

Family Plan Terms and Conditions

The Application and the Terms and Conditions constitute an agreement between the Promoter and the Subscriber pursuant to which, in consideration of payments made hereunder by the Subscriber, the Promoter agrees to pay or cause to be paid to or for one or more Beneficiaries Educational Assistance Payments in accordance with this Agreement.

1. DEFINITIONS

"Accumulated Income Payment" means any amount paid out of the Plan, other than a payment described in any of paragraphs (a) to (d) and in paragraph (f) of section 3 hereof, to the extent that the amount so paid exceeds the fair market value of any consideration given to the Plan for the payment of the amount.

"Agreement" means the Application together with these Terms and Conditions.

"Applicable Tax Legislation" means the *Income Tax Act* (Canada) ("**Tax Act**") and any applicable provincial income tax legislation, as amended from time to time.

"Application" means your application for a Scotia Education Savings Plan.

"Beneficiary" means an individual who has been designated by you as a beneficiary to receive Educational Assistance Payments, if he or she qualifies under the Plan.

"Contribution" to an education savings plan does not include an amount paid into the plan under or because of

- (a) the *Canada Education Savings Act* or a designated provincial program, or
- (b) any other program that has a similar purpose to a designated provincial program and that is funded, directly or indirectly, by a province (other than an amount paid into the plan by a public primary caregiver in its capacity as subscriber under the plan).

"Deemed Canadian Resident" means an individual deemed by section 250 of the Tax Act to be resident in Canada.

"Designated Educational Institution" means

- (a) an educational institution in Canada that is
 - (i) a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the *Canada Student Loans Act*, designated by an appropriate authority under the *Canada Student Financial Assistance Act*, or designated by the Minister of Higher Education and Science of the Province of Quebec for the purposes of *An Act respecting financial assistance for students of the Province of Quebec*, or
 - (ii) certified by the Minister of Human Resources & Skills Development to provide non-university credit courses that furnish or improve an individual's skills in or for an occupation,
- (b) a university outside Canada at which a Deemed Canadian Resident is enrolled for at least three consecutive weeks, leading to a degree, or
- (c) if the Deemed Canadian Resident lives near the Canada-U.S. border, an educational institution in the United States to which the individual commutes that is a university, college, or the educational institution providing courses at a postsecondary school level.

A formal definition is set out in subsection 118.6(1) of the Tax Act.

"Designated Provincial Program" means

- (a) a program administered pursuant to an agreement entered into under section 12 of the *Canada Education Savings Act*, or
- (b) a program established under the laws of a province to encourage the financing of children's post-secondary education through savings in registered education savings plans.

"Educational Assistance Payment" means any amount, other than a refund of Subscriber contributions, paid under the Plan in accordance with Applicable Tax Legislation to or for a Beneficiary to assist the Beneficiary to further his or her education at a Post-secondary School Level.

"Plan" means the Scotia Education Savings Plan set up with your Application.

"Plan Property" means all of the property of the Plan, consisting of all payments in or transfers to the Plan by you or on your behalf and all amounts allowed to be paid into the Plan under the *Canada Education Savings Act* or under a Designated Provincial Program together with any income earned on and gains realized in respect of such property less any losses sustained on the realization of any investment, fees and disbursements deducted from the Plan Property pursuant to section 17 hereof and any amounts paid out of the Plan as provided for herein.

"Post-secondary Educational Institution" means

- (a) an educational institution in Canada that is described in paragraph (a) of the definition "Designated Educational Institution", or
- (b) an educational institution outside Canada that provides courses at a Post-secondary School Level and that is
 - (i) a university, college or other educational institution at which the Beneficiary is enrolled for at least 13 consecutive weeks, or
 - (ii) a university at which the Beneficiary is enrolled on a full-time basis in a course for at least three consecutive weeks.

"Post-secondary School Level" includes a program of courses, at an institution described in subparagraph (a)(ii) of the definition "Designated Educational Institution", of a technical or vocational nature designed to furnish a person with skills for, or improve a person's skills in, an occupation.

