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# ING Direct Funds Self-Directed Retirement Income Fund Declaration of Trust

Concentra Trust, a trust company incorporated under the laws of Canada (hereinafter referred to as the "Trustee", "we" or "us"), hereby declares that it agrees to act as Trustee for the Annuitant (hereinafter referred to as "you") named under the ING Direct Funds Self-Directed Retirement Income Fund Application which, with the Declaration of Trust and the addendum or addenda thereto, where applicable, (hereinafter referred to as the "RIF") on the following terms and conditions:

**1. REGISTRATION:** We will apply for registration of the RIF in accordance with the Income Tax Act (Canada) (hereinafter referred to as the "Act"), and if applicable, the provisions of any income tax legislation of the province indicated by you as your address on the Application. The RIF will at all times comply with the Act and if applicable, the Taxation Act (Québec), with respect to retirement income funds. Any amendment to the RIF, which is necessary to ensure such compliance, may be made by us without notice to you and without further action.

**2. APPOINTMENT OF AGENT:** We have appointed ING Direct Funds Limited (the "Agent") as our agent to perform certain administrative duties relating to the operation of the RIF hereunder. However, we shall remain ultimately responsible for the administration of the RIF pursuant to the provisions of this Declaration of Trust.

**3. TRANSFERS TO THE RIF:** We shall accept only such transfers of cash or of units of mutual funds (the "Fund" or "Funds") managed by the Agent in a form acceptable to it, which are "qualified investments" for registered retirement income funds within the meaning of the Act, as may be directed by you or on your behalf to be transferred to us to be held in your RIF, provided that such cash or mutual fund securities may only be transferred from:

- a) either a registered retirement income fund or a registered retirement savings plan under which you are the annuitant; or
- b) you to the extent only that the amount of the consideration was an amount described in paragraph 60(l)(v) of the Act; or
- c) either a registered retirement savings plan or a registered retirement income fund pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, relating to a division of property between you and your spouse or former spouse in settlement of rights arising out of your marriage/common-law partnership on or after the breakdown of your marriage/common-law partnership; or
- d) amounts transferred directly from certain registered and prescribed pension plan funds, as permissible under sub-paragraphs 146.3(2)(f)(v), (vi), (vii) and (viii) of the Act.

Such transfers to the RIF, together with any income therefrom, shall constitute a Trust Fund (the "Trust Fund") to be used, invested and held subject to the terms of this Declaration of Trust.

**4. INVESTMENT OF DEPOSITS:** Subject as hereinafter provided, each deposit received by us under the RIF shall be invested in units of the Fund or Funds as indicated by you at the net asset value thereof on the valuation date next following receipt by us of such deposit.

All cash dividends or distributions received by us with respect to any investments made by us pursuant to the provisions hereof shall be reinvested by us in units of the Fund or Funds from which such dividends or distributions were received at the net asset value thereof. In the event that units of such Fund or Funds are not, at the time that we are required to make any investment under the provisions hereof, available for purchase or are not "qualified investments" for registered retirement income funds within the meaning of such term as such term may then be used in the Act, we may, at your direction, invest such deposits or such cash dividends or distribution in units of another Fund or Funds managed by the Agent ING Direct Funds Limited Retirement Income Fund Declaration of Trust that are qualified investments for registered retirement income funds within the meaning of such term as such term may then be used in the Act. All investments made by us for you shall be credited to your account. Where the Fund or Funds may be subject to a tax liability under Part XI of the Act, we are further empowered to automatically redeem sufficient units of any Fund or Funds qualifying as "foreign property" and reinvest the proceeds in a Fund at our sole discretion pending the payment of such tax liability. We will not be responsible or liable for any taxes or penalties in respect of excessive holdings of "foreign property" or non-qualified investments held in the RIF, as defined in the Act.

**5. ANNUITANT'S ACCOUNT:** We will maintain an account in your name showing all deposits made to the RIF and all investment transactions made at your direction. We shall forward to you, at least annually, a statement showing all deposits and investment transactions made and all income earned and expenses incurred during such period.

