

STANDBY BANK ACCOUNT AGREEMENT

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

and

THE TORONTO-DOMINION BANK
as Cash Manager

and

BANK OF MONTREAL
as Standby Account Bank and Standby GDA Provider

and

COMPUTERSHARE TRUST COMPANY OF CANADA
as Bond Trustee

June 25, 2014

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Schedule

Schedule 1 – Form of Mandate

STANDBY BANK ACCOUNT AGREEMENT

THIS STANDBY BANK ACCOUNT AGREEMENT (this “**Agreement**”) is made as of this 25th day of June, 2014.

BY AND AMONG:

- (1) **TD Covered Bond (Legislative) Guarantor Limited Partnership**, a limited partnership formed under the laws of the Province of Ontario, whose registered office is at 66 Wellington Street West, 21st Floor, TD Bank Tower, Toronto, Ontario, Canada M5K 1A2, by its managing general partner **TD Covered Bond (Legislative) GP Inc.** (hereinafter the “**Guarantor**”);
- (2) **The Toronto-Dominion Bank** (the “**Bank**”), a bank named in Schedule I to the *Bank Act* (Canada), whose executive office is at 66 Wellington Street West, P.O. Box 1, TD Bank Tower, Toronto, Ontario, Canada M5K 1A2, in its capacity as Cash Manager (hereinafter the “**Cash Manager**”);
- (3) **Bank of Montreal**, a bank named in Schedule I to the *Bank Act* (Canada), acting through its offices located at 100 King Street West, First Canadian Place, 68th Floor Toronto Ontario M5X 1A1, as Standby Account Bank (the “**Standby Account Bank**”) and as Standby GDA Provider (the “**Standby GDA Provider**”); and
- (4) **Computershare Trust Company of Canada**, a trust company incorporated under the laws of Canada whose registered office is at 100 University Avenue, 11th Floor, Toronto, Ontario, Canada M5J 2Y1, acting in its capacity as Bond Trustee (hereinafter the “**Bond Trustee**”).

WHEREAS:

- (A) As part of the transactions contemplated in the Bank’s global covered bond programme (the “**Programme**”), the Cash Manager has agreed, pursuant to the cash management agreement dated June 25, 2014 (the “**Cash Management Agreement**”) by and among the Cash Manager, the Guarantor and the Bond Trustee to provide cash management services in connection with the business of the Guarantor.
- (B) The Standby Account Bank has agreed following service of a Standby Account Bank Notice by the Guarantor (or the Cash Manager on its behalf) that the Standby Account Bank will open and maintain the Standby Transaction Account and the Standby GDA Account as interest bearing accounts in the name of the Guarantor in accordance with the terms of this Agreement.
- (C) Following service of a Standby Account Bank Notice by the Guarantor (or the Cash Manager on its behalf) the Standby GDA Provider has agreed pursuant to the terms of the Standby Guaranteed Deposit Account Contract to pay interest on the funds standing to the credit of the Guarantor in the Standby GDA Account at specified rates determined in accordance with and pursuant to the terms of the Standby Guaranteed Deposit Account Contract.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein set forth, the parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 The following terms when used in this Agreement shall have the following meanings and terms used in this Agreement and defined in the recitals hereto shall have the meanings given to such terms in such recitals:

“**Bank Act**” means the *Bank Act* (Canada);

“**Bond Trustee**” means Computershare Trust Company of Canada, in its capacity as bond trustee under the Trust Deed together with any successor or additional bond trustee appointed from time to time thereunder;

“**Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Toronto;

“**Calculation Date**” means the last Business Day in Toronto, Ontario of each month;

“**CMHC**” means Canada Mortgage and Housing Corporation, a Canadian federal Crown corporation and its successors responsible for administering the Covered Bond Legislative Framework;

“**CMHC Guide**” means the Canadian Registered Covered Bond Programs Guide published by CMHC, as the same may be amended, supplemented, restated or replaced from time to time;

“**Covered Bond**” means each covered bond issued or to be issued pursuant to the Dealership Agreement and which is, or is to be, constituted under the Trust Deed;

“**Covered Bond Legislative Framework**” means the legislative framework established by Part I.1 of the *National Housing Act* (Canada);

“**Dealership Agreement**” means the dealership agreement dated as of the Programme Date, as amended, supplemented or replaced, that sets out the arrangements under which Covered Bonds may from time to time be agreed to be sold by the Issuer to, and purchased by, dealers;

“**Financial Instruments**” means cheques, bills of exchange or other similar instruments, whether negotiable or non-negotiable;

“**Guarantor Acceleration Notice**” means a notice in writing from the Bond Trustee to the Issuer and the Guarantor, that each Covered Bond of each series is immediately due and repayable and that all amounts payable by the Guarantor in respect of its guarantee shall thereupon immediately become due and payable;

“**Guarantor Accounts**” means the Standby GDA Account and the Standby Transaction Account and such other accounts as may be maintained by the Standby Account Bank for the Guarantor;

“**Guarantor Payment Date**” means the 17th day of each month or if not a Toronto Business Day the next following Toronto Business Day;

“**Issuer**” means The Toronto-Dominion Bank;

“**Mandate**” or “**Mandates**” means the Standby Transaction Account Mandate and/or the Standby GDA Account Mandate and/or the mandates relating to any other Guarantor Accounts with the Standby Account Bank, as the case may be;

“**Material Adverse Event**” means an effect that is materially adverse to the ability of the Standby GDA Provider or the Standby Account Bank to perform its obligations under this Agreement or the Standby Guaranteed Deposit Account Contract;

“**Person**” means a reference to any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, limited liability company, unlimited liability company, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, government or governmental authority or entity, however designated or constituted;

“**Priorities of Payments**” means the orders of priority for the allocation and distribution of amounts standing to the credit of the Guarantor in different circumstances;

“**Programme Date**” means June 25, 2014;

“**Rating Agency**” means any rating agency, to the extent that at the relevant time it provides ratings in respect of the then outstanding Covered Bonds, or their successors and “**Rating Agencies**” means more than one Rating Agency;

“**Rating Agency Condition**” means a confirmation by the Rating Agencies that the then current ratings of all series of Covered Bonds then outstanding will not be downgraded or withdrawn as a result of the relevant event or matter;

“**Secured Creditors**” means, *inter alia*, the Bond Trustee (in its own capacity and on behalf of the holders of the Covered Bonds), the holders of the Covered Bonds, the Standby Account Bank, the Standby GDA Provider, the Cash Manager and any other person which becomes a secured creditor from time to time pursuant to the terms of the Security Agreement;

“**Security Agreement**” means the general security agreement entered into on the Programme Date by and among, *inter alia*, the Guarantor and the Bond Trustee for itself and the benefit of secured creditors of the Guarantor, as the same may be amended, restated, supplemented or replaced;

“Standby Account Bank Notice” means a written notice from the Guarantor (or the Cash Manager on its behalf) to the Standby Account Bank stating that the appointment of the Standby Account Bank, under the Standby Bank Account Agreement is to become operative and that the Standby GDA Account and the Standby Transaction Account (if indicated in such notice) are to be opened and held with the Standby Account Bank in the name of the Guarantor;

“Standby Account Bank Ratings” means the threshold ratings P-1 (in respect of Moody’s Investors Service, Inc.) and AA(low) or R-1(middle) (in respect of DBRS Limited), as applicable, of the unsecured, unsubordinated and unguaranteed debt obligations of the Standby Account Bank or the Standby GDA Provider, as applicable, by the Rating Agencies;

“Standby GDA Account” means the account in the name of the Guarantor to be opened and held with the Standby Account Bank following delivery of a Standby Account Bank Notice and maintained subject to the terms of this Agreement, the Standby Guaranteed Deposit Account Contract and subject to the security interest granted by the Guarantor in the Security Agreement and includes such additional or replacement account(s) as may be put in place for the Guarantor with the prior written consent of the Bond Trustee and designated as such;

