

**TRUST AGREEMENT FOR
DENVER PUBLIC SCHOOLS
PROFESSIONAL COMPENSATION SYSTEM
FOR TEACHERS**

Effective _____

NOTE: The Agreement will be effective upon ratification of the parties and appointment of the trustees

TRUST AGREEMENT FOR
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COMPENSATION SYSTEM FOR TEACHERS

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TRUST AGREEMENT FOR
DENVER PUBLIC SCHOOLS PROFESSIONAL
COMPENSATION SYSTEM FOR TEACHERS

Effective _____

This Trust Agreement for the Denver Public Schools Professional Compensation System for Teachers is adopted by the signatory Trustees, the Denver Classroom Teachers Association (the "Association"), and the Board of Education of School District No. 1 in the City and County of Denver (the "District"), effective as of _____.

W I T N E S S E T H:

WHEREAS, the District and the Association wish to establish a trust in accordance with the Professional Compensation System for Teachers Agreement (the "ProComp Agreement") between the District and the Association, effective as of _____; and

WHEREAS, the purpose of the trust is to fund the compensation payable in accordance with the ProComp Agreement; and

WHEREAS, the Association and District and their respective Trustees have selected the signatory Trustees in accordance with the ProComp Agreement to serve as Trustees for this Trust:

NOW, THEREFORE, for and in consideration of the promises and mutual covenants herein contained, the Trustees, the District and the Association hereby agree as follows:

ARTICLE I

Definitions

1.1 Agreement. The Trust Agreement, the agreement set forth herein, as amended from time to time.

1.2 Association. The Denver Classroom Teachers Association, which represents Teachers in collective bargaining negotiations with the District.

1.3 Board, Board of Education. The Board of Education of School District No. 1 in the City and County of Denver.

1.4 District. School District No. 1 in the City and County of Denver.

1.5 ProComp Agreement. The agreement between the Association and the District on the Professional Compensation System for Teachers.

1.6 ProComp System. The compensation system established and maintained pursuant to the terms of the ProComp Agreement.

1.7 Teacher. Any teacher as defined by the Master Agreement between the District and the Association who participates in the Professional Compensation System for Teachers in accordance with the ProComp Agreement.

1.8 Trust. The trust holding the assets of the ProComp System.

1.9 Trustees, Board of Trustees. Those persons who are named to the Board of Directors of the ProComp System according to the provisions of the ProComp Agreement, who shall also have authority to control and manage the Trust.

ARTICLE II

Creation and Acceptance of Trust

All such payments as shall from time to time be made to the ProComp System by or on behalf of the District, and all other money or property as shall lawfully become a part of the Trust, together with the income, gains and all other increments of any nature whatsoever, if any, therefrom, shall be held, managed and administered in trust pursuant to the terms of this Agreement. The Trust shall also be known as the Teacher Compensation Trust. The Trustees hereby accept their trusteeship created hereunder and agree to perform the duties, responsibilities and obligations under this Agreement on their part to be performed.

ARTICLE III

Purpose of and Payments To and From Trust

3.1 Purpose. The purpose of the Trust is to apply the assets of the Trust to provide payments to Teachers in accordance with the ProComp System and to defray reasonable expenses of administering and operating the Trust.

3.2 Payments To the Trust. Payments to the Trust shall be made by the District or other authorized entity in accordance with the ProComp Agreement and other written agreements and rules of the Trustees. The District shall pay to the Trust the mill levy proceeds owed to the Trust on the day that the District receives such mill levy proceeds.

3.3 Payments From the Trust. Payments from the Trust shall be made only for the following purposes:

- (a) To provide for the following, in accordance with the ProComp Agreement:
 - (i) the payment of all reasonable and necessary expenses of collecting the contributions and operating, administering, controlling and managing the Trust;
 - (ii) the payment of expenses incurred by the Trustees in connection with attending and participating in educational conferences, seminars and similar meetings;
 - (iii) the employment of such administrative, legal, expert and clerical assistance as may be reasonably necessary;
 - (iv) the purchase or leasing of such materials, supplies and equipment as the Trustees, in their discretion, find necessary or appropriate to the performance of their duties.
- (b) To pay to the District amounts the District owes to Teachers in accordance with the terms, provisions and conditions of the ProComp System. The Trust shall pay such an amount to the District on the District's monthly payroll date as specified in the District payroll calendar. If the District receives an excess payment from the Trust, the District shall repay the excess to the Trust with interest at the Trust's earnings assumption as soon as feasible after the excess is discovered.

