

**THIRD AMENDING DEED DATED JUNE 26, 2023**

**to**

**AMENDED AND RESTATED SUPPLEMENTAL TRUST DEED**

**April 2, 2020**

**(supplemental to the Third Amended and Restated Trust Deed dated June 30, 2022, as amended by the First Amending Agreement dated August 26, 2022)**

**RELATING TO AUSTRALIAN DOLLAR DENOMINATED**

**COVERED BONDS ISSUED UNDER THE**

**CAD 80,000,000,000**

**GLOBAL LEGISLATIVE COVERED BOND PROGRAMME**

**OF**

**THE TORONTO-DOMINION BANK**

**THE TORONTO-DOMINION BANK  
as Issuer**

**and**

**TD COVERED BOND (LEGISLATIVE) GUARANTOR  
LIMITED PARTNERSHIP  
as Guarantor**

**and**

**COMPUTERSHARE TRUST COMPANY OF CANADA  
as Bond Trustee**

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**THIS THIRD AMENDING DEED TO AMENDED AND RESTATED SUPPLEMENTAL TRUST DEED** is made on June 28, 2023 **BETWEEN:**

- (1) **The Toronto-Dominion Bank**, a Canadian chartered bank having its executive offices at 66 Wellington Street West, TD Bank Tower, Toronto, Ontario, Canada M5K 1A2 (the “**Issuer**”);
- (2) **TD Covered Bond (Legislative) Guarantor Limited Partnership**, a limited partnership constituted under the *Limited Partnerships Act* (Ontario) and having its principal place of business at 66 Wellington Street West, 21<sup>st</sup> Floor, TD Bank Tower, Toronto, Ontario, Canada M5K 1A2 herein represented by its managing general partner, **TD Covered Bond (Legislative) GP Inc.** (the “**Guarantor**”); and
- (3) **Computershare Trust Company of Canada**, a company incorporated under the laws of Canada, whose registered office is at 100 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario, Canada M5J 2Y1 (in its capacity as the Bond Trustee for the Covered Bondholders, the Receiptholders and the Couponholders, the “**Bond Trustee**” which expressions shall, wherever the context so admits, include such company and all other persons or companies for the time being the bond trustee or bond trustees) as bond trustee for the Covered Bondholders, the Receiptholders and the Couponholders.

**WHEREAS:**

- (1) The Issuer provided for the continued issue of Australian dollar denominated Covered Bonds (the “**Australian Covered Bonds**”), governed by the law in force in New South Wales, Australia, in the Australian domestic wholesale capital market under the Programme by executing the amended and restated supplemental trust deed dated April 2, 2020, as amended by a first amending deed dated July 26, 2022 and a second amending deed dated March 14, 2023 (the “**Supplemental Trust Deed**”).
- (2) The Issuer wishes to enter into this Third Amending Deed dated June 26, 2023 (this “**Third Amending Deed**”) to support this issuance of Australian Covered Bonds on or after the date hereof.
- (3) The holders of the Australian Covered Bonds shall also have the benefit of and be subject to certain terms of the Programme which shall be specified in the Trust Deed as supplemented by the Supplemental Trust Deed and this Third Amending Deed.

**NOW THIS THIRD AMENDING DEED WITNESSES AND IT IS AGREED AND DECLARED** as follows:

**1. Confirmation**

- 1.1 The parties hereto confirm that Schedule 1 attached hereto, as amended, supplemented, restated or replaced, shall for all purposes be treated as Schedule 1 to the Supplemental Trust Deed in respect of Australian Covered Bonds issued on or after the date hereof.

## 2. Definitions and Interpretations

2.1 Wherever used in this Third Amending Deed, the following terms shall have the following meanings, respectively:

“**Australian Deed Poll**”, refers to the following:

the fifth Australian deed poll dated June 26, 2023 and executed by the Issuer in the form attached to Schedule 2 hereto as Annex 1 or any Australian deed poll created in the future and executed by the Issuer and attached by the Issuer as a further annex to Schedule 2 as acknowledged in writing by the other parties hereto (as may be amended, supplemented or restated) which shall set out the terms and conditions of the Australian Covered Bonds to be issued on or after the date of such deed poll as may be supplemented, modified or replaced by the applicable Final Terms for such Australian Covered Bonds (for such Australian Covered Bonds and as amended, supplemented or restated, the “**Australian Covered Bonds Terms and Conditions**” and a reference to a particular “**Condition**” shall be a reference to the correspondingly numbered Australian Covered Bond Term and Condition in respect of such Australian Covered Bonds);

“**Final Terms**”, refers to the following:

for the Australian Covered Bonds issued on or after the date hereof, the applicable Pricing Supplement for such Australian Covered Bonds; and

“**Programme Terms**”, refers to the following:

the programme terms set out in Schedule 1 – Annex 1 in respect of the Australian Covered Bonds issued on or after the date hereof (as may be amended, supplemented or restated) or any programme terms attached as a further annex to Schedule 1 by the Issuer in respect of Australian Covered Bonds created on or after the date of such programme terms, as acknowledged in writing by the other parties hereto (as the same may be further amended, supplemented or restated).

2.2 In this Third Amending Deed, unless there is anything in the subject or context inconsistent therewith, the following shall apply:

- (a) words denoting the singular shall include the plural and vice versa;
- (b) words denoting one gender only shall include the other genders; and
- (c) words denoting persons only shall include firms and corporations and vice versa.

2.3 (a) All references herein and in the applicable Australian Deed Poll to principal and/or principal amount and/or interest in respect of the Australian Covered Bonds or to any moneys payable by the Issuer or the Guarantor hereunder shall, unless the context otherwise requires, be construed in accordance with Condition 8.04 of the applicable Australian Covered Bonds Terms and Conditions.

- (b) All references herein to any statute or any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory

instrument, order or regulation made thereunder or under any such modification or re-enactment.

- (c) All references herein to any action, remedy or method of proceeding for the enforcement of the rights of creditors shall be deemed to include, in respect of any jurisdiction other than the Province of Ontario, Canada, references to such action, remedy or method of proceeding for the enforcement of the rights of creditors available or appropriate in such jurisdiction as shall most nearly approximate to such action, remedy or method of proceeding described or referred to herein.
- (d) Unless the context otherwise requires words or expressions used in the trust presents shall bear the same meanings as in the *Bank Act* (Canada).
- (e) All references herein, in the Trust Deed, the Master Definitions and Construction Agreement and each other Transaction Document to Euroclear and/or Clearstream, Luxembourg and/or DTC shall, whenever the context so permits, be deemed to include references to the Austraclear System.
- (f) All references herein, in the Trust Deed, the Master Definitions and Construction Agreement and each other Transaction Document to the records of Euroclear, Clearstream, Luxembourg or DTC shall be to the records that each of Euroclear, Clearstream, Luxembourg, DTC or the Austraclear System, as applicable, holds for its customers or participants which reflect the amount of such customers' or participants' interest in the Covered Bonds.
- (g) In this Third Amending Deed references to Schedules, Clauses, paragraphs and sub paragraphs shall be construed as references to the Schedules to this Third Amending Deed and to the Clauses, paragraphs and sub paragraphs of this Third Amending Deed respectively unless expressly provided otherwise.
- (h) In this Third Amending Deed tables of contents and Clause headings are included for ease of reference and shall not affect the construction hereof.

2.4 The second amended and restated master definitions and construction agreement made between, *inter alios*, the parties to the Second Amended and Restated Trust Deed on July 5, 2019, as amended by a first amending agreement dated as of June 30, 2020, a second amending agreement dated as of June 30, 2021 and a third amending agreement dated as of June 30, 2022 (as the same may be further amended, restated, varied or supplemented from time to time with the consent of the parties thereto, collectively the "**Master Definitions and Construction Agreement**") is expressly and specifically incorporated into this Third Amending Deed and, accordingly, the expressions defined in the Master Definitions and Construction Agreement (as so amended, restated, varied or supplemented) shall, except where the context otherwise requires and save where otherwise defined herein, have the same meanings in this Third Amending Deed, including the recitals hereto and this Third Amending Deed shall be construed in accordance with the interpretation provisions set out in Clause 2 of the Master Definitions and Construction Agreement. In the event of inconsistency between the Master Definitions and Construction Agreement and this Third Amending Deed, this Third Amending Deed shall prevail.

2.5 Except as otherwise provided herein, the terms of the Trust Deed and the Supplemental Trust Deed as supplemented by this Third Amending Deed shall apply to the Australian

Covered Bonds and the Trust Deed, the Supplemental Trust Deed, this Third Amending Deed and the applicable Australian Deed Poll shall be read and construed, in relation to the Australian Covered Bonds on or after the date hereof, as one document.

