



Central Ontario Commercial Banking Centre  
33 Collier St 2Nd Floor  
Barrie, ON L4M 1G5

Telephone No.: (705) 727 4838

July 26, 2024

**BOARD OF MANAGEMENT FOR THE DISTRICT OF PARRY SOUND WEST HOME FOR THE AGED**

Attention: Kami Johnson

**Demand Operating Facility Agreement**

This Agreement between: **The Toronto-Dominion Bank** (the "Bank"), through its Central Ontario branch in Barrie, ON.

and

Borrower's Legal Name: **BOARD OF MANAGEMENT FOR THE DISTRICT OF PARRY SOUND WEST HOME FOR THE AGED** (herein called the "Borrower")

Borrower's Address:

21 BELVEDERE AVE  
PARRY SOUND, ON  
P2A 2A2

Whereas:

- (i) the Bank has agreed to establish a revolving demand credit facility (the "Facility");
- (ii) the Facility is uncommitted and made available at the sole discretion of the Bank. The Facility may be cancelled at any time even if the Borrower complies with all of the terms and conditions;
- (iii) the Facility will operate on the basis established in this Demand Operating Facility Agreement including without limitation the Standard Terms and Conditions attached as Schedule "A" (the "Agreement"), the terms of which may be changed by the Bank from time to time at the Bank's sole discretion.

In consideration of the Bank establishing the Facility, the Borrower hereby agrees with the Bank to the following terms and conditions:

**CREDIT LIMIT**

- 1) CAD \$4,275,000

**PURPOSE**

The Borrower will use the Facility to fund working capital.

**BORROWING OPTIONS**

The Bank will make the Facility available to the Borrower by way of:

- Prime Rate Based Loans in CAD\$ ("Prime Based Loans")

**AVAILABILITY OF THE FACILITY**

The Borrower acknowledges that the Facility is uncommitted and is not automatically available upon satisfaction of the terms and conditions, including without limitation the Representations & Warranties, Positive Covenants, Negative Covenants, or Financial Covenants set out herein.

The Bank can demand repayment and/or cancel the availability of the Facility at any time in its sole discretion including, for purposes of certainty, with respect to any Term CORRA Loans or Term SOFR Loans before the maturity of any applicable interest rate period.

**INTEREST RATES AND FEES**

For the Borrowing Options available to the Borrower, interest rates and fees are as follows:

- Prime Based Loans: Prime Rate + 0.000 % per annum

Additional information on Interest Rate Definitions, Interest Calculations and Payment is set out in the Schedule "A" attached hereto.

**ARRANGEMENT  
FEE**

The Borrower will pay a non-refundable arrangement fee of CAD \$1,500 prior to the first drawdown hereunder.

**EXCESS MONITORING FEE**

The Borrower shall pay, unless waived by the Bank in the Bank's sole discretion, an Excess Monitoring Fee of \$350.00, payable in the currency of the Facility, each time that the Credit Limit of the Facility is exceeded. Any extension of credit above the Credit Limit will be at the Bank's sole and absolute discretion.

**LATE REPORTING FEE**

The Borrower shall pay, unless waived by the Bank in the Bank's sole discretion, a Late Reporting Fee of \$350.00 per occurrence, and monthly thereafter until reporting is provided to the Bank, each time financial reporting is not provided within the timelines established in the Positive Covenants and Reporting Covenants.

**DISCHARGE FEE**

The Borrower shall pay, unless waived by the Bank in the Bank's sole discretion, a Discharge Fee of \$260.00 per collateral charge to prepare the documents needed to register the discharge of any collateral charge under the Bank Security, in addition to the applicable government fee(s) for registering each discharge.

**RENEWAL FEE**

CAD\$ 1,500 per annum

**DRAWDOWN**

The Borrower can use the Facility on a revolving basis.

The Borrower will follow the provisions set out in this Agreement, and within any notice delivered by the Bank to the Borrower in respect of a specific drawdown under those availment options, with respect to notice periods, minimum amounts of draws, interest periods, interest payment dates for Term SOFR Loans, Term CORRA Loans, Daily Simple SOFR Loans and Daily Compounded CORRA Loans and applicable terms.

**DISBURSEMENT  
CONDITIONS**

The Borrower will not avail itself of the Facility nor will the Bank make the Facility available to the Borrower until the Borrower has fulfilled the standard Disbursement Conditions contained in Schedule "A" and the following disbursement conditions:

- 1) Satisfactory loan documentation, security, legal opinions, etc., in form and substance satisfactory to the Lender and its counsel. All legal costs to be borne by the Borrower.

**BUSINESS CREDIT  
SERVICE**

The Borrower will have access to Prime Based Loans via Loan Account Number 9522556 3392 (the "Loan Account") up to the Credit Limit, by withdrawing funds from the Borrower's Current Account Number 3392-5225555 (the "Current Account"). The Borrower agrees that each advance from the Loan Account will be in an amount equal to \$10,000 (the "Transfer Amount") or a multiple thereof. If the Transfer Amount is NIL, the Borrower agrees that an advance from its Loan Account may be in an amount sufficient to cover the debits made to the Current Account. The Borrower agrees that:

- a) all other overdraft privileges which have governed the Current Account are hereby cancelled.
- b) all outstanding overdraft amounts under any such other agreements are now included as indebtedness under the Facility.

The Bank may, but is not required to, automatically advance the Transfer Amount or a multiple thereof or any other amount from the Loan Account to the Current Account in order to cover the debits made to the Current

Account if the amount in the Current Account is insufficient to cover the debits. The Bank may, but is not required to, automatically and without notice apply the funds in the Current Account in amounts equal to the Transfer Amount or any multiple thereof or any other amount to repay the outstanding amount in the Loan Account.

## **REPAYMENT**

The Borrower agrees to repay the Bank on demand. If the Bank demands repayment, the Borrower will pay to the Bank all amounts outstanding under the Facility, including without limitation, as applicable, the amount of all unmatured Term CORRA Loans, Daily Compounded CORRA Loans, Daily Simple SOFR Loans and Term SOFR Loans and the amount of all drawn and undrawn L/Gs and L/Cs. All costs to the Bank and all loss suffered by the Bank in re-employing the amounts so repaid will be paid by the Borrower.

