

Canada Emergency Business Account 60K Application and Loan Agreement

APPLICATION

Authorized Signatory noted on the first page hereof, acting alone, hereby confirms as follows: I am authorized by and on behalf of the Borrower to complete this application on its behalf and enter into the Agreement on behalf of the Borrower for support under the Canada Emergency Business Account program (the “**Program**”). The Authorized Signatory hereby certifies that s/he has reviewed this application dated as of the date noted above, the attestation attached hereto, and the terms and conditions of the Loan set out in Schedule A, and any applicable on-screen terms, conditions, disclaimers or schedules (collectively, the “**Agreement**”), and hereby agrees, for on behalf of the Borrower, that the Borrower be bound by the terms of this Agreement, and acknowledges that this Agreement is binding between the Borrower and the Lender. The Authorized Signatory acknowledges that any Loan made hereunder will be made in accordance with the Program and is being instituted and administered by the Lender at the request of and on behalf of Export Development Canada, on behalf of Her Majesty in Right of Canada. The Borrower hereby represents and warrants (and the Authorized Signatory hereby attests) that the Borrower is in compliance with and/or will comply with the eligibility conditions for the Program imposed by the Government of Canada.

The Borrower makes the Attestation of the Borrower set out on the following pages.

The Authorized Signatory further acknowledges that the Lender will rely on the accuracy of the representations, warranties and attestations herein in making loans and advances to the Borrower pursuant to the Program, and acknowledges and agrees that an audit may be conducted by the Government of Canada or any of its agents to ascertain the veracity of this attestation and the eligibility of the Borrower under the Program. In order to verify the eligibility of the Borrower for support under the Program, the Authorized Signatory hereby authorizes Export Development Canada, as a representative of the Borrower with the Canada Revenue Agency, to access any payroll information of the Borrower it may require.

This application is signed by the Authorized Signatory on behalf of the Borrower as of the date first noted above.

Borrower Name

X

Authorized Signatory

Date

X

Authorized Signatory

Date

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ATTESTATION OF THE BORROWER

TO: The Credit Union (the “Lender”)

AND TO: Government of Canada, Export Development Canada and their respective agents and/or consultants (collectively, the “GOC”)

The above noted Authorized Signatory hereby certifies to, and agrees with, the Lender and the GOC for and on behalf of the Borrower that:

1. I have the ability and authority to bind the Borrower.
2. The Borrower is an active operating business that is a sole proprietorship, partnership or a Canadian-controlled private corporation (“CCPC”) that was in operation in Canada on March 1, 2020. The Borrower has not received any loan under the Canada Emergency Business Account Program (the “Program”). The Borrower’s legal name on record with the Canada Revenue Agency (“CRA”) and its business, operating, or trade name (if different from its legal name) are as set out on the front page of this application and loan agreement. *Please note that a sole proprietor’s legal name is the individual’s legal name as it is recorded in the CRA’s Business Number (BN) registry. A CCPC’s legal name must be written as it appears in its (federal or provincial) corporate registry. A partnership’s legal name is the partnership’s legal name as it is recorded in the CRA’s Business Number (BN) registry.*
3. The Borrower has an active CRA Business Number (BN) with an effective date of registration on or prior to March 1, 2020, as set out on the front page of this application and loan agreement.

PART A

(PART A and PART C apply if total employment income paid to employees in 2019 was greater than Cdn.\$20,000 and less than Cdn.\$1,500,000)

4. The following information is true and accurate (and the Borrower understands that the GOC will verify the accuracy of such information):
 - a) the Borrower’s total employment income paid in the 2019 calendar year was greater than Cdn.\$20,000 and less than Cdn.\$1,500,000;
 - b) the Borrower’s CRA Business Payroll Number (BN) (15 digits), as reported at the top of the Borrower’s 2019 T4 Summary of Remuneration Paid (T4SUM), is as set out on the front page of this application and loan agreement; and
 - c) the total employment income reported by the Borrower on all employee T4 slips for 2019 is as set out on the front page of this application and loan agreement.
5. The Borrower can and shall demonstrate the above information by presenting applicable records if and when requested upon audit by the GOC, and the Borrower shall cooperate with the GOC in conducting such audits including, without limitation, requesting or instructing third parties to provide information as may be necessary.
6. The Borrower consents to the Lender providing to the GOC the data elements necessary to evidence electronic confirmation by the Borrower of this Attestation.

