

# OPEN AND REGISTERED MULTI-ACCOUNT APPLICATION FORM

## MUTUAL FUNDS

- Non-registered Account (Open/Cash)
- Retirement Savings Plan (RSP)
- Spousal RSP
- Locked-In Retirement Account (LIRA)
- Retirement Income Fund (RIF)
- Spousal RIF
- Life Income Fund (LIF)
- Prescribed Retirement Income Fund (PRIF)
- Locked-In Retirement Income Fund (LRIF)
- Locked-In Registered Savings Plan (LRSP)
- Restricted Locked-in Savings Plan (RLSP)
- Restricted Life Income Fund (RLIF)


**Send signed application to:**

Empire Life Investments Inc.  
259 King Street East  
Kingston ON K7L 3A8

**Customer Service:**

Phone: 1 855 823-6883  
Fax: 1 866 970-0135  
Email: [mutualfund@empire.ca](mailto:mutualfund@empire.ca)

# EMPIRE LIFE MUTUAL FUND APPLICATION

<b>1.0 Account type</b>	<input type="radio"/> New account <input type="radio"/> Additional investment – Existing account number:		
*Attach a spousal waiver/ consent form.	<input type="radio"/> Non-Registered (Open/Cash) <input type="radio"/> Retirement Savings Plan (RSP) <input type="radio"/> Restricted Locked-in Savings Plan (RLSP) <input type="radio"/> Spousal RSP <input type="radio"/> Retirement Income Fund (RIF) <input type="radio"/> Restricted Life Income Fund (RLIF) <input type="radio"/> Spousal RIF	<input type="radio"/> Locked-In Retirement Account (LIRA)* <input type="radio"/> Life Income Fund (LIF)* <input type="radio"/> Locked-In Retirement Income Fund (LRIF)* <input type="radio"/> Prescribed Retirement Income Fund (PRIF)* <input type="radio"/> Locked-In Retirement Savings Plan (LRSP)* <input type="radio"/> Restricted Locked-In Savings Plan (RLSP)* <input type="radio"/> Restricted Life Income Fund (RLIF)*	
*For Locked-in plans – please indicate the governing pension legislation:			
<b>2.0 Accountholder /Annuitant information</b>	Language: <input type="radio"/> <b>English</b> <input type="radio"/> <b>French</b> – If not specified we will communicate in the language of this application.		
<input type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Ms. <input type="radio"/> Miss <input type="radio"/> Dr. <input type="radio"/> Corporation/entity (attach constituting documents) <input type="radio"/> Formal Trust (attach Trust documents)			
First name and middle initial		Last name or legal name of corporation/entity	Date of birth (dd/mm/yyyy)
Address (number, street)		City	Province    Postal code
Social Insurance Number (SIN)	Home telephone/cell phone	Work telephone	Email address
<b>2.1 Joint Accountholder /Contributing spouse's information</b>	<input type="radio"/> Joint tenants with rights of survivorship (not applicable in Quebec) <input type="radio"/> In Trust for (non-registered only) <input type="radio"/> Tenants in common (non-registered only) <input type="radio"/> Contributing spouse's* information (Spousal RIF/RSP only) <i>*Spouse refers to a person recognized as your spouse or common-law partner for the purposes of the Income Tax Act (Canada).</i>		
<input type="radio"/> Mr. <input type="radio"/> Mrs. <input type="radio"/> Ms. <input type="radio"/> Miss <input type="radio"/> Dr. <input type="radio"/> Corporation/entity (attach constituting documents) <input type="radio"/> Formal Trust (attach Trust documents)			
First name and middle initial		Last name or legal name of corporation/entity	Date of birth (dd/mm/yy)
Social Insurance Number	Home telephone/cell phone	Work telephone	Email address
<b>3.0 Dealer/Advisor information</b>	Dealer number	Advisor number	Dealer account number
Dealer name		Advisor name	
<b>Advisor signature</b> 		Contact information	
<b>4.0 Successor Annuitant /Beneficiary designation</b>	<input type="radio"/> Election of spouse as Successor Annuitant (applicable only to RIFs). Where permitted by law, I hereby elect that my spouse, if he/she survives me, become the annuitant under the RIF in the event of my death before the termination of the RIF. I reserve the right to revoke this election as permitted by applicable law.		
Spouse's name		Date of birth (dd/mm/yyyy)	Social Insurance Number (SIN)
(Registered only) If I have not designated a successor annuitant or if my successor annuitant predeceases me, I designate the following person(s) as my designated beneficiary(ies) and the person(s) entitled to receive the proceeds of my registered account if living at my death. Unless otherwise indicated, the proceeds shall be divided equally among the beneficiaries and the share of any beneficiary who predeceases me shall be divided equally amongst the surviving beneficiaries. I reserve the right to revoke this designation. <b>Caution: The election of a successor annuitant and/or beneficiary designation is subject to the laws of the jurisdiction in which you reside.</b> In some cases the rights of your spouse may override a beneficiary designation. Your beneficiary designation will not automatically change as a result of a future marriage or marriage breakdown; you may need to complete a new designation in the future for this purpose. It is your sole responsibility to ensure that the election of a successor annuitant and/or beneficiary designation is effective and changed when appropriate.			
First name and middle initial		Last name	
Relationship to Accountholder			Share %
First name and middle initial		Last name	
Relationship to Accountholder			Share %

<b>5.0 Investment instructions</b> If there is a conflict between the fund name and fund code, the fund code will be used.	<b>Fund name</b>	<b>Fund code</b>	<b>FE commission %</b>	<b>Wire order number</b>	<b>Deposit amount</b> <input type="radio"/> \$ <input type="radio"/> %	<b>Pre-authorized debit</b>	<b>Withdrawals - Income payments or SWP</b> <input type="radio"/> \$ <input type="radio"/> %
						\$	
						\$	
						\$	
						\$	
<b>TOTAL</b>						\$	

**6.0 Initial Deposit**

Cheque attached (not allowed for Retirement Income or locked-in plans)  
 Transfer Authorization attached  
 Lump sum deposit from my bank account (**sign authorization in section 10.0**) – Amount \$ \_\_\_\_\_

**7.0 Systematic withdrawal payments (SWP)**  
(Non-registered only)

**Payments will be withdrawn based on instructions noted in Section 5.**

**Frequency**  Weekly  Bi-weekly  Semi-monthly  Monthly  Quarterly  Semi-annually  Annually

Withdrawal amount \$ \_\_\_\_\_  gross  net      Start date (dd/mm/yyyy) \_\_\_\_\_

Deposit to my bank account – **ATTACH VOID CHEQUE**     Send me a cheque

**8.0 Scheduled switches**

**Frequency**  Weekly  Bi-weekly  Semi-monthly  Monthly  Quarterly  Semi-annually  Annually

Switch start date (dd/mm/yyyy) \_\_\_\_\_

**From** -  net  gross      **To** -  net  gross

Fund name	Fund code	Amount	Fund name	Fund code	Amount
		<input type="radio"/> \$ <input type="radio"/> # units			<input type="radio"/> \$ <input type="radio"/> %

**9.0 Fund Distributions**

**Distributions for non-registered accounts can either be paid in cash OR reinvested. Distributions for registered accounts are reinvested automatically and cannot be paid in cash.**

Distributions to be paid in cash (non-registered only)  
 Deposit to my bank account – **ATTACH VOID CHEQUE**     Send me a cheque

Distributions to be reinvested  
 Distributions will be reinvested into securities of the same funds unless indicated otherwise below:

From Fund name	Fund code	To Fund name	Fund code

**10.0 Pre-Authorized Debit (PAD)**

**Frequency**  Weekly  Bi-weekly  Semi-monthly  Monthly  Quarterly  Semi-annually  Annually

Amount \$ \_\_\_\_\_      PAD start date (dd/mm/yyyy) \_\_\_\_\_

**ATTACH VOID CHEQUE**  
(Non-registered, RSP and Spousal RSP only)

**By signing below I/we, the bank account holder(s), hereby:**

- Authorize Empire Life Investments Inc. or its authorized agent to debit the bank account referred to on the attached void cheque to fund the deposits as indicated above.
- Acknowledge that if is for my/our personal investment, the PAD will be considered a Personal PAD by Canadian Payments Association definition. If it is for business purposes, it will be considered a Business PAD.
- **Waive the pre-notification requirements specified in sections 15(a) and (b) of the Canadian Payments Association Rule H1.**
- Confirm that all persons whose signatures are required to authorize transactions in the bank account provided have signed below.
- Understand that I/we have certain recourse rights if any debit does not comply with this agreement. For example, I/we have the right to receive reimbursement for any debit that is not authorized or is not consistent with this PAD agreement. To obtain more information on my/our recourse rights, I/we may contact my/our financial institution or visit [www.cdnipay.ca](http://www.cdnipay.ca).
- Understand that I/we may change these instructions or cancel this PAD at any time provided that I/we give Empire Life Investments Inc. or its authorized agent at least 10 days written notice. To obtain a cancellation form or more information on my/our right to cancel a PAD agreement I/we can contact my/our financial institution or visit [www.cdnipay.ca](http://www.cdnipay.ca).

<b>Signature of signatory on bank account</b> X	<b>Date</b>
<b>Signature of co-signatory on bank account</b> X	<b>Date</b>

<p><b>11.0 Retirement income payments</b> (RIF, LIF, LRIF, PRIF only)</p>	<p><b>Payment Details – check all that apply:</b></p> <p><input type="radio"/> Minimum payment as prescribed by the <i>Income Tax Act</i> (Canada)</p> <p><input type="radio"/> Maximum payment as prescribed by provincial/federal pension legislation (locked-in funds)</p> <p><input type="radio"/> Minimum payments to be based on my spouse's age (not applicable for New Brunswick)</p> <p><input type="radio"/> Level amount of \$ _____ <input type="radio"/> gross <input type="radio"/> net of taxes</p> <p>I understand that if I elect to use my spouse's age for calculating the minimum payment required to be paid to me from the plan, this election is irrevocable.</p> <p>Frequency <input type="radio"/> Weekly <input type="radio"/> Bi-weekly <input type="radio"/> Semi-monthly <input type="radio"/> Monthly <input type="radio"/> Quarterly <input type="radio"/> Semi-annually <input type="radio"/> Annually</p> <p>Start date (dd/mm/yyyy)</p> <p><input type="radio"/> Deposit to my bank account – <b>ATTACH VOID CHEQUE</b> <input type="radio"/> Send me a cheque</p>						
<p><b>12.0 Special instructions</b></p>							
<p><b>13.0 Signatures</b></p>	<p><b>By signing below I confirm that:</b></p> <ul style="list-style-type: none"> <li>I am of legal age and capacity to provide trade instructions and purchase securities.</li> <li>I am subscribing or directing The Royal Trust Company to subscribe for units of Empire Life Mutual Funds as indicated on this application form. I hereby acknowledge having received the current simplified prospectus and/or fund facts and any other required disclosure documents for each fund subscribed for. I agree to be bound by the terms and conditions stated in the prospectus.</li> <li>I have read and agree to the terms and conditions in these documents and understand that all transactions on my account are carried out in accordance with the terms set out in these documents.</li> <li>All information I have provided is true and correct.</li> <li>I consent to my personal information being collected, held, used and disclosed by The Royal Trust Company, Empire Life Investments Inc. and their authorized agents (including third party providers), inside or outside Canada, as required in order to administer my account and in accordance with Empire Life Investments Inc.'s Privacy Policy. To access a copy of our most recent Privacy Policy, please visit our website at <a href="http://www.empirelifeinvestments.ca">www.empirelifeinvestments.ca</a>.</li> </ul> <p><b>I understand and agree that:</b></p> <ul style="list-style-type: none"> <li>My application and any purchase can be rejected or declined within two days of receipt, in which case my money will be returned to me.</li> <li>If I choose the initial sales charge option (front end load), I agree to pay a commission which may be deducted from my original investment amount. If I choose the deferred sales charge option or the low load option, the dealer will be paid a commission and I may be required to pay a charge upon withdrawal, as described in the simplified prospectus. I also authorize the payment of the trailing commissions to the dealer, as described in the simplified prospectus.</li> <li>Empire Life Mutual Funds charge an early redemption fee within a certain number of days after purchase. Please refer to the prospectus or ask your advisor for applicability to the funds you are purchasing.</li> </ul> <p><b>Where this application is for an RSP, LIRA, RIF, LIF, PRIF, LRIF, LRSP, RLIF or LRSP:</b></p> <ul style="list-style-type: none"> <li>I am a resident of Canada for the purposes of the <i>Income Tax Act</i> (Canada).</li> <li>I am applying to open an Empire Life Mutual Funds Retirement Savings Plan (the "Plan") or an Empire Life Mutual Funds Retirement Income Fund (the "Fund") and request The Royal Trust Company to apply for registration of the Plan or Fund as a registered retirement savings plan or a registered retirement income fund under sections 146 and 146.3 of the <i>Income Tax Act</i> (Canada).</li> <li>I authorize Empire Life Investments Inc. to act as my agent with respect to the plan as set out in this application, the Declaration of Trust and any applicable addendum.</li> <li>I have received, read, understand and agree to the terms of the Declaration of Trust attached and all future amendments to the Declaration of Trust.</li> <li>I acknowledge that if funds are being transferred to LIRA, LIF, PRIF, LRIF or LRSP, they will be locked-in and subject to the terms of the applicable addendum and provisions of the pension legislation indicated on this application.</li> <li>I agree to provide, on request, proof of age and social insurance number for myself and, if applicable, my spouse and such further information as may be required in connection with the registration or administration of my account.</li> <li>I understand that I may have to pay income tax on any amount I receive from my registered plan.</li> <li>I acknowledge that I am responsible for determining how much I am allowed to contribute to my registered plan and the suitability of its investments.</li> <li>I acknowledge and agree to be bound by the terms and conditions of the plan as set out in this application, the Declaration of Trust and any applicable addendum.</li> </ul> <p><b>Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments. Please read the prospectus, which contains detailed investment information, before investing. Mutual funds are not covered by the Canada Deposit Insurance Corporation or by any other government deposit insurer and are not guaranteed or insured by Empire Life Investments Inc. or The Empire Life Insurance Company. Their values change frequently. There can be no assurances that a money market fund will be able to maintain its net asset value per unit at a constant amount or that the full amount of your investment will be returned to you. Past performance may not be repeated.</b></p> <p>I have requested that this application form and all related documents be in English. J'ai demandé que ce formulaire d'adhésion ainsi que tout documents connexes soient rédigés en anglais.</p> <table border="1"> <tr> <td data-bbox="305 1816 1226 1879"> <p><b>Signature of Accountholder/Annuitant</b> X</p> </td> <td data-bbox="1226 1816 1588 1879"> <p><b>Date</b></p> </td> </tr> <tr> <td data-bbox="305 1879 1226 1963"> <p><b>Second authorized signature</b> (Joint Accountholder or Accountholder's spouse for ON, NL, NS locked-in plans) X</p> </td> <td data-bbox="1226 1879 1588 1963"> <p><b>Date</b></p> </td> </tr> <tr> <td data-bbox="305 1963 1226 2032"> <p><b>Accepted by Empire Life Investments Inc. as Agent for The Royal Trust Company</b> X <i>Glenda Kaye</i></p> </td> <td data-bbox="1226 1963 1588 2032"> <p><b>Date</b></p> </td> </tr> </table>	<p><b>Signature of Accountholder/Annuitant</b> X</p>	<p><b>Date</b></p>	<p><b>Second authorized signature</b> (Joint Accountholder or Accountholder's spouse for ON, NL, NS locked-in plans) X</p>	<p><b>Date</b></p>	<p><b>Accepted by Empire Life Investments Inc. as Agent for The Royal Trust Company</b> X <i>Glenda Kaye</i></p>	<p><b>Date</b></p>
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# Fund Names and Codes