## **SECURITY**

The following security shall be provided, shall, unless otherwise indicated, support all present and future indebtedness and liability of the Borrower and the grantor of the security to the Bank including without limitation indebtedness and liability under guarantees, foreign exchange contracts, cash management products, and derivative contracts, shall be registered in first position, and shall be on the Bank's standard form, supported by resolutions and solicitor's opinion, all acceptable to the Bank:

- a) General Security Agreement ("GSA") representing a First charge on all the Borrower's present and after acquired personal property, including without limitation the following equipment: - **To Be Obtained**
- b) Assignment (or evidence) of Fire Insurance in listing the Bank as Loss Payee and in form and substance satisfactory to the Bank- **To Be Obtained**
- c) Government Guarantee from THE CORPORATION OF THE TOWNSHIP OF SEQUIN - **To Be Obtained**
- d) Government Guarantee from THE CORPORATION OF THE TOWNSHIP OF CARLING - **To Be Obtained**
- e) Government Guarantee from CORPORATION OF THE MUNICIPALITY OF WHITESTONE - **To Be Obtained**
- f) Government Guarantee from THE CORPORATION OF THE TOWNSHIP OF MCMURRICH/MONTEITH - **To Be Obtained**
- g) Government Guarantee from THE CORPORATION OF THE TOWNSHIP OF ARCHIPELAGO - **To Be Obtained**
- h) Government Guarantee from THE CORPORATION OF THE TOWN OF PARRY SOUND - **To Be Obtained**
- i) Government Guarantee from THE MUNICIPALITY OF MCDOUGALL - **To Be Obtained**
- j) Government Guarantee from THE CORPORATION OF THE TOWNSHIP OF MCKELLAR - **To Be Obtained**

All persons and entities required to provide a guarantee shall be referred to herein individually as a "Surety" and/or "Guarantor" and collectively as the "Guarantors".

All of the above security and guarantees shall be referred to collectively in this Agreement as "Bank Security".

## **PERMITTED LIENS**

Permitted Liens as referred to in Schedule "A" are:

- 1) Purchase Money Security Interests in equipment which Purchase Money Security Interests exist on the date of this Agreement ("Existing PMSIs") which are known to the Bank and all future Purchase Money Security Interests on equipment acquired to replace the equipment under Existing PMSIs, provided that the cost of such replacement equipment may not exceed the cost of the equipment subject to the Existing PMSI by more than 10%

## **REPRESENTATIONS & WARRANTIES**

The Borrower makes the Standard Representations and Warranties set out in Schedule "A".

All representations and warranties shall be deemed to be continually repeated so long as the Borrower has any dealings with the Bank.

## **POSITIVE COVENANTS**

The Borrower will observe the Standard Positive Covenants set out in Schedule "A" and in addition will and will ensure that its subsidiaries and each of the Guarantors will:

- 1) Maintain a Ministry of Health Long Term Care ("MOHLTC") License/Accreditation/Service Agreements and prompt advice of any default or revocation of any Licenses/Accreditation/Service Agreements.
- 2) Borrower to remain in compliance with borrowing restrictions as outlined in the Fixing Long Term Care Act.
- 3) BNS accounts to be closed within 120 days of closing.
- 4) Maintain day-to-day banking with TD.

## **REPORTING COVENANTS:**

- 1) Provide Annual Audited financial statements within 120 days of each fiscal year end for the Board of Management for the District of Parry Sound West - Belvedere Heights.
- 2) Provide Forward-Looking Budget (including capital expenditures), LSAA, LAPS and all renewals, extensions as applicable within 120 days of each fiscal year end..

## **NEGATIVE COVENANTS**

The Borrower will observe the Standard Negative Covenants set out in Schedule "A" and in addition will not and will ensure that its subsidiaries and each of the Guarantors will not:

- 1) No further debt without the prior consent of the Bank.

**EVENTS OF DEFAULT**

- 1) Default, revocation, or cancellation of any MOLTHC Licenses, Accreditation, and/or Agreements.
- 2) The Borrower(s) incur an operating deficit as evidenced by the audited Fiscal Year End Financial Statements that has not been approved by the MOHLTC.

**SCHEDULE "A" TERMS AND CONDITIONS**

Schedule "A" sets out the Standard Terms and Conditions ("Standard Terms and Conditions") which are applicable to the Borrower and which apply to this Facility. The Standard Terms and Conditions, including the defined terms set out therein, form part of this Agreement, unless this letter states specifically that one or more of the Standard Terms and Conditions do not apply or are modified.

We trust you will find these Facilities helpful in meeting your ongoing financing requirements. We ask that you acknowledge this offer of financing (which includes the Standard Terms and Conditions) by signing and returning the attached duplicate copy of this agreement to the undersigned by August 23, 2024.

Yours truly,

**THE TORONTO-DOMINION BANK**



\_\_\_\_\_  
Tony Catallo  
Senior Relationship Manager

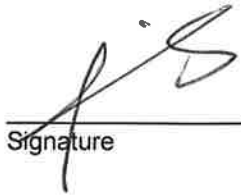


\_\_\_\_\_  
Jason Fairhead  
Senior Manager Commercial Credit

**TO THE TORONTO-DOMINION BANK:**

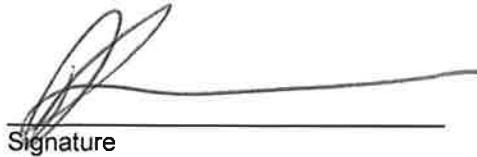
**BOARD OF MANAGEMENT FOR THE DISTRICT OF PARRY SOUND WEST HOME FOR THE AGED**

The Borrower acknowledges and agrees to the terms and conditions of this agreement, including those of Schedule "A" attached hereto. The Borrower confirms that, except as provided above, the credit facility(ies) provided herein will not be used by or on behalf of any third party.

  
\_\_\_\_\_  
Signature

BOARD  
PAMELA WING, CHAIR  
\_\_\_\_\_  
Print Name & Position

30/08/24  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

Kami Johnson Administrator  
\_\_\_\_\_  
Print Name & Position

30/08/24  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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Print Name & Position

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Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Position

\_\_\_\_\_  
Date

**cc. Guarantor(s)**

The Bank is providing the guarantor(s) with a copy of this letter as a courtesy only. The delivery of a copy of this letter does not create any obligation of the Bank to provide the guarantor(s) with notice of any changes to the credit facilities, including without limitation, changes to the terms and conditions, increases or decreases in the amount of the credit facilities, the establishment of new credit facilities or otherwise. The Bank may, or may not, at its option, provide the guarantor(s) with such information, provided that the Bank will provide such information upon the written request of the guarantor.

## SCHEDULE "A" - STANDARD TERMS AND CONDITIONS

### 1. DEFINITIONS

Capitalized Terms used in this Agreement shall have the following meanings:

*"All-in Rate"* means the highest of the interest rates that the Borrower pays for Floating Rate Loans.

*"Available Tenor"* means, with respect to the applicable then-current Benchmark, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement.

*"Benchmark"* means the Term SOFR Reference Rate, Daily Simple SOFR, Term CORRA Reference Rate, or Daily Compounded CORRA, as the case may be.

*"Benchmark Administrator"* means, with respect to a Benchmark, the administrator of such Benchmark (or the published component used in the calculation thereof).