- 2.6 All references to “**Covered Bonds**” in the Trust Deed, the Master Definitions and Construction Agreement and each other Transaction Document shall be interpreted as including Australian Covered Bonds as constituted under the applicable Australian Deed Poll and any reference to “**Covered Bondholder**” shall be construed accordingly unless otherwise specified in this Third Amending Deed. The Issuer acknowledges, agrees and confirms, for the benefit of the holders of Australian Covered Bonds and the Bond Trustee, that Australian Covered Bonds are “**Covered Bonds**” for the purposes of the Trust Deed.
- 2.7 The Australian Covered Bond Terms and Conditions, as set out in Schedule 1 to the applicable Australian Deed Poll and the Programme Terms (as defined below) and as supplemented, modified or replaced by the applicable Final Terms, shall apply to the applicable Australian Covered Bonds.
- 2.8 The holders of the Australian Covered Bonds shall have the further benefit of and be subject to the Programme Terms. For the purposes of the Trust Deed in respect of the Australian Covered Bonds, references to “**Conditions**” shall be construed as the applicable Australian Covered Bonds Terms and Conditions and the Programme Terms (as the context requires).
- 2.9 All references in this Third Amending Deed, the Supplemental Trust Deed and the Trust Deed to the “Paying Agent” shall mean, in relation to a Tranche or Series of Australian Covered Bonds, the Australian Agent, or such other paying agent as the Final Terms of that Tranche or Series may specify.
- 2.10 In the event of any inconsistency among the provisions of any of the applicable Final Terms, the applicable Australian Deed Poll, this Third Amending Deed, the Supplemental Trust Deed and the Trust Deed relating solely to the Australian Covered Bonds, the provisions of such agreements shall prevail in the following order (with the first referenced prevailing over the next referenced and so on): the applicable Final Terms, the applicable Australian Deed Poll, this Third Amending Deed, the Supplemental Trust Deed and the Trust Deed.
- 2.11 The Issuer acknowledges, agrees and confirms that the applicable Australian Deed Poll is a Transaction Document as defined in the Master Definitions and Construction Agreement.

### **3. Amending Deed**

This Third Amending Deed is supplemental to the Supplemental Trust Deed. Save as expressly amended by this Third Amending Deed, the Supplemental Trust Deed shall remain in full force and effect and all of the other rights, powers, obligations and immunities comprised therein and arising pursuant thereto shall remain in full force and effect notwithstanding this Third Amending Deed.

**4. Amendments, Modifications and Assignments**

Subject to the terms of Clause 21 of the Trust Deed, and except as otherwise expressly provided in this Third Amending Deed, the provisions in this Third Amending Deed may be amended or modified only by written agreement of all of the parties hereto, and if any such amendment or modification or any waiver given in accordance with Clause 21 of the Trust Deed is determined to be material in the opinion of the Guarantor, satisfaction of the Rating Agency Condition shall be required in respect thereof. The Guarantor (or the Cash Manager on its behalf) shall deliver notice to the Rating Agencies of any amendment or modification or waiver which does not require satisfaction of the Rating Agency Condition provided that failure to deliver such notice shall not constitute a breach of the obligations of the Guarantor under this Third Amending Deed. This Third Amending Deed (and the benefits and obligations contained in it) may not be assigned by any party without the prior written consent of each of the other parties hereto and the Rating Agency Condition having been satisfied in respect of such assignment.

**5. Governing Law**

This Third Amending Deed is governed by, and shall be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

**6. Counterparts**

This Third Amending Deed and any deed supplemental hereto may be executed and delivered in any number of counterparts, all of which, taken together, shall constitute one and the same deed and any party to this Third Amending Deed or any deed supplemental hereto may enter into the same by executing and delivering a counterpart.

***[The Remainder of this page is intentionally left blank]***

**IN WITNESS** whereof this Third Amending Deed has been executed as an amending deed by the Issuer, the Guarantor and the Bond Trustee and delivered on the date first stated on page 1.

**THE TORONTO-DOMINION BANK**

Per: (s) Colin Elion  
Name: Colin Elion  
Title: Associate Vice President  
Funding, Treasury and Balance Sheet  
Management

**TD COVERED BOND (LEGISLATIVE)  
GUARANTOR LIMITED PARTNERSHIP, by  
its managing general partner, TD  
COVERED BOND (LEGISLATIVE) GP INC.**

Per: (s) Colin Elion  
Name: Colin Elion  
Title: Director

**COMPUTERSHARE TRUST COMPANY OF  
CANADA**

Per: (s) Ashley Hayward  
Name: Ashley Hayward  
Title: Corporate Trust Officer

Per: (s) Ann Samuel  
Name: Ann Samuel  
Title: Associate Trust Officer



**SCHEDULE 1**

**Schedule 1 – Annex 1****PROGRAMME TERMS DATED JUNE 26, 2023**

*The following are the programme terms (the “**Programme Terms**”) in respect of the Australian Covered Bonds, which as supplemented, modified or replaced in relation to any Australian Covered Bonds by the applicable Pricing Supplement, will be applicable to the holders of each Series of Australian Covered Bonds issued pursuant to the Australian Deed Poll.*

The Australian Covered Bonds are issued in series (each, a “**Series**”), and each Series may comprise one or more tranches (“**Tranches**” and each, a “**Tranche**”) of Australian Covered Bonds. Each Tranche will be the subject of an applicable Pricing Supplement.

Save as provided in Programme Terms 3 (*Events of Default*) and 4 (*Meetings of Holders of Covered Bonds, Modification and Waiver*), references in these Programme Terms to “**Covered Bonds**” are to Australian Covered Bonds of the relevant Series as constituted under the Australian Deed Poll and references in these Programme Terms to “**Covered Bondholders**” and “ **Holders of Covered Bonds**” are to the holders of the Australian Covered Bonds.

References in these Programme Terms to the Pricing Supplement are to the Pricing Supplement prepared in relation to the Australian Covered Bonds of the relevant Tranche or Series.

In respect of any Australian Covered Bonds, references herein to “**Terms and Conditions**” are to the Australian Covered Bonds Terms and Conditions and any reference herein to a “**Condition**” is a reference to the relevant Condition of the Australian Covered Bonds Terms and Conditions.

The security for the obligations of the Guarantor under the Covered Bond Guarantee and the other Transaction Documents to which it is a party has been created in and pursuant to, and on the terms set out in, a security agreement governed by Ontario law (other than certain other provisions relating to real property located outside of the Province of Ontario which will be governed by the law of the jurisdiction in which such property is located) (such security agreement as amended, restated, supplemented or replaced from time to time, the “**Security Agreement**”) dated 25 June 2014 and made between the Guarantor, the Bond Trustee and certain other Secured Creditors.

These Programme Terms include summaries of and are subject to, certain provisions of the Trust Deed, the Australian Deed Poll, the Security Agreement and the Agency Agreement.

Copies of the Trust Deed, the Security Agreement, the Master Definitions and Construction Agreement (as defined below), the Agency Agreement and each of the other Transaction Documents (other than the Dealership Agreement and any subscription agreements) are available for inspection during normal business hours at the registered office for the time being of the Bond Trustee being at the date of this Information Memorandum at 100 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario, Canada, M5J 2Y1. Copies of the applicable Pricing Supplement of the Australian Covered Bonds of each Series are obtainable during normal business hours of the specified office of the Australian Agent, and any holder of the Australian Covered Bonds must produce evidence satisfactory to the Issuer and the Bond Trustee or the Australian Agent as to its holding of Australian Covered Bonds and identity. The holders of the Australian Covered Bonds are deemed to have notice of, or are bound by, and are entitled to the benefit of, all the provisions of, and definitions contained in, the Trust Deed, the Security Agreement, the Master Definitions and Construction Agreement, the Agency Agreement, each of the other Transaction

Documents (other than the Dealership Agreement and any subscription agreements) and the applicable Pricing Supplement which are applicable to them and to have notice of each Pricing Supplement relating to each other Series.

Except where the context otherwise requires, capitalised terms used and not otherwise defined in these Programme Terms shall bear the meanings given to them in the Trust Deed, the applicable Pricing Supplement and/or the Master Definitions and Construction Agreement made between the parties to the Transaction Documents initially dated as of 25 June 2014, amended and restated as of 5 July 2019 and as amended on 30 June , 2020, on 30 June , 2021 and on 30 June , 2022 (as the same may be amended, restated, supplemented or replaced from time to time, the “**Master Definitions and Construction Agreement**”), a copy of each of which may be obtained as described above. In the event of inconsistency between the Trust Deed and the Master Definitions and Construction Agreement, the Trust Deed will prevail and in the event of inconsistency between the Trust Deed and the applicable Pricing Supplement, the applicable Pricing Supplement will prevail.

