERMS AND CONDITIONS OF INVESTMENT MANAGEMENT SERVICES –
TEACHERS' PENSION PLANS BOARD OF TRUSTEES AND
ALBERTA INVESTMENT MANAGEMENT CORPORATION**

BACKGROUND:

- A. Teachers' Pension Plans Board of Trustees ("ATRF") is designated under section 17.2(1) of the *Teachers' Pension Plans Act* (the "Act") as an entity to whom Alberta Investment Management Corporation ("AIMCo") is to provide investment management services in respect of the pension funds trustee by ATRF pursuant to the Act;
- B. Pursuant to sections 17.2(2) and (3) of the Act, ATRF is required to engage AIMCo as its exclusive provider of investment management services under an investment management agreement that was to take effect by June 30, 2020, which deadline I extended by order to October 31, 2020 pursuant to my authority under section 17.2(3) of the Act;
- C. As of the date of this Order, an investment management agreement between ATRF and AIMCo has still not taken effect (or been entered into);

- D. Pursuant to sections 6(4) and (5) of the *Alberta Investment Management Corporation Act*, if at any time there is no subsisting investment management agreement between ATRF and AIMCo, the President of Treasury Board and Minister of Finance may by order specify the terms and conditions in accordance with which investment management services must be provided by AIMCo to ATRF, which order will have effect until an investment management agreement between ATRF and AIMCo is entered into and takes effect;

THEREFORE:

I, Travis Toews, President of Treasury Board and Minister of Finance, order that:

Effective Date and Condition Precedent

1. This Order comes into effect on January 1, 2021, conditional on there being no subsisting investment management agreement between ATRF and AIMCo on that date.


Terms and Conditions

2. Subject to section 1, the terms and conditions in accordance with which investment management services must be provided by AIMCo to ATRF are as specified in the attached Appendix.

Replacement Ministerial Order

3. This Order may be superseded by a further Ministerial Order.

Dated this 23rd day of December, 2020.



Travis Toews
President of Treasury Board and
Minister of Finance

APPENDIX

MINISTERIAL ORDER No. _42_/2020

TERMS AND CONDITIONS OF INVESTMENT MANAGEMENT SERVICES – TEACHERS' PENSION PLANS BOARD OF TRUSTEES AND ALBERTA INVESTMENT MANAGEMENT CORPORATION

Alberta Investment Management Corporation ("**AIMCo**") shall provide investment management services to the Teachers' Pension Plans Board of Trustees ("**ATRF**"), and ATRF shall retain such services, in respect of the pension funds trusted by ATRF pursuant to the *Teachers' Pension Plans Act*, the investments of which are required under that Act to be invested and managed by AIMCo, in accordance with the following terms and conditions:

Section 1 – Interpretation

- 1.1 **Definitions** - In this document, the following expressions have the following meanings (and where applicable their alternate singular or plurals have corresponding meanings):

"Act" means the *Teachers' Pension Plans Act* (Alberta), as amended or replaced from time to time;

"AIMCo Act" means the *Alberta Investment Management Corporation Act* (Alberta), as amended or replaced from time to time;

"Client Data" means any and all information relating to ATRF or its operations, including without limitation information in respect of the Pension Plans, the Pension Funds, the current and former members, pension partners and beneficiaries under the Pension Plans, and ATRF personnel;

"Cost Allocation Methodology" means AIMCo's allocation of costs methodology in respect of the allocation of AIMCo's costs among its clients, as amended from time to time;

"FAA" means the *Financial Administration Act* (Alberta), as amended or replaced from time to time;

"Investment Policy" means the statement of investment policies and goals established or amended from time to time by ATRF pursuant to section 17.1(1) of the Act in respect of each Pension Fund;

"ITA" means the *Income Tax Act* (Canada), as amended or replaced from time to time;

“Managed Assets” means the assets of the Pension Funds, but excluding those assets the investment of which are not required to be managed by AIMCo pursuant to:

- (a) section 17.2(4) of the Act; or
- (b) an order of the President of Treasury Board and Minister of Finance pursuant to section 17.2(5) of the Act;

while and to the extent that the investment of those assets is not actually being managed by AIMCo;

“Pension Funds” means the following pension funds trustee and administered by ATRF:

- (a) in respect of the Teachers’ Pension Plan, the pension funds referred to in the Act as the “Teacher’s Pension Plan Fund” and the “Teachers’ Pension Plan Pre-1992 Fund”; and
- (b) in respect of the Private School Teachers’ Pension Plan, the pension fund referred to in the Act as the “Private School Teachers’ Pension Plan Fund”;

“Pension Plans” means the pension plans continued under section 3(1) of the Act, as referred to in the Act as the “Teachers’ Pension Plan” and the “Private School Teachers’ Pension Plan”; and

“Pooled Funds” means the pooled funds established from time to time pursuant to either section 45 of the FAA or section 15 of the AIMCo Act.

- 1.2 **Section Numbers** - Unless otherwise stated, references in this document to Section numbers are to the corresponding numbered provisions of this document.

Section 2 – Transfer of Investment Management

- 2.1 **Transfer** - In accordance with the Act, ATRF and AIMCo have established a plan to transfer management of all investments of the Managed Assets to AIMCo, and such transfer must be completed by December 31, 2021 unless such deadline is extended in accordance with the Act.
- 2.2 **Investment Policy Review** - ATRF and AIMCo shall collaborate in good faith to review the current Investment Policy, with the objective of:
- (a) identifying any material deviation in the contents of the current Investment Policy from the requirements set out in Sections 3.2 and 3.3; and

- (b) assessing the feasibility of ATRF directing the investment of the Managed Assets in accordance with categories of investments and asset allocations that align with the investment products and strategies made available by AIMCo through Pooled Funds, as contemplated under Section 3.4.

Any amended Investment Policy resulting from such review shall be subject to the provisions set out in Section 3.8. If the current Investment Policy is not amended, it shall nevertheless be subject to Section 3.8 as if it was an amended Investment Policy.

- 2.3 **Commencement of Obligations** - The obligations of AIMCo and ATRF under this document in respect of specific investments of the Managed Assets take effect as and when the management of such specific investments are transferred to AIMCo.

Section 3 – Investment Policy

- 3.1 **Application** - Subject to the other provisions of this Section 3, AIMCo shall invest the Managed Assets in accordance with the Investment Policy.
- 3.2 **Purpose** - The Investment Policy shall inform and direct the investment of the Managed Assets of a Pension Fund by stating:
 - (a) the investment objectives of the Pension Fund;
 - (b) the risks that ATRF is prepared to accept to achieve the investment objectives, including in respect of risk appetite and risk tolerance;
 - (c) the general constraints and guidelines for making investments, including directions in respect of the amount of the Managed Assets of each Pension Fund to be invested in different asset classes or categories; and
 - (d) the benchmarks and other measures referenced to assess the performance of the investments;

subject in each case to AIMCo's discretion described in Section 5.1, concerning such matters as the identification, acquisition and disposition of specific individual investments to the discretion and expertise of AIMCo as investment manager. For greater certainty, ATRF shall maintain control over the Investment Policy but nothing in an Investment Policy shall impinge on AIMCo's discretion over how to implement the Investment Policy.