“Standby GDA Account Mandate” means the bank account mandate between the Guarantor and the Standby Account Bank relating to the operation of the Standby GDA Account;

“Standby Guaranteed Deposit Account Contract” means the standby guaranteed deposit account contract entered into on the Programme Date by and among the Standby GDA Provider, the Standby Account Bank, the Guarantor, the Cash Manager and the Bond Trustee;

“Standby Transaction Account” means the account in the name of the Guarantor to be opened and held with the Standby Account Bank following delivery of a Standby Account Bank Notice and maintained subject to the terms of this Agreement, the Standby Guaranteed Deposit Account Contract and subject to the security interest granted by the Guarantor in the Security Agreement and includes such additional or replacement account(s) as may be put in place for the Guarantor with the prior written consent of the Bond Trustee and designated as such;

“Standby Transaction Account Mandate” means the bank account mandate between the Guarantor and the Standby Account Bank relating to the operation of the Standby Transaction Account;

“Toronto Business Day” means a day (other than a Saturday or Sunday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Toronto; and

“Trust Deed” means the trust deed entered into on the Programme Date between, *inter alia*, the Bond Trustee, the Issuer and the Guarantor entered into in respect of the Programme, as the same may be amended, restated, supplemented or replaced.

1.2 In this Agreement:

- (a) words denoting the singular number only shall include the plural and *vice versa*;
- (b) words denoting one gender only shall include the other genders;
- (c) words “including” and “includes” mean “including (or includes) without limitation”;
- (d) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and if the last day of any such period is not a Business Day, such period will end on the next Business Day;
- (e) when calculating the period of time “within” which or “following” which any act or event is required or permitted to be done, notice given or steps taken, the date which is the reference date in calculating such period is excluded from the calculation and if the last day of any period is not a Business Day, such period will end on the next Business Day unless otherwise expressly stated;
- (f) references to any statutory provision 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 re-enactment;
- (g) references to any agreement or other document shall be deemed also to refer to such agreement or document as amended, restated, varied, supplemented or novated from time to time;
- (h) the inclusion of a table of contents, the division into Articles, Sections, clauses, paragraphs and schedules and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation;
- (i) reference to a statute shall be construed as a reference to such statute as the same may have been, or may from time to time be, amended or re-enacted to the extent such amendment or re-enactment is substantially to the same effect as such statute on the date hereof;
- (j) reference to a time of day shall be construed as a reference to Toronto time unless the context requires otherwise and a “**month**” is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month save that, where any such period would otherwise end on a day which is not a Business Day, it shall end on the next Business Day, unless that day falls in the calendar month succeeding that in which it would otherwise have ended, in which case it shall end on the preceding Business Day provided that, if a period starts on the last Business Day in a calendar month or if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that later month (and references to “**months**” shall be construed accordingly); and

- (k) references to any person shall include references to such person's heirs, executors, personal administrators, successors, permitted assigns and transferees, as applicable, and any person deriving title under or through such person.

2. STANDBY TRANSACTION ACCOUNT AND STANDBY GDA ACCOUNT

2.1 Instructions from the Cash Manager

Following delivery of a Standby Account Bank Notice and opening of the Standby Transaction Account and Standby GDA Account in accordance with Section 3.1, the Standby Account Bank shall, subject to Sections 2.4 and 5.3, comply with any direction of the Guarantor (or the Cash Manager on its behalf) given on a Business Day to effect a payment by debiting any one of the Standby Transaction Account or the Standby GDA Account and any additional or replacement bank accounts opened in the name of the Guarantor from time to time with the prior written consent of the Bond Trustee, if such direction (i) is in writing, is given by telephone and confirmed in writing not later than close of business on the day on which such direction is given, or is given by the internet banking service provided by the Standby Account Bank, and (ii) complies with the Standby Transaction Account Mandate or the Standby GDA Account Mandate as appropriate (such direction shall constitute an irrevocable payment instruction).

2.2 Timing of Payment

The Standby Account Bank agrees that if directed pursuant to Section 2.1 to make any payment then, subject to Sections 2.4 and 5.3 below, it will effect the payment specified in such direction not later than the day specified for payment therein and for value on the day specified therein provided that, if any direction specifying that payment be made on the same day as the direction is given is received later than 12:00 p.m. on any Business Day, the Standby Account Bank shall make such payment at the commencement of business on the following Business Day for value on such following Business Day.

2.3 Standby Account Bank Charges and Standby GDA Provider Charges

The charges of the Standby Account Bank and the Standby GDA Provider for the operation of each of the Guarantor Accounts maintained with the Standby Account Bank and the Standby GDA Provider shall be debited to the Standby Transaction Account only on each Guarantor Payment Date, and the Guarantor by its execution hereof irrevocably agrees that this shall be done. The charges shall be payable in accordance with the relevant Priorities of Payments at rates that are generally applicable to the business customers of the Standby Account Bank and the Standby GDA Provider provided that if there are insufficient funds standing to the credit of the Standby Transaction Account to pay such charges after payment by or on behalf of the Guarantor of any higher ranking obligations in the Priorities of Payment the Standby Account Bank and the Standby GDA Provider shall not be relieved of their obligations in respect of any of the Guarantor Accounts. For greater certainty (i) charges that may be made by the Standby Account Bank and the Standby GDA Provider hereunder may include any and all fees and service charges relating to the Guarantor Accounts and chargebacks for any cheques, drafts and other payments items dishonoured or

otherwise returned to the Standby Account Bank or the Standby GDA Provider in respect of the Guarantor Accounts, and (ii) payments to the Standby Account Bank and the Standby GDA Provider rank *pro rata* and *pari passu* with payments to the asset monitor, among others in the Priorities of Payments.

2.4 No Negative Balance

Notwithstanding the provisions of Section 2.1, amounts shall only be withdrawn from any Guarantor Account to the extent that such withdrawal does not cause the relevant Guarantor Account to have a negative balance.

3. OPENING OF ACCOUNTS AND MANDATES

3.1 Opening of Standby Transaction Account and Standby GDA Account, Signing and Delivery of Mandates

- (a) Concurrently with the delivery by the Guarantor (or the Cash Manager on its behalf) to the Standby Account Bank of a Standby Account Bank Notice, the Guarantor (or the Cash Manager on its behalf) shall deliver with such Standby Account Bank Notice a completed Standby GDA Account Mandate and Standby Transaction Account Mandate in the form attached hereto as Schedule 1 or such other form as the Standby Account Bank may from time to time deliver to the Guarantor (or the Cash Manager on its behalf) prior to delivery of a Standby Account Bank Notice, provided such additional form is acceptable to the Guarantor (or the Cash Manager on its behalf), acting reasonably.
- (b) Promptly upon receipt by the Standby Account Bank of a Standby Bank Account Notice from the Guarantor (or the Cash Manager on its behalf) together with the completed Standby GDA Account Mandate and Standby Transaction Account Mandate, the Standby Account Bank shall confirm receipt of same to the Bond Trustee and that such Mandates are operative and shall open and hold the Standby Transaction Account and the Standby GDA Account in the name of the Guarantor in accordance with the terms of this Agreement.
- (c) For greater certainty, the Standby Account Bank acknowledges that the Mandates delivered from time to time pursuant to the terms hereof shall be subject to the terms of the Security Agreement, this Agreement and the Standby Guaranteed Deposit Account Contract and to the extent of any inconsistency between the terms of such agreements and such mandates, the terms of such agreements shall govern.

