

EMPLOYMENT CONTRACT

This Agreement made the 1st day of October, 2004.

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM

(hereinafter referred to as the "Town")

- and -

GORD CHERNEY

(hereinafter referred to as the "Employee")

WHEREAS the Town and the Employee entered into a employment contract on the 1st of October, 1999;

AND WHEREAS the said contract is to terminate on the 30th day of September, 2004 unless renewed in writing by the mutual agreement of the parties hereto;

AND WHEREAS the Town wishes to ensure that it continues to service the community and its residents to the highest standards and recognizes that the Town's human resources are essential to that purpose;

AND WHEREAS it is necessary to provide for fair compensation to the employees;

AND WHEREAS the Employee is currently employed by the Town as Chief Administrative Officer ("C.A.O.") and Director of Financial Services ("D.F.S.");

AND WHEREAS it is in the mutual interest of the Town and the Employee to enter into an individual employment agreement to define each party's respective rights and obligations.

THEREFORE in consideration of the mutual covenants hereafter, and the payment of the Town to the Employee of the sum of \$10.00 as valuable consideration, the receipt of which is hereby acknowledged by the Employee, the parties agree as follows:

1. For the purpose of this agreement:

- (a) "benefits" includes all employment benefits and allowances provided to the Employee by or through the Town whether by way of insurance contracts or otherwise, including OMERS pension plan participation.
- (b) "Town" means The Corporation of the Town of Pelham and any other successor institution, government or body that, as a result of the restructuring, becomes the employer of the Employee;

2. **EMPLOYMENT**

- (a) The Employee will continue in his capacity as Chief Administrative Officer (C.A.O.) and Director of Financial Services (D.F.S.) to and including the 31st day of March, 2005. Thereafter the Employee shall continue in the employment of the Town as D.F.S. only, on the understanding that the Town will be hiring another employee as C.A.O. effective the 1st of April, 2005.
- (b) In the event that the Town is unable to hire an individual to commence the employment as C.A.O. by the 1st of April, 2005, the Employee will continue in that capacity as well, on a month to month basis, under the terms and conditions as set out hereinafter, until the Town advises the Employee that they no longer require him to carry on the duties and responsibilities of the C.A.O. Thereafter his duties will be limited to that of D.F.S.
- (c) The Employee acknowledges and warrants that he has the required skills and experience to perform the duties required as C.A.O. and D.F.S. and agrees to be bound by the terms and conditions of this agreement. The Employee covenants and agrees to comply with all reasonable instructions as may be given by the Council of the Town in order to carry out his duties and employment. Without limiting the generality of the foregoing, the Employee will be responsible for the duties and responsibilities

of the C.A.O. and/or D.F.S. as set out in the job description attached hereto as Schedule "A" and pursuant to any amendments made to same by the Town from time to time by by-law or otherwise. The Employee shall report to the Council of the Town.

- (d) The Employee agrees that he shall devote his full time and attention to the discharge of his duties under this agreement and that he shall devote that amount of time and attention normally expected of the C.A.O. and/or D.F.S. of a municipal corporation.
- (e) The Employee undertakes and agrees not to commence any employment for or with any other person during the term of this agreement. Notwithstanding the foregoing, the Employee may accept part time engagements to teach courses, to chair or present panel seminars and speeches, to keep all fees and honorarium therefrom, provided that the employee has received prior approval from the Town. The Employee acknowledges that this is a reasonable restriction imposed upon him by the Town.

3. REMUNERATION AND BENEFITS

- (a) In consideration of the performance of the obligations contained in this agreement, the Town will:-
 - i) While the Employee carries out the functions and duties of the C.A.O. and the D.F.S., pay to the Employee an annual salary at a level paid to the Employee as of September 1st, 2004 payable bi-weekly and subject to the deductions in accordance with the Town's customary practice;
 - ii) When the Employee's employment as the C.A.O. is terminated pay the Employee an annual salary at the top rate of the current salary grid for the D.F.S. position;
 - iii) provide other benefits, including health care and

OMERS pension plan participation, to include the benefits referred to in Schedule "B", including car mileage in accordance with the Town's policy concerning the payment of mileage to employees, and may make adjustments to the annual salary based on an appraisal of the Employees's performance. All benefits shall be subject to those conditions as to entitlement and eligibility as are in effect at the commencement of this agreement and the proportionate contributions of the Town and the Employee towards the cost of these benefits during the term of this agreement shall be in the same proportions as were in effect at the commencement of this agreement.

