

# DESJARDINS FUNDS AND GUARANTEED INVESTMENTS TAX-FREE SAVINGS ACCOUNT

## Declaration of Trust

**WHEREAS** the Holder wishes to establish a Tax-Free Savings Account (hereinafter referred to as the "Account") under the *Income Tax Act* of Canada and, as applicable, of the province indicated in the address listed for the Holder (hereinafter referred to as "Income Tax Legislation");

**WHEREAS** Desjardins Trust Inc. (hereinafter referred to as the "Issuer"), a legally constituted trust company having its head office in Montréal, in the province of Québec, is authorized to offer its services to the public as a trustee;

**WHEREAS** the Issuer hereby agrees to act as trustee for the Holder, who has signed an application form for a Desjardins Funds and Guaranteed Investments Tax-Free Savings Account;

**WHEREAS** for the purposes herein, the terms "qualifying arrangement", "holder", "contribution", "survivor", "distribution", "issuer", "advantage", "qualified investment", "prohibited investment", "non-qualified investment", "TFSA dollar limit", "allowable refund", "qualifying transfer", "restricted property", "unused contribution room" shall have the meanings assigned by the *Income Tax Act* (Canada);

**WHEREAS** the parties agree that the present contract shall be considered to be a trust for purposes of the *Income Tax Act* (Canada);

**THE FOLLOWING IS AGREED** between the Holder and the Issuer:

**Section 1.** The Account is maintained for the exclusive benefit of the Holder, determined without regard to any right of a person to receive a payment from the Account on or after the death of the Holder.

**Section 2.** Where there is a Holder, the Account prohibits anyone that is neither the holder nor the issuer of the arrangement from having rights under the arrangement relating to the amount and timing of distributions and the investing of funds.

**Section 3.** Only the Holder may make contributions to the Account.

**Section 4.** Distributions may be made in order to reduce the amount of tax otherwise payable by the Holder under Part XI.01 of the *Income Tax Act* (Canada).

**Section 5.** At the direction of the Holder, the Issuer shall transfer all or any part of the property held in connection with the Account, or an amount equal to its value, to another tax-free savings account of the Holder.

**Section 6.** If the Account is an arrangement in trust, it prohibits the Trust from borrowing money or other property for the purposes of the Account.

**Section 7.** The Account complies with prescribed conditions.

**Section 8.** The Account ceases to be a tax-free savings account upon the earliest of the following times:

- the time at which the last Holder of the arrangement dies;
- the time at which the Account ceases to be a qualifying arrangement;
- the earliest time at which the Account is no longer administered in accordance with the registration conditions.

**Section 9.** The Holder certifies that he is at least 18 years of age.

**Section 10.** The Account complies with the *Income Tax Act* (Canada) requirements and the Issuer is ultimately responsible for administering the Account and submitting the election to register the Account with Canada Revenue Agency and, if applicable, the government of the province indicated in the address listed for the Holder.

**Section 11.** The Holder may make remittances in regular instalments (hereinafter referred to as "contributions") to the Issuer, in Canadian legal tender. The Holder's contributions, as well as all interest, profits or gains attributable thereto, shall be invested by the Issuer according to the instructions of the Holder and/or the Holder's agent. All the investments proposed and the documents in respect thereof must comply with the Issuer's requirements, which may be revised from time to time. However, only the Holder shall be responsible for said investments and their liquidity.

**Section 12.** It is however incumbent upon the Holder to ensure that the amount contributed in this way does not exceed the maximum permitted by the *Income Tax Act* (Canada).

The Issuer, upon written request by the Holder, shall pay to the latter, from the proceeds of the Account's asset disposition, any amount necessary to reduce the tax that would otherwise be payable by the Holder under Part XI.01 of the *Income Tax Act* (Canada).

The Issuer shall not be required to verify the total amount of contributions made by the Holder and only the Holder shall be responsible for any consequences that may arise from the terms of Part XI.01 of the *Income Tax Act* (Canada) or that would result from the liquidation of all the assets in the Account, including any penalty imposed resulting from early withdrawal or any loss suffered by the Holder.

**Section 13.** The Issuer shall maintain a registry and record the cumulative balance of contributions, income and assets held on behalf of the Holder.

**Section 14.** The Issuer shall send the Holder an annual report.

**Section 15.** If permitted by applicable provincial legislation, the Holder may designate a survivor holder or a beneficiary to receive the proceeds payable under the provisions of the Account. This designation may be amended or revoked without the consent of the survivor holder or the beneficiary and only by way of a written document or instrument, dated and signed by the Holder. The form and content of said amendment or revocation shall be acceptable to the Issuer and shall identify the Account specifically.

Any designation shall come into force on the date it is received by the Issuer. If more than one designation is received by the Issuer, the Issuer shall consider only the designation, duly signed by the Holder which has the most recent date. In certain provinces and territories this designation may not be revoked or changed automatically as a result of a future marriage or a marriage breakdown and a new designation may be required. It is the Holder's sole responsibility to get appropriate information regarding this matter and to make the appropriate amendments, as needed. The Issuer makes no representation and cannot be held responsible in the event that any designation of a survivor holder or designation of beneficiary signed by the Holder with respect to the Account is deemed invalid.

