

# Desjardins Funds and Guaranteed Investments Retirement Income Fund (the “Fund”)

## Declaration of Trust

**WHEREAS** the annuitant (the “Annuitant”) wishes to establish a Fund under the *Income Tax Act* (Canada) (the “Act”) and, if applicable, the tax legislation of the Annuitant’s province or territory of residence (the “Income Tax Legislation”);

**WHEREAS** Desjardins Trust Inc. (the “Issuer”), a legally constituted trust company, having its head office in Montreal in the province of Quebec, is authorized to offer its services to the public as a trustee;

**WHEREAS** the Issuer hereby accepts the office of trustee on behalf of the Annuitant, who will have signed an application form for the Fund (the “Application”);

**WHEREAS** the terms used herein have the same meaning as in the Act, unless the context suggests otherwise;

**WHEREAS** the parties acknowledge that this agreement must be considered as a trust for the purposes of the Act.

**NOW THEREFORE, THE FOLLOWING IS AGREED** between the Annuitant and the Issuer:

**Article 1.** The Fund complies with the requirements of the Income Tax Legislation, and the Issuer shall be ultimately responsible for administering the Fund and registering it with the Canada Revenue Agency.

**Article 2.** The Fund assets shall, at all times, be held by the Issuer or an agent of its choice in a separate account for the Annuitant.

**Article 3.** The Annuitant signing the Application must declare their age and social insurance number. This declaration shall be considered as a commitment by the Annuitant to provide any additional proof that may be required at a later date.

**Article 4.** The Issuer shall make no payments other than those provided for in paragraphs 146.3(2)(d) and (e), in the definition of “retirement income fund” in subsection 146.3(1) and in subsections 146.3(14) and (14.1) of the Act, and, if applicable, in any such similar provisions of the tax legislation for the Annuitant’s province or territory of residence. If the Fund does not have sufficient liquidity to make a payment as provided for above, the Issuer shall be entitled to sell the assets held in the Fund and is hereby specifically authorized to liquidate the said assets at the prices and under the conditions that it deems appropriate.

The Annuitant shall be solely responsible for selecting the maturity of the Fund investments and the amount of liquidity required to make the payments. If the Fund does not have sufficient liquidity to make a payment as provided for above, the Issuer shall have the right to redeem investments held in the Fund before maturity, and is hereby specifically authorized to redeem the Fund investments prior to maturity according to the terms and conditions that it deems appropriate, including, more specifically, the fees, penalties and any other replacement costs that the Issuer may apply in such case and which the Annuitant acknowledges.

**Article 5.** Payments under the Fund may not be assigned in whole or in part.

**Article 6. Choice of successor annuitant (not applicable in Quebec).** Subject to applicable legislation, the Annuitant may choose for their spouse or common-law partner to become the Annuitant of the Fund after the Annuitant’s own death, if their spouse or common-law partner survives them.

**Article 7. Beneficiary designation (not applicable in Quebec).** Subject to applicable legislation, if the Annuitant has not selected a successor annuitant, or if the successor annuitant dies before the Annuitant, the Annuitant may designate a beneficiary who shall receive the Fund proceeds upon the death of the Annuitant. A beneficiary designation under the Fund may only be made, modified or revoked by the Annuitant in the manner required by the Issuer. This designation must clearly state the Fund and be submitted to the Issuer before any payment. The Annuitant acknowledges being solely responsible for making sure that the designation is valid and in accordance with the legislation of Canada, its provinces or territories.

**Article 8. Death of the annuitant (in cases where the spouse or common-law partner becomes the Annuitant).** Upon the Annuitant’s death, if the spouse or common-law partner of the Annuitant has been selected as a successor annuitant for the Fund, the Issuer, upon receipt of the estate documents, which are satisfactory to the Issuer, continues to make payments to the Annuitant’s spouse or common-law partner after the death of the Annuitant, in accordance with this Declaration of Trust. The Issuer is released from all obligations after making these payments to the Annuitant’s spouse or common-law partner, even though the selection or the designation made by the Annuitant may be an invalid testamentary instrument.