- (b) The parties acknowledge that paragraph 3(b) of the prior employment contract between the Town and Employee dated October 1st, 1999 provides that the Employee shall be paid a bonus of 15% of his annual salary at the conclusion of the said contract. Both the Town and the Employee agree that the Employee shall receive this bonus upon his resignation or retirement or on the termination of this agreement, whichever occurs first.
- (c) The parties further acknowledge that the Employee has accrued entitlement to payment in lieu of sick time based upon the Town's sick leave policy. At present, that accrued entitlement equals approximately \$22,000.00. It is understood and agreed that the Employee shall receive that payment upon his resignation/retirement or upon the termination of this agreement or otherwise in compliance with the terms of the sick leave policy.

4. TERM AND TERMINATION

- (a) This Agreement shall take effect as of October 1st, 2004 and will continue in force and effect for a term

terminating as of March 31st, 2007.

- (b) Employment pursuant to this agreement may be terminated prior to the end of its term or, if renewed, at any time after the date in the following manner, in the specified circumstances by the Town without notice or payment in lieu thereof for any of the following circumstances:
 - i) cause, although the Town may, in its sole discretion, give notice or pay severance pay without prejudicing its right to allege cause. For the purposes of this agreement "cause" shall include but shall not be limited to any material breach of the provisions of this agreement by the Employee;
 - ii) the employee's incapacity or inability to perform his duties as C.A.O. and/or D.F.S.;
 - iii) the employee retires; or
 - iv) the employee voluntarily resigns, or otherwise voluntarily chooses to terminate his employment with the Town in the absence of any change to the terms and conditions of employment or other circumstances which would constitute constructive dismissal in law.
- (c) The Employee may terminate his employment at any time upon giving the Town four (4) months advance notice in writing. The Employee acknowledges that in such a case he shall be entitled to no compensation or benefits under this Agreement upon the date of the termination and shall only be entitled to benefits allowed to him if applicable, as a retired employee pursuant to the Town's retiree's benefit plan.
- (d) At any time during the term of this agreement, the Employer may terminate the Employee's employment early and without cause for any reason other than those set out

in subparagraph 4 (b) provided that the Employee shall then be entitled to the following:

- i) at his option a lump sum payment or a salary continuance equal to his annual salary at the time of termination for the balance of the term of the agreement referred to in paragraph 4(a);
 - ii) the continued receipt of all benefits and benefits participation for the balance of the terms of the agreement referred to in paragraph 4(a). Should, for any reason beyond the Employer's control, the Employee not be permitted to continue to receive a benefit or participate under a benefits plan, the Employer shall compensate the Employee by payment in lieu of any discontinued benefit in an amount that reasonably reflects the Employee's loss; and
 - iii) upon the end of the term referred to in paragraph 4(a), the Employee shall participate under the Employer's retiree's benefit plan as a retired employee.
- (e) The parties expressly acknowledge that all of their respective rights and obligations upon the severance of employment for any reason whatsoever during the term of this agreement are provided for in this agreement, and, except for any action to enforce the terms of this agreement, neither party has any cause of action, claim or demand at common law or under any statute, before any court or administrative tribunal against the other arising out of the severance of the employment relationship. The Employee hereby releases and discharges the Town, its successors, assigns,

subsidiaries and affiliates, and their respective officers, directors, employees and agents from any and all actions, causes of action, claims, demands, and proceedings of whatever kind for damages, indemnity, costs, compensation or any other remedy which the Employee has had, may now have, or may in the future have against the Town, its successors, assigns, subsidiaries and affiliates, and their respective directors, officers, employees and agents arising out of the employment relationship of the Employee or out of the termination of that employment relationship. The Employee further agrees that upon any notice of termination or payment in lieu of advance notice being made, there is no right of the Employee to an opportunity to address the Council of the Town on the issue of the termination and the Employee agrees that any appointing by-law for his position can be revoked without opportunity to address Council of the Town on said termination and by-law revocation.

5. **VACATION**

The Employee shall be entitled to an annual vacation as per the current policy of the Town at a time acceptable to Council of the Town.