## 1 Guarantee

Payment of Guaranteed Amounts in respect of the Covered Bonds when the same shall become Due for Payment has been unconditionally and irrevocably guaranteed by the Guarantor (the “**Covered Bond Guarantee**”) in favour of the Bond Trustee (for and on behalf of the Covered Bondholders) following a Covered Bond Guarantee Activation Event pursuant to the terms of the Trust Deed. The Guarantor shall have no obligation under the Covered Bond Guarantee to pay any Guaranteed Amounts until a Covered Bond Guarantee Activation Event (as defined below) has occurred. The obligations of the Guarantor under the Covered Bond Guarantee are direct and, following the occurrence of a Covered Bond Guarantee Activation Event, unconditional and, except as provided in the Guarantee Priority of Payments, unsubordinated obligations of the Guarantor, which are secured as provided in the Security Agreement. For the purposes of these Programme Terms, a “**Covered Bond Guarantee Activation Event**” means the earlier to occur of (i) an Issuer Event of Default together with the service of an Issuer Acceleration Notice on the Issuer and the service of a Notice to Pay on the Guarantor; and (ii) a Guarantor Event of Default together with the service of a Guarantor Acceleration Notice on the Issuer and the Guarantor. If a Notice to Pay is served on the Guarantor, the Guarantor shall pay Guaranteed Amounts in respect of the Covered Bonds on the Original Due for Payment Dates or, if applicable, the Extended Due for Payment Date.

Any payment made by the Guarantor under the Covered Bond Guarantee shall (unless such obligation shall have been discharged as a result of the payment of Excess Proceeds to the Bond Trustee pursuant to Programme Term 3) discharge *pro tanto* the obligations of the Issuer in respect of such payment under the Covered Bonds, Receipts and Coupons except where such payment has been declared void, voidable or otherwise recoverable in whole or in part and recovered from the Bond Trustee or the holders of the Covered Bonds.

## 2 Redemption and Purchase Redemption at Maturity

### *Extended Due for Payment Date Provisions*

2.01 Without prejudice to Condition 7 and Programme Term 3, if an Extended Due for Payment Date is specified as applicable in the Pricing Supplement for a Series of Australian Covered Bonds and the Issuer has failed to pay the Final Redemption Amount on the Final

Maturity Date specified in the Pricing Supplement (or after expiry of the grace period set out in Programme Term 3.01(a)) and, following service of a Notice to Pay on the Guarantor by no later than the date falling one Business Day prior to the Extension Determination Date, the Guarantor has insufficient moneys available in accordance with the Guarantee Priority of Payments to pay in full the Guaranteed Amounts corresponding to the Final Redemption Amount of the relevant Series of Australian Covered Bonds on the date falling on the earlier of (a) the date which falls two Business Days after service of such Notice to Pay on the Guarantor or, if later, the Final Maturity Date (or, in each case, after the expiry of the grace period set out in Programme Term 3.02) under the terms of the Covered Bond Guarantee or (b) the Extension Determination Date, then (subject as provided below) payment of the unpaid amount by the Guarantor under the Covered Bond Guarantee shall be deferred until the Extended Due for Payment Date, provided that in respect of any amount representing the Final Redemption Amount due and remaining unpaid on the earlier of (a) and (b) above, the Guarantor will apply any moneys available (after paying or providing for payment of higher ranking or *pari passu* amounts in accordance with the Guarantee Priority of Payments) to pay the Guaranteed Amounts corresponding to the Final Redemption Amount of the relevant Series of Australian Covered Bonds on any Interest Payment Date thereafter up to (and including) the relevant Extended Due for Payment Date.

The Issuer shall confirm to the Australian Agent as soon as reasonably practicable and in any event at least 4 Business Days prior to the Final Maturity Date of a Series of Australian Covered Bonds whether payment will be made in full of the Final Redemption Amount in respect of such Series of Covered Bonds on that Final Maturity Date. Any failure by the Issuer to notify the Australian Agent shall not affect the validity or effectiveness of the extension of maturity. The Guarantor shall notify the relevant holders of the Covered Bonds (in accordance with Condition 13), the Rating Agencies, the Bond Trustee and the Australian Agent as soon as reasonably practicable and in any event at least one Business Day prior to the dates specified in (a) and (b) of the first paragraph of this Programme Term 2.01 of any inability of the Guarantor to pay in full the Guaranteed Amounts corresponding to the Final Redemption Amount in respect of a Series of Australian Covered Bonds pursuant to the Covered Bond Guarantee. Any failure by the Guarantor to notify such parties shall not affect the validity or effectiveness of the extension nor give rise to any rights in any such party.

In the circumstances outlined above, the Guarantor shall on the earlier of (a) the date falling two Business Days after the service of a Notice to Pay on the Guarantor or if later the Final Maturity Date (or, in each case, after the expiry of the applicable grace period set out in Programme Term 3.02) and (b) the Extension Determination Date, under the Covered Bond Guarantee, apply the moneys (if any) available (after paying or providing for payment of higher ranking or *pari passu* amounts in accordance with the Guarantee Priority of Payments) *pro rata* in part payment of an amount equal to the Final Redemption Amount of each Australian Covered Bond of the relevant Series of Australian Covered Bonds and shall pay Guaranteed Amounts constituting the Scheduled Interest in respect of each such Australian Covered Bond on such date. The obligation of the Guarantor to pay any amounts in respect of the balance of the Final Redemption Amount not so paid shall be deferred as described above. Such failure to pay by the Guarantor shall not constitute a Guarantor Event of Default.

Any discharge of the obligations of the Issuer as the result of the payment of Excess Proceeds to the Bond Trustee shall be disregarded for the purposes of determining the

amounts to be paid by the Guarantor under the Covered Bond Guarantee in connection with this Programme Term 2.01.

For the purposes of this Programme Term 2.01:

**“Extended Due for Payment Date”** means, in relation to any Series of Australian Covered Bonds, the date, if any, specified as such in the applicable Pricing Supplement to which the payment of all or (as applicable) part of the Final Redemption Amount payable on the Final Maturity Date will be deferred in the event that the Final Redemption Amount is not paid in full on the Extension Determination Date.

**“Extension Determination Date”** means, in respect of a Series of Australian Covered Bonds, the date falling two Business Days after the expiry of seven days from (and including) the Final Maturity Date of such Australian Covered Bonds.

**“Guarantee Priority of Payments”** means the priority of payments relating to moneys received by the Cash Manager for and on behalf of the Guarantor and moneys standing to the credit of the Guarantor Accounts, to be paid on each Guarantor Payment Date in accordance with the Guarantor Agreement.

**“Rating Agency”** means either Moody’s Investors Service, Inc. or DBRS Limited, to the extent that at the relevant time they provide ratings in respect of the then outstanding Australian Covered Bonds, or their successors and “Rating Agencies” means each Rating Agency.

***Redemption due to Illegality***

- 2.02 The Covered Bonds of all Series may be redeemed at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 nor more than 60 days’ notice to the Bond Trustee, the Australian Agent (with respect to Australian Covered Bonds) and, in accordance with Condition 13, all holders of the Covered Bonds (which notice shall be irrevocable), if the Issuer satisfies the Bond Trustee immediately before the giving of such notice that it has, or will, before the next Interest Payment Date of any Covered Bond of any Series, become unlawful for the Issuer to make, fund or allow to remain outstanding any advance made by it to the Guarantor pursuant to the Intercompany Loan Agreement, as a result of any change in, or amendment to, the applicable laws or regulations or any change in the application or official interpretation of such laws or regulations, which change or amendment has become or will become effective before the next such Interest Payment Date. Covered Bonds redeemed pursuant to this Programme Term 2.02 will be redeemed at their Early Redemption Amount together (if appropriate) with interest accrued to (but excluding) the date of redemption.

Prior to the publication of any notice of redemption pursuant to this Programme Term 2.02, the Issuer shall deliver to the Australian Agent and Bond Trustee a certificate signed by two senior officers of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred and the Australian Agent and Bond Trustee shall be entitled to accept the certificate as sufficient evidence of the satisfaction of the conditions precedent set out above, in which event it shall be conclusive and binding on all holders of the Australian Covered Bonds.