*"Benchmark Replacement Date"* means, with respect to a Benchmark, a date and time determined by the Bank, which date shall be no later than the earliest to occur of: (a) in the case of clause (x) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the Benchmark Administrator permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or (b) in the case of clause (y) of the definition of "Benchmark Transition Event," the first date on which the regulatory supervisor for the Benchmark Administrator announces that such Benchmark is non-representative, even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

*"Benchmark Transition Event"* means the occurrence of a public statement or publication of information (x) by (i) or on behalf of the Benchmark Administrator, (ii) the regulatory supervisor for the Benchmark Administrator, (iii) the Bank of Canada, (iv) an insolvency official with jurisdiction over the Benchmark Administrator, (v) a resolution authority with jurisdiction over the Benchmark Administrator, or (vi) a court or an entity with similar insolvency or resolution authority over the Benchmark Administrator, announcing that the Benchmark Administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or (y) by the regulatory supervisor for the Benchmark Administrator announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

*"Business Day"* means any day (other than a Saturday or Sunday) that the Branch/Centre is open for business, provided that when used in connection with Term SOFR loans, the term Business Day shall exclude any day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

*"Branch / Centre"* means the Bank branch or banking centre noted on the first page of the Letter, or such other branch or centre as may from time to time be designated by the Bank.

*"CORRA"* means the Canadian Overnight Repo Rate Average administered and published by the Bank of Canada (or any successor administrator).

*"CORRA Administrator"* the Bank of Canada (or any successor administrator).



"*Daily Compounded CORRA*" means, for any day (a "CORRA Rate Day"), CORRA with interest accruing on a compounded daily basis, with the methodology and conventions for this rate (which will include compounding in arrears with a lookback) being established by the Bank in accordance with the methodology and conventions for this rate selected or recommended by the Bank of Canada, or a committee officially endorsed or convened by the Bank of Canada, or any successor thereto, for determining compounded CORRA for business loans; provided that if the Bank decides that any such convention is not administratively feasible for the Bank, then the Bank may establish another convention in its reasonable discretion; and provided that if the administrator has not provided or published CORRA and a Benchmark Replacement Date with respect to CORRA has not occurred, then, in respect of any day for which CORRA is required, references to CORRA will be deemed to be references to the last provided or published CORRA. Notwithstanding the forgoing, if a loan with an interest rate based on Daily Compounded CORRA has been hedged in its entirety with an interest rate swap with the Bank, the lookback period in the methodology for the calculation of Daily Compounded CORRA shall be two (2) business days."

For the avoidance of doubt, from the date hereof until such date that the Bank determines that the methodology and conventions described above have changed, CORRA, as used in the definition of Daily Compounded CORRA, shall mean, for any CORRA Rate Day, a rate per annum equal to the greater of (a) CORRA for the day (such day, a "CORRA Determination Day") that is five (5) Business Days prior to (i) if such CORRA Rate Day is a Business Day, such CORRA Rate Day or (ii) if such CORRA Rate Day is not a Business Day, the Business Day immediately preceding such CORRA Rate Day, in each case, as such CORRA is published by the CORRA Administrator on the CORRA Administrator's Website, and (b) zero percent. If by 5:00 p.m. (Toronto time) on the second (2nd) Business Day immediately following any CORRA Determination Day, CORRA in respect of such CORRA Determination Day has not been published on the CORRA Administrator's Website and a Benchmark Replacement Date with respect to the Daily Compounded CORRA has not occurred, then CORRA for such CORRA Determination Day will be CORRA as published in respect of the first preceding Business Day for which such CORRA was published on the CORRA Administrator's Website; provided that any CORRA determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Compounded CORRA for no more than three (3) consecutive CORRA Rate Days.

"*Daily Simple SOFR*" means, for any day (a "SOFR Rate Day"), SOFR with interest accruing on a simple daily basis, with the methodology and conventions for this rate (which will include a lookback) being established by the Bank in accordance with the methodology and conventions for this rate selected or recommended by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate), or any successor thereto, for determining daily simple SOFR for business loans; provided that if the Bank decides that any such convention is not administratively feasible for the Bank, then the Bank may establish another convention in its reasonable discretion; and provided that if the administrator has not provided or published SOFR and a Benchmark Replacement Date with respect to SOFR has not occurred, then, in respect of any day for which SOFR is required, references to SOFR will be deemed to be references to the last provided or published SOFR. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

For the avoidance of doubt, from the date hereof until such date that the Bank determines that the methodology and conventions described above have changed, Daily Simple SOFR shall mean, for any SOFR Rate Day, a rate per annum equal to the greater of (a) SOFR for the day (such day, a "SOFR Determination Day") that is five (5) Business Days prior to (i) if such SOFR Rate Day is a Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a Business Day, the Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website, and (b) zero percent.

If by 5:00 p.m. (New York City time) on the second (2nd) Business Day immediately following any SOFR Determination Day, SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to the Daily Simple SOFR has not occurred, then SOFR for such SOFR Determination Day will be SOFR as published in respect of the first preceding Business Day for which such SOFR was published on the SOFR Administrator's Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days.

"Face Amount" means in respect of a L/C or L/G, the maximum amount payable to the beneficiary specified therein or any other Person to whom payments may be required to be made pursuant to such L/C or L/G.

"Floating Rate Loans" means any loan drawn down or extended under this Agreement at an interest rate which is referenced to a variable rate of interest, such as Prime Rate.

"Inventory Value" means, at the time of determination, the total value (based on the lower of cost or market) of the Borrower's inventories that are subject to the Bank Security (other than (i) those inventories supplied by trade creditors who at that time have not been fully paid and would have a right to repossess all or part of such inventories if the Borrower were then either bankrupt or in receivership, (ii) those inventories comprising work in process and (iii) those inventories that the Bank may from time to time designate in its sole discretion) minus the total amount of any claims, liens or encumbrances on those inventories having or purporting to have priority over the Bank.

"Letter" means the letter from the Bank to the Borrower to which this Schedule "A" - Standard Terms and Conditions is attached.

"Letter of Credit" or "L/C" means a documentary letter of credit or similar instrument in form and substance satisfactory to the Bank.

"Letter of Guarantee" or "L/G" means a stand-by letter of guarantee or similar instrument in form and substance satisfactory to the Bank.

"Prime Rate" means the rate of interest per annum (based on a 365 day year) established and reported by the Bank to the Bank of Canada from time to time as the reference rate of interest for determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness in Canada for Canadian dollar loans made by it in Canada.

"Purchase Money Security Interest" means a security interest on asset which is granted to a lender or to the seller of such asset in order to secure the purchase price of such asset or a loan incurred to acquire such asset provided that the amount secured by the security interest does not exceed the cost of the asset and provided that the Borrower provides written notice to the Bank prior to the creation of the security interest, and the creditor under the security interest has, if requested by the Bank, entered into an inter-creditor agreement with the Bank, in a format acceptable to the Bank.

