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**AMENDED AND RESTATED AGENCY AGREEMENT**

Dated as of March 1, 2010

Between

**AGENT**

and

**ELIGIBLE INVESTORS**

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# AMENDED AND RESTATED AGENCY AGREEMENT

This agreement dated as of March 1, 2010 is between

**CHUMS FINANCING CORPORATION and  
LOCAL AUTHORITY SERVICES LIMITED**  
as Agent

and

**ELIGIBLE INVESTORS**

## RECITALS

A. In 1999, CHUMS and LAS combined their efforts to act as agent for municipalities in connection with the investment of municipal and public sector funds in Ontario under an investment program now known as "The One Investment Program".

B. Pursuant to an Agency Agreement dated as of May 31, 1999, as amended (the "Original Agreement") various Investors appointed CHUMS and LAS as their agent for making such investments.

**FOR VALUE RECEIVED**, the parties agree that the Original Agreement is amended and restated as follows:

## SECTION 1 - INTERPRETATION

**1.01 Definitions.** In this Agreement,

- a) **Agent** means both CHUMS and LAS acting together and any successor agent or agents appointed under Section 2.05 or CHUMS or LAS if it is a remaining entity under Section 2.03 or 2.04;
- b) **Agreement** means this amended and restated agency agreement, any Investment Mandate Schedules and any other schedules attached to this agreement from time to time as the agreement, the Investment Mandate Schedules or any of the other schedules may be added, amended, deleted, supplemented, restated, renewed or replaced from time to time;
- c) **Banking Day** means a day on which the Payment Servicer and the Custodian are open for business in Toronto, Ontario, other than a Saturday or a Sunday or a statutory holiday in Toronto, Ontario;
- d) **CHUMS** means CHUMS Financing Corporation and its successors;

- e) **Custodian** at any time means a financial institution which at such time has been approved by the Agent to provide custodial and other custody related services in connection with the Investment Program;
- f) **Eligible Investor** means, in respect of the Investment Program, a municipality, college, hospital, school board, or university, as defined under the *Municipal Act* or such other persons or classes of persons as may be prescribed under the *Municipal Act*, with which an Ontario municipality is permitted to enter into an agreement for the joint investment of money;
- g) **Investment Account** means with respect to an Investor an account maintained in the records of the Recordkeeper evidencing the Investor's percentage ownership interest in the investments made in accordance with an Investment Mandate;
- h) **Investment Counsel** means at any time one or more professional investment management firms registered in Ontario as portfolio managers, which at such time has been approved by the Agent to provide investment management services for an Investment Mandate;
- i) **Investment Mandate** means an investment mandate comprising the Investment Program as more particularly described in the relevant Investment Mandate Schedule;
- j) **Investment Mandate Schedule** means a schedule to this Agreement, as added, amended, deleted, supplemented, restated, renewed or replaced from time to time, describing a particular Investment Mandate including the objectives, eligible investments and such other information as the Agent considers necessary or desirable;
- k) **Investment Program** means an arrangement for joint investment carried on under the program name of "The One Municipal Investment Program" arranged by the Agent for use by the Investors;
- l) **Investment Program Agreements** means the agreements entered into, from time to time, by the Agent, as agent for the Investors, with the Custodian, the Payment Servicer, Valuator, Recordkeeper, Investment Counsel and such other persons as the Agent considers appropriate for the purpose of carrying out the objectives of the Investment Program and each Investment Mandate within the Investment Program;
- m) **Investment Program Committee** means the committee described in Section 2.02;
- n) **Investor** means an Eligible Investor which has received a duly executed notice from the Recordkeeper under Section 3.01(c) advising the Eligible Investor that it is an Investor and of its account number(s) and authorization code(s) and which has not ceased to be an Investor under Section 2.06 or Section 3.03;
- o) **LAS** means Local Authority Services Limited and its successors;
- p) **Municipal Act** means the *Municipal Act*, R.S.O. 1990, c. M.45, as amended from time to time.

