

(Quebec LIF)

LIFE INCOME FUND FOR QUEBEC

**SUPPLEMENTARY AGREEMENT TO THE DECLARATION OF TRUST, ESTABLISHING A LIFE INCOME FUND UNDER THE NATIONAL BANK SECURITIES INC. MUTUAL FUNDS 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, 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 Securities Inc. Mutual Funds Retirement Income Fund 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 *Supplemental Pension Plans Act* of Quebec, as same may be amended from time to time;
  - b) “**Declaration**” means the Declaration of Trust of the National Bank Securities Inc. Mutual Funds Retirement Income Fund;
  - c) “**Fiscal year**” [19(1)] in connection with this Fund means a calendar year terminating on December 31, and will not exceed 12 months;
  - d) “**Fund**” refers to the National Bank Securities Inc. Mutual Funds Retirement Income Fund established by the Declaration executed between the Annuitant, National Bank Securities Inc. and the Trustee, as supplemented and modified by this Agreement establishing a LIF;
  - e) “**LIF**” means a life income fund, that is a RIF and that meets the conditions set out in section 18 and following of the Regulation;
  - f) “**LIRA**” means a locked-in retirement account, that is a registered retirement savings plan (within the meaning in the Tax Act) that meets the requirements of section 29 of the Regulation;
  - g) “**Maximum Pensionable Earnings**” has the same meaning as in the *Act respecting the Quebec Pension Plan* (Quebec);

- h) “Reference rate” [21]** means the greater of:
- i) the month-end nominal rate of interest earned on long-term bonds issued by the Government of Canada for the month of November preceding the beginning of the Fiscal year, as compiled by *Statistics Canada* and published in the Bank of Canada Review under identification number B-14013 in the CANSIM system, by applying successively to that rate the following adjustments:
    - (1) an increase of 0.5%;
    - (2) the conversion of the increased rate, based on interest compounded semi-annually, to an effective annual rate of interest;
    - (3) the rounding of the effective interest rate to the nearest multiple of 0.5%; and
  - ii) a rate of 6%;
- i) “Regulation”** means the *Regulation respecting Supplemental Pension Plans* adopted pursuant to the Act, as same may be amended from time to time;
- j) “RIF”** means a retirement income fund 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 RIF;
- 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.
- 2. Purpose of Fund [18]:** Except as permitted by the Act and the Regulation, 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 provide the Annuitant with an income of which the amount may vary annually.
- 3. Contributions [19.01]:** The only amounts that may be transferred into the Fund are amounts coming, directly or indirectly, from:
- a) a pension plan subject to the Act;
  - b) a supplemental pension plan governed by an act emanating from a legislative authority other than the Parliament of Quebec and granting entitlement to a deferred pension;
  - c) a supplemental pension plan established by an act emanating from the Parliament of Quebec or from another legislative authority;
  - d) another LIF; or

- e) an annuity contract referred to in section 30 of the Regulation.

The sums that are the object of the Transfer to the Fund are deemed to come in their entirety from a LIF of the Annuitant, unless the Annuitant notifies the Trustee a declaration in conformity with the one prescribed in schedule 0.9 (age 54 and over) or 0.9.1 (under age 54), as the situation requires **[22.2]**.

4. **Payments:** Except as permitted by the law, payments to the Annuitant hereunder shall be determined under section 7 of the Declaration and shall comply with the following conditions:

a) **Annual Payments [19(2)].** The amount of the income paid to the Annuitant during a Fiscal year must (subject to the upper limits referred to in Paragraph 4.c) below and the lower limit referred to in Paragraph 4.b) below) be set by the Annuitant each year by notifying the Trustee of the amount no later than January 1 of such Fiscal year. Such notice expires on December 31 of such Fiscal year. If the Annuitant does not thereby notify the Trustee, the Annuitant will be deemed to have decided to receive the Minimum Amount with respect to such year and the Trustee will thereby pay the Minimum Amount out of the Fund in such year. For greater certainty, the Trustee does not agree to any interval of more than a year.

b) **Minimum Payment [20.2].** The amount of income paid during a Fiscal year of the Fund may not be less than the minimum amount prescribed by the Tax Act, determined on the basis of the Annuitant's age or on the basis of the age of the Annuitant's Spouse where the Spouse is younger than the Annuitant.

c) **Maximum Payment [20.1].** The amount of income paid during a Fiscal year of the Fund may not exceed the amount "M" in the following formula:

$$A + E = M$$

where

"A" represents the maximum temporary income for the Fiscal year determined in accordance with Paragraphs 5.b) or 6.c) hereof or, if no amount was determined, the figure zero;

"E" represents the maximum life income determined in accordance with Paragraph 4.d) below.

