

SCHEDULE

AGREEMENT made this 21st day of February, 1959.

BETWEEN:

THE WESTERN TRUST COMPANY
hereinafter called "the Vendor"

Of the FIRST PART

- and -

GUARANTY TRUST COMPANY OF CANADA,
hereinafter called "the Purchaser"

Of the SECOND PART

WHEREAS the Vendor was incorporated by Special Act of the Parliament of Canada, being Chapter 180 of the *Statutes of Canada, 6 Edward VII*, and carried on business as a trust company with head office at the City of Winnipeg, in the Province of Manitoba, under the provisions of The *Trust Companies Act* (Canada) and under such Act may sell its business, rights or property;

AND WHEREAS the Purchaser was incorporated by Special Act of the Parliament of Canada, being Chapter 65 of the *Statutes of Canada 15-16 George V*, and is carrying on business as a trust company with head office at the City of Toronto, in the Province of Ontario, under the provisions of The *Trust Companies Act* (Canada) and under such Act may purchase the business, rights and property and assume the liabilities of another trust company;

AND WHEREAS on the 7th day of May, 1958, there were issued and outstanding as fully paid shares in the capital stock of the Vendor, 10,050 shares of a par value of \$100 each out of an authorized share capital of 20,000 shares of \$100 each;

AND WHEREAS on the 7th day of May, 1958, the Purchaser did complete the purchase of all the said 10,050 issued and outstanding shares in the capital stock of the Vendor, pursuant to an Offer made to all the holders of the said shares dated February 24th, 1958, and did make payment on the said 7th day of May, 1958, to all the shareholders of the Vendor, in the sum of \$180 per share, Canadian funds, being the price named in the said Offer;

AND WHEREAS from and after the said 7th day of May, 1958, the business of the Vendor has been carried on by the Purchaser;

AND WHEREAS it is considered necessary and desirable that this agreement be entered into for the purpose of compliance with the provisions of Section 79 (1) of The *Trust Companies Act*.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) in cash now paid by the Purchaser to the Vendor, receipt whereof is hereby acknowledged, and of the payment on May 7th, 1958 of \$180 per share to the holders of all the issued and outstanding shares of the Vendor as above recited, and of the covenants and agreements hereinafter set out, the parties hereto have agreed as follows:

1. The Vendor does hereby sell, transfer and assign unto the Purchaser, as a going concern, all the business, undertaking, property, assets and goodwill of the Vendor, which, without limiting the generality of the foregoing, shall include the following:

- (a) The goodwill of the business of the Vendor with whatever rights in connection therewith which are capable of being transferred, including the right to use the name of the Vendor in connection with the business of the Purchaser so purchased, and to hold out and represent the Purchaser as carrying on such business in continuation of the Vendor's business and in succession thereto, and in the discretion of the Purchaser to use the words "formerly The Western Trust Company" or such other words indicating that the business is carried on in continuation of or in succession of the Vendor;
- (b) All the freehold and leasehold properties, wherever situate, belonging to the Vendor;
- (c) All mortgages, stocks, shares, bonds, debentures and other securities for money owned by the Vendor;
- (d) All the book and other debts due or owing or to become due to the Vendor in connection with the said business, and the full benefit of all securities for such debts;
- (e) The full benefit of all contracts and engagements to which the Vendor is or may be entitled in connection with the said business;
- (f) All rights of action and things in action arising out of or incidental or pursuant to ownership of any assets and property hereby agreed to be sold or affecting the value thereof insofar as those rights of action are capable of being transferred;
- (g) All fees and compensation due to, accruing due to or earned by the Vendor in connection with any work or services rendered by the Vendor, whether or not such fees and compensation have been fixed by agreement, by order of a competent Court, or otherwise;
- (h) All cash on hand and in any banks or other depositories and all bills, notes, moneys, negotiable instruments and credits owned or held by the Vendor in connection with the said business;
- (i) All chattels, furniture, safety deposit equipment, fixtures and other like property belonging to the Vendor;
- (j) All other assets and property, rights, branches and effects of the Vendor whatsoever and wheresoever situate; all of which said foregoing are hereinafter referred to as "the purchased premises".

