

# Declaration of Trust

## 1. Terms Used in this Agreement

Words and phrases used in this Agreement have the following meanings:

*Agreement* means the Application and this Declaration of Trust;

*annuity* has the same meaning as stipulated in the definition of "retirement income" under subsection 146(1) of the Tax Act;

*applicable pension legislation* means the *Pension Benefits Act* and regulations, as amended from time to time, of the jurisdiction which governs the Scotia Self-Directed Group LRSP set up with your Application. The governing jurisdiction is indicated on the Application;

*applicable tax legislation* means the Tax Act and any applicable provincial tax legislation, as amended from time to time;

*Application* means your application for this Plan; *fiscal year* means the fiscal year of the Plan. It ends on December 31 each year and shall not exceed 12 months;

*Employer/Association* means the employer/association which you have designated on the Application;

*life annuity* has the same meaning as in the applicable pension legislation and as stipulated in the definition of "retirement income" under subsection 146 (1) of the Tax Act and that complies with paragraph 60 (l) of the Tax Act;

*LIF* means a life income fund that is registered as a RIF under the Tax Act and complies with applicable pension legislation;

*Locked-in RRSP (LRSP)* means a RRSP which contains provisions required under applicable pension legislation that restrict the holder's access to the funds because they originated from a registered pension plan governed by the applicable pension legislation;

*LRIF* means a locked-in retirement income fund that is registered as a RIF under the Tax Act and complies with applicable pension legislation;

*marriage breakdown* means divorce, annulment of your marriage, separation for the period of time required by any applicable legislation or, in the case of unmarried spouses, when you stop living together;

*owner or customer* means the annuitant;

*Plan* means the Scotia Self-Directed Group RSP, or Group LRSP set up with your Application;

*Registered Retirement Savings Plan (RRSP)* and *Registered Retirement Income Fund (RRIF)* means a retirement savings plan (RSP) and a retirement income fund (RIF), respectively, that have been registered under the Tax Act;

*RSP* means a retirement savings plan as defined by the Tax Act;

*spouse* has the same meaning as recognized in applicable pension and tax legislation and includes a common-law partner as defined in the Tax Act;

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

*we, our* and *us* mean The Bank of Nova Scotia Trust Company (Scotiabank);

*you* and *your* mean the customer (annuitant) named on the Application.

## 2. Registration

We will apply for registration of your Plan, as required by applicable tax legislation. We agree to accept the position of trustee of your Plan once we have received your completed Application.

## 3. Purpose

The purpose of the Plan is to provide you with a retirement income. All funds contributed or transferred to the Plan including all income, investments, interest and gains, will be held in trust by us in accordance with this Agreement and applicable pension and tax legislation.

## 4. RSP Contributions

You or a contributor can deposit amounts to your Group RSP in a single payment or in periodic payments up to the maximum contribution limit permitted by the Tax Act. For greater certainty, contributions to the Plan may be remitted to Scotiabank by your Employer/Association or, where applicable, by your spouse. You are responsible for determining the maximum permitted contribution to your Group RSP in any tax year. We will not accept contributions or transfers to your Group RSP after December 31 of the year you turn age 71.

## 5. Sources of Funds

Cash, mutual funds or other investments transferred to the Plan must be qualified investments within the meaning of the applicable tax legislation.

All amounts transferred to your Scotia Self-Directed Group RSP must come from:

- another RRSP or RRIF you own;
- a RRSP or RRIF of which your spouse or former spouse is an owner, as part of a judgment of a competent tribunal or written separation agreement relating to the division of property following marriage breakdown;
- another RRSP, RRIF or registered pension plan if the money is an amount described in subparagraph 60 (1) (v) of the Tax Act;
- a provincial pension plan in the circumstances permitted by subsection 146 (21) of the Tax Act; or
- other sources that may be permitted from time to time by the applicable tax legislation.

All amounts transferred into your Scotia Self-Directed Group LRSP must be locked-in, meaning that your access to them is restricted by applicable pension legislation and must comply with applicable tax legislation.

Funds transferred to your Scotia Self-Directed Group LRSP must come from:

- another LRSP or LIF you own;
- a registered pension plan of which you are a member or former member;
- a registered pension plan, LRSP or LIF of which your spouse or former spouse is a member, former member or owner, as part of a judgment of a competent tribunal or written separation agreement relating to the division of property following marriage breakdown;
- a registered pension plan of which your spouse was a member, as a result of the death of your spouse;
- another LRSP, LIF or registered pension plan under the circumstances described in subparagraph 60 (1) (v) of the Tax Act; or
- an immediate or deferred life annuity, the capital of which originates from a registered pension plan.