3.2 Amendment or Revocation

The Standby Account Bank agrees that it shall notify the Bond Trustee as soon as is reasonably practicable and in accordance with Section 12 if it receives any amendment to or revocation of the Standby GDA Mandate or the Standby Transaction Account Mandate relating to the Guarantor Accounts (other than a change of Authorized Signatory, which may be made from time to time by the Guarantor (or the Cash Manager on its behalf)) and shall

require the prior written consent of the Bond Trustee to any such amendment or revocation (other than a change of Authorized Signatory, which may be made from time to time by the Guarantor (or the Cash Manager on its behalf)) but, unless such Mandate is revoked, the Standby Account Bank may continue to comply with such Mandate (as it may from time to time be amended in accordance with the provisions of this Section 3.2) unless it receives notice in writing from the Bond Trustee to the effect that a Guarantor Acceleration Notice has been served on the Guarantor and shall, thereafter, act solely on the instructions of the Bond Trustee or such person as the Bond Trustee may designate and in accordance with the terms of those instructions as provided in Section 5.3 of this Agreement.

4. ACKNOWLEDGEMENT BY THE STANDBY ACCOUNT BANK

4.1 Restriction on Standby Account Bank's Rights

Notwithstanding anything to the contrary in the Mandates, the Standby Account Bank hereby:

- (a) agrees that, in its capacity as Standby Account Bank, it will not exercise any lien or, to the extent permitted by law, any set-off or transfer any sum standing to the credit of or to be credited to any of the Guarantor Accounts in or towards satisfaction of any liabilities owing to it by any person (including any liabilities owing to it by the Guarantor or the Bond Trustee);
- (b) without prejudice to its rights as a Secured Creditor under the Security Agreement, agrees that it will not, solely in its capacity as Standby Account Bank and Standby GDA Provider provide, procure, or take any steps whatsoever to recover any amount due or owing to it pursuant to this Agreement which could result in, the winding-up or liquidation of the Guarantor or any of its general partners or the making of an administration order in relation to the Guarantor or any of its general partners in respect of any of the liabilities of the Guarantor or of any of its general partners whatsoever for one year plus one day after all Covered Bonds are paid in full;
- (c) agrees that it will promptly notify the Guarantor, the Bond Trustee and the Cash Manager if compliance with any instruction would cause the relevant Guarantor Account(s) to which such instruction relates to have a negative balance; and
- (d) acknowledges that the Guarantor has, pursuant to the Security Agreement, *inter alia*, assigned by way of security all its rights, title, interest and benefit, present and future, in and to, all sums from time to time standing to the credit of the Guarantor Accounts and all of its rights under this Agreement to the Bond Trustee (for the benefit of the Secured Creditors).

4.2 Monthly Statement

Unless and until directed otherwise by the Bond Trustee, the Standby Account Bank shall and is hereby authorized to provide each of the Cash Manager, the Guarantor and the Bond Trustee with a written statement in respect of each Guarantor Account delivered in

accordance with Section 12 on a monthly basis and also as soon as reasonably practicable after receipt of a written request for a statement.

4.3 Conflict with Mandate

Notwithstanding Section 1 of the Mandate of the Standby Account Bank and Standby GDA Provider or any other provision in a Mandate to the contrary, in the event of a conflict between the terms of this Agreement and the terms of such Mandate, the terms of this Agreement shall prevail to the extent of such conflict.

5. INDEMNITY AND GUARANTOR ACCELERATION NOTICE

5.1 Standby Account Bank to Comply with Cash Manager's Instructions

Unless otherwise directed in writing by the Bond Trustee pursuant to Section 5.3, in making any transfer or payment from any Guarantor Account in accordance with this Agreement, the Standby Account Bank shall be entitled to act, without further inquiry, as directed by the Cash Manager pursuant to Section 2.1 and to rely as to the amount of any such transfer or payment on the Cash Manager's instructions in accordance with the relevant Mandate, and the Standby Account Bank shall have no liability hereunder to the Cash Manager, the Guarantor or the Bond Trustee for having acted on such instructions.

5.2 Guarantor's Indemnity

Subject to the prior ranking obligations set out in the relevant Priorities of Payments, the Standby Account Bank and the Standby GDA Provider shall each be indemnified to the extent of funds then standing to the credit of the Guarantor Accounts against any loss, cost, damage, charge or expense incurred by the Standby Account Bank or the Standby GDA Provider in complying with any instruction delivered pursuant to and in accordance with this Agreement or the Standby Guaranteed Deposit Account Contract, respectively, save that this indemnity shall not extend to (i) the charges of the Standby Account Bank or the Standby GDA Provider for the operation of such accounts other than as provided in Section 2.3 of this Agreement; and (ii) any loss, cost, damage, charge or expense arising from any material breach by the Standby Account Bank of its obligations under this Agreement or any material breach by the Standby GDA Provider of its obligations under the Standby Guaranteed Deposit Account Contract, and if necessary, as determined by a court of competent jurisdiction in a final non-appealable decision. For greater certainty payments to the Standby Account Bank and the Standby GDA Provider rank *pro rata* and *pari passu* with each other and with payments to the asset monitor, among others in the relevant Priorities of Payments. The Guarantor shall not amend the Priorities of Payments if such amendment negatively affects any payments (including the priority thereof) to the Standby Account Bank or the Standby GDA Provider without the consent of the Standby Account Bank or the Standby GDA Provider, as the case may be.

5.3 Consequences of a Guarantor Acceleration Notice

The Standby Account Bank acknowledges that, if it receives notice in writing from the Bond Trustee to the effect that the Bond Trustee has served a Guarantor Acceleration Notice on the Guarantor all right, authority and power of the Cash Manager in respect of each of the Guarantor Accounts shall be terminated and be of no further effect and the Standby Account Bank agrees that it shall, upon receipt of such notice from the Bond Trustee, comply with the directions of the Bond Trustee in relation to the operation of each of the Guarantor Accounts. Following receipt of such notice, the Standby Account Bank shall be entitled to act, without further inquiry, on any direction received by the Bond Trustee pursuant to this Section 5.3 and to rely as to the amount of any such transfer or payment on the Bond Trustee's instructions in accordance with the relevant Mandate, and the Standby Account Bank shall have no liability hereunder to the Cash Manager, the Guarantor or the Bond Trustee for having acted on such instructions.

6. CHANGE OF BOND TRUSTEE OR STANDBY ACCOUNT BANK

6.1 Change of Bond Trustee

- (a) If there is any change in the identity of the Bond Trustee in accordance with the Security Agreement, the Standby Account Bank, the Cash Manager and the Guarantor shall execute such documents and take such action as the successor Bond Trustee and the outgoing Bond Trustee may reasonably require for the purpose of vesting in the successor Bond Trustee the rights and obligations of the outgoing Bond Trustee under this Agreement and under the Security Agreement and releasing the outgoing Bond Trustee from any future obligations under this Agreement. Notice thereof will be given by the Cash Manager to the Rating Agencies for so long as any of the Covered Bonds remain outstanding.
- (b) It is hereby acknowledged and agreed that by its execution of this Agreement the Bond Trustee shall not assume or have any of the obligations or liabilities of the Standby Account Bank, the Cash Manager or the Guarantor under this Agreement and that the Bond Trustee has agreed to become a party to this Agreement for the purpose only of taking the benefit of this Agreement and agreeing to amendments to this Agreement pursuant to Section 17. For the avoidance of doubt, the parties to this Agreement acknowledge that the rights and obligations of the Bond Trustee are governed by the Trust Deed and the Security Agreement. Any liberty or right which may be exercised or determination which may be made under this Agreement by the Bond Trustee may be exercised or made in the Bond Trustee's absolute discretion without any obligation to give reasons therefor, and the Bond Trustee shall not be responsible for any liability occasioned by so acting if acting pursuant to Section 7.03 of the Security Agreement.