ARTICLE IV

Designation of Trustees

4.1 Appointment of Trustees. There shall be eight Trustees, three of whom shall be representatives of the District (the "District Trustees"), three of whom shall be representatives of the Association (the "Association Trustees") and two of whom shall be representatives of the community (the "Community Trustees") appointed by the agreement of the other six Trustees. The Trustees shall be appointed according to the rules of the ProComp Agreement regarding the composition of the Board of Directors of the Teacher Compensation Trust Fund. The District Trustees shall be the Treasurer of the Board of Education, the Chief Financial Officer of the District and the Assistant Superintendent for Budget and Finance of the District. In the event that changes in the District's organization eliminate such positions, the Board of Education shall designate equivalent positions.

4.2 Acceptance of Appointment. Each Trustee shall consent to and accept his appointment as a Trustee in writing.

4.3 Tenure. Each Association and Community Trustee shall continue to serve during a three-year term (or such shorter term as specified in the acceptance of appointment to accommodate the phasing of terms required for initial Trustees in the ProComp Agreement) or until his death, incapacity, resignation or removal. Each District Trustee shall continue to serve for the period the Trustee holds the District's position specified for that District Trustee according to the ProComp Agreement.

4.4 Resignation of a Trustee. A Trustee may resign and subsequent thereto shall be discharged from any further duty or responsibility hereunder by giving prior written notice to the District, the Association and the Secretary of the Trustees, which notice shall state the date such resignation shall take effect and such resignation shall take effect on said date unless a successor Trustee shall have been appointed at an earlier date in accordance with the provisions of section 4.6 hereof, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee.

Any Trustee, upon leaving office, shall forthwith turn over and deliver to the Chairman or Secretary of the Trustees any and all property in his possession or under his control which belongs to the Trust.

4.5 Removal of Trustees. Any Trustee may be removed from office for cause at any time by agreement of the President of the Association and the Superintendent of the District, and may be replaced by the procedures for the appointment of a successor Trustee as set forth in section 4.6 of this Agreement. Any notice of removal, in order to be effective, shall be delivered to the District, the Association and the Secretary of the Trustees, shall specify the date the removal shall take effect, name the Trustee removed and appoint a successor to fill the vacancy caused by the removal. If a Trustee fails to attend three regular meetings in any 12-month period, the Trustee shall vacate the remainder of his or her term unless such absence is excused by the other Trustees. Any Trustee who has failed to attend two consecutive regular meetings without having been excused by the other Trustees shall be given specific notice of this section 4.5 along with notice of the succeeding meeting.

4.6 Selection of Successor Trustees. If any Trustee shall become disqualified to serve, die, resign, be removed, become incapacitated or refuse to act, a successor Trustee shall be appointed forthwith by written instrument signed by authorized representatives of the Association, District or Trustees authorized to appoint the successor. Any written instrument of appointment shall state the date appointment shall take effect, shall remain in effect through the unfinished term of the Trustee who is replaced, and shall be delivered to the District, the Association and the Secretary of the Trustees.

If a successor Trustee shall fail to be appointed within 90 days after the position becomes vacant, then any remaining Trustee may petition the Colorado courts of competent jurisdiction to appoint a successor Trustee, which appointment shall be as fully effective as if made by the party originally entitled to appoint such Trustee and shall be considered to have been made on behalf of such party.

4.7 Power to Act in Case of Vacancy. Pending the appointment of a successor Trustee in accordance with the provisions of section 4.6 hereof, no vacancy or vacancies in the Board of Trustees shall impair the power of the remaining Trustees to administer the affairs of the Trust.

ARTICLE V

Organization and Operation of Trustees

5.1 Location of Records. The Trustees shall maintain at such location as the Trustees may approve, the exact location of which is to be made known to the parties interested in the Trust, the books, reports and records pertaining to the Trust and its administration.

