

**ADDENDUM FOR A MANITOBA PRESCRIBED
RETIREMENT INCOME FUND**

**For transfers to a “prescribed RRIF” from
a Life Income Fund (LIF) or Locked-In Retirement Income Fund (LRIF) pursuant to
*The Pension Benefits Act (Manitoba)***

BMO InvestorLine Manitoba Prescribed Retirement Income Fund

**Plan Carrier – BMO Trust Company
52nd Floor, 100 King St. W.
Toronto, Ontario M5X 1H3
Acting through its Agent, BMO InvestorLine Inc.**

CLIENT NAME: _____

ACCOUNT # : _____

Upon receipt of locked-in pension assets pursuant to the *Pension Benefits Act (Manitoba)*, and in accordance with the instructions of the Planholder to transfer the assets to a Manitoba “prescribed RRIF”, the Plan Carrier and Planholder agree that the provisions of this Addendum are appended to and form additional terms of the declaration of trust or trust agreement for the above-named retirement income fund.

1. **Pension Legislation.** For the purposes of this Addendum, the word "Act" means *The Pension Benefits Act (Manitoba)* and the word "Regulations" means *The Pension Benefits Act Regulations* made under the Act.
2. **Definitions.** All terms in this Addendum which are used in the Act or Regulations have the same meaning as under the Act or Regulations. For greater certainty, the words “approved”, “contract”, “fund”, “financial institution”, “locked-in retirement account (LIRA)”, “life income fund (LIF)”, “locked-in retirement income fund (LRIF)”, “life annuity contract”, and “transfer” have the same meanings as are respectively given to these words in sections 1, 18.1, 18.2 and 18.3.1 of the Regulations, and the words “pension benefit credit”, “pension plan” and “superintendent” have the same meaning as given to these words in section 1(1) of the Act.

In this Addendum, “Plan” means the above-named retirement income fund, governed by the declaration of trust or trust agreement and the additional terms of this Addendum and includes the “fund” as that term is used in the Regulations. “Planholder” means the planholder, accountholder or annuitant under the declaration of trust or trust agreement and application form for the Plan and includes the “owner” of the Plan as that term is used in the Regulations.

3. **Spouse and Common-Law Partner** The word "Spouse" where used in relation to another spouse means the person who is married to that other spouse, and “Spouses” means two persons who are married to each other.

The “Common-Law Partner” of a member or former member means:

- (a) a person who, with the member or former member, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
- (b) a person who, not being married to the member or former member, cohabited with him or her in a conjugal relationship
 - i. for a period of at least three years, if either of them is married, or

- ii. for a period of a least one year, if neither of them is married.

“Common-Law Relationship” means the relationship between two persons who are Common-Law Partners of each other.

Notwithstanding anything to the contrary contained in the Plan, this Addendum or any endorsements forming a part thereof, for the purposes of any provision of the *Income Tax Act* (Canada) respecting registered retirement income funds, "Spouse" and "Common-Law Partner" do not include any person who is not recognized as a spouse or common-law partner under the *Income Tax Act* (Canada).

- 4. **Eligibility.** Subject to an order under *The Garnishment Act* to enforce a maintenance order within the meaning of that Act, to an order under section 59.3 of *The Family Maintenance Act* to preserve assets, to paragraphs 5,6 and 7 of this Addendum and the Regulations, only a Planholder who:
 - (a) is at least 55 years of age;
 - (b) is the annuitant under one or more Manitoba LIFs or LRIFs; and
 - (c) by filing prescribed information with the superintendent in accordance with the Regulations, satisfies the superintendent that he or she has not previously made a prescribed transfer under section 21.4 of the Act;

may transfer an amount from each LIF or LRIF to this Plan.

