## SUPPLEMENTARY AGREEMENT TO THE DECLARATION OF TRUST, ESTABLISHING A LIFE INCOME FUND UNDER THE NATIONAL BANK INVESTMENTS INC. RETIREMENT INCOME FUND

**RECITALS:**

**A.** The Annuitant is entitled pursuant to the Act and the Regulation to effect a transfer to the Fund of amounts derived from, directly or indirectly from, a pension plan governed by the provisions of the Act, or any other source acceptable under the Act and the Regulation (the **"Transfer"**);

**B.** The Annuitant has established a retirement income fund with the Financial institution identified in the application form attached (the **"Retirement income fund"**) and wishes same to receive the Transfer;

**C.** The Annuitant has obtained the written consent of his or her Spouse prior to the Transfer, if the Annuitant was a member or former member of the pension plan;

**D.** The Transfer cannot be made unless the conditions herein are satisfied;

**E.** The parties now wish to supplement the Retirement income fund with the provisions of this Agreement in order to comply with the requisite locking-in conditions. In the event of any conflict between the provisions of the Declaration and this Agreement, the provisions of this Agreement shall prevail.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. **Definitions.** In this Agreement, all capitalized terms not otherwise defined herein shall have the same meaning as in the Declaration, the Act, the Regulation and the Directive. In addition, the following terms shall have the following meaning:
   - a) **"Act"** means the *Pension Benefits Act, 1997* (Newfoundland and Labrador), as same may be amended from time to time;
   - b) **"Annuitant"** means the person identified as such in the Declaration and is also defined as the "owner" under the Directive;
   - c) **"Declaration"** means the Declaration of Trust of the National Bank Investments Inc. Retirement Income Fund;
   - d) **"Directive"** means Directive no. 5 entitled "Life Income Fund Requirements", issued under the Act, effective January 1, 2018;
   - e) **"Fiscal Year"** in connection with this Fund means a calendar year terminating at midnight on December 31st, and will not exceed 12 months;
   - f) **"Financial Institution"** means National Bank Investments Inc., located at 1100 Robert-Bourassa Blvd, 10th Floor, Montreal, Quebec H3B 2G7, the issuer of this Fund;
   - g) **"Fund"** refers to the Retirement Income Fund established by the Annuitant and the Financial Institution, as supplemented and modified by this Agreement establishing a LIF that will hold the locked-in money that is the subject of the Transfer;
   - h) **"LIF"** means a registered retirement income fund established in accordance with the Tax Act that is locked-in in accordance with the Regulations and meets the conditions set out in the Directive, known as a Life Income Fund;
   - i) **"Life Annuity Contract"** means an arrangement made to purchase through a person authorized under the laws of Canada or a province to sell annuities as defined in the Tax Act, a non-commutable pension, in accordance with Directive No. 6, that will not commence before that person attains the age of 55 years, or, if that person provides evidence to the satisfaction of the Financial institution that the plan or any of the plans from which the money was transferred provided for payment of the pension at an earlier age, that earlier age;
   - j) **"LIRA"** means a locked-in retirement account, being a registered retirement savings plan (within the meaning in the Tax Act) that meets the requirements set out in Directive no. 4 and the Regulation;
   - k) **"LRIF"** means a locked-in retirement income fund, being an RIF that meets the requirements set out in Directive no. 15 and the Regulation;
   - l) **"Minimum Amount"** means the amount referred to 6.c);
   - m) **"Maximum Amount"** means the amount referred to in 6;
   - n) **"Regulation"** means *Newfoundland and Labrador Regulation 114/96* adopted pursuant to the Act, as same may be amended from time to time;
   - o) **"RIF"** means a retirement income fund within the meaning of the Tax Act that is registered under that act;
   - p) **"Spouse"** shall have the meaning of "principal beneficiary" assigned to such term under the Directive, but does not include any person who is not recognized as a spouse or a common-law partner for the purposes of any provision of the Tax Act respecting RIF;
   - q) **"Tax Act"** means the *Income Tax Act* (Canada) and the regulations adopted thereunder;
   - r) **"Transfer"** means the transfer referred to in paragraph A of the Recitals hereto.
2. **Purpose of the Fund:** Except as permitted by the law, all money that is the subject of the Transfer, including all investment earnings thereon and gains realized thereof, but excluding all fees, charges, expenses and taxes charged to this Fund, shall be used to pay the Annuitant an income, the amount of which may vary annually, until the day on which the entire balance of the money in the Fund is converted into a Life Annuity. No money that is not locked-in may be transferred or otherwise held under this Fund.
3. **Investments:** The money and assets held under this Fund shall be invested in accordance with the instructions provided by the Annuitant to the Financial institution, either directly or through the Agent, in the manner provided in the Declaration, and will not be invested directly or indirectly in any mortgage in respect of which the mortgagor is the Annuitant or the parent, brother, sister or child of the Annuitant or the Spouse of any of those persons. All investments of money or assets held under this Fund must comply with the rules for the investment of RIF money contained in the Tax Act.
4. **Restrictions:** Money in the Fund will not be assigned, charged, anticipated or given as security except as permitted by the Regulation and any transaction purporting to assign, charge, anticipate or give the money in the Fund as security will be void.
5. **Value of the Fund:** The fair market value of the assets held under the Fund as determined by the Financial institution in good faith shall be used to calculate the balance of the money and assets held under this Fund for any particular time, including on the death of the Annuitant, on the establishment of a Life Annuity Contract or on a transfer of assets from the Fund. Any such determination by the Financial institution shall be conclusive for all purposes hereof.
6. **Payments:** Payments to the Annuitant until the day on which the entire balance of the money in the Fund is converted into a Life Annuity Contract shall be determined under the Declaration and shall comply with the following conditions:
   - a) **Commencement of payments.** Payment out of the Fund must not begin before the earlier of age 55 or the earliest date on which