"Receivable Value" means, at any time of determination, the total value of those of the Borrower's trade accounts receivable that are subject to the Bank Security other than (i) those accounts then outstanding for 90 days, (ii) those accounts owing by persons, firms or corporations affiliated with the Borrower, (iii) those accounts that the Bank may from time to time designate in its sole discretion, (iv) those accounts subject to any claim, liens, or encumbrance having or purporting to have priority over the Bank, (v) those accounts which are subject to a claim of set-off by the obligor under such account, MINUS the amount of all the Borrower's unremitted source deductions and unpaid taxes.

"Receivables / Inventory Summary" means a summary of the Borrower's trade account receivables and inventories, in form as the Bank may require and certified by the Borrower's senior officer or authorized representative.

"*SOFR*" means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org> (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured financing rate from time to time), on the immediately succeeding Business Day.

"*SOFR Administrator*" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"*Term CORRA*" means, for the applicable corresponding interest period of a Term CORRA Loan, the Term CORRA Reference Rate for an interest period comparable to the applicable selected interest period on the day (such day, the "Periodic Term CORRA Determination Day") that is two (2) Business Days prior to the first day of such selected period, as such rate is published by the Term CORRA Administrator; provided, however, if as of 1:00 P.M. (Toronto time) on any Periodic Term CORRA Determination Day the Term CORRA Reference Rate for the applicable interest period has not been published by the Term CORRA Administrator and a Benchmark Replacement Date with respect to Term CORRA has not occurred, then Term CORRA will be the Term CORRA Reference Rate for such interest period as published by the Term CORRA Administrator on the first preceding Business Day for which such Term CORRA Reference Rate for such interest period was published by the Term CORRA Administrator so long as such first preceding Business Day is not more than three (3) Business Days prior to such Periodic Term CORRA Determination Day.

"*Term CORRA Administrator*" means Candeal Benchmark Administration Services Inc., TSX Inc. (or a successor administrator of the Term CORRA Reference Rate selected by the Bank in its reasonable discretion).

"*Term CORRA Reference Rate*" means, for the applicable corresponding interest period, the forward-looking term rate based on CORRA.

"*Term SOFR*" means, for the applicable corresponding interest period of a Term SOFR Loan, the Term SOFR Reference Rate for an interest period comparable to the applicable selected interest period on the day (such day, the "Periodic Term SOFR Determination Day") that is two (2) Business Days prior to the first day of such selected period, as such rate is published by the Term SOFR Administrator; provided, however, if as of 5:00 P.M. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable interest period has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to Term SOFR has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such interest period as published by the Term SOFR Administrator on the first preceding Business Day for which such Term SOFR Reference Rate for such interest period was published by the Term SOFR Administrator so long as such first preceding Business Day is not more than three (3) Business Days prior to such Periodic Term SOFR Determination Day.

"*Term SOFR Administrator*" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Bank in its reasonable discretion).

"*Term SOFR Reference Rate*" means, for the applicable corresponding interest period, the forward-looking term rate based on SOFR.

"*USBR*" means the rate of interest per annum (based on a 365 day year) established by the Bank from time to time as the reference rate of interest for the determination of interest rates that the Bank charges to customers of varying degrees of creditworthiness for US dollar loans made by it in Canada.

"*USD*" or "*USD Equivalent*" means, on any date, the equivalent amount in United States Dollars after giving effect to a conversion of a specified amount of Canadian Dollars to United States Dollars at the exchange rate determined by the Bank at the time of the conversion.

## **2. INTEREST RATE DEFINITIONS**

A Term CORRA rate expressed as an annual rate for the purposes of the Interest Act (Canada) is equivalent to such determined rate multiplied by the number of days in the calendar year in which the same is to be ascertained and divided by three hundred and sixty-five (365).

A Term SOFR rate expressed as an annual rate for the purposes of the Interest Act (Canada) is equivalent to such determined rate multiplied by the number of days in the calendar year in which the same is to be ascertained and divided by three hundred and sixty (360).

Interest rates will never be less than zero. If Prime Rate, Daily Compounded CORRA, Term CORRA, Daily Simple SOFR, Term SOFR, USBR or any other applicable base rate changes, resulting in a variable or floating annual interest rate that is a negative number, the interest rate will be 0.00%. Notwithstanding the foregoing, if a Floating Rate Loan with an interest rate based on Daily Compounded CORRA, Term CORRA, Daily Simple SOFR or Term SOFR has been hedged in its entirety with an interest rate swap with the Bank (the "Swap") and the Swap does not include a negative interest rate floor, the foregoing negative interest rate floor shall not apply. However, for purposes of certainty, if the Swap is subsequently terminated or novated the restriction interest rates shall never be less than 0.00% shall apply.

Any interest rate based on a period less than a year expressed as an annual rate for the purposes of the Interest Act (Canada) is equivalent to such determined rate multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days in the period upon which it was based.

The Bank does not warrant or accept responsibility for, and shall not have any liability with respect to the continuation of, administration of, submission of, calculation of or any other matter related to Term CORRA, Daily Compounded CORRA, Daily Simple SOFR, Term SOFR or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto, including whether the composition or characteristics of any such alternative, successor or replacement rate will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Term CORRA, Daily Compounded CORRA, Daily Simple SOFR, Term SOFR or any other benchmark prior to its discontinuance or unavailability. The Bank and its affiliates or other related entities may engage in transactions that affect the calculation of the Prime Rate, Term CORRA, Daily Compounded CORRA, Daily Simple SOFR, Term SOFR, any alternative, successor or replacement rate or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Bank may select information sources or services in its reasonable discretion to ascertain Term CORRA, Daily Compounded CORRA, Daily Simple SOFR, Term SOFR or any other benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

## **3. INTEREST CALCULATION AND PAYMENT**

Interest on Prime Based Loans and USBR Loans is calculated daily (including February 29 in a leap year) and payable monthly in arrears based on the number of days for which the subject loan is outstanding. Interest is charged on February 29 in a leap year.

Interest on Daily Compounded CORRA Loans and Daily Simple SOFR Loans is calculated daily (including February 29 in a leap year) and payable on the interest payment date in arrears based on the number of days the subject loan is outstanding unless otherwise provided in a notice provided by the Bank to the Borrower. Interest is charged on February 29 in a leap year.

Interest on Term SOFR Loans and Term CORRA Loans is calculated and payable at the end of the interest rate period in arrears, for the number of days in the Term SOFR or Term CORRA interest period, as applicable. Interest is charged on February 29 in a leap year.

L/C and L/G fees are payable at the time set out in the Letter of Credit Indemnity Agreement applicable to the issued L/C or L/G.

Interest is payable both before and after maturity or demand, default and judgment.

Each payment under this Agreement shall be applied to any indebtedness or amounts owing in any order at the sole discretion of the Bank.

