

**INDEMNITY AGREEMENT
(COMMERCIAL PAPER PURCHASE PROGRAM)**

THIS INDEMNITY AGREEMENT dated March 27, 2020 is made between the Bank of Canada, a body corporate established by the *Bank of Canada Act* (Canada), and Her Majesty the Queen in Right of Canada, as represented by the Minister of Finance.

WHEREAS:

- A. the Bank has established or proposes to establish a commercial paper purchase program under which it intends to purchase commercial paper issued by Canadian incorporated or organized issuers, in the primary market from investment dealers, on issuance and in the secondary market, from Eligible Counterparties;
- B. the Government has agreed to indemnify the Bank against any and all losses that the Bank may suffer by reason of any such commercial paper acquired or held by the Bank not being paid in full; and
- C. the Parties may from time to time amend this Agreement to expand the definition of Subject CP and/or to encompass additional facilities.

NOW THEREFORE, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby agree as follows:

**ARTICLE 1
INTERPRETATION**

Section 1.1 Defined Terms.

As used in this Agreement, including the recitals, the following terms have the following meanings:

“Bank” means the Bank of Canada.

“Business Day” means any day of the year, other than a Saturday, Sunday or any day on which the Bank or the Department of Finance, Canada, is closed for business.

“Eligible Counterparty” means any Person from whom the Bank is authorized to purchase Eligible CP pursuant to the Program.

“Eligible CP” means any Canadian-dollar denominated commercial paper, note or other instrument (including asset-based commercial paper) representing or evidencing indebtedness, issued by an Eligible Issuer, including any interest therein or any financial asset or security entitlement related thereto.

“Eligible Issuer” means an issuer of Eligible CP that satisfies the eligibility requirements of the Program.

“Government” means Her Majesty the Queen in Right of Canada, as represented by the Minister of Finance.

“Issuer”, with respect to Eligible CP, means the issuer of Eligible CP and any other Person obligated thereon, and any successors and assigns thereof.

“Obligations” means, in respect of any Subject CP, the debts, liabilities and obligations of the Issuer or Issuers under or in respect of such Subject CP,

“Parties” means the Bank and the Government, collectively.

“Person” means any natural person, sole proprietorship, partnership, corporation, trust, joint venture, governmental authority, incorporated or unincorporated entity, or incorporated or unincorporated association of any nature.

“Program” means the Commercial Paper Purchase Program established by the Bank under which the Bank may from time to time acquire Eligible CP from Eligible Issuers or Eligible Counterparties, as set out in a Market Notice, issued or to be issued by the Bank on or about the date hereof, as amended, supplemented or replaced from time to time.

“Subject CP” means, as supplemented by Section 1.2(1), any Eligible CP acquired by the Bank on or after the date hereof pursuant to the Program, either in the primary market on issuance, in the secondary market from an Eligible Counterparty, or by way of rollover on the maturity of Subject CP then held by the Bank.

“Termination Date” means the earlier of (i) the date that is 365 days following the termination by the Bank of the Program and (ii) the date on which the Parties by mutual consent agree to terminate the obligations of the Government under this Agreement.

Section 1.2 Designation and Reports

(1) The Bank may, at any time, and from time to time, by notice to the Government, designate any Eligible CP or similar instrument (or any interest therein or financial asset or security entitlement related thereto) issued by an Eligible Issuer and acquired or held by the Bank on or after the date hereof (whether in the primary or secondary market), as Subject CP, and any such designation shall be conclusive and binding upon the Government for all purposes of this Agreement.

(2) The Bank shall use reasonable efforts to publish from time to time on its website a description and the aggregate principal or face amount of all Subject CP acquired by the Bank after the date hereof, provided that the failure of the Bank to so publish shall not limit or reduce the liability of the Government hereunder.