"Promoter" means The Bank of Nova Scotia ("**Scotiabank**")

"Public Primary Caregiver" means, in respect of a Beneficiary, the department, agency or institution that maintains the Beneficiary or the public trustee or public curator of the province in which the Beneficiary resides.

"Qualifying Educational Program" means a program at a Post-secondary School Level (as such term is defined in the Tax Act) of not less than three consecutive weeks duration that requires that each student taking the program spend not less than ten hours per week on courses or work in the program.

"RESP" means a registered education savings plan as defined by Applicable Tax Legislation.

"RRSP" means a registered retirement savings plan as defined by Applicable Tax Legislation.

"Specified Educational Program" means a program at a Post-secondary School Level of not less than three consecutive weeks duration that requires each student taking the program to spend not less than 12 hours per month on courses in the program.

"Subscriber" means

- (a) the individual(s) identified as the subscriber(s) in the Application or an individual who has acquired the Subscriber's rights under the Plan pursuant to a decree, order or judgment of a competent tribunal, or under a written agreement, relating to a division of property on breakdown of marriage or common-law partnership; or
- (b) the Public Primary Caregiver of a Beneficiary, who is identified as the subscriber in the Application or an individual or another Public Primary Caregiver who under a written agreement, has acquired a Public Primary Caregiver's rights as the Subscriber under the Plan.

If there are joint individual Subscribers, they must be spouses or common-law partners of each other as defined in the Tax Act. A Subscriber does not include an individual who has disposed of his or her rights under the Plan in the circumstances described in paragraph (b) of the definition of "subscriber" in subsection 146.1(1) of the Tax Act, or a Public Primary Caregiver whose rights as a subscriber under the Plan have been acquired in the circumstances described in paragraph (a.1) of the definition of "subscriber" in subsection 146.1(1) of the Tax Act.

"Trustee" means The Bank of Nova Scotia Trust Company ("**Scotiastrust**").

"you" and **"your"** refer to the Subscriber.

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2. RESPONSIBILITY FOR AND REGISTRATION OF THE PLAN

Scotiabank agrees that it has ultimate responsibility for the Plan and its administration in accordance with this Declaration of Trust and will apply for registration of the Plan with the relevant taxation authorities pursuant to Applicable Tax Legislation.

3. PURPOSES FOR WHICH PLAN PROPERTY HELD

Subject to the payment of applicable fees and disbursements as provided in section 17 hereof, the Trustee agrees to irrevocably hold the Plan Property in trust in accordance with this Agreement for any one or more of the following purposes.

- (a) the payment of Educational Assistance Payments;
- (b) the payment to, or to a trust in favour of, a Designated Educational Institution referred to in subparagraph (a)(i) of the definition of that expression in section 1 hereof;
- (c) the repayment of amounts (and the payment of amounts related to that repayment) under the *Canada Education Savings Act* or under a Designated Provincial Program;
- (d) the refund of Subscriber contributions;
- (e) the payment of Accumulated Income Payments; and
- (f) the payment to a trust that irrevocably holds property pursuant to an RESP transferred to it for any of the foregoing purposes.

4. SUBSCRIBER ACCOUNT

On registration, Scotiabank will set up an ESP in your name, and it will keep a record of:

- (a) the amount contributed with the Application;
- (b) all other funds contributed or transferred to the Plan;
- (c) the number and value of any investments held in the Plan;
- (d) any interest, dividends or other investment earnings;
- (e) the proceeds from any sale of your investments in the Plan;
- (f) any fees or transaction costs charged to the Plan; the amount, the date of payment by Scotiabank, and
- (g) recipient of each Educational Assistance Payment made hereunder;
- (h) the amount, the date of payment by Scotiabank, and recipient, of any amounts described in paragraphs (d) to (f) of section 3 hereof paid hereunder; and
- (i) such other information as Scotiabank may decide from time to time.