6.2 Change of Standby Account Bank

If the identity of the Standby Account Bank changes, the Cash Manager, the Guarantor and the Bond Trustee shall execute such documents and take such actions as the new Standby

Account Bank and the outgoing Standby Account Bank and the Bond Trustee may require for the purpose of vesting in the new Standby Account Bank the rights and obligations of the outgoing Standby Account Bank and releasing the outgoing Standby Account Bank from its future obligations under this Agreement.

7. TERMINATION

7.1 Termination Events

The Guarantor (or the Cash Manager on its behalf):

- (a) may (with the prior written consent of the Bond Trustee, which consent shall not be withheld unless the Bond Trustee determines that the termination of this Agreement would be materially prejudicial to the interests of the holders of the Covered Bonds) terminate this Agreement in the event that the matters specified in paragraph (i), (vi) or (vii) below occur;
- (b) shall (with the prior written consent of the Bond Trustee, which consent shall not be withheld unless the Bond Trustee determines that the termination of this Agreement would be materially prejudicial to the interests of the holders of the Covered Bonds), and the Bond Trustee may in such circumstances, terminate this Agreement in the event that any of the matters specified in paragraphs (iii) to (v) (inclusive) below occur; and
- (c) shall terminate this Agreement in the event that any of the matters specified in paragraph (ii) below occur,

in each case by serving a written notice of termination on the Standby Account Bank in accordance with Section 12 (such termination to be effective three Business Days following service of such notice and, in the case of Section 7.1(c), no later than five Business Days following the occurrence of any of the matters specified therein) which shall direct the Standby Account Bank to transfer all funds held in the Guarantor Accounts to replacement accounts under the terms of a new bank account agreement and a new guaranteed deposit account contract to be entered into by the parties hereto (excluding the Standby Account Bank and the Standby GDA Provider) substantially on the same terms as this Agreement and the Standby Guaranteed Deposit Account Contract, respectively, with a financial institution which satisfies the Standby Account Bank Ratings in any of the following circumstances:

- (i) if a deduction or withholding for or on account of any taxes is imposed, or it appears likely that such a deduction or withholding will be imposed, in respect of the interest payable on any Guarantor Account;
- (ii) if the ratings of the unsecured, unsubordinated and unguaranteed debt obligations of the Standby Account Bank by one or more of the Rating Agencies fall below the Standby Account Bank Ratings;

- (iii) if the Standby Account Bank, otherwise than for the purposes of such amalgamation or reconstruction as is referred to in paragraph (iv) below, ceases or, through an authorized action of the board of directors of the Standby Account Bank, threatens to cease to carry on all or substantially all of its business;
- (iv) if an order is made or an effective resolution is passed for the winding-up of the Standby Account Bank except a winding-up for the purposes of or pursuant to a solvent amalgamation or reconstruction the terms of which have previously been approved in writing by the Guarantor and the Bond Trustee (such approval not to be unreasonably withheld or delayed);
- (v) if proceedings are initiated against the Standby Account Bank under any applicable liquidation, insolvency, bankruptcy, sequestration, composition, reorganisation (other than a reorganisation where the Standby Account Bank is solvent) or other similar laws (including, but not limited to, presentation of a petition for an administration order) and (except in the case of presentation of petition for an administration order) such proceedings are not, in the reasonable opinion of the Guarantor, being disputed in good faith with a reasonable prospect of success or an administration order is granted or an administrative receiver or other receiver, liquidator, trustee in sequestration or other similar official is appointed in relation to the Standby Account Bank or in relation to the whole or any substantial part of the undertaking or assets of the Standby Account Bank, or an encumbrancer takes possession of the whole or any substantial part of the undertaking or assets of the Standby Account Bank, or a distress, execution or diligence or other process is levied or enforced upon or sued out against the whole or any substantial part of the undertaking or assets of the Standby Account Bank and such possession or process (as the case may be) is not discharged or otherwise ceases to apply within 30 days of its commencement, or the Standby Account Bank initiates or consents to judicial proceedings relating to itself under applicable liquidation, insolvency, bankruptcy, composition, reorganisation or other similar laws or makes a conveyance or assignment for the benefit of its creditors generally;
- (vi) default is made by the Standby Account Bank in the performance or observance of any of its covenants and obligations, or a breach by the Standby Account Bank is made of any of its representations and warranties, respectively, under Sections 8.1(d), 8.1(e), 8.1(f), 8.1(g), 8.1(h) and 8.1(i); or
- (vii) if the Standby Account Bank materially breaches any of its obligations under this Agreement or the Standby Guaranteed Deposit Account Contract not specifically provided for in this Section 7.1, provided that notification to the Rating Agencies of such termination is provided 3 Business Days prior to the date that such termination is to become effective.

7.2 Notification of Termination Event

Each of the Guarantor, the Cash Manager, the Standby Account Bank and the Standby GDA Provider undertakes and agrees to notify the Bond Trustee in accordance with Section 12 promptly upon becoming aware thereof of any event which would or could entitle the Bond Trustee to serve a notice of termination pursuant to Section 7.1.

7.3 Automatic Termination

- (a) This Agreement shall automatically terminate (if not terminated earlier pursuant to this Article 7) on the date falling 90 days after the termination of the Guarantor Agreement and notice thereof to the parties to this Agreement, provided that all amounts payable under Section 2.3 and Section 5.2 have been paid in accordance with the terms of this Agreement.
- (b) This Agreement shall automatically terminate (if not terminated earlier pursuant to this Article 7) upon the termination of the Standby Guaranteed Deposit Account Contract pursuant to Article 5 therein.

7.4 Termination by Standby Account Bank

The Standby Account Bank may terminate this Agreement and cease to operate the Guarantor Accounts at any time on giving not less than three months' prior written notice thereof ending on any Business Day which does not fall on a Guarantor Payment Date or less than 10 Business Days before a Guarantor Payment Date to each of the other parties hereto provided that such termination shall not take effect (i) until a replacement Standby Account Bank with unsecured, unsubordinated and unguaranteed debt obligations rated by the Rating Agencies equal to or greater than the Standby Account Bank Ratings has entered into an agreement in form and substance similar to this Agreement; and (ii) the Rating Agency Condition has been satisfied in respect thereof. For greater certainty, the Standby Account Bank shall not be responsible for any costs or expenses occasioned by such termination and cessation. In the event of such termination and cessation the Standby Account Bank shall use commercially reasonable efforts to assist the other parties hereto to effect an orderly transition of the banking arrangements documented hereby and, for greater certainty, at no cost to the Standby Account Bank.

7.5 Notice of Termination to CMHC

The Guarantor or the Cash Manager shall provide notice to CMHC of the termination or resignation of the Standby Account Bank and of the Standby Account Bank's replacement contemporaneously with the earlier of (i) notice of such termination or resignation and replacement to a Rating Agency, (ii) notice of such termination or resignation and replacement being provided to or otherwise made available to holders of the Covered Bonds and (iii) five Business Days following such termination or resignation and replacement (unless the replacement has yet to be identified at that time, in which case notice of the replacement may be provided no later than 10 Business Days thereafter). Any such notice shall include (if known) the reasons for the termination or resignation of the Standby Account Bank, all information relating to the replacement required by the CMHC Guide and

a revised and amended copy of this Agreement with such replacement. Notice of termination of the Standby Guaranteed Deposit Account Contract pursuant to Article 5 therein shall be given contemporaneously and in the same form as notice provided herein regarding the Standby Account Bank.