6. **ASSOCIATIONS AND CONTINUING EDUCATION**

The Employee, at the expense of the Town, may attend such professional development courses and seminars as are recommended or approved by Council of the Town and become a member of the Ontario Municipal Administrators Association and such other professional associations as approved by Council and which are provided for in the annual budget of the Town.

7. **PERFORMANCE REVIEW**

The Employee acknowledges that his performance of the duties and obligations pursuant to this agreement is subject to review by Council of the Town on an annual basis. It is acknowledged that the review process will be structured to provide the Employee with an opportunity to provide input and response to Council of the Town.

8. **CONFIDENTIAL INFORMATION**

- (a) The Employee acknowledges that as C.A.O. and/or D.F.S., he will acquire information about certain matters which are confidential to the Town, which information is the exclusive property of the Town.
- (b) The Employee undertakes to treat confidential all information and not to disclose it to any third party either during his employment, except as may be necessary to perform his duties, or after termination of this employment for any reasons except with the written permission of the Town or by court order.
- (c) The Employee acknowledges that termination of the Employee's employment or money damages may not be sufficient remedies for any breach of the abovementioned confidentiality provisions and that in addition to any other remedies available to the Town, the Town may seek injunctive relief or specific performance and the Employee agrees to waive and hereby waives any requirement for security or posting of any bond in connection with such remedies.

9. **ASSIGNABILITY**

This agreement, being a contract for personal services, shall not be assigned by either party. Notwithstanding this provision the Employee acknowledges that this agreement may be assumed by any successor, institution, government or body that becomes the employer of the Employee pursuant to restructuring.

10. **NOTICES**

Any notice required or permitted to be given to either party must be delivered personally (personal delivery to include commercial couriers) to the party's address last known to the other party and will be deemed to be received on the date of personal delivery to that address.

11. **SEVERABILITY**

In the event that any provision or part of this agreement shall be deemed void or invalid by a court of competent jurisdiction, the remaining provisions or parts of it shall be and remain in full force and effect.

12. **WAIVER**

Any waiver by either party of a breach of any provision of this agreement shall not operate as of or be construed as a waiver of any subsequent breach thereof.

13. **MODIFICATION OF AGREEMENT**

Any modification to this agreement must be in writing signed by the Employee and the Town or it shall have no effect and shall be void.

14. **CLAUSE GOVERNING LAW**

This agreement shall be governed by and construed in accordance with the law of the Province of Ontario.

15. **GENERAL**

The parties acknowledge by their signatures below that they have read and understood this agreement, that this agreement represents their entire agreement, and that there are no collateral representations or warranties to this agreement. The Employee acknowledges that, prior to the execution of this agreement, he has had sufficient opportunity to review this agreement, and to obtain such consultation advice (including independent legal advice) as the Employee considers appropriate. This agreement shall enure to the benefit of, and be binding upon the parties hereto and their heirs, executors, trustees and successors.

The parties have executed this agreement as of the date
first above written.

SIGNED, SEALED AND DELIVERED

in the presence of

THE CORPORATION OF THE TOWN OF PELHAM

Per: Ronald W. Raven
Mayor

Per: Sheryl Mitchell
Clerk

W. Clair Powell
WITNESS

Gord Cherney
Gord Cherney

**THE TOWN OF PELHAM
JOB DESCRIPTION**

JOB TITLE:	CHIEF ADMINISTRATIVE OFFICER	POSITION ID:
REPORTS TO:	MAYOR AND COUNCIL	JOB LEVEL:

1. JOB SUMMARY - GENERAL

- 1.1 Leading a team of municipal employees, the Chief Administrative Officer will provide effective advice and support to the Mayor and Council in developing and implementing policy strategy and objectives that address the unique qualities and needs of the municipality. In so doing, the CAO will ensure that continued opportunities exist for broad public participation on issues that impact Pelham and its constituents. The CAO will also assume a leadership role on strategic issues planned by the Regional Municipality of Niagara that may impact on the Town of Pelham.
- 1.2 The paid duties and responsibilities set forth in the Town of Pelham By-law No. 1506(1992) and amendments thereto shall not be deemed to empower such officer to perform, do or direct any act or matter that would to any extent whatsoever encroach upon the legislative powers of the Council.
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2. DEFINITIONS

