

## Life Income Fund Amending Agreement New Brunswick Pension Legislation

\_\_\_\_\_ is entitled to pension monies governed by  
(print name of Annuitant)

the *Pension Benefits Act* of New Brunswick, and wishes to transfer such funds into a Life Income Fund ("LIF") as identified below.

**Check one only:**

- CIBC Personal Portfolio Services LIF (CIBC Securities Inc.)
- CIBC Personal Portfolio Services LIF (CIBC Investor Services Inc.)
- CIBC Investment LIF (CIBC Securities Inc.)
- CIBC Investment LIF (CIBC Investor Services Inc.)

To that end, the Annuitant has signed the applicable Retirement Savings Plan Application form, agreeing to be bound by the terms of the Declaration of Trust, and agrees to be bound by the terms of this Contract as well.

**Check one only:**

- The Annuitant is a "former pension plan member" (meaning that he or she was a member of the pension plan from which the Locked-In Funds in this LIF originated).
- The Annuitant is a former Spouse or Common-law Partner of a former pension plan member (meaning that the Annuitant obtained the Locked-In Funds under a division of property after the breakdown of a marriage or Common-law Partnership).

All words which are capitalized in this Contract have the special meaning noted at the end of this Contract.

### 1. Annual Payments from LIF

All payments from this LIF must comply with the terms of this Contract, including this section 1. The total payments made to the Annuitant from this LIF each Year (the "Annual Payment") will vary each Year in accordance with the following rules, until such time as the balance of the Locked-In Funds is transferred out or converted in accordance with sections 2 or 3, below.

- a) **Commencement of Payments:** In the Year in which this LIF is opened, payments out are optional. Payments must begin before the end of the LIF's second Year.
- b) **Minimum Annual Payments:** The Annual Payment in any year (the "Annual Payment") must not be less than the "Minimum Amount" for the Year, which is the minimum amount which the Tax Act requires to be paid from a RRIF each Year.
- c) **Maximum Annual Payments:** The Annual Payment in any Year may not exceed the "Maximum Amount" for that Year, which is to be calculated as follows (subject to the other terms of this Contract and the Pension Rules):

$$\frac{C}{F}$$

Where "C" is the balance of the Locked-In Funds on the first day of the Year, and "F" is the value on the first day of the Year of a guaranteed pension, the annual payment of which is \$1 and which is payable on the first day of each Year between the first day of the Year and December 31 of the Year in which the Annuitant will reach age 90. "F" will be calculated at the beginning of each Year using either:

- i) an interest rate of not more than 6% per Year; or
- ii) for the first 15 Years after the valuation of the LIF, an interest rate greater than 6% as long as that rate does not exceed the interest rate obtained on long-term bonds issued by the Government of Canada for the month of November preceding the Year in which the calculation is made, as published in the Bank of Canada Review as CANSIM Series B-14013, and an interest rate not exceeding 6% per Year in subsequent Years.

If, during the Year in which this LIF is opened, funds are transferred directly or indirectly into this LIF from another LIF, the "Maximum Amount" in the first Year for the amount so transferred is nil (zero).

d) **Establishment by Annuitant of Annual Payment Amount:**

- i) **Instruction to the Agent:** At the beginning of each Year, the Annuitant will establish the amount of each payment and total Annual Payment to be paid during the Year and advise the Trustee or its Agent of same. However, if the Agent guarantees the rate of return of the LIF over an interval that is greater than one Year and that ends at the end of a Year, the Annuitant may establish the payments and the Annual Payment during that interval at the beginning of that interval; in that event, paragraphs 1(b) and 1(c) of this Contract will apply (with such changes as the circumstances require) to determine, at the beginning of the first Year in the interval, the amount of the Annual Payment for each Year during the interval.

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- ii) **Failure to Instruct** the Trustee or its Agent If for any Year the Agent does not receive the Annuitant's instructions as to the amount of each payment and the total Annual Payments he/she wishes to receive during that Year, the Annual Payments for that Year will be the same as those made in the preceding Year (subject to the other terms of this section 1).
- e) **One-time Additional Withdrawal:** The Annuitant may ask the New Brunswick Superintendent of Pensions to approve the transfer of an amount from this LIF into a RRIF that is not also a LIF by completing the government-prescribed form(s) and providing such form(s) to the Superintendent. Under the Regulations, the Superintendent must approve such transfer request if:
  - i) no previous such transfer has been made; and
  - ii) the amount to be transferred does not exceed the "maximum unlocking amount" as defined under the Pension Regulations, being the amount that is the lesser of:
    - A. three times the Maximum Amount for the Year of the transfer; or
    - B. 25% of the LIF's value on January 1 of the Year of the transfer.

