

SUPPLEMENTARY AGREEMENT TO THE NATCAN TRUST COMPANY DECLARATION OF TRUST ESTABLISHING A LOCKED-IN RETIREMENT ACCOUNT UNDER THE NATIONAL BANK INVESTMENTS INC. RETIREMENT SAVINGS PLAN

RECITALS:

- A.** The Annuitant is entitled pursuant to the Act and the Regulation to effect a transfer to the Account of amounts derived, 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 National Bank Investments Inc. Retirement Savings Plan and wishes same to receive the Transfer;
- C.** The Transfer cannot be made unless the conditions herein are satisfied;
- D.** The parties now wish to supplement the Declaration 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. In addition, the following terms shall have the following meaning:
 - a) “Act”** means the *Pension Benefits Act* (Ontario), as same may be amended from time to time;
 - b) “Account”** refers to the National Bank Investments Inc. Retirement Savings Plan established by the Declaration executed between the Annuitant, National Bank Investments Inc. and the Trustee, as supplemented and modified by this Agreement establishing a LIRA that will hold the locked-in money that is the subject of the Transfer;
 - c) “Declaration”** means the Declaration of Trust of the National Bank Investments Inc. Retirement Savings Plan attached hereto;
 - d) “Declaration about a Spouse”** means any of the following documents:
 - i) A statement signed by the Annuitant’s Spouse, if any, that the Spouse consents to the withdrawal from the Account;
 - ii) A statement signed by the Annuitant attesting to the fact that he or she does not have a Spouse; or
 - iii) A statement signed by the Annuitant attesting to the fact that he or she is living separate and apart from his or her Spouse on the date the Annuitant signs the application to make the withdrawal or transfer from the Account.
 - e) “LIF”** means a prescribed retirement savings arrangement, known as a life income fund, that is a registered retirement income fund within the meaning in the Tax Act, and that meets the conditions set out in Schedule 1 or Schedule 1.1 of the Regulation;
 - f) “Life Annuity”** means an immediate or deferred life annuity that meets the requirements of the relevant provisions of the Tax Act and of section 22 of the Regulation, provided that the annuity shall not differentiate on the basis of the sex of the beneficiary unless otherwise permitted under the Regulation;
 - g) “LIRA”** means a prescribed retirement savings arrangement, known as a locked-in retirement account, that is an RSP that meets the conditions set out in Schedule 3 of the Regulation;
 - h) “LRIF”** means a prescribed retirement savings arrangement, known as a locked-in registered retirement income fund within the meaning in the Tax Act, and that meets the conditions set out in Schedule 2 of the Regulation;
 - i) “Regulation”** means *R.R.O. 1990, Regulation 909* adopted pursuant to the Act, as same may be amended from time to time;
 - j) “RSP”** means a retirement saving plan within the meaning of the Tax Act that is registered under that act;
 - k) “Spouse”** shall have the meaning assigned to such term under the Act 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 RSP;

- l) “Tax Act”** means the *Income Tax Act* (Canada) and the regulations adopted thereunder;
 - m) “Transfer”** means the transfer referred to in paragraph A of the Recitals hereto.
 - n) “Fiscal Year”** in connection with this Account means a calendar year terminating on December 31, and will not exceed twelve months;
 - o) “Superintendent”** means the Superintendent of Financial Services appointed under the *Financial Services Commission of Ontario Act, 1997*.
- 2. Locking-in provisions:** 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 Account, shall be used to provide or ensure a pension that would, but for the Transfer or any previous transfers, be required or permitted by the Act. The Account must be purchased using all or part of the amount transferred under clause 42 (1)(b) of the Act or under paragraph 2 of subsection 67.3(2) of the Act, or using all or part of the assets in a LIRA. No money that is not locked-in may be transferred or otherwise held under this Account.
 - 3. Value of the Account:** The value of all assets in the Account owned by the Annuitant when the Annuitant signs the application shall be determined in accordance with the most recent statement about each Account or account given to the Annuitant. Each such statement must be dated within one year of the execution of the application by the Annuitant.