(3) Upon request made by the Government, the Bank shall use reasonable efforts to produce and deliver to the Government a monthly report listing the Subject CP acquired since the last such report, whether in the primary or secondary market, on issuance or by way of rollover, setting out such details as Issuer, CUSIP or ISIN, principal amount, maturity and coupon, provided that the failure of the Bank to use reasonable efforts to produce and deliver such a

report or reports shall not limit or reduce the liability of the Government hereunder.

Section 1.3 Headings, etc.

The division of this Agreement into Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect its interpretation.

Section 1.4 Recitals.

The recitals form an integral part of this Agreement.

Section 1.5 References to Agreements.

Except as otherwise provided in this Agreement, any reference to this Agreement or any other agreement or document means this Agreement or such other agreement or document as the same may have been or may from time to time be amended, modified, extended, renewed, restated, replaced or supplemented in accordance herewith and therewith.

**ARTICLE 2
TRANSACTION TERMS**

Section 2.1 Payment Obligations.

(1) If any Issuer fails to make, or cause to be made, payment in full to the Bank of all principal, interest, discount, premium or any other amounts due under or in respect of any Subject CP when the same are due and payable, then the Government shall, on demand, in accordance with Section 2.4, indemnify and save harmless, as principal obligor, the Bank against any and all losses incurred by the Bank by reason of such failure, and, without limitation of the foregoing, the Government shall pay, as primary obligor, to the Bank, on demand by the Bank, in accordance with Section 2.4, any and all principal, interest, discount, premium and other amounts due and payable under such Subject CP which have not been paid in full to the Bank.

(2) The Bank shall not be required, prior to making demand hereunder, to exhaust any recourse, right or remedy against the Issuer or any other Person, and the Government renounces all benefits of discussion and division.

(3) The obligations of the Government hereunder are irrevocable.

Section 2.2 Debt Restructuring or Amendment.

For purposes of this Agreement, including in particular the indemnification and payment obligations of the Government in Section 2.1(1), and the determination of the amounts due and unpaid by an Issuer, the principal amount, interest, discount, premium and other amounts due by the Issuer under any Subject CP, and when the same are due and payable under or in respect of any Subject CP, shall be determined without giving effect to any reduction in amount, stay, deferral, extension or other modification thereof, made or effected after the date of issuance, for any reason, including:

- (a) the institution, in respect of an Issuer, of any insolvency, resolution, reorganization, compromise or arrangement proceeding (including under any corporate statute), the appointment in respect of an Issuer of a liquidator, sequestrator, receiver or receiver manager, or similar officer, the granting of any stay or the sanctioning of any plan of compromise or arrangement of an Issuer
- (b) any restructuring or compromise of the Obligations;
- (c) any order of any court of competent jurisdiction, including any court order that amends, varies, reduces or otherwise affects any of the Obligations or the Subject CP;
- (d) any agreement, waiver or consent of one or more holders of Eligible CP of the Issuer, including any collective action of such holders pursuant to any provisions allowing for the consent or votes of certain holders, or a certain percentage or proportion of holders, to be binding on all holders;
- (e) any agreement, waiver or consent of one or more creditors of the Issuer;
- (f) any law, regulation, order or other enactment or act of any government entity or jurisdiction, including any such that amends, varies, reduces or otherwise affects, or purports to amend, vary, reduce or otherwise affect, any of the Obligations or the obligations of the Government, or the rights of the Bank;
- (g) any moratorium or other suspension of debts declared by any government, or
- (h) any combination of one or more of the foregoing.

Section 2.3 Liability Absolute and Unconditional.