- 2.1 "Act" means The Municipal Act, 2001, S.O., c.25, as amended, and any act substituted therefore;
- 2.2 "Chief Administrative Officer" means a person described under Section 229 of The Act and his/her successor from time to time as appointed by Council;
- 2.3 "Council" means the Mayor and Councillors of the municipality acting as a duly assembled meeting thereof;
- 2.4 "Director" means the Director or Head of each municipal Department, as appointed by Council, and directly responsible to the Chief Administrative Officer;
- 2.5 "Mayor" means the Head of Council as defined by Section 225 of The Municipal Act, noting the statutory duty to communicate to the Council information and recommendations designed to improve the community as a whole;
- 2.6 "Municipality" means The Corporation of the Town of Pelham, and where the context so requires, means the land included within the geographical boundaries of the municipality.

JOB TITLE:	CHIEF ADMINISTRATIVE OFFICER	POSITION ID:
REPORTS TO:	MAYOR AND COUNCIL	JOB LEVEL:

3. SPECIFIC RESPONSIBILITIES

The duties and responsibilities of the Chief Administrative Officer shall be as follows:

Advice and Support to Council

- 3.1 Supports the Mayor and Council in the determination of policy by providing advice and counsel relative to proposed municipal initiatives. In doing so, integrates objectives emerging from the political process, social and economic trends, the advice of staff and positions advocated by interest groups and the general public.
- 3.2 To co-ordinate the submission to Council of all relevant material and reports pertaining to any matter coming before a meeting of Council or Committee in co-operation with the Clerk. Formulates alternatives for consideration by the Mayor and Council to ensure that the Corporate objectives are achieved through the most effective and realistic strategies. All staff reports to Council shall either originate from or be channeled by the Chief Administrative Officer.
- 3.3 In addition to new policy and program initiatives, keeps the Mayor and Council apprised of issues and developments of an operational or political nature that relate to the interests of the Corporation.
- 3.4 Provides appropriate advice, background information and briefing materials to the Mayor and Council in carrying out their range of responsibilities. Will play an active role on Council Committees and Commissions as requested.
- 3.5 To attend all Council and Committee meetings and during such meeting be entitled to speak thereat with the consent of the Mayor or presiding officer, to make such observations, suggestions or recommendations as the CAO deems necessary.
- 3.6 To perform such other duties as may be lawfully imposed from time to time by by-law.

Strategic Plan/Business Plan

- 3.7 Supports the Mayor and Council in the formulation of a Corporate Strategic Plan for The Corporation of the Town of Pelham. This Plan will identify the Council's objectives and chart a future vision of the role the municipal government will play in meeting those objectives. In addition, the Plan will identify the critical issues that must be addressed and will be used as a basis for the development of an annual Business Plan for the Corporation.
- 3.8 On a semi-annual basis, submits to the Mayor and Council an analysis of progress in achieving objectives established in the Strategic Plan, sets out a rationale for any variances and recommends modifications of the Plan for the remainder of the term of Council.

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- 3.9 Supports the Mayor and Council in the development of an annual Business Plan which clearly identifies the operational and capital priorities for the next fiscal year.
- 3.10 Annually presents to the Mayor and Council an assessment of the annual Business Plan indicating the level of success attained in reaching the stated goals of the Business Plan.
- 3.11 Develops and maintains an effective organization structure for the municipal staff that reflects operational needs and is directed towards accomplishing the objectives established in the Corporation's Strategic/Business Plan. Of critical importance is a strong senior team that is accountable for the day-to-day management of the Corporation.
- 3.12 Through the senior management team, ensures that there is a clear definition of the responsibility of each employee, effective programs in place to foster the development of the skills and abilities of Corporation personnel and a system of measurement of employee performance, all being carried out in a manner that supports the accomplishment of Council's objectives.
- 3.13 Through the Corporation's senior management staff, ensures the effective functioning of all municipal operations and that Council policy is implemented, objectives are achieved and programs operate within approved funding limits. The Departments of the Corporation are:
- Clerks Department
 - Finance Department
 - Fire Services Department
 - Planning and Development Department
 - Operations Department
 - Building and Enforcement Services Department
- 3.14 Recommends to the Mayor and Council new and revised policies and programs which are consistent with Council policy, meet the changing needs of the public served by The Corporation, and effectively and efficiently fulfill Council's mandate.
- 3.15 The CAO shall from time to time or when requested by Council, co-ordinate the preparation and review of the organizational structure and recommend to Council structural, management or communications changes required.

