

GUIDELINES FOR STRUCTURING AN AGREEMENT FOR LIFE INSURANCE SHARED OWNERSHIP ARRANGEMENT

This guideline is provided by SUN LIFE ASSURANCE COMPANY OF CANADA for use with a SUN UNIVERSAL LIFE POLICY. This draft contemplates only one scenario. It is generic in nature and should be amended to reflect the negotiations of the particular parties to the agreement.

This draft outline is provided for discussion and illustrative purposes only and for the assistance of legal counsel in preparing the actual legal documentation for this arrangement. It is not a complete agreement.

Those who are considering an arrangement which would involve this outline of an Agreement should consult their own tax and legal advisers with respect to their particular circumstances.

THIS AGREEMENT made the _____ Day _____ Month _____ Year
B E T W E E N: (*Define parties*)

WHEREAS

- A. A is the “Insurance Amount Owner” and A has an insurable interest in the life of the “Fund Value Owner”
- B. B is the “Funds Value Owner”
- C. The “Insurance Amount Owner” and the “Fund Value Owner” are sharing interests as co-owners in a Sun*Universal*Life Policy on the life of the “Fund Value Owner” issued by Sun Life Assurance Company of Canada (the “Insurer”) and bearing Policy No. _____ (the “Policy”);
- D. Goals and Objectives
- E. The parties, A and B, acknowledge that the Insurer is not bound by this Agreement. However, they are desirous of entering into an agreement among themselves with respect to their rights and obligations in respect of the Policy.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

ARTICLE 1— INTERPRETATION

1.1 Sample Defined Terms

For the purpose of this Agreement, the following terms shall have the respective meanings set out below: *(blanks are at the discretion of the legal counsel)*

“Deposit” means a payment made into the Sun*Universal*Life policy. Each Deposit, which can be made at any time, is subject to a minimum and maximum limit as determined by the Company from time to time;

“Net Deposit” means a Deposit made into the Savings Accounts reduced by the applicable provincial premium tax. This includes transfers from the Service Account into the Savings Account;

“Insurance Amount” means the amount specified in subsection 3.1(c) of this Agreement and any modification to this amount under the Policy;

“Fund Value” means the Fund Value as described in the Policy;

“Lapse” means the cancellation of the policy when the Fund Value less any advances is zero or negative, as described in the Policy ;

“Policy” means the life insurance policy described in paragraph A of the preamble to this Agreement;

“Policy Anniversary” is the date 12 months after the Policy Effective date of the Policy and each subsequent 12-month anniversary of the Policy Effective date, as described in the Policy ;

“Service Account” means the Service Account as described in the Policy;

“Account” means an account under the Policy into which funds held under the Policy may be deposited, according to the terms of the Policy; and

“Surrender Charge” applies when the Policy is terminated by the owner(s) of the Policy or lapses under the terms of the lapse provision.

“Fund Value” means the total of all Savings Account values (Daily Interest (Activity Account), Daily Interest (Savings Option), Guaranteed Interest Accounts and Indexed Accounts) including interest.

1.2 Policy Years

1.3 Currency

1.4 Sections and Headings

1.5 Number, Gender and Persons

ARTICLE 2 – CO-OWNERS’ INTEREST IN THE POLICY

2.1 Interest of the Parties

- (a) The [Insurance Amount Owner’s] interest in the Policy is limited to the Insurance Amount under the Policy;
- (b) The [Fund Value Owner’s] interest in the Policy is the Fund Value and any accrual thereof.

2.2 Rights

Subject to any limitation provided in this Agreement, each party has the right of exclusive use and enjoyment with respect to its own interest in the Policy.

2.3 Service Account

The funds in the Service Account, if any, will be part of the interest of the [Fund Value Owner].

ARTICLE 3 — DEATH BENEFIT, LIFE INSURANCE, ETC.