**Section 16.** Upon the Holder's death, upon receipt of evidence satisfactory of the Issuer of such death and subject to the Income Tax Legislation, the Issuer shall dispose of the assets in the Account, and, after deducting any applicable tax, costs of such disposition, fees or any other amount payable hereunder, the Issuer shall pay in a lump sum the net proceeds of such disposition to the Issuer's estate. Notwithstanding the foregoing, in cases permitted by the Income Tax Legislation, the Issuer may transfer the assets in the Account to one or more persons entitled thereto. No such payment of transfer shall be made unless and until the Issuer receives releases and other documents as it may reasonably require.

**Section 17.** No advantage (except as provided in the *Income Tax Act* [Canada]) stemming from the existence of the Account shall be granted to the Holder or to any person who is not dealing at arm's length with said Holder, as defined by the *Income Tax Act* (Canada).

**Section 18.** The Issuer is entitled to be repaid, from the assets in the Account, for all Account-related costs and expenses incurred, including but not limited to any and all fines and interest that the Account may have to pay for any reason whatsoever (not including any fines and interest to be paid by the Trustee, which cannot be taken from the Account assets according to the Income Tax Legislation). The Issuer is also entitled to charge the Holder fees for the administration of the Account, of which the Holder acknowledges awareness, and which are taken from the contributions and assets held on behalf of the Holder.

The Holder hereby authorizes the Issuer to deduct the necessary amounts for these purposes from the deposits and new contributions made to the Account, or else the Issuer shall then be entitled to sell the assets held in the Plan and is hereby specifically authorized to liquidate said securities at the prices and conditions it deems appropriate. Written notice of any changes to these costs shall be sent to the Holder at least thirty (30) days before their effective date. The Holder shall be accountable to the Issuer for all costs, charges, fees, etc. which exceed the amount of the assets in the Account.

**Section 19.** Any Holder who signs an Application Form must state his/her age and social insurance number; this statement shall be considered the Holder's agreement to provide any additional proof that may later be required.

**Section 20.** Except in the case of negligence by the Issuer, said Issuer shall not be held liable for any act or omission, nor any loss or depreciation in the investments' value.

**Section 21.** The Issuer of the Account shall act with the care, diligence and skill that a prudent person would use, in order to minimize the likelihood for the Account to contain non-qualified investments.

**Section 22.** Without limiting the generality of the preceding paragraph, and notwithstanding any other term herein to the contrary, the Issuer shall not be required to verify the total amount of contributions made by the Holder into the Account during the course of a fiscal year; the Holder alone shall be responsible for the tax impact of any overcontributions or that would result from the liquidation of part or all of the assets of the Account, or from any form of assignment of any asset that is part of the Account, including any penalty owing as a result of early redemption and any loss suffered by the Account.

**Section 23.** Should the Holder permanently forgo issuing instructions or else find that he/she is no longer able to express his/her wishes and the situation is urgent, the Issuer may, but shall be under no obligation to:

- Sell, alienate or otherwise dispose of any asset registered to the Holder, according to the terms and prices it deems appropriate.
- Invest, as it deems appropriate, any sums of money registered to the Holder in any type or category of investment, notwithstanding the laws of any and all jurisdictions concerning the investment of another person's property.

**Section 24.** Unless it receives instructions to the contrary, the Issuer may, but shall be under no obligation to:

- Exercise voting rights associated with any securities registered to the Holder.

(b) Seek advice from any professional or financial advisor, whenever it deems it appropriate to do so, and pay said advisor's fees from the assets held on behalf of the Holder.

**Section 25.** The Issuer may resign from its duties and be released of any other obligation and responsibility hereunder by giving the Holder sixty (60) days' written notice.

The Issuer may appoint as successor to the terms herein any financial establishment authorized to act as Issuer under the *Income Tax Act* (Canada) and, if applicable, any provincial income tax legislation. This appointment shall be effective as of the date specified in the document appointing the financial institution as successor and in which said institution accepts the appointment, said date being no later than the sixtieth (60<sup>th</sup>) day after written notice of said appointment has been sent to the Holder. On the effective date of the appointment, the Issuer shall transfer the moneys or securities from the Account held by said Issuer to its successor. It is, however, understood that the Issuer shall never be obliged to redeem the said securities prior to maturity before proceeding with their transfer.

Furthermore, the Issuer must provide all necessary information and documents for the management and registration of the Account in accordance with the *Income Tax Act* (Canada) and, if applicable, any provincial income tax legislation. As of the appointment date, the successor shall assume all of the Issuer's functions and responsibilities, and the latter shall be released from all its obligations and responsibilities hereunder.

Similarly, the Holder may release the Issuer from its functions and appoint a successor that is qualified in accordance with the terms of the *Income Tax Act* (Canada) and, if applicable, any provincial income tax legislation.

In such a case, the Issuer must, at the latest within thirty (30) days of the Holder's request, transfer all moneys or securities from the Account held by said Issuer to its successor. It is, however, understood that the Issuer shall never be obliged to redeem early said securities before proceeding with their transfer.

**Section 26.** The Issuer may amend this Contract so as to ensure that it always remains compliant with the registration conditions provided in the Income Tax Legislation.

In addition, the Issuer may, from time to time and at its discretion, amend the terms and conditions of this Contract, but agrees to give thirty (30) days' prior written notice to each Holder before said amendment(s) shall take effect.

**Section 27.** This Contract shall be interpreted in accordance with the laws of the province of residence of the Holder and the *Income Tax Act* (Canada).

**Desjardins Trust Inc.**

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