- q) **Payment Servicer** means at any time a Canadian financial institution which at such time has been approved by the Agent to facilitate the transfer of assets of an Investor between an Investor's financial institution and an Investor's Investment Account;
- r) **Recordkeeper** means at any time an entity approved by the Agent from time to time to provide recordkeeping services in respect of the Investment Program including receiving and implementing Investor instructions, keeping records of Investor holdings and providing monthly reporting to Investors.
- s) **Valuator** means at any time an entity approved by the Agent from time to time to provide valuation services in respect of the Investors' Investment Accounts.

1.02 **Governing Law.** This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

1.03 **Headings and Table of Contents.** The division of this Agreement into sections, subsections, paragraphs, subparagraphs, clauses and schedules, the insertion of headings and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

1.04 **Number and Gender.** Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.05 **Severability.** If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Agreement.

## SECTION 2 - AGENT

2.01 **Appointment of Agent, etc.** Each Investor irrevocably appoints and authorizes the Agent to take all action as an agent on its behalf and to exercise all powers and rights and to perform all duties and to enable Investors to invest money in accordance with the terms of this Agreement and the Investment Program Agreements together with all powers reasonably incidental thereto. In addition to the foregoing, each Investor agrees that CHUMS and LAS may enter into such agreements and arrangements and do all such things, whether as principal or agent, as may be necessary or desirable to facilitate payments for investments, maintenance of investments in respect of Investment Mandates and withdrawals from Investment Accounts.

2.02 **Investment Program Committee.** Each Investor authorizes the Agent to appoint from time to time an Investment Program Committee and, subject to any provision in this Agreement, to delegate to the Investment Program Committee any or all of the powers, rights and responsibilities of the Agent for the Investment Program under this Agreement. Subject to Sections 2.03 and 2.04, CHUMS and LAS shall each appoint an equal number of members. Each member must be a senior officer who is employed by an Ontario municipality, college, hospital, school board or university or another person agreed to by each of CHUMS and LAS.

2.03 **Resignation of Agent.** If either CHUMS or LAS becomes unwilling to continue to participate as Agent, the remaining entity shall continue as Agent and shall be responsible for the appointment of all of the members of the Investment Program Committee. The Agent may resign as agent at any time by giving at least 30 days prior written notice to each Investor specifying the date on which the resignation is to be effective and by giving notice in accordance with Section 5.08 to wind-up the Investment Program.

2.04 **Automatic Termination of CHUMS or LAS as Agent.** If:

- (a) CHUMS or LAS
  - (1) becomes unable, or admits, in writing, its inability to pay its debts generally as they become due,
  - (2) makes a general assignment for the benefit of creditors,
  - (3) files a notice of intention, voluntary petition in bankruptcy or a petition seeking liquidation, reorganization or an arrangement with creditors to take advantage of any insolvency or other law, or
  - (4) takes any action for the purpose of effecting any of the foregoing; or
- (b) any proceedings (other than proceedings which either CHUMS or LAS demonstrates to the satisfaction of the other to be frivolous or vexatious) are instituted by or against CHUMS or LAS seeking to adjudicate it as bankrupt or insolvent or seeking liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or applying for, consenting to or seeking the entry of an order for relief by, the appointment of a receiver, receiver and manager, receiver-manager, liquidator, sequestrator, custodian, trustee or similar agent or official for all or a substantial or significant part of its assets; or
- (c) any secured creditor, encumbrancer or lienor or any receiver, receiver and manager, receiver-manager, liquidator, sequestrator, custodian, trustee or similar agent or official appointed by or acting for any secured creditor, encumbrancer or lienor takes possession of, or forecloses or retains, or sells or otherwise disposes of, or otherwise proceeds to enforce security over, all or a substantial or significant part of the assets of CHUMS or LAS or gives notice of its intention to do any of the foregoing;

that party shall on the happening of such event be automatically terminated as Agent and no notice or other action shall be required on the part of CHUMS, LAS or any Investor to effect the termination of that party as Agent. If either CHUMS or LAS is terminated as Agent under this Section 2.04, the remaining entity shall remain the Agent and shall be responsible for the appointment of all the members of the Investment Program Committee.