The fair market value of the assets held under the Account as determined by the Trustee in good faith shall be used to calculate the balance of the money and assets held under this Account. The value of the assets in the Account is subject to the division in accordance with the terms of an order under the *Family Law Act* (Ontario), a family arbitration award or a domestic contract. An order under Part I (Family Property) of the *Family Law Act* (Ontario), a family arbitration award or a domestic contract is not effective to the extent that it purports to entitle a Spouse or former Spouse of the Annuitant to the transfer of a lump sum that exceeds 50 per cent of the assets in the Account, determined as of the family law valuation date.
 - 4. Investments:** The money and assets held under this Account shall be invested by the Trustee, either directly or through an Agent in the manner provided by the Declaration. All investments of money or assets held under this Account must comply with the rules for the investment of RSP money contained in the Tax Act and the regulation thereunder.
 - 5. Restrictions:** The money and assets held under this Account may not be assigned, charged, anticipated or given as security, except as required by an order under the Family Law Act, a family arbitration award or by a domestic contract. Any transaction purporting to otherwise assign, charge, anticipate or give the money or assets held under this Account as security is void.
 - 6. Permitted transfers:** The Annuitant may at any time request, in a form deemed satisfactory by the Trustee, the transfer of any or all the assets in the Account:
 - a)** to the pension fund of a pension plan registered under the pension benefits legislation in any Canadian jurisdiction or to a pension plan provided by a government in Canada;
 - b)** to another LIRA;
 - c)** to a LIF that is governed by Schedule 1.1 of the Regulation; or
 - d)** to purchase a Life Annuity that meets the requirements of section 22 of the Regulation;

Such transfer shall be made within a period of 30 days from the receipt of written instructions from the Annuitant in a form deemed satisfactory by the Trustee, or within a reasonable time with respect to the transfer

of assets held as securities whose term of investment extends beyond the 30-day period.

The Trustee may deduct from the property being transferred all amounts to be retained in application of the Tax Act, as applicable, as well as any fees and disbursements to which the Trustee is entitled.

Once the transfer is completed in compliance with all conditions relating thereto, the Trustee and the Agent shall be released from any liability in connection with this Account to the extent of the transfer.

Notwithstanding the above, the Annuitant agrees that Trustee shall never be obliged to refund in advance the investments held under the Account for purposes of transfer and may, at its entire discretion, either (i) delay the requested transfer, or (ii) where such investments consist of identifiable and transferable securities, effect the transfer by the remittance of such securities with the consent of the Annuitant.

7. Conditions for Transfer: Before transferring money from this Account as mentioned in section 6 hereof, the Trustee shall advise the transferee in writing that the amount transferred must be administered in accordance with the Act and this Regulation, and the transferee must agree to administer such amount transferred in accordance with the Act and the Regulation.

8. Required Form of Pension: The annuity described in paragraph 6. d) herein shall not differentiate on the basis of the sex of the beneficiary unless otherwise permitted by the Regulation and must not begin before the earlier of:

- a) the earliest date on which the Annuitant is entitled to receive pension benefits under the Act as a result of termination of employment or termination of membership in any pension plan from which money was transferred into the LIRA; or
- b) the earliest date on which the Annuitant is entitled to receive pension benefits under any pension plan described in clause 8 a) above as a result of termination of employment or termination of membership in the pension plan.

Payments under a Life Annuity described in paragraph 6 d) are subject to division in accordance with the terms of an order under the *Family Law Act* (Ontario), a family arbitration award or a domestic contract. An order under Part I (Family Property) of the *Family Law Act* (Ontario), a family arbitration award or a domestic contract is not effective to the extent that it purports to entitle a Spouse or former Spouse of the Annuitant to a share that exceeds 50 per cent of the payments under a Life Annuity, determined as of the family law valuation date.