OR

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PART B

(PART B and PART C apply if total employment income paid to employees in 2019 was Cdn.\$20,000 or less or if the Borrower declares no employment income was paid in 2019)

4. The following information is true and accurate (and the Borrower understands that the GOC will verify the accuracy of such information):
- a) the Borrower's total employment income paid in the 2019 calendar year was Cdn.\$20,000 or less or the Borrower had no employment income paid in the 2019 calendar year;
 - b) the Borrower's CRA Business Number (BN) (9 digits) is as set out on the front page of this application and loan agreement;
 - c) the Borrower has filed an income tax return with the CRA for 2019 (or if its tax returns for 2019 have not yet been submitted, 2018) and the following information is true and accurate:
 - (i) the most recent year in which the Borrower has filed an income tax return with the CRA is (2018 or 2019) is as set out on the front page of this application and loan agreement;
 - (ii) if the Borrower is a partnership, the legal name of the partner applying for the loan under the Program (as defined below) (which the Borrower understands will be used for identity confirmation purposes) is as set out on the front page of this application and loan agreement;
 - (iii) for the year selected in (i) above, the Borrower's business income as reported on its tax return is as follows (as applicable, for the appropriate entity/business type):

Note: For partnerships, input business income below as reported for the partner identified in (ii) above.

O if the Borrower is a corporation (i.e., incorporated business), as reported on line 400 of the Borrower's latest T2 is as set out on the front page of this agreement; or

O if the Borrower is an un-incorporated business, as reported on the following lines of the Borrower's latest T1 (either 2018 or 2019), is as set out on the front page of this agreement.

- d) as at March 1, 2020, the total incurred and projected Eligible Non-Deferrable Expenses (as defined in Section 7 below) that the Borrower was or is legally or contractually obligated to pay in the 2020 calendar year (including such Eligible Non-Deferrable Expenses actually paid from and after January 1, 2020) are (i) more than Cdn.\$40,000 net of Excluded Benefits (as defined below), and (ii) less than Cdn.\$1,500,000 including Excluded Benefits (as defined below).

For greater certainty, the Borrower shall not be eligible under the Program (as defined below) in the event that its total Eligible Non-Deferrable Expenses (as defined below) after deducting Excluded Benefits (as defined below) is equal to or less than Cdn.\$40,000. For greater certainty, in the event that the Borrower has a total amount of Eligible Non-Deferrable Expenses of more than Cdn.\$1,500,000, the Borrower does not become eligible under the Program solely by virtue of excluding Excluded Benefits from that amount; and

- e) the Borrower has in its possession documents evidencing more than Cdn.\$40,000 of aggregate Eligible Non-Deferrable Expenses of the Borrower (a copy of the lease with the Borrower's landlord for the year 2020, copies of material contracts, etc.), excluding any Excluded Benefits (each such document and any amendments thereto, if applicable, an "**Eligible Non-Deferrable Expense Document**"). The Borrower has uploaded or will upload on <https://application-demande.ceba-cuec.ca/> (the "**Web Page**") each of the Eligible Non-Deferrable Expense Documents prior to being provided the loan under the Program by the Lender and understands that failure to upload the Eligible Non-Deferrable Expense Documents will disqualify the Borrower under the Program. Each Eligible Non-Deferrable Expense Document that has been or will be uploaded to the Web Page by the Borrower (i) is a true, complete and correct copy of the original document, and (ii) is in full force and effect under which the Borrower is legally obligated to make the payments provided for thereunder and the amounts payable under such documents are not disputed by the Borrower, in each case, as of the date of uploading.