2.05 **Successors.** The Agent may appoint a successor agent. When the successor agent accepts the appointment as Agent, the successor agent shall succeed to and become vested with all the rights, powers and responsibilities of the resigning agent, and the resigning agent shall be discharged from its responsibilities and obligations under this Agreement. After any resigning agent's resignation as Agent, this Agreement shall continue in effect for its benefit and for the benefit of the Investors in respect of any actions taken or omitted to be taken by the resigning agent while it was acting as the Agent.

2.06 **Termination of Agreement.** The Agent may terminate an Investor's right to request that investments be made and the right to maintain investments in accordance with an Investment Mandate by giving the Investor at least 30 days prior written notice of the termination date. As of the termination date, (a) the Investor receiving the notice may make no further investment requests and must promptly withdraw (in accordance with Section 5.05 and Schedule C and any other provisions from time to time relating to withdrawal of funds) all funds which it is entitled to withdraw and (b) the Investor is no longer an Investor for the purpose of this Agreement. The termination of an Investor as an Investor shall, as of the date of termination and subject to Section 2.07, terminate this Agreement between the Agent and the Investor. Such termination will not affect the Agreement as between the Agent and the remaining Investors.

2.07 **Obligations survive.** All obligations (whether contingent or matured, absolute or not) existing immediately before an Investor ceases to be an Investor under Section 3.03 or a termination under Section 2.06 shall survive such withdrawal or termination.

2.08 **No rights to assets.** None of the Agent, the Custodian, the Payment Servicer, the Valuator, the Recordkeeper or Investment Counsel shall have any beneficial or personal right, title or interest in or to the assets in any Investment Account, other than as specifically set out in an Investment Program Agreement or in the Investment Mandate Schedules.

### SECTION 3 - INVESTORS

3.01 **Becoming an Investor.** An Eligible Investor is an Investor in respect of the Investment Program when:

- (a) The person or persons authorized to execute this Agreement on behalf of the Eligible Investor has duly executed a counterpart to this Agreement;
- (b) The person or persons authorized to execute this Agreement on behalf of the Eligible Investor has completed all of the other necessary documents required by the Agent to become an Investor including, without limitation,
  - (1) an information sheet on the Eligible Investor,
  - (2) a certificate confirming passage and enforceability of a by-law substantially in the form of the sample by-law provided to the Eligible Investor by the Agent on behalf of The One Investment Program, and designating persons who are authorized to give investment, withdrawal or transfer instructions and confirming that all necessary



actions have been taken by the Eligible Investor to authorize such persons to give investment, withdrawal or transfer instructions,

(3) a pre-authorized debit authorization letter from the Eligible Investor to its financial institutions and others; and

(c) The Recordkeeper has notified the Eligible Investor that it is an Investor and of its account number(s) and authorization code(s).

3.02 **No obligation to invest.** An Investor has no obligation to invest in any Investment Mandate.

3.03 **Ceasing to be an Investor.** At any time at which an Investor has no investments or funds in its Investment Account(s) and has given no investment instructions it may, by notice to the Agent, cease to be an Investor.

3.04 **Representations and Warranties of Investor.** Each Investor represents and warrants to the Agent that,

(a) the Investor has taken all actions necessary to authorize it to enter into this Agreement,

(b) the Investor is authorized to make investments in accordance with any of the Investment Mandates which it has designated to either the Agent or the Recordkeeper as being Investment Mandates which it is authorized to invest, and any money which the Investor designates to be invested in an Investment Mandate is money which may be so invested in that Investment Mandate, and

(c) the Investor has adopted a statement of its investment policies and goals in accordance with the applicable legislation and such policies and goals permit the Investor to invest in all investments which are eligible investments for municipalities under the *Municipal Act*.