FE = Front End or Initial Sales Charge ▪ LL = Low Load ▪ DSC = Deferred Sales Charge

Fund Names	Sales Charge Options	Fund Codes				
		Series A	Series F	T6 Series	T8 Series	Series I
<b>Empire Life Emblem Portfolios®</b>						
Empire Life Emblem Diversified Income Portfolio	FE	ELM8001	ELM8003	ELM8006	N/A	ELM8000
	LL	ELM8031	N/A	ELM8036	N/A	N/A
	DSC	ELM8071	N/A	ELM8076	N/A	N/A
Empire Life Emblem Conservative Portfolio	FE	ELM8101	ELM8103	ELM8106	N/A	ELM8100
	LL	ELM8131	N/A	ELM8136	N/A	N/A
	DSC	ELM8171	N/A	ELM8176	N/A	N/A
Empire Life Emblem Balanced Portfolio	FE	ELM8301	ELM8303	ELM8306	ELM8308	ELM8300
	LL	ELM8331	N/A	ELM8336	ELM8338	N/A
	DSC	ELM8371	N/A	ELM8376	ELM8378	N/A
Empire Life Emblem Moderate Growth Portfolio	FE	ELM8501	ELM8503	ELM8506	ELM8508	ELM8500
	LL	ELM8531	N/A	ELM8536	ELM8538	N/A
	DSC	ELM8571	N/A	ELM8576	ELM8578	N/A
Empire Life Emblem Growth Portfolio	FE	ELM8701	ELM8703	ELM8706	ELM8708	ELM8700
	LL	ELM8731	N/A	ELM8736	ELM8738	N/A
	DSC	ELM8771	N/A	ELM8776	ELM8778	N/A
Empire Life Emblem Aggressive Growth Portfolio	FE	ELM8901	ELM8903	ELM8906	ELM8908	ELM8900
	LL	ELM8931	N/A	ELM8936	ELM8938	N/A
	DSC	ELM8971	N/A	ELM8976	ELM8978	N/A
<b>Empire Life Mutual Funds</b>						
Empire Life Monthly Income Mutual Fund	FE	ELM301	ELM303	ELM306	ELM308	ELM300
	LL	ELM331	N/A	ELM336	ELM338	N/A
	DSC	ELM371	N/A	ELM376	ELM378	N/A
Empire Life Dividend Growth Mutual Fund	FE	ELM501	ELM503	ELM506	ELM508	ELM500
	LL	ELM531	N/A	ELM536	ELM538	N/A
	DSC	ELM571	N/A	ELM576	ELM578	N/A

# EMPIRE LIFE MUTUAL FUNDS RETIREMENT SAVINGS PLAN DECLARATION OF TRUST

## I. DEFINITIONS

Whenever used in this declaration of trust or on the Application, any capitalized terms shall have the meanings given to them below:

“**Agent**” means Empire Life Investments Inc. and its successors and assigns;

“**Annuitant**” means the individual who has executed the Application to be plan owner for the Plan within the meaning Applicable Laws give to that word;

“**Applicable Laws**” means the Tax Act, relevant pension legislation and such other laws of Canada and of the provinces and territories applicable hereto;

“**Application**” means the Annuitant’s application to the Trustee to establish the Plan;

“**Contribution**” means a contribution of cash or any Qualified Investment under the Plan;

“**Estate Documents**” means proof of the Annuitant’s death and such other documents including letters probate of the Annuitant’s will as may be required by the Trustee in its sole discretion in connection with the transmission of the Property on the Annuitant’s death;

“**Estate Representative**” means an executor, an administrator, an administrator with the will annexed, a liquidator, or an estate trustee with a will or without a will, whether one or more than one is so appointed;

“**Expenses**” means all (i) costs, (ii) charges, (iii) commissions, (iv) investment management fees, brokerage fees, and other fees, (v) legal expenses and (vi) out-of-pocket expenses incurred from time to time in relation to the Plan;

“**Former Spouse**” means the individual who is considered by Applicable Laws to the Annuitant’s former Spouse;

“**Maturity Date**” means the date the Annuitant selects for the start of a Retirement Income, which must not be after the end of the year in which the Annuitant attains the maximum age for the commencement of a Retirement Income as prescribed by Applicable Laws from time to time;

“**Plan**” means the retirement savings plan the Annuitant and the Trustee have opened in the Annuitant’s name pursuant to his or her Application;

“**Plan Proceeds**” means the Property, less any Expenses and Taxes;

“**Prohibited Investment**” means Property (other than prescribed excluded Property as that term is defined in the Tax Act) that is:

- (a) a debt of the Annuitant;
- (b) a share of the capital stock of, an interest in or a debt of:
  - (i) a corporation, partnership or trust in which the Annuitant has a significant interest;
  - (ii) a person or partnership that does not deal at arm’s length with the Annuitant or with a person or partnership described in subparagraph (i);
  - (c) an interest in, or right to acquire, a share, interest or debt described in paragraph (a) or (b); or
  - (d) prescribed property (as that term is defined in the Tax Act);

“**Property**” means any property, including the income thereon, the proceeds thereof and cash, held under the Plan from time to time;

“**Qualified Investment**” means any investment that is a qualified investment for a registered retirement savings plan according to the Tax Act;

“**Retirement Income**” means a retirement income within the meaning of the Tax Act;

“**Spouse**” means an individual who is considered by Applicable Laws to be the Annuitant’s spouse or common-law partner;

“**Tax Act**” means the *Income Tax Act* (Canada);

“**Taxes**” means any and all applicable taxes and assessments, including any penalties and interest;

“**Trustee**” means The Royal Trust Company in its capacity as trustee and issuer of the Plan, and its successors and assigns.

## 2. DECLARATION OF TRUST

The Trustee agrees to act as trustee of a Retirement Savings Plan for the Annuitant named in the Application and to administer the Property according to this Declaration of Trust.

## 3. APPOINTMENT OF AGENT

The Trustee has appointed the Agent as its agent to perform certain duties relating to the operation of the Plan. The Trustee acknowledges and confirms that ultimate responsibility for the administration of the Plan remains with the Trustee.

## 4. REGISTRATION

The Trustee will apply for registration of the Plan as a retirement savings plan pursuant to Applicable Laws.

## 5. CONTRIBUTIONS

The Annuitant or the Annuitant’s Spouse may make Contributions to the Plan in such amounts as are permitted under Applicable Laws, in cash or such other property as may be permitted in the sole discretion of the Trustee. It shall be the sole responsibility of the Annuitant or the Annuitant’s Spouse, as the case may be, to ensure that the amount of Contributions made to the Plan are within the limits permitted under Applicable Laws.

## 6. REFUND OF CONTRIBUTIONS

The Trustee shall on application by the Annuitant or, where applicable, the Annuitant’s Spouse, in a form satisfactory to the Trustee, pay an amount to the taxpayer in order to reduce the amount of tax payable under Part X.1 of the Tax Act and other Applicable Laws.

## 7. TAX INFORMATION

The Trustee shall provide the Annuitant and, where applicable, the Annuitant’s Spouse, with appropriate information slips for income tax purposes for all Contributions made to the Plan and such other information regarding the Plan as may be required under Applicable Laws.