## 6. Investments

You may invest your funds in any investment permitted by the Tax Act and applicable provincial legislation and which are permitted by us. To do so, you must tell us how you want your funds to be invested. We may require you to provide such documentation in respect of any investment or proposed investment, as we in our sole discretion deem necessary in the circumstances. We will not be responsible for determining whether any investment is a qualified investment.

You may appoint an agent, satisfactory to us, to give us your investment directions which we may act on without incurring any liability.

You may transfer funds from one investment to another, provided this is permitted by the terms of the investment. To do so, you must tell us in writing. None of the funds held in your Scotia Self-Directed Group LRSP may be invested directly or indirectly in a

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mortgage in which you, your spouse, parent, brother, sister or child, or the spouse of any of these people, have an interest.

We will keep legal ownership and possession of the investments in your Plan in whatever form we determine.

We may calculate interest on investments in your Plan, and credit it to your account, more frequently than we tell you when you complete the Application. All interest and income earned by the investments, as well as any bonus we may declare, is credited to your Plan.

Unless you give us instructions, we are not obliged to exercise voting rights with respect to the investments in your Plan.

### 7. Valuation

Your Plan is worth the total market value of all of its assets. The market value of a Guaranteed Investment Certificate in your Plan is the original face value of the investment plus compounded interest, as well as any accrued interest. In the case of a cash balance, the market value is the current balance plus accrued interest. Accrued interest is included whether or not it has been credited.

The market value of other investments held in your Plan is determined by general industry practices.

We calculate the value of your Plan at the end of the last business day of the fiscal year, on the date of a transfer or permitted withdrawal, on the date of your death and at such other times as we deem appropriate. Our valuation is conclusive and binding.

### 8. Annuity/Life Annuity

You may convert your Scotia Self-Directed Group RSP to an annuity. The retirement income under any annuity so acquired may not be assigned in whole or in part. In addition, any annuity so acquired may be combined with any Canadian old age pension.

Except as otherwise provided in this Agreement, the funds held in your Scotia Self-Directed Group LRSP will be converted into a life annuity as required by applicable pension legislation. The life annuity will be established under applicable pension legislation for your life alone or, if you have a spouse, for your life and that of your spouse, unless otherwise permitted.

Periodic payments out of the annuity or life annuity, as applicable, must occur annually or more frequently and will be equal except in the following circumstances:

- the payments are uniformly adjusted by an index or rate provided for in the annuity or life annuity and permitted by paragraphs 146 (3) (iii) to (v) of the Tax Act;
- the benefits of the Plan are divided between you and your spouse; or
- applicable pension legislation and the Tax Act allow a different choice.

The total payment out of the annuity or life annuity, as applicable, made in a year after your death must not exceed the total payment made in a year prior to your death.

### 9. Withdrawals

During your lifetime, on written instructions, we will pay to you or your contributing spouse, as applicable, funds from your Scotia Self-Directed Group RSP. We will only do this as a refund of premiums or as a payment permitted by the Tax Act. In addition, these withdrawals will be subject to the term of the investments in the Plan.

If permitted by the applicable pension legislation, you may make withdrawals from your Scotia Self-Directed Group LRSP if a physician certifies to us that, due to a mental or physical disability or terminal illness, your life expectancy is likely to be shortened considerably. These withdrawals may be in the form

of a lump sum withdrawal or a series of payments, depending on the applicable pension legislation.

All withdrawals from your Plan are subject to tax in the year of withdrawal. Any withdrawals will have the appropriate income tax withheld. At the end of the fiscal year, you have to declare all Plan withdrawals and pay any tax that you owe.

In order to make payments to you, we may have to withdraw, liquidate or sell all or part of one or more of your investments prior to their maturity date. We and/or the Employer/Association assume no liability for any losses that result.

### 10. Transfers

At any time before you reach age 71 you may transfer all or part of the funds in your Plan provided that the investments involved in the transfer have matured. We will transfer the funds within 30 days of your request, as follows:

**From your Scotia Self-Directed Group RSP to:**

- another RRSP or RRIF you own;
- an immediate or deferred annuity. The deferred annuity must start no later than the end of the year in which you turn age 71; or
- another permissible registered retirement investment vehicle that meets the requirements of the Tax Act.