Payments under a Life Annuity must begin no earlier than the date on which the Annuitant reaches 55 years of age, if none of the money in the Account used to purchase the Life Annuity is derived directly or indirectly, from a pension benefit provided in respect of any employment of the Annuitant.

9. Permitted withdrawals: All commutation, withdrawal and surrender of asset in the Account in whole or in part, will be void except as permitted by section 49 or 67 of the Act, section 22.2 of the Regulation or this Agreement. For instance, the Trustee is authorized to make a payment or a transfer from the Account when the Annuitant's application meets the following requirements:

- a) **Withdrawal of Small Amount at 55:** Upon application in accordance with section 6 Schedule 3 of the Regulation, the Annuitant may withdraw all of the money in the Account or transfer the assets to an RRSP or RRIF if the following conditions are met when he signs the application:
 - i) the Annuitant is at least 55 years of age;
 - ii) the value of all assets in all LIFs, LRIFs and LIRAs owned by the Annuitant, shall be determined in accordance with the most recent statement about each Account or account given to the Annuitant (each such statement must be dated within one year of the execution of the application by the Annuitant) is less than 40% of the Year's Maximum Pensionable Earnings for the calendar year in which the application is made; and

If assets in the Account consist of identifiable and transferable securities, the Trustee may transfer the securities with the consent of the Annuitant.

- b) **Shortened Life Expectancy Withdrawal:** Upon application in accordance with section 8 of Schedule 3 of the Regulation, the

Annuitant may withdraw all or part of the money in the Account if the following conditions are met:

- i) At the time of execution of the application, the Annuitant has an illness or physical disability that is likely to shorten the Annuitant's life expectancy to less than two years;
 - ii) The application is signed by the Annuitant and accompanied by a statement signed by a physician who is licensed to practice medicine in a jurisdiction in Canada that, in the opinion of the physician, the Annuitant has an illness or physical disability that is likely to shorten the Annuitant's life expectancy to less than two years.
- c) Excess Transfers Withdrawal:** Upon application by the Annuitant to the Trustee in accordance with the following conditions and section 22.2 of the Regulations, the Annuitant may withdraw an amount, calculated by the Trustee on the date of withdrawal, to be not greater than the sum of:
- i) the "Excess Amount", if any, by which the amount transferred under section 42(1)(b) of the Act, directly or indirectly, to this Account from a registered pension plan of which the Annuitant was a member exceeds the amount prescribed for such transfer pursuant to the Tax Act; and
 - ii) any subsequent investment earnings, including any unrealized capital gains or losses, attributable to the Excess Amount; provided that the application is made on a form approved by the Superintendent, signed by the Annuitant, submitted to the Trustee and is accompanied by one of the following documents:
 - (1) a written statement from the administrator of the registered pension plan from which the moneys transferred to the Account originated, setting out the Excess Amount that was transferred; or
 - (2) a written statement from the Canada Revenue Agency setting out the Excess Amount that was transferred into the Account.
- d) Financial Hardship Withdrawal:** The Annuitant may, upon application in accordance with the section 8.1, 8.2, 8.3 or 8.4 of Schedule 3 of the Regulation, withdraw all the money in the Account if the following conditions are met:
- i) The Annuitant, his or her spouse, or a dependant has incurred or will incur medical expenses relating to an illness or physical disability of any of them.
The application is signed by the Annuitant and accompanied by the following documents:
 - 1) A statement signed by a physician or dentist, as applicable, indicating that, in his or her opinion, the expenses claimed are or were necessary for the person's treatment. The physician or dentist must be licensed to practise medicine or dentistry, as the case may be, in jurisdiction in Canada.
 - 2) A copy of the receipts or the estimate to account for the total amount of medical expenses being claimed.

Only one application may be made under section 8.1 of Schedule 3 of the Regulation during a calendar year in respect of a particular person. The application must specify the amount to be withdrawn from the Account. The minimum amount that may be withdrawn from the Account with respect to an application is \$500 and the maximum amount is the lesser of «X» and «G» where,

«X» is 50 per cent of the Year's Maximum Pensionable Earnings for the year in which the application is signed, and

«G» is the sum of the amount of the person's medical expenses that have been incurred and an estimate of the total amount of the person's medical expenses for the 12 months after the date on which the application is signed.