5.2 Meetings. The Trustees shall meet no less than six times per year and whenever otherwise required to provide for the orderly and timely administration of the business of the Trust. Meetings shall be at such location as may be acceptable to the Trustees. The Chairman, Secretary or any two Trustees may call meetings of the Trustees. Any meeting shall be called upon at least three days' written notice to all Trustees, which notice shall specify the date, time and place of such meeting and may specify the purpose thereof and any action proposed to be taken thereat. Attendance at Trustees' meetings shall be open, provided that the Trustees may hold discussions in an executive session as permitted by law and by the Bylaws of the Board of Directors of the Teacher Compensation Trust. Further rules regarding meetings may be specified in the Bylaws of the Board of Directors of the Teacher Compensation Trust.

Whenever any notice is required to be given to any Trustee hereunder, a waiver thereof in writing, signed at any time, whether before or after the time of meeting by the Trustees entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a Trustee at a meeting or his approval of actions taken at a meeting shall constitute a waiver of notice of such meeting, except where a Trustee attends a meeting and objects thereat to the transaction of any business because the meeting is not lawfully called or convened.

5.3 Standard of Care.

(a) The Trustees shall conduct themselves as fiduciaries in carrying out their duties under this Agreement.

(b) As fiduciaries, the Trustees shall act in accordance with the requirements of this Agreement and with the care, skill, prudence and diligence in light of the circumstances then prevailing that a prudent person acting in a like capacity would use in the conduct of an activity of like character and purpose.

(c) The Trustees shall discharge their duties impartially and shall not allow any conflicting interests to affect the manner in which they carry out in their duties as Trustees.

5.4 Quorum. A quorum for the transaction of business at a duly called meeting shall consist of six Trustees who are present in person. Once a quorum has been established, said quorum shall continue to exist until the meeting has been adjourned.

5.5 Voting. Except as otherwise specifically provided for herein, all actions by and decisions of the Trustees shall be made only when five or more trustees agree to do so when the Trustees who are in attendance at a duly called meeting of the Trustees at which there is a quorum present. A Trustee must be present at a meeting to cast a vote; there shall be no voting by proxy. The foregoing to the contrary notwithstanding, the unanimous written consent of the Trustees shall be required for any action pursuant to section 5.3

5.6 Officers of Trustees. The Trustees shall select from among them a Chairman, a Vice Chairman and a Secretary in accordance with the Bylaws of the Board of Directors of the Teacher Compensation Trust.

5.7 Exculpation of Trustees From Liability. No Trustee shall incur any liability individually or on behalf of other individuals for any act or failure to act unless such act or failure to act is due to his own gross negligence or willful misconduct or lack of good faith. A Trustee may act or rely upon any of the following:

(a) Any instrument, application, notice, request, signed letter, telegram or other paper or document believed by him to be genuine and to contain a true statement of facts and to be signed or sent by the proper person; or

(b) The advice, opinion, records, reports or recommendations of any accountant, actuary, administrator, attorney, consultant, co-trustee, investment agent or investment manager or any other advisor selected by the Trustees with reasonable care.

5.8 Reimbursement of Individual Trustees and of Employers of Trustees. The Trustees may authorize that a Trustee be reimbursed by the Trust for reasonable expenses incurred on behalf of the Trust or in connection with his duties hereunder. In accordance with the Bylaws of the Teacher Compensation Trust, the Trustees may authorize reimbursement of a Trustee's employer for the

cost of hiring temporary employees and substitute teachers during the absence of a Trustee from his job to perform Trust business.

5.9 Service in More Than One Fiduciary Capacity. Any individual, entity or group of persons may serve in more than one fiduciary capacity with respect to the Trust to the extent such is permitted by law.

ARTICLE VI

Control and Management of Trust

6.1 Control of Trust. The Trustees shall be the named fiduciaries of the Trust and shall have the power to control the Trust and to perform all such acts, to take all such proceedings, and to exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary or advisable to administer the Trust or to carry out the purposes of this Agreement.

6.2 Management of Trust. The management, including the acquisition and disposition of property comprising the Trust, shall be as follows:

(a) General Authority. The Trustees shall have exclusive authority and responsibility with respect to the custody and management of the Trust, except to the extent any such authority has been delegated pursuant to the provisions of subparagraph (b) or (c) below and subparagraphs (c) and (d) of section 7.2.

(b) Delegation of Custody. The Trustees are authorized to delegate custody of all or any portion of the Trust. Such custodian shall hold the Trust as directed in writing by the Trustees.