8. REPRESENTATIONS, WARRANTIES AND COVENANTS

8.1 Standby Account Bank Representations, Warranties and Covenants

The Standby Account Bank hereby represents and warrants to, and covenants with, each of the Guarantor and the Bond Trustee at the date hereof, on each date on which an amount is credited to any Guarantor Account held with the Standby Account Bank and on each Guarantor Payment Date, that:

- (a) it is a Schedule I Bank existing under the laws of Canada and duly qualified to do business in every jurisdiction where the nature of its business requires it to be so qualified, except where the failure to qualify would not constitute a Material Adverse Event;
- (b) the execution, delivery and performance by the Standby Account Bank of this Agreement (i) are within the Standby Account Bank's corporate powers, (ii) have been duly authorized by all necessary corporate action, and (iii) do not contravene or result in a default under or conflict with (1) the charter or by-laws of the Standby Account Bank, (2) any law, rule or regulation applicable to the Standby Account Bank, or (3) any order, writ, judgment, award, injunction, decree or contractual obligation binding on or affecting the Standby Account Bank or its property;
- (c) it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (d) it possesses the necessary experience, qualifications, facilities and other resources to perform its responsibilities under this Agreement and the other documents in connection with the Programme to which it is a party;
- (e) it will comply with the provisions of, and perform its obligations under, this Agreement, the other documents in connection with the Programme to which it is a party and the CMHC Guide;
- (f) it is and will continue to be in good standing with OSFI;
- (g) it is and will continue to be in material compliance with its internal policies and procedures, if any, relevant to the services to be provided by it pursuant to this Agreement and the other documents in connection with the Programme to which it is a party;
- (h) it is and will continue to be in material compliance with all laws, regulations and rules applicable to it in relation to the services provided by it pursuant to this

Agreement and the other documents in connection with the Programme to which it is a party; and

- (i) the unsecured, unsubordinated and unguaranteed debt obligations of the Standby Account Bank are rated by each of the Rating Agencies at ratings that are at or above the Standby Account Bank Ratings.

8.2 Notification and Survival

The Standby Account Bank undertakes to notify the Guarantor and the Bond Trustee immediately if, at any time during the term of this Agreement, any of the statements contained in Section 8.1 ceases to be true. The representations, warranties and covenants set out in Section 8.1 shall survive the signing and delivery of this Agreement.

9. NON-PETITION

Each of the parties hereto agree that they shall not institute or join any other Person or entity in instituting against, or with respect to, the Guarantor, or any of the general partners of the Guarantor, any bankruptcy or insolvency event so long as any Covered Bonds issued by the Issuer shall be outstanding or there shall not have elapsed one year plus one day since the last day on which any such securities shall have been outstanding. The foregoing provision shall survive the termination of this Agreement by any of the parties hereto.

10. FURTHER ASSURANCE

The parties hereto agree that they will co-operate fully to do all such further acts and things and execute any further documents as may be necessary or reasonably desirable to give full effect to the arrangements contemplated by this Agreement.

11. CONFIDENTIALITY

None of the parties hereto shall during the term of this Agreement or after its termination disclose to any Person whatsoever (except as provided herein, in accordance with the CMHC Guide, the Covered Bond Legislative Framework or in any other document in connection with the Programme to which it is a party or with the authority of the other parties hereto or so far as may be necessary for the proper performance of its obligations hereunder or unless required by law or any applicable stock exchange requirement or any governmental, regulatory or other taxation authority or ordered to do so by a court of competent jurisdiction or by the Canada Revenue Agency) any information relating to the business, finances or other matters of a confidential nature of any other party hereto of which it may in the course of its duties hereunder have become possessed and each of the parties hereto shall use all reasonable endeavours to prevent any such disclosure.

12. NOTICES

Any notice, direction or other communication to be given pursuant to this Agreement to any of the parties hereto shall be in writing and given by delivering it or sending it by prepaid first class mail to the registered office of such party set forth above unless an alternative address is provided below, in which case delivery shall be to the address provided below, or by facsimile transmission to the facsimile number set forth below, as applicable:

- (a) in the case of the Bank as Cash Manager to:

The Toronto-Dominion Bank
66 Wellington Street West
21st Floor, TD Bank Tower
Toronto, Ontario
Canada M5K 1A2

Attention: Associate Vice President, Treasury and Balance Sheet Management
Facsimile number: (416) 868-0792

- (b) in the case of the Guarantor to:

TD Covered Bond (Legislative) Guarantor Limited Partnership
66 Wellington Street West,
21st Floor, TD Bank Tower
Toronto, Ontario
Canada M5K 1A2

Attention: Associate Vice President, Treasury and Balance Sheet Management
Facsimile number: (416) 868-0792

- (c) in the case of the Standby GDA Provider or the Standby Account Bank, to:

BMO Capital Markets
1 First Canadian Place, 2nd Floor
Toronto, Ontario
Canada M5X 1A1

Attention: Global Treasury Management
Facsimile number: (416) 867-3848

- (d) in the case of the Bond Trustee to:

Computershare Trust Company of Canada
100 University Avenue
8th Floor, North Tower
Toronto, Ontario
Canada M5J 2Y1

Attention: Manager, Corporate Trust
Facsimile number: (416) 981-9777

Any such communication will be deemed to have been validly and effectively given (i) if personally delivered, on the date of such delivery if such date is a Business Day and such delivery was made prior to 5:00 p.m. (Toronto time) and otherwise on the next Business Day, (ii) in the case of prepaid first class mail, when it would be received in the ordinary course of the mail, or (iii) if transmitted by facsimile, on the date of such transmission if such a date is a Business Day and provided the transmitter receives a confirmation of successful transmission and otherwise on the next Business Day that the transmitter receives a confirmation of successful transmission. Any party may change its address for notice, or facsimile contact information for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address, or facsimile contact information, as applicable.

13. INTEREST

- 13.1 In respect of each period from (and including) the first day of each month (or, in respect of the first such period, the first applicable day) to (but excluding) the last day of each month, the Standby Account Bank shall pay, on the 10th Business Day after month end, interest in arrears on any cleared credit balances on the Standby Transaction Account and any other accounts opened by the Guarantor with the Standby Account Bank other than the Standby GDA Account at the same rates that are generally applicable to the business customers of the Standby Account Bank.
- 13.2 Notwithstanding Section 13.1 above, interest shall be paid on the Standby GDA Account in accordance with the terms of the Standby Guaranteed Deposit Account Contract.

14. PAYMENTS AND WITHHOLDING

The parties agree that payments required to be made hereunder shall be made in accordance with Section 2 and that all payments by the Standby Account Bank under this Agreement shall be made in full without any deduction or withholding (whether in respect of set-off, counterclaim, duties, taxes, charges or otherwise whatsoever) unless the deduction or withholding is required by law, in which event the Standby Account Bank shall:

- (a) ensure that the deduction or withholding does not exceed the minimum amount legally required;
- (b) pay to the relevant taxation or other authorities within the period for payment permitted by applicable law the full amount of the deduction or withholding;
- (c) furnish to the Guarantor and the Bond Trustee within the period for payment permitted by the relevant law, either:

- (i) an official receipt of the relevant taxation or other authorities involved in respect of all amounts so deducted or withheld; or
 - (ii) if such receipts are not issued by the taxation or other authorities concerned on payment to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and
- (d) account to the Guarantor in full by credit to the Standby GDA Account for an amount equal to the amount of any rebate, repayment or reimbursement of any deduction or withholding which the Standby Account Bank has made pursuant to this Section 14 and which is subsequently received by the Standby Account Bank and, for greater certainty, the Standby Account Bank will have no obligations to obtain any rebate, repayment or reimbursement of any such deduction or withholding.

15. ENTIRE AGREEMENT

This Agreement, the Schedules hereto, the Standby Guaranteed Deposit Account Contract and the Security Agreement contain the entire agreement and understanding between the parties hereto in relation to the services to be performed hereunder and supercede any prior agreements, understandings, arrangements, statements or representations relating to such services. Nothing in this Section or Agreement will operate to limit or exclude any liability for fraud.