For loans not secured by real property, all overdue amounts of principal and interest and all amounts outstanding in excess of the Credit Limit shall bear interest from the date on which the same became due or from when the excess was incurred, as the case may be, until the date of payment or until the date the excess is repaid at the Bank's standard rate charged from time to time for overdrafts, or such lower interest rate if the Bank agrees to a lower interest rate in writing. Nothing in this clause shall be deemed to authorize the Borrower to incur loans in excess of the Credit Limit.

If any provision of this Agreement would oblige the Borrower to make any payment of interest or other amount payable to the Bank in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Bank of "interest" at a "criminal rate" (as such terms are construed under the Criminal Code (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by the Bank of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows: first, by reducing the amount or rate of interest, and, thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid to the Bank which would constitute interest for purposes of section 347 of the Criminal Code (Canada).

#### **4. DRAWDOWN PROVISIONS**

##### **Prime Based and USBR Loans**

There is no minimum amount of drawdown by way of Prime Based Loans and USBR Loans, except as stated in this Agreement. The Borrower shall provide the Bank with 3 Business Days' notice of a requested Prime Based Loan over \$1,000,000.

##### **Daily Compounded CORRA Loans and Daily Simple SOFR Loans**

Except as otherwise stated in this Agreement or agreed to by the Bank, the minimum amount of a drawdown by way of Daily Compounded CORRA Loans is CAD\$1,000,000 and the minimum amount of a drawdown by way of Daily Simple SOFR Loans is USD\$1,000,000. The Borrower shall provide the Bank with 3 Business Days' notice of a requested Daily Compounded CORRA Loan and Daily Simple SOFR Loan.

##### **Term SOFR Loans and Term CORRA Loans**

Except as otherwise stated in this Agreement or agreed to by the Bank, the minimum amount of a drawdown by way of Term CORRA Loans is CAD\$1,000,000 and the minimum amount of a drawdown by way of Term Simple SOFR Loans is USD\$1,000,000. The Borrower shall advise the Bank of the requested interest rate period for a Term SOFR Loan or Term CORRA Loan. The Borrower will provide the Bank with 3 Business Days' notice of a requested Term SOFR Loan or a Term CORRA Loan.

For purposes of certainty, Term CORRA Loans and Term SOFR Loans, are not committed term facilities and are uncommitted, repayable on demand and cancellable at any time in the Bank's sole discretion. The reference to "Term" in Term CORRA Loans and Term SOFR Loans refers to the applicable benchmark interest rate.

##### **L/C and/or L/G**

The Bank shall have the discretion to restrict the maturity date of L/Gs or L/Cs.

##### **Term SOFR and Term CORRA - Roll Over / Conversion**

The Borrower will advise the Bank at least 3 Business Days prior to the maturity of an interest rate period for a Term CORRA Loan or Term SOFR Loan whether the Term CORRA Loan or Term SOFR Loan will be (i) rolled over for an additional interest rate period of the same duration or (ii) converted to another borrowing option under this Agreement. If the Borrower fails to do so, the Term CORRA Loan or Term

SOFR Loan will automatically be converted to a Prime Based Loan for Term CORRA Loans or USBR Loan for Term SOFR Loans at the end of the interest rate period.

#### **SOFR and CORRA– Market Disruption, Benchmark Cessation**

Without limiting or otherwise impacting the demand and uncommitted nature of the Facility, if the Bank determines, in its sole discretion, that (i) a normal market in Canada for the making of Term CORRA Loans, Daily Compounded CORRA Loans, Daily Simple SOFR Loans or Term SOFR Loans does not exist, (ii) Term CORRA, Daily Compounded CORRA, Daily Simple SOFR or Term SOFR cannot be determined in accordance with the definition thereof on any given day, or (iii) a Benchmark Replacement Date has occurred with respect to Term CORRA, Daily Compounded CORRA, Daily Simple SOFR or Term SOFR, the ability of the Borrower to request a drawdown (including any rollover or conversion) under the applicable borrowing option shall be suspended until the Bank advises otherwise. At the Bank's sole discretion, any such drawdown (including any rollover or conversion) request during the suspension period for (i) Term CORRA Loans or Daily Compounded CORRA Loans, as applicable, shall be deemed to be a drawdown notice requesting a Prime Based Loan in an equivalent amount, or (ii) Term SOFR Loans or Daily Simple SOFR Loans shall be deemed to be a drawdown notice requesting a USBR Loan in an equivalent amount.

#### **Cash Management**

The Bank may, and the Borrower hereby authorizes the Bank to, drawdown under the Facility to satisfy any obligations of the Borrower to the Bank in connection with any cash management service provided by the Bank to the Borrower. The Bank may drawdown under the Facility even if the drawdown results in amounts outstanding in excess of the Credit Limit.

#### **5. STANDARD DISBURSEMENT CONDITIONS**

The Bank shall have received the following documents which should be in form and substance satisfactory to the Bank:

1. a copy of a duly executed resolution of the Borrower's Board of Directors empowering the Borrower to enter into this Agreement;
2. all of the Bank Security and supporting resolutions and solicitors' letters of opinion required under this Agreement;
3. all operation of account documentation;
4. a completed Environmental Questionnaire and/or if requested by the Bank, an audit inspection report from auditors or inspectors acceptable to the Bank;
5. for drawdowns under the Facility by way of L/C or L/G, the Bank's standard form Letter of Credit Indemnity Agreement; and
6. a copy of any necessary or desirable government approvals authorizing the Borrower to enter into this Agreement.

#### **6. STANDARD REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants, which representations and warranties shall be deemed to be repeated each day hereafter, that:

1. The Borrower is a duly incorporated corporation, a limited partnership, partnership, or sole proprietorship, duly organized, validly existing and in good standing under the laws of the jurisdiction where the Branch/Centre is located and each other jurisdiction where the Borrower has property or assets or carries on business and the Borrower has adequate corporate power and authority to carry on its business, own property, borrow monies and enter into agreements therefore, execute and deliver the Agreement, the Bank Security, and documents required hereunder, and observe and perform the terms and provisions of this Agreement.

