

SUPPLEMENTARY AGREEMENT ESTABLISHING A LOCKED-IN RETIREMENT ACCOUNT UNDER THE NATCAN TRUST COMPANY RETIREMENT SAVINGS PLAN

RECITALS:

- A. The Annuitant is entitled to effect a transfer to the Account of assets 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 retirement savings plan with the Trustee Natcan Trust Company through the Agent National Bank of Canada (the “**Retirement Savings Plan**”), and wishes same to receive the Transfer;
- C. The Annuitant has duly completed and signed Part I of **Form 3.2** (attached herein) **AND** the pension plan administrator or financial institution effecting the Transfer has duly completed and signed Part II of **Form 3.2**;
- 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 will 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:** All capitalized terms not defined in this Agreement have the same meaning as in the Declaration, the Act or the Regulation. The terms below have the following meaning:
 - a) “**Account**” refers to the Retirement Savings Plan established by the Declaration, as supplemented and modified by this Agreement establishing a LIRA that will hold the locked-in money and assets that are the subject of the Transfer;
 - b) “**Act**” means the *Pension Benefits Act* (New Brunswick);
 - c) “**Declaration**” means the declaration of trust governing the Retirement Savings Plan;
 - d) “**LIF**” refers to a life income fund that is a registered retirement income fund, within the meaning of the Tax Act, that meets the requirements set out in section 22 of the Regulation;
 - e) “**Life Annuity**” means a life or deferred life annuity contract that conforms with section 23 of the Regulation, with the Act and with paragraph 60(l) of the Tax Act;
 - f) “**LIRA**” refers to a locked-in retirement account that is an RSP that meets the requirements set out in section 21 of the Regulation;
 - g) “**Regulation**” means *Regulation 91-195* adopted pursuant to the Act;
 - h) “**RSP**” means a retirement savings plan within the meaning of the Tax Act that is registered under that Act;
 - i) “**Spouse**” has 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 the provisions of the Tax Act concerning RSPs;
 - j) “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations adopted thereunder;
 - k) “**Transfer**” means the transfer referred to in paragraph A of the Recitals hereto.
- 2. **Locked-in assets:** Subject to the Act and the Regulation, all assets that are the subject of the Transfer, including investment earnings thereon and gains realized thereof, but excluding fees, charges, expenses and taxes charged to the Account, are locked in. No assets that are not locked-in may be transferred to or otherwise held under the Account.
- 3. **Value of the Account:** The fair market value of the assets held under the Account, as determined by the Trustee in good faith, will be used to establish the balance of the assets in the Account at any particular time, including on the death of the Annuitant or on a transfer of assets from the Account. Any such determination by the Trustee will be conclusive for all purposes hereof.

The commuted value of the Annuitant’s benefits will be determined in accordance with the Act and the Regulation if it is divided under section 44 of the Act.
- 4. **Investments:** The assets held under the Account will be invested by the Trustee in the manner provided in the Declaration. All investments must comply with the rules set out in the Tax Act regarding investments in an RSP.
- 5. **Restrictions:** No assets transferred, including interest, may be assigned, charged, anticipated, given as security or subjected to execution, seizure, attachment or other process of law except under section 44 or subsection 57(6) of the Act.

No assets transferred, including interest, may be commuted or surrendered during the Annuitant’s lifetime except under paragraph 9 a) and 9 b) of this Agreement or under section 44 or subsection 57(6) of the Act.

A transaction in contravention of this section is void.
- 6. **Contributions:** The only assets that may be transferred into the Account are those originating, directly or indirectly, from:
 - a) the fund of a pension plan that conforms with the Act and the Regulation or with similar legislation in another jurisdiction, if the assets are being transferred under section 36 of the Act or under a similar provision in legislation in another jurisdiction, and the Tax Act;
 - b) another LIRA;
 - c) a LIF; or
 - d) a Life Annuity.
- 7. **Required form of pension:** Except as provided for in the Regulation, the balance in the Account, in whole or in part, may be converted at any time only into a Life Annuity.

No assets, including interest, transferred to this Account may subsequently be used to purchase a Life Annuity that differentiates on the basis of the Annuitant’s sex, unless the commuted value of the deferred pension transferred from the plan into the Account was determined on transfer on the basis of such a distinction while the Annuitant was a member of the plan.

If the Annuitant has a Spouse at the time the pension payments begin, the pension provided must be in the form of a joint and survivor pension as provided under section 41 of the Act unless a waiver that complies with the Act has been delivered to the Trustee.
- 8. **Death of the Annuitant:** If the Annuitant dies before purchasing a Life Annuity, the balance of the Account will be paid:
 - a) to the Annuitant’s Spouse, unless the Spouse waives on Form 3.02 all rights that he or she may have in the Account under the Act, the Regulation or this Agreement;
 - b) to a beneficiary on death designated by the Annuitant, if the Annuitant has a Spouse who has waived all rights as mentioned in paragraph a) above or if the Annuitant does not have a Spouse; or
 - c) to the estate of the Annuitant, if the Annuitant has a Spouse who has waived all rights as mentioned in paragraph a) above or, if the Annuitant does not have a Spouse, if he or she has not designated a beneficiary on death.