**6. INCOME TAX INFORMATION:** We shall provide you with appropriate information slips, in prescribed form, by the end of February of each year showing the total of all payments made from the RIF during the preceding calendar year to enable you to report such payments on your income tax return.

**7. PAYMENTS FROM THE RIF:** The whole of the Trust Fund shall be invested, used and applied by us only for the provision of payments to you or, if applicable, to a surviving spouse as follows:

In each year, commencing not later than the first complete calendar year after the RIF is established, we shall make one or more payments, the aggregate of which is not less than the minimum amount set forth below, and not exceeding the value of the Trust Fund immediately before any payment. The minimum amount for the year in which the RIF commences is nil and for each subsequent year is the minimum amount obtained in accordance with the definition therein contained in Subsection 146.3(1) of the Act as amended from time to time.

No payment required to be made in accordance with the provisions hereof shall be capable of assignment in whole or in part.

At your direction, we shall transfer all or part of the Trust Fund together with all information necessary for the continuance of the RIF in accordance with paragraph 146.3(2)(e) of the Act, to another Retirement Income Fund registered in your name, or in the name of your spouse, or former spouse, pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, relating to a division of property between yourself and your spouse or former spouse in settlement of rights arising out of your marriage/common-law partnership, on or after the breakdown of your marriage/common-law partnership. If you have directed transfer of the entire Trust Fund and we have not paid the minimum amount required for the year, we shall retain sufficient property of the RIF in order that the minimum amount for the calendar year shall be paid to you in that year.

Notwithstanding the provisions of this Section 7, we may pay from the Trust Fund any taxes imposed by the Act, including any penalties which may arise with respect to the investments held in the Trust Fund which may be non-qualified or "foreign property" as defined in the Act.

**8. DEATH OF ANNUITANT:** In the event of your death prior to the making of the final payment as provided in Section 7 hereof, we shall, upon receipt of satisfactory evidence of such death, realize your interest in the RIF, and subject to the deduction of all proper charges including income tax, if any, required to be withheld, the proceeds of such realization shall be held by us for payment in a lump sum to the beneficiary, if any, designated pursuant to Section 9 hereof, or to your legal personal representatives, upon such beneficiary or representatives furnishing us with such release and other documents as may be required or as counsel may advise, unless your spouse has been designated specifically as the successor annuitant as provided for in Section 9 hereof, or by will, in which case we shall continue the payments to your spouse in accordance with the provisions of Section 7 hereof, upon your spouse providing us with such documents as may be required or as counsel may advise.

**9. DESIGNATION OF SUCCESSOR ANNUITANT OR BENEFICIARY:** If you are domiciled in a jurisdiction in which, according to applicable law, a participant in a retirement income fund may validly designate a beneficiary or a successor annuitant, you may, by instrument in writing in a form prescribed by us and delivered to us prior to your death, designate your spouse as successor annuitant or any person as beneficiary to be entitled to receive the value of your property in the Trust Fund on your death. Such person shall be deemed to be the successor annuitant or designated beneficiary, as the case may be, for the purposes of the RIF, unless such person shall predecease you or unless you shall, by instrument in writing in a form prescribed by us and delivered to us prior to your death, revoke such designation.

**10. OWNERSHIP:** We may generally exercise the power of an owner with respect to the units of the Fund or Funds or any other securities registered in the name of the Trustee and credited to your account, including the right to vote or give proxies as herein provided and to pay any assessment, taxes or charges in connection therewith or the income or capital gains derived therefrom.

**11. VOTING RIGHTS:** The voting rights attached to the units of the Fund or Funds registered in the name of the Trustee and credited to your account shall be exercised by us by proxy given in favour of the Manager of the Fund or Funds or in favour of the management of the issuer of such Securities. However, you may, by written notice received by us at least forty-eight hours prior to any meeting, request us to authorize you to act as our representative for the purpose of exercising the voting rights attached to any Securities registered in the name of the Trustee and credited to your account, at any meeting of security holders, whereupon we shall give such authorization to you.