**Article 9. Death of the annuitant (all other cases).** When the Annuitant dies and their spouse or common-law partner is not designated as a successor annuitant for the Fund, upon receipt of the estate documents, which are satisfactory to the Issuer, and provided that:

- a) The Annuitant has designated a beneficiary, the Fund proceeds will be paid or transferred to this beneficiary, subject to the applicable legislation. The Issuer shall be fully discharged by such payment or transfer, even though any beneficiary designation made by the Annuitant may be invalid as a testamentary instrument; or
- b) The beneficiary designated by the Annuitant dies before the Annuitant, or if the Annuitant has not designated a beneficiary, the Issuer will pay the Fund proceeds to the Annuitant’s estate.

**Article 10.** At the direction of the Annuitant, the Issuer must transfer to a person who has agreed to be the issuer of another registered retirement income fund for the Annuitant, all or part of the property held in connection with the Fund, or an amount equal to the value of such property at the time when the direction is given, together with all information necessary for the continuance of the Fund.

However, before making such a transfer, the Issuer shall hold back an amount sufficient to guarantee that the minimum amount, as part of the Fund for the year in which the transfer occurs, can be paid to the Annuitant in the year, up to the fair market value of the Fund assets.

**Article 11.** The Issuer shall not accept property as consideration thereunder other than property transferred from:

- a) A registered retirement savings plan under which the Annuitant is the annuitant;
- b) Another registered retirement income fund under which the Annuitant is the annuitant;
- c) The Annuitant to the extent only that the amount of the consideration was an amount described in subparagraph 60(l)(v) of the Act;
- d) A registered retirement income fund or registered retirement savings plan of the Annuitant’s spouse or common-law partner or former spouse or common-law partner 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 common-law partner or former spouse or common-law partner in settlement of rights arising out of, or on the breakdown of, their marriage or common-law partnership;
- e) A deferred profit sharing plan (“DPSP”) in accordance with subsection 147(19) of the Act;
- f) A registered pension plan (“RPP”) of which the Annuitant is a member (within the meaning assigned by subsection 147.1(1) of the Act);
- g) A RPP in accordance with subsection 147.3(5) or (7) of the Act;
- h) A specified pension plan (“SPP”) in circumstances to which subsection 146(21) of the Act applies;
- i) A pooled registered pension plan (“PRPP”) in accordance with subsection 147.5(21) of the Act;
- j) An advanced life deferred annuity (“ALDA”) under which the Annuitant is the annuitant, if the transfer is made in order to reduce the tax amount that the Annuitant would otherwise be required to pay under Part XI of the Act;
- k) a tax-free first home savings account (“FHSA”) under which the Annuitant is the holder in accordance with subsection 146.6(7) of the Act if the transfer takes place after March 2023.

**Article 12.** The Issuer guarantees the repayment of guaranteed investments in the legal tender of Canada on the maturity date, with interest at the indicated rate. These investments cannot be redeemed prior to maturity, except in the event of death or if there is insufficient liquidity in the Fund, as stipulated herein.

The Issuer is authorized to invest and loan the Annuitant’s money, either separately, or together with the Issuer’s money or with that of other persons, in or to assets that the Issuer deems appropriate, without being restricted to fiduciary investments under applicable legislation or to investments belonging to others; these investments shall be made in the name of the Issuer, which shall hold them for the benefit of the Annuitant to the extent of the Annuitant’s interest in such investments. The Issuer reserves the right to modify such investments or loans from time to time at its discretion.

**Article 13.** The Issuer is entitled to reimbursement, through the Fund assets, for all Fund-related costs and expenses incurred, including any shortfalls, taxes, interest or other penalties required to be paid out of the Fund for any reason whatsoever (excluding any taxes, interest or penalties to be paid by the Issuer that cannot be taken from the Fund assets, in accordance with the Act). The Issuer is also entitled to collect its customary fees, which the Annuitant acknowledges, and which shall be deducted from the assets held on behalf of the Annuitant.

