

Locked-In Retirement Account Amending Agreement New Brunswick Pension Legislation

(the "Annuitant") is entitled to pension monies which are

(name of Annuitant)

governed by New Brunswick's *Pension Benefits Act*. The Annuitant wishes to transfer these monies into a CIBC Investor Services LIRA. To that end, the Annuitant has signed the CIBC Investor's Edge Self-Directed Retirement Savings Plan or CIBC Imperial Investor Services Self Directed 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.

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

1. Transfers In Restricted to Pension Monies

The only monies which may be transferred into this LIRA are those which originate, directly or indirectly, from:

- a) the fund of a pension plan which conforms with the Pension Act and the Regulations 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;
- b) another LIRA;
- c) a Life Income Fund; or
- d) an Annuity;

and in or of which the Annuitant was a member or the planholder or annuitant, as applicable.

2. Restrictions on Transfers from LIRA

Locked-In Funds cannot be transferred out, except:

- a) before an Annuity is purchased, to be transferred into a pension fund of a Registered Pension Plan; however, a transfer is permitted to a pension plan that is not registered in New Brunswick only if:
 - i) that pension plan is registered for persons employed in a jurisdiction that is designated for this purpose under the Regulations; and
 - ii) 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;
- b) before an Annuity is purchased, to be transferred to a LIRA or a Life Income Fund;
- c) before the end of the year in which the Annuitant reaches age 71 (or other such age as the Tax Act may prescribe from time to time), to purchase an Annuity; or
- d) if an amount is required to be withdrawn in order to reduce the amount of tax which is otherwise payable by the Annuitant under Part X.1 of the Tax Act, in which case the amount which is withdrawn (less any amount required to be withheld under the Tax Act) must be deposited into a sub-account of this LIRA to be established by the Trustee (or its agent) and which subaccount, while remaining subject to all terms of this Contract and to the Pension Act and Regulations, is not held within a registered retirement savings plan within the meaning of the Tax Act.

Any withdrawal in accordance with this paragraph may be in whole or in part (except that, if the Annuitant wishes to purchase a deferred life annuity, a partial withdrawal is not permitted), and is subject to the restrictions, if any, imposed by the investment options in which the Locked-In Funds are held. Where no such restrictions apply, the withdrawal will be processed within 30 days after the Trustee or its agent, CIBC Investor Services, receives the Annuitant's request on a Transfer Form duly completed by the Annuitant and the proposed transferee institution.

3. Permitted Withdrawals

The Locked-In Funds may be withdrawn during the Annuitant's lifetime only in accordance with this section 3.

- a) **Disability:** The Annuitant may withdraw the Locked-In Funds, in whole or in part, and receive a lump sum payment or series of payments if:
 - i) a physician certifies in writing to the Trustee or its agent, CIBC Investor Services, that the Annuitant has a significant mental or physical disability that considerably reduces his or her life expectancy; and
 - ii) the Annuitant has a Spouse or Common-law Partner, the Annuitant provides the Trustee or its agent, CIBC Investor Services with a waiver in the form prescribed by the Regulations and signed by the Spouse or Common-law Partner.
- b) **Non-Residency/Citizenship:** The Annuitant may withdraw all of the Locked-In Funds:
 - i) if the Annuitant and his or her Spouse or Common-law Partner, if any, are not Canadian citizens;
 - ii) if 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 or Common-law Partner may have to this LIRA under the Pension Rules and this Contract.

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- c) **Small Plan:** The Trustee or its agent, CIBC Investor Services may permit the Annuitant to withdraw all of the Locked-In Funds if:
- i) the Annuitant requests that such balance be withdrawn by delivering to the Trustee or its agent, CIBC Investor Services, the completed form prescribed under the Regulations and, if the Annuitant has a Spouse or Common-law Partner, the completed waiver signed by the Spouse or Common-law Partner and prescribed for that purpose under the Regulations; and
 - ii) the Trustee or its agent, CIBC Investor Services is satisfied, based upon the information provided in such form(s) and any other information that the Trustee or its agent, CIBC Investor Services requests (including information provided by any affiliate of the Trustee), that:
 - A. the reported present distribution of assets transferred from pension funds connected with employment in the Province is consistent with the amounts reported to have been transferred from such pension funds;
 - B. the total assets held in all LIRAs and Life Income Funds owned by the Annuitant would be commutable upon termination of employment if they were held in a pension fund under a pension plan that permitted payment of the commuted value of the pension benefit in accordance with section 34 of the Pension Act; and
 - C. the total pension adjustments reported to the Annuitant by Canada Revenue Agency for the two taxation years immediately preceding the request for withdrawal is zero.