**From your Scotia Self-Directed Group LRSP to:**

- another LRSP you own;
- a registered pension plan as permitted by applicable pension legislation;
- a LRIF or LIF as permitted by applicable pension legislation;
- an immediate or deferred life annuity that meets the requirements of subsection 146 (1) of the Tax Act and applicable pension legislation. The deferred annuity must start no later than the end of the year in which you turn age 71; or
- another permissible registered retirement investment vehicle that meets the requirements of the applicable tax and pension legislation.

Before we make a transfer, you must give us any documents we need.

We may make a transfer by remitting the investment securities held in your Plan and will provide all necessary information to the new carrier.

All transfers must be made in accordance with applicable pension and tax legislation.

### 11. Maturity of Your Plan

You must convert the entire balance of your Plan into one of the retirement income options not later than the end of the year in which you turn age 71. If we do not receive written instructions and all the appropriate documents from you 90 days before the end of the year in which you reach age 71, we will automatically transfer your Scotia Self-Directed Group RSP to a Scotia Self-Directed RIF and your Scotia Self-Directed Group LRSP to a Scotia Self-Directed LIF before the end of that year. You appoint us as your attorney, or agent, to establish and operate the Scotia Self-Directed RIF or LIF, as applicable.

### 12. Estate Matters

If you die before your Scotia Self-Directed Group RSP matures, we will pay the funds in it to your beneficiary, if any. If your spouse is the beneficiary, he or she may transfer the funds in your Scotia Self-Directed Group RSP to a RRSP, RRIF or annuity he or she owns.

If you die before the funds in your Scotia Self-Directed Group LRSP are transferred to a LRIF, LIF, life annuity or other permitted retirement income vehicle available under the applicable pension legislation, we will pay them to your spouse. This assumes that you have a spouse at the time of your death. Your

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spouse may transfer the funds to another LRSP or LIRA, or to a LRIF, LIF, life annuity or any other permitted retirement income vehicle available under the applicable pension legislation or, if permitted under applicable pension legislation, receive the funds in a lump sum cash payment. If you do not have a spouse when you die or, if your spouse has provided us with the waiver referred to in the first paragraph of Section 13 of this Agreement, we will pay the funds in your Scotia Self-Directed Group LRSP to your beneficiary, if any.

You may designate your beneficiary in your will. Alternatively, in provinces where it is allowed, you may designate your beneficiary on a form acceptable to us and in accordance with applicable provincial legislation. You can change or revoke your designation at any time, either in your will or, if allowed, on a form that we accept.

We will make payment to the most recently designated beneficiary of which we have notice, if you have made designations more than once.

If you do not designate a beneficiary, your beneficiary dies before you, or your designation is not permitted by the province where you live, we will pay the funds held in your Plan to your estate.

Before we make any payment, we need proof of your death and may need other documents. We will deduct any applicable taxes, fees and expenses from the payment.

### 13. Entitlement of Your Spouse to Group LRSP

If permitted, your spouse may, within the time permitted by applicable pension legislation and before conversion of your Scotia Self-Directed Group LRSP to a life annuity, waive his or her interest in the funds or revoke such a waiver in the manner required by the applicable pension legislation. We must be told in writing, in a form acceptable to us, of a waiver or revocation and before the time set out in the applicable pension legislation.

If your marriage breaks down, the funds held in your Scotia Self-Directed Group LRSP may be divided according to any court order under applicable family law that divides family property. The provisions of the applicable pension legislation regarding division on marriage breakdown apply to this Agreement. Except as may be provided by applicable law regarding division on marriage breakdown, on marriage breakdown your spouse ceases to be entitled to the funds in your Scotia Self-Directed Group LRSP, unless you have named him or her as beneficiary.

Depending on applicable pension legislation, when the funds in your Scotia Self-Directed Group LRSP are used to buy a life annuity, the life annuity must pay to your spouse, at your death, at least 60 percent of the amount of the pension to which you would have been entitled before your death. This does not apply, however, if your spouse has waived this right in the form and manner required by the applicable pension legislation.

### 14. Exemptions and Prohibitions

You cannot commute, withdraw or surrender any of the funds in your Scotia Self-Directed Group LRSP except (a) where an amount has to be paid to you in order to reduce the tax otherwise payable under Part X. 1 of the Tax Act, or (b) as permitted by applicable pension legislation. Any transaction that contravenes this provision is void.