Scotiabank will forward to you, at least quarterly, statements of the Plan showing all of the above information for the period from the date of the last statement to the date of the current statement.

5. CONTRIBUTIONS TO THE PLAN

The only contributions which are permitted are those made by you or on your behalf for a Beneficiary or by way of a transfer from another RESP. Amounts paid into the Plan under the *Canada Education Savings Act* or under a Designated Provincial Program or as otherwise set out in the Tax Act are not considered contributions. A contribution for a Beneficiary is permitted to be made only if:

- a. (i) the individual's Social Insurance Number is provided to Scotiabank before the contribution is made and the individual is resident in Canada when the contribution is made, or
- (ii) the contribution is made by way of transfer from another RESP under which the individual was a beneficiary immediately before the transfer; and
- b. either the Beneficiary had not attained 31 years of age before the time of the contribution, or the contribution is made by way of transfer from another RESP of the Beneficiary that allows more than one beneficiary at any one time.

Special rules apply where property is transferred from one RESP to another. If amounts are transferred from another RESP which has an earlier effective date than this ESP, the earlier effective date will prevail. In addition, a transfer made from another RESP to this ESP may result in an overcontribution, and such an overcontribution may have adverse tax consequences.

Contributions may be made periodically or by way of a lump sum payment in money or other property. Scotiabank may set a minimum amount or value for each contribution.

The total cumulative contributions made to the Plan for a Beneficiary cannot exceed the RESP lifetime limit as set out in subsection 204.9(1) of the Tax Act. You shall be responsible for ensuring that these limits are not exceeded. No contribution may be made into the Plan after the 31st year following the year the Plan was entered into, other than a contribution made by way of transfer from another RESP. You agree to notify us of any material change in personal circumstances of the beneficiary at the time you make any further contributions to the Plan or immediately before the time the Canada Learning Bond payment is made.

6. SAVINGS INITIATIVES

Funds may be payable into the Plan pursuant to one or more of the savings initiatives described below. Payment into the Plan of any such funds will not reduce your contribution limit. Scotiabank will keep a record of any such funds paid into the Plan and may provide to the government body which grants such funds any information about the Plan required by such government body in connection with the administration of the applicable savings initiative. We may apply for any available savings initiative on your behalf unless you instruct us otherwise.

Canada Education Savings Grant ("CESG"): The contributions to the Plan may attract a CESG based on the percentage of your contributions, subject to the maximums set out in the applicable legislation. Scotiabank will apply for the CESG periodically when appropriate. Any CESG amounts paid into the Plan must be repaid to the Government of Canada if not used as an Educational Assistance Payment and in such other circumstances as the law requires.

Canada Learning Bond ("CLB"): If you qualify, you may request in the form and manner required that Scotiabank apply for payment of a CLB into this Plan. Any CLB amounts paid into the Plan must be repaid to the Government of Canada if not used as an Educational Assistance Payment and in such other circumstances as the law requires.

Québec Education Savings Incentive ("QESI"): If you qualify, you may request in the form and manner required that Scotiabank apply for the QESI. Any incentive paid into this plan must be repaid to the Government of Quebec if it is not used as an Educational Assistance Payment and in such other circumstances as the law requires.

Other Provincial Grants: If you qualify for any other provincial grant, bond or incentive ("OPG"), and provided Scotiabank offers the OPG, you may apply for the OPG in the form and manner provided for in the applicable provincial legislation. Any such OPG paid into this Plan must be repaid to the province providing the OPG if it is not used as an Educational Assistance Payment and/or in such other circumstances as the law requires.

7. INVESTMENTS

Scotiabank will tell you what investment options are available. In turn, you must tell Scotiabank how you want the contributions invested. These investment options may include mutual funds. Scotiabank may change the available investment options from time to time, but they will always be qualified investments for an RESP as set out in subsection 146.1(1) of the Tax Act.