(c) Delegation of Investment Control. The Trustees may appoint one or more investment managers to supervise and direct the investment and reinvestment of a portion or all of the Trust in accordance with the provisions of the Agreement and in the same manner and with the same powers, duties, obligations, responsibilities and limitations as apply to the Trustees as set forth herein. Any investment manager so appointed shall be an investment advisor registered under the Investment Advisers Act of 1940, a bank as defined in such Act or an insurance company which is qualified to manage the assets of employee benefit plans under the laws of more than one state. As a condition to its appointment, an investment manager shall acknowledge in writing that it is a fiduciary with respect to the Plan. The Trustees may furnish an investment manager with written investment guidelines for investment, which guidelines may include directions with respect to the diversification of the investments. Any investment manager shall receive such reasonable compensation chargeable against the Trust as shall be agreed upon with the Trustees.

6.3 Trust Responsibilities. In connection with their management and control of the Trust unless the following responsibilities are allocated or

delegated in accordance with the procedures set forth in section 7.2(c) or (d) or elsewhere herein, the Trustees shall:

(a) cause the assets of the ProComp System to be held and administered in trust;

(b) cause accounts of all investment, receipts, disbursements and all other transactions affecting all or any portion of the Trust to be maintained; and

(c) pay from the Trust all taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust or its income.

6.4 Trust Powers. The Trustees shall have such powers as may be necessary to discharge their responsibilities in managing and controlling the Trust. The Trustees shall have full and complete authority and control over the Trust unless such authority or control is allocated or delegated by the Trustees in accordance with the procedures set forth in section 7.2(c) or (d), or elsewhere herein. Any determination made by the Trustees in the exercise of these powers shall be binding on all persons. In addition to such powers as are conferred by law or as set forth elsewhere in this Agreement, the powers of the Trustees in connection with their managing and controlling the Trust shall include, but shall not be limited to, those listed in this section 6.4, except that the Trustees shall exercise any power in a manner which is consistent with the applicable provisions of Colorado Revised Statutes. The Association, Board and the Trustees recognize that not all of the investments listed in this section 6.4 are permissible under Colorado Revised Statutes section 24-75-601.1 as in effect on the date the Agreement is signed:

(a) To invest and reinvest all or part of the principal and income of the Trust, without distinction between principal and income as the Trustees determine, in such securities or in such property, real or personal, or share or part thereof or part interest therein, wherever situated, as the Trustees shall deem advisable, including but not limited to, governmental, corporate or personal obligations, shares of stock, common or preferred, whether or not listed on any exchange, participations in partnerships, mutual investment funds, bonds and mortgages, and other evidences of indebtedness or ownership, including stocks, bonds or other obligations secured by personal property, participations in any common trust fund exempt under section 584 of the Internal Revenue Code established or maintained for the collective investment of fiduciary funds.

If required, prior to investing in a common or group trust fund the Trustees and the entity or organization maintaining the trust fund shall execute an agreement providing that during the time that any part or all of the Trust is held in such trust fund the declarations of trust creating the trust fund shall be part of this Agreement; provided that said declarations of trust comply with the Rules and Regulations of the Comptroller of the Currency, if necessary, and the laws of any state having jurisdiction thereover and have, where appropriate, been approved by the Internal Revenue Service.

(b) To sell, convey, transfer, exchange, partition, otherwise dispose of any and all property, real or personal, or to grant options with respect to any property held by the Trustees by private contract or at public auction or to surrender for cash value any contracts issued by an insurance company and held by the trustees. Any sale, option or other disposition of property may be at such time and on such terms as the Trustees see fit. Any sale, option or other disposition of property may be made for cash or upon credit, or partly in cash and partly on credit. No person dealing with the Trustees shall be bound to see to the application of the purchase money or to inquire into the validity, expedience or propriety of any such sale, option or other disposition.

(c) To receive, hold, manage, invest, reinvest, improve, repair and control all monies and property, real or personal, at any time forming part of the Trust.

(d) To purchase and sell contracts or other properties through such broker or brokers as the Trustees may choose.

(e) To vote or refrain from voting upon any stocks, bonds or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to appoint one or more individuals or corporations as voting trustees under voting trust agreements and pursuant to such voting agreements to delegate to such voting trustees' discretion to vote; to exercise any conversion privileges, subscription rights, or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to property held as part of the Trust.