## 8. DELEGATION BY TRUSTEE

The Annuitant expressly authorizes the Trustee to delegate to the Agent the performance of the following duties of the Trustee under the Plan:

- (a) receiving Contributions to the Plan from the Annuitant and/or the Annuitant’s Spouse, as the case may be;
- (b) receiving transfers of property to the Plan;
- (c) investing and reinvesting the Property as directed by the Annuitant;
- (d) registering and holding the Property in the Trustee’s name, the Agent’s name, in the name of their respective nominees or in bearer form as determined by the Agent from time to time;
- (e) maintaining the records of the Plan, including designation of beneficiaries, where applicable;
- (f) providing to the Annuitant statements of account for the Plan at least annually;
- (g) preparing all government filings and forms;
- (h) making payments out of the Plan pursuant to the provisions hereof; and
- (i) such other duties and obligations of the Trustee under the Plan as the Trustee in its sole discretion may from time to time determine.

The Annuitant acknowledges that, to the extent the Trustee delegates any such duties, the Trustee shall thereby be discharged from performing such duties.

## 9. INVESTMENT OF THE PROPERTY

The Property shall be invested and reinvested on the directions of the Annuitant in mutual funds managed by Empire Life Investments Inc. without being limited to investments authorized by law for trustees. The Trustee, in its sole discretion, may require the Annuitant to provide such documentation in respect of any investment or proposed investment, as the Trustee deems necessary in the circumstances. The Trustee reserves the right to decline to make any particular investment if the proposed investment and related documentation do not comply with the Trustee’s requirements at that time.

## 10. CHOICE OF INVESTMENTS FOR THE PLAN

The Annuitant shall be responsible for selecting the investments of the Plan. The Annuitant shall be responsible for ensuring that each investment acquired and held by the Plan is at all times a Qualified Investment and is not at any time a Prohibited Investment. The Trustee shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Plan holds an investment that is not a Qualified Investment. The Annuitant shall have the right to appoint the Agent as his or her agent for the purpose of giving investment directions as provided in this paragraph 10.

## 11. UNINVESTED CASH

Cash distributions received by the Trustee in respect of investments held in the Plan will be invested in additional investments of the same type. In the absence of satisfactory investment instructions, the Agent will, on the Trustee’s behalf, invest cash in units of the Empire Life Money Market Fund.

## 12. RIGHT OF OFFSET

The Trustee and the Agent shall have no right of offset with respect to the Property in connection with any obligation or debt owed by the Annuitant to the Trustee or the Agent, other than the Expenses payable by the terms of this Declaration of Trust.

## 13. DEBIT BALANCES

If the Plan has a cash deficit, the Annuitant authorizes the Trustee or the Agent, to determine which Property to select and to sell such Property to cover the cash deficit within the Plan.

#### **14. WITHDRAWALS**

Before the purchase of a Retirement Income, the Annuitant may, upon 60 days written notice to the Agent, or upon such shorter period of notice as the Agent may in its sole discretion permit, request that the Agent liquidate part or all of the Property and pay to the Annuitant an amount from the Property, not exceeding the value of the Plan immediately before the time of payment, subject to the deduction of all compensation, Expenses and Taxes as provided in paragraph 25.

#### **15. RETIREMENT INCOME**

The Annuitant shall, upon at least 90 days written notice to the Agent on behalf of the Trustee, or upon such shorter period of notice as the Trustee may in its sole discretion permit, specify the form of Retirement Income to be provided under Applicable Laws. Upon receiving such instructions, the Agent shall purchase such Retirement Income for the Annuitant and, where the Annuitant so elects in writing, for the Annuitant's Spouse after the death of the Annuitant (whereupon references to the Annuitant herein shall include the Annuitant's Spouse). The Plan shall mature on the Maturity Date. Except as otherwise permitted under Applicable Laws from time to time, any annuity purchased as a Retirement Income by the Annuitant must:

- (a) be payable in equal annual or more frequent periodic payments during its term until such time as there is a payment in full or partial commutation of the Retirement Income and, where such commutation is partial, equal, annual or more frequent periodic payments thereafter;
- (b) not be capable of assignment in whole or in part;
- (c) require the commutation of each annuity payable under the arrangement that would otherwise become payable to a person other than the Annuitant or the Annuitant's Spouse under that arrangement;
- (d) if the Annuitant selects an annuity with a guaranteed term, the term cannot exceed a term of years equal to 90 minus the Annuitant's age in whole years at the Maturity Date or if the Annuitant so elects and the Annuitant's Spouse is younger than the Annuitant, the age in whole years of the Annuitant's Spouse at the Maturity Date; and
- (e) not provide for the aggregate of the periodic payments made in a year after the death of the first Annuitant to exceed the aggregate of the payments made in a year before that Annuitant's death.

#### **16. ANNUITANT'S FAILURE TO GIVE INSTRUCTIONS REGARDING MATURITY DATE**

If the Annuitant fails to instruct the Agent in writing at least 90 days (or within such shorter period as the Trustee may permit in its sole discretion) prior to December 31 of the year in which the Annuitant attains the maximum age for the commencement of a Retirement Income under the Applicable Laws with respect to the form of Retirement Income to be provided, the Trustee and Agent may in their sole discretion and on reasonable notice to the Annuitant either:

- (a) transfer the Property to an Empire Life Mutual Funds Retirement Income Fund ("RIF") opened and registered for such purpose in the name of the Annuitant. Upon the transfer of all such Property to the RIF, the Annuitant shall be:
    - (i) deemed to have elected to use his or her age (and not the age of the Annuitant's Spouse, if any) to determine the minimum amount under Applicable Laws;
    - (ii) deemed to have not elected to designate his or her Spouse to become the annuitant on the Annuitant's death and to have not designated any beneficiary upon death of the Annuitant; and
    - (iii) bound by all the terms and conditions of the RIF as stated in the documents pertaining thereto as if the Annuitant had signed the appropriate documents to effect such transfer, and had made or refrained from making the elections and designations as referred to herein;
- or
- (b) on or after December 1 but before December 31 of that year, the Agent shall liquidate the Property and close the Plan and pay the Plan Proceeds to the Annuitant.

#### **17. DESIGNATION OF BENEFICIARY**

Subject to Applicable Laws, the Annuitant may designate a beneficiary to receive the Plan Proceeds on the Annuitant's death prior to the purchase of a Retirement Income. A beneficiary designation may only be made, changed or revoked under the Plan by the Annuitant in a format required by the Agent for this purpose. Such designation must adequately identify the Plan and be delivered to the Agent prior to any payment by the Agent. The Annuitant acknowledges that it is his or her sole responsibility to ensure the designation is valid under Applicable Laws.

#### **18. DEATH OF ANNUITANT**

If the Annuitant dies before the purchase of a Retirement Income, upon the receipt of Estate Documents by the Agent, which are satisfactory to the Trustee:

- (a) if the Annuitant has a designated beneficiary, the Plan Proceeds will be paid or transferred to the designated beneficiary, subject to the Applicable Laws. The Trustee and the Agent will be fully discharged by such payment or transfer, even though any beneficiary designation made by the Annuitant may be invalid as a testamentary instrument; and
- (b) if the Annuitant's designated beneficiary has died before the Annuitant or if the Annuitant has not designated a beneficiary, the Trustee will pay the Plan Proceeds to the Annuitant's estate.

#### **19. RELEASE OF INFORMATION**

The Trustee and the Agent each are authorized to release any information about the Plan and the Plan Proceeds, after the Annuitant's death, to either the Annuitant's Estate Representative or the designated beneficiary, or both, as the Trustee deems advisable.