(1) The Government agrees that the liability of the Government hereunder, and the rights and remedies of the Bank, shall be absolute and unconditional, and shall not be prejudiced, reduced, deferred or limited, irrespective of:

- (a) any lack of validity or enforceability of any of the terms of any Subject CP;
- (b) any contest by the Issuer as to its Obligations under or in respect of the Subject CP;
- (c) any defence, counter claim or right of set-off available to the Issuer;
- (d) any release, compounding or other variance of the liability of the Issuer or any other Person liable in any manner under or in respect of the Subject CP or the modification or extinguishment of all or any part of the obligations of the Issuer or any other such Person under any Subject CP by operation of law;
- (e) any change in the time or times for, or place or manner or terms of payment or performance of the Obligations or any consent, waiver, renewal, alteration,

extension, compromise, arrangement, concession, release, discharge or other indulgences which the Bank may grant to the Issuer or any other Person;

- (f) any amendment or supplement to, or alteration or renewal of, or restatement, replacement, refinancing or modification or variation of, or other action or inaction under, the Subject CP, this Agreement or any other related document or instrument;
- (g) any discontinuance, termination, reduction, renewal, increase, abstention from renewing or other variation of the terms or conditions of any transaction with the Issuer or any other Person;
- (h) any change of control or amalgamation of an Issuer, any limitation of status or power, disability, incapacity or other circumstance relating to the Issuer or any other Person, including without limitation any insolvency, bankruptcy, liquidation, reorganization, moratorium, readjustment, composition, dissolution, winding-up or other proceeding involving or affecting the Issuer or any other Person;
- (i) subject to Section 3.1, the assignment of all or any part of the benefits of this Agreement;
- (j) any impossibility, impracticability, frustration of purpose, force majeure or illegality of performance of the Obligations, the Subject CP, this Agreement or any other related document or instrument,
- (k) the occurrence of any one or more of the events referred to in Section 2.2; or
- (l) any other circumstances which might otherwise constitute a defence available to, or a discharge of the Government, the Issuer or any other Person in respect of the Obligations or the Subject CP.

Section 2.4 Payments.

All amounts payments to be made by the Government hereunder shall be made in immediately available funds and in Canadian Dollars, shall be made to such account or accounts as the Bank may from time to time by notice designate and shall be made so as to be received by the Bank prior to 4:00 PM (Toronto time) on the second Business Day following demand hereunder.

Section 2.5 Transfer of Subject CP and Subrogation.

(1) Upon payment in full by the Government of all unpaid principal amounts, interest, discount, premium and other amounts under any Subject CP pursuant to this Agreement (a "Payment"), the Bank shall, on request by the Government, if and to the extent permitted under the terms of the applicable instruments and otherwise possible, transfer and assign to the Government all of the Bank's right, title and interest in and to such Subject CP ("Transfer").

(2) If upon a Payment, the Bank is unable to Transfer the applicable Subject CP to the Government upon request, or if no such request is made, then upon such Payment the Government shall, to the extent permitted by law and the terms of the applicable instruments, be subrogated to the rights of the Bank under any Subject CP; provided that such rights of subrogation shall be no greater than the rights held by the Bank.

(3) If the Bank is unable to Transfer to the Government any Subject CP to which the Government has been subrogated in accordance with Section 2.5(1), then the Bank shall, to the extent permitted by law and the terms of the applicable instruments, be deemed to appoint the Government its attorney-in-fact to exercise the rights of the Bank as holder of the Subject CP, including, without limitation, through voting or other collective action directing the indenture trustee or other representative of holders of the Subject CP to enforce their rights and remedies against the Issuer and/or any security for the related Obligations; and such power of attorney, being coupled with an interest, shall be irrevocable. At the request of the Government, the Bank shall execute and deliver to the Government a separate power of attorney evidencing the Government's authority to act in the place and stead of the Bank as holder of the Subject CP to which the Government has been subrogated.

Section 2.6 No Set-off

To the fullest extent permitted by law, the Government shall make all payments under this Agreement without regard to any defence, counter-claim or right of set-off available to it.

Section 2.7 Termination.

(1) Subject to Section 2.7(2), this Agreement and the obligations of the Government hereunder shall terminate on the Termination Date.

(2) The termination of this Agreement shall not affect the liability of the Government in respect of amounts which are then due under this Agreement.