**12. ADVISORS:** We shall be entitled to employ such person or persons including, but not limited to, lawyers and auditors, as you may determine. We may rely and act upon information and advice furnished by such person or persons or refrain from acting thereon and shall not be liable to you as a result of so acting or refraining from so acting.

**13. TRUSTEE FEES AND EXPENSES:** We shall be entitled to an administration fee for our services as trustee hereunder provided such fee is approved by the Agent. We are entitled to receive and may charge against your account any costs and out-of-pocket expenses incurred by it including, but not limited to, any taxes or penalties payable in respect of services provided by it in connection with the RIF. If the funds in the RIF are not sufficient to cover such fees or expenses, then we may, without notice to you, realize such investments as we, in our sole discretion may determine, and apply the proceeds against the fees and charges owing and we are not responsible for any loss arising from such realization.

**14. AMENDMENT:** We may, from time to time at our discretion, amend this Declaration of Trust with the concurrence of the Agent and the authorities administering the Act by giving 60 days' notice in writing to you; provided, however, that any such amendments shall not have the effect of disqualifying the RIF as a registered retirement income fund within the meaning of the Act. In the event of changes to the Act or any pension legislation governing your RIF, the terms of your RIF and any addendum thereto, may be amended without notice to you to ensure that your RIF continues to comply with all applicable legislation.

**15. NOTICE:** Any notice given by you to us shall be sufficiently given if mailed, postage prepaid, to us or to our Agent, in either case, addressed to us at the principal office of the Agent in the City of Toronto, in the Province of Ontario, and shall be deemed to have been given on the day that such notice is received by the Agent. Any notice, statement or receipt given by us to you shall be sufficiently given if mailed, postage prepaid, to you at the address set out in the Application or at any subsequent address of which you shall have notified us and any such notice shall be deemed to have been given on the third business day following the day of mailing.

**16. LIABILITY:** We shall not be liable for ascertaining whether any investment made on your direction is or remains a qualified investment for purposes of a registered retirement income fund or whether any such investment constitutes "foreign property" or for any tax payable in respect of any non-qualified investment by you or by the Trust Fund established hereunder and you acknowledge and assume the sole responsibility in respect of the foregoing. We shall not otherwise be liable for the making, retention or sale of any investment or reinvestment as herein provided or for any loss or diminution of the assets comprising the RIF except due to our own negligence or wrongful act. You and your heirs, executors and administrators shall at all times indemnify and save harmless the Trustee in respect of any taxes, interest, penalties or charges levied or imposed upon the Trust Fund in respect of the RIF.

**17. PROOF OF AGE:** The statement of your date of birth on the application shall constitute a certification by you and an undertaking to furnish such further evidence of proof of age as may be required for the provision of a retirement income.

**18. NO BENEFIT OR LOAN:** No benefit or loan that is conditional in any way on the existence of the RIF may be extended to you or to any person with whom you do not deal at arm's length other than those benefits or loans which may be permitted from time to time under the Act.

**19. SUCCESSOR TRUSTEE:** If we wish to resign as Trustee of the RIF or for any reason are incapable of acting as Trustee, ING Direct Funds Limited is nominated to appoint a successor Trustee of the RIF. Upon acceptance of the office, the successor Trustee will be the Trustee of the RIF for all purposes as if it had been the original declarant of the RIF.

**20. DEFINITION OF SPOUSE:** The term "spouse" shall have the meaning of "spouse" as recognized in the Act for the purposes of registered retirement income funds and, where applicable, incorporates the meaning of the term "common-law partner" as set out in Subsection 248(1) of the Act.

**21. ASSIGNMENT BY AGENT:** The Agent may assign its rights and obligations hereunder to any other corporation resident in Canada and authorized to assume and discharge the obligations of the Agent under the RIF, provided that such corporation shall execute any agreement which is necessary or advisable for the purpose of assuming such rights and obligations and further provided that no such assignment may be made without prior written notice to us.

**22. GOVERNING LAW:** This Declaration of Trust shall be construed and enforced according to the laws of the Province of Ontario, and all provisions hereof shall be administered according to the laws of that province.