16. ASSIGNMENT

- (a) Save as provided in or contemplated in this Agreement, no party hereto (other than the Bond Trustee) may assign or transfer any of its rights or obligations hereunder, and the Standby Account Bank may not act through any other branch outside of the Province of Ontario, without the prior written consent of the other parties hereto and the Rating Agency Condition having been satisfied in respect of any such assignment or transfer.
- (b) Notwithstanding the provisions of paragraph (a) above, the parties hereto acknowledge that the Guarantor may assign all its rights, title and interest in this Agreement to the Bond Trustee, for the benefit of the Secured Creditors, in accordance with and pursuant to the terms of the Security Agreement and confirm that satisfaction of the Rating Agency Condition shall not be required in respect thereof.

17. AMENDMENTS OR WAIVER

- (a) Any amendment to this Agreement or waiver of rights under this Agreement requires prior written consent of the Standby Account Bank and, subject to Section 7.02 of the Security Agreement, any amendment to this Agreement or waiver of rights under this

Agreement will also require the prior written consent of each other party to this Agreement.

- (b) Each proposed amendment or waiver of rights under this Agreement that is considered by the Guarantor to be a material amendment or waiver of rights under this Agreement, shall be subject to satisfaction of the Rating Agency Condition. For certainty, any amendment to (i) the definition of “Standby Account Bank Ratings” that lowers the ratings specified therein, or (ii) the consequences of breaching a Standby Account Bank Rating that makes such consequences less onerous, shall, with respect to each affected Rating Agency only, be deemed to be a material amendment and shall be subject to confirmation of the satisfaction of the Rating Agency Condition from each affected Rating Agency. The Guarantor (or the Cash Manager on its behalf) shall deliver notice to the Rating Agencies from time to time of any amendment or waiver of rights under this Agreement for which satisfaction of the Rating Agency Condition is not required, provided that failure to deliver such notice shall not constitute a breach of the obligations of the Guarantor under this Agreement.
- (c) For greater certainty, this Agreement may only be amended or the rights hereunder waived by written agreement between the parties hereto and any failure or delay by a party hereto in enforcing, or insisting upon strict performance of, any provision of this Agreement will not be considered to be an amendment or waiver of such provision or in any way affect the validity or enforceability of this Agreement.

18. EXCLUSION OF THIRD PARTY RIGHTS

Except as otherwise expressly provided in this Agreement, the parties hereto intend that this Agreement will not benefit, or create any right or cause of action on behalf of, any Person other than a party hereto and that no Person, other than a party hereto, will be entitled to rely on the provisions of this Agreement in any proceeding.

19. SCOPE OF DUTY

The Standby Account Bank undertakes to perform only such duties as are expressly set forth in this Agreement and to deal with the Guarantor Accounts with the degree of skill and care that the Standby Account Bank accords to all accounts and funds maintained and held by it on behalf of its customers. Notwithstanding any other provision of this Agreement, the parties agree that the Standby Account Bank shall not be liable for any action taken by it or any of its directors, officers or employees in accordance with this Agreement except, subject to Section 5.1, for its or their own gross negligence or willful misconduct, and if necessary, as determined by a court of competent jurisdiction in a final non-appealable decision. In no event shall the Standby Account Bank be liable for (i) losses or delays resulting from force majeure, computer malfunctions, interruption of communication facilities or other causes beyond the Standby Account Bank’s control or for indirect or consequential damages, or (ii) any loss due to any altered, forged, fraudulent or unauthorized Financial Instruments.

20. WAIVER OF FORMALITIES

The Guarantor hereby waives in favour of the Standby Account Bank certain statutory or other customary formalities of the *Bills of Exchange Act* (Canada) which include, for greater certainty, formalities relating specifically to presentment, protest, noting and notice, with respect to all Financial Instruments prepared, signed or endorsed and delivered to the Standby Account Bank hereunder; and the Standby Account Bank shall not, in any circumstances, be liable for the failure or omission to carry out any such formalities in connection with any Financial Instrument.

21. COUNTERPARTS

This Agreement may be executed in any number of counterparts (manually, electronically or by facsimile) and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

22. GOVERNING LAW AND SUBMISSION TO JURISDICTION

This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of law principles. Each of the parties hereto irrevocably attorns and submits to the non-exclusive jurisdiction of the courts of the Province of Ontario in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined by such courts. Each party to this Agreement hereby irrevocably waives, to the fullest extent it may possibly do so, any defence or claim that the courts of the Province of Ontario are an inconvenient forum for the maintenance or hearing of such action or proceeding.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first before written.

THE TORONTO-DOMINION BANK

Per: 
Name: Christina Wang
Title: Associate Vice President, TBSM

COMPUTERSHARE TRUST COMPANY OF CANADA

Per: _____
Name:
Title:

Per: _____
Name:
Title:

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

Per: 
Name: Christina Wang
Title: Vice President

BANK OF MONTREAL

Per: _____
Name:
Title:

Per: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first before written.

THE TORONTO-DOMINION BANK

Per: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA

Per:  _____
Name: Soheil Karai
Title: Corporate Trust Officer

Per:  _____
Name: Stanley Kwan
Title: Associate Trust Officer

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

Per: _____
Name:
Title:

BANK OF MONTREAL

Per: _____
Name:
Title:

Per: _____
Name:
Title:

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first before written.

THE TORONTO-DOMINION BANK

Per: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA

Per: _____
Name:
Title:

Per: _____
Name:
Title:

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

Per: _____
Name:
Title:

BANK OF MONTREAL

Per: 
Name: *Roberto Rodriguez*
Title: *Manager and Team lead Documentation*

Per: _____
Name:
Title:

SCHEDULE 1
FORM OF MANDATE

In the form attached

ACCOUNT AGREEMENT
Cash Management Services
 Version November 2008

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To: Bank of Montreal

_____ (referred to as “you” and “your”)
(Insert full corporate name of customer)

Date: _____, 20_____

This Account Agreement (“**Agreement**”) is between you and Bank of Montreal (referred to as “**we**”, “**us**” and “**our**”). It sets out the terms and conditions under which we will provide you with bank accounts and related services. In consideration of the mutual promises herein, you agree with us as follows.

1. APPLICATION

- 1.1 This Agreement applies to all bank accounts you establish with us at this time and in the future.
- 1.2 This Agreement replaces any contradictory account terms, conditions or rules you may have received from us prior to this date in connection with such accounts.
- 1.3 “**Financial Instrument(s)**” refers to cheques and other bills of exchange, drafts, money orders, bill payment remittances, bankers’ acceptances and other similar instruments, whether negotiable or non-negotiable.

2. AUTHORIZED PERSONS

- 2.1 By completing our authorization forms(s) designating the individual(s) authorized to act on any account in your name, you authorize us to act on each such authorization until we receive written notice from you that the authorization is amended or terminated.
- 2.2 If Financial Instruments against any of your accounts are written and presented for payment before we receive all authorization forms we require, we may, in our sole discretion and without liability, either:
 - refuse to pay the Financial Instruments, even though there are funds available in the account, or
 - pay the Financial Instruments without verification.

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3. ACCOUNT TRANSACTIONS

3.1 We reserve the right to:

- refuse to accept deposits or specific items for deposit;
- limit the balance that may be maintained in your accounts and the number of deposits and items deposited.

3.2 You authorize us to endorse for deposit in your name any item(s) received for deposit in your account(s) that is missing any such endorsement.

3.3 If you ask us to follow instructions that we believe may expose us to potential liability, we may decline to follow the instructions. Alternatively, we may, in our sole discretion, require a surety bond or other protection from you, such as an indemnification, before we carry out the instructions.

