

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 LRSP, LIRA or Federal RLSP 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;

Federal RLIF means a RRIF that complies with section 20.3 of the *Pension Benefits Standards Regulations, 1985* (Canada);

Federal RLSP means an RRSP that complies with section 20.2 of the *Pension Benefits Standards Regulations, 1985* (Canada);

fiscal year means the fiscal year of the Plan. It ends on December 31 each year and shall not exceed 12 months;

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;

LIRA means a locked-in retirement account that is registered as an RSP under the Tax Act and complies with 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;

Locked-in RRSP (LRSP) means an 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;

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 RSP, LRSP, LIRA or Federal RLSP 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 (Scotiustrust);

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 RSP in a single payment or in periodic payments up to the maximum contribution limit permitted by the Tax Act. You are responsible for determining the maximum permitted contribution to your RSP in any tax year. We will not accept contributions or transfers to your 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 RSP must come from:

- another RRSP or RRIF you own;
- an 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 (l) (v) of the Tax Act;
- a specified 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 LRSP, LIRA or Federal RLSP 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 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 (l) (v) of the Tax Act; or
- an immediate or deferred life annuity, the capital of which originates from a registered pension plan.

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

- another LIRA, LRSP, LRIF or LIF you own;
- a registered pension plan of which you are a member or former member;

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- a registered pension plan, LIRA, LRSP, LRIF 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 LIRA, LRSP, LRIF, LIF or registered pension plan under the circumstances described in subparagraph 60 (l) (v) of the Tax Act;
- an immediate or deferred life annuity, the capital of which originates from a registered pension plan;
- a specified pension plan in the circumstances permitted by subsection 146 (21) of the Tax Act; or
- any other source that may be permitted by the applicable tax and pension legislation.

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. You have a responsibility to determine whether any investment is a qualified investment. We will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Plan holds a non-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.

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 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 LRSP or LIRA 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 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 LRSP or LIRA 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 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 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 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.

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From your Scotia Self-Directed LIRA to:

- another LIRA you own;
- a registered pension plan as permitted by the applicable pension legislation;
- a LRIF or LIF as permitted by the applicable pension legislation;
- an immediate or deferred life annuity that meets the requirements of subsection 146 (1) of the Tax Act and the 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 RSP to a Scotia Self-Directed RIF and your Scotia Self-Directed LRSP, LIRA or Federal RLSP 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 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 RSP to an RRSP, RRF or annuity he or she owns.

If you die before the funds in your Scotia Self-Directed LRSP or LIRA 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 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 LRSP, LIRA or Federal RLSP, 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, upon your death, the funds in your Plan are not payable pursuant to this Agreement to your spouse, and 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 LRSP or LIRA

If permitted, your spouse may, within the time permitted by applicable pension legislation and before conversion of your Scotia Self-Directed LRSP or LIRA 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 LRSP or LIRA 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 LRSP or LIRA, unless you have named him or her as beneficiary.

Depending on applicable pension legislation, when the funds in your Scotia Self-Directed LRSP or LIRA 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 LRSP or LIRA 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, as defined under paragraph 207.01(1) of the Tax Act, 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, unless prohibited by the Act.

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.

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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, LRSP, LIRA or Federal RLSP, as applicable.

If this is a Scotia Self-Directed LRSP or LIRA 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 LRSP or LIRA, 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 at least quarterly a 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.

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 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 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 our undertaking our obligations under this Agreement, unless prohibited by the Act.

We 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 own negligence, deliberate wrongdoing or lack of good faith. From the date the Plan is converted to a life annuity, we 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 statement for your Plan. We may change your branch of account by giving written notice to you.

27. Qualifying Recognised Overseas Pension Scheme (QROPS)

If the Plan contains funds that have benefitted from U.K. tax relief, the Plan may only contain funds that have benefitted from U.K. tax relief. Notwithstanding anything to the contrary in this Declaration of Trust, the following applies:

- no transfer or payment may be made, including without limitation as a pension or lump-sum payment, unless (i) you have reached the age of 55; or (ii) (a) we have received evidence from a registered or recognised medical practitioner that you are (and will continue to be) incapable of carrying on your occupation because of physical or mental impairment; and (ii) (b) you have in fact ceased to carry on your occupation; or (iii) the funds are transferred to another QROPS or U.K. Registered Pension Scheme.
- any transfer or payment will be reported to HM Revenue and Customs (U.K.) unless (i) you have not been a U.K. resident in the Taxable Period, and (ii) more than 10 years has elapsed since the date on which the Relevant Transfer Fund (i.e. the Plan) came into existence. Taxable Period means the U.K. tax year (6 April to the next following 5 April) in which a payment or transfer is made and the five immediately preceding U.K. tax years.