"Excluded Benefits" referenced in this Part B means the aggregate amount of the benefits the Borrower has received, or is expecting to receive by December 31, 2020, in support or subsidies under any other Government of Canada COVID response program ("**GOC COVID Response Programs**") including the ones listed at the end of this Attestation for clarity, while the Canada Emergency Commercial Rent Assistance ("**CECRA**") program is a GOC COVID Response Program, it is understood that: (i) if the Borrower is a commercial property owner, forgivable loan(s) received or to be received by such Borrower from Canada pursuant to the CECRA program are not a benefit for the purpose of calculating the aggregate amount of Excluded Benefits; and (ii) if the Borrower is a commercial tenant, the aggregate reduction in such Qualifying Borrower's rental payments resulting from its property owner's application for a forgivable loan pursuant to the CECRA program are a benefit for the purpose of calculating the aggregate amount of Excluded Benefits.

5. The Borrower can and shall demonstrate the above information by presenting applicable records (which shall include, for greater certainty, evidence of contractual obligations) if and when requested upon audit by the GOC, and the Borrower shall cooperate with the GOC in conducting such audits including, without limitation, requesting or instructing third parties to provide information as may be necessary.

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PART B CONTINUED

6. The Borrower consents to the GOC disclosing information requested in this Attestation to the Borrower's payees and/or contractual counterparties including, without limitation, its landlords, lessors, insurers, telephone, internet and utility providers, contractors, licensors (or other governing body), lenders, creditors, employees and other government organizations ("Payees") for the purposes of auditing and verifying the accuracy of any such information or records and documentation evidencing same.

The Borrower further consents to each of the Payees cooperating with the GOC in respect of such audit and hereby requests and instructs each of the Payees to provide such information, records and documentation (which may, for greater certainty, may include personal information) as may be requested by the GOC for this purpose. The Borrower agrees to the GOC sharing this consent with the Payees as required and acknowledges that each of the Payees shall be entitled to rely upon the foregoing consent and instruction. The Borrower consents to the Lender providing to the GOC the data elements necessary to evidence electronic confirmation by the Borrower of this Attestation.

PART C

(Part C applies to all applicants)

7. Per the requirements of the Canada Emergency Business Account Program (the "**Program**"), as set out by the Government of Canada, the undersigned acknowledges that the funds from the loan under the Program shall only be used by the Borrower to pay (i) Eligible Non-Deferrable Expenses (as defined below) or (ii) other expenses of the types described in clauses (i) – (ix) of the below definition of Eligible Non-Deferrable Expenses of the Borrower incurred or to be incurred in 2021.

"**Eligible Non-Deferrable Expenses**" means the following expenses (and only the following expenses) incurred or to be incurred in 2020 provided that they are not deferrable after 2020:

- (i) wages and other employment expenses to independent (arm's length) third parties;
- (ii) rent or lease payments for real estate used for business purposes;
- (iii) rent or lease payments for capital equipment used for business purposes;
- (iv) payments incurred for insurance-related costs;
- (v) payments incurred for property taxes;
- (vi) payments incurred for business purposes for telephone and utilities in the form of gas, oil, electricity, water and internet;
- (vii) payments for regularly scheduled debt service;
- (viii) payments incurred under agreements with independent contractors and fees required in order to maintain licenses, authorizations or permissions necessary to conduct business by the Borrower;
- (ix) payments incurred for materials consumed to produce a product ordinarily offered for sale by the Borrower; and
- (x) any other expense in a category other than the above as may be indicated by GOC under the Web Page from time to time as being an Eligible Non-Deferrable Expense for the purpose of the Program.

For greater certainty, the following expenses are not Eligible Non-Deferrable Expenses and the Borrower cannot use the funds received under the Program to pay such expenses: any other payments or expenses such as prepayment/refinancing of existing indebtedness, payments of dividends, distributions, increases in management compensation and increases of the compensation of related parties, in each case except to the extent that such expense falls under part (x) above.

8. The Borrower has an active business chequing/operating account with the Lender. The Borrower has not previously used the Program and has not used the *COVID Indigenous SMEs Initiative* or the *Regional Relief and Recovery Fund* and will not apply for support under the Program at any other financial institution or for support under the *COVID Indigenous SMEs Initiative* or the *Regional Relief and Recovery Fund* (unless its application to the Program is declined, in which case the Borrower undertakes not to re-apply under the Program).