For the purpose of processing such request, the Annuitant consents to the exchange of information among the Trustee or its agent, CIBC Investor Services and its affiliates with respect to any LIRAs and Life Income Funds held by the Annuitant with affiliates of the Trustee.

4. Death of Annuitant

If the Annuitant dies before transferring out or purchasing an Annuity in accordance with section 2 above, the balance of the Locked-In Funds:

- a) to the Annuitant's surviving Spouse or Common-law, 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 4(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 4(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 it or its agent, CIBC Investor Services 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 name of that Spouse/Common-law Partner's name; and
- any other documents which the Trustee may require in accordance with the Declaration of Trust.

5. No Assignment or Commutation

Locked-In Funds cannot be assigned, charged, anticipated, given as security or subjected to execution, seizure, attachment or other process of law, and cannot be commuted or surrendered during the Annuitant's lifetime. Nonetheless:

- a) **Support or Maintenance:** subsection 57(6) of the Pension Act permits execution, seizure or attachment or other process of law against Locked-In Funds in satisfaction of an order for support or maintenance enforceable in New Brunswick; and
- b) **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. In that event, the transfer-out restrictions in sub paragraphs 2(b), (c) and (d) of this Contract will apply to any monies transferred to the Spouse or Common-law Partner, the commuted value of the Annuitant's benefits will be determined in accordance with the Pension Act, and sections 27 to 33 of the Regulations (which are used to calculate the division of the benefit between the Annuitant and the Spouse/Common-law Partner) will also in part apply, with necessary modifications, to the division of the Locked-In Funds.

Any transaction contrary to this paragraph is void.

6. Changes to this Contract

This Contract may not be amended unless:

- a) where the amendment would reduce the benefits to which the Annuitant is entitled under this Contract, the Trustee or CIBC Investor Services, as its agent, has first provided the Annuitant with at least 90 days prior notice of the amendment, which notice must describe the amendment, set out the effective date of the amendment, and state that the Annuitant is entitled to transfer out the Locked-In Funds in accordance with section 2 above before the amendment comes into effect;
- b) the Contract as amended remains in conformity with the Pension Act and Regulations; or
- c) the amendment is to bring the Contract into conformity with the requirements of the Pension Act or other applicable legislation.

7. Conflict with Declaration of Trust, Pension Rules

If there is a conflict between this Contract and the Declaration of Trust, the provisions of this Contract prevail, so long as this Contract does not contravene the Tax Act. If there is a conflict between this Contract or the Declaration of Trust and the Pension Act or Regulations, the provisions of the Pension Act or the Regulations, as applicable, prevail, so long as this Contract does not contravene the Tax Act.

The Trustee and its agent take 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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8. Differentiation on the Basis of Sex

The Locked-In Funds will not be used to purchase an 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 LIRA 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.

9. Definitions

- a) "Annuity" means a life or deferred life annuity which complies with section 23 of the Regulations and is a "retirement income" under subsection 146(1) of the Tax Act;
- b) "CIBC Investor Services Inc." means CIBC Investor Services Inc., agent for the Trustee;
- c) "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 savings plans;

- d) "Common-law Partnership" means the relationship between a member or former member and his or her common-law partner;
- e) "Contract" means this LIRA amending agreement;
- f) "Declaration of Trust" means the CIBC Investor Services Inc. Self Directed Retirement Savings Plan;
- g) "Life Income Fund" means a registered retirement income fund as defined in the Tax Act which also meets the requirements of a "life income fund" that is a "retirement savings arrangement" under the Pension Act and the Regulations;
- h) "LIRA" means a plan which has been registered as a registered retirement savings plan under the Tax Act and which meets all of the Regulations' requirements for a "locked-in retirement account";
- i) "Locked-In Funds" means funds transferred into this LIRA and any interest or other earnings on those funds;
- j) "Pension Act" means New Brunswick's *Pension Benefits Act*, as amended from time to time;
- k) "Registered Pension Plan" means a pension plan that conforms with the requirements of the Pension Act and Regulations or with similar legislation in another jurisdiction and meets all of the Tax Act's requirements for a pension plan;
- l) "Regulations" means the *Regulations* under the Pension Act, as amended from time to time;
- m) "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;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 savings plans;
- n) "Tax Act" means the *Income Tax Act (Canada)* and *Regulations* under it, as amended from time to time;
- o) "Transfer Form" means the form prescribed by the Regulations from time to time for transfers out of a LIRA in accordance with paragraph 2 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; and
- p) "Trustee" means CIBC Trust Corporation, the issuer of this LIRA.

Date (Month day, year)

X _____
Annuitant's Signature (sign within box)

Date (Month day, year)

X _____
This application is accepted by CIBC Investor Services Inc., on behalf of the Trustee
(sign within box)