**2. Transfers In/Out of this LIF**

No transfers are permitted into this LIF, nor are payments, transfers or conversions allowed from this LIF except as permitted in this Contract.

- a) **Permitted Transfers In:** The only transfers permitted into this LIF are sums originating, directly or indirectly, from:
  - i) the fund of a pension plan in which the Annuitant was a member and which pension plan conforms with the Pension Rules or with similar legislation in another jurisdiction, if the money is being transferred under section 36 of the Pension Act or under a similar provision in legislation in another jurisdiction and the transfer complies with the Tax Act's requirements;
  - ii) a LIRA or LIF owned by the Annuitant; or
  - iii) a life or deferred Life Annuity of which the Annuitant is the annuitant.
- b) **Permitted Transfers Out/Conversions During the Annuitant's Lifetime:** The Annuitant may transfer or convert all or part of the Locked-In Funds:
  - i) to another LIF owned by the Annuitant, provided that the minimum amount under subsection 146.3(1) of the Tax Act is retained before the balance is transferred in accordance with paragraph 146.3(2)(e);
  - ii) to a LIRA owned by the Annuitant, at any time before December 31 of the Year in which the Annuitant reaches age 71 (or other such age as the Tax Act may prescribe from time to time);
  - iii) if an amount is required to be withdrawn in order to reduce the amount of tax which is otherwise payable by the Annuitant under Part X.1 of the Tax Act, in which case the amount which is withdrawn (less any amount required to be withheld under the Tax Act) must be deposited into a sub-account of this LIF to be established by the Agent and which sub-account, while remaining subject to all terms of this Contract and to the Pension Rules, is not held within a RRIF;
  - iv) into a deferred or immediate Life Annuity of which the Annuitant is the annuitant under subsection 60(l) of the Tax Act; or
  - v) before a conversion to a Life Annuity in accordance with paragraph 2(b)(iv), into the fund of a Registered Pension Plan; however, no transfer is permitted to a pension plan that is not registered in New Brunswick unless:
    - A. that pension plan is registered for persons employed in a jurisdiction that is designated for this purpose under the Regulations; and
    - B. the Annuitant is employed in that jurisdiction by an employer who is making contributions on behalf of the Annuitant to the pension fund that is to receive the Locked-In Funds to be transferred;

in accordance with the requirements of the Pension Rules and the Tax Act. All transfers and conversions under this paragraph 2(b) are subject to the restrictions, if any, imposed by the investment options in which the Locked-In Funds are invested. If no such restrictions apply, a transfer or conversion request will be processed within 30 days after the Trustee or its Agent receives the Annuitant's request on a Transfer Form duly completed by the Annuitant and the proposed transferee institution.
- c) **Withdrawal on Disability:** The Annuitant may withdraw the Locked-In Funds in one lump sum or a series of payments if:
  - i) a physician certifies in writing satisfactory to the Trustee or its Agent that the Annuitant suffers from a significant physical or mental disability that considerably reduces his/her life expectancy; and
  - ii) if the Annuitant has a Spouse or Common-law Partner, the Annuitant provides the Trustee or its Agent with a waiver in the form prescribed by the Regulations and signed by the Spouse or Common-law Partner.
- d) **Withdrawal by Non-Resident/Citizen:** The Annuitant may withdraw all of the Locked-In Funds if:
  - i) the Annuitant and his or her Spouse or Common-law Partner, if any, are not Canadian citizens;

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- ii) the Annuitant and his or her Spouse or Common-law Partner, if any, are not resident in Canada for the purposes of the Tax Act; and
- iii) if the Annuitant has a Spouse or Common-law Partner, the Spouse/Common-law Partner waives, on the form prescribed under the Regulations, any rights that the Spouse/Common-law Partner may have to this LIF under the Pension Rules and this Contract.

**3. Death of Annuitant**

If the Annuitant dies before transferring out or converting the balance of this LIF in accordance with section 2 above, the balance of the Locked-In Funds must be paid:

- a) to the Annuitant's surviving Spouse or Common-law Partner, if any (as long as he/she is so entitled under the Pension Rules);
- b) if there is no surviving Spouse or Common-law Partner entitled in accordance with clause 3(a), to the person(s) designated by the Annuitant in accordance with the Declaration of Trust; or
- c) if there is no surviving Spouse or Common-law Partner entitled in accordance with clause 3(a) and no validly designated and entitled beneficiary, to the Annuitant's estate.

