

# Declaration of Trust

## 1. Terms Used in this Agreement

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

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

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

*Application* means your application for this TFSA;

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

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

*TFSA* means a tax-free savings account that has been registered under the Act;

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

*you* and *your* mean the account holder named on the Application.

## 2. Registration

We will apply in accordance with applicable tax legislation to register as a TFSA the account requested on your application. We agree to accept the position of trustee of the requested account once we have received your completed Application.

## 3. Purpose

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

Your TFSA is maintained for your exclusive benefit (determined without regard to any right of a person to receive a payment out of or under your TFSA on or after your death).

## 4. Contributions

You can deposit amounts to your TFSA in a single payment or in periodic payments up to the maximum contribution limit permitted by the Tax Act. You are responsible for determining the maximum permitted contribution to your TFSA in any tax year. No one other than you is permitted to make contributions to your TFSA.

## 5. Sources of Funds

Cash, mutual funds or other investments transferred to your TFSA must be "qualified investments" and must not be "prohibited investments" within the meanings attributed to them respectively in the applicable tax legislation.

As prescribed by the Tax Act, your TFSA is prohibited from borrowing money or other property for the purposes of your TFSA.

All amounts transferred to your TFSA must come from:

- Another TFSA you own;
- A TFSA of which your spouse or common-law partner or former spouse or common-law partner is the account holder, provided that (i) you are living separate and apart at the time of the transfer, and (ii) the transfer is made under a decree, order or judgment of a competent tribunal or under a written separation agreement relating to a division of property between both of you in settlement of rights arising out of, or on the breakdown of your marriage or common-law partnership;
- or
- Other sources that may be permitted from time to time by the applicable tax legislation.

## 6. Investments

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

You may appoint an agent, satisfactory to us, to give us your investment directions which we may act on without incurring any liability. No one other than you or us has any rights under your TFSA relating to the amount and timing of distributions and investing of funds.

You may transfer funds from one investment to another, provided this is permitted by the terms of the investment.

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

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

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

## 7. Valuation

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

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

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

## 8. Withdrawals

You may receive a payment out of or under your TFSA to reduce the amount of tax otherwise payable by you under paragraphs 207.02 or 207.03 of the Tax Act.

You may also receive a payment out of your TFSA for any other reason, subject to the terms of the investments in your TFSA.

Before we process a payment out of your TFSA, you must give us payment instructions in a form acceptable to us. In order to accommodate your payment instructions, we may have to liquidate or sell all or part of one or more of your investments prior to the maturity date of the investment(s). We assume no liability for any losses that result.

## 9. Transfers

At your direction, we shall transfer all or any part of the property held in connection with your TFSA (or an amount equal to its value) to another TFSA that you hold.

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

In order to accommodate your transfer directions, we may have to liquidate or sell all or part of one or more of your investments prior to the maturity date of the investment(s). We assume no liability for any losses that result.

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

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

## 10. Estate Matters

In your will, you may designate your spouse or common-law partner as the successor holder of your TFSA in the event of your death. Alternatively, in provinces where it is allowed, you may designate your successor holder on a form acceptable to us and in accordance with applicable provincial legislation. If you make such a designation, you agree that the successor holder will acquire all of your rights as account holder of this TFSA, including an unconditional right to revoke any beneficiary designation made, or similar direction imposed, by you under this TFSA or relating to property held in connection with this TFSA.

Unless you have designated a successor holder as indicated in the first paragraph of this Section 10, when you die, we will pay the funds in your TFSA to your beneficiary, if any.

In provinces where it is allowed, you may designate your beneficiary in your will. You can change or revoke your designation at any time, either in your will or, if allowed, on a form that we accept. We will make payment to the most recently designated beneficiary of which we have notice, if you have made designations more than once. If you do not have a successor holder and (i) you do not designate a beneficiary, (ii) your beneficiary dies before you, or (iii) your beneficiary designation is not permitted by the province where you live, we will pay the funds held in your TFSA to your estate.

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## Declaration of Trust (continued)

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

### 11. Proof of Information

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

As prescribed by the Tax Act, the account holder must be at least 18 years of age at the time this Agreement is entered into.

### 12. Fees and Expenses

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

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

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

### 13. Amendments

From time to time, we may amend this Agreement, with the concurrence of regulatory authorities if required. We will give you 60 days notice in writing of material changes. No amendment, however, will disqualify your TFSA as a TFSA. If an amendment results from changes to the Tax Act, this Agreement will be considered to be automatically amended and we will not be required to tell you about it. Nor will we be required to tell you about changes to investment options that do not affect the investments in your TFSA.

### 14. No Advantage

No advantage, as defined under paragraph 207.01(1) of the Tax Act, may be extended to you or any person with whom you are not dealing with at arm's length.

### 15. Set-off

We retain the right of set-off against any amounts in your TFSA to pay a debt obligation you may have to us.

### 16. Statements

We will give you either a quarterly or monthly account statement depending on the activity in your TFSA.

If you transfer funds in your TFSA, we will give you a statement, determined at the date of the transfer.

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

### 17. Our Right to Appoint an Agent

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

### 18. Resignation and Assignment

We may resign from our duties under this Agreement by giving you 90 days notice in writing. If we resign, we will transfer the balance of your TFSA to another issuer that we choose. We will give the other issuer all the information necessary for the administration of your TFSA within 90 days of notifying you of our resignation. We may assign our appointment and duties under this Agreement to another trust company, subject to applicable tax legislation.

### 19. Notice

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

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

### 20. Indemnity

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

We are not responsible for any losses incurred by the TFSA or for any reduction in the value of the TFSA, except if due to our own negligence, deliberate wrongdoing.

### 21. Branch of Account

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

### 22. Governing Law

This Agreement is governed by applicable tax legislation and by the laws of Canada and the jurisdiction of your branch of account.

It is to be interpreted in accordance with those laws.

If any part of this Agreement is found invalid or unenforceable, this will not affect the validity or enforceability of the remaining provisions of the Agreement.