ARTICLE 3 MISCELLANEOUS

Section 3.1 Non-Assignability

The rights and obligations of the Parties under this Agreement shall not be assigned by either Party without the prior written consent of the other Party. Subject to the foregoing, this Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

Section 3.2 Confidentiality

It is understood that any information disclosed pursuant to this Agreement is to be kept confidential by the Parties, subject to applicable laws, regulations, financial reporting standards and approvals. Any Party who receives a request for information in respect of this Agreement pursuant to the *Access to Information Act* (Canada) shall consult with the other Party on any contemplated disclosure prior to making any disclosure.

Section 3.3 Notices.

All demands, notices or other communications to be made or given under this Agreement shall be in writing or electronic form (including facsimile and e-mail) and delivered or transmitted to the respective addresses set forth in Schedule A. Either Party may by notice in writing to the other Party change their address in Schedule A. A notice shall be deemed to have been given, or a communication deemed to have been received, in the case of delivery, on the day of actual delivery (or if such day is not a Business Day, on the next Business Day) and, in the case of an electronic transmission, on the day of transmission, or on the next following Business Day if the day of transmission is not a Business Day or if transmitted after the 5:00 pm local time in Ottawa, Ontario on the day of transmission.

Section 3.4 Amendments.

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by both Parties.

Section 3.5 Waiver.

No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision (whether or not similar) and no waiver with respect to a particular event of default or other event shall constitute a waiver of any other event of default or other event and no exercise of a remedy shall constitute a waiver of a right to exercise any other remedy. No waiver of any provision of this Agreement shall be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement shall not operate as a waiver of that right. A single or partial exercise of any right shall not preclude a Party from any other or further exercise of that right or the exercise of any other right it may have.

Section 3.6 Entire Agreement.

This Agreement shall constitute the entire agreement between the Parties related to the subject matter hereof and shall supersede any existing agreements or directions between the Parties with respect to the subject matter thereof.

Section 3.7 Severability.

If any court of competent jurisdiction from which no appeal exists or is taken, determines any provision to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall remain in full force and effect.

Section 3.8 Governing Law and Jurisdiction.

This Agreement is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Parties hereby submit 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.

Section 3.9 Counterparts.

This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this Agreement.

[Remainder of page intentionally left blank. Signature page(s) follow.]

The Parties have executed this Agreement on the date first written above.

BANK OF CANADA

By:   Digitally signed by Jeremy Farr
Date: 2020.03.27 17:18:55
-04'00'

Authorized signing Officer

**HER MAJESTY IN RIGHT OF CANADA
AS REPRESENTED BY THE MINISTER
OF FINANCE**

By: 

Authorized signing Officer

**SCHEDULE A
ADDRESS FOR NOTICES**

All notices and communications pursuant to this Agreement are to be delivered or transmitted to:

Bank of Canada:

Financial Markets Department
Bank of Canada
234 Wellington Street
Ottawa, Ontario K1A 0G9

Attention: Managing Director, Financial Markets Department

Fax: (613) 782-8689

Email: fmdtass@bankofcanada.ca

Government of Canada:

Department of Finance, Canada
13th Floor
90 Elgin St.
Ottawa, Ontario K1A 0G5

Attention: Director, Reserves Management, Funds Management Division

Telephone No: (613) 369-4027

Fax: (613) 369-3922

E-mail: fin.rrm_grr.fin@canada.ca

and

Department of Finance, Canada
10th Floor
90 Elgin St.
Ottawa, Ontario K1A 0G5

Attention: Manager, Public Debt Reporting, Financial Management Directorate

Telephone No: (613) 369-3478

Fax: (613) 369-3482

E-mail: fin.publicdebtunitgroupeedettepublique.fin@canada.ca

with a copy to:

Department of Finance, Canada
Finance Legal Services
17th Floor
90 Elgin St.
Ottawa, Ontario K1A 0G5

Attention:

Jeff Miller
Counsel

Mobile:
Email: jeff.miller@canada.ca

and

Martin Marcone
General Counsel

Mobile:
Email: martin.marcone@canada.ca