3.3 **Standard Content** - The Investment Policy shall, in respect of a Pension Fund and having regard to the purpose, objectives and liabilities of the associated Pension Plan, set out and address the following matters as may be appropriate and applicable:

- (a) the purpose of the Pension Fund and the associated underlying legislative or other framework;
- (b) the investment objectives of the Pension Fund;
- (c) categories of investments and asset allocations, including:
 - (i) with respect to permitted or restricted general categories of investment products or strategies;
 - (ii) the use of derivatives; and
 - (iii) the basis upon which an asset allocation was determined, including by reference to volatility and rate of return expectations;
- (d) diversification of the investment portfolio;
- (e) risk management policies, including with respect to the liquidity of investments and the management of credit, market and other financial risks;
- (f) the lending of cash or securities from the Pension Fund;
- (g) the delegation of voting rights acquired through investments;
- (h) the method of, and basis for, the valuation of investments that are not regularly traded at a public exchange;
- (i) the benchmarks or other measures by which performance of the investments of the Managed Assets of the Pension Fund may be assessed; and
- (j) such other matters as may be appropriate and relevant or as may be required by law;

subject to the following constraints:

- (k) categories of investments and asset allocations should not specifically reference any Pooled Funds, whether by name or description;

- (l) content other than as set out above should be limited to addressing directly related ancillary matters and not matters that have been otherwise addressed by this document;
- (m) the requirements of applicable law, including pursuant to the Act and the ITA, shall be observed; and
- (n) the provisions of the Investment Policy shall not conflict with the provisions of this document, and in the event of such a conflict the provisions of this document take precedence.

For ease of administration and consistency between the statements of investment policies and goals (by whatever name) of AIMCo's clients, and to benefit from the economies of scale arising from consistent descriptions of asset classes that facilitate the making of large-scale investments for AIMCo's clients, the Investment Policy should consistently use and reference industry standard defined terms to the extent reasonably practicable without undermining the fundamental purposes of, or otherwise unduly constraining the contents of, the Investment Policy.

3.4 Alignment with Pooled Funds - ATRF shall give due consideration to directing the investment of the Managed Assets in accordance with categories of investments and asset allocations that align with the investment products and strategies made available by AIMCo through Pooled Funds, having regard to:

- (a) the economies of scale and resulting cost savings achievable through such direction;
- (b) the benefits of investing in established investment products and strategies, including in respect of reduced administrative burdens on both ATRF and AIMCo; and
- (c) the costs, complexities and risks of directing the investment of the Managed Assets to alternative categories of investment products and strategies.

3.5 Content Clarification - In the event that any provision of the Investment Policy requires, in the opinion of AIMCo, clarification as to its meaning or intent, AIMCo may request such clarification from ATRF, and ATRF shall respond in a timely manner having regard to the circumstances of the request. Thereafter, such clarification shall form a part of the Investment Policy until the next amendment of the Investment Policy in which event ATRF shall address the clarification within the amendment.

3.6 **Amendments** - Amendments to the Investment Policy shall be made by ATRF, having regard to the provisions of Sections 3.2, 3.3 and 3.4, in accordance with the following process:

- (a) prior to amending the Investment Policy, ATRF shall provide reasonable prior notice to AIMCo of the proposed amendments to enable:
 - (i) AIMCo to analyse the proposed amendments and provide comments, including comments in respect of transitional issues and liquidity constraints; and
 - (ii) ATRF and AIMCo to collaborate in good faith on the proposed amendments and on an appropriate transition plan; and
- (b) upon reasonable and due consideration of AIMCo's comments, ATRF may deliver the amended Investment Policy, revised as appropriate having regard to AIMCo's comments and to any transition plan that has been agreed upon, to AIMCo upon which the amended Investment Policy shall have effect from the later of:
 - (i) 10 business days after receipt by AIMCo; and
 - (ii) the effective date specified in the amended Investment Policy.

3.7 **Executing Amendments** - Subject to Sections 3.8 and 5.6, AIMCo shall comply and act in accordance with the changes set out in an amended Investment Policy:

- (a) as soon as reasonably practical having regard to:
 - (i) the liquidity of the investments proposed to be acquired or disposed to effect such change;
 - (ii) the avoidance or minimization of losses that may be realized by such change;
 - (iii) the maximization of any gains that may be realized by such change; and
 - (iv) the impact upon the other funds managed by AIMCo; and
- (b) in accordance with any transition plan that may be agreed to with ATRF in respect of such change.

If ATRF requires the implementation of a change earlier than recommended by AIMCo, as determined by AIMCo acting reasonably and as communicated to ATRF (together

with its analysis and reasoning for such recommendation) prior to the implementation of the change, and that change results in a loss to another fund managed by AIMCo that otherwise would have been avoided if the change occurred at the time recommended by AIMCo, then the resulting loss suffered by the other fund shall be transferred and allocated to the applicable Pension Fund.

3.8 Rejection of Amendment - AIMCo, acting reasonably, shall have the right to reject an amended Investment Policy, in whole or in part, if AIMCo determines in good faith that the content of the Investment Policy, in whole or in part:

- (a) does not respect the underlying principles reflected in Sections 3.2 and 3.3;
- (b) does not respect the nature of AIMCo's discretion reflected in Section 5.1; or
- (c) has a material adverse impact on AIMCo's ability to discharge its mandate under the AIMCo Act, or threatens to compromise AIMCo's economies of scale or operational efficiencies.

In such event:

- (d) AIMCo shall provide notice to ATRF together with detailed reasons supporting its decision to reject;
- (e) notwithstanding any other provision of this document, AIMCo shall not be obligated to comply with the rejected parts of the amended Investment Policy; and
- (f) ATRF and AIMCo shall collaborate in good faith to revise the amended Investment Policy.

Section 4 – Investment Management Services

4.1 Services - AIMCo shall provide the following investment management services to ATRF:

- (a) developing and implementing market strategies and tactics to meet the objectives set out in the Investment Policy;
- (b) initiating and completing investment transactions using the Managed Assets in accordance with the Investment Policy;
- (c) providing such assistance as ATRF may reasonably request in the development or amendment of the Investment Policy;

- (d) ensuring compliance of investments with the Investment Policy;
- (e) advising ATRF of all reporting, legal and regulatory requirements (other than those applicable exclusively to ATRF in accordance with the Act) that must be discharged by ATRF in order to enable AIMCo to invest the Managed Assets;
- (f) advising ATRF of any amendments that may be required to the Investment Policy to ensure its continuing compliance with any such reporting, legal or regulatory requirements;
- (g) providing information and background material on investment topics as requested by ATRF from time to time;
- (h) collaborating with ATRF to research and analyze new opportunities in capital markets, including investment products, strategies and tactics to meet the particular needs of ATRF, as requested by ATRF from time to time;
- (i) assessing and monitoring investment risk position, with reference to the applicable risk management policies;
- (j) developing investment tools, products and strategies designed for the purpose of managing the liabilities of a Pension Fund (and the associated Pension Plan) in accordance with the Investment Policy, subject to, in the case of new investment tools, products and strategies, consultation in good faith between, and mutual analysis by, ATRF and AIMCo in respect of:
 - (i) whether the new tools, products or strategies can be developed without unduly harming economies of scale; and
 - (ii) whether it would be more practical and efficient for AIMCo to retain the services of a third party provider to acquire or implement any particular investment tool, product or strategy; and
- (k) such other services as may be reasonably necessary or incidental to the provision of investment management services, or as reasonably requested by ATRF.