The Borrower certifies:

- (i) that its business is facing ongoing financial hardship (including, for example, a continued decline in revenue or cash reserves, or an increase in operating costs) as a result of the COVID-19 pandemic;
- (ii) that it intends to continue to operate its business or to resume operations; and
- (iii) that in response to the COVID-19 pandemic it has made all reasonable efforts to reduce its costs and to otherwise adapt its business to improve its viability.

The Borrower will not use any loan received under the Program to make any payment or pay any expense other than Eligible Non-Deferrable Expenses. Specifically, the Borrower will not use any loan received under the Program to make any prepayment/refinancing of existing indebtedness, any payment of dividends, distributions or increases in management compensation or to increase the compensation of related parties.

9. The Borrower understands that (a) any attempt to have more than a total maximum loan amount of Cdn\$60,000 under the Program or any attempt to obtain a loan under the Program from more than one financial institution may result in default under the loan(s)

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PART C CONTINUED

under the Program, prosecution or other enforcement measures available at law or otherwise and (b) receiving support under the *COVID Indigenous SMEs Initiative* or under the *Regional Relief and Recovery Fund* disqualifies the Borrower under the Program and may result in default under the loan(s) under the Program, prosecution or other enforcement measures available at law or otherwise.

10. The Borrower agrees to participate in post-funding surveys conducted by the GOC and agrees that relevant contact information of the Borrower can be shared with the GOC for that purpose.
11. The Borrower acknowledges and agrees that clerical errors in this Attestation may be corrected by the GOC on the basis of validation of information obtained from the CRA, the Borrower, the Lender or other sources of information that the GOC determines to be reliable, acting reasonably. Any information provided to the Lender or the GOC by the Borrower verbally or in writing at any time is true and correct as if provided under this Attestation.
12. Per the requirements of the Program, as set out by the Government of Canada, the Borrower confirms that:
 - a) it is not a government organization or body, or an entity wholly owned by a government organization or body;
 - b) it is not a non-profit organization, registered charity, union, or a fraternal benefit society or order, or an entity owned by such an organization, unless the entity is actively carrying on a business in Canada (including a related business in the case of a registered charity) that earns revenue from the regular supply of property/goods or services;
 - c) it is not an entity owned by any Federal Member of the Parliament of Canada or Senator of the Parliament of Canada; and
 - d) it does not promote violence, incite hatred or discriminate on the basis of sex, gender identity or expression, sexual orientation, colour, race, ethnic or national origin, religion, age or mental or physical disability, contrary to applicable laws.
13. The Borrower acknowledges that the Lender, and the GOC, will rely upon the accuracy of this Attestation and associated documentation (including copies of Eligible Non-Deferrable Expense Documents) in making loans and advances to the Borrower pursuant to the Program and acknowledges and agrees that an audit or investigation may be conducted by the Lender or by the GOC to ascertain the veracity of this Attestation and such information and documentation and the eligibility of the Borrower under the Program. The Borrower also consents to the sharing between the Lender and the GOC of information relating to the outcome of any such audit or investigation, and any related information and documentation.
14. The Borrower acknowledges that any breach of or inaccuracy in any statement or information provided herein or in any associated documentation shall result in the Borrower's ineligibility under the Program, trigger an immediate obligation to repay to the Lender any loans made to the Borrower under the Program, and could result in the criminal prosecution of the individual making the Attestation, the Borrower, and other individuals involved in the provision of inaccurate information on behalf of the Borrower. **Knowingly submitting inaccurate information or documentation as part of this Attestation could result in criminal penalties of up to 14 years' imprisonment, as well as significant fines, and the court-ordered repayment of any monies advanced.**
15. The Borrower understands and agrees that all information (including, for greater certainty, any personal information or taxpayer information as defined under s. 241 of the *Income Tax Act*) obtained or maintained by the Lender or the GOC in connection with the Program, including the information included in this Attestation and other documentation, can be shared between the Lender and the GOC including for the purposes of administering, monitoring and auditing the Program and/or for research and statistical purposes relating to the Program. The Borrower hereby consents to the Lender and the GOC collecting and using such information for these purposes and sharing same with each other.
16. For the purposes of verifying the Borrower's eligibility for this Program, the Borrower hereby authorizes the CRA to share its business income and expenses, business number, legal name and address in respect of the 2018 and/or 2019 and/or 2020 tax years with the GOC, and further authorizes Export Development Canada and its agents to act as the Borrower's representative with the CRA in order to share such required information in respect of the Borrower.
17. The Borrower consents to the GOC publicly releasing its name by way of posting on a government website and/or tabling in a Parliamentary report or publication, as may be required for the Government of Canada to satisfy public accountability requirements.
18. The Borrower acknowledges and agrees that neither the GOC nor the Lender shall be liable for any damages arising from the use by others of information or other materials (including the Eligible Non-Deferrable Expense Documents) obtained through electronic, telecommunications or other information transmission systems (including the Web Page) except to the extent such information or other materials have been obtained by others as a result of the actions of the GOC or the Lender, respectively, which would constitute the willful misconduct or gross negligence of the GOC or the Lender.