Annuitant could receive a pension benefit under the Act or the originating pension plan from which money was transferred and not later than the last day of the second Fiscal Year;

**b)** **Annual Payments.** The amount of the income (which must be between the Minimum Amount and the Maximum Amount) paid to the Annuitant during a Fiscal Year must be decided by the Annuitant each year by notifying the Financial institution of the amount no later than January 1st of such Fiscal Year. Such notice expires on December 31st of such Fiscal Year. If the Annuitant does not thereby notify the Financial institution, the Annuitant will be deemed to have decided to receive the Minimum Amount with respect to such year and the Financial institution will thereby pay the Minimum Amount out of the Fund in such year. For greater certainty, the Financial institution does not agree to any interval of more than a year;

**c)** **Minimum Amount.** The amout of income paid out of the Fund during a Fiscal Year must be not less than the minimum amount prescribed for registered retirement income funds under the Tax Act;

**d)** **Maximum Amount.** Subject to Paragraphs below, the amount of income paid out of the LIF during a Fiscal Year must not exceed the "maximum" amount permitted under the Directive in respect of a LIF, being the greater of i) and ii) as follows:

the amount calculated using the following formula: C/F

in which

**"C"** = the value of the assets in the Fund at the beginning of the Fiscal Year.

**"F"** = the present value at the beginning of the Fiscal Year, of a pension of which the annuity payment is $1 payable at the beginning of each Fiscal Year between that date and the 31st day of December of the year in which the Annuitant reaches 90 years of age; and

the amount of the investment, including any unrealized capital gains or losses, of this LIF in the previous Fiscal Year;

The value "F" in paragraph (d) must be established at the beginning of each Fiscal Year of this LIF using an interest rate as follows:

i) for the first 15 years after the date of the valuation, the greater of 6% per year and the percentage obtained on long-term bonds issued by the Government of Canada for the month of November preceding the date of the valuation, as compiled by Statistics Canada and published in the *Bank of Canada Review* under identification number V 122487 in the CANSIM System; and

ii) for the 16th year and for each subsequent year, at an annual rate of 6%.

**e)** **Maximum Amount for First Fiscal Year.** For the initial Fiscal Year of the Fund, the "Maximum" amount determined in paragraphs 6.d) and section 7 shall be adjusted in proportion to the number of months in that Fiscal Year divided by 12, with any part of an incomplete month counting as one month;

**f)** **Maximum Amount on Transfer from another LIF or LTIF.** If a part of the Fund corresponds to amounts transferred directly or indirectly from another LIF or Locked-in retirement income fund of the Annuitant during the Fiscal year, the "Maximum" determined paragraphs 6.d) and section 7 shall be deemed to be zero in respect of the part transferred in;

**g)** notwithstanding paragraph f), the Financial institution may allow money to be paid to the Annuitant provided that the total amount received by the Annuitant from all financial institutions in respect of that part transferred in during the Fiscal Year does not exceed the "maximum" in paragraphs 6.d) and section 7 for that part. In this case, the Financial institution must receive information, in writing, from the prior financial institution(s) which confirms the amount already paid in the Fiscal Year in respect of that part of the LIF; and

**h)** if money is paid out contrary to the Act or the Directive, the Financial institution will provide or ensure the provision of a pension benefit equal in value to the pension benefit that would have been provided had the money not been paid out.