4. WAIVER OF FORMALITIES

4.1 To facilitate the expedient operation of the accounts, you waive in our favour and dispense with the statutory or customary formalities under the *Bills of Exchange Act (Canada)*:

- “presentment” - meaning physical delivery of a cheque or other Financial Instrument at a certain location and within a specified time frame;
- “protest” – meaning documentation and procedure to otherwise preserve rights;
- “noting” and “notice” of any kind - meaning the manner in which presentment and protest are accomplished.

This waiver and dispensation applies to all Financial Instruments you sign, prepare or endorse and deliver to us for any purpose.

You remain liable to us as if such formalities had been duly followed. We may carry out any such formalities if, in our sole discretion, we consider it in either party's interest.

4.2 We will not, in any circumstances, be responsible or liable for failure or omission to carry out any such formalities in connection with any Financial Instrument.

5. USE OF AGENTS

5.1 We may use the services of another financial institution or intermediary as we deem necessary to fulfill your request. To illustrate, this could involve asking a financial institution in a country where we do not operate to carry out your instructions for a wire payment in that country.

5.2 Such other financial institution or intermediary is deemed to be your agent, as if acting on your instructions directly. We will not, in any circumstances, be responsible or liable to you for any act or omission of such agent in the performance of such services or for the loss, theft, destruction or delayed delivery of any Financial Instrument while in transit to or from, or in the agent's possession.

6. CHARGES TO ACCOUNT

6.1 You authorize us to charge your applicable account with the following:

(a) **Financial Instruments Drawn on Us.** the amount of any Financial Instrument payable by you at any of our branches.

(b) **Unpaid Financial Instruments.** the amount of any Financial Instrument we cash or negotiate for you or is credited to your account whether by means of deposits you make or by payments received for you through electronic or other means,

- for which we do not receive payment on a final irrevocable basis, or is reversed, in whole or in part, for any reason,
- whether or not such Financial Instrument was drawn on another account with us,
- whether or not such non-payment or reversal complies with the Rules of the Canadian Payments Association or other clearing organization.

(c) **Lost or Stolen Financial Instruments.** the amount of any Financial Instrument for your account by way of deposit, discount, collection or otherwise which Financial Instrument is not actually received by us due to loss, theft or any cause whatsoever, other than our gross negligence.

(d) **Account Operation.** any service charges for the operation of the account, the amount of any indebtedness or liability you have to us, and any expenses we incur in connection with paying a dishonoured or unpaid Financial Instrument.

(e) **Court Orders.** any costs we incur in order to comply with any request issued under a statutory or court authority for information or documents pertaining to your account or transactions with us, including costs that we incur as a result of any order, investigation or similar action by any law enforcement or government authority, including any tax/fiscal authority, or in connection with any judicial or similar orders pertaining to any dispute between you and a third party.

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(f) **Taxes.** all amounts collectible by us as taxes on the supply, sale or other provision of our products and services.

In the event no account is applicable or there are insufficient funds in the applicable account, any of your accounts with us may be charged.

6.2 Overdraft and Interest: You are liable to us for all amounts so charged and will pay on demand any overdraft created or existing from time to time in any of your accounts, together with interest thereon at the rate then applicable to your overdrafts as established by separate agreement with us.

6.3 Alternative Rate. If no such interest rate has been established, you will pay interest on overdrafts at twenty-one percent (21%) per annum.

6.4 Interest Calculation. All interest will be calculated and payable monthly, not in advance, both before and after demand, default and judgment.

6.5 Rights Preserved. Even if we charge your account, all of our rights and remedies against all parties are preserved. If we charge your account for an unpaid Financial Instrument, the charge will not be deemed to be payment of the Financial Instrument.

7. USE OF CHEQUES

7.1 Encoded Cheques. You will draw encoded cheques only on the account for which the cheques are encoded. We will not be liable, in any circumstances, for any loss or damage arising from the wrongful acceptance of a cheque, or our wrongful refusal to honour a cheque you draw on an account other than the account for which the cheque is encoded.

7.2 CPA and Other Rules. You acknowledge that we and other financial institutions may, without liability, reject or refuse to accept, honour, certify, pay or process any cheque or other Financial Instrument that does not comply in all respects with applicable by-laws, rules, regulations, requirements and standards of the financial institution and/or those of the Canadian Payments Association.

7.3 No Verification. We are not responsible for confirming the accuracy of any information you provide in respect of any Financial Instrument. We can provide verification services under a separate agreement.

7.4 Stop Payment. We are unable to stop payment on any Financial Instrument which has already been presented to us for payment or which we

have certified. We are unable to reverse any previously requested stop payment if the Financial Instrument has already been dishonoured.

8. ACCOUNT STATEMENT & DIGITAL RECORDS

8.1 Statements. We will periodically provide or make available to you (unless otherwise agreed) a printed or electronic statement of transactions on your account. Depending on your arrangements with us, Financial Instruments (or representations thereof or information therefrom in accordance with section 8.3) may be returned to you with the account statement.

8.2 Duty to Monitor Receipt. You will advise us if the account statement has not been received within ten (10) days of the date upon which it is normally received or otherwise made available to you.

8.3 Digital or Electronic Representations. You acknowledge that digital or electronic representations of cheques and other Financial Instruments, or the relevant information from the cheque or Financial Instrument, may be made or captured and used by financial institutions involved in the exchange and clearing of payments in Canada and elsewhere, in which case the original paper item may be destroyed and not returned to you. We are entitled to act upon such a representation or information for all purposes as if it were the paper item.

9. VERIFICATION OF STATEMENTS & LIMITATION OF LIABILITY

9.1 You will promptly review the entries in your account statement and examine the Financial Instruments (or copies thereof). You must notify us in writing of any errors, irregularities or omissions within 30 days of the mailing to you (as evidenced by the postmark and our records) or if not mailed, within 30 days of the statement being delivered or otherwise made available to you (either period being referred to as the “**Verification Period**”).

9.2 At the end of the Verification Period except with respect to any error, irregularity or omission of which we have been notified, it will be conclusively settled between you and us that:

- the statement and balance shown thereon are correct,
- all amounts charged to the account as set out on the statement are properly chargeable thereto,
- the Financial Instruments are genuine and properly charged to your account,
- you are not entitled to be credited with any sum not credited in the statement,

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- you cannot claim for any purpose that any charge to your account on your statement is incorrect, and
- we are released from all liability and you will have no claim against us for reimbursement relating to an entry, even if the transaction charged to your account was altered, forged, fraudulent or unauthorized.

It will also be conclusively settled as between you and us that we are not liable for any loss or claim arising from your breach or any third party breach of any fiduciary duty or trust in respect of the sums or dealings noted in the statements.

9.3 We will have no responsibility or liability whatsoever for any loss due to any altered, forged, fraudulent or unauthorized Financial Instrument, even if you notify us within the Verification Period, unless:

- the alteration, forgery, fraud or unauthorized Financial Instrument was made by a person who was at no time your agent or employee;
- the loss was unavoidable despite you having taken all commercially reasonable steps to prevent loss arising from alteration, forgery, fraud or unauthorized Financial Instrument;
- the loss was unavoidable despite you having in place all commercially reasonable procedures and controls to supervise and monitor your agents and employees in respect of Financial Instruments; and
- the loss was caused solely by our gross negligence or willful misconduct.

9.4 Notwithstanding the foregoing, we retain the right, both during and after the Verification Period, to charge back items for which payment has not been received or has been reversed, in whole or in part and to reverse, in whole or in part, any credits to your account made in error or to which you are otherwise not entitled, in our sole discretion.

10. CUSTOMER'S DUTY OF CARE

10.1 You will maintain commercially reasonable procedures and controls to detect and prevent thefts and alteration of Financial Instruments or losses due to fraud, forgery or unauthorized use involving Financial Instruments.