Current list of GOC COVID Response Programs: *Canada Emergency Wage Subsidy, 10% Temporary Wage Subsidy, Canada Emergency Commercial Rent Assistance, Regional Relief and Recovery Fund, Futurpreneur Canada, Northern Business Relief Fund, Fish Harvester Grant, relief measures for Indigenous businesses, and \$250 million COVID-19 IRAP (Industrial Research Assistance Program) Subsidy Program and Canada Emergency Rent Subsidy.*

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SCHEDULE A TERMS AND CONDITIONS

1. **DEFINITIONS** – In this Agreement, the capitalized terms, “Loan Amount”, “Interest Rate”, “First Interest Payment Date”, “Initial Term Date”, “Extended Term Date” and “Frequency of Interest Payments” are as set out in the table above. Other capitalized terms, not otherwise defined in this Agreement, mean:
 - “**Advance**” has the meaning set out below under “Term Loan”.
 - “**Electronic Means**” means any communication method permitted by the Lender from time to time including, but not limited to, computer, tablet, telephone, cell phone, smartphone, Internet, email, personal digital assistant, facsimile or other method of telecommunication or electronic transmission;
 - “**Loan**” means the Advance and all amounts outstanding hereunder including, without limitation, all principal, interest, costs, fees and any expenses incurred in connection with the Loan.
 - “**Material Adverse Change**” means a change in situation or event producing an effect deemed unfavourable by the Lender on (a) the inherent risk in the financing (b) the situation (financial or other), operations, property or company of the Borrower, (c) the capacity of the Borrower to meet its obligations to the Lender, and (d) the rights and remedies of the Lender hereunder and any related document.
 - “**Term**” means the period commencing on the date of advance of the Loan and ending on the Initial Term Date (being the “**Initial Term**”) or, the Extended Term Date (being the “**Extended Term**”), as applicable.
2. **TERM LOAN** – Upon acceptance by the Lender of the application of the Borrower to which this Schedule A is attached, the Lender shall make a single advance (the “Advance”) of a term loan equal to the Loan Amount, which shall be the only advance made under this Agreement.
3. **INITIAL TERM** – During the Initial Term of the Loan, the Borrower will not be required to repay any portion of the Loan, and no interest shall accrue.
4. **EXTENDED TERM** – During the Extended Term of the Loan, the Borrower will be required to pay interest on the Loan, on a monthly basis, commencing on the First Interest Payment Date (or such other date as may be determined by the Lender) and thereafter on the last day of each calendar month or the next following business day, as more fully described under “Interest” below. On the Extended Term Date, the Loan shall be due and payable and the Borrower will repay the balance, if any, of the Loan and all other amounts payable hereunder in full.
5. **FUNDING** – The Advance will be made by depositing the proceeds of the Loan into the Business Account. The Business Account will continue to operate in the normal course and if there is a negative balance in the Business Account, as a result of an overdraft facility or otherwise, the proceeds of the Loan will automatically repay the amount outstanding up to the Loan Amount.