2. There are no laws, statutes or regulations applicable to or binding upon the Borrower and no provisions in its charter documents or in any by-laws, resolutions, contracts, agreements, or arrangements which would be contravened, breached, violated as a result of the execution, delivery, performance, observance, of any terms of this Agreement.
3. No event of default has occurred nor has any event occurred which, with the passage of time or the giving of notice, would constitute an event of default under any other agreement for borrowed money.
4. There are no actions, suits or proceedings, including appeals or applications for review, or any knowledge of pending actions, suits, or proceedings against the Borrower and its subsidiaries, before any court or administrative agency which would result in any material adverse change in the property, assets, financial condition, business or operations of the Borrower.
5. All material authorizations, approvals, consents, licenses, exemptions, filings, registrations and other requirements of governmental, judicial and public bodies and authorities required to carry on its business have been or will be obtained or effected and are or will be in full force and effect.
6. The financial statements and forecasts delivered to the Bank fairly present the present financial position of the Borrower, and have been prepared by the Borrower and its auditors in accordance with the International Financial Reporting Standards or GAAP for Private Enterprises.
7. All of the remittances required to be made by the Borrower to the federal government and all provincial and municipal governments have been made, are currently up to date and there are no outstanding arrears. Without limiting the foregoing, all employee source deductions (including income taxes, Employment Insurance and Canada Pension Plan), sales taxes (both provincial and federal), corporate income taxes, corporate capital taxes, payroll taxes and workers' compensation dues are currently paid and up to date.
8. If the Bank Security includes a charge on real property, the Borrower or Guarantor, as applicable, is the legal and beneficial owner of the real property with good and marketable title in fee simple thereto, free from all easements, rights-of-way, agreements, restrictions, mortgages, liens, executions and other encumbrances, save and except for those approved by the Bank in writing.
9. All information that the Borrower has provided to the Bank is accurate and complete respecting, where applicable:
  - i. the names of the Borrower's directors and the names and addresses of the Borrower's beneficial owners;
  - ii. the names and addresses of the Borrower's trustees, known beneficiaries and/or settlors; and
  - iii. the Borrower's ownership, control and structure.

## **7. STANDARD POSITIVE COVENANTS**

In addition to all of the other obligations in this Agreement the Borrower will:

- (i) pay all amounts outstanding to the Bank when due or demanded,
- (ii) maintain its existence as a sole proprietorship, corporation, partnership or limited partnership, as the case may be, and keep all material agreements, rights, franchises, licenses, operations, contracts or other arrangements in full force and effect,
- (iii) pay all taxes,
- (iv) maintain its property, plant and equipment in good repair and working condition,
- (v) continue to carry on the business now being carried on,
- (vi) maintain adequate insurance on all of its assets, undertakings, and business risks,
- (vii) permit the Bank and its authorized representatives full access to its premises, business, financial and computer records and allow the duplication or extraction of pertinent information therefrom, and

(viii) comply with all applicable laws.

## **8. STANDARD NEGATIVE COVENANTS**

The Borrower will not:

- (i) create, incur, assume, or suffer to exist, any mortgage, deed of trust, pledge, lien, security interest, assignment, charge, or encumbrance (including without limitation, any conditional sale, or other title retention agreement, or finance lease) of any nature, upon or with respect to any of its property, now owned or hereafter acquired except for those Permitted Liens set out in the Letter.
- (ii) merge or amalgamate with any other entity or permit any change of ownership or change its capital structure, and
- (iii) sell, lease, assign, or otherwise dispose of all or substantially all of its assets.

Compliance by the Borrower with these Positive Covenants and Negative Covenants shall not automatically entitle the Borrower to the continued availability of the Facility and shall not restrict or limit the Bank's ability to demand repayment of all or any part of amounts outstanding under the Facility.

## **9. ADDITIONAL INFORMATION AND SECURITY**

The Borrower will provide, or cause to be provided, whatever information the Bank may request from time to time, including, without limitation, such updated information and/or additional supporting information as the Bank may require with respect to any or all the matters in the Borrower's representation and warranty made in paragraph 8 of the above Section 6. The Borrower will provide, or cause to be provided, any security or guarantees required by the Bank from time to time.

## **10. INDEMNITY**

The Borrower agrees to indemnify the Bank from and against any and all claims, losses and liabilities arising or resulting from this Agreement. USD loans must be repaid with USD and CAD loans must be repaid with CAD and the Borrower shall indemnify the Bank for any loss suffered by the Bank if USD loans are repaid with CAD or vice versa, whether such payment is made pursuant to an order of a court or otherwise. In no event will the Bank be liable to the Borrower for any direct, indirect or consequential damages arising in connection with this Agreement.

## **11. TAXATION ON PAYMENTS**

All payments made by the Borrower to the Bank will be made free and clear of all present and future taxes (excluding the Bank's income taxes), withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by applicable law and are made, the Borrower shall, as a separate and independent obligation, pay to the Bank all additional amounts as shall fully indemnify the Bank from any such taxes, withholdings or deductions.

## **12. FX CLOSE OUT**

The Borrower hereby acknowledges and agrees that in the event any of the following occur: (i) Default by the Borrower under any forward foreign exchange contract ("FX Contract"); (ii) Default by the Borrower in payment of monies owing by it to anyone, including the Bank; (iii) Default in the performance of any other obligation of the Borrower under any agreement to which it is subject; or (iv) the Borrower is adjudged to be or voluntarily becomes bankrupt or insolvent or admits in writing to its inability to pay its debts as they come due or has a receiver appointed over its assets, the Bank shall be entitled without advance notice to the Borrower to close out and terminate all of the outstanding FX Contracts entered into hereunder, using normal commercial practices employed by the Bank, to determine the gain or loss for each terminated FX contract.

The Bank shall then be entitled to calculate a net termination value for all of the terminated FX Contracts which shall be the net sum of all the losses and gains arising from the termination of the FX Contracts which net sum shall be the "Close Out Value" of the terminated FX Contracts.



The Borrower acknowledges that it shall be required to forthwith pay any positive Close Out Value owing to the Bank and the Bank shall be required to pay any negative Close Out Value owing to the Borrower, subject to any rights of set-off to which the Bank is entitled or subject.

### **13. ENVIRONMENTAL REPRESENTATION AND UNDERTAKINGS**

The Borrower represents, warrants and covenants (which representation, warranty and covenant shall continue each day hereafter) that its property and business is being operated in compliance with applicable environmental, health and safety laws and regulations and that there are no judicial or administrative proceedings in respect thereto.

The Borrower shall, when asked by the Bank, at the Borrower's expense, obtain and provide to the Bank an appraisal, environmental audit or inspection report of any of its property from appraisers, auditors or inspectors acceptable to the Bank.

The Borrower will defend, indemnify and hold harmless the Bank, its officers, directors, employees, agents and shareholders, against all loss, costs, claims, damages and expenses (including legal, audit and inspection expenses) which may be suffered or incurred in connection with the breach of this environmental representation, warranty and covenant and against environmental damage occasioned by the Borrower's activities or by contamination of or from any of the Borrower's property.

### **14. REPRESENTATION**

No representation or warranty or other statement made by the Bank concerning the Facility shall be binding on the Bank unless made by it in writing as a specific amendment to the Agreement.