d) **Maximum Life Income [20]:** The maximum amount of the life income for a Fiscal year of the Fund is equal to the amount "E" (which may not be less than zero) in the following formula:

$$F \times C - \frac{A}{D} = E$$

where

"F" represents the factor provided for in schedule 0.6 of the Regulation with respect to the Reference rate for the year covered by the Fiscal year and the Annuitant's age at the end of the preceding year;

“C” represents the balance of the Fund at the beginning of the Fiscal year, increased by any sums transferred to the Fund after that date and reduced by any sums originating directly or not during the same year from a LIF of the Annuitant;

“A” represents the maximum temporary income for the Fiscal year determined in accordance with Paragraphs 5.b) or 6.c) below, or, if no amount was determined, the figure zero;

“D” represents the factor provided for in schedule 0.7 of the Regulation with respect to the Annuitant's age at the end of the year preceding the one covered by the Fiscal year.

## 5. Temporary Income Payments (age 54-64):

a) **Entitlement [19.1].** The Annuitant is entitled to the payment of a temporary income that the Annuitant determines if the following requirements are met:

- i) The Annuitant makes an application to the Trustee to that effect, accompanied with a declaration in conformity with the one prescribed in schedule 0.4 of the Regulation;
- ii) The Annuitant is at least 54 years of age but under 65 years at the end of the year preceding the application.

If the payment of a portion of the income is made in the form of a transfer to a retirement savings instrument of which the balance is not to be converted to a life annuity, such portion may not exceed the upper limit referred to in Paragraph 4.d) hereof, determined by assuming that the Annuitant is not entitled to payment of a temporary pension. In addition, the temporary income may not be paid after the end of the year in which the Annuitant reaches 65 years of age.

b) **Maximum Temporary Income [20.4].** An Annuitant who is entitled to payment of the temporary income referred to in this Paragraph 5.a) hereof may determine, for each Fiscal year of the Fund, a maximum temporary income that may not exceed the lesser of the following amounts:

- i) the reference temporary income determined in accordance with Paragraph 6.b) hereof;
- ii) the amount “X” in the following formula:

$$G - T = X$$

where

“G” is equal to 40% of the Maximum Pensionable Earnings determined, for the year covered by the Fiscal year, pursuant to the *Act respecting the Quebec Pension plan*;

“T” represents the sum of the following amounts:

- (1) the total temporary income that the Annuitant must receive during the year covered by the Fiscal year under a pension plan subject to or established by law or under a contract creating a

pension of which the capital comes directly or not from such a plan;

- (2) the total of the amounts that the Annuitant has determined or that the Annuitant must determine for his other LIF, in the form of a maximum temporary income for the current Fiscal year.

However, in the event that the reference temporary income determined in accordance with Paragraph 6.b) hereof is less than the amount "X" referred to above, where the Annuitant provides to the Trustee a declaration in conformity with the one prescribed in schedule 0.8 of the Regulation, the Annuitant may determine, as the maximum temporary income, an amount that does not exceed the lesser of the following amounts:

- i) the amount "X" referred to above;
- ii) the balance of the Fund at the beginning of the Fiscal year, increased by any sums transferred to the Fund and any income earned by the Fund after that date and reduced by any sums originating directly or not during the same year from a LIF of the Annuitant.

The Annuitant may, at any time before the end of the Fiscal year, determine a new, increased, maximum temporary income for the Fiscal year. In such event, the Annuitant shall send to the Trustee declarations in conformity with the ones prescribed in schedules 0.4 and 0.8 of the Regulation.

## 6. Temporary Income Payments (prior to age 54)

- a) **Entitlement [19.2].** The Annuitant may, during a Fiscal year of the Fund, receive upon application by the Annuitant to the Trustee, the balance of the Fund, in whole or in part, in the form of a temporary income payable in monthly payments, none of which may exceed 1/12 of the difference between the following amounts:

- (1) 40% of the Maximum Pensionable Earnings determined, for the year in which the payment is made, pursuant to the *Act respecting the Quebec Pension Plan*;
- (2) 75% of the Annuitant's income for the 12 months that follow, excluding the income provided for in this paragraph.

provided that the following conditions are met:

- i) the income of the Annuitant for the 12 months that follow, excluding the income provided for in this Paragraph 6, does not exceed 40% of the Maximum Pensionable Earnings determined, for the year in which the payment is made, pursuant to the *Act respecting the Quebec Pension Plan*;
- ii) the Annuitant makes an application to the Trustee to that effect, accompanied by a declaration in conformity to the one prescribed in schedule 0.5 of the Regulation and his written undertaking to request a suspension of payments as soon as his income, excluding the income provided for in this Paragraph 6, reaches 40% of the Maximum Pensionable Earnings determined, for the year in which the payment is made, pursuant to the *Act respecting the Quebec Pension Plan*;

- iii) the Annuitant was less than 54 years of age at the end of the year that precedes his application.