«dependant» a person who was dependent on the Annuitant or the Annuitant's spouse for support at some time during the calendar year in which the application is signed or during the previous calendar year.

«medical expenses» means (a) expenses for goods and services of a medical or dental nature; and (b) expenses incurred or to be incurred for renovations or alterations to the Annuitant or the dependant's principal residence and any additional expenses incurred in the construction of a principal residence made

necessary by the illness or physical disability of the Annuitant, his or her spouse or a dependant.

ii) The Annuitant or his or her spouse has received a written demand and the Annuitant could face eviction if the debt or amount in default described hereunder remains unpaid:

- 1) arrears in the payment of a rent on the Annuitant's principal residence;
- 2) a default on a debt that is secured against the Annuitant's principal residence.

Only one application may be made under section 8.2 of Schedule 3 of the Regulation during a calendar year. The application signed by the Annuitant must be accompanied by a copy of the written demand as the case may be. The application must specify the amount to be withdrawn from the Account. The minimum amount that may be withdrawn from the Account with respect to an application is \$500 and the maximum amount is the lesser of «X» and «H» where,

«X» is 50 per cent of the Year's Maximum Pensionable Earnings for the year in which the application is signed, and

«H» is, with respect to arrears in the payment of rent, the sum of the total amount of arrears of rent and the total amount of rent payable for a period of 12 months or, with respect to a default on a secured debt, the sum of the total amount of the payments that are in default and the total amount of payments due and interest payable on the debt for the 12 months after the date on which the application is signed.

«principal residence» means, a premises, including a non-seasonal mobile home, that is occupied by an individual as his or her primary place of residence.

iii) The Annuitant or his or her spouse requires money to pay the first and last months' rent to obtain a principal residence for the Annuitant.

Only one application may be made under section 8.3 of Schedule 3 of the Regulation during a calendar year. The application signed by the Annuitant must be accompanied by a copy of the rental agreement, if available. The application must specify the amount to be withdrawn from the Account. The minimum amount that may be withdrawn from the Account with respect to an application is \$500 and the maximum amount is the lesser of «J» and «K» where,

«J» is 5 per cent of the Year's Maximum Pensionable Earnings for the year in which the application is signed, and

«K» is the amount required for the first and last months' rent.

«principal residence» means a premises, including a non-seasonal mobile home, that is intended to be occupied by an individual as his or her primary place of residence.

iv) The Annuitant's expected total income from all sources, before taxes, for the 12 months after the date on which the application is signed is $66 \frac{2}{3}$ per cent or less of the Year's Maximum Pensionable Earnings for the year in which the application is signed.

The application signed by the Annuitant must be accompanied by a statement, signed by the Annuitant, setting out the amount of his or her expected total income from all sources, before taxes, for the 12 months after the date on which the application is signed.

Only one application may be made under section 8.4 of Schedule 3 of the Regulation during a calendar year. The application must specify the amount to be withdrawn from the Account. The minimum amount that may be withdrawn from the Account with respect to an application is \$500 and the maximum amount is calculated using the formula «X» - «L» in which:

«X» is 50 per cent of the Year's Maximum Pensionable Earnings for the year in which the application is signed, and

«L» is 75 per cent of the Annuitant's expected total income from all sources, before taxes, for the 12 months after the date on which the application is signed.

e) **Non-resident withdrawal:** The Annuitant may, upon application in accordance with the section 7 of Schedule 3 of the Regulation, withdraw all the money in the Account if the following conditions are met:

- i) at the time of execution of the application, the Annuitant is a non-resident of Canada as determined by the Canada Revenue Agency for the purposes of the Tax Act; and
- ii) the application is made at least 24 months after the Annuitant's date of departure from Canada;
- iii) the application is signed by the Annuitant and accompanied by a written determination from the Canada Revenue Agency that the Annuitant is a non-resident for the purposes of the Tax Act.