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REPORTS TO:	MAYOR AND COUNCIL	JOB LEVEL:

Key Relationships

- 3.16 *General Public*
Establishes a presence among the residents of the municipality and takes a leadership role in facilitating appropriate public participation in the formulation of Council policy.

- 3.17 *Relationship with Other Municipalities and Region*
Develops and maintains close working relationships with Chief Administrative Officers of neighbouring municipalities. Takes an active role on behalf of the Town of Pelham in the Region of Niagara.

- 3.18 *Relationship with Provincial Government*
Develops and maintains effective relationships with Provincial government officials with responsibilities affecting The Corporation of the Town of Pelham such as municipal affairs, finance, transportation, tourism, and economic development.

- 3.19 *Relationship with Boards, Agencies, Commissions*
Develops and maintains administrative liaison with local boards, agencies and commissions.

4. LEADERSHIP OF HUMAN RESOURCES

- 4.1 Provides leadership to the employees of the Corporation in order to capitalize on the full potential of this critical resource. In doing so, stimulates, motivates, guides and directs all personnel to contribute fully to the realization of the Corporation's strategic goals and objectives. Encourages the involvement of employees at all levels in decision making.

- 4.2 Communicates the mission, vision and strategic direction of the Corporation to all personnel so as to create an understanding of the role each plays in accomplishing Council goals and objectives.

- 4.3 To carry out an annual performance evaluation of each Department Head and advise Council on performance and to recommend to Council the appointment, promotion, demotion, suspension, or dismissal of Directors reporting to him/her.

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- 4.4 To have the authority, in consultation with the Director, to appoint, employ, promote, demote, suspend, discipline and dismiss all employees below the rank of Director of the Corporation, within approved staff complement levels, in accordance with the procedures contained in the Corporation's Employment Handbook and in accordance with the lines of authority that are defined in the organizational structure.
- 4.5 To direct the bargaining with all municipal employees and to recommend to Council, Employment Agreements concerning wages, benefits and terms of service and upon approval by Council to direct the administration of such Employment Agreements.
- 4.6 To administer all salaries of employees who are subject to the Chief Administrative Officer's supervision within the limitation of any salary plan or salary contract agreement, after such plan or agreement has first been adopted and approved by the Municipal Council.
- 4.7 Exercise general supervision over all Department Heads and through them all employees of the municipality except such officials as are appointed under any Statute in respect of their statutory duties and responsibilities.

5. FINANCIAL, ADMINISTRATIVE, AND INFORMATION TECHNOLOGY MANAGEMENT

- 5.1 Supervise general financial control of the Corporation with the assistance of the Treasurer, including the preparation of operational and capital budgets, their presentation to Council or Committee and subsequently exercise administration and control of the financial affairs of the municipality in accordance to the estimates and budgets as approved by Council.
- 5.2 Ensures effective financial, administrative and information technology systems are in place which maximize the effectiveness of resource utilization within the objectives, policies, plans and budgets established by the Council.
- 5.3 To present to the Mayor and Council on a quarterly basis a report with respect to finances and works projects, indicating the progress in terms of the programs of the Council and any matter that, in the Chief Administrative Officer's opinion, should be reported to Council.
- 5.4 To have the authority to designate a member of Senior Management to act on the Chief Administrative Officer's behalf during any absence of the Chief Administrative Officer due to illness, vacation or otherwise.

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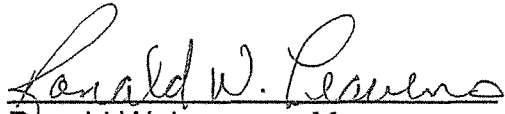
6. REPORTING RELATIONSHIPS

6.1 Reports to: Mayor and Council

Directly Manages: Municipal Clerk
Director of Finance/Treasurer
Director of Fire Services
Director of Planning and Development
Director of Operations
Director of Building and Enforcement Services

Date Circulated: August 16, 2004

Date Approved by Council: September 20, 2004


Ronald W. Leavens, Mayor

SCHEDULE "A" TO AGREEMENT DATED OCTOBER 1, 2004

S C H E D U L E

" B "

to

BY-LAW #549 (1979)

JOB DESCRIPTION FOR THE
POSITION OF TREASURER

REPORTS TO: Clerk for Administration Direction.