4.2 **Performance Standard** - In providing investment management services to ATRF, and in exercising any other authority or performing any other obligation under this document, AIMCo shall at all times:

- (a) comply with the Investment Policy;
- (b) act honestly, in good faith and in the best interest of ATRF;

- (c) exercise the care, diligence and skill that a reasonable and prudent person would exercise in dealing with the property of ATRF;
- (d) use all relevant investment management knowledge and skill that AIMCo possesses or that a reasonable and prudent person in the business of providing investment management services ought to possess;
- (e) comply with all internal policies of AIMCo, as applicable; and
- (f) comply with all applicable laws, including any requirements under the Act, the AIMCo Act, the FAA, the ITA and schedule III of the *Pension Benefits Standards Regulations, 1985* (Canada), and any requirements under the laws of the foreign jurisdictions in which AIMCo carries on business or otherwise directly or indirectly invests the Managed Assets.

4.3 Tax and Regulatory Status - In providing investment management services to ATRF, AIMCo shall:

- (a) use commercially reasonable efforts to ensure that its activities in respect of the management and investment of the Managed Assets will not jeopardize any of ATRF's available tax exemptions or benefits under the ITA and section 892 of the United States Internal Revenue Code; and
- (b) ensure that its activities in respect of the management and investment of the Managed Assets will not jeopardize the registration or status of the Pension Plans as a "registered pension plan" under the ITA.

4.4 Service Providers - In providing investment management services to ATRF, AIMCo may retain and delegate any of its duties to external investment managers, brokers, dealers, custodians, lending agents, consultants, accountants, lawyers and other advisors and service providers at its discretion, subject to AIMCo:

- (a) complying with all applicable laws and trade agreements;
- (b) monitoring and evaluating the performance of each service provider on a regular basis, including in respect of the following, as applicable:
 - (i) compliance with the obligations imposed by AIMCo, including those obligations that flow from the obligations of AIMCo under this document;
 - (ii) the holding, safety and accounting of investments held in custody; and

- (iii) the costs of the services provided relative to the value of the services;
and
 - (c) enforce the performance of the obligations of such advisors and service providers.
- 4.5 **AIMCo Policies** - AIMCo shall at all times comply with all internal policies of AIMCo that are relevant to the provision of AIMCo's services under this document, and AIMCo shall provide to ATRF, as requested by ATRF from time to time, copies of such policies.

Section 5 – Investments

- 5.1 **Discretion** - Subject to compliance with the Investment Policy, AIMCo shall have full discretion to make investment decisions in respect of the Managed Assets, and such discretion includes, without limitation:
- (a) determining the content, investment strategies and exposures of specific investment products, and the investment vehicles or instruments through which such products are established or held;
 - (b) making the specific investment decisions imperative to execute on all such investment products and corresponding strategies;
 - (c) implementing investment decisions, including determining whether an investment product or corresponding strategy should be internally or externally managed, and utilizing any trading vehicles, instruments or counterparties; and
 - (d) budgeting and spending the monies necessary to properly execute over the long run the matters described in paragraphs (a) through (c) above.
- 5.2 **Pooled Funds** - Investments of the Managed Assets shall be allocated to:
- (a) Pooled Funds; or
 - (b) segregated accounts established by AIMCo;
- and shall be credited to ATRF by reference to:
- (c) an interest in the applicable Pooled Fund; or
 - (d) the applicable segregated account;
- having regard to the following:

- (e) Pooled Funds are an accounting mechanism to facilitate the record-keeping, reporting and client allocation of investments, and do not constitute trusts or any other legal structure or legal entity;
- (f) any reference to an interest in a Pooled Fund or an interest in a unit of a Pooled Fund means that there is a direct proportional interest in the investments allocated to the Pooled Fund;
- (g) the name and description (referred to as a “product description” by AIMCo) of a Pooled Fund is for ease of reference, identification and information purposes only, and notwithstanding any specific wording in the description shall not create any legal rights or obligations separate and apart from the rights and obligations under this document, nor shall such wording waive or limit any obligation of a party under this document; and
- (h) the product description of a Pooled Fund, and the investments allocated to the Pooled Fund, facilitates the achievement of the objectives and other requirements set out in the Investment Policy.

5.3 **Product Description Content** - The product description of each Pooled Fund shall include, at a minimum, a description in reasonable detail of the following characteristics:

- (a) the objectives of the Pooled Fund;
- (b) the benchmarks used to measure the performance of the Pooled Fund;
- (c) the active risk targets and limits of the Pooled Fund, or a descriptor of such Pooled Fund as “passive funds”, as applicable;
- (d) the value-add target of the Pooled Fund, as applicable;
- (e) the risk management policy of the Pooled Fund, including, where some or all of the investments of the Pooled Fund are or may be invested in assets denominated in a currency other than Canadian dollars, the currency exchange rate risk management policy;
- (f) the expected costs associated with the Pooled Fund;
- (g) the leverage limits and definitions of the types of leverage that are or may be used in the Pooled Fund;

- (h) the investment process description (including investment vehicles that are or may be used) for the Pooled Fund;
- (i) the strategies and structures that are or may be used for the Pooled Fund;
- (j) the target geographies that are or may be used for the Pooled Fund;
- (k) the key investment risks associated with the Pooled Fund;
- (l) the closed/open end status of the Pooled Fund;
- (m) a high-level description of the diversification limits and guidelines for the Pooled Fund; and
- (n) in the case of the Pooled Fund having more than one strategy, any sub-strategies that are or are then planned to be used in connection with the Pooled Fund;

provided, however, that any product description of a Pooled Fund which does not satisfy the foregoing requirements will be updated by AIMCo on a priority basis within 2 years of this document coming into effect.

