



DECLARATION OF TRUST
for the
SCHOLARSHIP ENDOWMENT FUND
(the “Declaration”)
of the
ASSOCIATION OF CANADIAN ARCHIVISTS
FOUNDATION
(the “Foundation”)

SECTION I
PURPOSE OF DECLARATION

- 1.01 The Foundation is a registered charity under the *Income Tax Act* (Canada), as amended from time to time (the “*Income Tax Act*”) and has been designated as a public foundation and assigned charitable registration number 804138477RR0001.
- 1.02 The purpose of this Declaration is for the Foundation, in its roles as both the settlor and trustee of an endowment fund (“Scholarship Endowment Fund”), to declare and adopt the terms of reference with respect to the establishment of the Scholarship Endowment Fund that is to be held and administered as a perpetual endowment fund of the Foundation.

SECTION II
ESTABLISHMENT OF FUND

- 2.01 The Foundation, as both settlor and trustee, declares that the Scholarship Endowment Fund, as a perpetual endowment fund of the Foundation, consists of capital as of the date of this Declaration in the amount of \$100 (the “Original Capital”). The Original Capital and any gifts of additional capital (the “Additional Capital”) is collectively referred to in this Declaration as the “Fund”.
- 2.02 The Foundation hereby declares that the Original Capital of the Fund as of the date of this Declaration is to be established as a perpetual endowment fund that is to be held in trust and invested by the Foundation to be used for the Purpose set out in section 4.01 and in accordance with the terms of this Declaration.



SECTION III

ADDITIONAL CONTRIBUTIONS OF CAPITAL

- 3.01 The Foundation may at any time or times make contributions of Additional Capital to the Fund from any of its otherwise unrestricted charitable property.
- 3.02 Any interested donor may also contribute Additional Capital to the Fund at any time or times upon acceptance of such Additional Capital by the Foundation, subject to the board of directors of the Foundation reserving the right to set minimum contribution amounts for any donors to the Fund.
- 3.03 Any Additional Capital shall be held in trust as a part of the Fund in accordance with the terms of this Declaration. No further restrictions or terms may be imposed upon such contributions of Additional Capital.

SECTION IV

PURPOSE OF THE FUND

- 4.01 The Disbursement Income (as defined below) earned from the Fund shall be used to support the education of students enrolled in post-graduate archival programs, meeting any requirements determined by the board of directors, at Canadian universities.

SECTION V

INVESTMENT POLICY

- 5.01 The Foundation shall invest the Fund pursuant to the investment policy of the Foundation that is in place from time to time (“Investment Policy”).
- 5.02 In the course of investing the Fund, the Foundation shall be entitled to co-mingle the Fund with other restricted funds in place within the Foundation or held by the Foundation from time to time in a common trust fund, provided that the Fund and any Net Income earned thereon as defined below is recorded as a separate restricted fund of the Foundation for accounting purposes in accordance with the requirements of applicable regulations under the *Charities Accounting Act* (Ontario), R.S.O. 1990, c. C.10, as amended from time to time (“*Charities Accounting Act*”).

SECTION VI

DISBURSEMENT POLICY

- 6.01 The net income earned from the Fund shall be calculated by totalling the interest income, dividend income, realized capital gains (as may be permitted by the *Income Tax Act* (Canada)) and any other revenue, less the costs, fees and expenses associated with the Fund, including the Foundation’s administrative fee (collectively referred to as the “Net Income”).