(f) To cause any securities or other property to be registered in the name of the Trust, the Trustees, a Corporate Trustee, a custodian or in the name of a nominee without designating the same as trust property, and to hold any investments in bearer form or otherwise in such form that title passes by

delivery, but the books and records of the Trustees shall at all times show that all such investments are part of the Trust.

(g) To exercise or dispose of any right they may have as the holders of any security to convert the same into another or other securities, or to acquire an additional security or securities, to make any payments, exchange any security or do any act with reference thereto which they may deem advisable.

(h) To consent to take any action in connection with (including the deposit of any property with and participation with respect to any protective or similar committee) and receive and retain any securities or other property resulting from any reorganization, consolidation, merger, readjustment of the financial structure, sale, lease or other disposition of assets of any corporation or other organization, the securities of which may constitute a portion of the Trust, and the Trustees may delegate to any such protective or similar committee such power and authority as they may deem proper in the premises and may pay such portion of the expenses and compensation of such committee as they deem proper.

(i) To hold cash, uninvested, for such length of time as the Trustees may determine without liability for interest thereon.

(j) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance, including but not limited to, deeds, leases, mortgages, conveyances, contracts, waivers and releases, and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

(k) To renew or extend or participate in the renewal or extension of any mortgage, upon such terms as may be deemed advisable, and to agree to a reduction in the rate of interest on any mortgage or to any other modification or change in the terms of any mortgage, or of any guarantee pertaining thereto, in any manner and to any extent that may be deemed advisable for the protection of the Trust or the preservation of the value of the investment; to waive any default whether in the performance of any covenant or conditions of any mortgage or in the performance of any guarantee or to enforce any such default in such manner and to such extent as may be deemed advisable; to exercise and enforce any and all rights of foreclosure, to bid in property on foreclosure, to take a deed in lieu of foreclosure with or without paying any consideration therefore, and in connection therewith to release the obligation on the bond secured by such mortgage and to exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect of any such mortgage or guarantee.

(l) To employ suitable agents, advisors and counsel as they may deem necessary and advisable for the efficient operation and administration of the Trust and to charge the expense thereof to the Trust to the extent permitted by applicable law.

(m) To continue to have and to exercise after the termination of the Trust and until final distribution, all of the title, powers, discretions, rights and duties conferred or imposed upon the Trustees hereunder, or by law.

ARTICLE VII

Funding of ProComp System

7.1 ProComp Funding Responsibilities. The ProComp Agreement gives the Trustees “the fiduciary responsibility to ensure the financial stability over time of the funds of the Trust and the enactment of the ballot language approved by the voters in the mill levy override election.” The ProComp Agreement also requires the Trustees to “ensure that funds of the Trust shall be spent only on the Professional Compensation System for Teachers and only in keeping with the” ProComp Agreement, the ballot language approved in the mill levy override election and the goals of the ProComp System. Also, the ProComp Agreement states that if the Trustees “at any time determine that” the Trust funds have not been spent on the ProComp System or according to the terms and conditions of the ProComp Agreement and the goals of the ProComp System or in accordance with the ballot language approved by voters, then the Trustees have “the duty to stop transmitting the funds of the Trust to the District.” In connection with these duties, except to the extent the following responsibilities are allocated or delegated in accordance with the procedures set forth in sections 7.2(b) and (c), the Trustees shall:

(a) Develop and maintain a long-term financial model of the ProComp System, as described in the ProComp Agreement.

(b) Monitor the District’s maintenance of books of account, records and other data as may be necessary for the proper administration and operation of the ProComp System, and maintain a record of all the Trustees’ transactions, meetings and the actions taken at meetings of the Trustees including minutes of all Trustees’ meetings. A copy of the minutes of all Trustees’ meetings shall be retained as a record of the Trust. All of said books, records and data shall be available at the offices of the District during business hours for inspection by authorized representatives of the Association or District and by any Trustee.

(c) Retain a copy for the Trust records of all reports required by law or deemed by them to be necessary or appropriate for the proper administration and operation of the ProComp System.

(d) Procure an audit of the books of the Trust by a Certified Public Accountant not less frequently than once each year. A copy of each such audit shall be made available upon request, to the Association, the District and the Trustees as soon as is reasonably possible after it has been prepared, and a copy of

such audit shall be kept available for inspection by authorized persons during business hours at the office of the Trust.