3.1 Death Benefit, Life Insurance, Etc.

While this Agreement is in effect

- (a) the only person whose life shall be insured under the Policy shall be the “Fund Value Owner”;
- (b) the Death Benefit Option under the Policy shall be the *(Face Amount Plus Fund option/the level Face Amount option/the Fund Builder option,the Indexed Face Amount option)*;
- (c) the initial Insurance Amount under the Policy shall be the sum of _____ dollars (\$ _____);
- (d) the initial Annual Cost per \$1,000 of Insurance option under the Policy shall be the *(Guaranteed Level Term rates option/ Guaranteed Yearly Term rates option)*; and
- (e) **no rider / or riders** — This clause depends on whether riders are elected with the policy.[the parties need to agree on who should pay for and benefit from any riders on the policy]

ARTICLE 4 — PREMIUM DEPOSITS

41 Deposits by the [Insurance Amount Owner] (no discounts)

(If the Fund Value Owner is to receive the discounts) While this Agreement is in effect, the [Insurance Amount Owner] shall pay a deposit in respect of the Policy for each policy year of the Policy representing the gross Cost of Insurance in the amount determined in accordance with the following formula:

$$(A \times B) \times (1+C)$$

where for the purposes of this section 4.1

- A = the Annual Cost per \$1,000 of Insurance under the Policy as specified in the Schedule of Benefits And Charges under the Policy,
B = the Insurance Amount under the Policy divided by 1,000, and
C = the aggregate of the rates (expressed as a decimal) of any premium tax, sales tax or other tax, levy or charge imposed on the deposit under the laws of Canada or of a Province, Territory or other political subdivision or local authority.

Note: Other options for sharing the costs exist.

If the [Insurance Amount Owner] is to receive the discounts, the formula should be amended as follows:

$$(A \times B) \times (1 + C) - \text{discount}$$

4.2 Timing of Payment of Deposits of [Insurance Amount Owner]

The [Insurance Amount Owner] shall pay *(Define terms)*

4.3 Further Deposits by [Fund Value Owner]

(Subject to negotiation)

44 Other Policy Charges

The Insurer may claim Policy Charges from either party. However, the parties should decide among themselves who shall pay for the Policy Charges such as administration fees and taxes on the Service Accounts.

ARTICLE 5 — BENEFICIARIES

51 Beneficiary Designation for the Insurance Amount

The [Insurance Amount Owner] shall have the right to designate a beneficiary or beneficiaries to receive, in the event of death of the life insured, an amount equal

to the Insurance Amount and to amend or revoke such designation(s). The [Fund Value Owner] agrees to sign any beneficiary designation form or beneficiary change form to give effect to this section.

52 Beneficiary Designations for the Fund Value

The [Fund Value Owner] shall have the right to designate a beneficiary or beneficiaries to receive, in the event of death of the life insured the balance of the proceeds payable under the Policy and to amend or revoke such designation(s). The [Insurance Amount Owner] agrees to sign any beneficiary designation form or beneficiary change form to give effect to this section.

ARTICLE 6 — INVESTMENTS

61 Deposits to Accounts

The [Fund Value Owner] alone shall have the right in accordance with the terms of the Policy to choose the Accounts made available by the Insurer under the Policy from time to time into which the Net Deposits (as defined in the provisions of the Policy) will be deposited.

The Parties may decide that the [Insurance Amount Owner]'s Deposit representing the Cost of Insurance will be invested in a guaranteed account for instance.

62 Transfers between Accounts

The [Fund Value Owner] alone shall have the right to transfer all or part of the account value of any Account under the Policy to another Account under the Policy in accordance with the terms of the Policy.

63 Limitation of Liability (optional)

The [Fund Value Owner] is not liable to the [Insurance Amount Owner] for any decrease in the Fund Value.

The Parties may decide to limit the liability of one or the other regarding the investment decision and the value of the investment funds particularly if only one of the Owner is in charge to make the decision or they may agree to invest only in guaranteed account for instance

64 Power of Attorney (optional)

The [Insurance Amount Owner] undertakes to sign a power of attorney authorizing the Insurer to take any instruction from the [Fund Value Owner] with respect to the Deposits and transfers in the Accounts.