#### **20. PAYMENT INTO COURT**

If there is a dispute about:

- (a) a payout from the Plan or equalization of Property or other dispute arising from a breakdown of the Annuitant's marriage or common law partnership;
  - (b) the validity or enforceability of any legal demand or claim against the Property; or
  - (c) the authority of a person or personal representative to apply for and accept receipt of the Plan Proceeds on death of the Annuitant;
- the Trustee and the Agent are entitled to either apply to the court for directions or pay the Plan Proceeds into court and, in either case, fully recover any legal costs it incurs in this regard as Expenses from the Plan.

#### **21. ACCOUNT**

The Agent shall maintain an account for the Annuitant which will record particulars of all Contributions, investments, and transactions in the Plan, and shall mail to the Annuitant, at least annually, a statement of account.

#### **22. LIMITATION OF LIABILITY**

The Trustee shall not be liable for any loss suffered by the Plan, by the Annuitant or by any beneficiary under the Plan as a result of the purchase, sale or retention of any investment including any loss resulting from the Trustee acting on the direction of an agent appointed by the Annuitant to provide investment direction.

#### **23. INDEMNITY**

The Annuitant agrees to indemnify the Trustee for all compensation, Expenses and Taxes (other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act) incurred or owing in connection with the Plan to the extent that such compensation, Expenses and Taxes cannot be paid out of the Property.

#### **24. SELF-DEALING**

The Trustee's services are not exclusive and, subject to the limitations otherwise provided in this Declaration of Trust on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefore and without being in breach of this Declaration of Trust.

#### **25. COMPENSATION, EXPENSES AND TAXES**

The Trustee and Agent will be entitled to such reasonable fees as each may establish from time to time for services rendered in connection with the Plan. All such fees will, unless first paid directly to the Agent, be charged against and deducted from the Property in such manner as the Agent determines. All Expenses incurred shall be paid from the Plan, including Expenses with respect to the execution of third party demands or claims against the Plan. All Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, will be charged against and deducted from the Property in such manner as the Agent determines.

#### **26. SALE OF PROPERTY**

The Trustee and Agent may sell Property, in their respective sole discretion, for the purposes of paying compensation, Expenses, and Taxes, other than those Taxes for which the Trustee is liable in accordance with the Tax Act and that cannot be charged against or deducted from the Property in accordance with the Tax Act.

## 27. TRANSFERS INTO THE PLAN

Amounts may be transferred to the Plan from registered pension plans, other registered retirement savings plans and such other sources as may be permitted from time to time under Applicable Laws. In the case of such transfers, the Plan may be subject to additional terms and conditions, including the “locking-in” of amounts transferred from registered pension plans in order to complete the transfer in accordance with Applicable Laws. If there is any inconsistency between the terms and conditions of the Plan and any such additional terms and conditions which may apply as a result of transfer to the Plan of amounts from another source, the additional terms and conditions shall govern the manner in which funds so transferred are dealt with.

## 28. TRANSFERS OUT OF THE PLAN

Upon receipt by the Agent of a direction from the Annuitant in a form satisfactory to the Trustee, the Agent shall transfer, in the form and manner prescribed by Applicable Laws, to another registered retirement savings plan or to a registered retirement income fund or a registered pension plan of the Annuitant, or such other plan as may be permitted under Applicable Laws, all or such portion of the Property as is specified in the direction, together with all necessary information for the continuance of the Plan to the trustee designated by the Annuitant in such direction except such transfer may be to a registered retirement savings plan or registered retirement income fund of the Annuitant's Spouse or Former Spouse, if under a decree, order or judgment of a competent tribunal or under a written separation agreement, relating to a division of property between the Annuitant and the Annuitant's Spouse or Former Spouse in settlement of rights arising out of, or on the breakdown of their marriage or common law partnership.

Such transfer shall take effect in accordance with Applicable Laws after all forms required by law and by the Trustee to be completed in respect of such transfer have been completed and forwarded to the Agent. Upon such transfer, the Trustee shall be subject to no further liability or duty with respect to the Plan, or the portion thereof so transferred, as the case may be.

## 29. CHANGES TO DECLARATION OF TRUST

The Trustee may change this Declaration of Trust periodically. The Annuitant will be notified on how to obtain an amended copy of the Declaration of Trust reflecting any such change and will be deemed to have accepted such changes. No change to this Declaration of Trust (including a change calling for the Trustee's resignation as trustee or the termination of the trust created by this Declaration of Trust) will be retroactive or result in the Plan not being acceptable as a registered retirement savings plan under Applicable Laws.

## 30. REPLACEMENT OF TRUSTEE

- (a) The Trustee may resign by giving such written notice to the Agent as may be required from time to time under the terms of an agreement entered into between the Agent and the Trustee. The Annuitant will be given at least 30 days prior notice of such resignation. On the effective date of such resignation, the Trustee will be discharged from all further duties, responsibilities, and liabilities under this Declaration of Trust, except those incurred before the effective date.  
The Trustee will transfer all Property, together with all information required to continue the administration of the Property as a registered retirement savings plan under Applicable Laws, to a successor trustee.
- (b) The Trustee has agreed to resign upon it being provided with notice in writing by the Agent if the Trustee is satisfied that the successor nominated by the Agent will properly assume and fulfill the Trustee's duties and liabilities hereunder in respect of the administration of the Plan.
- (c) In either event, the Agent shall forthwith nominate a person to replace the Trustee and the resignation of the Trustee shall not take effect until its replacement has been so nominated by the Agent and appointed as successor by the Trustee and approved by the Canada Revenue Agency or its successor. Failing the nomination of a replacement by the Agent within 30 days after receipt by it of a notice of resignation, the Trustee shall be entitled to appoint a person as its own replacement.
- (d) Upon any such appointment and resignation of the Trustee, the person so appointed as replacement trustee shall, without further act or formality, be and become the Trustee hereunder. Such replacement trustee shall, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the assets of the Plan as if the replacement trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement trustee all such conveyances, transfers and further assurances as may be necessary or advisable to give effect to the appointment of the replacement trustee.
- (e) Any person appointed as a replacement trustee shall be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province or territory to carry on in Canada the business of offering to the public its services as trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee shall thereupon become the successor to the Trustee without further act or formality. In all such cases, the Canada Revenue Agency or its successor shall be notified.

## 31. ASSIGNMENT BY AGENT

The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada authorized to assume and discharge the obligations of the Agent under the Plan and under Applicable Laws.

## 32. NOTICE

Any notice given by the Annuitant to the Agent shall be sufficiently given if delivered electronically to the Agent upon the Annuitant's receipt of an acknowledgement and response to same or personally to the office of the Agent where the Plan is administered, or if mailed, postage prepaid and addressed to the Agent at such office, and shall be considered to have been given on the day that the notice is actually delivered or received by the Agent.

Any notice, statement, receipt or other communication given by the Trustee or the Agent to the Annuitant shall be sufficiently given if delivered electronically or personally to the Annuitant, or if mailed, postage prepaid and addressed to the Annuitant at the address shown on the Application or at the Annuitant's last address given to the Trustee or the Agent, and any such notice, statement, receipt or other communication shall be considered to have been given at the time of delivery to the Annuitant electronically or personally or, if mailed, on the third day after mailing to the Annuitant.

## 33. DATE OF BIRTH AND SOCIAL INSURANCE NUMBER

The Annuitant's statement of his or her date of birth and social insurance number in the Application shall be deemed to be a certification thereof, on which the Trustee and the Agent may rely, and an undertaking to provide proof thereof if requested by the Agent.

## 34. ADDRESS OF ANNUITANT

The Trustee shall be entitled to rely upon the Agent's records as to the current address of the Annuitant as establishing his or her residency and domicile for the operation of the Plan and its devolution on the death of the Annuitant, subject to any notice to the contrary respecting the Annuitant's domicile on death.