The income provided for in this Paragraph 6 may not be paid to the Annuitant where the Annuitant has requested a suspension of payments nor after the end of the year in which the Annuitant reaches 54 years of age.

The Annuitant who is entitled to receive income referred to in this Paragraph 6 and who is a member or a Spouse who has become entitled to a pension under a pension plan, may, for the purposes of replacing such pension by a temporary income, apply once a year for the transfer from the pension plan to the Fund of an amount equal to the lesser of the following amounts:

- (1) the additional amount required for the balance of the Fund to allow, until the end of the year, the payment of the monthly payments provided for in the first paragraph of this Paragraph 6;
- (2) the value of his benefits under the plan.

Where a sum is so transferred from a pension plan to the Fund, sections 15.1 to 15.3 of the Regulation shall apply, adapted as required, with respect to the allocation of benefits and the determination of the residual benefits of the member or Spouse in the pension plan [22.1].

- b) **Reference Temporary Income [20.3]:** Where the purchaser of a life income fund established by a contract that provides for payment of a temporary income was at least 54 years of age but less than 65 years of age at the end of the year preceding the one covered by a fiscal year of the fund, the Trustee will establish a reference temporary income the amount of which shall be equal to the lesser of the following amounts:

- i) 40% of the Maximum Pensionable Earnings determined, for the year covered by the Fiscal year, pursuant to the *Act respecting the Quebec Pension Plan*;
- ii) the amount "R" in the following formula:

$$F \times C \times D = R$$

where

"F" represents the factor provided for in schedule 0.6 of the Regulation with respect to the Reference rate for the year covered by the Fiscal year and the Annuitant's age at the end of the preceding year;

"C" represents the balance of the Fund at the beginning of the Fiscal year, increased by any sums transferred to the Fund after that date and reduced by any sums originating directly or not during the same year from a LIF of the Annuitant;

"D" represents the factor provided for in schedule 0.7 of the Regulation with respect to the Annuitant's age at the end of the year preceding the one covered by the Fiscal year.

- c) Maximum Temporary Income [20.5].** The Trustee shall determine the maximum temporary income for the Fiscal year of the Fund (which may not be less than zero) following presentation of an application in accordance with Paragraph 6 hereof. The said income shall be equal to the product of multiplying the maximum monthly payment set in accordance with Paragraph 6 hereof by the number of months remaining in the year as of the first day of the month of the application or, where the Annuitant is entitled, for that month, to a temporary income by reason of a prior application, as of the first day of the following month; the product is increased where necessary by any income provided for in Paragraph 6 hereof and paid to the Annuitant during the year but prior to payment of the income payable as a consequence of the application and reduced by any income paid to the Annuitant, during the same period, from another LIF.
- 7. Death of the Annuitant [19(4)]:** Where the Annuitant who is a former member or a member dies before conversion of the total balance of the Fund into a life pension, his Spouse or, failing that, his assigns, are entitled to a benefit of which the amount is equal to the balance. Such payment is subject to paragraph 60(l) of the Tax Act.
- 8. Waiver by Spouse [19(5)]:** The Spouse of the Annuitant who is a former member or beneficiary may, by giving written notice to the Trustee, waive his entitlement to receive the pension benefit provided for in Section 7 hereof or the life pension provided for in Paragraph 18.b) hereof and may, in the case of the pension benefit, revoke such a waiver by transmitting to the Trustee a written notice to that effect before the death of the Annuitant and, in the case of the life pension, before the date of conversion, in whole or in part, of the Fund.
- 9. Separation and divorce [19(6)]:** The Spouse of the Annuitant who is a former member or a member ceases to be entitled to the pension benefit provided for in Paragraph 18.b) hereof upon separation from bed and board, divorce, annulment of marriage or, in the case of an unmarried Spouse, upon cessation of conjugal relationship, unless the Annuitant has transmitted to the Trustee the notice provided for in section 89 of the Act.
- 10. Seizure for unpaid alimony [19(6.0.1)]:** The seizable portion of the balance of the Fund may be paid in a lump sum in execution of a judgment rendered in favour of the Annuitant's Spouse that gives entitlement to a seizure for unpaid alimony.
- 11. 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) Withdrawal of small amount at 65 [19(6.1)]:** The entire balance of the Fund may be paid in a lump-sum to the Annuitant upon an application to the Trustee accompanied with a declaration in conformity with the one prescribed in schedule 0.2 of the Regulation under the following conditions:
- i) the Annuitant is at least 65 years of age at the end of the year preceding the application;
  - ii) the total sums credited to his account in the retirement savings instrument referred to in schedule 0.2 of the Regulation do not exceed 40% of the Maximum Pensionable Earnings in accordance with the *Act respecting the Quebec Pension plan* for the year in which the Annuitant applies for the payment.