**7. Additional Temporary Income:**

**a)** **Entitlement.** Subject to paragraph b) hereunder, the Annuitant is entitled to receive additional temporary income where:

i) the maximum amount of income the Annuitant is entitled to receive for the calendar year in which the application is made, calculated as "B" hereunder, is less than 40% of the Year's Maximum Pensionable Earnings (**"YMPE"**) under the *Canada Pension Plan* for the calendar year in which the application is made; and

ii) the Annuitant has not reached his or her 65th birthday at the beginning of the Fiscal Year in which the Annuitant makes application for additional temporary income.

**b)** **Maximum Temporary Income.** The amount of the additional temporary income paid out of the Fund in a Fiscal Year must not exceed the "Maximum Temporary Income" using the following formula: A-B

in which

**"A"** = 40% of the YMPE for the calendar year in which an application is made; and

**"B"** = the maximum Amount of income the Annuitant is entitled to receive from all LIFs, Locked-in retirement income funds, Life Annuity Contracts and pension plans governed by the Act or established under or governed by an act of Canada or another Province or Territory, except income from a pension under the Canada Pension Plan, for the calendar year in which the application is made.

**c)** **Application form.** An application for additional temporary income shall be:

i) on a form approved by the Superintendent;

ii) where the Annuitant is a former member of a pension plan, accompanied by the written consent of the Spouse of the Annuitant; and

iii) submitted to the Financial institution at the beginning of the Fiscal Year of the Fund, unless otherwise permitted by the Financial institution.

**8. Permitted Withdrawals:** No withdrawal, commutation or surrender of money, in whole or in part, held under this Fund is permitted and will be void, except in the following circumstances:

**a)** **Shortened Life Expectancy Withdrawal.** The Annuitant may withdraw all or part of the money in the Fund as a lump sum or series of payments, in accordance with section 9 of the Directive, if the following conditions are met:

i) if a medical practitioner certifies that due to mental or physical disability the life expectancy of the Annuitant is likely to be shortened considerably; and

ii) if the Annuitant is a former member of a pension plan such payment may only be made if the Spouse of the Annuitant has waived the joint and survivor pension entitlement in the form and manner acceptable to the Superintendent.

**b)** **Withdrawal of Small Amount.** The Annuitant may withdraw in a lump sum payment equal to the value of the entire Fund, upon application by the Annuitant to the Trustee in accordance with sections 10 and 11 of the Directive, if the following conditions are met:

i) the Annuitant has reached the earlier of age 55 or the earliest date on which the Annuitant member or former member would have been entitled to receive a pension benefit under the plan from which money was transferred, and the value of the Annuitant's assets in all LIFs, Locked-in retirement income funds and Locked-In retirement accounts governed by

Newfoundland and Labrador pension benefits legislation is less than 40% of the year's maximum pensionable earnings for that calendar year;

ii) the value of all assets in all LIFs, Locked-in retirement income funds and Locked-In retirement accounts owned by the Annuitant and governed by Newfoundland pension benefits legislation is less than 40% of the year's maximum pensionable earnings under the *Canada Pension Plan* for that calendar year; and

iii) the Annuitant has not, within the same Fiscal Year, elected to receive additional temporary income under section 7 hereof or, where a part of this Fund corresponds to amounts transferred directly or indirectly from another LIF or Locked-in retirement income fund, elected to receive additional temporary income from that LIF or Locked-in retirement income fund.

Such application shall be made on a form approved by the Superintendent, and if the Annuitant is a former member of a pension plan, such application shall be accompanied by a waiver by Spouse of the Annuitant of the joint and survivor pension entitlement in the form and manner acceptable to the Superintendent.

The Financial institution may rely upon the information provided by the Annuitant in any application made pursuant to this Section 8 and such application shall constitute sufficient authorization to the Financial institution to pay the Annuitant from the Fund in accordance thereof.

**9. Permitted transfers:** The Annuitant may transfer all or part of the balance of the Fund:

**a)** to another LIF;

**b)** to a Locked-in retirement income fund;

**c)** to purchase an immediate Life Annuity Contract that meets the requirements of the Superintendent; or

**d)** before December 31st in the year in which the Annuitant reaches the age at which a pension benefit is required to begin under the Tax Act, to a Locked-In retirement account

The Annuitant may at any time request, in a form deemed satisfactory by the Financial institution, that the Financial institution effect such a permitted transfer.