## 35. HEIRS, REPRESENTATIVES AND ASSIGNS

The terms of this Declaration of Trust shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives and assigns of the Annuitant and upon the respective successors and assigns of the Trustee and the Agent and their directors, officers, employees and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives, and assigns.

## 36. LANGUAGE

The Annuitant has expressly requested that this Declaration of Trust and all related documents, including notices, be in the English language. *Le rentier a expressément demandé que cette Déclaration de fiducie et tous documents y afférents, y compris tout avis, soient rédigés en langue anglaise. (Quebec only/ Québec seulement).*

## 37. GOVERNING LAW

This Declaration of Trust and the Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

The Annuitant expressly agrees that any action arising out of or relating to this Declaration of Trust or the Plan shall be filed only in a court located in Canada and the Annuitant irrevocably consents and submits to the personal jurisdiction of such court for the purposes of litigating any such action.



# EMPIRE LIFE MUTUAL FUNDS RETIREMENT INCOME FUND DECLARATION OF TRUST

## I. DEFINITIONS

Whenever used in this Declaration of Trust or on the Application, any capitalized terms shall have the meaning given to them below:

“**Agent**” means Empire Life Investments Inc. and its successors and assigns;

“**Annuitant**” means the individual who has executed the Application to be the fund owner of the Fund within the meaning Applicable Laws give to that word;

“**Applicable Laws**” means the Tax Act, relevant pension legislation and such other laws of Canada and of the provinces and territories applicable hereto;

“**Application**” means the Annuitant’s application to the Trustee to establish the Fund;

“**Estate Documents**” means proof of the Annuitant’s death and such other documents including letters probate of the Annuitant’s will as may be required by the Trustee in its sole discretion in connection with the transmission of the Property on the Annuitant’s death;

“**Estate Representative**” means an executor, an administrator, an administrator with the will annexed, a liquidator, or an estate trustee with a will or without a will, whether one or more than one is so appointed;

“**Expenses**” means all (i) costs, (ii) charges, (iii) commissions, (iv) investment management fees, brokerage fees, and other fees, (v) legal expenses and (vi) out-of-pocket expenses incurred from time to time in relation to the Plan;

“**Former Spouse**” means the individual who is considered by Applicable Laws to the Annuitant’s former Spouse;

“**Fund**” means the retirement income fund the Annuitant and the Trustee have opened in the Annuitant’s name pursuant to his or her Application;

“**Fund Proceeds**” means the Property, less any Expenses and Taxes;

“**Minimum Amount**” means the minimum amount required by the Tax Act to be paid from the Fund each year;

“**Proceeds**” means the Property, less any Expenses and Taxes which may be required under Applicable Laws;

“**Prohibited Investment**” means Property (other than prescribed excluded Property as that term is defined in the Tax Act) that is:

- (a) a debt of the Annuitant;
- (b) a share of the capital stock of, an interest in or a debt of:
  - (i) a corporation, partnership or trust in which the Annuitant has a significant interest;
  - (ii) a person or partnership that does not deal at arm’s length with the Annuitant or with a person or partnership described in subparagraph (i);
- (c) an interest in, or right to acquire, a share, interest or debt described in paragraph (a) or (b); or
- (d) prescribed property (as that term is defined in the Tax Act);

“**Property**” means any property, including the income thereon, the proceeds thereof and cash, held under the Fund from time to time;

“**Qualified Investment**” means any investment that is a qualified investment for a registered retirement income fund according to the Tax Act;

“**Spouse**” means an individual who is recognized by Applicable Laws to be the Annuitant’s spouse or common-law partner;

“**Tax Act**” means the *Income Tax Act* (Canada);

“**Taxes**” means any and all applicable taxes and assessments, including any penalties and interest;

“**Trustee**” means The Royal Trust Company in its capacity as trustee and carrier of the Fund, and its successors and assigns.

## 2. DECLARATION OF TRUST

The Trustee agrees to act as trustee of a Retirement Income Fund for the Annuitant named in the Application and to administer the Property according to this Declaration of Trust.

## 3. APPOINTMENT OF AGENT

The Trustee has appointed the Agent as its agent to perform certain duties relating to the operation of the Fund. The Trustee acknowledges and confirms that ultimate responsibility for the administration of the Fund remains with the Trustee.

## 4. REGISTRATION

The Trustee will apply for registration of the Fund as a retirement income fund pursuant to the Applicable Laws.

## 5. TAX INFORMATION

The Trustee shall provide the Annuitant with appropriate information slips for income tax purposes each year showing the total of the payments made from the

Fund during the preceding calendar year and such other information regarding the Fund as may be required under Applicable Laws.

## 6. DELEGATION BY TRUSTEE

The Annuitant expressly authorizes the Trustee to delegate to the Agent the performance of the following duties and obligations of the Trustee under the Fund:

- (a) receiving transfers of property to the Fund;
- (b) investing and reinvesting the Property as directed by the Annuitant;
- (c) registering and holding the Property in the Trustee’s name, the Agent’s name, in the name of their respective nominees or in bearer form as determined by the Agent from time to time;
- (d) maintaining the records of the Fund, including designation of beneficiaries, where applicable;
- (e) providing to the Annuitant statements of account for the Fund at least annually;
- (f) preparing all government filings and forms;
- (g) paying all amounts to be paid out of the Fund in accordance with the terms hereof; and
- (h) such other duties and obligations of the Trustee under the Fund as the Trustee in its absolute discretion may from time to time determine.

The Annuitant acknowledges that, to the extent the Trustee delegates any such duties, the Trustee shall thereby be discharged from performing such duties.

## 7. INVESTMENT OF THE PROPERTY

The Property shall be invested and reinvested on the directions of the Annuitant in mutual funds managed by Empire Life Investments Inc. without being limited to investments authorized by law for trustees. The Trustee, in its sole discretion, may require the Annuitant to provide such documentation in respect of any investment or proposed investment, as the Trustee deems necessary in the circumstances. The Trustee reserves the right to decline to make any particular investment if the proposed investment and related documentation do not comply with the Trustee’s requirements at that time.

## 8. CHOICE OF INVESTMENTS FOR THE FUND

The Annuitant shall be responsible for selecting the investments of the Fund. The Annuitant shall be responsible for ensuring that each investment acquired and held by the Fund is at all times a Qualified Investment and is not at any time a Prohibited Investment. The Trustee shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Fund holds an investment that is not a Qualified Investment. The Annuitant shall have the right to appoint the Agent as his or her agent for the purpose of giving investment directions as provided in this paragraph 8.

## 9. UNINVESTED CASH

Cash distributions received by the Trustee in respect of investments held in the Fund will be invested in additional investments of the same type. In the absence of satisfactory investment instructions, the Agent will, on the Trustee’s behalf, invest cash in units of the Empire Life Money Market Fund.

## 10. RIGHT OF OFFSET

The Trustee and the Agent shall have no right of offset with respect to the Property in connection with any obligation or debt owed by the Annuitant to the Trustee or the Agent, other than the Expenses payable by the terms of this Declaration of Trust.

## 11. DEBIT BALANCES

If the Fund has a cash deficit, the Annuitant authorizes the Trustee or the Agent, to determine which Property to select and to sell such Property to cover the cash deficit within the Fund.

## 12. PAYMENTS FROM THE FUND

The Agent shall make the following payments to the Annuitant and, where the Annuitant has so elected as provided in paragraph 16, to the Annuitant’s Spouse after the death of the Annuitant, each year, commencing not later than the first calendar year after the year in which the Fund is established, one or more payments the aggregate of which is not less than the Minimum Amount for the year, but not exceeding the value of the Fund immediately before the time of payment. The Annuitant shall instruct the Agent which investments of the Fund should be sold to provide any required cash.