You may transfer funds from one investment to another, provided this is permitted by the terms of the investment and by Scotiabank. To do so, you must provide Scotiabank instructions in writing. Scotiabank may also accept your oral instructions if it chooses to.

If you have a self-directed ESP, it is your responsibility to choose your investments. You must invest the contributions in investments permitted by the Applicable Tax Legislation and permitted by Scotiabank.

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Scotiabank will not be responsible for determining whether any investment is a qualified investment for an RESP. You agree to give Scotiabank information it may need about any investment. Scotiabank may, however, decline to make any particular investment for any reason. You may appoint an agent, satisfactory to Scotiabank, to give to Scotiabank your investment directions, which Scotiabank may act on without incurring liability to it or the Trustee. Scotiabank will stop following the instructions of your agent when you notify it in writing that this person is no longer your agent. You are solely responsible for any additional taxes or penalties under Applicable Tax Legislation, if your investment choices cause such taxes or penalties to be imposed. Scotiatrust will keep legal ownership and possession of the investment in your ESP in whatever form it determines. You authorize Scotiabank or Scotiatrust to place uninvested cash balances in the Plan in deposits of the Montreal Trust Company of Canada, National Trust Company, The Bank of Nova Scotia or any of its affiliates and interest in these balances will be credited to your ESP. Scotiabank may calculate interest and credit it to your Plan more often than it tells you when you complete the Application. All interest and income earned by your investments, as well as any bonus Scotiabank may declare, will be credited to your ESP.

8. BENEFICIARIES

You shall provide in the Application the name of one or more Beneficiaries in respect of the Plan. At any time and from time to time thereafter, you may revoke the designation of any Beneficiary and/or designate alternative or additional Beneficiaries in respect of the Plan by written notice in the manner required by Scotiabank. An individual is permitted to be designated as a Beneficiary under the Plan only if:

- (a) the individual's Social Insurance Number is provided to Scotiabank before the designation is made and the individual is resident in Canada when the designation is made; or
- (b) the designation is made in conjunction with a transfer of property into the Plan from another RESP under which the individual was a beneficiary immediately before the transfer and either
 - i) the individual's Social Insurance Number is provided to Scotiabank before the designation is made, or
 - ii) the individual is not a resident in Canada and was not assigned a Social Insurance Number before the designation is made.

In addition, each of the Beneficiaries must be connected to the Subscriber by blood relationship or adoption within the meaning of the Applicable Tax Legislation and (a) must be under 21 years of age, or (b) must have been a beneficiary under another RESP that allows more than one beneficiary at any one time immediately preceding the time of his or her designation as a beneficiary under the Plan.

Within 90 days after being notified in writing by you that an individual has become a Beneficiary hereunder and of the address of the individual, Scotiabank shall provide written notice to the Beneficiary at such address of the existence of the Plan and your name and address; provided however, that if the Beneficiary is under 19 years of age at the time of such notification and either ordinarily resides with a parent or is maintained by a Public Primary Caregiver, Scotiabank will provide such notice to that parent or Public Primary Caregiver.

9. PAYMENTS OUT OF THE PLAN

Upon receipt of a written direction from you in the form Scotiabank requires, subject to the applicable legislation, Scotiabank shall transfer or otherwise realize the Plan Property to the extent necessary to make any of the following payments:

- (a) an Educational Assistance Payment to or for the Beneficiary who
 - (i) either
 - (A) is enrolled as a student in a Qualifying Educational Program at a Post-secondary Educational Institution, or
 - (B) has attained the age of 16 years and is enrolled as a student in a Specified Educational Program at a Post-secondary Educational Institution, and
 - (ii) has satisfied either of the following conditions:
 - (A) the condition set out in clause (i)(A) above, and