(e) Procure and maintain at the expense of the Trust such bonding coverage as they may determine for the Trustees, employees of the Trust, any agents acting on behalf of or retained by the Trustees and persons to whom fiduciary responsibilities have been delegated.

(f) Receive and approve (or disapprove) annually from the District and the Association proposed expenditures from the Trust.

(g) Authorize transfer of funds to the District in accordance with approved annual plans.

(h) Conduct on a triennial basis an actuarial study of the assumptions of the financial model of the ProComp System.

(i) Based solely on the financial model described in (a), establish procedures for alerting the District and the Association of issues involving the adequacy of the Trust to fund projected ProComp System expenditures and procedures to carry out the duty of the Trustees to ensure the financial stability over time of the Trust, including:

(i) a written report to the District and the Association by December 31 of each year regarding the financial stability over time of the funds of the Trust; and

(ii) a written report to the District and the Association by July 1 of each year (or such later date as necessitated by the collective bargaining schedule) to assess the effect of the year's collective bargaining results on the financial stability over time of the funds of the Trust.

(j) Establish procedures for restricting transfer of Trust funds to the District when warranted to ensure the financial stability over time of the funds of the Trust, based solely on the financial model described in (a) including the following procedures:

(i) No restrictions on the transfer amount when the Board determines that the transfer has no perceived adverse effect on the financial stability over time of the funds of the Trust;

(ii) Partial restrictions on the transfer amount when the Board determines that the transfer has a limited adverse effect on the financial stability over time of the funds of the Trust; and

(iii) Complete restriction (no transfer) when the Board determines that the transfer has a serious adverse effect on the financial stability over time of the funds of the Trust.

7.2 ProComp System Funding Powers. The Trustees shall have such powers as may be necessary to discharge their responsibilities in managing and controlling the funding of the ProComp System. The Trustees shall have full and complete authority and control with respect to these powers unless such authority or control is allocated or delegated by the Trustees in accordance with the procedures set forth in subparagraphs (b) and (c) below. Any determination by the Trustees in the exercise of these powers shall be binding on all persons. In addition to such other powers as are conferred by law or are set forth elsewhere in this Agreement, the powers of the Trustees in connection with the funding of the ProComp System shall include, but shall not be limited to, the following:

(a) To employ such actuaries, consultants, accountants, counsel or other persons as they deem necessary or desirable in connection with the administration of the Trust and to employ one or more persons to render advice with regard to any responsibility or power of the Trustees. The costs of such services and other administrative expenses shall be paid by the Trust in accordance with the ProComp Agreement to the extent not paid by the District.

(b) To designate in writing persons who are not Trustees to carry out fiduciary or nonfiduciary responsibilities or duties of the Trustees, and in the event of such a designation the Trustees shall not be liable for any act or omission of such a person.

(c) To allocate fiduciary or nonfiduciary responsibilities or duties among Trustees provided a Trustee to whom such responsibility or duty is allocated consents thereto. Those persons to whom such responsibilities have not been allocated shall not be liable for any act or omission of those persons to whom such responsibilities have been allocated.

(d) To construe and interpret the Trust Agreement and ProComp Agreement.

(e) To receive from the District, the Association, and the Teachers such information as shall be necessary to monitor administration of the ProComp System.

(f) To furnish the District and the Association such annual reports with respect to the administration of the Trust as are reasonable and appropriate.

(g) To maintain such bank accounts as they deem appropriate for the administration of the Trust; provided, however, all checks, drafts, vouchers or other withdrawals of funds from the Trust shall be signed by at least one District Trustee and one Association Trustee, or if the Trustees unanimously so provide by contract or resolution, by a person to whom such responsibility has been delegated.

(h) To receive and review reports of the financial condition and of the receipts and disbursements of the Trust.

(i) To prescribe procedures to be followed by any persons in applying for any payment from the Trust; and to designate the forms or documents, evidence and such other information as the Trustees may reasonably deem necessary, desirable or convenient to support an application for payment from the Trust.

(j) To adopt such by-laws, rules, regulations, actuarial tables, forms and procedures from time to time as they deem advisable and appropriate in the proper administration of the Trust, provided the same are consistent with the terms of this Agreement and do not modify or increase the burdens or obligations of any party under the terms of the ProComp Agreement.