5.4 Pooled Fund Changes - In pursuing any material changes to a Pooled Fund product description, investing any Managed Assets in a new Pooled Fund or removing Managed Assets from an existing Pooled Fund, AIMCo shall undertake the following measures:

- (a) AIMCo shall provide notice to and consult in good faith with ATRF before executing such steps;
- (b) without limitation to the provisions of paragraph (a) above, AIMCo shall not implement a material change to a Pooled Fund product description without the approval of AIMCo clients that in aggregate represent more than 50% of the value of all of the assets of the Pooled Fund in respect of which AIMCo proposes to materially change its product description; provided that such approval shall not be required in respect of:
 - (i) changes required to maintain compliance with applicable law or respond to exigent market circumstances; and
 - (ii) non-material changes to Pooled Fund product descriptions; and
- (c) notwithstanding the change to the Pooled Fund product description, AIMCo will still be required to comply with the Investment Policy and cannot require

changes be made to the Investment Policy to align with the changes to the Pooled Fund product description.

5.5 **Product Description Compliance** - AIMCo shall ensure that the investments allocated to a Pooled Fund, and the activities associated with such investments, comply with the product description for the Pooled Fund, including any restrictions or limitations set out in the product description.

5.6 **Illiquid Assets** - The assets of certain Pooled Funds, as described in the applicable product description:

- (a) are illiquid such that it may not be possible to dispose of or transfer investments held by ATRF or a Pension Fund in those Pooled Funds; and
- (b) require capital commitments that may be funded over a period of time;

and to the extent that ATRF invests or makes a capital commitment to invest the Managed Assets of a Pension Fund in such Pooled Funds, ATRF shall:

- (c) hold such investments until maturity regardless of any subsequent amendment to the Investment Policy; and
- (d) fund the full amount of any capital commitment regardless of any subsequent amendment to the Investment Policy or any other action that has the effect of reducing or revoking such commitment.

5.7 **Valuation** - The valuation of Pooled Funds and their underlying assets shall be in accordance with industry standard valuation methodologies and practices, as reflected in the valuation policies adopted by AIMCo from time to time having regard to the product description of the relevant Pooled Fund.

5.8 **Title** - AIMCo may cause investments of the Managed Assets to be made and held in the name of AIMCo as nominee and bare trustee for ATRF in accordance with this document and as contemplated under the AIMCo Act. AIMCo may further appoint custodians or sub-custodians of the Managed Assets.

5.9 **Leverage** - Subject to the provisions of the Investment Policy and the applicable Pooled Fund product descriptions:

- (a) AIMCo shall not borrow cash on behalf of ATRF or a Pension Fund; and
- (b) in making investment decisions and generally managing the Managed Assets, AIMCo shall have the discretion to:

- (i) use leverage on behalf of ATRF or a Pension Fund, including to pledge, lend and repo the Managed Assets; and
- (ii) borrow cash on behalf of entities owned, directly or indirectly, by ATRF;

provided that all borrowings in respect of the Managed Assets shall comply at all times with the applicable restrictions on borrowing that apply to registered pension plans and their subsidiary corporations prescribed by the ITA, including (as applicable) regulation 8502(i) under the ITA and the applicable provisions of section 149(1)(o.2) of the ITA.

- 5.10 **Voting Rights** - AIMCo shall have the right to exercise any voting rights (including the appointment of proxies) associated with any investment of the Managed Assets.
- 5.11 **Tax Considerations** - In managing and investing the Managed Assets, AIMCo shall give full consideration to any particular tax exemptions or benefits to which ATRF is entitled to under the ITA and section 892 of the United States Internal Revenue Code and, in determining the manner in which any investment shall be made or held for, or on behalf of, ATRF or a Pension Fund, AIMCo shall use commercially reasonable efforts to structure the holding of such investment in order to avail ATRF, directly or indirectly, of those exemptions and benefits, as well as minimizing tax leakage (whether relating to income or otherwise) under all applicable treaties and domestic or foreign laws.
- 5.12 **No Guarantee** - AIMCo shall not and does not guarantee or assure the performance of any investments of the Managed Assets.

Section 6 – Non-exclusive Relationship

- 6.1 **Allocation of Investment Opportunities** - Subject to the other provisions of this Section 6, AIMCo shall ensure that investment opportunities are allocated among its clients on a fair and reasonable basis, as determined by AIMCo in its discretion.
- 6.2 **Other AIMCo Clients** - AIMCo performs investment management services for various clients, and particular facts unique to particular clients and their assets, including investment objectives and cash availability, affect investment decisions, and therefore AIMCo may, in its discretion:
 - (a) give advice and take action with respect to any of its other clients which may differ from or be contrary to advice given to ATRF or differ in the timing or nature of action taken with respect to the Managed Assets;

- (b) engage in client-to-client transactions and the crossing of transactions between clients; and
- (c) if AIMCo determines in any particular circumstance to aggregate a purchase, sale or other transaction on behalf of ATRF or a Pension Fund with one or more like transactions on behalf of one or more other clients of AIMCo, AIMCo may allocate to ATRF or the Pension Fund such portion of such transaction (and an equivalent portion of the expenses related thereto) as AIMCo, in its discretion, determines is fair and reasonable.

Section 7 – Withdrawal of Managed Assets

7.1 Withdrawal - Subject to Section 7.2, ATRF may make cash withdrawals from the investments of the Managed Assets as reasonably required to meet ATRF's expected current liabilities and operating expenses, in such amounts as ATRF shall reasonably determine, provided that:

- (a) ATRF shall provide AIMCo with notice of not less than 2 business days; and
- (b) such withdrawals shall be subject to any liquidity restrictions inherent in the applicable investments of the Managed Assets as described in the product description of the applicable Pooled Fund.

7.2 Limitations - In certain circumstances, including with respect to investments where transfer rights are subject to the consent of third parties, investments that have limited or no liquidity, the existence of an illiquid market environment, or the occurrence of negative market developments:

- (a) effecting cash withdrawals may take a considerable period of time;
- (b) it may not be possible to sell, redeem or realize certain investments of the Managed Assets at their optimal value or on optimal terms in connection with the return of such amounts to ATRF (including, without limitation, that the sale, redemption or realization of certain investments may be subject to discounts or penalties); and
- (c) the transfer, sale, redemption, other realization or withdrawal of certain investments of the Managed Assets in connection with such actions may have a negative economic impact on other AIMCo clients, including in the respect of Pooled Funds or other collective, commingled or co-managed investments or funds;

and as such, subject to Section 7.3, AIMCo shall:

- (d) have a commercially reasonable period of time to effect the cash withdrawal;
- (e) sell, redeem or realize an investment of the Managed Assets at their then current value in accordance with the applicable terms, notwithstanding that such value or terms may not be optimal, unless otherwise directed by ATRF; and
- (f) where the transfer, sale, redemption, other realization or withdrawal of an investment of the Managed Assets have a negative economic impact on other AIMCo clients, be entitled to conduct such actions and allocate costs in a fair and reasonable manner, in each case as disclosed to ATRF in reasonable detail;

and ATRF and AIMCo shall cooperate in good faith to mutually formulate a transition plan to address such circumstances having regard to the above.

