

## INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT dated March 26, 2020 is made between 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 of Canada has established or proposes to establish an asset purchase facility under which it intends to acquire securities, debt instruments, bonds, debentures, notes, commercial paper or similar instruments representing or evidencing indebtedness of a Province, or financial assets or security entitlements related thereto;
- B. the Government has agreed to indemnify the Bank against any and all losses that the Bank may suffer by reason of any such instruments 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 Securities 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, the following terms have the following meanings:

**"Bank"** means Bank of Canada, acting as principal under this Agreement.

**"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 at their respective Ottawa head offices.

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

**"Issuer"** means the issuer of any Subject Security, and any other Person obligated thereon.

**"Obligations"** means, in respect of one or more Subject Securities, the debts, liabilities and obligations of the Issuer or Issuers under or in respect of such Subject Security or Subject Securities.

**"Parties"** means the Bank and the Government, collectively.

- 2 -

**"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.

**"Province"** means, the government, however described, of a Province of Canada.

**"Provincial Money Market Purchase Facility"** means the facility established by the Bank under which the Bank may from time to time acquire debt obligations issued by a Province, including treasury bills and short-term promissory notes, 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 Security"** means, subject to Section 1.2(1), any security, debt instrument, bond, debenture, note, commercial paper or similar instrument representing or evidencing indebtedness issued by a Province, including any interest therein or any financial asset or security entitlement related thereto, acquired by the Bank on or after the date hereof pursuant to the Provincial Money Market Purchase Facility.

## **Section 1.2 Designation**

(1) The Bank may, at any time, and from time to time, by notice to the Government, designate any security, debt instrument, bond, debenture, note, commercial paper or similar instrument representing, or other evidence of, indebtedness (or financial asset or security entitlement related thereto) issued by a Province, or an agent or agency thereof, and acquired or held by the Bank on or after the date hereof, as having been acquired pursuant to the Provincial Money Market Purchase Facility, 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 amount of all Subject Securities 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 report listing the Subject Securities acquired since the last such report, 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 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 on or before the due date of any payment of interest or principal payable on any Subject Security, after giving effect to any days of grace, the Issuer fails to make, or cause to be made, payment in full to the Bank of all principal, interest, premium and any other amounts due and payable under or in respect of such Subject Security, then the Government shall, on demand, indemnify the Bank against any loss and all losses incurred by the Bank by reason of such failure, and, without limitation of the foregoing, shall pay, as primary obligor, to the Bank, on demand by the Bank, any and all principal, interest, premium and other amounts due under such Subject Security which have not been paid in full to the Bank.

(2) The Bank shall not be required, prior to making demand, to exhaust any 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 Principal Amount and Maturity.**

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 owed and unpaid by an Issuer, the principal amount, interest, premium and other amounts due by the Issuer under a Subject Security, and the maturity of, any Subject Security, shall be determined without giving effect to any reduction or adjustment effected after the date of issuance thereof, for any reason, including, without limitation, pursuant to (i) any order of any court, tribunal, arbitrator or other judicial body, (ii) any law, regulation, order or other enactment of any jurisdiction, (iii) any moratorium other suspension of debts declared by any person or government, (iv) any agreement, waiver or consent of one or more holders of securities or obligations 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, or (iv) any combination of one or more of the foregoing.



**Section 2.3 Liability Absolute and Unconditional.**

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 or limited) irrespective of:

- (a) any lack of validity or enforceability of any of the terms of any Subject Securities;
- (b) any contest by the Issuer as to its obligations under or in respect of the Subject Securities;
- (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 Securities or the modification or extinguishment of all or any part of the obligations of the Issuer or any other such Person under any Subject Securities by operation of law;
- (e) the declaration of any moratorium;
- (f) 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;
- (g) 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 Securities, this Agreement or any other related document or instrument;
- (h) 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;
- (i) any limitation of status or power, disability, incapacity or other circumstance relating to the Issuer, the Government or any other Person;
- (j) subject to Section 3.1, the assignment of all or any part of the benefits of this Agreement;
- (k) any impossibility, impracticability, frustration of purpose, force majeure or illegality of performance of the Obligations, the Subject Securities, this Agreement or any other related document or instrument, or the occurrence of any change in the laws, rules, regulations or ordinances of any jurisdiction or by any present or future action of (i) any governmental entity 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

- 5 -

of the Bank, or (ii) any court order that amends, varies, reduces or otherwise affects any of the Obligations or the Subject Securities; or

- (l) any other circumstances which might otherwise constitute a defence available to, or a discharge of the Issuer or any other Person in respect of the Obligations or the Subject Securities.

#### **Section 2.4 Payments.**

All payments to be made by the Government hereunder shall be made in immediately available funds and in the currency in which the relevant Obligation is denominated, 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.

#### **Section 2.5 Subrogation.**

Any rights of subrogation acquired by the Government by reason of payment under this Agreement in respect of any Subject Security shall not be exercised until the Obligations and all other amounts due to the Bank in respect of such Subject Security have been paid or repaid in full and such rights of subrogation shall be no greater than the rights held by the Bank.

#### **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.**

The Parties may, at any time, agree to terminate this Agreement. Any such termination shall not affect the liability of the Government in respect of amounts which are then due under this Agreement or in respect of Subject Securities which are then outstanding.

### **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

- 6 -

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

- 7 -

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: 2020.03.25 08:27:16 -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](mailto:fmdtass@bankofcanada.ca)

Government of Canada:

Department of Finance, Canada  
13<sup>th</sup> 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.rmm\\_grr.fin@canada.ca](mailto:fin.rmm_grr.fin@canada.ca)

and

Department of Finance, Canada  
10<sup>th</sup> 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.publicdebtunitgroupedettepublique.fin@canada.ca](mailto:fin.publicdebtunitgroupedettepublique.fin@canada.ca)

- 2-

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