6. **PREPAYMENT OF LOAN** – The Borrower is permitted to prepay all or any portion of the Loan Amount, without notice, fees or penalty, premium or bonus, at any time during the Term of the Loan.
7. **APPLICATION OF PAYMENTS** – The Lender may apply payments to any part of the Loan at its sole discretion. If any payment due date falls on a date which is a Saturday, Sunday or statutory holiday, any payment scheduled for that date will not be applied until the business day first following that date. The Lender may debit any account the Borrower maintains with the Lender for any amount owed by the Borrower under this Agreement. If the Borrower is a partnership or, in Quebec, a general partnership, the Lender may debit any account that any of the partners maintains with the Lender for any amount owed by the Borrower under this Agreement. The exercise by the Lender of its right to set-off, granted hereunder or available at law, shall constitute an acknowledgement of the Borrowers indebtedness and liability hereunder.
8. **LOAN FORGIVENESS FOR EARLY REPAYMENT** – If the Borrower repays to the Lender (i) 75% or more of the first \$40,000 of the Loan Amount, and (ii) 50% or more of the next \$20,000 of the Loan Amount, in each case on or prior to the Initial Term Date, the Lender will forgive the remaining balance of the Loan as of the Initial Term Date **provided that** an Event of Default (as defined below) has not occurred or is continuing to occur.
9. **EVENTS OF DEFAULT** – The Lender may require the Borrower to repay the Loan upon the occurrence of any one of the following events of default (“Events of Default”):
 - a) the Borrower defaults in paying any amount due hereunder;
 - b) the Borrower defaults in paying any indebtedness owing to the Lender;
 - c) the Borrower fails to comply with any provision of this Agreement;
 - d) the Borrower makes any false or misleading representation to the Lender, including without limitation, any attestation with respect to the eligibility of the Borrower under the Program;
 - e) the Borrower commits an act of bankruptcy or becomes insolvent;
 - f) the Borrower avails itself of a law governing its bankruptcy, restructuring, reorganization, dissolution, winding-up, arrangement, or a third party initiates proceedings towards the Borrower under said law;

SCHEDULE A

TERMS AND CONDITIONS (CONTINUED)

- g) a receiver, interim receiver or trustee is appointed with respect to the Borrower or its property,
- h) the property of the Borrower is subject to a seizure/foreclosure proceeding, prior notice of the exercise of a hypothecary right, notice to withdraw authorization to collect claims or any other remedy exercised under laws governing security interests; or
- i) a Material Adverse Change occurs.

If an Event of Default occurs or is occurring, the Lender may:

- a) terminate the Loan, declare liquid and payable all the Borrower's monetary obligations not yet due at that time and claim immediate payment of all amounts owing without further notice or demand;
- b) withhold any amount collected or received and apply it to any portion of the Borrower's indebtedness to the Lender; and
- c) exercise any rights and remedies conferred by law.

The rights and remedies above are cumulative and not alternative.