The amount and frequency of the payment or payments referred to in this paragraph in respect of any year shall be as specified in writing by the Annuitant on the Application Form or on such other form as the Agent may provide for this purpose. The Annuitant may change the amount and frequency of the said payment or payments or request additional payments by instructing the Agent in writing on such form as may be provided for this purpose, such change to be effective in the next calendar year.

If the Annuitant does not specify the payment or payments to be made in a year or if the payment or payments specified are less than the Minimum Amount for a year, the Agent shall make such payment or payments out of the Property as it deems necessary so that the Minimum Amount for that year is paid to the Annuitant. In the event that the Property does not contain sufficient cash to make such payment or payments, the Annuitant authorizes the Trustee or Agent to determine which Property shall be sold in order to effect such payment or payments.

The Agent shall withhold from any payment any income tax or other amount required to be withheld by Applicable Laws. Payments to the Annuitant shall be made pursuant to the Annuitant's direction. Where no such direction is provided, the Agent shall make payment by cheque to the Annuitant at the Annuitant's last address on file.

### **13. CALCULATION OF MINIMUM AMOUNT**

The Minimum Amount under the Fund for the year in which the Fund is established is nil. The Minimum Amount for a year after the year to which the Fund was opened will vary, depending on the year in which the Fund was opened and the Annuitant's age (or the age of the Annuitant's Spouse if elected to use the Annuitant's Spouse's age on the Application form before any payment from the Fund has been made), and will be calculated according to the rules in the Tax Act. An election made by the Annuitant to base the Minimum Amount on the age of the Annuitant's Spouse as provided above is thereafter binding and cannot be changed, revoked or amended after the first payment has been made from the Fund even if the Spouse dies or if the Annuitant and the Spouse cease to be married.

### **14. NO ASSIGNMENT**

No payment under this Declaration of Trust may be assigned, either in whole or in part.

### **15. VALUATION OF THE FUND**

For the purposes of calculating the Minimum Amount for a year, the value of the Fund at the beginning of a year will be equal to the value of the Fund as at the close of business on the last business day of the Trustee in the immediately preceding year.

### **16. ELECTION OF SUCCESSOR ANNUITANT**

Subject to Applicable Laws, the Annuitant may elect that the Annuitant's Spouse become the Annuitant under the Fund after the Annuitant's death if the Spouse survives the Annuitant.

### **17. DESIGNATION OF BENEFICIARY**

Subject to Applicable Laws, and if the Annuitant has not elected a successor annuitant or the successor annuitant has predeceased the Annuitant, the Annuitant may designate a beneficiary to receive the Fund Proceeds on the Annuitant's death. A beneficiary designation may only be made, changed or revoked under the Fund by the Annuitant in a format required by the Agent for this purpose. Such designation must adequately identify the Fund and be delivered to the Agent prior to any payment by the Agent. The Annuitant acknowledges that it is his or her sole responsibility to ensure the designation is valid under Applicable Laws.

### **18. DEATH OF ANNUITANT (WHERE SPOUSE BECOMES THE ANNUITANT)**

On the death of the Annuitant, where there has been an election of the Annuitant's Spouse as successor annuitant under the Fund, the Agent, upon receipt of Estate Documents, shall continue to make the payments, in accordance with this Declaration of Trust, to the Annuitant's Spouse after the death of the Annuitant. The Trustee and Agent shall be fully discharged upon making those payments to the Annuitant's Spouse, even though any election or designation made by the Annuitant may be invalid as a testamentary instrument.

### **19. DEATH OF ANNUITANT (ALL OTHER CASES)**

If the Annuitant dies and the Annuitant's Spouse does not become the successor annuitant of the Fund, upon the receipt of Estate Documents by the Agent, which are satisfactory to the Trustee:

- (a) if the Annuitant has a designated beneficiary, the Fund Proceeds will be paid or transferred to the designated beneficiary, subject to the Applicable Laws. The Trustee and the Agent will be fully discharged by such payment or transfer, even though any beneficiary designation made by the Annuitant may be invalid as a testamentary instrument.
- (b) if the Annuitant's designated beneficiary has died before the Annuitant or if the Annuitant has not designated a beneficiary, the Trustee will pay the Fund Proceeds to the Annuitant's estate.

### **20. RELEASE OF INFORMATION**

The Trustee and the Agent each are authorized to release any information about the Fund and the Fund Proceeds, after the Annuitant's death, to either the Annuitant's Estate Representative or the designated beneficiary, or both, as the Trustee deems advisable.

### **21. PAYMENT INTO COURT**

If there is a dispute about:

- (a) a payout from the Fund or equalization of Property or other dispute arising from a breakdown of the Annuitant's marriage or common law partnership;
  - (b) the validity or enforceability of any legal demand or claim against the Property; or
  - (c) the authority of a person or personal representative to apply for and accept receipt of the Fund Proceeds on death of the Annuitant;
- the Trustee and the Agent are entitled to either apply to the court for directions or pay the Fund Proceeds into court and, in either case, fully recover any legal costs they incur in this regard as Expenses from the Fund.

### **22. ACCOUNT**

The Agent shall maintain an account for the Annuitant which will record particulars of all investments, and transactions in the Fund and shall mail to the Annuitant, at least annually, a statement of account. The Agent shall also mail to the Annuitant, at least annually, a statement of the value of the Fund as at December 31 in each year and the Minimum Amount of the payments to be made to the Annuitant during the next calendar year.

### **23. LIMITATION OF LIABILITY**

The Trustee shall not be liable for any loss suffered by the Fund, by the Annuitant or by any beneficiary under the Fund as a result of the purchase, sale or retention of any investment including any loss resulting from the Trustee acting on the direction of an agent appointed by the Annuitant to provide investment direction.

### **24. INDEMNITY**

The Annuitant agrees to indemnify the Trustee for all compensation, Expenses and Taxes (other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act) incurred or owing in connection with the Fund to the extent that such compensation, Expenses and Taxes cannot be paid out of the Property.

### **25. SELF-DEALING**

The Trustee's services are not exclusive and, subject to the limitations otherwise provided in this Declaration of Trust on the powers of the Trustee, the Trustee may, for any purpose, and is hereby expressly authorized from time to time in its sole discretion to, appoint, employ, invest in, contract or deal with any individual, firm, partnership, association, trust or body corporate, with which it may be directly or indirectly interested or affiliated with, whether on its own account or on the account of another (in a fiduciary capacity or otherwise), and to profit therefrom, without being liable to account therefore and without being in breach of this Declaration of Trust.

### **26. COMPENSATION, TAXES AND EXPENSES**

The Trustee and Agent will be entitled to such reasonable fees as each may establish from time to time for services rendered in connection with the Fund. All such fees will, unless first paid directly to the Agent, be charged against and deducted from the Property in such manner as the Agent determines.

All Expenses incurred shall be paid from the Fund, including Expenses with respect to the execution of third party demands or claims against the Fund.

All Taxes, other than those Taxes for which the Trustee is liable and that cannot be charged against or deducted from the Property in accordance with the Tax Act, will be charged against and deducted from the Property in such manner as the Agent determines.

### **27. SALE OF PROPERTY**

The Trustee and Agent may sell Property in their respective sole discretion for the purposes of paying compensation, Expenses, and Taxes, other than those Taxes for which the Trustee is liable in accordance with the Tax Act and that cannot be charged against or deducted from the Property in accordance with the Tax Act.