The Financial institution may deduct from the property being transferred all amounts to be retained in application of paragraphs 146.3(2)(e.1) or 146.3(2)(e.2) of the Tax Act, as applicable, as well as any fees and disbursements to which the Financial institution is entitled.

The transfer pursuant to this Section 9 shall be effected within 30 days from the Annuitant's application for transfer. Once the transfer is completed in compliance with all conditions relating thereto, the Financial institution and the Agent shall be released from any liability in connection with this Fund to the extent of the transfer.

Notwithstanding the above, the Financial institution shall never be obliged to refund in advance the investments held under the Fund for purposes of transfer and may, at its entire discretion, delay the requested transfer accordingly. If the assets in this LIF consist of identifiable and transferable securities, the Financial institution may transfer the securities with the consent of the Annuitant.

**10. Marriage Breakdown:** This Agreement is subject, with any necessary modifications, to the division of pension benefits on marriage breakdown provisions in Part VI of the Act.

**11. Death of the Annuitant:** On the death of the Annuitant who was a former member who has a Spouse, the surviving Spouse, or where there is no surviving Spouse or the surviving Spouse had waived entitlement in the form and manner acceptable to the Superintendent, a designated beneficiary, or where there is no designated beneficiary, the estate of the Annuitant is entitled to receive a lump sum payment of the full value of the contract. Where the Annuitant is not a former member, a lump sum payment of the full value of the contract shall be paid to the designated beneficiary or, where there is no designated beneficiary, to the Annuitant's estate. Such payment is subject to paragraph 60(l) of the Tax Act.

**12. Amendment:** The Financial institution shall not amend this Agreement except where the Financial institution has given the Annuitant at least 90 days notice of a proposed amendment. An amendment that would result in a reduction in the Annuitant's benefits under this Agreement is permitted only where:

**a)** the Financial institution is required by law to make the amendment; and

**b)** the Annuitant is entitled to transfer the balance in the LIF under the terms of the this Agreement that existed before the amendment is made. When making this amendment, the Financial institution shall, notify the Annuitant of the nature of the amendment; and allow the Annuitant at least 90 days after the notice is given to transfer all or part of the balance in this LIF.

All Notices under section 12 shall be sent by registered mail to the Annuitant's address as set out in the records of the Financial institution.

**13. Statements**

**a)** At the beginning of each Fiscal Year, the following information must be provided to the Annuitant:

i) in relation to the previous Fiscal Year: the sums deposited; the amount of the investment earnings, including any unrealized capital gains or losses; the payments made out of the Fund and the fees charged;

ii) the value of the assets in the Fund;

iii) the Minimum Amount that must be paid out of the Fund to the Annuitant during the current Fiscal Year; and

iv) the Maximum Amount of income under section 8.(d) of the Directive that may be paid out of this LIF to the Annuitant during the current Fiscal Year.

v) if applicable, notification that the Annuitant may be entitled to receive additional temporary income under section 8.(f) of the Directive during the current Fiscal Year.

**b)** If the balance of the Fund is transferred as described in Section 9 hereof, the Annuitant must be given the information described in this Section 13 determined as of the date of the transfer;

**c)** If the Annuitant dies, the person entitled to receive the balance must be given the information described in this Section 13, determined as of the date of the Annuitant's death.

**14. Representations and Warranties of the Annuitant:** The Annuitant represents and warrants to the Financial institution the following:

**a)** That the pension legislation applicable and governing the Transfer at such time is the Act and Regulation;

**b)** That the amounts transferred herein are locked-in amounts resulting directly or indirectly from the commuted value of the Annuitant's pension entitlements and the Annuitant is entitled to effect a Transfer of his or her pension entitlements pursuant to the Act or the Regulation;

**c)** That the provisions of the pension plan do not prohibit the Annuitant from entering in this Agreement and, in the event that such prohibition does exist, the Financial institution shall not be liable for the consequences to the Annuitant of executing this Agreement nor for anything done by the Financial institution in accordance with the provisions hereof; and

**d)** That the commuted value of the pension benefits that was transferred herein was not determined on a basis that differentiated on the basis of sex, unless otherwise indicated in writing to the Financial institution.

**15. Governing law:** This Agreement shall be governed by the laws of the Province of Newfoundland and Labrador.