(k) To have a judicial settlement of their accounts and judicial determination of any questions in connection with their duties and obligations hereunder, or in connection with the administration or distribution thereof. The costs and expenses, including accounting and legal fees, for such judicial settlement of accounts or other judicial determination shall be paid by the Trust as a general administration expense to the extent permitted by applicable law.

(l) To purchase out of the assets of the Trust insurance for the protection of the Trustees or other fiduciaries of the Trust against any losses by reason of errors or omissions or breach of fiduciary duty.

(m) To enter into any and all contracts and agreements for carrying out the terms of this Trust and for the administration and operation of the Trust and to do all acts as they, in their discretion, may deem necessary or advisable, and such contracts and agreements and acts shall be binding and conclusive on the parties hereto.

(n) To receive contributions or payments from any source whatsoever to the extent permitted by law.

(o) To attend and participate in conferences, seminars and similar educational meetings, which the Trustees deem helpful to them in the operation, administration, control or management of the Trust and to cause payment for all reasonable expenses therefore by the Trust.

(p) To pay membership dues in educational and other organizations operated for purposes related to the Trust.

(q) To do all acts, whether or not expressly authorized herein, which the Trustees may deem necessary or proper in connection with the Trust, although the power to do such acts is not specifically set forth herein.

ARTICLE VIII

Contributions and Collections

8.1 Contributions to Trust. In no event shall the Association or District, directly or indirectly, receive any refund on contributions made to the Trust. The District's obligation under the ProComp Agreement to contribute mill levy revenues to the Trust shall not be subject to setoff or counterclaim by the District for any liability of the Association or an Employee to the District.

8.2 Transmission of Reports and Contributions. The Trustees shall establish a system for the timely transmission of such reports and contributions, as the Trustees deem necessary, and shall also establish a periodic date on which such reports and contributions shall be due.

8.3 Delinquent Contributions. The Trustees shall notify the District of a delinquency, mistake or discrepancy in its report or contribution. If the District refuses or fails to make contributions or a correct report, the Trustees shall have authority to establish rules and regulations providing for liquidated damages to be added to any delinquent contributions and to take such legal action, including proceedings at law, in equity or, if the Trustees so choose to submit the issue, in arbitration, as in their discretion may be necessary to collect contributions and liquidated damages assessed by them and to recover from any delinquent contributor on behalf of the Trust all costs and reasonable attorney's fees incurred in connection therewith.

ARTICLE IX

Controversies and Disputes

9.1 Reliance Upon Records. In any controversy, claim, demand, suit at law, or other proceeding between any Teacher or any other person and the Trustees, the Trustees shall be entitled to rely upon any facts appearing in the records of the Trustees, certified to the Trustees by the Association or the District, any facts which are of public record and any other evidence pertinent to the issue involved.

9.2 Determination by Trustees Binding. All questions or controversies, of whatsoever character, arising in any manner or between any parties or persons in connection with the Trust or its operation, whether as to any claim for payment, or as to the construction of language or meaning of this Agreement, the ProComp Agreement as it relates to the Trust, or by-laws, rules and regulations adopted by the Trustees, or as to any writing, decision, instrument or account in connection with the operation of the Trust or otherwise, shall be submitted to the Trustees or, where Trustee responsibility has been delegated to others, to such delegates for decision. The decision of the Trustees or their delegates shall be binding upon all persons dealing with the Trust or claiming any payment thereunder, except to the extent that such decision may be determined to be arbitrary or capricious by a court having jurisdiction over such matter.

9.3 Compromise. The Trustees may, in their sole discretion, compromise or settle any claim or controversy, and any decision made by the Trustees in compromise or settlement of a claim or controversy or any compromise or settlement agreement entered into by the Trustees, shall be conclusive and binding on all parties.

9.4 Right to Obtain Adjudication of Disputes. In the event any question or dispute shall arise as to the proper person or persons to whom any payments shall be made hereunder, the Trustees may withhold such payment until an adjudication of such question or dispute, satisfactory to the Trustees, in their sole discretion, shall have been made, or the Trustees shall have been adequately indemnified against loss to their satisfaction.

9.5 Interpretation/Application Differences. Differences arising as to the interpretation or application of the provisions of this Agreement shall not be subject to the grievance or arbitration procedures established in any collective bargaining agreement.