- 10. NON-WAIVER** – Any failure by the Lender to object to or take action with respect to a breach of this Agreement or upon the occurrence of an Event of Default shall not constitute a waiver of the Lender's right to take action at a later date based on that breach of Event of Default. No course of conduct by the Lender will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Agreement or the Lender's rights thereunder, which can only be amended with the express written consent of the Lender.
- 11. INTEREST** – No interest is required to be paid by the Borrower during the Initial Term. During the Extended Term, the Borrower will pay interest on the Loan at the rate of interest set out above, on a monthly basis in arrears, with the first payment to be made on the First Interest Payment Date, or such other date as may be agreed by the Lender. Interest on the Loan during the Extended Term is calculated and accrues on the daily balance of the Loan (including any overdue interest thereon) and not in advance, on the basis of a 365-day year. For the purposes of the *Interest Act* (Canada), the annual rate corresponding to the rate calculated on this basis is equal to the rate thus calculated multiplied by the actual number of days included in the year concerned and divided by 365 days. Unless otherwise stipulated, the interest is payable monthly, on the last day of each month. Notwithstanding any provision herein, the interest payable (or any amount considered interest under the law) can never exceed the maximum interest amount permitted by law. If this maximum were to be reached, the interest amount would be reduced as to not exceed this maximum. Interest will continue to be payable by the Borrower before and after maturity, in an Event of Default and/or if a judgement is rendered against the Borrower.
- 12. POST-DEFAULT INTEREST** – Any amount disbursed by the Lender to realize, maintain or preserve any right or security will bear interest until payment at the rate of Bank of Canada's Canadian prime rate plus 3% per annum.
- 13. COST AND EXPENSES** – The Borrower will pay the Lender all of the Lender's reasonable costs and expenses (including the fees and charges of internal and external legal counsel, on a solicitor client basis and notarial fees), relating to enforcing the Loan and such costs and expenses shall constitute a debt payable by the Borrower to the Lender. If a statute, regulation, administrative policy or order results in an increase in the cost of the credit for the Lender (namely as a result of the imposition of reserves, taxes or capital adequacy requirements for the Lender), the Borrower undertakes to pay the Lender, on demand, the amount of the resulting additional cost.
- 14. SET OFF** – In addition to its other rights, the Lender may offset any amount owed by the Borrower to the Lender with any amount owed by the Lender to the Borrower, even if this amount is not due or is payable in another currency. To proceed with this set-off, the Lender may debit any account held by the Borrower with the Lender.
- 15. POSITIVE COVENANTS** – In addition to all the obligations of the Borrower under this Agreement, the Borrower undertakes and agrees to:
- a) pay all amounts outstanding to the Lender when due or demanded;
 - b) maintain its existence as a corporation, partnership or sole proprietorship, as the case may be, and not make any alterations to its corporate structure;
 - c) pay all taxes;
 - d) use the proceeds of the Loan exclusively for the purposes set out herein;
 - e) at all times, give the Lender and its representatives or agents the right to visit and access the establishments of the Borrower, and the right to examine its books of accounts and other records, and take excerpts therefrom or make copies thereof;
 - f) maintain insurance coverage on its property against loss or damages caused by fire and any other risk as is customarily maintained by the same type of Borrower;
 - g) continue to carry on the business now being carried on by the Borrower;
 - h) ensure that all representation and warranties set out herein remain true and accurate at all times; and
 - i) notify the Lender, without delay, of the occurrence of any Event of Default.

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SCHEDULE A

TERMS AND CONDITIONS (CONTINUED)

16. NEGATIVE COVENANTS – The Borrower agrees that it will not:

- a) merge or amalgamate with any other entity or permit any change of ownership or change its capital structure;
- b) use the proceeds of the Loan other than for the purposes set out herein; or
- c) sell, lease, assign, or otherwise dispose of all or substantially all of its assets

17. AGREEMENT TO PROVIDE INFORMATION – The Borrower will provide, or cause to be provided, whatever information the Lender may request from time to time. The Borrower will keep the Lender advised of the current address of the Borrower.

18. REPRESENTATIONS AND WARRANTIES – The Borrower represents and warrants that all information provided to the Lender is accurate and complete. The Borrower will provide, or cause to be provided, updated information and/or additional supporting information as the Lender may require from time to time with respect to any and all applicable matters, including, where applicable,

- a) the names of all directors of the Borrower;
- b) the names and addresses of all beneficial owners of the Borrower,
- c) the names and addresses of any trustees and known beneficiaries and/or settlors of the Borrower; and
- d) the ownership, control and capital structure of the Borrower.

The Lender reserves the right to request updated customer information and/or additional supporting information at any time.

19. SHARING OF INFORMATION – The Borrower agrees that the Lender may share information about the Borrower, including, without limitation, the Borrower's financial information together with information about the Loan, with Export Development Canada and the Government of Canada or its agents for administration and governance of the Loan and for determination of qualification for Loan forgiveness.