Except where permitted by law, the amounts held in your Plan may not be used to satisfy a judgment against you and cannot be seized or attached. In addition, except if applicable pension legislation requires otherwise, you agree not to give anyone else an interest in the funds in your Plan and any transaction purporting to do so is void.

Except as otherwise provided in Section 17 of this Agreement, we cannot use any right of set-off against any amounts in your Plan to pay a debt obligation you may have to us.

### 15. Proof of Information

You certify the accuracy of all of the information you have given us in your Application, including all birth dates, and you agree to give us any further proof that we may need.

### 16. No Advantage

No advantage other than those permitted under paragraph 146 (2) (c.4) of the Tax Act that is conditional in any way on the existence of the Plan may be extended to you or to any person with whom you are not dealing at arm's length.

### 17. Fees and Expenses

We are entitled to receive fees and to recover all reasonable expenses for the administration of your Plan. We tell you what our fees are when you apply to open your Plan. We may change them from time to time and, if we do so, we will tell you in writing at least 60 days before the new fees go into effect.

Our fees and expenses and those of our agent as well as any applicable taxes may be deducted from the funds in your Plan.

We may retain part of your Plan in cash to pay our fees and other expenses. To cover these charges, we can liquidate assets in your Plan without liability.

### 18. Amendments

From time to time we may amend this Agreement, with the concurrence of regulatory authorities if required. If we do so, we will give you 60 days notice in writing. No amendment, however, will disqualify your Plan as an RSP or LRSP, as applicable.

If this is a Scotia Self-Directed Group LRSP Agreement, no amendment shall be made to this Agreement that would reduce its benefits unless we give you at least 90 days prior written notice describing the amendment and indicating the date before which you may transfer, in accordance with the applicable pension legislation, the assets in your Scotia Self-Directed Group LRSP, as applicable. In addition, the Agreement must remain in conformity with the standard contract filed with the Superintendent of Pensions and an amendment shall only be made if we are required by law to make the amendment.

If an amendment results from changes to the Tax Act or applicable pension legislation, this Agreement will be considered to be automatically amended and we will not be required to tell you about it. Nor will we be required to tell you about changes to investment options that do not affect the investments in your Plan.

### 19. Statements

We will give you a monthly statement for your Plan. The statement will show the following information since your last statement :

- amounts contributed or transferred to your Plan, their source, the accumulated earnings and the fees charged;
- cost and current value of your investments;
- proceeds from the sale of your investments.

If you transfer funds in the Plan, we give you the same information, determined at the date of the transfer.

If you die, the information is determined at the time of your death and given to the person entitled to receive the balance of your Plan.

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### **20. RSP Tax Receipts**

By March 31 of every year, we will send you a receipt for any RSP contributions you made during the preceding tax year or during the first 60 days of the current tax year. If your spouse made contributions, we will send a receipt to your spouse. These receipts should be filed with your tax return or that of your contributing spouse.

### **21. Our Right to Appoint an Agent**

You authorize us to delegate the performance of our duties under this Agreement to an agent or agents that we choose. We acknowledge, however, that the ultimate responsibility for the administration of your Plan is ours.

### **22. Resignation**

We may resign from our duties under this Agreement by giving you and the Employer/Association 90 days notice in writing. If we resign, we will transfer the balance of your Plan to another issuer that we choose. We will give the other issuer all the information necessary for the administration of your Plan within 90 days of notifying you of our resignation.

### **23. Notice**

To give us notice about anything relating to this Agreement, write us at the branch location indicated on the monthly statement for your Plan. We consider that we have received your notice on the day it is actually delivered to us.

If we send you or your spouse a notice, statement or receipt, we consider that you have received it 48 hours after we have mailed it to you at the last address that we have for you in our records.

### **24. Indemnity**

You, your spouse and your respective heirs and personal representatives shall indemnify us and/or the Employer/Association for any government charges imposed on your Plan or the payments made from it as well as for any other charge or liability which we may incur as a result of us and/or the Employer/Association undertaking our/their obligations under this Agreement.

We and/or the Employer/Association are not responsible for any losses incurred by the Plan or for any reduction in the value of the Plan, except if due to our and/or their own negligence, deliberate wrongdoing or lack of good faith. From the date the Plan is converted to a life annuity, we and/or the Employer/Association have no further liability to you for it.

### **25. Governing Law**

This Agreement is governed by applicable tax and pension legislation and by the laws of the jurisdiction in Canada indicated on your Application. It is to be interpreted in accordance with those laws.