BASIC FUNCTION: Directs department for all financial matters affecting the Corporation.

PRINCIPAL DUTIES:

- (1) Primary duties are those set forth in the Ontario statutes or in instructions from the Ministry of Treasury, Economics & Intergovernmental Affairs or the Ontario Municipal Board; in by-laws of the municipality and formal resolutions of its Council; and in the technical requirements of the office whether or not they are spelled out in statutes, by-laws, resolutions, and any other matters or duties as may be assigned by the Council or the Clerk.
- (2) The primary duties that are expected of the Treasurer, including those required by the Province under the Municipal Act.
- (3) Receive and take charge of the money of the Corporation, including the maintenance of accounts in one or more chartered banks or other approved places of deposit.
- (4) Develop and maintain a proper accounting records to provide an internal check on all revenue and expenditure.
- (5) Assist the Council and the Clerk in preparing current and capital budget estimates and in the subsequent control over expenditures in relation to the current estimates and capital budget as subsequently approved.
- (6) Maintain an up-to-date calendar showing dates to be observed in the payment of municipal money for various purposes and in the collection of money in taxes, rates, special charges, licenses, etc.
- (7) Institute controls to ensure that money raised for any specific purpose is reserved for payment as intended.
- (8) Assure that all borrowing of money, temporary or otherwise, has been properly authorized beforehand.
- (9) Pay debentures and interest coupons when due or called and to cancel and file them when paid.
- (10) Close the books for the year, and prepare various statements in the form recommended by the Ministry of Treasury, Economics & Intergovernmental Affairs for inclusion in the audit showing the financial position of the municipality.
- (11) Prepare interim and additional year end statements to further enlarge the available information on the financial affairs of the municipality.
- (12) Assist the municipal auditor in carrying out the audit.
- (13) Submit annual returns to the Ministry of Treasury, Economics & Intergovernmental Affairs and to other departments of the Provincial Government, as required.

con't,....

(14) Directs a department in which the following functions are administered:

- accounting, purchasing, water billing and collection, collection of miscellaneous revenue, payment of corporation liabilities, payroll, tax billing and collection, billing, bookkeeping and collections of accounts for other boards or commissions, such as the Pelham Hydro-Electric Commission, and any ancillary duties as connected with the above functions. e.g. the tax billing and collection function out of necessity includes updating of assessment roll with names, address or other changes; preparing and submitting to Council tax write-offs as provided for in the Municipal Act; issuing of tax arrears certificates; having notices sent out regularly to delinquent taxpayers; preparing and submitting applications for grants in lieu of taxes as provided in various statutes. e.g. L.C.B.O., Ontario Hydro, St. Lawrence Seaway, Province of Ontario, etc.; maintain special area rate files and local improvement files for tax billing purposes.

(15) Act as a financial advisor to Council on all matters and questions affecting the finances of the Municipal Corporation.

(16) Provides advice to other department heads on all matters relating to finance, revenue, expenditures, budget control.

(17) Deals with complex accounting problems facing the accounting section of the Department.

(18) Initiate and recommends the engagement of staff and the dismissal of unsatisfactory personnel in the department to the Clerk.

(19) Act as Secretary of the Finance Committee.

(20) In the absence of the Clerk, the Treasurer shall assume the responsibilities of the Clerk with respect to the daily routine operation of the municipality.

(21) Secondary responsibilities are those further responsibilities that are implicit in the Treasurer's expected relationship with the Council and other bodies and individuals in authority.

SCHEDULE "B"

Standard Corporation Benefit Plans

Gordon Cherney shall participate in all standard benefit plans as may be prescribed from time to time for the Corporation's managerial group of employees including but not restricted to:

- a) Group Life insurance;
- b) Dental plan;
- c) Health Care Insurance Plan;
- d) Major medical and supplementary hospital plan;
- e) Long Term and Short Term Disability Plans;
- f) OMERS pension plan participation;
- g) Vision Care;
- h) Mileage Allowance.