- i) has satisfied that condition for at least 13 consecutive weeks in the 12-month period that ends at the time for the proposed Educational Assistance Payment, or
 - ii) the total educational assistance payments, including the proposed payment, from all RESPs of Scotiabank made to or for the Beneficiary in the 12-month period that ends at the time of the proposed payment will not exceed \$5,000 or such greater amount that the Minister designated for the purpose of the *Canada Education Savings Act* approves in writing with respect to that Beneficiary, or
- (B) the condition set out in clause (i)(B) above and the total educational assistance payments, including the proposed payment, from all RESPs of Scotiabank made to or for the Beneficiary in the 13-week period that ends at the time of the proposed payment will not exceed \$2,500 or such greater amount that the Minister designated for the purpose of the *Canada Education Savings Act* approves in writing with respect to that Beneficiary.
- Notwithstanding the provisions of this paragraph 9(a), an Educational Assistance Payment may be made to or for the Beneficiary at any time in the six-month period immediately following the particular time at which the Beneficiary ceases to be enrolled as a student in a Qualifying Educational Program or a Specified Program, would have complied with the requirements of paragraph (a) had it been made immediately before the particular time.
- (b) a payment to, or to a trust in favour of, a Designated Educational Institution referred to in subparagraph (a)(i) of the definition of that expression in section 1 hereof.
 - (c) a payment to a trust that irrevocably holds money or property pursuant to an RESP transferred to it for any of the purposes set out in section 3 hereof.
 - (d) a payment to the original Subscriber, other than a refund of original Subscriber contributions, or to a RRSP of the original Subscriber or to a spousal RRSP, as permitted by Applicable Tax Legislation. This roll-over is limited by section 204.94 of the Tax Act and the Subscriber's RRSP room.
 - (e) an Accumulated Income Payment to you, if you are a resident of Canada and
 - i) the Plan has been in existence for at least ten years and each individual (other than a deceased individual) who is or was a Beneficiary under the Plan has attained 21 years of age before the payment is made and is ineligible to receive an Educational Assistance Payment, or
 - ii) the payment is made in the 35th year following the year in which the Plan was entered into, or each individual who was a Beneficiary under the Plan is deceased when the payment is made.
 - (f) an Accumulated Income Payment to an RDSP, provided that you and the holder of an RDSP jointly elect in prescribed form to have subsection 146 (1.2) of the Tax Act to apply in respect of the beneficiary under the RESP if, at the time the election is made, the beneficiary is also the beneficiary under the RDSP and
 - i) the beneficiary has a severe and prolonged mental impairment that prevents, or can reasonably be expected to prevent, the beneficiary from enrolling in a Qualifying Educational Program at a Post-secondary Educational Institution; or
 - ii) the RESP meets the conditions described in subparagraphs (e)(i) or (ii) to make an Accumulated Income Payment.

An Accumulated Income Payment will not be paid jointly to joint Subscribers. If an Accumulated Income Payment is made, the Plan must be terminated by the end of February of the year after the year in which the first AIP payment was made. You may not transfer funds from another RESP to this Plan after an accumulated income payment has been made under the other plan. Scotiabank shall determine whether any conditions precedent to the payment of any amount pursuant to this section 9 have been satisfied and such determination shall be final and binding on you and/or the Beneficiary as the case may be. All payments of any kind made from the Plan will be net of any applicable withholding taxes and fees and charges payable hereunder.

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10. REFUND OF CONTRIBUTIONS

Upon receipt of written notice by Scotiabank in the form it requires and subject to the Applicable Tax Legislation and the terms hereof, you shall be entitled to:

- (a) receive a refund from the Plan at any time and from time to time in an amount not exceeding the lesser of the following amounts: (i) the value of the Plan Property held at that time, net of any applicable fees and charges hereunder, and (ii) the difference between the aggregate of all Subscriber contributions made to the Plan prior to that time and all refunds of Subscriber contributions made from the Plan prior to that time (the **"Capital Investment Amount"**); or
- (b) direct, in the manner prescribed by Scotiabank, that all or any part of the Capital Investment Amount as at the time of payment be paid to one or more Beneficiaries to supplement Educational Assistance Payments made to them.