- 5. **Maximum Amount for Transfer.** The maximum amount that may be transferred under paragraph 4 of this Addendum from a Manitoba LIF or LRIF is 50% of the amount by which:
 - (a) the balance in the LIF or LRIF on the day the application for the transfer is made;
exceeds the total of
 - (b) the amount, if any, that is or may become payable under subsection 31(2) of the Act from the LIF or LRIF to a person who is living separate and apart from the Planholder at the time that he or she applies for the transfer; and
 - (c) all amounts, if any, required to be paid out of the LIF or LRIF on or after the date of the application pursuant to an order under section 14.1 of *The Garnishment Act* that is served before the transfer is made.
- 6. **Consent of Cohabiting Spouse or Common-Law Partner.** If the Planholder:
 - (a) is a former member of a pension plan who directly or indirectly transferred the commuted value of his or her pension under the plan to the Manitoba LIF or LRIF;
 - (b) has a Spouse or Common-Law Partner; and
 - (c) at the time of applying for the transfer under paragraph 4 of this Addendum, is not living and apart from the Spouse or Common-Law Partner by reason of a breakdown of their relationship;

the Plan Carrier must not permit the transfer unless the Spouse or Common-Law Partner, after being given prescribed information in accordance with the Regulations, consents in writing to the transfer, in a form approved by the superintendent.

7. **Transfers Into the Plan.** Assets may only be transferred into the Plan with this Addendum with respect to:
- (a) a prescribed transfer from one or more Manitoba LIFs or LRIFs under section 21.4 of the Act; and
 - (b) a transfer from another prescribed RRIF issued to hold funds that are the subject of prescribed transfer (but not including a life annuity contract).

8. **Transfers Out of the Plan.** The Planholder may transfer all or any part of the balance of the Plan:
- (a) to another prescribed RRIF issued to hold funds that are subject of a prescribed transfer, or
 - (b) in accordance with paragraph 60(l) of the *Income Tax Act* (Canada), to purchase a life annuity contract.

Any transfer out of the Plan must be made on a tax-deferred basis under the *Income Tax Act* (Canada). The Trustee shall in prescribed form and manner, transfer all or a part of the balance of the plan together with all information necessary for the continuance of the Plan to another carrier of a prescribed RRIF, provided that the Trustee will retain sufficient Assets to satisfy the requirement to pay the minimum amount to the Annuitant for the year in accordance with paragraphs 146.3(2)(e) and 146.3(2)(e.2) of the *Income Tax Act* (Canada).

9. **Notice to Transferee.** Prior to a transfer pursuant to paragraph 8 of this Addendum, the Plan Carrier will advise the transferee institution in writing of the status of the Plan with this Addendum and make acceptance of the transfer subject to the conditions of the Act and Regulations.
10. **Death of Planholder.** On the death of the Planholder who is or was a member, the balance of the Plan shall be paid:
- (a) to the Planholder's surviving Spouse or Common-Law Partner, unless he or she has received or is entitled to receive all or any part of the balance under an agreement or order under the *Family Property Act*; and
 - (b) in any other case, to the designated beneficiary or the estate of the Planholder.
11. **Attachment.** Subject to an agreement or order under *The Family Property Act* or enforcement proceedings taken by a designated officer, as defined in section 52 of *The Family Maintenance Act*, under Part VI of that Act, the balance of the Plan:
- (a) may not be assigned, charged, anticipated or given as security, and any transaction purporting to do so is void, and
 - (b) is exempt from execution, seizure or attachment.
12. **Provision of Amount on Improper Payout.** If all or any part of the balance of the Plan is paid out contrary to the Act, the Regulations or this Addendum, the Plan Carrier will provide or ensure the provision of an amount equal to the amount of the balance paid out.
13. **Indemnity.** Should the Plan Carrier or its agent provide or be required to provide a pension as a result of all or any part of the balance of the Plan RIF Assets being paid out or transferred contrary to the Act, the Regulations or this Addendum, the Planholder or the Planholder's heirs, administrators, or executors will indemnify and hold harmless the Plan Carrier or its agent and pay back without demand all amounts improperly paid out or transferred, to the extent that such amounts were

received by or accrued to the benefit of any recipient.