20. THIRD PARTY DETERMINATION – The Borrower acknowledges and agrees that no other person or entity will exercise any control over the Loan.

21. RECORDS – The Borrower agrees that the Lender's books and records are evidence of all amounts owed by the Borrower.

22. SUCCESSOR AND ASSIGNS – This Agreement shall be binding on and enure to the benefit of the Lender and its successors and assigns. It shall also be binding on the Borrower, its heirs, successors and personal representatives (including executors and administrators). The Borrower must obtain the written consent of the Lender to assign this Agreement to any other person. The Lender may at any time, sell, transfer or assign any or all of its rights under this Agreement without notice to or the consent of the Borrower.

23. JOINT AND SEVERAL – The Borrower is jointly and severally (which means individually and collectively) liable to the Lender (and in Quebec the Borrower is solidarily liable to the Lender) for the Loan with each other person who is liable for the Loan.

24. INDEMNIFICATION – The Borrower must indemnify the Lender (including its officers, directors, employees and agents) against any damages and costs suffered or incurred by the Lender and claims brought against the Lender resulting from or related to, directly or indirectly, to the Loan. This obligation will survive the full and final payment of any amount owing by the Borrower to the Lender.

25. CURRENCY – The Borrower must pay all amounts due hereunder to the Lender in the currency of the Loan. If an amount in Canadian dollars is to be converted into or expressed in U.S. dollars, or the equivalent in U.S. dollars (or inversely) must be determined, the Lender may calculate this conversion or equivalence in accordance with its normal practices.

26. OTHER AGREEMENTS – This Agreement applies only to the Loan. This Agreement is in addition to, and not in substitution for, any other agreement that exists between the Borrower and Lender, as the case may be.

27. AMENDMENTS – Except as otherwise set out in this Agreement, the Lender may amend this Agreement at any time upon 30 days prior notice to the Borrower.

28. SEVERABILITY – The invalidity or unenforceability of any provision under this Agreement shall not affect the validity or enforceability of any other provision under this Agreement, and such invalid provision shall be deemed to be severable from the Agreement.

29. GOVERNING LAW – This Agreement shall be governed by the law of the Province in which the Authorized Signatory resides and the laws of Canada applicable therein. In the event of a dispute, the Borrower agrees that the courts of the Province in which the Authorized Signatory resides shall be competent to hear such dispute and agrees to be bound by a judgment of that court.

30. APPLICABLE IN PROVINCE OF QUEBEC ONLY – It is the express wish of the parties that this Agreement and any directly or indirectly related documents be drawn up in English. Les parties ont exprimé la volonté expresse que cette convention et tous les documents s'y rattachant directement ou indirectement soient rédigés en anglais.

SCHEDULE A

TERMS AND CONDITIONS (CONTINUED)

- 31. CREDIT AGENCIES, ETC.** – In addition to any rights that the Lender and its affiliates may have regarding the collection and disclosure of the information of the Borrower, the Borrower authorizes the Lender to obtain information about the Borrower from, and disclose information about the Borrower to, any world-wide affiliates of the Lender, other lenders, credit reporting or credit rating agencies, credit bureaus and any supplier, agent or other party that performs services for the Borrower or on the Lender's behalf.
- 32. ELECTRONIC COMMUNICATION** – The Borrower acknowledges, consents and agrees that the Lender may provide all documentation relating to the Loan, the Business Account and this Agreement through Electronic Means. Any documents sent through Electronic Means will be considered “in writing” and to have been signed and delivered by the Lender as though it were an original document. The Lender may rely on and consider any document received through Electronic Means from the Borrower, or which appears to have been received from the Borrower, as binding on the Borrower as though it were an original document. In communicating with the Lender by Electronic Means, the Borrower agrees to comply with certain security protocols that may be established from time to time and to take all reasonable steps to prevent unauthorized access to any documents exchanged through Electronic Means.
- 33. ELECTRONIC SIGNATURES** – The Authorized Signatory agrees that this Agreement and any related documents may be accepted in electronic form and are binding as if they were signed using a pen on paper.