7.3 Notice of Limitations - In the event that a cash withdrawal cannot be made as and when requested by ATRF, or in the event that AIMCo anticipates any material impairment of value as a result of the circumstances of the withdrawal, prior to executing such withdrawal AIMCo shall advise ATRF accordingly to enable ATRF to modify or cancel its request for the withdrawal.

7.4 Non-Cash Assets - Under no circumstances shall AIMCo be obligated to transfer to, or for the benefit of, ATRF any non-cash assets held by or in respect of a Pooled Fund.

Section 8 – Costs

8.1 Cost Recovery - AIMCo shall only charge for the provision of its services to ATRF on a cost-recovery basis, including any applicable taxes.

8.2 Cost Principles - When incurring and charging costs in providing services to ATRF, AIMCo shall comply with the following principles:

- (a) such costs shall be reasonably necessary in order to be able to provide the services;
- (b) such costs should be lower than the market standard fees charged by comparable for-profit providers of investment management services to their clients; and
- (c) such costs should be commensurate with the costs that other comparable providers of investment management services charge to their clients.

- 8.3 **Cost Allocation** - The cost charged by AIMCo to its clients for the provision of services shall be allocated among its clients, Pooled Funds and segregated accounts in a fair, consistent and even-handed manner based upon the following principles:
- (a) costs incurred in respect of specific investments shall be allocated to the specific Pooled Fund or segregated account in which the investment is allocated;
 - (b) costs that are directly and clearly attributable to a client of AIMCo, including services requested by and for the benefit of a specific client, and that are significant and material in nature shall be allocated to the applicable fund or funds administered by that client to which the costs relate;
 - (c) general internal costs shall be divided and allocated to specific Pooled Funds, segregated accounts or clients based upon the relative benefit of the underlying goods and services to the fund, account or client; and
 - (d) significant capital costs, subject to AIMCo's ability to finance such costs and including financing costs, shall be amortized in accordance with applicable accounting principles and allocated in accordance with the provisions above, as applicable.
- 8.4 **Cost Allocation Methodology Amendments** – The Cost Allocation Methodology may be amended from time to time by AIMCo in its discretion, subject to:
- (a) AIMCo's observance of the principles set out in Sections 8.2 and 8.3;
 - (b) prior consultation in good faith with ATRF; and
 - (c) delivery of the amended Cost Allocation Methodology to ATRF.
- 8.5 **AIMCo Compensation** - AIMCo shall consult in good faith with ATRF and other AIMCo clients on a collective basis with respect to the design of AIMCo's compensation system, including providing clarity on the material aspects of AIMCo's existing compensation system and developing a process for considering changes to that system having regard to:
- (a) AIMCo's need to fulfill its obligation to perform its duties under the investment management agreements with all of its clients; and
 - (b) the alignment of AIMCo's compensation system with the interests of AIMCo's clients.

- 8.6 **Annual Budget** - AIMCo shall annually consult in good faith with ATRF during the development of AIMCo's budget for the forthcoming fiscal year for the purpose of providing visibility in respect of AIMCo's projected cost structure and identifying any priorities of ATRF that may have a budgetary impact on AIMCo. Following the approval of the annual budget by AIMCo's board of directors, AIMCo shall provide to ATRF a cost estimate for AIMCo's services for the forthcoming fiscal year. Following the end of a fiscal year, AIMCo shall provide ATRF with an annual cost report detailing the actual cost of the services it provided in respect of that fiscal year.
- 8.7 **Annual Cost Review** - AIMCo shall meet with ATRF to review and discuss the annual cost report prepared by AIMCo in accordance with Section 8.6 and the costs charged by AIMCo for the immediately prior fiscal year. Such discussions shall include a review of AIMCo's observance of the principles set out in Sections 8.2 and 8.3. In the event that AIMCo and ATRF determine, both acting reasonably, that such principles have not been followed or consistently followed, AIMCo shall develop and implement a plan to rectify such failure and achieve compliance.
- 8.8 **Statements and Payment** - A statement of the costs charged by AIMCo for the provision of its services shall be delivered to ATRF on a quarterly basis. ATRF authorizes AIMCo to debit the respective Pension Fund (by, in general, debiting the respective Pooled Funds or segregated accounts credited, in whole or part, to the Pension Fund) in payment of such costs.
- 8.9 **Supporting Information** - AIMCo shall promptly provide information and documentation to support the costs being charged by AIMCo, as may be reasonably requested by ATRF.
- 8.10 **Audits** - Upon at least 60 days prior notice to AIMCo, and at a mutually agreed time, ATRF shall have the right, at its expense, to audit the books and records of AIMCo, or any relevant books and records maintained by a service provider of AIMCo that provides investment management services to AIMCo in respect of a portion of the Pension Funds, to verify:
- (a) the accuracy of the amounts that have been invoiced by AIMCo to ATRF; and
 - (b) the value of the investments of the Pension Funds.

ATRF shall cause its auditor to cooperate with the external auditors of AIMCo, including to rely on the work of those auditors that has already been completed when professionally reasonable to do so, so as to limit the scope of work and inconvenience to AIMCo and its staff caused by the audit. ATRF may only cause an audit to be conducted once per calendar year. An audit may not be conducted more than 3 calendar years past the close of the calendar year that is being audited.

- 8.11 **Errors in Invoices** - If there are verifiable discrepancies or errors in the amounts invoiced to ATRF or a Pension Fund, then AIMCo shall adjust such accounts, books and records and issue a credit or charge to ATRF or the Pension Fund to correct such discrepancies or errors. If the amounts invoiced to one or more other clients of AIMCo are adjusted to correct an error or discrepancy, then the amounts invoiced to ATRF or a Pension Fund may also be adjusted by AIMCo.

Section 9 – Records and Reporting

- 9.1 **Ownership** - Unless otherwise agreed, and to the extent not legally restricted, as between ATRF on the one hand and AIMCo on the other hand, ATRF is and shall be the exclusive owner of all of the following:
- (a) all Client Data; and
 - (b) all tangible and intangible copies of information provided by ATRF in connection with the services provided by AIMCo under this document, including all records, and any tangible or intangible copies thereof made by AIMCo in the performance of the services.
- 9.2 **Records** - AIMCo shall keep and maintain complete and accurate records in relation to the investment of the Managed Assets in accordance with its records retention and disposition schedule developed in accordance with the *Records Management Regulation* (AR 224/2001), and AIMCo shall further ensure that such records:
- (a) enable the separate identification of all investments of the Managed Assets, whether allocated to Pooled Funds or segregated accounts; and
 - (b) enable the tracing of ATRF's ownership of all investments of the Managed Assets, whether held in the name of AIMCo as nominee and bare trustee, or by a custodian or sub-custodian appointed by AIMCo.
- 9.3 **Inquiries** - AIMCo shall be available to answer any questions and provide any information that ATRF (or ATRF's agents or advisors, as applicable) may reasonably require in connection with the services provided by AIMCo.
- 9.4 **Periodic Reporting** - AIMCo shall provide periodic reporting at such times and in such format as ATRF may from time to time reasonably require. Such reporting shall include at least the following:
- (a) a quarterly report in respect of the investments of the Managed Assets of each Pension Fund, addressing:

- (i) the current asset composition of the investments of the Pension Fund, including a list of the significant holdings in each asset class;
- (ii) the major transactions made during the period, in summary form;
- (iii) the performance of the investments, including:
 - (A) an analysis of short, medium and long term performance relative to benchmarks; and
 - (B) a performance attribution analysis with corresponding risk analysis;
- (iv) the costs allocated to the Pension Fund;
- (v) the risk characteristics of the assets and benchmarks comprising or associated with the investments;
- (vi) the status and performance of external investment managers;
- (vii) any changes to the personnel or corporate structure of AIMCo that may have a material impact upon the investments;
- (viii) current and projected future capital market conditions, and the strategies implemented or proposed to be implemented by AIMCo to address such conditions;
- (ix) a description and analysis of the leverage and liquidity in respect of the investments;
- (x) compliance with the Investment Policy and the requirements of this document, with a statement:
 - (A) certifying AIMCo's compliance with the Investment Policy and the requirements of this document; or
 - (B) otherwise setting out the details of the deviations from the Investment Policy or the requirements of this document and the associated reasons or circumstances for such deviation, and in such event AIMCo shall develop and implement a plan to remedy such non-compliance,

and, in the case of any deviations from the Investment Policy or the requirements of this document, the status of any plan developed and implemented to remedy such non-compliance;

- (xi) any recommended changes to the Investment Policy, including in respect of asset class allocations, to address any technical or practical considerations arising from the performance of the investments or any changes in capital market conditions, industry standards or the underlying assumptions reflected in the Investment Policy; and
- (xii) having regard to the characteristics listed in Section 5.3, any changes to the product description of a Pooled Fund to which any Managed Assets are allocated;
- (b) an annual report delivered each October regarding the exercise by AIMCo of voting rights associated with investments of the Managed Assets, including details on the associated proxy voting strategy, any applicable AIMCo policies, and the results and performance arising from the exercise of such voting rights; and
- (c) any other report containing such information as may be reasonably required for ATRF to prepare its annual financial statements, annual reports and other reports required to be prepared in respect of the Pension Funds.

9.5 Ongoing Reporting - AIMCo shall promptly notify ATRF following the occurrence of any of the following events:

- (a) any material change to AIMCo's senior investment personnel;
- (b) AIMCo has breached a material obligation under this document, except in each case to the extent that such breach would not reasonably be expected to have a material adverse effect on AIMCo's ability to perform its obligations;
- (c) AIMCo activates or implements its business continuity plan, which notice will be provided in accordance with AIMCo's business continuity plan protocol;
- (d) a government authority or court directs AIMCo to disclose any Client Data;
- (e) a material loss in the market value of the Managed Assets;
- (f) AIMCo has determined that it cannot comply with a material obligation under this document;

- (g) AIMCo becomes a party to a material claim which relates to the Managed Assets or which may reasonably be expected to have a material adverse effect on AIMCo's ability to perform its obligations under this document;
- (h) AIMCo becomes aware of any complaint or regulatory investigation or enforcement action relating to AIMCo, except in each case to the extent that such complaint, investigation or action would not reasonably be expected to have a material adverse effect on AIMCo's ability to perform its obligations under this document;
- (i) AIMCo becomes aware that it has ceased to be qualified to carry on business in any jurisdiction in which the nature and conduct of its business requires such qualifications to exercise its powers and perform its services and its duties under this document, except in each case to the extent that such cessation would not reasonably be expected to have a material adverse effect on AIMCo's ability to perform its obligations under this document;
- (j) AIMCo becomes aware of a potential impairment or compromise of any of ATRF's available tax exemptions or benefits under the ITA and section 892 of the United States Internal Revenue Code;
- (k) a cancellation or failure to renew, or a material change to, any insurance coverage that AIMCo is required to maintain pursuant to Section 13;
- (l) AIMCo receives a directive from the Government of Alberta that would reasonably be expected to have a material adverse effect on the performance of its services;
- (m) AIMCo's auditors issue a negative finding or observation in relation to AIMCo's financial statements or the investments of a Pension Fund;
- (n) a significant change to capital market conditions or risks warrants a prompt and timely consideration and review of the Investment Policy; and
- (o) a claim is made by AIMCo to an insurer that relates to the Managed Assets or has a material impact upon the investment of the Managed Assets.

9.6 **Ad Hoc Reporting** - AIMCo shall provide ad hoc reporting to ATRF as reasonably requested from time to time, and as otherwise warranted by the circumstances.

9.7 **Meetings** - As requested from time to time by ATRF, AIMCo shall participate in meetings with, and provide presentations to, ATRF in respect of the investments of the Managed Assets.

- 9.8 **Information Access** - AIMCo shall grant to ATRF access to investment information in respect of the investments of the Managed Assets, including security level portfolio data, where available, and respective indices data, on a quarter end basis in the manner and form reasonably requested by ATRF, in order to enable ATRF to meet its reporting and analytical requirements.
- 9.9 **Use of Information** - For the avoidance of doubt:
- (a) ATRF may use the information provided to it by AIMCo from time to time pursuant to this Section 9, subject to applicable law and any contractual restrictions imposed on AIMCo by any other person in respect of the information; and
 - (b) AIMCo may use the information that it provides to ATRF from time to time pursuant to this Section 9 for other purposes in its discretion, including performance reporting; provided that AIMCo will publicly disclose only composite investment performance and will not publicly disclose investment performance specific to the investments of a Pension Fund.

Section 10 – Reviews

- 10.1 **Compliance Review** - In the event that ATRF proposes to review AIMCo's compliance with the Investment Policy or the provisions of this document, or with a view to ensuring that AIMCo is operating effectively and efficiently in relation to the investments of the Managed Assets, then:
- (a) ATRF shall provide notice to and consult in good faith with AIMCo regarding the proposed review; and
 - (b) AIMCo shall provide all assistance as is reasonably requested to facilitate the review.
- 10.2 **External Reviewer** - ATRF may engage an external consultant to assist with any review conducted in accordance with Section 10.1, and AIMCo shall cooperate with ATRF and the external consultant to facilitate the review, subject to the external consultant entering into a confidentiality and non-disclosure agreement with obligations on the external consultant no less stringent than the obligations imposed upon ATRF as set out in Section 11.2.