### **15. BANK MAY CHANGE AGREEMENT**

The Bank may change the provisions of this Agreement from time to time. These changes include, without limitation, changes to the Credit Limit, interest rate, or fees payable by the Borrower. The Bank will notify the Borrower of any change in this Agreement by mail, hand delivery, electronic mail or facsimile transmission or for a change in any interest rates or interest rate definitions by posting a notice in all of the Bank's branches. The Bank is not required to notify a Guarantor of any change in the Agreement, including without limitation, any increase in the Credit Limit, Overdraft Limit or Loan Amount. If more than one Person signs this Agreement, communication with any one Person will serve as notice to all.

### **16. METHOD OF COMMUNICATION**

The Bank may communicate with the Borrower by ordinary, uninsured mail or other means, including hand delivery, electronic mail or facsimile transmission. Mailed information is deemed to be received by the Borrower five days after mailing. Delivered information is deemed to be received when delivered or left at the Borrower's address. Electronically delivered information is deemed to be received when sent. Messages sent by facsimile are deemed to be received when the Bank receives a fax confirmation.

### **17. EXPENSES**

The Borrower shall pay any fees and expenses (including but not limited to all legal fees) incurred by the Bank in connection with the preparation, registration, ongoing administration, and discharge of this Agreement and the Bank Security and with the enforcement of the Bank's rights and remedies under this Agreement and the Bank Security whether or not any amounts are advanced under the Agreement.

These fees and expenses shall include, but not be limited to, any outside counsel expenses, and any in-house legal expenses (if in-house counsel are used), and any outside professional advisory fees and expenses, and any registration, renewal and discharge fees in connection with the Bank Security, including but not limited to, as applicable, land registry, intellectual property registry, Personal Property Security Act, and Le Registre des droits personnels et réels mobiliers fees as established by the applicable federal, provincial and/or territorial government(s) from time to time. The Borrower shall pay interest on unpaid amounts due pursuant to this paragraph at the All-In Rate plus 2% per annum.

Without limiting the generality of Section 24, the Bank or the Bank's agent, is authorized to debit any of the Borrower's accounts with the amount of the fees and expenses owed by the Borrower hereunder, including any registration, renewal and discharge fee as described in this section in connection with the Bank Security, even if that debiting creates an overdraft in any such account. If there are insufficient funds in the Borrower's accounts to reimburse the Bank or it's agent for payment of the fees and expenses owed by the Borrower hereunder, the amount debited to the Borrower's accounts shall be deemed to be a Prime Based Loan under the Facility.

The Borrower will, if requested by the Bank, sign a Pre-Authorized Payment Authorization in a format acceptable to the Bank to permit the Bank's agent to debit the Borrower's accounts as contemplated in this Section.

#### **18. NON WAIVER**

Any failure by the Bank to object to or take action with respect to a breach of this Agreement or any Bank Security shall not constitute a waiver of the Bank's right to take action at a later date on that breach. No course of conduct by the Bank will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Agreement and the Bank Security or the Bank's rights thereunder.

#### **19. EVIDENCE OF INDEBTEDNESS**

The Bank shall record on its records the amount of all advances made hereunder, payments made in respect thereto, and all other amounts becoming due to the Bank under this Agreement. The Bank's records constitute, in the absence of manifest error, conclusive evidence of the Borrower's indebtedness to the Bank pursuant to this Agreement.

The Borrower will sign the Bank's standard form Letter of Credit Indemnity Agreement for all L/Cs and L/Gs issued by the Bank.

With respect to chattel mortgages taken as Bank Security, this Agreement is the Promissory Note referred to in same chattel mortgage, and the indebtedness incurred hereunder is the indebtedness secured by the chattel mortgage.

#### **20. ENTIRE AGREEMENTS**

This Agreement replaces any previous agreements dealing specifically with the Facility. Agreements relating to other credit facilities made available by the Bank continue to apply for those other credit facilities. This Agreement, and if applicable, the Letter of Credit Indemnity Agreement are the entire agreements relating to the Facility described in this Agreement.

#### **21. NON-MERGER**

Notwithstanding the execution, delivery or registration of the Bank Security and notwithstanding any advances made pursuant thereto, this Agreement shall continue to be valid, binding and enforceable and shall not merge as a result thereof. Any default under this Agreement shall constitute concurrent default under the Bank Security. Any default under the Bank Security shall constitute concurrent default under this Agreement. In the event of an inconsistency between the terms of this Agreement and the terms of the Bank Security, the terms of this Agreement shall prevail and the inclusion of any term in the Bank Security that is not dealt with in this Agreement shall not be an inconsistency.

#### **22. ASSIGNMENT**

The Bank may assign or grant participation in all or part of this Agreement or in any loan made hereunder without notice to and without the Borrower's consent.

The Borrower may not assign or transfer all or any part of its rights or obligations under this Agreement.

### **23. RELEASE OF INFORMATION**

The Borrower hereby irrevocably authorizes and directs its accountant, (the "Accountant") to deliver all financial statements and other financial information concerning the Borrower to the Bank and agrees that the Bank and the Accountant may communicate directly with each other.

### **24. SET-OFF**

In addition to and not in limitation of any rights now or hereafter granted under applicable law, the Bank may at any time and from time to time without notice to the Borrower or any other person, any notice being expressly waived by the Borrower, set-off and apply any and all deposits, general or special, time or demand, provisional or final, matured or unmatured, in any currency, and any other indebtedness or amount payable by the Bank (irrespective of the place of payment or booking office of the obligation), to or for the Borrower's credit or for the Borrower's account, including without limitation, any amount owed by the Bank to the Borrower under any FX Contract or other treasury or derivative product, against and on account of the indebtedness and liability under this Agreement notwithstanding that any of them are contingent or unmatured or in a different currency than the indebtedness and liability under this Agreement.

When applying a deposit or other obligation in a different currency than the indebtedness under this Agreement to the indebtedness under this Agreement, the Bank will convert the deposit or other obligation to the currency of indebtedness under this Agreement using the exchange rate determined by the Bank at the time of the conversion.

### **25. SEVERABILITY**

In the event any one or more of the provisions of this Agreement shall for any reason, including under any applicable statute or rule of law, be held to be invalid, illegal or unenforceable, that part will be severed from this Agreement and will not affect the enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

### **26. MISCELLANEOUS**

- i) The Borrower has received a signed copy of this Agreement;
- ii) If more than one person, firm or corporation signs this Agreement as the Borrower, each party is jointly and severally liable hereunder, and the Bank may require payment of all amounts payable under this Agreement from any one of them, or a portion from each, but the Bank is released from any of its obligations by performing that obligation to any one of them;
- iii) Accounting terms will (to the extent not defined in this Agreement) be interpreted in accordance with accounting principles established from time to time by the Canadian Institute of Chartered Accountants (or any successor) consistently applied, and all financial statements and information provided to the Bank will be prepared in accordance with those principles;
- iv) This Agreement is governed by the law of the Province or Territory where the Branch/Centre is located.
- iv) Unless stated otherwise, all amounts referred to herein are in Canadian dollars.
- v) If the Borrower qualifies as an Eligible Enterprise and the facility/ies hereunder are not secured by a mortgage on real property, the Borrower has the right to cancel this Agreement without incurring a cancellation charge until the end of the third Business Day after the day on which this Agreement is entered into and may be entitled to the refund of certain fees other than (i) any amounts related to the use of the product or service prior to its cancellation; and (ii) any expense that the Bank has reasonably incurred in providing the product or service. Eligible Enterprise, as defined in the Bank Act, means a business with authorized credit of less than CAD\$1,000,000, fewer than 500 employees and annual revenues of less than CAD\$50,000,000.