The Trustee is not required to make any payment after the Annuitant's death until, the Trustee or its Agent receives, in a form acceptable to it:

- evidence as to whether or not the Annuitant had a Spouse or Common-law Partner at the date of the Annuitant's death;
- if there was a Spouse or Common-law Partner on that date, the Spouse/Common-law Partner's name; and
- any other documents the Trustee may require in accordance with the Declaration of Trust.

**4. Division on the Breakdown of a Marriage or Common-law Partnership**

Section 44 of the Pension Act permits Locked-In Funds to be divided pursuant to a domestic contract or a decree, order or judgment of a competent tribunal. If this LIF is divided under section 44 of the Pension Act (which deals, generally, with the breakdown of a marriage or a common-law partnership), then the commuted value of the Annuitant's benefits under this LIF will be determined in accordance with the Pension Rules, subject to the Tax Act. As well, sections 27 to 33 of the Pension Regulations will apply, with the necessary modifications and subject always to the Tax Act.

**5. Miscellaneous**

- a) **Locked-In Funds, Only:** The only monies which may be transferred into this LIF are those which originate, directly or indirectly, from:
  - i) the fund of a Registered Pension Plan;
  - ii) a LIRA or another LIF; or
  - iii) an immediate or deferred Life Annuity.

If the Annuitant wishes to transfer in funds which are not from any of these sources, the Annuitant acknowledges that they must be held in an account which is separate from this LIF and will not be governed by the terms of this Contract.

- b) **Annual and Other Statements:** At the beginning of each Year, until the balance of the Locked-In Funds is transferred, converted or paid out in accordance with the terms of this Contract, the Trustee or its Agent will send the Annuitant an annual statement setting out the information which subsection 22(7) of the Regulations requires be disclosed to Annuitants each Year (the "Annual Statement"). On a transfer out or conversion of the balance of the Locked-In Funds in the manner referred to in subsection 22(9) of the Regulations, the Agent will provide the Annuitant with a statement containing the information which that subsection requires be disclosed to the Annuitant, determined as of the date of the transfer out or conversion. If the Annuitant dies before the balance of the Locked-In Funds are transferred out or converted in accordance with this Contract, the Agent will provide the person to whom the Locked-In Funds are paid (being the Spouse, Common-law Partner, beneficiary, administrator or executor, as applicable) with a statement containing the information which subsection 22(8) of the Regulations requires be disclosed to him/her, determined as of the date of the Annuitant's death.
- c) **No Assignment or Commutation:** The Locked-In Funds may not be assigned, charged, anticipated, given as security or subjected to execution, seizure, attachment or other process of law except under and in accordance with section 44 or subsection 57(6) of the Pension Act as well as the Tax Act. As well, the Locked-In Funds may not be commuted or surrendered during the Annuitant's lifetime, except under subsections 33(2) or 57(6) or section 44 of the Pension Act and in accordance with the Tax Act. Any purported transaction in contravention of this paragraph 5(c) is void.
- d) **Conflict with Declaration of Trust, Pension Rules:** If there is a conflict between this Contract and the Declaration of Trust, the terms of this Contract will prevail to the extent necessary to resolve the conflict, subject always to the Tax Act. If there is a conflict between this Contract or the Declaration of Trust and the Pension Rules, the latter will prevail to the extent necessary to resolve the conflict, subject always to the Tax Act. The Trustee or its Agent no responsibility for any adverse tax consequences to the Annuitant, or the Spouse/Common-law Partner or estate which may result from a conflict between the Tax Act and the Pension Act or Pension Regulations.

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- e) **Changes to this Contract:** If the Agent proposes to amend this Contract in a manner which would reduce the benefits arising from the Contract then, unless the amendment is required to bring the Contract into compliance with the Pension Rules and/or the Tax Act, the Trustee or its Agent must notify the Annuitant of the amendment at least 90 days before the amendment's effective date and permit the Annuitant to transfer out the balance of the Locked-In Funds, in accordance with this Contract, before the effective date.
- f) **Renumbering:** If any provision of the Pension Rules or Tax Act which is cited in this Contract is renumbered due to an amendment in the law, then that reference is to be considered to be to the provision as renumbered.
- g) **Headings:** Headings in this Contract are for ease of reference only, and do not affect its interpretation.

**6. Differentiation on the Basis of Sex**

The Locked-In Funds will not be used to purchase a Life Annuity that differentiates on the basis of the Annuitant's sex, unless the commuted value of the deferred pension that was transferred directly or indirectly into this LIF was determined on its transfer in a manner that differentiated, while the Annuitant was a member of that pension plan, on the basis of the sex of the owner.