Section 11 – Confidential Information

- 11.1 **Sensitivity of Certain Information** - The relationship between ATRF and AIMCo is intended to be open and collaborative, and as such all information related to the investment of the Managed Assets shall be generally made available and disclosed to ATRF upon request. Nevertheless, if information provided or to be provided by a third party to AIMCo is highly sensitive in nature, as asserted by the third party and substantiated by AIMCo acting reasonably, and the information is subject to confidentiality obligations to the third party, AIMCo may agree to withhold such information from ATRF, subject always to:
- (a) AIMCo's obligations under the *Freedom of Information and Protection of Privacy Act* (Alberta); and
 - (b) where the information (or any part thereof) is reasonably necessary for the carrying out of ATRF's duties and functions at law, AIMCo facilitating the disclosure of the information to ATRF, or to a specific official, employee, representative or agent of ATRF (as may be reasonably appropriate in the circumstances), in accordance with reasonable obligations of confidentiality imposed upon ATRF, or their specific official, employee, representative or agent, as the case may be, by the third party.
- 11.2 **Confidentiality** - Subject always to the provisions of the *Freedom of Information and Protection of Privacy Act* (Alberta), any other applicable privacy laws, and the AIMCo Act, each of ATRF and AIMCo shall maintain confidentiality in respect of the business, financial and other information disclosed by the other which is of a sensitive or confidential nature and is expressly marked or otherwise identified as confidential (in this Section 11, the "**Confidential Information**"), whether such information is the information of the discloser or the information of third parties to whom the discloser owes an obligation of confidentiality, except to the extent that:
- (a) the information is in the public domain, other than through a breach of this Section 11.2;
 - (b) the information is received from a third party free of any obligation of confidentiality;
 - (c) the information was known by or already in the possession of ATRF or AIMCo prior to disclosure by the other, free of any obligation of confidentiality owing to the other;

- (d) the disclosure of the information is required by law, provided that prior to either ATRF or AIMCo disclosing the information reasonable prior notice is provided to the other to permit the other to take steps to object to such disclosure;
- (e) the disclosure of the information of ATRF or AIMCo is made by the other to another client of AIMCo in the following circumstances:
 - (i) the information is material to the other client of AIMCo;
 - (ii) the other client of AIMCo is subject to an enforceable obligation of confidentiality owing to ATRF or AIMCo, as applicable, to maintain the confidentiality of such information in a manner no less stringent than the obligations imposed upon the other as set out in this Section 11.2; and
 - (iii) ATRF or AIMCo, as applicable, consents to the disclosure of the information by the other to the other client of AIMCo, such consent not to be unreasonably withheld; or
- (f) the disclosure of the information (including to ATRF's or AIMCo's respective agents, advisors, brokers, dealers, consultants, external investment managers, lending agents, outside legal counsel, accountants and other advisors or service providers) is reasonably necessary for the carrying out of ATRF's or AIMCo's duties and functions, subject to the recipient of such disclosure being subject to an enforceable obligation of confidentiality owing to ATRF or AIMCo, as applicable, to maintain the confidentiality of such information in a manner no less stringent than the obligations imposed upon ATRF and AIMCo as set out in this Section 11.2.

11.3 Protection of Information - Each of ATRF and AIMCo shall:

- (a) make reasonable security arrangements against unauthorized access, use, disclosure, loss, destruction or alteration (in this Section 11.3, a "**Data Breach**") of the Confidential Information of the other; and
- (b) in the event of the occurrence of a Data Breach of such Confidential Information:
 - (i) immediately advise the other of such occurrence, and the associated circumstances and details; and
 - (ii) immediately take all steps as may be required to cease the Data Breach, to mitigate any damages arising from the Data Breach, and to prevent similar future occurrences.

11.4 **Clarification** - The obligations of ATRF and AIMCo under this Section 11 shall not prohibit AIMCo from:

- (a) using the performance of the investments of the Managed Assets in calculating composites or other aggregate data; and
- (b) publicly disclosing the results of such calculations.

Section 12 – Force Majeure

12.1 **Specific Definition** – In this Section 12, “**Force Majeure Event**” means an event or circumstance that prevents, delays, interrupts or impedes the performance by ATRF or AIMCo of an obligation under this document, including without limitation the following:

- (a) war (whether declared or not), invasion, acts of foreign enemies, extensive military mobilization, riots, rebellion or revolution, military or usurped power, insurrection, and acts of terrorism, sabotage or piracy;
- (b) currency and trade restriction, embargo or sanction;
- (c) expropriation, seizure of works, acts or restraints of a governmental body or authority, failure to obtain a requisite permit or authorization from a governmental authority by reason of any statute, law, or Order-In-Council, or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller, or board, or any governmental department or officer or other authority, or by reason of not being able to obtain any permission or authority required thereby;
- (d) inclement weather including floods, storms, tornados, hurricanes, tsunamis, earthquakes, volcanic eruptions, or landslides;
- (e) plague, epidemic, outbreak of disease, quarantine, natural disaster, or extreme natural event;
- (f) explosion, fire, or destruction of equipment;
- (g) prolonged break-down of transportation, telecommunications, information systems, or energy supply or infrastructure;
- (h) general labour disturbances such as boycott, strike and lock-out, picketing, work slowdowns, or occupation of factories and premises;

- (i) shortages of power, water, transportation and common carriers, facilities, labour, subcontractors, goods, materials or supplies;
- (j) breakdowns in or the loss of production; or
- (k) the non-availability, illiquidity or volatility of relevant markets;

but excluding any events or circumstances that, without limitation:

- (l) were within the reasonable control of whichever of ATRF or AIMCo are relying upon the event or circumstance (in this Section 12.1, the “**Relying Party**”);
- (m) were reasonably foreseeable by the Relying Party;
- (n) were reasonably avoidable or could be reasonably overcome by the Relying Party; or
- (o) occurred due to the negligent or wrongful acts or omissions of the Relying Party.

12.2 Relief on Force Majeure - On the occurrence of a Force Majeure Event, ATRF or AIMCo shall not be liable to the other to the extent they are unable to perform their obligations under this document, but only for so long as the event remains operative. ATRF or AIMCo, as applicable, shall notify the other within 5 business days after the Force Majeure Event, setting out in reasonable detail the nature of the event, giving a good faith estimate of the expected duration of the event and outlining the steps that ATRF or AIMCo, as applicable, intends to take to mitigate the effect of the event. ATRF or AIMCo, as applicable, shall make commercially reasonable efforts in the circumstances to mitigate and, if possible, overcome the Force Majeure Event, and to resume full performance as soon as it is reasonably possible to do so; provided that, for greater certainty, ATRF or AIMCo, as applicable, shall not be required to settle any labour issues (including, without limitation, disputes, walkouts, boycotts, strikes and lock-outs, picketing, work slowdowns, or occupation of factories and premises) or take any other steps or measures on commercially unreasonable terms.

Section 13 – Insurance

13.1 Errors and Omissions - At all times, AIMCo shall insure its activities under a contract of professional liability (errors and omissions) insurance in an amount not less than \$50,000,000 inclusive per claim and in the annual aggregate, insuring against the negligent performance of AIMCo’s duties and obligations under this document.