The Investor shall be deemed to have repeated the representation and warranty in Section 3.04(a), (b) and (c) each time it issues investment instructions relating to any Investment Mandate. The Agent shall have no obligation to make any inquiry to confirm the truth or accuracy of any representation or warranty. The Agent shall not be liable for any loss or damages suffered by the Investor or any other person claiming through the Investor or any other Investor as a result of any act, including without limitation, the execution of this Agreement by a person purporting to have authority to act on the Investor's behalf.

3.05 **Limitation on liability.** The Agent, the Custodian, the Payment Servicer, the Valuator, the Recordkeeper and the Investment Counsel may, in their discretion, honour instructions purporting to be issued by an Investor given by telephone, facsimile or other electronic transmission, without the necessity of any verification or enquiry. None of the Agent, the Custodian, the Payment Servicer, the Valuator, the Recordkeeper or the Investment Counsel shall incur any liability to an Investor by reason of acting or not acting on or any error in such instructions, and the Investor shall indemnify and hold harmless each of the Agent, the Custodian, the Payment Servicer, the Valuator, the Recordkeeper and the Investment Counsel from any loss, cost, damage, or expense that any of them may suffer or incur by relying on such instructions.

3.06 **Addition of parties to this Agreement.** Eligible Investors may be added as parties to this Agreement from time to time after the date of this Agreement. Each of the Agent and the Investor agrees that this Agreement is binding on it regardless of when it became a party to this Agreement and the addition of other Eligible Investors as parties to this Agreement. Upon becoming an Investor, the Investor shall become a party to and shall be bound by this Agreement as if it had been an original party to this Agreement.

3.07 **List of Investors and Investor information.** The Agent will keep an up-to-date list of the names of Investors and may make the list available to Eligible Investors and other persons. The Agent shall ensure, to the best of its ability, the confidentiality of all other information pertaining to an Investor and the Investor's investments through the Investment Program whether the Investor continues to be an Investor or the Investor has ceased to be an Investor. This does not apply to information which is otherwise available to the public or to information which the Agent is required by law to disclose.

#### **SECTION 4 - THE CUSTODIAN, PAYMENT SERVICER, VALUATOR, RECORDKEEPER AND INVESTMENT COUNSEL**

4.01 **Authority.** Each Investor authorizes the Agent to enter into Investment Program Agreements, from time to time, as agent of the Investor.

4.02 **Custodian.** The Agent will not enter into an Investment Program Agreement with a Custodian unless at the time of entering into the Investment Program Agreement the Custodian is a Canadian chartered Schedule I bank or trust company registered under the laws of Ontario.

4.03 **Payment Servicer.** The Agent will not enter into an Investment Program Agreement with a Payment Servicer unless the Payment Servicer is a Canadian chartered Schedule I bank or other regulated Canadian financial institution.

4.04 **Valuator.** The Agent will not enter into an Investment Program Agreement with a Valuator unless the Valuator has satisfied the Agent of the ability of the Valuator to provide and maintain accurate valuation services for the Investment Accounts.

4.05 **Recordkeeper.** The Agent will not enter into an Investment Program Agreement with a Recordkeeper unless the Recordkeeper has satisfied the Agent of the ability of the Recordkeeper to provide and maintain accurate recordkeeping and instruction services.

4.06 **Investment Counsel.**

(a) **Registration.** The Agent will not enter into an Investment Program Agreement with an Investment Counsel unless the Investment Program Agreement requires the Investment Counsel to maintain at all times its status in Ontario as a registered portfolio manager while it is Investment Counsel for the Investment Program.

(b) **Insurance.** The Agent will not enter into an Investment Program Agreement with any Investment Counsel unless the Investment Program Agreement requires the Investment Counsel to maintain, in full force

and effect, bonding or insurance in such amounts and of such types as are required from time to time by appropriate regulatory authorities.