2. The Purchaser shall and does hereby undertake to pay, satisfy, discharge, perform and fulfil all the debts, liabilities, duties and obligations of the Vendor whatsoever and to adopt, perform, discharge and fulfil all contracts and engagements now binding upon the Vendor and shall at all times keep the Vendor and its shareholders and each and every one of them indemnified against such debts, liabilities, duties, obligations, contracts and engagements and against all actions, proceedings, costs, damages, claims, demands and other proceedings in respect thereof. Provided that nothing herein contained shall deem to alter or change the liability (if any) of each shareholder of the Vendor for such personal or corporate income tax as may be imposed under *The Income Tax Act* or the *Income War Tax Act* or for any debt or liability of any shareholder of the Vendor to the Vendor.

3. The Purchaser shall and does hereby accept such title to the purchased premises as the Vendor possesses, and the Vendor shall deliver to the Purchaser all deeds, instruments, certificates and documents in its possession or power evidencing such title and all books of account of the Vendor and all other books, papers and documents belonging to the Vendor or in its possession or under its control.

4. It is understood and agreed that any right of action transferred or assigned to the Purchaser hereunder by the Vendor may be exercised or enforced, and any proceedings which may have been commenced by the Vendor in connection therewith prior to the date of purchase of the outstanding shares of the Vendor as above recited may be continued at the request of the Purchaser in the name of the Vendor for the benefit of the Purchaser, or in the name of the Purchaser, provided that nothing in this agreement shall derogate from or extinguish any right of action now vested in the Vendor in connection with the business of the Vendor prior to the above mentioned date of purchase of shares and any such right of action shall remain in and be enforceable by the Vendor and at the request of the Purchaser the Vendor shall take any proceedings to enforce, exercise and realize upon such rights of action in its own name but for the full benefit and advantage of the Purchaser and at the expense of the Purchaser.

5. The Vendor further covenants and agrees from time to time hereafter to make application for or join in making application for the appointment of the Purchaser as Trustee (which term shall include executor, administrator, committee, guardian, trustee, assignee, liquidator and receiver, agent and other fiduciary of any kind or nature whatsoever) in respect of all such trusts and agencies now vested in or conducted by the Vendor or provided to arise hereafter and/or vest in the Vendor, and will use its best endeavors to procure such appointment.

6. The Vendor covenants and agrees forthwith and from time to time hereafter to execute and deliver to the Purchaser such covenants, assignments, transfers and other documents in writing as may be necessary or considered expedient to vest in the Purchaser the title to all assets and property of the Vendor wheresoever situate, and if required by the Purchaser, shall join with the Purchaser in any application to governmental authority or constituted authority by way of supplement to or in lieu of such covenants, assignments, transfers and other documents required for the said purpose.

7. It is agreed between the parties hereto that the employees of the Vendor shall be afforded the opportunity of participating in the existing retirement annuity plan of the Purchaser, the procedure to be adopted to effect such participation being such as may be decided after any necessary consultation with and approval of the Minister of National Revenue, to the intention that the employees of the Vendor shall, to the extent possible, with all just and proper exceptions, having regard to the differing effect of commencement dates and participation, become entitled to substantially the like benefits of the present employees of the Purchaser.

8. This agreement shall be submitted to the Treasury Board of Canada and to such other governmental or constituted authority as may be necessary for assent and approval in order to give this agreement full force and effect.

9. It is understood and agreed that this agreement shall be deemed to have been and shall be effective as and from the hour of 3:00 o'clock in the afternoon, Central Daylight Saving Time, on the 7th day of May, 1958.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested by the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED AND
DELIVERED

In the presence of:

) THE WESTERN TRUST
COMPANY

) Per

) J. W. BERRY
President

)

) L. JOHNSON
Secretary

)

) GUARANTY TRUST COMPANY
OF CANADA

) Per

) J. W. BERRY
President

)

) J. A. THOMPSON
Secretary

)

NOTE: This Act replaces S.M. 1959 (2nd sess.), c. 96.