13.2 Risk Management Insurance - At all times, AIMCo shall participate in the Government of Alberta’s risk management insurance program, which provides insurance coverages

including commercial general liability (covering at a minimum, losses in respect of bodily injury and property damage) and crime insurance including coverage for employee dishonesty, for computer or electronic fraud, and for loss or damage arising out of or in connection with fraudulent or dishonest acts, including those committed by AIMCo personnel. In the event AIMCo becomes ineligible to participate in the risk management insurance program, AIMCo shall obtain and maintain, in such amounts as are reasonably prudent and practical, insurance coverage substantially similar to the coverage provided under the risk management insurance program, to the extent such insurance can be maintained on commercially reasonable terms.

- 13.3 **Service Providers** - AIMCo shall use reasonable commercial efforts to ensure that external investment managers, brokers, dealers, custodians, lending agents, consultants, accountants, lawyers and other advisors and service providers retained by AIMCo in connection with AIMCo's provision of the services under this document obtain and maintain, in such amounts as are reasonably prudent and practical having regard to:

- (a) the activities of the advisor or service provider;
- (b) the risks associated with such activities; and
- (c) applicable industry standards;

such policies of insurance as are customarily maintained by persons engaged in the same or similar businesses, in each case in accordance with generally accepted industry practice and to the extent such insurance can be maintained on commercially reasonable terms.

- 13.4 **Evidence of Insurance** - When requested from time to time by ATRF, AIMCo shall provide evidence of the insurance coverage as is then in-force and maintained by AIMCo, which evidence shall include the coverage limit, a detailed description of nature of the coverage and any exclusions from coverage, and the deductible or retention amount.

Section 14 – Limitation of Liability

- 14.1 **Limitation** - In no event shall AIMCo be liable to ATRF, or to any current or former member of a Pension Plan or any of their pension partners or beneficiaries, for or in respect of any damages or costs of any kind suffered or incurred by any of them in respect of any acts or omissions of AIMCo, or any acts or omissions of an advisor or service provider retained by AIMCo, except in the following circumstances:

- (a) damages or costs:

- (i) are suffered or incurred by ATRF;
- (ii) result from a breach by AIMCo of its obligations under this document; and
- (iii) are covered under AIMCo's professional liability (errors and omissions) insurance policy;

in which case AIMCo shall be liable to ATRF, but only up to an amount equal to the net proceeds paid under such insurance policy; provided that, in cases where damages or costs arising from the breach have been suffered or incurred by ATRF and at least one other client of AIMCo, such net proceeds shall be allocated among ATRF and such other clients of AIMCo on a reasonable and fair basis, proportional to the actual and realized impact of the breach on the Client and such other clients of AIMCo; or

- (b) damages or costs are suffered or incurred by ATRF and result from the gross negligence or wilful misconduct of AIMCo, in which case AIMCo shall be liable to ATRF, but only up to an amount equal to the value of the Managed Assets immediately before the time the claim or cause of action giving rise to such damages or costs arose; provided that, for certainty, resort will not be had to the property of AIMCo's other clients for satisfaction of any such damages or costs.

14.2 No Consequential Damages - In no event shall ATRF or AIMCo be liable to the other for lost profits, interest income or revenues, or for special, indirect, incidental, consequential or similar damages, arising out of or in connection with their obligations under this document, whether or not ATRF or AIMCo have been informed of or might otherwise have anticipated the possibility of such damages.

Section 15 – Dispute Resolution

15.1 Executive Review - Any disputes arising out of or in connection with the rights and obligations of ATRF and AIMCo under this document shall be brought to the attention of the chief executive officers (by whatever name) of ATRF and AIMCo, who shall, in consultation with the respective board of directors of ATRF and AIMCo, make commercially reasonable efforts to resolve the dispute by negotiation within 45 days from the date that the chief executive officers received notice of the dispute, or if they received notice on different dates, from the later of those dates.

15.2 Unresolved Disputes - Subject to Section 15.5, any disputes that are not resolved in accordance with Section 15.1 shall be finally resolved by arbitration pursuant to the then current Arbitration Rules of the ADR Institute of Canada, Inc. or, if ATRF and AIMCo so agree with respect to a particular dispute, the then current Simplified Arbitration

Rules of the ADR Institute of Canada, Inc. ATRF and AIMCo shall be deemed to have agreed to the application of such arbitration rules.

15.3 **Governing Law** - The law of Alberta shall govern all disputes.

15.4 **Place of Hearing** - The place of an arbitration hearing shall be Edmonton, Alberta.

15.5 **Exclusion** - Any dispute between ATRF and AIMCo:

- (a) under Section 3.8; or
- (b) in respect of their obligations under Section 11.2 in which injunctive relief may be reasonably sought from the court by either ATRF or AIMCo;

shall be excluded from arbitration.

Section 16 – Communications

16.1 **Notices** - Any notice, request, consent, approval or other communication under this document must be in writing to be effective, and is effective when delivered by any means including by courier or e-mail (if provided), to the following respective addresses:

- (a) if to ATRF:

600 Barnett House
11010 142 Street NW
Edmonton, Alberta, T5N 2R1

Attention: Chief Executive Officer

- (b) if to AIMCo:

1600 - 10250 101 Street NW
Edmonton, Alberta, T5J 3P4

Attention: Chief Executive Officer

ATRF and AIMCo may change its address information by giving written notice to the other in the above manner.

16.2 **Representatives** - ATRF and AIMCo shall designate and authorize specific individuals to communicate on their behalf to the other in respect of any notice, request, consent, approval or other communication under this document, by notice to the other. Upon

such designation, and in the absence of any further designation or limitation communicated by ATRF or AIMCo to the other, the other may assume that any communication from the designated individuals has been duly authorized.

Section 17 – General Provisions

- 17.1 **Waivers** - No waiver of any provision of this document is effective unless made in writing, and any such waiver has effect only in respect of the particular provision or circumstance stated in the waiver.
- 17.2 **Representations** - No representation by either ATRF or AIMCo with respect to the performance of any obligation under this document is capable of giving rise to an estoppel unless the representation is made in writing.
- 17.3 **Enurement** - The rights and obligations under this document enure to the benefit of and are binding upon each of ATRF and AIMCo, and their respective successors.
- 17.4 **Survival** - The provisions of those Sections which by their nature continue after the expiry, rescission or replacement of this document shall continue after such expiry, rescission or replacement, including without limitation this Section 17.4 and Sections 11 and 14.

Section 18 – Effect of this Document

- 18.1 **Exclusive Rights** - The provisions of this document are for the exclusive benefit of ATRF and AIMCo, and do not provide any rights to any person other than ATRF and AIMCo. No person other than ATRF or AIMCo shall have any claim, action, remedy or other right arising out of or in respect of this document.
- 18.2 **Effective Period** - The provisions of this document remain in effect until the earlier of:
- (a) the effective date of a written agreement entered into between ATRF and AIMCo in respect of the investment management services provided by AIMCo to ATRF; and
 - (b) the rescinding or replacement of this document pursuant to a Ministerial Order;
- upon which this document shall no longer be of force or effect.