## **SECTION 5 - THE INVESTMENT MANDATES**

**5.01 Investment Mandates.** The Investor agrees with the Agent and all other Investors that each Investment Mandate is an aggregation of assets. At any time, each Investor who has made investments in accordance with a specific Investment Mandate has at that time, subject to Section 5.07, a percentage ownership interest in all investments made in accordance with that Investment Mandate at that time proportional to the amount of investments made in accordance with that Investment Mandate by the Investor at that time. Each Investor agrees that investments made in accordance with an Investment Mandate will be valued as set out in the Investment Mandate Schedule. Subject to the payment of any reasonable fees imposed by the Agent, an Investor has the right to require distribution of specific investments within its Investment Account.

**5.02 Investment guideline.** The investment guideline of an Investment Mandate will be set out in the Investment Mandate Schedule for that Investment Mandate. The policy may be subject to further restrictions approved from time to time by the Agent. A copy of the investment guideline, as amended from time to time, will be made available to the Investors. Any agreement with the Investment Counsel will permit Investment Counsel to make investments based only on the investment guideline. None of the Agent, the Custodian, the Payment Servicer, the Valuator or the Recordkeeper is responsible for investment decisions.

**5.03 Fees and expenses.** For each Investment Mandate, the Agent shall establish and disclose in the Investment Mandate Schedule for that Investment Mandate, the maximum aggregate fees and expenses payable, out of the investments made in accordance with that Investment Mandate, to the Custodian, the Payment Servicer, the Valuator, the Recordkeeper, the Investment Counsel and the Agent. The Agent may change the maximum aggregate fees and expenses stated in an Investment Mandate Schedule upon providing such prior notice to all Investors as is set out in the Investment Mandate Schedule.

**5.04 Amendments.** The Agent may from time to time, upon providing 30 days prior written notice to all Investors, amend the Agreement by adding schedules and amend, delete, supplement, restate, renew and replace schedules to this Agreement.

**5.05 Investment and withdrawal of funds.** Each Investor shall abide by the procedures for issuing investment, withdrawal and transfer instructions set out in the applicable Investment Mandate and in Schedule C. Before an Investor provides investment instructions and arranges for any transfer from its account at its financial institution to the Agent or the Custodian, the Investor shall ensure that sufficient funds are then available to cover the amount of such investment.

**5.06 Income on investments.** Subject to Section 5.07, at any time each Investor has a percentage ownership interest in the income on all investments made in accordance with an Investment Mandate proportional to the Investor's percentage ownership interest in the aggregate investments made in accordance with an Investment Mandate at that time. Income on investments will be automatically re-invested in accordance with an Investment Mandate on the same basis as investments.

5.07 **Default in payment.** If an Investor requests that an investment be made and

- (a) there are insufficient funds in the Investor's account at its financial institution to pay when due for the investment placed by the Investor through the Investment Program, or
- (b) the Investor's financial institution is insolvent or for any other reason the Investor provides no or insufficient funds to pay when due for the investment placed by the Investor through the Investment Program,

then the Investor, with respect to that investment, has no interest in the Investment Program or in any Investment Mandate or income relating thereto or proceeds thereof. The Investor agrees to indemnify the Agent, the Custodian, the Valuator, the Payment Servicer, the Recordkeeper and the Investment Counsel, and to hold the Agent, the Custodian, the Valuator, the Payment Servicer, the Recordkeeper and the Investment Counsel harmless from all losses and expenses (including interest, charges and any loss in value of the investment) incurred by the Agent, on its own account or on behalf of the Investor, the Custodian, the Valuator, the Payment Servicer, the Recordkeeper or the Investment Counsel resulting from default or delay in payment. The Agent may assign its rights under this indemnity to any person. In addition, the Investor agrees to pay the Agent a fee in an amount set by the Agent from time to time as a fee payable in respect of any delay or default in payment for an investment whether as a result of Section 5.07(a) or Section 5.07(b). The Agent may authorize the debiting of the credit balance in an Investor's Investment Account and apply the amounts so debited toward the payment of amounts (whether absolute, contingent, matured or not) payable by the Investor under this Section 5.07.