Notwithstanding any other terms hereof, except as may otherwise be permitted by Scotiabank, a refund or payment of contributions invested in a fixed term investment will not be made until the investment has matured (except when the Plan matures). Processing of a refund can take up to 12 business days from the date the refund request is received. Please allow additional time for the funds to reach their destination.

11. METHOD OF PAYING EDUCATIONAL ASSISTANCE PAYMENTS

Educational Assistance Payments (EAPs) as set out in paragraph 9(a) of this Agreement will be paid to or for a Beneficiary on application to Scotiabank by you. The first EAP to a Beneficiary may not be more than the amount permitted by the Tax Act. Scotiabank will require satisfactory proof of the Beneficiary's qualification for the EAP. Scotiabank may also pay out EAPs on a pre-arranged schedule of payments, subject to satisfactory proof of the Beneficiary's continuing eligibility.

12. PROMOTER'S POWER TO LIQUIDATE PROPERTY

The Trustee may retain in cash such portion of the Plan Property as it in its sole discretion determines is advisable for the administration of the Plan. Without limiting the generality of the foregoing, Scotiabank may liquidate investments of the Plan to provide for payment of any taxes (including interest and penalties) applicable in respect of the Plan, payment of its fees and reimbursement of disbursements and payment of other reasonable charges. If you fail to direct Scotiabank as to which investments of the Plan to liquidate, Scotiabank may sell such investments of the Plan as it in its sole discretion determines is appropriate. If Scotiabank is required to exercise such discretion, it may make an additional charge against the Plan. If the Plan Property is not sufficient to fully make any such payment or reimbursement, you and the Beneficiaries shall be responsible for any shortfall as provided in section 20 hereof.

13. VOTING RIGHTS

If you have an ESP that contains securities investments with voting rights, Scotiabank will not exercise them unless you tell it to do so in writing.

14. TERMINATION DATE

Notwithstanding anything herein to the contrary, the termination date of the Plan (the **"Termination Date"**) shall be the date designated by you from time to time provided that the Termination Date must be no later than the last day of the 35th year following the year in which the Plan was entered into. You may change the Termination Date to a date not later than such day by written instruction in the manner required by Scotiabank.

Not less than six months prior to the Termination Date, Scotiabank shall give notice thereof to you and, subject to the terms of any direction given to Scotiabank prior to the Termination Date as provided in section 9 hereof, Scotiabank shall liquidate the Plan Property and pay on the Termination Date an amount equal to the difference between the aggregate amount of the liquidation proceeds less applicable fees and charges hereunder and any other

amounts required by law to be deducted from such proceeds, and the Capital Investment Amount as at the time of the payment, either (a) to the Designated Educational Institution that has been designated by you (or, if no such designation has been made, approved by Scotiabank), or (b) as an Accumulated Income Payment. If Scotiabank has not received prior to the Termination Date written notice with respect to a refund of Subscriber contributions as provided in section 10 hereof, Scotiabank shall hold the balance of such liquidation proceeds, net of any applicable fees and charges hereunder, for you and in your name in a non-registered account and pay interest thereon on such terms and at such rate or rates as it may from time to time establish, until such direction is received by it. Once the Plan is terminated, the funds will only be used for any one or more of the purposes set out in section 3 hereof.

15. SUBSCRIBER'S DEATH

If the Subscriber dies prior to the Termination Date, the Plan may be continued by any other person who acquires the Subscriber's rights under the Plan or who makes contributions into the Plan.

16. AGENTS

You authorize Scotiabank to delegate the performance of its duties under this Agreement to an agent or agents that it chooses. Scotiabank acknowledges, however, that the primary responsibility for the administration of your ESP is Scotiabank's.

17. FEES AND EXPENSES

Scotiabank will be entitled to compensation for services hereunder in accordance with the fee schedule provided to you under the Plan, as such schedule may from time to time be amended and all reasonable expenses for the administration of your ESP. Notice of amendments to the fee schedule will be given to you and will take effect no earlier than 60 days from the date of such notice. All fees and reimbursement of disbursements provided for under the Plan may be charged to you directly or charged against and deducted from the Plan Property at such time or times during each year as Scotiabank may, in its absolute discretion, determine.