10. Conditions for withdrawal: All applications described under section 9 herein, to withdraw money or transfer assets from the Account, must be written on a form approved by the Superintendent. The Trustee shall make the payment or transfer within 30 days after receiving the completed application and the accompanying documents required as the case may be.

The Trustee is entitled to rely upon the information provided by the Annuitant in the application to withdraw money or transfer assets from the Account and gives the Annuitant a receipt for all documents received, stating the date on which it was received.

All applications, other than a withdrawal mentioned in paragraph 9 c), must be accompanied by one of the following documents:

- a) a Declaration about a Spouse; or
- b) a statement signed by the Annuitant attesting to the fact that none of the money in the Account is derived, directly or indirectly, from a pension benefit provided in respect of any employment of the Annuitant.

For all applications made under section 9d) herein, when a document is required, it is a nullity if signed or dated more than 12 months before the Trustee receives it. All such applications must also be accompanied by a statement, signed by the Annuitant, that he or she understands that any money released under this section will not be exempt under section 66 of the Act from execution, seizure or attachment.

11. Death of the Annuitant: On the death of the Annuitant, the Annuitant's spouse or if there is none or if the spouse is otherwise disentitled, the Annuitant's named beneficiary or, if there is none, the Annuitant's estate is entitled to receive a benefit equal to the value of the assets in the Account. The benefit described may be transferred to an RRSP or an RRIF in accordance with the Tax Act.

The Annuitant's spouse is not entitled to receive the value of the assets in the Account unless the Annuitant was a member or former member of a pension plan from which assets were transferred directly or indirectly to purchase the Account. The Annuitant's spouse living separate and apart from the Annuitant on the date of the Annuitant's death is not entitled to receive the value of the assets in the Account.

The Annuitant's spouse may waive his or her entitlement to receive the survivor's benefit above mentioned from the Account by delivering to the Trustee a written waiver in a form approved by the Superintendent. The Annuitant's spouse who has delivered a waiver may cancel it by delivering a written and signed notice of cancellation to the Trustee before the date of the death of the Annuitant.

No such payment shall be made unless and until the Trustee receives releases and other documents as it may reasonably require.

The value of the assets in the Account includes all accumulated investment earnings, including any unrealized capital gains and losses, of the Account from the date of death until the date of payment.

12. Amendments: The Trustee must send a notice in writing to the Annuitant's latest address as set out in the records of the Trustee, indicating the nature of an amendment to this Agreement within 90 days of the effective date of the proposed amendment.

An amendment to this Account may not be made if it would result in a reduction of the Annuitant's rights hereunder, unless such amendment is necessary to conform with any law and the Annuitant is entitled to transfer the assets in the Account under the terms of this Supplemental Agreement existing before the amendment is made. The Annuitant has 90 days after the notice is given to transfer all or part of the assets in the Account.

13. Statements: The Trustee shall provide to the Annuitant, at the beginning of each Fiscal Year of the Account, a statement containing the following information:

- a) The sums deposited, any accumulated investment earnings including any unrealized capital gains or losses, the payments made out of the Account, the withdrawals taken out of the Account and the fees charged against it during the previous Fiscal Year;
- b) The value of the assets in the Account as of the beginning of the Fiscal Year;

If the assets in the Account are transferred pursuant to Section 6 hereof, the Trustee shall provide the information described in this Section 13 determined as of the date of the transfer. Upon the death of the Annuitant, Trustee shall provide to the person entitled to receive the death benefits under Section 11 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 Trustee 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 into this Agreement and, in the event that such prohibition does exist, the Trustee shall not be liable for the consequences to the Annuitant of executing this Agreement nor for anything done by the Trustee 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 Trustee in respect of pension benefits accrued before 1987.

15. Governing law: This Agreement shall be governed by the laws of the province of Ontario.