- vi) If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment shall be extended to the next succeeding Business Day on which such payment shall be due and payable. Notwithstanding the foregoing, if a payment with respect to a Term CORRA Loan, Daily Compounded CORRA Loan, Term SOFR Loan or Daily Simple SOFR Loan becomes due and payable on a day which is not a Business Day and the next succeeding Business Day is in a succeeding calendar month, the due date of such payment shall be the immediately preceding Business Day.

## **27. CUSTOMER RESOLUTION PROCESS**

Tell us about your problem or concern in the way that is most convenient for you. You may contact a Customer Service Representative at your Branch or Business Unit that handles your account, call us toll free at 1-833-259-5980, contact us by mail at Customer Service, TD Centre, P.O. Box 193, Toronto, Ontario, M5K 1H6, by fax at 1-877-983-2932 or by e-mail at [customer.service@td.com](mailto:customer.service@td.com). As a next step, if your concern remains unresolved, the Manager will offer to elevate your problem to a representative of the Senior Management Office. Alternatively, if you prefer to elevate the problem yourself, you may contact the Manager, or one of our telephone banking specialists at the toll-free number above, and they will assist you.

If your concern remains unresolved, you may contact the Senior Customer Complaints Office by email at [td.scco@td.com](mailto:td.scco@td.com), by mail at P.O. Box 1, TD Centre, Toronto, Ontario, M5K 1A2, or toll free at 1-888-361-0319. If your concern still remains unresolved, you may then contact the ADR Chambers Banking Ombuds Office (ADRBO) by mail at 31 Adelaide Street East, P.O. Box 1066, Toronto, Ontario, M5C 1K9 or telephone: 1-800-941-3655 or toll free fax: 1-877-307-5127 and at [www.bankingombuds.ca](http://www.bankingombuds.ca) or [contact@bankingombuds.ca](mailto:contact@bankingombuds.ca). For a more detailed overview please obtain a copy of our "If You Have a Problem or Concern" brochure from any branch or from our website at [www.td.com](http://www.td.com).

Financial Consumer Agency of Canada (FCAC) - If you have a complaint regarding a potential violation of a consumer protection law, a public commitment, or an industry code of conduct, you can contact the FCAC in writing at: 6th Floor, Enterprise Building, 427 Laurier Ave. West, Ottawa, Ontario K1R 1B9. The FCAC can also be contacted by telephone at 1-866-461-3222 (en français 1-866-461-2232) or through its website at [www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca). Please note that the FCAC does not become involved in matters of redress or compensation - all such requests must follow the process set out above.

## **28. CONSENT TO TD HANDLING OF YOUR PERSONAL INFORMATION AND PRIVACY POLICY**

In this Section 29 and elsewhere in this Agreement, where applicable, "you" and "your" means the Borrower and "we", "our" and "us" means the Bank.

**You consent to Our Privacy Policy.** You agree that the Bank (which includes The Toronto- Dominion Bank and affiliated companies) may handle your personal information as we set out in our Privacy Policy. You can find our Privacy Policy online at [td.com/privacy](http://td.com/privacy).

**You have choices.** The Privacy Policy outlines your options, where available, to refuse or withdraw your consent.

**Here is a summary of our Privacy Policy.**

### ***We collect, use, share and retain your information to:***

- Identify you
- Process your application
- Provide you ongoing service
- Communicate with you
- Personalize our relationship with you
- Improve TD products and services
- Protect against fraud, financial abuse and error
- Manage and assess our risks
- Meet legal and regulatory obligations

### ***We collect information (for the purposes set out above) from you and others including:***

- Payment card networks
- Lenders
- Insurers
- Fraud prevention agencies and registries
- Any other people you have allowed us to contact

- From your interactions with us, including on your mobile device or the internet, cameras at our property and records of your use of our products and services

***We may share your information (for the purposes set out above) with these parties. Some of them may be located outside your province/territory or outside Canada:***

- TD affiliates
- Fraud prevention agencies and registries
- Lenders
- Companies that we work with to provide products or services
- Insurers
- Payment card networks

***We retain your information:***

We keep your information for as long as we reasonably need it for the purposes set out above.

***We may communicate with you:***

We may communicate with you about your application. And about your existing and other products and services that may be of interest to you. We may contact you by mail, phone at the number(s) you have provided, text, email or other electronic methods.

You can opt out of receiving offers or choose how we contact you for marketing campaign purposes. To do so, visit a TD branch or call us at 1-866-222-3456.

**Application of Privacy Policy to Related Parties**

If:

- a) there are changes to the signing authorities of the Borrower; or
- b) at the time of obtaining a product or service from us, the Borrower, if a corporation, has any individual who owns or controls, directly or indirectly, 25 per cent or more of the shares of the corporation, or has any director, where such individual or director is not, at such time, either a signing authority of the corporation or a personal banking customer of the Bank; or
- c) at the time of obtaining a product or service from us, the Borrower, if other than a corporation, has any individual who owns or controls, directly or indirectly, 25 per cent or more of the Borrower, where such individual is not, at such time, either a signing authority of the Borrower or a personal banking customer of the Bank;

then the Borrower agrees to make such signing authorities and any such individual or director aware of the Privacy Policy, advise them that they are subject to such policy and inform them that a copy of such policy is available at any TD Canada Trust branch or online at td.com.

The above sections b) and c) shall not apply where the Borrower is a public body, or a corporation that has minimum net assets of \$75 million on its last audited balance sheet and whose shares are traded on a Canadian stock exchange or a stock exchange that is prescribed by section 3201 of the Income Tax Regulations, as may be amended from time to time, and operates in a country that is a member of the Financial Action Task Force.

**29. CONSENT TO THE COLLECTION AND/OR DISCLOSURE OF INFORMATION – BORROWER (OTHER THAN AN INDIVIDUAL)**

In addition to any rights the Bank may have regarding the collection and disclosure of the Borrower's information, the Borrower authorizes the Bank to obtain information about the Borrower from, and disclose information about the Borrower to, TD, other lenders, credit reporting or credit rating agencies, credit bureaus, auditors, governmental and regulatory authorities, references provided by the Borrower and any supplier, agent or other party that performs services for the Borrower or for the Bank.