### 3 Events of Default

#### *Issuer Events of Default*

3.01 The Bond Trustee at its discretion may, and if so requested in writing by the holders of at least 25 per cent of the aggregate Principal Amount Outstanding of the Covered Bonds (which for this purpose or the purpose of any Extraordinary Resolution (as defined in the Trust Deed) referred to in this Programme Term 3.01 means the Covered Bonds of this Series together with the Covered Bonds of any other Series constituted by the Trust Deed (and the Covered Bonds of any other Series constituted by the Australian Deed Poll)) then outstanding as if they were a single Series (with the nominal amount of Covered Bonds not denominated in CAD converted into CAD at the applicable Covered Bond Swap Rate) or if so directed by an Extraordinary Resolution of all the holders of the Covered Bonds shall, (but in the case of the happening of any of the events mentioned in sub-paragraphs (b) to (f) below, only if the Bond Trustee shall have certified in writing to the Issuer and the Guarantor that such event is, in its opinion, materially prejudicial to the interests of the holders of the Covered Bonds of any Series) (subject in each case to being indemnified and/or secured to its satisfaction), give notice (an “**Issuer Acceleration Notice**”) in writing to the Issuer that as against the Issuer (but, for the avoidance of doubt, not against the Guarantor under the Covered Bond Guarantee) each Covered Bond of each Series is, and each such Covered Bond shall thereupon immediately become, due and repayable at its Early Redemption Amount together with accrued interest as provided in the Trust Deed if any of the following events (each, an “**Issuer Event of Default**”) shall occur and be continuing:

- (a) the Issuer fails to pay any principal or interest in respect of the Covered Bonds within 10 Business Days in the case of principal and 30 days in the case of interest, in each case of the respective due date; or
- (b) the Issuer fails to perform or observe any obligations under the Covered Bonds, Receipts or Coupons of any Series, the Trust Deed or any other Transaction Document (other than the Dealership Agreement and any subscription agreement for the Covered Bonds) to which the Issuer is a party (other than any obligation of the Issuer to comply with the Asset Coverage Test and any other obligation of the Issuer specifically provided for in this Programme Term 3.01) and such failure continues for a period of 30 days (or such longer period as the Bond Trustee may permit) next following the service by the Bond Trustee on the Issuer of notice requiring the same to be remedied (except in circumstances where the Bond Trustee considers such failure to be incapable of remedy in which case no period of continuation will apply and no notice by the Bond Trustee will be required); or
- (c) an Insolvency Event in respect of the Issuer; or
- (d) an Asset Coverage Test Breach Notice has been served and not revoked (in accordance with the terms of the Transaction Documents) on or before the Guarantor Payment Date immediately following the next Calculation Date after service of such Asset Coverage Test Breach Notice; or
- (e) if the Pre-Maturity Test in respect of any Series of Hard Bullet Covered Bonds is breached less than six months prior to the Final Maturity Date of that Series of

Hard Bullet Covered Bonds, and the Guarantor has not cured the breach before the earlier to occur of: (i) ten Toronto Business Days from the date that the Seller is notified of the breach of the Pre-Maturity Test and (ii) the Final Maturity Date of that Series of Hard Bullet Covered Bonds; or

- (f) if a ratings trigger prescribed by the Terms and Conditions or the Transaction Documents (and not otherwise specifically provided for in this Programme Term 3.01) is breached and the prescribed remedial action is not taken within the specified time period, unless, in respect of any ratings trigger other than the Account Bank Threshold Ratings, the Standby Account Bank Ratings, the Cash Management Deposit Ratings and the Servicer Deposit Threshold Ratings, such breach occurs at a time that the Guarantor is Independently Controlled and Governed.

For the purposes of these Programme Terms “**Calculation Date**” means the last Toronto Business Day of each month.

Upon the Covered Bonds becoming immediately due and repayable against the Issuer pursuant to this Programme Term 3.01, the Bond Trustee shall forthwith serve a notice to pay (the “**Notice to Pay**”) on the Guarantor pursuant to the Covered Bond Guarantee and the Guarantor shall be required to make payments of Guaranteed Amounts when the same shall become Due for Payment in accordance with the terms of the Covered Bond Guarantee.

Following the occurrence of an Issuer Event of Default and service of an Issuer Acceleration Notice, the Bond Trustee may or shall take such proceedings against the Issuer in accordance with the first paragraph of Programme Term 3.03.

The Trust Deed provides that all moneys (the “**Excess Proceeds**”) received by the Bond Trustee from the Issuer or any receiver, liquidator, administrator or other similar official appointed in relation to the Issuer following the occurrence of an Issuer Event of Default and service of an Issuer Acceleration Notice, shall be paid by the Bond Trustee, as soon as practicable after receipt thereof by the Bond Trustee, on behalf of the holders of the Covered Bonds of the relevant Series to the Guarantor (or the Cash Manager on its behalf) for the account of the Guarantor and shall be held in the Guarantor Accounts and the Excess Proceeds shall thereafter form part of the Security granted pursuant to the Security Agreement and shall be used by the Guarantor (or the Cash Manager on its behalf) in the same manner as all other moneys from time to time held by the Cash Manager and/or standing to the credit of the Guarantor in the Guarantor Accounts. Any Excess Proceeds received by the Bond Trustee shall discharge *pro tanto* the obligations of the Issuer in respect of the payment of the amount of such Excess Proceeds under the Covered Bonds, Receipts and Coupons. However, the obligations of the Guarantor under the Covered Bond Guarantee are, following a Covered Bond Guarantee Activation Event, unconditional and irrevocable and the receipt by the Bond Trustee of any Excess Proceeds shall not reduce or discharge any of such obligations.

By subscribing for Covered Bonds, each holder of the Covered Bonds shall be deemed to have irrevocably directed the Bond Trustee to pay the Excess Proceeds to the Guarantor in the manner as described above.

### ***Guarantor Events of Default***

- 3.02 The Bond Trustee at its discretion may, and if so requested in writing by the holders of at least 25 per cent of the aggregate Principal Amount Outstanding of the Covered Bonds (which for this purpose and the purpose of any Extraordinary Resolution referred to in this Programme Term 3.02 means the Covered Bonds of this Series together with the Covered Bonds of any other Series constituted by the Trust Deed (and the Covered Bonds of any other Series constituted by the Australian Deed Poll)) then outstanding as if they were a single Series (with the nominal amount of Covered Bonds not denominated in CAD converted into CAD at the applicable Covered Bond Swap Rate) or if so directed by an Extraordinary Resolution of all the holders of the Covered Bonds shall (but in the case of the happening of any of the events described in paragraphs (b) to (f) below, only if the Bond Trustee shall have certified in writing to the Issuer and the Guarantor that such event is, in its opinion, materially prejudicial to the interests of the holders of the Covered Bonds of any Series) (subject in each case to being indemnified and/or secured to its satisfaction) give notice (the “**Guarantor Acceleration Notice**”) in writing to the Issuer and to the Guarantor, that (x) each Covered Bond of each Series is, and each Covered Bond of each Series shall as against the Issuer (if not already due and repayable against it following an Issuer Event of Default), thereupon immediately become, due and repayable at its Early Redemption Amount together with accrued interest and (y) all amounts payable by the Guarantor under the Covered Bond Guarantee shall thereupon immediately become due and payable at the Guaranteed Amount corresponding to the Early Redemption Amount for each Covered Bond of each Series together with accrued interest, in each case as provided in the Trust Deed and thereafter the Security shall become enforceable if any of the following events (each, a “**Guarantor Event of Default**”) shall occur and be continuing:
- (a) default is made by the Guarantor for a period of seven days or more in the payment of any Guaranteed Amounts when Due for Payment in respect of the Covered Bonds of any Series, except in the case of the payment of a Guaranteed Amount when Due for Payment under Condition 6.01 where the Guarantor shall be required to make payments of Guaranteed Amounts which are Due for Payment on the dates specified therein; or
  - (b) if default is made by the Guarantor in the performance or observance of any obligation, condition or provision binding on it (other than any obligation for the payment of Guaranteed Amounts in respect of the Covered Bonds of any Series and any other obligation specifically provided for in this Programme Term 3.02) under the Trust Deed, the Security Agreement or any other Transaction Document (other than the obligation of the Guarantor to (i) repay the Demand Loan pursuant to the terms of the Intercompany Loan Agreement, or (ii) make a payment under a Swap Agreement if it has insufficient funds therefor) to which the Guarantor is a party and, except where such default is or the effects of such default are, in the opinion of the Bond Trustee, not capable of remedy when no such continuation and notice as is hereinafter mentioned will be required, such default continues for 30 days (or such longer period as the Bond Trustee may permit) after written notice thereof has been given by the Bond Trustee to the Guarantor requiring the same to be remedied; or
  - (c) an Insolvency Event in respect of the Guarantor; or



- (d) a failure to satisfy the Amortization Test on any Calculation Date following the occurrence and during the continuance of an Issuer Event of Default; or
- (e) the Covered Bond Guarantee is not, or is claimed by the Guarantor not to be, in full force and effect; or
- (f) if a ratings trigger prescribed by the Terms and Conditions or the Transaction Documents (and not otherwise specifically provided for in this Programme Term 3.02) is breached and the prescribed remedial action is not taken within the specified time period, unless, in respect of any ratings trigger other than the Account Bank Threshold Ratings, the Standby Account Bank Ratings, the Cash Management Deposit Ratings and the Servicer Deposit Threshold Ratings, such breach occurs at a time that the Guarantor is Independently Controlled and Governed.