These fees may be modified from time to time, but the Issuer undertakes to send the Annuitant a prior written notice of thirty (30) days before applying the new fee schedule.

**Article 14.** If the Annuitant fails to pay the costs, fees, shortfalls, taxes, etc. mentioned in the preceding article, the Issuer shall, upon sixty (60) days’ prior written notice, then have the right to sell the assets held in the Fund and is hereby specifically authorized to liquidate the said assets at the prices and under the conditions that it deems appropriate. The Annuitant shall be accountable to the Issuer for all costs, fees, shortfalls, taxes, etc. exceeding the Fund assets.

**Article 15.** All the property held in the Annuitant’s Fund, as well as the related interest, benefits or gains, shall be invested by the Issuer according to the instructions of the Annuitant and/or their legal representative. All proposed investments and their related documents must comply with the Issuer’s requirements, which may be modified from time to time. However, the Annuitant shall be responsible for the said investments and their liquidity.

**Article 16.** If the Annuitant permanently waives their right to give instructions, or if the Annuitant, without waiving their right, is unable to state their wishes in the event of an emergency, the Issuer may, but is not obliged to:

- a) Sell, alienate or otherwise dispose of any assets credited to the Annuitant, at the prices and under the conditions that it deems appropriate;

b) Invest, as it deems appropriate, any amounts of money credited to the Annuitant in any investment type or class, notwithstanding the legislation of all jurisdictions governing the investment of the assets of a third party.

**Article 17.** Unless otherwise instructed, the Issuer may, but is not obliged to:

- a) Exercise the voting rights attached to all the securities credited to the Annuitant;
- b) Seek advice from any professional or financial advisor, if deemed appropriate, and pay the advisor's fees from the assets held on behalf of the Annuitant.

**Article 18.** Except in the event of negligence on its part, the Issuer shall not be liable for any act or omission, nor for any loss or depreciation in the value of the investments.

**Article 19.** Without limiting the generality of the preceding article, the Annuitant is responsible for selecting the Fund investments and for determining whether an investment should be purchased, sold or held in the Fund by the Issuer.

The Annuitant shall be responsible for tax consequences resulting from non-compliant investments, from liquidation of some or all of the Fund assets, or from any loss due to the sale or assignment of any asset forming part of the Fund, including all penalties charged for early redemption.

The Issuer shall exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Fund holds a non-qualified investment.

**Article 20.** The Issuer may resign as Issuer and be released from all other obligations and responsibilities herein by sending a written notice to the Annuitant at least sixty (60) days in advance, or within a shorter period deemed sufficient by the Annuitant. The Issuer may, under the terms herein, appoint as a successor any corporation qualified to act as a trustee in accordance with the Income Tax Legislation. This appointment shall take effect on the date specified in the appointment document whereby the said corporation is appointed as successor trustee and accepts this appointment. This date is to be fixed at no later than the sixtieth (60th) day after the written appointment notice has been sent to the Annuitant.

On the effective date of the appointment, the Issuer shall transfer the Fund assets to its successor. However, it is understood that the Issuer shall never be obliged to redeem prior to maturity any investment before proceeding with their transfer. Furthermore, the Issuer shall provide all the information and documents needed to manage and register the Fund, in accordance with the Income Tax Legislation. Starting from the appointment date, the successor trustee shall assume all functions and responsibilities of the Issuer, which shall be released from all its trust obligations and responsibilities under the terms herein.

The Annuitant may, in the same manner, relieve the Issuer of its functions and appoint a qualified successor, in accordance with the provisions of the Income Tax Legislation. In this case, the Issuer must transfer the Fund assets to its successor.

**Article 21.** The Issuer may amend this Declaration of Trust to ensure that the Fund complies at all times with the registration conditions of the Income Tax Legislation.

Furthermore, the Issuer may, as it sees fit, amend this Declaration of Trust; however, the Issuer undertakes to send a written notice to each Annuitant thirty (30) days before applying the said amendment(s).

Desjardins Funds and Guaranteed Investments RIF  
RIF 0338

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2023