

ADDENDUM ESTABLISHING A LOCKED-IN RETIREMENT ACCOUNT UNDER THE NATIONAL BANK SAVINGS AND INVESTMENTS INC. SELF-DIRECTED RETIREMENT SAVINGS PLAN

RECITALS:

- A.

The Annuitant wishes to transfer assets derived, directly or indirectly, from a pension plan governed by the provisions of the Act, or any other source acceptable under the Act, to a locked-in retirement account with the Trustee;
- B.

For these purposes, and to comply with the requirements of the Act and the regulations, the Annuitant and the Trustee wish to supplement the declaration of trust of the National Bank Savings and Investments Inc. self-directed retirement savings plan entered into between them (the “**declaration**”) with this addendum. In the event of any conflict between the provisions of the declaration and this addendum, the provisions of this addendum prevail.

NOW THEREFORE, the Annuitant and the Trustee agree as follows:

1.

Definitions:

Terms not defined in this addendum, including Schedule 3 of the regulations reproduced below which is part of it, have the same meaning as in the declaration, the Act or the regulations. The terms below have the following meaning:

(a)

“**Annuitant**” refers to the person identified as such in the Application (also referred to as the “**owner**” in Schedule 3 below).

(b)

“**LIF**” or “**life income fund**” means a RIF that is a registered retirement savings arrangement as defined in clause 2(as) of the Act and meets the requirements in Sections 205 to 210 and Schedule 4 of the regulations;

(c)

“**LIRA**” or “**locked-in retirement account**” means an RSP that is a registered retirement savings arrangement as defined in clause 2(as) of the Act and meets the requirements in Sections 200 to 204 of the regulations and this addendum, and includes a registered retirement savings plan established under a contract made before January 1, 2003, for the purposes of a transfer under the former Act;

(d)

“**RIF**” means a retirement income fund within the meaning of the federal *Income Tax Act* that is registered under that Act;

(e)

“**RSP**” means a retirement saving plan within the meaning of the federal *Income Tax Act* that is registered under that Act;

(f)

“**Trustee**” means Natcan Trust Company, 800 St-Jacques Street, Suite 91991, Montreal, Quebec, H3C 1A3 (also referred to as the “**financial institution**” in Schedule 3 below).
2.

Contributions:

The only assets permitted to be transferred to the Plan are all or part of the following:

(a)

an amount transferred under clause 61(1)(b) of the Act;

(b)

an amount transferred under Section 12B of the *Pooled Registered Pension Plans Act*;

(c)

an amount transferred as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act;

(d)

assets in a LIRA;

(e)

assets in a LIF.
3.

Value of the Plan:

The fair market value of the Plan, as determined by the Trustee in good faith, is used to establish the balance of the assets in the Plan at any particular time, including on the death of the Annuitant or a transfer of assets. Any such determination by the Trustee is conclusive for all purposes hereof.
4.

Investments:

The assets in the Plan are invested in the manner provided in the declaration. All investments must comply with the rules set out in the federal *Income Tax Act* regarding investments in an RSP.
5.

Transfers and withdrawals:

An application to transfer or withdraw assets under Schedule 3 below or the regulations must be in a form satisfactory to the Trustee. The Trustee is entitled to rely on the information provided by the Annuitant in any such application.
6.

Conditions for transfer:

Before transferring any assets from the Plan to another financial institution, the Trustee ensures that the transfer is permitted under the Act and the regulations and notifies the financial institution in writing that the assets are to be administered in accordance with the Act and the regulations. The financial institution must agree to abide by this condition.
7.

Statements:

The Trustee agrees to provide the information described in Section 4 of Schedule 3 below to the persons indicated in that Section.
8.

Amendment:

The Trustee agrees not to amend this addendum except as provided in Schedule 3 below and the regulations.
9.

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 and the regulations are locked-in assets resulting directly or indirectly from the commuted value of a pension benefit;

(b)

The provisions of the pension plan do not prohibit the Annuitant from entering into this addendum and, in the event that such prohibition does exist, the Trustee is not liable for the consequences to the Annuitant of executing this addendum nor for anything done in accordance with the provisions hereof.

(c)

The commuted value of the pension benefit transferred herein is not determined in a manner that differentiates on the basis of sex, unless otherwise indicated in writing to the Trustee; and

(d)

The Trustee is entitled to rely upon the information provided by the Annuitant when establishing the Plan.
10.

Governing law:

This addendum is to be governed by and construed in accordance with the laws applicable in the Province of Nova Scotia.
11.