18. AMENDMENTS

Scotiabank may change this Agreement from time to time with the agreement of regulatory authorities, if required. If it does so, Scotiabank will give you 30 days' notice in writing. If Scotiabank has to amend this Agreement because of changes to the Applicable Tax Legislation or other applicable legislation, it will do so automatically, and Scotiabank will not be required to tell you about the change before it becomes effective.

No amendments, however, will disqualify the Plan as an RESP.

19. NOTICE

To tell Scotiabank about anything concerning the Plan or this Agreement, write to it at your branch of account. Scotiabank considers that it has received your letter on the day it is delivered to Scotiabank.

If Scotiabank sends you or a Beneficiary a letter, statement, tax form or receipt, Scotiabank considers that you or the Beneficiary, as the case may be, received it 48 hours after Scotiabank mailed it to the last address it has in its records for you or the Beneficiary, as applicable.

If there are joint Subscribers under this Plan, Scotiabank can accept instructions from either one of the Subscribers with respect to all matters regarding the Plan, including the naming of a beneficiary, transfers, investments and the making of payments out of the Plan.

In addition, Scotiabank will not be required to take instructions from a Beneficiary, even though the Beneficiary may have reached the age of majority.

20. LIMITATION ON LIABILITY

You and each Beneficiary will at all times indemnify and save harmless Scotiabank and the Trustee and their agents in respect of any taxes (including interest and penalties) which may be imposed on any of them under Applicable

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Tax Legislation in respect of the Plan, or any losses incurred by the Plan, each as a result of: (i) the investment, re-investment, sale or transfer of Plan Property or the liquidation of investments of the Plan; and (ii) any payment of any kind made from the Plan.

Scotiabank and the Trustee may reimburse themselves for or may pay any such taxes out of the Plan Property. Where such property is not sufficient to fully reimburse Scotiabank or the Trustee for such taxes or to pay such taxes, as the case may be, you will at all times indemnify and save harmless Scotiabank and the Trustee for the amount of any shortfall.

21. RESIGNATION OF TRUSTEE

The Trustee, upon giving you and Scotiabank at least 60 days' written notice, may resign, and Scotiabank, upon giving you and the Trustee at least 60 days' written notice, may require the Trustee to retire as the trustee of the Plan, provided that a successor trustee has been appointed in writing. This successor trustee shall be a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee. The Trustee will appoint the successor trustee designated by Scotiabank but, if Scotiabank fails to designate a successor trustee within 60 days after it has received notice of the Trustee's intended resignation, the Trustee may designate its successor trustee. The Trustee will transfer all books and records and investments of the Plan to the successor trustee in order to permit the orderly administration of the Plan.

22. INFORMATION SLIPS

Scotiabank shall provide you, each Beneficiary and other applicable persons with such information regarding amounts paid to or from the Plan and other transactions of the Plan as is required to be provided under the Applicable Tax Legislation to enable such persons to complete their respective income tax returns.

23. HEIRS, EXECUTORS AND ASSIGNS

This Agreement will be binding upon the heirs, executors and administrators of the Subscriber and upon the successors and assigns of the Trustee and Scotiabank.

24. INFORMATION

You certify that all the information you have given in the Application, including birth dates, is accurate, and you agree to give Scotiabank any further information or proof that it may need.

25. ENGLISH LANGUAGE

The parties hereto have requested that this Agreement be established in English - les parties ont demandé que le régime soit rédigé en anglais.

26. GOVERNING LAW

This Agreement is governed by the applicable laws of the jurisdiction in Canada where you live and the Tax Act. It is to be interpreted according to these laws. If a conflict arises between the applicable laws of the jurisdiction in Canada where you live and the Tax Act, the provisions of the Tax Act will govern.