No such payment will be made unless and until the Trustee receives releases and other documents as it may reasonably require. Such payment is subject to subsection 60(l) of the Tax Act.
- 9. **Permitted withdrawals:** A withdrawal, commutation or surrender of assets, in whole or in part, held under the Account is not permitted and will be void, except in the following circumstances:
 - a) **Shortened life expectancy withdrawal.** The Annuitant may withdraw, in whole or in part, the balance of the Account upon application to the Trustee under the following circumstances and conditions:
 - i) a physician certifies in writing to the Trustee that the Annuitant suffers from a significant physical or mental disability that considerably reduces life expectancy; and
 - ii) if he or she has a Spouse, the Annuitant delivers to the Trustee a waiver completed by the Spouse in the prescribed form (Form 3.01).
 - b) **Excess amount.** The Annuitant may, upon application to the Trustee, withdraw an amount from the Account under the following circumstances and conditions:
 - i) the amount is withdrawn to reduce the amount of tax that would otherwise be payable pursuant to Part X.1 of the Tax Act by the Annuitant; and
 - ii) the Trustee, notwithstanding section 20 of the Regulation, establishes a sub-account, that is not an RSP, of the LIRA, in which the Annuitant deposits the amount withdrawn, less any amount required to be withheld by the Trustee under the Tax Act.
 - c) **Small benefit.** The Annuitant may, upon application to the Trustee, withdraw the balance of the Account if the following conditions are met:
 - i) the Annuitant requests that the balance be withdrawn by delivering the applicable prescribed form(s) duly completed to the Trustee (Forms 3.6 and/or 3.7);

- ii) the total assets held by the Annuitant in all LIRAs, LIFs, and Life Annuities would be commutable upon termination of employment if they were held in a pension fund under a pension plan that permitted payment of the commuted value of the pension benefit in accordance with section 34 of the Act;
 - iii) the total of the pension adjustments reported to the Annuitant by the Canada Revenue Agency for the two taxation years immediately preceding the request for withdrawal is zero; and
 - iv) the Trustee is satisfied, based upon the information provided in Forms 3.6 and 3.7 and any other information that it has requested, that the reported present distribution of assets transferred from pension funds connected with employment in the Province is consistent with the amounts reported to have been transferred from such pension funds.
- d) Non-resident.** The Annuitant may withdraw the balance of the Account if:
- i) he or she and his or her Spouse, if any, are not Canadian citizens;
 - ii) he or she and his or her Spouse, if any, are not resident in Canada for the purposes of the Tax Act; and
 - iii) his or her Spouse, if any, waives, in the prescribed form (Form 3.5), any rights that he or she may have in the account under the Act, the Regulation or this Agreement.

The Trustee may rely upon the information provided by the Annuitant in any application made pursuant to this section and such application constitutes sufficient authorization to withdraw assets from the Account. The Trustee will make the payment within a reasonable time of receipt of the completed forms and/or required documents.

- 10. Permitted transfers:** The Annuitant may at any time after the expiration of the term agreed to for the investments:
- a)** transfer before a conversion referred to in section 7 of this Agreement, the balance in the Account, in whole or in part:
 - i) to the pension fund of a pension plan that conforms with the Act and the Regulation or with similar legislation in another jurisdiction;
 - ii) to another LIRA;
 - iii) to a LIF; or
 - b)** convert the balance of the Account, in whole or in part, into a Life Annuity.

The transfer under paragraph i) above to a pension plan that is not registered in the Province is only possible if the pension plan is registered for persons employed in a designated jurisdiction and the Annuitant is employed in that jurisdiction by an employer who is making contributions on his or her behalf to the pension fund that is to receive the assets to be transferred.

The Annuitant’s request must be in a form deemed satisfactory by the Trustee. Subsections 21(8.1) to 21(11) of the Regulation and Form 3.2 apply to any transfer hereunder, with necessary modifications.

The transfer pursuant to paragraphs 10 a) and 12 a) must be effected within 30 days from the Annuitant’s application. A transfer pursuant to paragraph 10 b) must be effected within a reasonable time. Once a transfer is completed in compliance with all conditions relating thereto, the Trustee is released from any liability in this regard.

Notwithstanding the above, the Trustee may never be obliged to refund in advance the investments held under the Account and may, at its entire discretion, delay the requested transfer accordingly. A transfer pursuant to paragraphs 10 a) and 12 a) may, at the option of the Trustee, be effected by the remittance to the Annuitant of the investment securities held in the Account.

- 11. Marriage breakdown:** Sections 27 to 33 of the Regulation apply with the necessary modifications to the division of the assets in the Account on the breakdown of marriage or common-law partnership.
- 12. Amendments:** An amendment to this Agreement may not be made:
 - a)** that would result in a reduction of the benefits arising from the Account unless the Annuitant is entitled, before the effective date of the amendment, to transfer the balance in the Account in accordance with Section 10 hereof and a notice is delivered to him or her at least 90 days before such date, describing the amendment and the date on which the Annuitant may exercise the entitlement to transfer;
 - b)** unless the Agreement as amended remains in conformity with the Act and the Regulation; or
 - c)** except to bring it into conformity with requirements under an Act of the Legislature or other legislation in another jurisdiction.
- 13. Representations and warranties of the Annuitant:** The Annuitant represents and warrants to the Trustee the following:
 - a)** The assets transferred herein pursuant to the Act and the Regulation are locked-in assets resulting directly or indirectly from the commuted value of the Annuitant’s pension entitlements;
 - b)** 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 is not liable for the consequences to the Annuitant of executing this Agreement nor for anything done in accordance with the provisions hereof; and
 - c)** The commuted value of the pension benefits that were transferred herein was not determined on a basis that differentiated on the basis of sex, unless otherwise indicated on Form 3.2.
- 14. Governing law:** This Agreement is to be governed and construed by the laws applicable in the Province of New Brunswick.
- 15. Effective date:** This Agreement takes effect on the date of transfer of assets into the Account.