10.2 You will diligently supervise and monitor the conduct and work of all agents and employees having any role in the preparation, handling or review of Financial Instruments, your bank statement reconciliation or other banking functions.

11. INTEREST

11.1 Interest bearing accounts will bear interest at rates we establish from time to time and calculated and compounded by such methods as we may

establish and change from time to time. Rates may be dependent upon the balance in the accounts or other stipulations which may be agreed upon under a separate agreement between you and us. Notwithstanding Section 16 (Amendments), changes to interest rates will be reflected in your billing statement and will be effective as of the date indicated.

12. TELEPHONE, FAX & ELECTRONIC INSTRUCTIONS

12.1 You authorize us to record telephone calls in order to provide a record of instructions with respect to your account(s). We are not obligated to record such calls.

12.2 In the absence of any other agreement on this matter, we may act without any verification on any instruction received by telephone, fax transmission, electronic or other means if our representative implementing such instruction believes such instruction to be genuine and within the authority of the person giving or purporting to give such instruction on your behalf. We may otherwise refuse to so act without liability for loss or damage.

12.3 All such instructions we act upon will be conclusively considered to be your genuine and valid instructions.

13. WIRE, ELECTRONIC & OTHER PAYMENTS

13.1 We, our correspondents and other persons and entities involved in processing wire, electronic and other payments, remittances or transfers on your instructions:

- may rely on any account or identification number provided, and
- will not be required to confirm whether any such number corresponds with the name of the beneficiary or any other person or entity.

13.2 All transfers, remittances, payments and instructions we perform at your request are irrevocable. If we agree to attempt revocation of any such transfer, payment, remittance or instruction (which we have no obligation to do), we will not be liable for any failure or inability to do so or to obtain the return or reimbursement of any funds.

13.3 If any foreign currency is involved, we will not be responsible for any shortfall that might occur due to variations in exchange rates between the time any transfer, payment or remittance instruction was performed and the time any return or reimbursement of funds was obtained.

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13.4 Absent any other agreement you may have with us, you will pay us, before we issue any instruction to make any wire, electronic or other payment, remittance or transfer you request, the amount thereof together with such fees as we may establish from time to time in respect of such payments, remittances or transfers.

13.5 You acknowledge that some payments, remittances and transfers may be subject to deadlines, time zone differences and legal requirements of various jurisdictions through and to which they may be made.

14. INDEMNITY

14.1 You will indemnify us and our representatives against any and all claims, proceedings, damages, costs (including legal fees and disbursements on a solicitor and client basis), expenses and liabilities (collectively "**Claims**") directly or indirectly incurred by or taken against us or them, arising out of or in respect of the operation of any account you hold with us or our performance of any account-related service for you, except to the extent these Claims arise as a direct result of our gross negligence, including without limitation, any Claim from or for:

(a) non-payment of any Financial Instrument in accordance with your instructions;

(b) any payment we make or action we take in reliance upon the signature(s) and/or instruction(s) of any person(s) who you have advised us in writing has authority to authorize such payments or actions from time to time (regardless of whether any such payment or action benefits the person signing or providing instructions) or otherwise made or taken pursuant to your instructions;

(c) our refusal to accept, honour, certify, pay or process Financial Instruments that do not comply with applicable laws, rules, regulations, requirements and standards, including our own and those of the Canadian Payments Association;

(d) our refusal to honour any signature(s) of which a specimen or confirmation of authority has not been provided to us, or any instruction for which authorization and documentation has not been provided to our satisfaction;

(e) any action taken or payment made by us based on signing authorities provided to us and revoked or terminated by you or by operation of law without notice to us; and

(f) any order, investigation or similar action in relation to your accounts or transactions with us by

any law enforcement or government authority, including any tax/fiscal authority, or in connection with any judicial or similar orders pertaining to any dispute between you and a third party.

The indemnities contained in this Agreement will survive for a period of 12 months following the termination of this Agreement.

14.2 In no event will we be liable for indirect, consequential or special damages.

15. TERMINATION

15.1 We may close your account(s), with or without cause, at any time. To the extent possible we will endeavour to advise you in advance of an account closure, but you acknowledge that some circumstances may require immediate closure.

15.2 You may, at any time, close the account(s) after we have received notice and have a reasonable opportunity to act on it.

16. AMENDMENTS AND CHANGES

16.1 From time to time we may amend or change this Agreement or our fees and service charges. Such amendments or changes will be communicated by a notice mailed or sent to your current postal or email address in our files or in your billing statement and will be effective on either:

- the date indicated in the notice of change or in the absence of such date,
- 60 days from the date the notice was mailed or sent.

You will be deemed to have accepted any such amendment or change in respect of any account if you continue to use the account after such effective date.

17. OTHER PROVISIONS

17.1 Other Agreements and Conflicts. All transactions on your accounts will be subject to this Agreement and any other agreements between you and us relating to those accounts, including but not limited to, powers of attorney and any other agreements for specific services. In cases of inconsistency or conflict between the other agreements and this Agreement, such other agreements will prevail unless otherwise specified therein.

17.2 Bank Records. Our records will, in the absence of obvious error or as otherwise agreed by us in writing, be conclusive evidence of the information we receive and the transactions between you and us. The computer-generated or electronic records we

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receive or create will be admissible in a court of law and you waive any defence you may have as to their admissibility.

17.3 Credit Bureau Information. You authorize us to from time to time:

- obtain information about you in connection with any banking relationship you request or have with us and to check the information you have provided;
- request and disclose information about you from and to credit reporting agencies, credit bureaus, or other credit grantors, any persons with which you have or propose to have financial relations, and as otherwise permitted or required by law, including any improper or unauthorized activity that is in any way connected to an account.

You also authorize any person we may contact in this regard to provide us with such information.

17.4 Change of Address or Name. You will advise us promptly, in writing, of any change of address or name change. In case of a name change, you will provide and complete any additional documentation to effect such name change on our records.

17.5 Severability. Any provision in this Agreement that is determined to be illegal, invalid or unenforceable in any jurisdiction will be severed from the balance of the Agreement without affecting the remaining provisions or the validity or enforceability of such provision in any other jurisdiction.

17.6 Waiver of Rights. A waiver by you or us of any breach, default or non-compliance (in this Section collectively called "**Breach**") under this Agreement is only effective if it is in writing and signed.

No waiver will be inferred from any failure to act, or any delay in acting, in respect of any Breach or by anything done or not done.

No waiver in writing of any Breach under this Agreement will be a waiver of your rights or ours in respect of any other, continuing or subsequent Breach that is the same or of any other nature.

17.7 Assignment. Neither this Agreement or the rights and obligations hereunder, may be transferred or assigned by you, directly or indirectly, voluntarily or by operation of law, without our prior written consent. No consent by us to any such assignment or transfer will have the effect of releasing you from your obligations under this Agreement unless we release you in writing. We may, at our option, assign or transfer, directly, indirectly or by operation of law, this Agreement, and our rights, remedies and obligations thereunder.

17.8 Binding on Successors. This Agreement will benefit and bind your and our respective successors and permitted assigns.

17.9 Court Orders. We may automatically freeze or debit your account in accordance with any court order or notice of garnishment we receive, or any other legal requirement with which we reasonably determine we are required to comply.

This boxed text is applicable only if your head office is in Quebec. The parties have requested that this agreement and all documents contemplated by this agreement be drawn up in English. Les parties aux présentes ont exigé que cette entente et tous autres documents envisagés par les présentes soient rédigés en anglais.

This Agreement has been signed by your duly authorized representatives as of the date set out above.

CUSTOMER

Signature: _____

Name: _____

Title: _____

CUSTOMER

Signature: _____

Name: _____

Title: _____