Effective date:

This addendum takes effect on the date of transfer of assets into the Plan.

Schedule 3: Nova Scotia LIRA Addendum (*Pension Benefits Regulations*)

Note: This document is Schedule 3 to the *Pension Benefits Regulations* (Nova Scotia). It forms part of the regulations and must be read, construed and interpreted in conjunction with the *Pension Benefits Act* and its regulations.

1. Definitions for this Schedule

In this Schedule,

“Act” means the *Pension Benefits Act*;

“domestic contract”, as defined in Section 2 of the regulations, means a written agreement referred to in and for the purpose of Section 74 of the Act or Section 14 of the *Pooled Registered Pension Plans Act*, that provides for a division between spouses of any pension benefit, deferred pension, pension, LIRA or LIF, and includes a marriage contract as defined in the *Matrimonial Property Act*;

“federal *Income Tax Act*”, as defined in Section 2 of the regulations, means the *Income Tax Act* (Canada) and, unless specified otherwise, includes the regulations made under that Act;

“owner” means any of the following persons, as set out in subsection 200(2) of the regulations, who has purchased a LIRA:

- (i)

a former member who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (ii)

a spouse of a person who was a member, and who is entitled to make transfer under clause 61(1)(b) of the Act,
- (iii)

a person who has previously transferred an amount under clause 61(1)(b) of the Act into a LIRA or LIF,
- (iv)

a person who has previously transferred an amount into a LIRA as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act,
- (v)

a spouse who is entitled to transfer a lump sum as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act;
- (vi)

if the funds in the account of a pooled registered pension plan are used for the purchase, a person who transfers the amount in accordance with the *Pooled Registered Pension Plans Act* and the *Pooled Registered Pension Plans Regulations*;

“regulations” means the *Pension Benefits Regulations* made under the Act;

“spouse”, as defined in the Act, means either of 2 persons who

- (i)

are married to each other,
- (ii)

are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
- (iii)

have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, if they have ceased to cohabit, have cohabited within the 12-month period immediately preceding the date of entitlement,
- (iv)

are domestic partners within the meaning of Section 52 of the *Vital Statistics Act*, or
- (v)

not being married to each other, are cohabiting in a conjugal relationship with each other, and have done so continuously for at least

(A)

3 years, if either of them is married, or

(B)

1 year, if neither of them is married;

“Superintendent”, means the Superintendent of Pensions, as defined in the Act.

Note Re Requirements of the *Pension Benefits Act* and *Regulations* and the *Pooled Registered Pension Plans Act* and its regulations

Prohibitions on transactions from Section 91 of Act

Under Section 91 of the Act and Section 12 of the *Pooled Registered Pension Plans Act*, money held in a LIRA must not be commuted or surrendered in whole or in part except as permitted by this Schedule and the regulations including, without limiting the generality of the foregoing, the following Sections of the regulations:

- Sections 211 through 230, respecting withdrawal in circumstances of financial hardship
- Section 231, respecting withdrawal in circumstances of considerably shortened life expectancy
- Section 232, respecting withdrawal in circumstances of non-residency
- Section 233, respecting withdrawal of small amounts at age 65
- Section 198, respecting the transfer of an excess amount, as defined in that Section.

Pursuant to subsection 91(2) of the Act and subsection 12(2) of the *Pooled Registered Pension Plans Act*, any transaction that contravenes Section 91 of the Act or Section 12 of the *Pooled Registered Pension Plans Act* is void.

Value of assets in LIRA subject to division

The value of the assets in a LIRA is subject to division in accordance with all of the following:

- an order of the Supreme Court of Nova Scotia that provides for a division of a pension benefit, deferred pension or pension under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- a domestic contract that provides for the division of a pension benefit, deferred pension or pension under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- the regulations

Money held in LIRA

The following requirements are set out in the *Pension Benefits Act* and are applicable to LIRAs governed by this Schedule:

- Money held in a LIRA must not be assigned, charged, or given as security except as permitted by subsection 88(3) of the Act, Section 90 of the Act, subsection 12(3) of the *Pooled Registered Pension Plans Act* or Section 13 of the *Pooled Registered Pension Plans Act*, and any transaction purporting to assign, charge, anticipate or give the money in the LIRA as security is void.
- Money held in a LIRA is exempt from execution, seizure or attachment except for the purpose of enforcing a maintenance order as permitted by Section 90 of the Act or Section 13 of the *Pooled Registered Pension Plans Act*.