ARTICLE 7 — POLICY TRANSACTIONS

71 Absolute Assignment (change of ownership) (optional)

Before a Party sells that Party's interest to a third party having a proper interest in the life of the life insured, the transferring Party shall provide to the other Party a pre-emptive right to acquire the transferring Party's interest by providing to the other Party the terms and conditions of the transfer (the "Offer") and the other Party shall have a 30-day option to purchase the transferring Party's interest on the same terms and conditions contained in the Offer.

The transfer of an interest in a life insurance policy to a third-party usually triggers a taxable disposition. It is highly recommended to obtain an opinion from a tax expert for a thorough examination of all the consequences

7.2 Cash Withdrawals and Policy Loans

The [Fund Value Owner] shall have the right to make a cash withdrawal, a policy loan (or advance) or a collateral assignment (hypothec in Quebec) from the Policy at any time in accordance with the terms of the Policy with respect to the [Fund Value Owner]'s interest in the Policy as described in Article 2. *(Subject to negotiation)*

Additional negotiations may occur if a collateral assignment (moveable hypothec in Québec) is contemplated. The lender may require a guarantee on both the insurance amount and the Funds Value. It could be appropriate for the Parties to determine the limits to their rights in such circumstances). In addition, if the Insurance Amount is also part of the guarantee for a loan to the "Fund Value Owner" it may create a taxable benefit according to the circumstances

73 Other Rights, Options and Privileges

The [Fund Value Owner] and the [Insurance Amount Owner] shall be entitled to exercise jointly all other rights, options and privileges given to the policyholder under the Policy or under applicable law that are not specifically dealt with in this Agreement unless one Party has given to the other Party a power of attorney authorizing the exercise of such rights by the other Party.

ARTICLE 8 — TERMINATION

81 Circumstances of Termination

This Agreement shall terminate upon the occurrence of any one of the following events:

- (a) the written agreement of the Parties ;
- (b) the bankruptcy, insolvency or winding-up of the [Insurance Amount Owner] or of the [Fund Value Owner];
- (c) the termination of employment unless, notwithstanding the occurrence of this event, the parties agree in writing to keep this Agreement in force;

- (d) the termination of the Policy;
- (e) o t h e r .

Residents of Quebec – a co-ownership agreement will automatically terminate after a period of thirty years subject to the renewal of the agreement.

8.2

Upon termination of this Agreement, the [Fund Value Owner] may purchase the interest of the [Insurance Amount Owner] in the Policy subject that:

- (a) within thirty (30) days following the day on which this Agreement terminates, the [Fund Value Owner] shall pay to the [Insurance Amount Owner] that portion of the amounts paid by the [Insurance Amount Owner] representing the value of the insurance coverage.

If the [Fund Value Owner] does not exercise this option, it is agreed that:

- (a) the [Fund Value Owner] will assign to the [Insurance Amount Owner] the [Fund Value Owner]'s interest in the Policy for the value to be determined between the Parties if it is the [Insurance Amount Owner]'s desire to retain the Policy; or
- (b) both Parties will surrender the Policy to the Insurer for its cash surrender value, which value will be remitted to the [Fund Value Owner].

The transfer to a third party or the surrender of a life insurance policy is a taxable disposition of an interest in a life insurance policy. In such circumstances, the "Fund Value Owner" will have to include in his or her taxable income for the year the excess of the cash surrender value over the policy adjusted cost basis. The information regarding the adjusted cost basis of a life insurance policy are usually provided to the owners when all the appropriate information appear in the insurer's records.

ARTICLE 9 — DEFAULT

ARTICLE 10— GENERAL PROVISIONS

10.1 Further Assurances

10.2 Notice

Name
Address

Name
Address

10.3 Entire Agreement, Amendment, Assignment

10.4 Applicable Law

10.5 Resolution of Conflict (mediation and arbitration)

10.6 Severability

10.7 Successors and Assigns

IN WITNESS WHEREOF

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