ARTICLE X

Amendments

10.1 Method of Amendment. This Agreement may be amended in writing at any time by the Trustees, provided any amendment is ratified by the Association and the Board of Education.

10.2 Limitation on Amendments. No amendment shall be adopted which alters the basic purpose of the Trust, conflicts with any applicable law or government regulation, causes the use or diversion of any part of the Trust for purposes other than those authorized herein, retroactively deprives anyone of a vested right or interest, expands the obligation of the District to contribute except to the extent provided by law or its collective bargaining or other written agreement describing the contribution obligation, or affects the tax-exempt status of the Trust.

ARTICLE XI

Termination

11.1 Term of Trust. The Trust shall continue until all the collective bargaining agreements providing for contributions to the Trust have expired, all Trust assets have been disbursed and the Trustees, District and Association agree to the termination of the Trust.

11.2 Procedure on Termination. In the event of the termination of the Trust, the Trustees shall apply the Trust to pay or to provide for the payment of any and all obligations of the ProComp System and shall distribute and allocate all assets of the Trust in accordance with the then provisions of the ProComp Agreement and in accordance with the provisions of this Agreement.

11.3 Notification of Termination. Upon termination of the Trust in accordance with this Article, the Trustees shall forthwith notify the Association, the District and also all other necessary parties, and the Trustees shall continue as Trustees for the purpose of liquidating the affairs of the Trust.

11.4 Successor Trust. In the event that the Trust is replaced by a successor trust(s) (e.g., due to a change in the identity of the District or the Association), the Trustees shall transfer and deliver the Trust assets to the successor trust(s).

ARTICLE XII

General Provisions

12.1 Title to the Trust. Title to the Trust shall be vested in and remain exclusively in the Trustees. Neither the Association, the District, nor any Teacher or other beneficiary shall have any right, title or interest in the Trust nor any right to contributions to be made thereto, nor any claim against the District on account thereof, except only as provided from time to time by this Agreement.

12.2 Liability of Association and District. Neither the Association nor the District shall be responsible for the acts of the Trustees or for any debts, liabilities, obligations, benefits or insufficiency of the Trust.

12.3 Nonalienation of Benefits. The Trust shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for the support of any other relative of an Teacher, prior to actually being received by the person entitled to the payments under the terms of the ProComp Agreement. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to payments payable hereunder, shall be void. Neither the Trust nor any Trustee shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to payments hereunder. If the terms of this section are contrary to the law governing in a particular circumstance, then, as to that circumstance, any such payment shall be so exempt to the maximum extent permitted by such law.

12.4 Prohibition of Diversion of Trust. No part of net earnings or trust fund balance of the Trust shall inure (other than payments in accordance with the ProComp Agreement as outlined above) to the benefit of the Association, the District or individual.

12.5 Notice and Delivery of Documents. Any notice required to be given hereunder may be given in person or by first class mail. When notice is given by mail, it shall be deemed to have been given as of the date of posting to the last known address of the addressee available from the Plan records.

12.6 Gender, Number and Headings. Wherever any words are used herein in the masculine gender they shall be construed as though they were also

used in the feminine gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply. Titles of articles and headings of sections and subsections are inserted for convenience of reference. They constitute no part of this Agreement and are not to be considered in the construction hereof.

12.7 Construction. This Agreement is created and accepted in the State of Colorado. All questions pertaining to its validity or construction not otherwise preempted by federal law shall be determined in accordance with the laws of the State of Colorado. If any provision contained in this Agreement or in any collective bargaining agreement pursuant to which this Agreement is created should be held unlawful, such provision shall be of no force and effect and this Agreement or any such collective bargaining agreement shall be treated as if such provision had not been contained therein.

12.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

12.9 Initial Ratification Process. The ratification process for initial adoption of this Agreement is approval by the District and by the Association, without requiring a vote by the Association membership.

IN WITNESS WHEREOF, the Association and the District have each caused this Agreement to be executed in their name and on their behalf by their duly authorized representatives as of the day, month and year first above written.

DISTRICT

BY _____
President of Board of Education
ASSOCIATION

BY _____
President

IN WITNESS WHEREOF, the undersigned, as the Trustees do hereby accept their trusteeship and agree to perform the duties, responsibilities and obligations under this Agreement as of the day, month and year first above written.

Association Trustees

District Trustees

Community Trustees