2. Transferring assets from LIRAs

- (1) An owner of a LIRA may transfer all or part of the assets in the LIRA to any of the following:
 - (a) the pension fund of a pension plan registered under the pension benefits legislation in any Canadian jurisdiction or to the pension fund of a pension plan provided by a government in Canada;
 - (b) a LIRA held by another financial institution;
 - (c) a LIF;
 - (d) a life annuity;
 - (e) a pooled registered pension plan.
- (2) The date of a transfer under subsection (1) must not be later than 30 days after the owner requests it, unless any of the following apply:
 - (a) the financial institution providing the LIRA does not have all the information necessary to complete the transaction, in which case the 30-day period begins to run from the date the financial institution has all the necessary information;
 - (b) the transfer is in respect of assets held as securities whose term of investment extends beyond the 30-day period.
- (3) If assets in a LIRA consist of identifiable and transferable securities, the financial institution providing the LIRA may transfer the securities with the consent of the owner of the LIRA.

- (4) A financial institution providing a LIRA must advise the financial institution to which the assets of the LIRA are transferred
 - (a) that the assets were held in a LIRA in the current year; and
 - (b) whether the assets were determined in a manner that differentiated on the basis of sex.

3. Information to be provided by financial institution on transfers of assets of LIRAs

If the assets in a LIRA are transferred, the financial institution providing the LIRA must give the owner the information required by Section 4 of this Schedule, determined as of the date of the transfer.

4. Information to be provided annually by financial institution

At the beginning of each fiscal year of a LIRA, a financial institution providing the LIRA must provide all of the following information to the owner about their LIRA as of the end of the previous fiscal year:

- (a) with respect to the previous fiscal year,
 - (i) the sums deposited,
 - (ii) any accumulated investment earnings, including any unrealized capital gains or losses,
 - (iii) the payments made out of the LIRA,
 - (iv) any withdrawals from the LIRA,
 - (v) the fees charged against the LIRA;
- (b) the value of the assets in the LIRA at the beginning of the fiscal year of the LIRA.

5. Death benefits

- (1) If the owner of a LIRA dies, the following are entitled to receive a benefit equal to the value of the assets in the LIRA, subject to subsections (4) and (5):
 - (a) the owner's spouse;
 - (b) if there is no spouse or if the spouse is disentitled under subsection (4) or (5), the owner's named beneficiary;
 - (c) if there is no named beneficiary, the personal representative of the owner's estate.
- (2) For the purposes of subsection (1), a determination as to whether an owner of a LIRA has a spouse must be made as of the date the owner dies.
- (3) For the purposes of subsection (1), the value of the assets in a LIRA includes all accumulated investment earnings, including any unrealized capital gains and losses, of the LIRA from the date of death until the date of payment.
- (4) A spouse is not entitled to receive the value of the assets in a LIRA under clause (1)(a) if the owner of the LIRA was not
 - (a) a member or former member of a pension plan from which the assets were transferred, directly or indirectly, to purchase the LIRA; or
 - (b) a member of a pooled registered pension plan from which the assets were transferred, directly or indirectly, to purchase the LIRA.
- (5) A spouse who, as of the date the owner of a LIRA dies, is living separate and apart from the owner without a reasonable prospect of resuming cohabitation, is not entitled to receive the value of the assets in the LIRA under clause (1)(a) if any of the following conditions apply
 - (a) the spouse delivered a written waiver to the financial institution in accordance with Section 6 of this Schedule;
 - (b) the terms of a written agreement respecting the division of the LIRA that was entered into before the date of the owner's death disentitle, or do not expressly or impliedly entitle, the spouse to receive an amount under the LIRA;
 - (c) the terms of a court order issued before the owner's death disentitle, or do not expressly or impliedly entitle, the spouse to receive an amount under the LIRA.
- (6) The benefit described in subsection (1) may be transferred to a registered retirement savings arrangement in accordance with the federal *Income Tax Act*.

6. Waiver of entitlement to death benefits by spouse

- (1) A spouse of an owner of a LIRA may waive their entitlement to receive a benefit described in Section 5 of this Schedule from the LIRA, by delivering, any time before the death of the owner, a written waiver in an approved form to the financial institution providing the LIRA.
- (2) A spouse who delivers a waiver under subsection (1) may cancel it by delivering a written and signed notice of cancellation to the financial institution before the date the owner of the LIRA dies.

7. Information to be provided by financial institution on death of owner

If the owner of LIRA dies, the financial institution providing the LIRA must give the information required by Section 4 of this Schedule, determined as of the date of the owner's death, to any person who is entitled to receive the assets in the LIRA under subsection 5(1) of this Schedule.