### **26. Branch of Account**

For purposes of the *Trust and Loan Companies Act* (Canada), the branch of account for your Plan is the branch location indicated on the monthly statement for your Plan. We may change your branch of account by giving written notice to you.

### **27. Additional Restrictions**

You, and where applicable, your spouse shall ensure compliance with such terms and restrictions with respect to participation in the Plan as the Employer/Association may impose by virtue of the employment or membership of you, or if applicable, your spouse, provided that such terms and restrictions are in accordance with applicable tax legislation. You and, where applicable, your spouse acknowledge that the Employer/Association is relying on the representations made in this Agreement by you and, where applicable, your spouse.

# Addendum

## Addendum for British Columbia and Federally- Regulated LRSPs

This Addendum sets out further provisions required by the applicable pension legislation of **British Columbia** and the **Government of Canada**. This Addendum forms part of the main Group LRSP Agreement to which it is attached. In the case of any inconsistency between the main Group LRSP Agreement and this Addendum, this Addendum shall prevail in all cases.

All of the definitions regarding locked-in RSPs set out in the applicable pension legislation are incorporated in this Group LRSP Agreement.

### 1. Differentiation on the Basis of Sex

For **federally-regulated** LRSPs, only funds which were calculated in the same manner as indicated on the Application can be transferred to this Plan. The funds cannot be used to purchase an immediate or deferred life annuity that differentiates on the basis of sex unless the commuted value of the deferred pension transferred into your Plan was determined in a manner that differentiated, while you were a member of the pension plan, on the basis of sex.

### 2. Withdrawals

In **British Columbia**, if you are age 65 or older, you may apply in the form and manner required by the applicable pension legislation to have all of the funds in your Scotia Self-Directed Group LRSP commuted (unlocked) if the total value of your LRSPs, LIFs and defined contribution pension plans is less than the threshold amount set by the applicable pension legislation. Your spouse must consent to this withdrawal in the form and manner required by the applicable pension legislation.

In addition, in **British Columbia**,

- (a) if you have been absent from Canada for two or more years and have become a non-resident of Canada as determined for the purposes of the Tax Act, you may apply in the form and manner required by the applicable pension legislation to withdraw all or part of the money in your Scotia Self-Directed Group LRSP. Your spouse must consent to this withdrawal in the form and manner required by the applicable pension legislation. However, this requirement for spousal consent does not apply, if you are the surviving spouse of the original Group LRSP owner.
- (b) you may withdraw all or part of the funds in your Scotia Self-Directed Group LRSP, if the value of the Group LRSP does not exceed 20% of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the calendar year in which the withdrawal is made; provided, however, that if your Scotia Self-Directed Group LRSP is not eligible for this option, it may not be severed into two or more of any combination of LRSPs or LIFs, if the balance of any such contracts would be less than 40% of the Year's Maximum Pensionable Earnings for the calendar year in which the severance is requested.

In **British Columbia**, your spouse must consent to the withdrawals provided for in the second paragraph of Section 9 of the main Group LRSP Agreement in the form and manner required by the applicable pension legislation. This requirement does not apply to your spouse if you are the surviving spouse of the original Group LRSP owner.

### 3. Transfers

In **British Columbia**, before we transfer the funds in your Scotia Self-Directed Group LRSP, we will tell the institution which is to receive the funds of their locked-in status and make acceptance of the transfer subject to applicable pension legislation.

In **British Columbia**, we will ensure that both the institution and the contract to which your funds are being transferred are acknowledged by and filed with the Superintendent of Pensions.

In **British Columbia**, all references to Age 71 in Section 10 of the main LRSP Agreement shall read age 69.

### 4. Maturity of Your Plan

In **British Columbia**, all references to Age 71 in Section 11 of the main LRSP Agreement shall read age 69.

### 5. Responsibility

In **British Columbia**, if we pay out funds from your Scotia Self-Directed Group LRSP in a way that is contrary to the applicable pension legislation, we will ensure that you receive a pension equivalent to what you would have received if the funds had not been paid out. The same applies if we transfer any funds from your Scotia Self-Directed Group LRSP to another institution without fulfilling our obligations and the other institution fails to administer the funds in the manner permitted by the applicable pension legislation.

### 6. Estate Matters

In **British Columbia**, the provisions of the second paragraph of Section 12 of the main Group LRSP Agreement do not apply if you are not a former member of the pension plan from which the money in the Group LRSP directly or indirectly originated.