Following the occurrence of a Guarantor Event of Default and service of a Guarantor Acceleration Notice on the Guarantor, the Bond Trustee may or shall take such proceedings or steps in accordance with the first and second paragraphs, respectively, of Programme Term 3.03 and the holders of the Covered Bonds shall have a claim against the Guarantor, under the Covered Bond Guarantee, for an amount equal to the Early Redemption Amount together with accrued but unpaid interest and any other amount due under the Covered Bonds (other than additional amounts payable under Condition 8) as provided in the Trust Deed in respect of each Covered Bond.

### ***Enforcement***

- 3.03 The Bond Trustee may at any time, at its discretion and without further notice, take such proceedings against the Issuer and/or the Guarantor, as the case may be, and/or any other person as it may think fit to enforce the provisions of the Trust Deed, the Covered Bonds, the Receipts, the Coupons and any other Transaction Documents, but it shall not be bound to take any such enforcement proceedings in relation to the Trust Deed, the Covered Bonds, the Receipts or the Coupons or any other Transaction Document unless (i) it shall have been so directed by an Extraordinary Resolution of all the holders of the Covered Bonds of all Series (with the Covered Bonds of all Series taken together as a single Series as described above) or so requested in writing by the holders of not less than 25 per cent of the aggregate Principal Amount Outstanding of the Covered Bonds of all Series then outstanding (taken together and converted into CAD at the applicable Covered Bond Swap Rate) and (ii) it shall have been indemnified and/or secured to its satisfaction.

The Bond Trustee may at any time, at its discretion and without further notice, take such proceedings against the Guarantor and/or any other person as it may think fit to enforce the provisions of the Security Agreement and may, at any time after the Security has become enforceable; take such steps as it may think fit to enforce the Security, but it shall not be bound to take any such steps unless (i) it shall have been so directed by an Extraordinary Resolution of all the holders of the Covered Bonds of all Series (with the Covered Bonds of all Series taken together as a single Series as described above) or a request in writing by the holders of not less than 25 per cent of the aggregate Principal Amount Outstanding of the Covered Bonds of all Series then outstanding (taken together and converted into CAD at the applicable Covered Bond Swap Rate); and (ii) it shall have been indemnified and/or secured to its satisfaction.

In exercising any of its powers, trusts, authorities and discretions the Bond Trustee shall, subject to applicable law, only have regard to the interests of the holders of the Covered Bonds of all Series and shall not have regard to the interests of any other Secured Creditors.

No holder of the Covered Bonds, Receiptholder or Couponholder shall be entitled to proceed directly against the Issuer or the Guarantor or to take any action with respect to the Trust Deed, the Covered Bonds, the Receipts, the Coupons, or the Security unless the Bond Trustee, having become bound so to proceed, fails so to do within a reasonable time and such failure shall be continuing. Notwithstanding any other provision of these Programme Terms or the Terms and Conditions, for so long as there are U.S. Registered Covered Bonds outstanding, in accordance with Section 316(b) of the Trust Indenture Act, the right of any holder to receive payment of principal and interest on the Covered Bonds on or after the due date for such principal or interest, or to institute suit for the enforcement of payment of that principal or interest, may not be impaired or affected without the consent of the holders of the Covered Bonds, provided that no such right of enforcement will exist (i) in respect of a postponement of an interest payment which has been consented to by the holders of the Covered Bonds in accordance with the Trust Deed or (ii) to the extent that the institution or prosecution of such suit or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the security granted pursuant to the Trust Deed or the Security Agreement upon any property subject to such security.

#### **4 Meetings of Holders of the Covered Bonds, Modification and Waiver**

##### **4.01 Meetings of Holders of the Covered Bonds**

The Trust Deed contains provisions for convening meetings of the holders of the Covered Bonds (including at a physical location or by means of an electronic platform (such as a conference call or videoconference) or a combination thereof) to consider any matter affecting their interests, including the modification by Extraordinary Resolution of these Programme Terms, the Terms and Conditions or the provisions of the Trust Deed. The quorum at any such meeting in respect of any Covered Bonds of any Series for passing an Extraordinary Resolution is one or more persons holding or representing not less than a clear majority of the aggregate Principal Amount Outstanding of the Covered Bonds of such Series for the time being outstanding, or at any adjourned meeting one or more persons being or representing holders of the Covered Bonds whatever the nominal amount of the Covered Bonds of such Series so held or represented, except that at any meeting the business of which includes the modification of any Series Reserved Matter (as defined below), the quorum shall be one or more persons holding or representing not less than two-thirds of the aggregate Principal Amount Outstanding of the Covered Bonds of such Series for the time being outstanding, or at any adjourned such meeting one or more persons holding or representing not less than one third of the aggregate Principal Amount Outstanding of the Covered Bonds of such Series for the time being outstanding. An Extraordinary Resolution passed at any meeting of the holders of the Covered Bonds of a Series shall, subject as provided below, be binding on all the holders of the Covered Bonds of such Series, whether or not they are present at the meeting signed a written resolution or provided an electronic consent, and on all Receiptholders and Couponholders in respect of such Series of Covered Bonds. Pursuant to the Trust Deed, the Bond Trustee may convene a single meeting of the holders of Covered Bonds of more than one Series if in the opinion of the Bond Trustee there is no conflict between the

holders of such Covered Bonds, in which event the provisions of this paragraph shall apply thereto *mutatis mutandis*.

Notwithstanding the provisions of the immediately preceding paragraph, any Extraordinary Resolution to direct the Bond Trustee to accelerate the Covered Bonds pursuant to Programme Term 3 or to direct the Bond Trustee to take any enforcement action (a “**Programme Resolution**”) shall only be capable of being passed at a single meeting of the holders of the Covered Bonds of all Series then outstanding. Any such meeting to consider a Programme Resolution may be convened by the Issuer, the Guarantor or the Bond Trustee or by holders of the Covered Bonds of any Series. The quorum at any such meeting for passing a Programme Resolution is one or more persons holding or representing at least a clear majority of the aggregate Principal Amount Outstanding of the Covered Bonds of all Series for the time being outstanding or at any adjourned such meeting one or more persons holding or representing Covered Bonds whatever the nominal amount of the Covered Bonds of any Series so held or represented. A Programme Resolution passed at any meeting of the holders of the Covered Bonds of all Series shall be binding on all holders of the Covered Bonds of all Series, whether or not they are present at the meeting, and on all related Receiptholders and Couponholders in respect of such Series of Covered Bonds.

In connection with any meeting of the holders of Covered Bonds of more than one Series the Covered Bonds of any Series not denominated in CAD shall be converted into CAD at the applicable Covered Bond Swap Rate.

#### 4.02 Modification and Waiver

The Bond Trustee, the Guarantor and the Issuer may also agree, without the consent of the holders of the Covered Bonds, Receiptholders or Couponholders of any Series and without the consent of the other Secured Creditors (and for this purpose the Bond Trustee may disregard whether any such modification relates to a Series Reserved Matter), to:

- (a) any modification of the Covered Bonds of one or more Series, the related Receipts and/or Coupons or any Transaction Document provided that in the opinion of the Bond Trustee such modification is not materially prejudicial to the interests of any of the holders of the Covered Bonds of any Series; or
- (b) any modification of the Covered Bonds of any one or more Series, the related Receipts and/or Coupons or any Transaction Document which is of a formal, minor or technical nature or is in the opinion of the Bond Trustee made to correct a manifest error or to comply with mandatory provisions of law; or
- (c) any modification (other than in respect of a Series Reserved Matter, provided that a Base Rate Modification (as defined below) will not constitute a Series Reserved Matter) to the Programme Terms, the Conditions and/or any Transaction Document (including, for the avoidance of doubt but without limitation, the Covered Bond Swap Agreement) in relation to the relevant Series of Covered Bonds and subject to the consent only of the Secured Creditors (i) party to the relevant Transaction Document being amended or (ii) whose ranking in any Priorities of Payments is affected that the Issuer considers necessary for the purpose of changing the base rate in respect of the Covered Bonds from a Reference Rate to an alternative base rate (any such rate, an “**Alternative Base Rate**”) and

making such other amendments as are necessary or advisable in the reasonable judgment of the Issuer to facilitate such change (including, without limitation, an Adjustment Spread (if any)) (such amendments, a “**Base Rate Modification**”), provided that:

- (i) the Issuer certifies to the Bond Trustee in writing (such certificate, a “**Base Rate Modification Certificate**”) that:
  - (A) such Base Rate Modification is being undertaken due to:
    - (I) a material disruption to the relevant Reference Rate, an adverse change in the methodology of calculating the relevant Reference Rate or the relevant Reference Rate ceasing to exist or be published;
    - (II) the insolvency or cessation of business of the administrator of the Reference Rate (in circumstances where no successor administrator has been appointed);
    - (III) a public statement by the administrator of the relevant Reference Rate that it will cease publishing such Reference Rate permanently or indefinitely (in circumstances where no successor administrator for the Reference Rate has been appointed that will continue publication of the relevant Reference Rate) and such cessation is reasonably expected by the Issuer to occur prior to the Final Maturity Date or the Extended Due for Payment Date, as applicable;
    - (IV) a public statement by the supervisor of the administrator of the relevant Reference Rate that such Reference Rate has been or will be permanently or indefinitely discontinued or will be changed in an adverse manner and such cessation is reasonably expected by the Issuer to occur prior to the Final Maturity Date or the Extended Due for Payment Date, as applicable;
    - (V) a public statement by the supervisor of the administrator of the relevant Reference Rate that means such Reference Rate may no longer be used or that its use is or will be subject to restrictions or adverse consequences;
    - (VI) an official announcement by the supervisor of the administrator of the original Reference Rate that the original Reference Rate is no longer representative of its relevant underlying market;
    - (VII) it has become unlawful for any applicable paying agent, the Calculation Agent or the Issuer to calculate any payments due to be made to any holders of the Covered Bonds, Receiptholders or Couponholders of any Series using the relevant Reference Rate;

- (VIII) the reasonable expectation of the Issuer that any of the events specified in sub-paragraphs 4.02(c)(i)(A)(I), (II), (III), (IV), (V), (VI) or (VII) above will occur or exist within six months of the proposed effective date of such Base Rate Modification; or
  - (IX) in relation to the BBSW Rate, the occurrence of a Permanent Discontinuation Trigger (as defined in Condition 5.03A),
- (B) the modifications proposed are required solely for the purpose of applying the Alternative Base Rate and making consequential modifications to the Conditions and/or any Transaction Document which are, as reasonably determined by the Issuer as necessary or advisable in its reasonable judgement, and the modifications have been drafted solely to such effect; and
  - (C) the consent of each Secured Creditor (x) which is party to the relevant Transaction Document being amended, or (y) whose ranking in any Priorities of Payments is affected has been obtained (evidence of which shall be provided by the Issuer to the Bond Trustee with the Base Rate Modification Certificate) and, subject to Programme Term 4.02(c)(i)(vii), no other consents are required to be obtained in relation to the Base Rate Modification; and
- (ii) such Alternative Base Rate is:
    - (A) a base rate published, endorsed, approved or recognised by the Bank of England, the Federal Reserve Bank of New York, the European Commission or the European Central Bank, any regulator in the United States, the United Kingdom or the European Union or any stock exchange on which the Covered Bonds are listed, any Relevant Nominating Body for the Specified Currency to which the Reference Rate relates (or any relevant committee or other body established, sponsored or approved by any of the foregoing); or
    - (B) in relation to the BBSW Rate, a base rate that is calculated in accordance with Condition 5.03A; or
    - (C) a base rate utilised in a material number of publicly-listed, publicly-offered or benchmark new issues of floating rate covered bonds or floating rate senior unsecured notes prior to the effective date of such Base Rate Modification (for these purposes, five such issues shall be considered material); or
    - (D) a base rate utilised in a publicly-listed, publicly-offered or benchmark new issue of floating rate covered bonds where the issuer (or, in the case of asset backed securities, the originator of the relevant assets) is the Issuer or a Subsidiary of the Issuer,

- (iii) at least 30 days' prior written notice of any Base Rate Modification has been given to the Bond Trustee;
- (iv) the Base Rate Modification Certificate is provided to the Bond Trustee at the time the Bond Trustee is notified of the Base Rate Modification and on the effective date of such Base Rate Modification;
- (v) with respect to each Rating Agency, the Rating Agency Condition (as specified in Condition 19) has been satisfied;
- (vi) the Issuer pays (or arranges for the payment of) all fees, costs and expenses (including legal fees) properly incurred by the Bond Trustee in connection with such Base Rate Modification;
- (vii) the Issuer has provided at least 30 days' notice to the Covered Bondholders of the relevant Series of Covered Bonds of the Base Rate Modification in accordance with Condition 13 and by publication on Bloomberg on the "Company News" screen relating to the Covered Bonds (in each case specifying the date and time by which Covered Bondholders must respond), and Covered Bondholders representing at least 10 per cent. of the aggregate Principal Amount Outstanding of the relevant Series of Covered Bonds then outstanding have not notified the Issuer or the applicable issuing and paying agent in accordance with the then current practice of any applicable Clearing System through which such Covered Bonds may be held by the time specified in such notice that such Covered Bondholders do not consent to the Base Rate Modification.

If Covered Bondholders representing at least 10 per cent. of the aggregate Principal Amount Outstanding of the relevant Series of Covered Bonds then outstanding have notified the Issuer or the applicable issuing and paying agent in accordance with the then current practice of any applicable Clearing System through which the Covered Bonds may be held or in the manner specified in the next following paragraph of this Programme Term 4.02 where there is no applicable Clearing System by the time specified in such notice that such Covered Bondholders do not consent to the Base Rate Modification, then the Base Rate Modification will not be made unless an Extraordinary Resolution of the Covered Bondholders of the relevant Series then outstanding is passed in favour of the Base Rate Modification in accordance with this Programme Term 4.

Where there is no applicable Clearing System, Covered Bondholders may object in writing to a Base Rate Modification by notifying the Issuer or the applicable issuing and paying agent but any such objection in writing must be accompanied by evidence to the Bond Trustee's satisfaction (having regard to prevailing market practices) of the relevant Covered Bondholder's holding of the Covered Bonds.

With respect to the above-referenced modifications, the Issuer, may determine (acting in good faith and a commercially reasonable manner), or may, in its sole discretion appoint an Independent Financial Adviser to assist in determining, the Alternative Base Rate and an Adjustment Spread (if any), as soon as reasonably

practicable, following the satisfaction of the requirements of this Programme Term 4.02(c). If the Issuer, following consultation with the Independent Financial Adviser (if applicable), acting in good faith and in a commercially reasonable manner and after satisfaction of the requirements of this Programme Term 4.02(c), determines (i) that an Adjustment Spread is required to be applied to the Alternative Base Rate and (ii) the quantum of, or a formula or methodology for determining, such Adjustment Spread, then such Adjustment Spread shall be applied to the Alternative Base Rate.

An Independent Financial Adviser appointed pursuant to this Programme Term 4.02(c) shall act in good faith and a commercially reasonable manner (in the absence of bad faith or fraud) shall have no liability whatsoever to the Issuer, the applicable issuing and paying agent, the Covered Bondholders, the related Receiptholders and/or Couponholders for any determination made by it or for any advice given to the Issuer in connection with any determination made by the Issuer, pursuant to this Programme Term 4.02(c).

For the avoidance of doubt, the Issuer may give effect to an Alternative Base Rate on more than one occasion provided that the conditions set out in this Programme Term 4.02(c) are satisfied.

Without prejudice to the obligations of the Issuer under this Programme Term 4.02(c), any Reference Rate and the fallback provisions provided for in Condition 5.03 or Condition 5.03A (as applicable) will continue to apply unless and until the Bond Trustee has received the Base Rate Modification Certificate in accordance with this Programme Term 4.02(c). For the avoidance of doubt, this paragraph shall apply to the determination of the Rate of Interest on the relevant Interest Determination Date, and the Rate of Interest applicable to any subsequent Interest Period(s) is subject to the operation of, and to adjustment as provided in, this Programme Term 4.02(c).

- (d) When implementing any modification pursuant to Programme Term 4.02(c):
- (i) the Bond Trustee shall not consider the interests of the Covered Bondholders, any other Secured Creditor or any other person and shall act and rely solely and without investigation or liability on any Base Rate Modification Certificate or other certificate or evidence provided to it by the Issuer and shall not be liable to the Covered Bondholders, any other Secured Creditor or any other person for so acting or relying, irrespective of whether any such modification is or may be materially prejudicial to the interests of any such person; and
  - (ii) the Bond Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee, would have the effect of (i) exposing the Bond Trustee to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or (ii) increasing the obligations or duties, or decreasing the rights, powers, authorisations, discretions, indemnification or protections, of the Bond Trustee in the Transaction Documents and/or these Conditions.

