

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

### RECITALS

- A. The Annuitant is entitled to transfer to the Account assets derived, directly or indirectly, from a pension plan governed by the provisions of the Act, or any other source acceptable under the Act (the **"Transfer"**);
- B. The Annuitant has established a retirement savings plan with the Trustee Natcan Trust Company through the Agent National Bank of Canada and wishes same to receive the Transfer;
- C. The parties now wish to supplement the declaration of trust governing the Natcan Trust Company retirement savings plan (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.** Terms not defined herein have the same meaning as in the Declaration, the Act, the Regulation or the Directive. The terms below have the following meaning:
  - a) **"Account"** refers to the retirement savings plan governed by the Declaration, as supplemented and modified by this Agreement establishing a LIRA that will hold the locked-in assets that are the subject of the Transfer;
  - b) **"Act"** means the *Pension Benefits Act, 1997* (Newfoundland and Labrador);
  - c) **"Directive"** means Directive no. 4 entitled "Locked-In Retirement Account Requirements". This Directive and the other directives mentioned in this Agreement are issued under the Act;
  - d) **"LIF"** refers to a life income fund, namely a registered retirement income fund within the meaning of the Tax Act that meets the requirements set out in Directive no. 5 and in the Regulation;
  - e) **"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 the Directive and Directive no. 6, that will not commence before the Annuitant attains the age of 55 years, or, if the Annuitant provides evidence to the satisfaction of the Trustee that the plan or any of the plans from which the assets were transferred provided for payment of the pension at an earlier age, that earlier age;
  - f) **"LIRA"** refers to a locked-in retirement account, namely an RSP that meets the requirements set out in the Directive and the Regulation;
  - g) **"LRIF"** refers to a locked-in retirement income fund, namely a registered retirement income fund within the meaning of the Tax Act that meets the requirements set out in Directive no. 17 and in the Regulation;
  - h) **"Regulation"** means *Newfoundland and Labrador Regulation 114/96* adopted pursuant to the Act;
  - i) **"RSP"** means a retirement savings plan within the meaning of the Tax Act that is registered under that Act;
  - j) **"Spouse"** has the same meaning as that given to the term "principal beneficiary" 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 the provisions of the Tax Act respecting an RSP;
  - k) **"Tax Act"** means the *Income Tax Act* (Canada) and the regulations adopted thereunder;
2. **Locked-in Assets.** Subject to the Act, 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, will be used to provide a retirement income to the Annuitant. 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 Account, as determined by the Trustee in good faith, will be used to establish the balance of the assets in the Account for any particular time, including on the death of the Annuitant, the establishment of a Life Annuity Contract or a transfer of assets from the Account. Any such determination by the Trustee is conclusive for all purposes hereof.
4. **Investments.** The assets held under the Account will be invested in the manner provided in the Declaration. They 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 must comply with the rules set out in the Tax Act regarding investments in an RSP.
5. **Restrictions.** No assets in the Account, including interest, may be assigned, charged, anticipated or given as security except as permitted by section 37 of the Regulation. Any transaction attempting to contravene this section is void.
6. **Permitted Transfers:** Assets in the Account, including all investment earnings, will be used to provide a pension benefit and will not be transferred except:
  - a) before maturity, to the pension fund of a registered pension plan;
  - b) before maturity, to another LIRA;
  - c) to purchase a Life Annuity Contract;
  - d) to a LIF;
  - e) to a LRIF.

To effect such a transfer, the Annuitant must make a request, in a form deemed satisfactory by the Trustee.

Notwithstanding the above, the Trustee may never be obliged, unless otherwise prescribed by law, to refund in advance the investments whose term has not expired and may, at its entire discretion, delay the requested transfer accordingly. If the assets in the Account consist of identifiable and transferable securities, the Trustee may transfer them with the consent of the Annuitant.
7. **Conditions for Transfer:** Before transferring assets from the Account as mentioned in section 6 hereof, the Trustee must ensure that the transfer is authorized under the Act and that the transferee has been advised in writing that the assets transferred are to be administered as a pension benefit under the Act and has agreed to abide by such condition.
8. **Permitted Withdrawals:** Except as provided in Part VI of the Act, a withdrawal, commutation or surrender of assets held under the Account, in whole or in part, is not permitted and will be void, except in the following circumstances:
  - a) **Shortened Life Expectancy Withdrawal.** The Annuitant may withdraw all or part of the assets in the Account as a lump sum or series of payments, in accordance with section 3 of the Directive, if the following conditions are met:
    - i) 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 his or her Spouse has waived the joint and survivor pension entitlement in the form and manner provided by the Superintendent.

**b) Withdrawal of Small Amount.** The Annuitant may withdraw in a lump sum payment equal to the value of the entire Account on application to the Trustee, in accordance with sections 4 and 5 of the Directive, if, at the time the Annuitant signs the application, the following conditions are met:

- i) the value of all assets in all LIFs, LRIFs and LIRAs owned by him or her and governed by Newfoundland and Labrador pension benefits legislation is less than 10 percent of the year's maximum pensionable earnings under the Canada Pension Plan (YMPE) for that calendar year; or
- ii) he or she has reached the earlier of age 55 or the earliest date on which he or she would have been entitled to receive a pension benefit under the plan from which assets were transferred; and the value of all assets in all LIFs, LRIFs and LIRAs owned by him or her and governed by Newfoundland and Labrador pension benefits legislation is less than 40% of the YMPE for that calendar year.

Such application must be made on a form approved by the Superintendent and if the Annuitant is a former member of a pension plan, be accompanied by a waiver of his or her Spouse of joint and survivor pension entitlement, in the form and manner provided by the Superintendent.

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.

**9. Joint Pension:** The pension benefit payable to the Annuitant who is a former member and who has a Spouse at the date the pension commences shall be a joint and survivor pension benefit with at least 60% continuing to be payable to the survivor for life after the death of either unless the Spouse waives the entitlement in a form and manner set out in a form provided by the Superintendent.

**10. Death of the Annuitant:** On the death of the Annuitant who is a former member, the surviving Spouse, or where there is no surviving Spouse or the surviving Spouse has waived entitlement in the form and manner required by 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 Account. Where the Annuitant is not a former member, a lump sum payment of the full value of the Account is paid to the designated beneficiary or, where there is

no such beneficiary, to the Annuitant's estate. Such payment is subject to subsection 60(l) of the Tax Act.

**11. 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.

**12. Differentiation on the Basis of Sex:** Where the commuted value of a pension benefit which was transferred to the Account was determined in a manner that did not differentiate on the basis of sex, the Life Annuity Contract purchased with the assets in the Account may not make such a differentiation.

**13. Irregular Payments:** If assets are paid out contrary to the Act or the Directive, the Trustee will provide or ensure the provision of a pension benefit equal in value to the pension benefit that would have been provided had the assets not been paid out.

**14. Amendment:** The Trustee may amend this Agreement provided that it remains in accordance with the Act and the Tax Act.

**15. Representations and Warranties of the Annuitant:** The Annuitant represents and warrants the following to the Trustee:

- a) The assets transferred herein pursuant to the Act are locked-in assets resulting directly or indirectly from the commuted value of the Annuitant's pension benefits;
- 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 was not determined in a manner that differentiates on the basis of sex, unless otherwise indicated in writing to the Trustee.

**16. Governing law:** This Agreement is to be governed by and construed in accordance with the laws applicable in the Province of Newfoundland and Labrador.

**17. Effective Date:** This Agreement takes effect on the date of transfer of assets into the Account.