- b) Non-Resident [19(7.1)]:** Provided that the agreed-to term of the investments has not expired, where the Annuitant has not resided in Canada for at least two years, the Annuitant may require that the total balance of the Fund be paid to the Annuitant in a lump sum as specified in writing by the Annuitant in the manner prescribed by the Regulation.

The Trustee may rely upon the information provided by the Annuitant in any application made pursuant to this Section 11 hereof and such application shall constitute sufficient authorization to the Trustee to pay the Annuitant from the Fund in accordance thereof. The Trustee shall make the payment within a reasonable time of receipt by the Trustee of a completed application form and accompanying documentation.

- 12. Permitted transfers [19(7)]:** Provided the agreed to term of the investments has not expired, the Annuitant may transfer, in whole or in part, the balance of the Fund to:

- a)** a pension plan governed by the Act;
- b)** a supplemental pension plan governed by an act emanating from a legislative authority other than the Parliament of Quebec and granting entitlement to a deferred pension;
- c)** a supplemental pension plan established by an act emanating from the Parliament of Quebec or from another legislative authority;
- d)** a LIF;
- e)** a LIRA; or
- f)** an annuity contract referred to in section 30 of the Regulation and that also complies with the relevant provisions of the Tax Act.

The Trustee 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 Trustee is entitled.

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

The transfer shall be effected within a reasonable time from the confirmation by the transferee of such. 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 Fund to the extent of the transfer.

Notwithstanding the above, the Trustee 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.

- 13. Investments [19(9)]:** The money and assets held under this Fund shall be invested by the Trustee, either directly or through the Agent, in the manner provided at section 5 of the Declaration. All investments of money or assets held under this Fund will be invested in a manner that complies with the rules for the investment of RIF money contained in the Tax Act and the Regulation thereunder.

- 14. Value of the Fund [19(10)]:** The fair market value of the assets held under the Fund as determined by the Trustee 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 or on a transfer of assets from the Fund. Any such determination by the Trustee shall be conclusive for all purposes hereof.

**15. Irregular payments [19(11)]:** Should the income paid to the Annuitant during a Fiscal year of the Fund exceed the maximum amount that may be paid to the Annuitant in accordance with the provisions of the Regulation or this Agreement, the Annuitant may, unless the payment is attributable to a false declaration by the Annuitant, require that the Trustee pay the Annuitant, as a penalty, a sum equal to the surplus income paid.

**16. Amendment to this Agreement [19(11)]:** The Trustee will make no amendment to this Agreement that would have the effect of reducing benefits resulting from this Agreement unless the Trustee entitle the Annuitant, before the date of the amendment, to transfer the balance of the Fund and has provided to the Annuitant, at least 90 days before the date on which the Annuitant may exercise that entitlement, a notice indicating the subject of the amendment and the date from which the Annuitant may exercise that entitlement.

The Trustee may not, except to fulfill requirements under law, make any amendment other than that provided for in this section, without having previously notified the Annuitant.

The Trustee may amend the agreement only to the extent that it remains in conformity with the standard contract amended and registered with the Régie des rentes du Québec.

**17. Identifiable securities [19(12)]:** Where the investments held under the Fund consist of identifiable and transferable securities, the Trustee may effect the transfer referred to in sections 12 and 16 by the remittance of such securities.

**18. Conversion of the balance of the Fund [23]:** All or part of the balance of the Fund may be converted only upon the following conditions:

a) the insurer guarantees payments of that pension in periodic, equal amounts that may not vary unless each of them is uniformly increased in accordance with an index or a rate provided for in the annuity contract or uniformly adjusted by reason of a seizure effected on the benefits of the Annuitant, a redetermination of the Annuitant's pension, a partition of the Annuitant's benefits in favour of his Spouse, the payment of a temporary pension in accordance with the conditions provided for in section 91.1 of the Act or the option provided for in subparagraph 3 of the first paragraph of section 93 of the Act;

b) in the event of the death of an Annuitant who is a former member or a member, the insurer guarantees to the Annuitant's Spouse who has not waived it, a life pension equal to at least 60% of the amount of Annuitant's pension, including, during the replacement period, the amount of any temporary pension.

**19. Statement [24 to 26]:** The Trustee shall, at the beginning of each Fiscal year of the Fund provide the Annuitant with a statement that indicates the information prescribed at sections 24 to 26 of the Regulation at the times determined therein.

**20. 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 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.
21. **Governing Law:** This Agreement shall be governed by the laws of the province of Quebec.