**7. Definitions**

- a) **"Annual Payment"** has the meaning given in section 1 of this Contract;
- b) **"Annual Statement"** has the meaning given in paragraph 5(b) of this Contract;
- c) **"Annuitant"** means the person whose name is set out at the beginning of this Contract as the annuitant;
- d) **"Agent"** means CIBC Securities Inc. or CIBC Investor Services Inc. (depending on the Application), the Trustee's agent for certain administrative tasks in respect of this LIF;
- e) **"Application"** means the Retirement Income Fund application form signed by the Annuitant to establish this LIF;
- f) **"Common-law Partner"** means
  - i) in the case of the death of a member or former member, a person who, not being married to the member or former member, was cohabiting in a conjugal relationship with the member or former member at the time of the death of the member or former member and was cohabiting in a conjugal relationship with the member or former member for a continuous period of at least two years immediately before the death of the member or former member,
  - ii) in the case of the breakdown of a common-law partnership, a person who, not being married to the member or former member, was cohabiting in a conjugal relationship with the member or former member for a continuous period of at least two years immediately before the date of the breakdown of the common-law partnership, or
  - iii) in any other case, a person who, not being married to a member or former member at the particular time under consideration, is cohabiting in a conjugal relationship with the member or former member at that time and who has so cohabited for a continuous period of at least two years immediately before that time;

However, Common-law Partner does not include a person who is not a common-law partner for the purpose of any provisions of the Tax Act regarding registered retirement income funds;

- g) **"Common-law Partnership"** means the relationship between a member or former member and his or her common-law partner;
- h) **"Contract"** means this LIF amending agreement;
- i) **"Declaration of Trust"** means the applicable Retirement Income Fund Declaration of Trust, which depending on the RRIF application form which the Annuitant has signed, as amended from time to time upon approval by relevant regulatory authorities;
- j) **"LIF"** means an arrangement which has been registered as a registered retirement income fund under the Tax Act and which meets the requirements of the Pension Rules including, without limitation, section 22 of the Regulations with respect to life income funds;
- k) **"Life Annuity"** means an arrangement which complies with the requirements for an annuity under paragraph 60(l) of the Tax Act as well as the requirements of the Pension Rules with respect to life annuities, including without limitation, section 23 of the Regulations;
- l) **"LIRA"** means an arrangement which has been registered as a registered retirement savings plan under the Tax Act and which meets the requirements of the Pension Rules including, without limitation, section 21 of the Regulations with respect to locked-in retirement accounts;
- m) **"Locked-In Funds"** means all funds transferred into this LIF and all earnings on those funds;
- n) **"Minimum Amount"** and **"Maximum Amount"** have the meanings given in section 1 of this Contract;
- o) **"Pension Act"** means the *Pension Benefits Act* of New Brunswick, as amended from time to time;
- p) **"Pension Rules"** means the Pension Act and Regulations, as amended from time to time;
- q) **"Registered Pension Plan"** means a pension plan that conforms with the requirements of the Pension Rules or with similar pension legislation in another jurisdiction and which meets all of the Tax Act's requirements for a pension plan;

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- r) **"Regulations"** means the Regulations enacted under the Pension Act, as amended from time to time;
- s) **"RRIF"** means a plan which has been registered as a registered retirement income fund under the Tax Act;
- t) **"Spouse"** means either of two persons who
  - i) are married to each other,
  - ii) are married to each other by a marriage that is voidable and has not been avoided by a declaration of nullity, or
  - iii) have gone through a form of marriage with each other in good faith that is void and have cohabited within the preceding year;
- u) **"Tax Act"** means the *Income Tax Act* (Canada) and the *Regulations* under it, as amended from time to time;  
However, "Spouse" does not include a person who is not a "spouse" for the purpose of any provisions of the Tax Act regarding registered retirement income funds;
- v) **"Transfer Form"** means the form prescribed by the Regulations from time to time for transfers out of a LIF in accordance with paragraph 2(b) of this Contract as well as any transfer form which may be prescribed under or required by the Tax Act from time to time, collectively;
- w) **"Trustee"** means CIBC Trust Corporation, the trustee of this LIF; and
- x) **"Year"** means the fiscal year of this LIF, which ends at midnight on December 31 of each year and cannot exceed twelve months.

\_\_\_\_\_  
Date (Month day, year)

X

Annuitant's Signature

\_\_\_\_\_  
Date (Month day, year)

X

Accepted by the Agent on behalf of the Trustee

(Amendment effective: October 2011)