The Bond Trustee may also agree, without the consent of the holders of the Covered Bonds of any Series, the related Receiptholders and/or Couponholders, to the waiver or authorization of any breach or proposed breach of any of the provisions of the Covered Bonds of any Series, or determine, without any such consent as described above, that any Issuer Event of Default or Guarantor Event of Default or Potential Issuer Event of Default or Potential Guarantor Event of Default shall not be treated as such, provided that, in any such case, it is not, in the opinion of the Bond Trustee, materially prejudicial to the interests of any of the holders of the Covered Bonds of any Series.

Any such modification, waiver, authorization or determination shall be binding on all holders of the Covered Bonds of all Series of Covered Bonds for the time being outstanding, the related Receiptholders and the Couponholders and the other Secured Creditors, and unless the Bond Trustee otherwise agrees, any such modification shall be notified by the Issuer to the holders of the Covered Bonds of all Series of Covered Bonds for the time being outstanding and the other Secured Creditors in accordance with the relevant terms and conditions as soon as practicable thereafter. Notwithstanding any other provision of these Programme Terms or the Terms and Conditions, for so long as there are U.S. Registered Covered Bonds outstanding, any such modification, waiver, authorization or determination will be made in accordance with and subject to Section 316 of the Trust Indenture Act. The right of any holder of U.S. Registered Covered Bonds to receive payment of principal and interest will not be impaired unless made in accordance with Section 316 of the Trust Indenture Act.

In connection with the exercise by it of any of its trusts, powers, authorities and discretions (including, without limitation, any modification, waiver, authorization or determination), the Bond Trustee shall have regard to the general interests of the holders of the Covered Bonds of each Series as a class (but shall not have regard to any interests arising from circumstances particular to individual holders of the Covered Bonds, Receiptholders or Couponholders whatever their number) and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual holders of the Covered Bonds, the related Receiptholders, Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political sub-division thereof and the Bond Trustee shall not be entitled to require, nor shall any holder of the Covered Bonds, Receiptholder or Couponholder be entitled to claim, from the Issuer, the Guarantor, the Bond Trustee or any other person any indemnification or payment in respect of any tax consequences of any such exercise upon individual holders of the Covered Bonds, Receiptholders and/or Couponholders, except to the extent already provided for in Condition 8 and/or in any undertaking or covenant given in addition to, or in substitution for, Condition 8 pursuant to the Trust Deed.

For the purposes of these Programme Terms:

**“Adjustment Spread”** means either a spread (which may be positive or negative or zero), or the formula or methodology for calculating a spread, in either case, which the Issuer, following consultation with the Independent Financial Adviser, if applicable, and acting in good faith and a commercially reasonable manner, determines is required to be applied to the Alternative Base Rate to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit (as the case may be) to the



holders of the Australian Covered Bonds as a result of the replacement of the Reference Rate with the Alternative Base Rate and is the spread, formula or methodology which:

- (a) is formally recommended in relation to the replacement of the Reference Rate with the Alternative Base Rate by any Relevant Nominating Body; or
- (b) if no such recommendation has been made, the Issuer determines, following consultation with the Independent Financial Adviser, if applicable, and acting in good faith and a commercially reasonable manner, is customarily applied to the Alternative Base Rate in international debt capital markets transactions to produce an industry-accepted replacement rate for the original Reference Rate; or
- (c) if the Issuer determines that no such spread is customarily applied in international debt capital markets transactions, the Issuer following consultation with the Independent Financial Adviser (if applicable) determines, acting in good faith and a commercially reasonable manner, is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the original Reference Rate, where such rate has been replaced by the Alternative Base Rate (as the case may be); or
- (d) if the Issuer determines that no such industry standard is recognised or acknowledged, the Issuer, acting in good faith and a commercially reasonable manner, determines, or, in its sole discretion, appoints an Independent Financial Adviser to assist in determining, to be appropriate.

**“Independent Financial Adviser”** means an independent financial institution of international repute or other independent financial adviser with appropriate expertise, in each case appointed by the Issuer at its own expense.

**“Potential Issuer Event of Default”** means any condition, event or act which, with the lapse of time and/ or the issue, making or giving of any notice, certification, declaration, demand, determination and/or request and/or the taking of any similar action and/or the fulfilment of any similar condition, would constitute an Issuer Event of Default.

**“Potential Guarantor Event of Default”** means any condition, event or act which, with the lapse of time and/or the issue, making or giving of any notice, certification, declaration, demand, determination and/or request and/or the taking of any similar action and/or the fulfilment of any similar condition, would constitute a Guarantor Event of Default.

**“Relevant Nominating Body”** means, in respect of a benchmark or screen rate (as applicable):

- (a) the central bank for the currency to which the benchmark or screen rate (as applicable) relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the Reference Rate; or
- (b) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of:
  - (i) the central bank for the currency to which the benchmark or screen rate (as applicable) relates;

- (ii) any central bank or other supervisory authority which is responsible for supervising the administrator of the benchmark or screen rate (as applicable);
- (iii) a group of the aforementioned central banks or other supervisory authorities; or
- (iv) the Financial Stability Board or any part thereof.

**“Series Reserved Matter”** in relation to Covered Bonds of a Series means (other than, for the avoidance of doubt, a Base Rate Modification): (i) reduction or cancellation of the amount payable or, where applicable, modification of the method of calculating the amount payable or modification of the date of payment or, where applicable, modification of the method of calculating the date of payment in respect of any principal or interest in respect of the Covered Bonds; (ii) alteration of the currency in which payments under the Covered Bonds, Receipts and Coupons are to be made; (iii) alteration of the majority required to pass an Extraordinary Resolution; (iv) any amendment to the Covered Bond Guarantee or the Security Agreement (except in a manner determined by the Bond Trustee not to be materially prejudicial to the interests of the holders of the Covered Bonds of any Series); (v) except in accordance with Programme Term 4, the sanctioning of any such scheme or proposal for the exchange or sale of the Covered Bonds for or the conversion of the Covered Bonds into, or the cancellation of the Covered Bonds in consideration of, shares, stock, covered bonds, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any other company formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, bonds, covered bonds, debentures, debenture stock and/or other obligations and/or securities as described above and partly for or into or in consideration of cash and for the appointment of some person with power on behalf of the holders of the Covered Bonds to execute an instrument of transfer of the Registered Covered Bonds held by them in favour of the persons with or to whom the Covered Bonds are to be exchanged or sold respectively; and (vi) alteration of specific sections of the Trust Deed relating to the quorum and procedure required for meetings of holders of Covered Bonds.

## 5 Currency Indemnity

If the Discharge Amount (as defined in Condition 15) is less than the amount in the Contractual Currency (as defined in Condition 15) expressed to be due to any Holder of a Covered Bond in respect of such Covered Bond the Issuer shall indemnify such Holder against any loss sustained by such Holder as a result. In any event, the Issuer shall indemnify each such Holder against any cost of making such purchase which is reasonably incurred. These indemnities constitute a separate and independent obligation from the Issuer’s other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Holder of a Covered Bond and shall continue in full force and effect despite any judgement, order, claim or proof for a liquidated amount in respect of any sum due in respect of the Covered Bonds or any judgement or order. Any such loss shall be deemed to constitute a loss suffered by the relevant Holder of a Covered Bond and no proof or evidence of any actual loss will be required by the Issuer.

## 6 Branch of Account

- 6.01 For the purposes of the Bank Act, the branch of the Bank set out in a Covered Bond or the related Pricing Supplement shall be the branch of account (the “**Branch of Account**”) for the deposits evidenced by such Covered Bond.
- 6.02 Each Covered Bond will be paid without the necessity of first being presented for payment at the Branch of Account.
- 6.03 If the Branch of Account is not in Canada, the Bank may change the Branch of Account for the deposits evidenced by any Covered Bond, upon not less than seven days’ prior notice to its Holder given in accordance with Condition 13 and upon and subject to the following terms and conditions:
- (a) if such Covered Bond is denominated in Yen, the Branch of Account shall not be in Japan;
  - (b) the Issuer shall indemnify and hold harmless the Holders of such Covered Bonds and Coupons relating thereto against any tax, duty, assessment or governmental charge which is imposed or levied upon such Holder as a consequence of such change, and shall pay the reasonable costs and expenses of the Australian Agent in connection with such change; and
  - (c) notwithstanding (b) above, no change of the Branch of Account may be made unless immediately after giving effect to such change (i) no Issuer Event of Default, Guarantor Event of Default, Potential Issuer Event of Default or Potential Guarantor Event of Default shall have occurred and be continuing and (ii) payments of principal and interest on Covered Bonds of such Series and Coupons relating thereto to Holders thereof (other than Excluded Holders, as hereinafter defined) shall not, in the opinion of counsel to the Issuer, be subject to any taxes, as hereinafter defined, to which they would not have been subject had such change not taken place. For the purposes of this section, an “**Excluded Holder**” means a Holder of a Covered Bond of such Series or Coupon relating thereto who is subject to taxes by reason of such person having some connection with the Relevant Jurisdiction other than the mere holding of a Covered Bond of such Series or Coupon as a non-resident of such Relevant Jurisdiction. “**Relevant Jurisdiction**” means and includes Canada, its provinces or territories and the jurisdiction in which the new Branch of Account is located, and “**taxes**” means and includes any tax, duty, assessment or other governmental charge imposed or levied in respect of the payment of the principal of the Covered Bonds of such Series or interest thereon for or on behalf of a Relevant Jurisdiction or any authority therein or thereof having power to tax.