14. **Amendment.** The Plan Carrier may from time to time in its discretion amend this Addendum by giving 30 days notice to the Planholder. No amendment shall be made unless the Plan and this Addendum as amended remain in conformity with and approved under the Regulation and in accordance with section 146.3 of the *Income Tax Act* (Canada).

BMO Trust Company by its agent:

(NAME)

Signature of Authorized Person

Date

Planholder Name

Signature of Planholder

Date

**SPOUSE'S/COMMON-LAW PARTNER'S CONSENT
TO TRANSFER
TO A PRESCRIBED REGISTERED RETIREMENT INCOME FUND CONTRACT**
[Clause 18.2(5.3)(f)]

If you are the spouse or common-law partner of the Applicant who was a member of a pension plan and you are asked to complete this Consent, you are encouraged to get independent legal advice about your rights and the legal consequences of signing the Consent below, as well as qualified financial advice about the financial consequences.

This Consent must be completed by the spouse or common-law partner in the presence of a witness other than the Applicant. The Applicant cannot complete this Consent. Further, you are not obligated to sign the Consent and the Applicant must not be present when it is signed.

I _____, am the spouse or common-law partner within the meaning of
(*print or type first, middle and last name of spouse or common-law partner*)
The Pension Benefits Act of Manitoba (Act) of _____ (Applicant)
(*print or type first, middle and last name of the Applicant*)
who was a member of a pension plan that is subject to the requirements of the Act.

I declare that on the date I sign this certification, that

- (a) I am not living separate and apart from the spouse or common-law partner by reason of a breakdown of our relationship;
- (b) I am aware of my entitlements in respect of the Life Income Fund (LIF) or Locked-in Retirement Income Fund (LRIF);
- (c) I have reviewed the Applicant's completed and signed application form and information specified in section 18.2(5.4) of the regulation for each LIF or LRIF in respect of which an application for a prescribed transfer is being made;
- (d) I am aware of the consequences of the proposed prescribed transfer;
- (e) despite the consequences, I consent to the proposed prescribed transfer of the amount identified below;
- (f) this consent is being signed freely and voluntarily without any compulsion on the part of the Applicant and outside the immediate presence of the Applicant;

I further understand that:

- (g) the Applicant wishes to make a one-time transfer under section 21.4 of the Act, which is defined in the regulation as a "prescribed transfer", of an amount equal to \$ _____ [*the amount identified as per (5.3)(e)*] which may be up to 50% of the balance in one or more of his or her LIFs or LRIFs managed by the institution into a Registered Retirement Income Fund (RRIF) as defined in the *Income Tax Act* (Canada), the contract for which meets the requirements of the regulation ("prescribed RRIF");
- (h) the Applicant cannot make the proposed prescribed transfer from his or her LIFs or LRIFs to the prescribed RRIF without my written consent;
- (i) as a result of signing this consent the amount of funds available to me from the Applicant's LIFs or LRIFs will be reduced:
 - as a survivor on the Applicant's death, and
 - as a former spouse or common-law partner should the funds be required to be divided on the breakdown of our relationship under the credit splitting provisions of section 31(2) of the Act;
- (j) there is *no* maximum annual withdrawal restriction imposed under the prescribed RRIF and that the Applicant may withdraw part or all of the fund at any time; and
- (k) funds in the prescribed RRIF are not subject to the credit splitting provisions of section 31(2) of the Act but could be subject to sharing under the applicable family property legislation;

I consent to the prescribed transfer under section 21.4 of the Act of funds in the amount identified in (g) to a prescribed RRIF and I give my consent by signing and dating this consent in the presence of a witness.