- 6.02 The portion of the Net Income available for disbursement pursuant to this Declaration (the “Disbursement Income”) shall be determined each year in accordance with the disbursement policy of the Foundation then in effect (“Disbursement Policy”), but shall be no less than the minimum disbursement required by the then applicable disbursement quota for the Foundation under the *Income Tax Act* (the “Disbursement Quota”).
- 6.03 Any excess of Net Income over Disbursement Income shall be added to the Original Capital and Additional Capital of the Fund and dealt with as a part thereof (the “Capitalized Income”), provided that the Charity shall be entitled to disburse such Capitalized Income at a subsequent time.
- 6.04 To the extent that:
- (a) there is insufficient Net Income earned from the Fund in any year to meet the Disbursement Quota under the *Income Tax Act* and Canada Revenue Agency (“CRA”) will not grant a reduction in the Disbursement Quota in accordance with the *Income Tax Act*; or
 - (b) in the event of extraordinary circumstances as determined in the sole discretion of the board of directors of the Foundation;

then notwithstanding anything else in this Declaration to the contrary, the Foundation shall be authorized to expend such portion of the Capitalized Income, Additional Capital or Original Capital determined in accordance with the Disbursement Policy of the Foundation then in effect as is necessary to meet the Disbursement Quota Requirements of the Foundation in any given year or in order to respond to the extraordinary circumstances as determined in the sole discretion of the board of directors of the Foundation.

SECTION VII

CHANGE OF TRUSTEE FOR THE FUND

- 7.01 The Foundation shall be authorized at any time to transfer the Fund to a successor corporation and appoint it as the new trustee of the Fund or, alternatively to transfer the Fund to and appoint as trustee another charity that is a registered charity under the *Income Tax Act*. Such transfer and change of trustee shall be completed by means of a deed of trust, provided that all of the terms of this Declaration remain in effect (“Deed of Trust”).
- 7.02 Upon signing a Deed of Trust, the newly appointed trustee shall be deemed to become the trustee under this Declaration and be bound by all of its terms.
- 7.03 The appointment of another charity as subsequent trustee of the Fund and the corresponding transfer of the Fund to such other charity shall be deemed to be a transfer of “enduring property” in accordance with subsection 149.1(1) of the *Income Tax Act*, where applicable, or, alternatively, may be transferred as a “specified gift” in accordance with subsection 149.1(1) of the *Income Tax Act* as may be determined in accordance with the Foundation’s Disbursement Policy from time to time.



SECTION VIII
IMPOSSIBLE OR IMPRACTICAL TERMS

- 8.01 In the event that the Foundation determines that any terms in the Purpose of the Fund have become either impossible or impractical for any reason, the Foundation may, in its sole discretion, vary the terms of the Purpose as near as possible to the original Purpose in this Declaration, provided that the Fund shall continue to be held in trust, controlled and managed by the Foundation, or a subsequent trustee as provided for in Section 7.01 in perpetuity for the benefit of the Foundation or its successors or assigns in accordance with the terms of the Declaration.

SECTION IX
AMENDMENTS TO THE DECLARATION

- 9.01 Any administrative term in this Declaration may be amended, as necessary, by the Foundation and, where applicable, such other charity that is appointed to replace the Foundation as subsequent trustee of the Fund, provided that the Fund shall continue to be held in trust by the Foundation in perpetuity in accordance with the Purpose of the Fund as set out in the terms of this Declaration.

SECTION X
GENERAL TERMS

- 10.01 Any reference to the singular in this Declaration is deemed to include the plural and vice versa.
- 10.02 This Declaration, and the rights and duties hereunder, shall be governed by and interpreted in accordance with the laws of the Province of Ontario.
- 10.03 The powers granted herein are in addition to all other powers vested in trustees by law or otherwise and without restricting the general powers, discretions and authorities in this Declaration given to the Foundation, the Foundation shall have the power, discretion and authority to deal with the Fund without the interference of any person entitled hereunder.
- 10.04 This Declaration shall enure to the benefit of and be binding upon the Foundation and any subsequent trustee appointed hereunder, provided that this Declaration may only be assigned in accordance with Sections 7.01 and 7.02 herein.



Association
of Canadian
Archivists
Foundation

email aca@archivists.ca www.archivists.ca

This Declaration of Trust is hereby adopted by the Foundation this eight day of March, 2010, and signed this ____ day of _____, 2010.

ASSOCIATION OF CANADIAN ARCHIVISTS FOUNDATION

Per: _____

Name:

Title:

Per: _____

Name:

Title:

We have authority to bind the Corporation.