5.08 **Wind-up of an Investment Mandate by Agent.** The Agent may, on at least 30 days prior written notice to all Investors, announce that it intends to discontinue an Investment Mandate, discontinue an Investment Mandate on the date set out in the notice. The Agent shall within five days of the date of discontinuance distribute the proceeds of the sale of the investments made in accordance with the Investment Mandate to those Investors with investments in the Investment Mandate to the extent of each Investor's percentage ownership interest at the time of discontinuance of the Investment Mandate.

## **SECTION 6 - GENERAL**

6.01 **Notice.**

(a) **Address for notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be delivered or sent by registered mail, postage prepaid or facsimile (with follow-up mailed copy unless otherwise specified in this Agreement or in an Investment Mandate Schedule) to the addresses or facsimile numbers set out in the information sheets in respect of each Investor kept by the Agent and in the case of the Agent to:

The One Investment Program c/o LAS  
200 University Ave., Suite 801  
Toronto, ON M5H 3C6  
Attention: President, LAS  
Facsimile: (416) 971-6191

Changes to the addresses and facsimile numbers may be made in the manner set out in this Section 6.01.

(b) **Effective date.** Any such notice or other communication shall be deemed to have been given and received, if delivered, on the day of delivery (or, if the day is not a Banking Day, on the next following Banking Day) or, if mailed, on the second Banking Day following the day in which it is mailed. If a strike or lockout of postal employees is in effect or generally known to be impending on the date of mailing, any such notice or other communication shall be delivered and not sent by mail. If sent by facsimile before 5:00 p.m. Toronto, Ontario time on a Banking Day, the notice or other communication shall be deemed to have been received on that day, and if sent after 5:00 p.m. Toronto, Ontario time on a Banking Day, it shall be deemed to have been received on the Banking Day next following the date of transmission.

6.02 **No partnership or deemed agency.** The execution of this Agreement and the other arrangements with respect to the Investment Program are not intended to create and shall not be treated as having created a general or limited partnership, joint venture, corporation, joint stock company, investment trust or mutual fund, nor shall:

- (a) the Agent, the Custodian, the Payment Servicer, the Valuator, the Recordkeeper nor Investment Counsel, or their respective agents and employees, except as provided in this Agreement, or
- (b) any other Investor,

under any circumstances be deemed the agent or representative of, or have the right to enter into any contract or commitment on behalf of, an Investor.

6.03 **No fiduciary duties.** The Agent shall not by reason of this Agreement or any of the discussions leading to or in connection with this Agreement have a fiduciary or trust relationship with the Investors, or any other person, or any other obligation other than as specifically stated in this Agreement.

6.04 **No assignment.** No party may dispose of the whole or any part of its rights or obligations under this Agreement without the express written consent of the Agent except as may otherwise be provided for in this Agreement.

6.05 **Further action.** Each party shall at all times promptly execute and deliver and cause to be executed and delivered such documents and take and cause to be taken such action as may be necessary or appropriate to give effect to the provisions of this Agreement.

6.06 **Benefit.** This Agreement shall enure to the benefit of and be binding upon each party and their respective successors and permitted assigns.

6.07 **Attornment.** Each party irrevocably attorns and submits to the non-exclusive jurisdiction of the courts of the Province of Ontario.

6.08 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one Agreement.

The parties have executed this Agreement.

CHUMS FINANCING CORPORATION

BY: \_\_\_\_\_  
Daniel Cowin, Executive Vice-President

LOCAL AUTHORITY SERVICES LIMITED

BY: \_\_\_\_\_  
Nancy Plumridge, President

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COUNTERPART OF THE AMENDED AND RESTATED AGENCY AGREEMENT  
DATED AS OF MARCH 1, 2010  
BETWEEN  
CHUMS FINANCING CORPORATION AND LOCAL AUTHORITY SERVICES LIMITED

- AND -

ELIGIBLE INVESTORS (AS DEFINED IN THE AGREEMENT)

BY (SIGNATURE): \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

PRINT TITLE: \_\_\_\_\_

ORGANIZATION: \_\_\_\_\_