## 7 Substitution

Subject as provided in the Trust Deed, the Bond Trustee, if it is satisfied that to do so would not be materially prejudicial to the interests of the holders of the Covered Bonds, may agree, without the consent of the holders of the Covered Bonds, Receiptholders or Couponholders, to the substitution of a Subsidiary of the Issuer in place of the Issuer as principal debtor under the Covered Bonds and the Trust Deed, provided that the

obligations of such Subsidiary in respect of the Covered Bonds and the Trust Deed shall be guaranteed by the Issuer in such form as the Bond Trustee may require.

Any substitution pursuant to this Programme Term 7 shall be binding on the holders of the Covered Bonds, the Receiptholders and the Couponholders and, unless the Bond Trustee agrees otherwise, shall be notified to the holders of the Covered Bonds as soon as practicable thereafter in accordance with Condition 13.

It shall be a condition of any substitution pursuant to this Programme Term 7 that (i) the Covered Bond Guarantee shall remain in place or be modified to apply mutatis mutandis and continue in full force and effect in relation to any Subsidiary of the Issuer which is proposed to be substituted for the Issuer as principal debtor under the Covered Bonds and the Trust Deed; and (ii) any Subsidiary of the Issuer which is proposed to be substituted for the Issuer is included in the Registry as a registered issuer and that all other provisions of the Covered Bond Legislative Framework and the CMHC Guide are satisfied prior to the substitution of the Issuer.

## **8 Rating Agency Condition**

- 8.01 By subscribing for or purchasing Covered Bond(s), each holder of Covered Bonds shall be deemed to have acknowledged and agreed that a credit rating of a Series of Covered Bonds by the Rating Agencies is an assessment of credit risk and does not address other matters that may be of relevance to holders of Covered Bonds, including, without limitation, in the case of a confirmation by each Rating Agency that any action proposed to be taken by the Issuer, the Guarantor, the Seller, the Servicer, the Cash Manager, the Bond Trustee or any other party to a Transaction Document will not result in a reduction or withdrawal of the rating of the Covered Bonds in effect immediately before the taking of such action (a "**Rating Agency Condition**"), whether such action is either (i) permitted by the terms of the relevant Transaction Document or (ii) in the best interests of, or not prejudicial to, some or all of the holders of Covered Bonds.
- 8.02 In being entitled to have regard to the fact that a Rating Agency has confirmed that the then current rating of the relevant Series of Covered Bonds would not be reduced or withdrawn, each of the Issuer, the Guarantor, the Bond Trustee, and the Secured Creditors (including the Holders of Covered Bonds) is deemed to have acknowledged and agreed that confirmation of the satisfaction of the Rating Agency Condition does not impose or extend any actual or contingent liability on the Rating Agencies to the Issuer, the Guarantor, the Bond Trustee, the Secured Creditors (including the Holders of Covered Bonds) or any other person or create any legal relations between the Rating Agencies and the Issuer, the Guarantor, the Bond Trustee, the Secured Creditors (including the Holders of Covered Bonds) or any other person whether by way of contract or otherwise.
- 8.03 By subscribing for or purchasing Covered Bond(s), each holder of Covered Bonds shall be deemed to have acknowledged and agreed that:
- (a) a confirmation of the satisfaction of the Rating Agency Condition may or may not be given at the sole discretion of each Rating Agency;
  - (b) depending on the timing of delivery of the request and any information needed to be provided as part of any such request, it may be the case that a Rating Agency cannot confirm the satisfaction of the Rating Agency Condition in the time

available, or at all, and the Rating Agency shall not be responsible for the consequences thereof;

- (c) a confirmation of the satisfaction of the Rating Agency Condition, if given, will be given on the basis of the facts and circumstances prevailing at the relevant time, and in the context of cumulative changes to the transaction of which the Covered Bonds forms a part; and
- (d) a confirmation of the satisfaction of the Rating Agency Condition represents only a restatement of the opinions given, and shall not be construed as advice for the benefit of any holder of Covered Bonds or any other party.

8.04 If a confirmation of the satisfaction of the Rating Agency Condition or some other response by a Rating Agency is a condition to any action or step or is otherwise required under any Transaction Document and a written request for such confirmation of the satisfaction of the Rating Agency Condition or response is delivered to that Rating Agency by any of the Issuer, the Guarantor and/or the Bond Trustee, as applicable (each a “**Requesting Party**”), and either (i) the Rating Agency indicates that it does not consider such confirmation or response necessary in the circumstances or (ii) within 30 days (or, in the case of Moody’s, 10 Business Days) of actual receipt of such request by the Rating Agency, such request elicits no confirmation or response and/or such request elicits no statement by the Rating Agency that such confirmation or response could not be given, the Requesting Party will be entitled to disregard the requirement for satisfaction of the Rating Agency Condition or affirmation of rating or other response by the Rating Agency and proceed on the basis that the satisfaction of the Rating Agency Condition, affirmation of rating or other response by the Rating Agency is not required in the particular circumstances of the request. The failure by a Rating Agency to respond to a written request for a confirmation or affirmation shall not be interpreted to mean that such Rating Agency has given any deemed confirmation of satisfaction of the Rating Agency Condition or affirmation of rating or other response in respect of such action or step.

## **9 Indemnification of Bond Trustee and Bond Trustee contracting with the Issuer and/or the Guarantor**

If, in connection with the exercise of its powers, trusts, authorities or discretions the Bond Trustee is of the opinion that the interests of the holders of the Covered Bonds of any one or more Series would be materially prejudiced thereby, the Bond Trustee shall not exercise such power, trust, authority or discretion without the approval by Extraordinary Resolution of such holders of the relevant Series of Covered Bonds then outstanding or by a direction in writing of such holders of the Covered Bonds of at least 25 per cent of the Principal Amount Outstanding of Covered Bonds of the relevant Series then outstanding.

The Trust Deed and the Security Agreement contain provisions for the indemnification of the Bond Trustee and for relief from responsibility, including provisions relieving the Bond Trustee from taking any action unless indemnified and/or secured to the satisfaction of the Bond Trustee.

The Trust Deed and the Security Agreement also contain provisions pursuant to which the Bond Trustee is entitled, among other things: (i) to enter into business transactions with the Issuer, the Guarantor and/or any of their respective Subsidiaries and affiliates and to act as trustee for the holders of any other securities issued or guaranteed by, or relating

to, the Issuer, the Guarantor and/or any of their respective Subsidiaries and affiliates; (ii) to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the holders of the Covered Bonds, Receiptholders or Couponholders or the other Secured Creditors; and (iii) to retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

The Bond Trustee will not be responsible for any loss, expense or liability, which may be suffered as a result of any Loans or Related Security, or any deeds or documents of title thereto, being uninsured or inadequately insured or being held by clearing organizations or their operators or by intermediaries such as banks, brokers or other similar persons on behalf of the Bond Trustee. The Bond Trustee will not be responsible for: (i) supervising the performance by the Issuer or any other party to the Transaction Documents of their respective obligations under the Transaction Documents and the Bond Trustee will be entitled to assume, until it has written notice to the contrary, that all such persons are properly performing their duties; (ii) considering the basis on which approvals or consents are granted by the Issuer or any other party to the Transaction Documents under the Transaction Documents; (iii) monitoring the Covered Bond Portfolio, including, without limitation, whether the Covered Bond Portfolio is in compliance with the Asset Coverage Test or the Amortization Test; or (iv) monitoring whether Loans and their Related Security satisfy the Eligibility Criteria. The Bond Trustee will not be liable to any holder of the Covered Bonds or other Secured Creditor for any failure to make or to cause to be made on their behalf the searches, investigations and enquiries which would normally be made by reasonable and prudent institutional mortgage lenders in the Seller's market in relation to the Security and have no responsibility in relation to the legality, validity, sufficiency and enforceability of the Security and the Transaction Documents.

## SCHEDULE 2

**Schedule 2 – Annex 1**

**FORM OF AUSTRALIAN DEED POLL DATED JUNE 26, 2023**