I sign this waiver form at _____ this _____ day of _____, 20____
(city/town) (province)

(Signature of Spouse or Common-law Partner)

I, _____, of _____
(*print or type first, middle and last name of Witness*) (print or type full address of Witness)

do witness the signature of the spouse/common-law partner who signed this form before me and not in the presence of the Applicant.

(Signature of Witness)

This consent is void if signed more than 75 days before the Applicant's financial institution received it.

COMMENTS AND INSTRUCTIONS

SPOUSE'S/COMMON-LAW PARTNER'S CONSENT TO TRANSFER TO A PRESCRIBED REGISTERED RETIREMENT INCOME FUND CONTRACT

This consent must be completed by an Applicant's spouse or common-law partner if the Applicant:

was a member of a pension plan that is subject to the requirements of *The Pension Benefits Act* of Manitoba (Act),
wishes to apply to make an application to his or her financial institution for a one-time transfer under section 21.4 of the Act, which is defined in the regulation as a prescribed transfer, of an amount up to 50% of the balance in one or more of his or her Life Income Funds or Locked-in Retirement Income Funds to a Registered Retirement Income Fund (RRIF) as defined in the *Income Tax Act* (Canada), the contract for which meets the requirements of the regulation ("prescribed RRIF"), and
at the time of applying for the prescribed transfer is not living separate and apart from their spouse or common-law partner by reason of a breakdown of their relationship.

Under the Act and the Pension Benefits Regulation (the regulation) "spouse" and "common-law partner" are defined as below:

"Spouse" means a person who is married to a member or former member.

"Common-law partner" of a member or former member means:

(a) a person who, with the member or former member, registered a common-law relationship under section 13.1 of The Vital Statistics Act, or

(b) a person who, not being married to the member or former member, is cohabiting with him or her in a conjugal relationship and has cohabited

(i) for a period of at least three years, if either of them is married, or

(ii) for a period of at least one year, if neither of them is married.

As a result of signing this consent the amount of funds available to the spouse or common-law partner from the Applicant's LIFs or LRIFs will be reduced as a survivor on the Applicant's death, and as a former spouse or common-law partner should the funds be required to be divided equally on the breakdown of the relationship under the credit splitting provisions of section 31(2) of the Act. As a result of the prescribed transfer, the funds remaining in the Applicant's LIF or LRIF will be reduced causing the income available in future years to be reduced.

A prescribed RRIF has no limit on the amount of annual income that may be withdrawn. The Applicant could withdraw the entire balance in the prescribed RRIF leaving the spouse or common-law partner with no funds as a survivor on the Applicant's death.

Funds in the prescribed RRIF are not subject to the credit splitting provisions of section 31(2) of the Act which requires that pension funds be divided equally between spouses or common-law partners once an agreement or order on family assets is in place. However, funds in the prescribed RRIF could be subject to sharing under the applicable family property legislation in the same manner as a regular RRIF. Manitoba's Family Property Act sets out the rules for dividing the value of family property between spouses or common-law partners separating in Manitoba. Family property, including funds in a prescribed RRIF, may be divided by agreement or, if a couple cannot agree, by Court order.

The spouse or common-law partner is not obligated to sign the Consent. However, prior to signing this consent, the spouse or common-law partner should get independent legal advice about his or her rights and the legal consequences of signing the Consent, as well as qualified financial advice about the financial consequences.

The consent must be:

completed after the spouse or partner has reviewed the Applicant's completed and signed application form, and the information specified in section 18.2(5.4) of the regulation for each LIF or LRIF in respect of which an application for a prescribed transfer is being made;

completed in its entirety and signed by the spouse or common-law partner, in the presence of a witness and not in the presence of the Applicant;
signed by the spouse or common-law partner within 75 days of the Applicant filing it with the financial institution to which an application is being made for a prescribed transfer; and
given by the spouse or common-law partner for each application separately in the case where the Applicant wishes to make an application for a prescribed transfer from LIFs or LRIFs managed by different institutions.

Revised August 2005