### **28. TRANSFERS INTO THE FUND**

Amounts may be transferred to the Fund from registered pension plans, other registered retirement income funds or registered retirement savings plans and such other sources as may be permitted from time to time under the Tax Act. In the case of such transfers, the Fund may be subject to additional terms and conditions, including the "locking-in" of amounts transferred from registered pension plans in order to complete the transfer in accordance with Applicable Laws. If there is any inconsistency between the terms and conditions of the Fund and any such additional terms and conditions which may apply as a result of transfer to the

Fund of amounts from another source, the additional terms and conditions shall govern the manner in which funds so transferred are dealt with. The Annuitant acknowledges and expressly agrees to be bound by any such additional terms and conditions to which the Fund may be subject from time to time.

## 29. TRANSFERS OUT OF THE FUND

Upon receipt by the Agent of a direction from the Annuitant in a form satisfactory to the Trustee, the Agent shall transfer, in the form and manner prescribed by Applicable Laws, to another registered retirement income fund or to a registered retirement savings plan or a registered pension plan of the Annuitant, to a person licensed or otherwise authorized under the laws of Canada or a province to carry out an annuities business, for the purchase of an annuity, or to such other plan as may be permitted under Applicable Laws, all or such portion of the Property as is specified in the directions, together with all necessary information for the continuance of the Fund to the trustee designated by the Annuitant in such directions except such transfer may be to a registered retirement savings plan or registered retirement income fund of the Annuitant's Spouse or Former Spouse, if under a decree, order or judgement of a competent tribunal or under a written separation agreement, relating to a division of property between the Annuitant and the Annuitant's Spouse or Former Spouse in settlement of rights arising out of, or on the breakdown of their marriage or common law partnership.

For greater certainty, the Agent shall retain sufficient Property in order that the Minimum Amount for the year, as per paragraph 146.3(2)(e.1) or (e.2) of the Tax Act, may be retained and paid to the Annuitant. The Agent may, in its sole discretion, deduct applicable Expenses, including any transfer fee from the Property or the portion thereof being transferred. If only a portion of the property or value of the Fund is transferred, the Annuitant may instruct the Agent in the said notice as to which investments he or she wishes to be sold or transferred for the purpose of effecting the said transfer. If the Annuitant fails to so instruct the Agent, the Agent shall sell or transfer such investments as it in its sole discretion deems appropriate.

Such transfer shall take effect in accordance with Applicable Laws after all forms required by law and by the Trustee to be completed in respect of such transfer have been completed and forwarded to the Agent. Upon such transfer, the Trustee shall be subject to no further liability or duty with respect to the Fund, or the portion thereof so transferred, as the case may be.

## 30. CHANGES TO DECLARATION OF TRUST

The Trustee may change this Declaration of Trust periodically. The Annuitant will be notified on how to obtain an amended copy of the Declaration of Trust reflecting any such change and will be deemed to have accepted such changes. No change to this Declaration of Trust (including a change calling for the Trustee's resignation as trustee or the termination of the trust created by this Declaration of Trust) will be retroactive or result in the Fund not being acceptable as a registered retirement income fund under Applicable Laws.

## 31. REPLACEMENT OF TRUSTEE

- (a) The Trustee may resign by giving such written notice to the Agent as may be required from time to time under the terms of an agreement entered into between the Agent and the Trustee. The Annuitant will be given at least 30 days prior notice of such resignation. On the effective date of such resignation, the Trustee will be discharged from all further duties, responsibilities, and liabilities under this Declaration of Trust, except those incurred before the effective date.  
The Trustee will transfer all Property, together with all information required to continue the administration of the Property as a registered retirement income fund under the Applicable Laws, to a successor trustee.
- (b) The Trustee has agreed to resign upon it being provided with notice in writing by the Agent if the Trustee is satisfied that the successor nominated by the Agent will properly assume and fulfill the Trustee's duties and liabilities hereunder in respect of the administration of the Fund.
- (c) In either event, the Agent shall forthwith nominate a person to replace the Trustee and the resignation of the Trustee shall not take effect until its replacement has been so nominated by the Agent and appointed as successor by the Trustee and approved by Canada Revenue Agency or its successor. Failing the nomination of a replacement by the Agent within 30 days after receipt by it of a notice of resignation, the Trustee shall be entitled to appoint a person as its own replacement.
- (d) Upon any such appointment and resignation of the Trustee, the person so appointed as replacement trustee shall, without further act or formality, be and become the Trustee hereunder. Such replacement trustee shall, without any conveyance or transfer, be vested with the same power, rights, duties and responsibilities as the Trustee and with the Property as if the replacement trustee had been the original Trustee. The Trustee shall execute and deliver to the replacement trustee all such conveyances,

transfers and further assurances as may be necessary or advisable to give effect to the appointment of the replacement trustee.

- (e) Any person appointed as a replacement trustee shall be a corporation resident in Canada that is licensed or otherwise authorized under the laws of Canada or a province or territory to carry on in Canada the business of offering to the public its services as trustee.

Any trust company resulting from the merger or amalgamation of the Trustee with one or more trust companies and any trust company that succeeds to substantially all of the trust business of the Trustee shall thereupon become the successor to the Trustee without further act or formality. In all such cases, the Canada Revenue Agency or its successor shall be notified.

## 32. ASSIGNMENT BY AGENT

The Agent may assign its rights and obligation hereunder to any other corporation resident in Canada authorized to assume and discharge the obligations of the Agent under the Fund and under Applicable Laws.

## 33. NOTICE

Any notice given by the Annuitant to the Agent shall be sufficiently given if delivered electronically to the Agent upon the Annuitant's receipt of an acknowledgement and response to same or personally to the office of the Agent where the Fund is administered, or if mailed, postage prepaid and addressed to the Agent at such office, and shall be considered to have been given on the day that the notice is actually delivered or received by the Agent.

Any notice, statement, receipt or other communication given by the Trustee or the Agent to the Annuitant shall be sufficiently given if delivered electronically or personally to the Annuitant, or if mailed, postage prepaid and addressed to the Annuitant at the address shown on the Application or at the Annuitant's last address given to the Trustee or the Agent, and any such notice, statement, receipt or other communication shall be considered to have been given at the time of delivery to the Annuitant electronically or personally or, if mailed, on the third day after mailing to the Annuitant.

## 34. DATE OF BIRTH AND SOCIAL INSURANCE NUMBER

The Annuitant's statement of his or her date of birth and social insurance number in the Application shall be deemed to be a certification thereof, on which the Trustee and the Agent may rely, and an undertaking to provide proof thereof if requested by the Agent.

## 35. ADDRESS OF ANNUITANT

The Trustee shall be entitled to rely upon the Agent's records as to the current address of the Annuitant as establishing his or her residency and domicile for the operation of the Fund and its devolution on the death of the Annuitant, subject to any notice to the contrary respecting the Annuitant's domicile on death.

## 36. HEIRS, REPRESENTATIVES AND ASSIGNS

The terms of this Declaration of Trust shall be binding upon the heirs, Estate Representatives, attorneys, committees, guardians of property, other legal and personal representatives and assigns of the Annuitant and upon the respective successors and assigns of the Trustee and the Agent and their directors, officers, employees and agents, as well as their respective estates, Estate Representatives, heirs, attorneys, committees, guardians of property, other legal and personal representatives and assigns.

## 37. LANGUAGE

The Annuitant has expressly requested that this Declaration of Trust and all related documents, including notices, be in the English language. *Le rentier a expressément demandé que cette Déclaration de fiducie et tous documents y afférents, y compris tout avis, soient rédigés en langue anglaise. (Quebec only/Québec seulement).*

## 38. GOVERNING LAW

This Declaration of Trust and the Fund shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

The Annuitant expressly agrees that any action arising out of or relating to this Declaration of Trust or the Fund shall be filed only in a court located in Canada and the Annuitant irrevocably consents and submits to the personal jurisdiction of such court for the purposes of litigating any such action.

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